

# \*\*\* DRAFT – NOT FOR FILING \*\*\*

3745-20-01      **Definitions and incorporation by reference.**

[Comment: For dates of non-regulatory government publications, publications of recognized organizations and associations, federal rules, and federal statutory provisions referenced in this rule, ~~see the "Incorporation by reference" section at the end of this rule~~ [please see paragraph \(C\) of this rule, "Referenced materials."](#)]

(A) Except as otherwise provided in paragraph (B) of this rule, the definitions in rule 3745-15-01 of the Administrative Code shall apply to this chapter.

(B) The following definitions shall apply exclusively to this chapter:

- (1) "Active waste disposal site" means any disposal site of asbestos materials other than an inactive disposal site.
- (2) "Adequately wet" means sufficiently mix or penetrate with liquid to prevent the release of particulates. If visible emissions are observed coming from asbestos-containing material, then that material has not been adequately wetted. However, the absence of visible emissions is not sufficient evidence of being adequately wet.
- (3) "Asbestos" means the asbestiform varieties of serpentinite (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite, anthophyllite, and actinolite-tremolite, as determined using the method specified in 40 CFR, Part 763, Subpart E, Appendix E, Section 1, Polarized Light Microscopy (PLM).
- (4) "Asbestos-containing waste materials" means mill tailings or any waste that contains commercial asbestos and is generated by a source subject to the provisions of this chapter. This term includes filters from control devices, friable asbestos-containing material, and bags or other similar packaging contaminated with commercial asbestos. As applied to demolition and renovation operations, this term also includes regulated asbestos-containing material waste and materials contaminated with asbestos including disposable equipment and clothing.
- (5) "Asbestos material" means asbestos or any material containing asbestos.
- (6) "Asbestos mill" means any facility engaged in converting, or in any intermediate step in converting, asbestos ore into commercial asbestos. Outside storage of asbestos material is not considered a part of the asbestos mill.
- (7) "Asbestos tailings" means any solid waste that contains asbestos and is a product of asbestos mining or milling operations.

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- (8) "Asbestos waste from control devices" means any waste material that contains asbestos and is collected by a pollution control device.
- (9) "Category I nonfriable asbestos-containing material" means asbestos-containing packing, gaskets, resilient floor covering, and asphalt roofing products containing more than one per cent asbestos as determined using the method specified in 40 CFR Part 763, Subpart E, Appendix E, Section 1, Polarized Light Microscopy (PLM).
- (10) "Category II nonfriable asbestos-containing material" means any material, excluding Category I nonfriable asbestos-containing material, containing more than one percent asbestos as determined using the method specified in 40 CFR Part 763, Subpart E, Appendix E, Section 1, Polarized Light Microscopy (PLM), that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.
- (11) "Commercial asbestos" means any material containing asbestos that is extracted from ore and has value because of its asbestos content.
- (12) "Cutting" means to penetrate with a sharp-edged instrument and includes sawing, but does not include shearing, slicing, or punching.
- (13) "Demolition" means the wrecking, or taking out of any load-supporting structural member of a facility together with any related handling operations or the intentional burning of any facility.
- (14) "Emergency demolition" means any demolition operation conducted under a written order issued by a state or local governmental agency because a facility is structurally unsound and in danger of imminent collapse.
- (15) "Emergency renovation operation" means a renovation operation that was not planned but results from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard, is necessary to protect equipment from damage, or is necessary to avoid imposing an unreasonable financial burden. This term includes operations necessitated by nonroutine failures of equipment.
- (16) "Encapsulate" means to coat, bind or resurface walls, ceilings, pipes or other structures or asbestos-containing materials with suitable products to prevent friable asbestos from becoming airborne.
- (17) "Fabricating" means any processing (including but not limited to cutting, sawing, drilling) of a manufactured product that contains commercial asbestos, with the exception of processing at temporary sites (field fabricating) for the construction or restoration of facilities. In the case of friction products,

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fabricating includes bonding, debonding, grinding, sawing, drilling, or other similar operations performed as part of fabricating.

- (18) "Facility" means any institutional, commercial, public, industrial or residential structure, installation, or building (including any structure, installation, or building containing condominiums or individual dwelling units operated as a residential cooperative, [or any operation involving the renovation/demolition of multiple residential structures identified by an owner or operator within a scheduled period of time](#) ~~but excluding residential buildings having four or fewer dwelling units~~); any ship; and any active or inactive waste disposal site. For purposes of this definition, any structure, installation or building that contains a loft used as a dwelling is not considered a residential structure, installation or building. Any structure, installation or building that was previously subject to this rule due to its prior use or function is not excluded, regardless of its current use or function.
- (19) "Facility component" means any part of a facility, including but not limited to any structural member, pipe, duct, boiler, tank, reactor, turbine, furnace, or other equipment at or in a facility; or any structural member of a facility.
- (20) "Friable asbestos material" means any material containing more than one per cent asbestos by area, as determined using the method specified in 40 CFR Part 763, Subpart E, Appendix E, Section 1 Polarized Light Microscopy (PLM), that, when dry can be crumbled, pulverized, or reduced to powder by hand pressure. If the asbestos content is less than ten percent as determined by a method other than point counting by Polarized Light Microscopy, verify the asbestos content by point counting using Polarized Light Microscopy. [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.](#)
- (21) "Fugitive source" means any source of emissions not controlled by an air pollution control device.
- (22) "General ventilation device" means any air moving device specifically designed for increasing air flow through an area and exhausting the air through a HEPA filter in such a way that there is no bypass of air around the filter.
- (23) "Glove bag" means a sealed compartment with attached inner gloves used for the handling of asbestos-containing materials.
- (24) "Grinding" means to reduce to powder or small fragments and includes mechanical chipping or drilling.

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- (25) "HEPA filter" means a high efficiency particulate air filter certified by the manufacturer to have a collection efficiency of not less than ninety-nine and ninety-seven one hundredths per cent as determined by ASTM D2986-71.
- (26) "In poor condition" means the binding of the material is losing its integrity as indicated by peeling, cracking, or crumbling of the material.
- (27) "Inactive waste disposal site" means any disposal site or portion thereof, which contains asbestos-containing waste materials, but where such material has not been deposited within the past year.
- (28) "Installation" means any building or structure or any group of buildings or structures at a single demolition or renovation site that are under the control of the same owner or operator, or owner or operator under common control.
- (29) "Leak-tight" means that liquids cannot escape or spill out. It also means dust-tight.
- (30) "Local exhaust ventilation and collection system" means equipment designed to collect or capture particulate material at the point of generation and which exhausts air through a HEPA filter so that there is no bypass of air around the filter.
- (31) "Malfunction" means any sudden and unavoidable failure of air pollution control equipment or process equipment, or the failure of a process to operate in a normal or usual manner so that asbestos emissions are increased. Failures of equipment shall not be considered malfunctions if they are caused in any way by poor maintenance, careless operation, or any other preventable upset conditions, equipment breakdown, or process failure.
- (32) "Manufacturing" means the combining of commercial asbestos, or, in the case of woven friction products, the combining of textiles containing commercial asbestos, with any other materials(s), including commercial asbestos, and the processing of this combination into a product. Chlorine production is considered a part of manufacturing.
- (33) "Natural barrier" means a natural object that effectively precludes or deters access. Natural barriers include physical obstacles such as cliffs, lakes, or other large bodies of water, deep and wide ravines, and mountains. Remoteness by itself is not a natural barrier.
- (34) "NESHAP" means national emission standards for hazardous air pollutants.
- (35) "Nonfriable asbestos-containing material" means any material containing more than one percent asbestos as determined using the method specified in 40 CFR Part 763, Subpart E, Appendix E, Section 1, Polarized Light Microscopy (PLM)

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that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

- (36) "Nonscheduled renovation operation" means a renovation operation necessitated by the routine failure of equipment, which is expected to occur within a given period based on past operating experience, but for which an exact date cannot be predicted.
- (37) "Ohio EPA field office" means any Ohio environmental protection agency district office or local air agency.
- (38) "Outside air" means the air outside buildings and structures, including, but not limited to, the air under a bridge or in an open air ferry dock.
- (39) "Owner or operator" means:
  - (a) As it applies to rules 3745-20-02 to 3745-20-05 of the Administrative Code, any person who owns, leases, operates, controls, or supervises the facility being demolished or renovated or any person who owns, leases, operates, controls or supervises the demolition or renovation, or both; or
  - (b) As it applies to rules 3745-20-06 to 3745-20-07 of the Administrative Code, any person who owns, leases, operates, controls, or supervises an active or inactive asbestos waste disposal site or operation; or
  - (c) As it applies to rules 3745-20-08 to 3745-20-15 of the Administrative Code, any person who owns, leases, operates, controls, or supervises the activities referenced in those rules.
- (40) "Particulate asbestos material" means finely divided particles of asbestos or material containing asbestos.
- (41) "Planned renovation operations" means any renovation operation, or a number of such operations, in which some regulated asbestos-containing material will be removed or stripped within a given period of time and that can be predicted. Individual nonscheduled operations are included if a number of such operations can be predicted to occur during a given period of time, based on operating experience.
- (42) "Regulated asbestos-containing material" means:
  - (a) Friable asbestos material;
  - (b) Category I nonfriable asbestos-containing material that has become friable;

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- (c) Category I nonfriable asbestos-containing material that will be or has been subjected to sanding, grinding, cutting, or abrading; or
  - (d) Category II non friable asbestos-containing material that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations regulated by this chapter.
- (43) "Remove" means to take out regulated asbestos-containing material or facility components that contain or are covered with regulated asbestos-containing material from any facility.
- (44) "Renovation" means altering a facility or one or more facility components in any way, including the stripping or removal of regulated asbestos-containing material from a facility component. Operations in which load-supporting structural members are wrecked or taken out are demolitions.
- (45) "Residential exempt structure" means a residential building having four or fewer dwelling units. A single residential building is excluded from these rules unless it otherwise meets the definition of facility.
- ~~(45)~~(46) "Resilient floor covering" means asbestos-containing floor tile, including asphalt and vinyl floor tile, and sheet vinyl floor covering containing more than one ~~percent~~ per cent asbestos as determined using the method specified in 40 CFR Part 763, Subpart E, Appendix E, Section 1, Polarized Light Microscopy (PLM).
- ~~(46)~~(47) "Roadways" means surfaces on which vehicles travel. This term includes public and private highways, roads, streets, parking areas, and driveways.
- ~~(47)~~(48) "Strip" means to take off regulated asbestos-containing material from any part of a facility or facility components.
- ~~(48)~~(49) "Structural member" means any load-supporting member of a facility, such as beams and load supporting walls; or any nonload-supporting member such as ceilings and nonload-supporting walls.
- ~~(49)~~(50) "USEPA" means United States environmental protection agency.
- ~~(50)~~(51) "Visible emissions" means any emissions that are visually detectable without the aid of instruments, coming from regulated asbestos-containing material or asbestos-containing waste material, or from any asbestos milling, manufacturing, or fabricating operation. This does not include condensed uncombined water vapor.

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~~(51)~~(52) "Waste generator" means any owner or operator of a source subject to this chapter whose act or process produces asbestos-containing waste material.

~~(52)~~(53) "Waste shipment record" means the shipping document, required to be originated and signed by the waste generator, used to track and substantiate the disposition of asbestos-containing waste material.

~~(53)~~(54) "Working day" means Monday through Friday and includes holidays that fall on any of the days Monday through Friday.

(C) ~~Incorporation by reference. This chapter includes references to certain matter or materials. The text of the incorporated materials is not included in the regulations contained in this chapter. The materials are hereby made a part of the regulations in this chapter. For materials subject to change, only the specific version specified in the regulation are incorporated. Material is incorporated as it exists on the effective date of this rule. Except for subsequent annual publication of existing (unmodified) Code of Federal Regulation compilations, any amendment or revision to a referenced document is not incorporated unless and until this rule has been amended to specify the new dates.~~ Referenced materials. This chapter includes references to certain matter or materials. The text of the referenced materials is not included in the rules contained in this chapter. Information on the availability of the referenced materials as well as the date of, and/or the particular edition or version of the material is included in this rule. For materials subject to change, only the specific versions specified in this rule are referenced. Material is referenced as it exists on the effective date of this rule. Except for subsequent annual publication of existing (unmodified) Code of Federal Regulation compilations, any amendment or revision to a referenced document is not applicable unless and until this rule has been amended to specify the new dates..

(1) Availability. The ~~materials incorporated by reference~~ referenced materials are available as follows:

(a) Code of Federal Regulations. Information and copies may be obtained by writing to: "Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954." The full text of the CFR is also available in electronic format at ~~www.access.gpo.gov/nara/cfr/~~ http://www.gpoaccess.gov/cfr/index.html. The CFR compilations are also available for inspection and copying at most public libraries and "The State Library of Ohio."

(b) Specifications of the "American Society for Testing and Materials." Information and copies may be obtained by writing to: "ASTM International, 100 Bar Harbor Drive, P.O. Box C700, West Conshohocken, Pennsylvania 19426-2959." These documents are available for purchase at [www.astm.org](http://www.astm.org). ASTM documents are also generally available at local public libraries and "The State Library of Ohio."

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(c) "Standard Specifications for Construction of Roads and Bridges on Federal Highway Projects." Information and copies may be obtained by writing to: "Federal Highway Administration HFPD-3, 400 Seventh Street, SW, Washington D.C. 20590." The full text of the document is also available in electronic format at <http://www.wfl.fhwa.dot.gov/design/specs/>. The document is also available for inspection and copying at most public libraries and "The State Library of Ohio."

(2) ~~Incorporated~~[Referenced](#) materials.

(a) 29 CFR 1910.145(d)(4); "Specifications for accident prevention signs and tags;" as published in the July 1, ~~2006~~ [2011](#) Code of Federal Regulations.

(b) 40 CFR 61.154; "Standard for active waste disposal sites;" as published in the July 1, ~~2006~~ [2011](#) Code of Federal Regulations.

(c) 40 CFR Part 61, Appendix A; "National Emission Standards for Hazardous Air Pollutants Compliance Status Information Source Report;" 40 FR 48303, Oct. 14, 1975, as amended at 43 FR 8800, March 3, 1978 and 50 FR 46295, Sept. 9, 1985.

(d) 40 CFR Part 61, Subpart M; "National Emission Standards for Hazardous Air Pollutants;" 38 FR 8820, Apr. 6, 1973, as amended at 55 FR 48414, Nov. 20, 1990.

(e) 40 CFR Part 763; "Asbestos;" 52 FR 41846, Oct. 30, 1987.

(f) 40 CFR Part 763, Appendix E, Subpart E, Section 1; "Polarized Light Microscopy (PLM), Interim Method of the Determination of Asbestos in Bulk Insulation Samples;" 47 FR 23369, May 27, 1982 and 47 FR 38535, Sept. 1, 1982. Redesignated at 60 FR 31922, June 19, 1995.

(g) ASTM D737-75; "Test Method for Air Permeability of Textile Fabrics," originally approved 1975, ~~reapproved, Dec. 1, 2004~~ [as amended July 1, 2008](#).

(h) ASTM D2986-71, "Standard Test Method for Collection Efficiency of High Efficiency Particulate Air Filter;" approved 1971, as amended on Jan. 15, 1995 and Sept. 10, 1995; and reapproved in 1999.

(i) Section 401 of FP-03; "Standard Specifications for Construction of Roads and Bridges on Federal Highway Projects;" United States department of transportation, federal highway administration (FHWA); adopted 1985 (FP-85); revised 1996 (FP-96), 2003 (FP-03).