


Division of Air Pollution Control

**Response to Comments
Draft Rule Language Comment Period**

Rule: OAC Chapter 3745-20 - Asbestos Emission Control Rules

Agency Contact for this Package

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Ohio EPA provided a public hearing on January 9, 2012 and a 30 day comment period which ended on January 9, 2012. This document summarizes the comments and questions received at the public hearing and/or during the associated comment period.

Ohio EPA reviewed and considered all comments received during the public comment period. By law, Ohio EPA has authority to consider specific issues related to protection of the environment and public health.

In an effort to help you review this document, the questions are grouped by topic and organized in a consistent format. The name of the commenter follows the comment in parentheses.

Comment 1: 3745-20-01(B)(20) – Language added to definition of “Friable asbestos material” references category I or category II asbestos-containing material; should this be category I or category II nonfriable asbestos-containing material to match those definitions in 3745-20-01(B)(9) and (B)(10)? **(Phillip Harrison, Gandee & Associates, Inc.)**

Response 1: Asbestos-containing materials are either category I or category II. When they are in good condition they are referred to as nonfriable and they can also be friable. 3745-20-01(B)(20) refers to friable asbestos material, thus the category I or category II as referenced in this definition refers to its friable state.

Comment 2: 3745-20-01 (C) - We do not understand the purpose of this change; why was this change made? How does the new language differ from the original language? **(Phillip Harrison, Gandee & Associates, Inc.)**

Response 2: These are clarifying changes which were made regarding referenced items in these rules. These clarifications did not change any of the rules.

Comment 3: My first comments regard the proposed change to the definition of "friable asbestos material", which has the following addition to the existing definition:

Any Category I or Category II asbestos-containing material that becomes damaged from either deterioration or attempts at removal or abatement resulting in small fragments the size of four square inches or less shall also be considered friable or RACM. Deterioration to asbestos containing material (ACM) may have occurred prior to the commencement of demolition or renovation, or as a result of demolition or renovation. If ACM is sufficiently damaged prior to demolition or renovation that it is to be treated as RACM from the start, then it should reported on the notification required by the Rule, and removed prior to demolition or renovation. It should not be confused with deterioration that occurs during demolition and renovation. **(Kurt Varga, Inservice Training Network)**

Response 3: The rule has not changed and continues to require ACM that is in a friable condition before renovation or demolition to be regarded as RACM. The addition to the definition is to clarify the size that Ohio EPA considers to be "small fragments" which is described in Grinding as part of the definition of RACM.

Comment 4: Using the word "removal" in the definition of "friable" is a problem because "remove" is already defined in the Rule and means to take out RACM. Either another word needs to be used, such as, "strip ACM from a substrate," or it needs to be left out. **(Kurt Varga, Inservice Training Network)**

Response 4: The word removal in the friable definition is following the American Heritage definition of the word which is: 1) to move from a portion occupied. 2) to do away with "eliminate". The context in which the word removed is used is appropriate and will not be changed.

Comment 5: "Abatement" is not defined in the Rule. "Abatement" as it is properly used in the Asbestos Hazard Abatement Industry means to lessen the hazard associated with asbestos. Oddly, according to the proposed definition we would be making smaller fragments of ACM while we are reducing an

asbestos hazard. (Kurt Varga, Inservice Training Network)

Response 5: During the abatement process it is probable that RACM can be removed while leaving non-friable ACM in place and intact. Also, there are times when non-friable ACM is abated. If during the abatement the non-friable ACM becomes significantly damaged or friable it shall be considered as RACM.

Comment 6: My second concern is with the application of the new definition. As someone who teaches people in the abatement industry to identify ACM for the purpose of complying with the Rule, I believe there is a lot of room for error when attempting to determine the new requirement for what is friable. Consider one example. Imagine that there are fragments of floor tile that are exactly four square inches; there are many larger but none smaller. There would need to be over 5,760 fragments of floor tile to trigger the requirements of the Rule which is 160 square feet of friable ACM. In some circumstance it would be difficult to make an accurate count of fragments. If we imagine two square inch pieces, there would need to be 11,520 fragments to trigger the rule. Since fragments are not likely to be square, estimating which are more or less than four square inches, or only two square inches, or which are even smaller than two square inches, would be difficult. There are likely to be disagreements over the amount of damage when applying this rule. **(Kurt Varga, Inservice Training Network)**

Response 6: The four square inch size of ACM is to clarify as to what Ohio EPA considers significant damage. When this occurs to ACM, it will be considered friable or RACM. The amount of RACM must meet or be greater than threshold amounts for regulations to apply.

Comment 7: My third concern is with the intent of the rule change to disallow the disposal of any Category II Non-friable ACM in CD&D landfills. If Category II disposal is restricted in this way, then it will be necessary to remove all Category II materials prior to demolition. Furthermore, it would seem that the definition of "Regulated asbestos-containing material" would need to be revised. As it stands, Category II non-friable ACM that does not have "a high probability of becoming" or that has not "become crumbled, pulverized, or reduced to powder by the forces expected to act on the

material in the course of demolition or renovation operations," remains in the building during demolition and is disposed of in a CD&D landfill. Materials commonly identified as Category II non-friable not judged to become RACM even during demolition include asphaltic adhesives used in building construction. Under the revisions, all Category II non-friable ACM would need to be located and removed prior to demolition or renovation. **(Kurt Varga, Inservice Training Network)**

Response 7: The amendment would now make rule 3745-20-05 consistent with the asbestos federal NESHAP regulations at 40 CFR 61.150(b)(3) by stating: 3745-20-05 (A) All asbestos containing waste material shall be deposited as is practical by the waste generator in accordance with 3745-20-06 or 3745-20-13 of the Administrative code, or 40 CFR 61.154. The requirements of (A) do not apply to Category I non-friable ACM that is not RACM.

End of Response to Comments