

FEDERAL REGULATORY STATEMENT

As the regulations now in effect and the facts pertaining to them are known by both the Federal and State regulatory agencies, asbestos-containing floor tile and mastic are excluded from regulations as they do not emit asbestos fibers of any significance when removed by using a process which is non-abrasive. As the BilMar System does not involve sanding, grinding, or abrading and is a method which involves flooding with amended water, the BilMar System is not regulated.

In the November 20, 1990 revisions to the NESHAP Standard, the US EPA specifically stated that renovations involving the removal of asbestos-containing floor tile, mastic and other non-friable materials are not regulated under the NESHAP Standard if they are not made friable by sawing, grinding or other abrasive removal methods. The use of the BilMar Floor tile removal process insures that the asbestos floor tiles do not become friable.

The new revision did not change the definition of friable. It is still defined as a material containing one percent (1%) or more asbestos that can be crumbled, pulverized or reduced to powder by hand pressure when dry. The new NESHAP revisions clearly state that floor tile does not fall into the friable category.

As regards to the BilMar mastic removal process, the November 20, 1990 revisions to the NESHAP, very specifically state that if a non-friable ACM is not made friable during abatement, it is not a regulated asbestos-containing material (RACM). If an asbestos-containing material is not a RACM, there is no requirement for notification.

In the BilMar process, the mastic is chemically removed from the floor surface. This is clearly covered in the US EPA NESHAP as a non-regulated removal process. The entire process is performed wet. Therefore, it can never become friable at any time during the removal using the BilMar process.

As for the OSHA regulations, we are in compliance with their requirements for initial monitoring by the use of our Objective Data. Under the 1989 revisions to 29 CFR 1926.58 under Section (f)(2)(iii), the Rule allows for the employer to rely on objective data which has been obtained from work operations conducted under workplace conditions closely resembling the processes, type of material, control methods, work practices, and environmental conditions. Since our objective data clearly shows that the process does not release fibers of asbestos at or above the excursion, PEL or Action Level., there is no requirement to establish a Regulated Area and all the other engineering controls required by a Regulated Area. In fact, by design, the BilMar removal process is four times safer than removal of asbestos floor tile in a regulated area.

The OSHA has ruled in its memoranda of February 8, October 15 and October 31, 1990 that there is no requirement to establish a regulated area, negative pressure enclosure or to use engineering controls if the PEL is not exceeded.

As for the disposal of the floor tiles and mastic residue, under NESHAP Standard, the definition of asbestos-containing waste materials includes only friable ACM, regulated ACM and materials contaminated with asbestos such as disposable clothing and equipment. US EPA Region V has stated that Category I and Category II materials which remain non-friable are not regulated as asbestos-containing waste material. Since they are not regulated, there is no requirement for their containerization or labeling.

The AHERA group has established the definition of a response action as a method "that protects human health and the environment from **FRIABLE** asbestos-containing material." During utilization of the BilMar process, the asbestos file and mastic never become friable, therefore, the removal would clearly NOT be a response action. As stated in Question #42 and reaffirmed in Public Law 101-637, 101st Congress on November 28, 1990, Section # 15, neither final air clearance of any type nor AHERA certified workers are required when using the BilMar floor tile and mastic removal process. (Other agencies may have some clearance and /or worker requirements, i.e., the Georgia Department of Education.)

Finally on disposal, the Federal OSHA and OSHA both have ruled that floor tiles do not require labeled containers as they do not meet the definition and are covered under [OSHA standard 29 CFR 1910.1001](#).