

Regulation Concerning Licensed Asbestos Contractor Notification, Asbestos Project Permits, and Permit Fees, 16VAC25-20; Amendment

As Adopted by the
Safety and Health Codes Board

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VIRGINIA OCCUPATIONAL SAFETY AND HEALTH PROGRAM

VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY

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16VAC25-20, Regulation Concerning Licensed Asbestos Contractor Notification, Asbestos Project Permits, and Permit Fees.

CHAPTER 20
REGULATION CONCERNING LICENSED ASBESTOS CONTRACTOR NOTIFICATION, ASBESTOS PROJECT
PERMITS, AND PERMIT FEES

16VAC25-20-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Activity" means from the set-up of negative air containment through the breakdown of that containment. Work within a single structure or building shall be considered as one "activity" so long as such work is not interrupted except for weekends, holidays, or delays due to inclement weather. Where containment is not required, all work within single structure or building shall be considered as one "activity."

"Asbestos" means any material containing more than 1.0% asbestos by area as determined by microscopy.

"Asbestos contractor's license" means an authorization issued by the Department of Professional and Occupational Regulation permitting a person to enter into contracts to perform an asbestos abatement project.

"Asbestos project" means an activity involving job set-up for containment, removal, encapsulation, enclosure, encasement, renovation, repair, construction or alteration of an asbestos-containing material. An asbestos project or asbestos abatement project shall not include nonfriable asbestos-containing roofing, flooring and siding material that when installed, encapsulated or removed does not become friable.

"Asbestos supervisor" means any person so designated by an asbestos contractor who provides on-site supervision and direction to the workers engaged in asbestos projects.

"Building" means a combination of any materials, whether portable or fixed including part or parts and fixed equipment of them, that forms a structure for use or occupancy by persons or property.

"Construction" means all the on-site work done in building or altering structures from land clearance through completion, including excavation, erection, and the assembly and installation of components and equipment.

"Department" means the Department of Labor and Industry.

"Friable" means that the material when dry, may be crumbled, pulverized, or reduced to powder by hand pressure and includes previously nonfriable material after such previously nonfriable material becomes damaged to the extent that when dry it may be crumbled, pulverized, or reduced to powder by hand pressure.

"Person" means a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, or any other individual or entity.

"Residential buildings" means site-built homes, modular homes, condominium units, mobile homes, manufactured housing, and duplexes, or other multi-unit dwelling consisting of four units or less which are currently in use or intended for use only for residential purposes. Demolitions of any of the above structures that are to be replaced by other than a residential building shall not fall within this definition.

"RFS contractor's license" means an authorization issued by the Department of Professional and Occupational Regulation permitting a person to enter into contracts to install, remove or encapsulate nonfriable asbestos-containing roofing, flooring, and siding materials.

"Site" means a specific geographically contiguous area with defined limits owned by a single entity on which asbestos removal will occur.

"Structure" means an assembly of materials, or part or parts of them, forming a construction.

16VAC25-20-20. Authority and application.

A. This chapter is established in accordance with § 40.1-51.20 of the Code of Virginia.

B. This chapter shall apply to all licensed asbestos contractors or RFS contractors who engage in asbestos projects.

C. The application of this chapter to contractors who work on federal property will be decided by the department based on a review of the facts in each case. The contractor shall contact the department to determine the applicability of the regulations to a specific project.

D. This chapter shall not affect the reporting requirements under § 40.1-51.20 C or any other notices or inspection requirements under any other provision of the Code of Virginia.

16VAC25-20-30. Notification and permit fee.

A. Written notification of any asbestos project of 10 linear feet or more or 10 square feet or more shall be made to the department on a department form. Such notification shall be sent by facsimile transmission as set out in 16VAC25-20-30 J, certified mail, or hand-delivered to the department. Notification shall be postmarked or made 20 days before the beginning of any asbestos project.

B. The department form shall include the following information:

1. Name, address, telephone number, and Virginia asbestos contractor's license number of persons intending to engage in an asbestos project;

2. Name, address, and telephone number of facility owner or operator;

3. Type of notification; amended, emergency, renovation, or demolition;

4. Description of building, structure, facility, installation, vehicle, or vessel to be demolished or renovated including present use, prior use or uses, age, and address;

5. Estimate of amount of friable asbestos and method of estimation;

6. Amount of the asbestos project fee submitted;

7. Schedule set-up date, removal date, and completion date of asbestos abatement work and times of removal;

8. Name and Virginia asbestos supervisor's license number of the project supervisor on site;

9. Name, address, telephone number, contact person, and landfill permit number of the waste disposal site where the asbestos containing material will be disposed;

10. Detailed description of the demolition or removal methods to be used;

11. Procedures and equipment to control emissions and protect public health during removal, transit, loading, and unloading. Including the monitoring plan;

12. Credit card number, expiration date, and signature of cardholder if a facsimile transmission is to be made pursuant to 16VAC25-20-30 J; and

13. Any other information requested on the department form.

C. An asbestos project permit fee shall be submitted with the completed project notification. The fee shall be in accordance with the following schedule unless a blanket notification is granted under subsection D of this section:

1. \$50 for each project equal to or greater than 10 linear feet or 10 square feet up to and including 260 linear feet or 160 square feet;

2. \$160 for each project of more than 260 linear feet or 160 square feet up to and including 2600 linear feet or 1600 square feet;

3. \$470 for each project of more than 2600 linear feet or 1600 square feet; and

4. If the amount of asbestos is reported in both linear feet and square feet the amounts will be added and treated as if the total were all in square feet for the purposes of this subsection.

D. A blanket notification, valid for a period of one year, may be granted to a contractor who enters into a contract for asbestos removal or encapsulation on a specific site which is expected to last for one year or longer.

1. The contractor shall submit the notification required in 16VAC25-20-30 A to the department 20 days prior to the start of the requested blanket notification period. The notification submitted shall contain the following additional information:

a. The dates of work required by subdivision B 7 of this section shall be every workday during the blanket notification period excluding weekends or state holidays;

b. The estimate of asbestos to be removed required under subdivision B 5 of this section shall be signed by the owner and the owner's signature authenticated by a notary; and

c. A copy of the contract shall be submitted with the notification.

2. The asbestos project permit fee shall be 0.5% of the contract price or \$470 whichever is greater. For contracts which require payments per square or linear foot of asbestos removed or encapsulated the contract price shall be the amount of asbestos estimated pursuant to subdivision B 5 of this section times the per foot charge in the contract;

3. The contractor shall submit an amended notification at least one day prior to each time the contractor will not be on site. The fee for each amended notification shall be \$15;

4. A contractor shall submit an amended notification whenever the actual amount of asbestos removed or encapsulated exceeds the original estimate. If the contract was for a fixed cost regardless of the amount of asbestos the amendment fee shall be \$15. If the contract was based on a price per square or linear foot the amendment fee shall be the difference between the actual amount removed and the estimated amount times the contract price per foot times 0.5% plus \$15; and

5. Cancellation of a blanket notification may be made at any time by submitting a notarized notice of cancellation signed by the owner. The notice of cancellation must include the actual amount of asbestos removed and the actual amount of payments made under the contract. The refund shall be the difference between the original asbestos permit fee paid and either the actual amount of payments made under the contract times 0.5% or \$470 whichever is greater.

E. Notification of less than 20 days may be allowed in case of an emergency involving protection of life, health, or property, including but not limited to: leaking or ruptured pipes; accidentally damaged or fallen asbestos that could expose nonasbestos workers or the public; unplanned mechanical outages or repairs essential to a work process that require asbestos removal and could only be removed safely during the mechanical outage. Notification and asbestos permit fee shall be submitted within five working days after the start of the emergency abatement. A description of the emergency situation shall be included when filing an emergency notification.

F. No notification shall be effective if an incomplete form is submitted, or if the proper permit fee is not enclosed with the completed form or if the credit card payment required for facsimile transmission in 16VAC25-20-30 J is not approved.

G. On the basis of the information submitted in the asbestos notification, the department shall issue a permit to the contractor within seven working days of the receipt of a completed notification form and permit fee.

1. The permit shall be effective for the dates entered on the notification.

2. The permit or a copy of the permit shall be kept on site during work on the project.

H. Amended notifications may be submitted for modification of 16VAC25-20-30 B 3 through 11. No amendments to 16VAC25-20-30 B 1 or 2 shall be allowed. A copy of the original notification form with the amended items circled and the permit number entered shall be submitted at any time prior to the removal date on the original notification.

1. No amended notification shall be effective if any incomplete form is submitted or if the proper permit amendment fee is not enclosed with the completed notification.

2. A permit amendment fee shall be submitted with the amended notification form. The fee shall be in accordance with the following schedule:

a. For modification to 16VAC25-20-30 B 3, 16VAC25-20-30 B 4, and 16VAC25-20-30 B 6 through 16VAC25-20-30 B 10 - \$15;

b. For modifications to 16VAC25-20-30 B 5:

(1) the difference between the permit fee in 16VAC25-20-30 C for the amended amount of asbestos and the original permit fee submitted; plus

(2) \$15.

3. Modifications to the completion date may be made at any time up to the completion date on the original notification.

4. If the amended notification is complete and the required fee is included, the department will issue an amended permit if necessary.

I. The department must be notified prior to any cancellation. A copy of the original notification form marked cancelled must be received no later than the scheduled removal date. Cancellation of a project may also be done by facsimile transmission. Refunds of the asbestos project permit fee will be made for timely cancellations when a notarized notice of cancellation signed by the owner is submitted. Fifteen dollars for processing for the original notification, \$15 for each amendment filed and \$15 for processing the refund payment will be deducted from the refund payment.

J. Notification for any project, emergency notification, or amendment to notification may be done by facsimile transmission if the required fees are paid by credit card.

16VAC25-20-40. Exemption.

No notification to the Department or payment of asbestos project fees is required for asbestos projects in residential buildings as defined under 16VAC25-20-10.

FORMS (16VAC25-20)

Asbestos Permit Application and Notification for Demolition/Renovation (eff. 7/94).