



Renovation, Demolition & Asbestos

What you need to know

Virginia Version

Purpose of this Guide:

This article was written to assist building owners, contractors, and others in determining the significance of asbestos, if any, in the building which they currently own or are working on. There are no less than 5 federal laws that regulate asbestos and numerous state laws and local ordinances dealing with asbestos. Needless to say, there is a high probability of confusion as to what regulations apply to you and how. Unfortunately, ignorance of the law is not a defense, and certain violations of asbestos law carry minimum fines of \$10,000 per day of occurrence. Through this guide, I hope to explain in everyday language the asbestos regulations most likely to affect you and how to remain in compliance with the law.

Background of Asbestos:

The word “Asbestos” describes any of a group of fibrous metamorphic minerals of the hydrous magnesium silicate variety. The name is derived for its historical use in lamp wicks; the resistance of asbestos to fire has long been exploited for a variety of purposes. It was used in fabrics such as Egyptian burial cloths and Charlemagne’s tablecloth, which, according to legend, he threw in a fire to clean. Asbestos occurs naturally in many forms and is mined from metamorphic deposits. Today, literally thousands of asbestos containing products have been manufactured, and despite EPA banning some asbestos materials, you can still purchase asbestos containing building materials in the USA today.

Why asbestos is regulated:

Asbestos fibers are very fine and easily inhaled, and can cause a number of respiratory illnesses, including a potentially serious lung fibrosis called *asbestosis*. Exposure to asbestos has also been determined to cause a very serious form of cancer, mesothelioma, that occurs in the chest and abdominal cavities. This aggressive disease is improperly referred to as a lung cancer, as the malignant cells are derived from the mesothelium, a tissue found on the inner walls of the chest and abdominal cavities and on the outer surface of the lungs rather than in the lung itself.

When inhaled, asbestos is carcinogenic (i.e. promotes cancer). In the United States alone, it is estimated that ten thousand people die each year of asbestos-related diseases, such as mesothelioma, asbestosis, lung cancer, and gastrointestinal cancer. Asbestos has a synergistic effect with tobacco smoking in the causation of lung cancer.

Asbestos Professionals¹:

Federal and Virginia State laws license persons to work in various asbestos trades; and only licensed individuals can perform asbestos work. The following is a brief description of the duties of each.

Asbestos Contractor: A company that engages in the removal, repair, or encapsulation of asbestos materials.

Asbestos Supervisor: A person, who oversees an asbestos project, usually works for an asbestos contracting company.

Asbestos worker: A person licensed to perform asbestos work under the direction of an asbestos supervisor

Asbestos inspector: A person who inspects buildings for asbestos containing materials. A VA licensed asbestos inspector (in conjunction with a VA certified lab) is the only person who can determine whether or not a building contains asbestos.⁶

Asbestos laboratory: A laboratory that is certified to analyze samples taken by an asbestos inspector to determine if they contain asbestos.

Asbestos project designer: A person who designs an asbestos abatement project, they specify how the work will be performed, and what safety measures are to be employed. If the building owner wants to engage in an asbestos abatement project with more stringent standards than what the law requires, the project designer will assist them in developing these specifications.

Asbestos project monitor: This person is the building owner's representative and responsible for making sure the asbestos contractor performs the asbestos abatement project in a manner which does not present a threat to the building owner or the general public. The project monitor and the asbestos supervisor generally walk the abatement project several times per day to check for possible problems. When the project is completed, it is the project monitor who inspects the worksite and then releases the contractor if the site is clean. This person also takes air samples to ensure that the project area is safe for human reoccupation when the project is complete.

Asbestos management planner: A person who designs plans for larger commercial or industrial buildings with significant quantities of asbestos. This person lays out the locations and types of asbestos, as well as suggests cost-effective solutions for managing

the asbestos over time, and assists in making asbestos policies for the building owner to protect their occupants and/or employees.

Building owner and contractor responsibilities:

As a building owner, state and federal law requires you to have your building inspected for asbestos by a Virginia licensed asbestos inspector prior to any renovation or demolition on the building. According to federal law², this must occur regardless of the age of the building, as asbestos products are still available for purchase today.

The asbestos inspector must send the samples they took to a VA certified lab for analysis, and generate a report for the building owner specifying the locations and approximate volumes of all asbestos containing materials found in the building. This report should include a copy of the inspector's license as well as the name and address of the laboratory that performed the analysis.

Contractors should not begin any work on a building until the building owner provides them with a copy of the asbestos inspection for the building so they know where the asbestos materials are and not to disturb them.

Generally, the local building authority will not issue you a demolition or building permit until you have provided them with a copy of the asbestos inspection. Regardless of whether or not the building has asbestos in it, the building owner should keep a copy of the inspection report for future renovation or demolition activities, or to pass along to the next building owner in case of sale.

What happens if my building has asbestos?

If an inspection has determined the presence of asbestos in the building, it must be removed if any renovation or demolition will disturb it³. Examples of disturbing asbestos material include drilling through it to run cables or conduit, cutting sanding or otherwise abrading asbestos material, or removing pieces of it to alter piping.

Certain types of asbestos, that may not become airborne even during demolition, may not have to be removed prior to demolition of a structure. However, the debris from the building will still have to be disposed of as asbestos containing waste. Regardless, as a contractor, you must not disturb any material identified in the inspection report, unless the building report or proper government official allows for it.

How do I have the asbestos in my building removed?

Generally, you will have two options, you can either hire an abatement contractor and a separate project monitor, or you can hire a monitoring and/or consulting company to execute a turn-key job. This happens when a monitoring firm subcontracts the actual removal of the material to an asbestos contractor. (Virginia State law prohibits the project monitor from having a financial interest in the abatement contractor, and vice versa⁴.) However, asbestos contractors should not hire a monitoring firm on your behalf for this simple reason. How much trust do you have in a contractor who is allowed to hire their own oversight company? (Remember, the project monitor and their firm is legally obligated to protect your interests and that of the general public.)

Whatever path you choose, certain things must happen. Depending on the types and amount of asbestos in the building, a 20-calendar day advance notice of an asbestos abatement project may have to be given. There are waivers available for this 20 day wait period, but the building owner must prove the presence of an emergency (such as a heating unit that went out in the middle of winter).

Before the project begins, an asbestos project monitor's services may also have to be retained, and even if a project monitor is not required, it is always recommended to have one. As a building owner, this is the most important person you will be dealing with during your asbestos project. The monitor ensures the contractor's compliance to federal and state regulations as well as your own standards and protects your interests. The project monitor is also responsible for determining when the job is finished. For example, if the contractor has finished the abatement work but the air is still not safe in the area for human reoccupation, the monitor will not release the contractor until the air is safe. In short, the monitor doesn't let the contractor go until the job is done. Ideally, the clearance air monitor will also be the same person who created the project design, so they are intimately familiar with the standards and practices of your particular abatement project.

When the project is completed, the clearance air monitor should provide you, the building owner, with a report that includes the following. A statement that the work area is now safe for human reoccupation, a manifest for disposal of the asbestos material at an EPA licensed landfill, the laboratory results for the air sampling along with the laboratory's information, and copies of the appropriate licenses for all asbestos professionals involved in the project⁵. Most local building authorities will require a copy of this report before they issue a building permit if the prior inspection found asbestos in the renovation or demolition area.

As a building owner, ensure you keep a copy of this report should any questions arise later about asbestos removal in the building, or to inform prospective purchasers about areas where asbestos has been removed in the building.

The WECI difference:

As you know, there are 3 main components to asbestos work:

1. Inspections
2. Project design and monitoring
3. The physical removal and disposal of the material.

In summary, inspectors locate and identify the materials, and then a project designer develops the actual abatement scope of work including all physical and engineering controls, disposal sites, etc. Asbestos contractors remove the material and dispose of it, and during the abatement work a licensed project monitor must be regularly onsite to ensure the abatement contractor's compliance with the project design as well as all applicable laws and the desires of the client / building owner.

Although Virginia does not have a law stating that an asbestos project designer needs to be involved in most asbestos projects, several other states do. At WECI, we believe that the building owner needs to have the liability protection offered by a project design when that abatement project is subjected to NESHAP⁷. Therefore, WECI performs the building inspections, and then one of our project managers (who are both licensed designers / monitors) draws up the design. WECI then shops this design to about 4 or 5 reputable asbestos contractors we have regularly worked with over the last 14-15 years and take the best bid from among them. This is all incorporated into the contract we send to you for approval.

We have been successful in this approach because the person who writes the design is also there monitoring the contractor, and is usually the same person who performed the initial building inspection, so there is minimal confusion on what needs to be done.

Furthermore, WECI feels it is advantageous for the monitoring firm to subcontract the abatement contractor, and not the other way around, as there is always a question of loyalty when a contractor hires a monitor (who is the only person besides state agencies who can declare a job "done"). The business model at WECI places the burden on us to ensure a proper job is done (if for no other reason than that WECI shoulders the lion's share of the liability), and simplifies the project for the client / building owner, as anything that needs to be done can be swiftly dealt with by no more than a phone call to the designated project monitor.

At WECI, we are confident in our ability to provide excellent professional services designed to satisfy all of our client's environmental needs. We will do everything in possible to ensure your building renovation or demolition proceeds smoothly, on time, and to standards that meet or exceed the law. Call us today to discuss the different options available for managing asbestos in your buildings or on your jobsite, or about our many other services available, including environmental site assessments, indoor air quality testing, mold investigations, and soil and water sampling.

Disclaimer:

This guide was developed to assist building owners and contractors in maintaining compliance with asbestos related laws. This guide is not meant to be used in place of applicable laws, and in any case of discrepancy one should refer to the applicable law or regulation. In addition, this guide is not officially endorsed by any federal, state or local governmental agency.

This guide is not exhaustive in its discussion of asbestos and related laws, exceptions or additional regulations may apply depending on the exact nature of your building or the types and/or amounts of asbestos therein.

WECI assumes no responsibility for actions taken by persons who have read this guide.

References:

1. Code of Virginia, title 54.1 chapter 5 section 503
2. 40CFR 61.145 subpart M “Standard for demolition and renovation” section A page 98
3. 40CFR 61.145 subpart M “Standard for demolition and renovation” sections B & C pages 98 and 99
4. Code of Virginia 18 VAC 15-20-453 (also found on page 38 of Code of Virginia, title 54.1 chapter 5 section 503)
5. Code of Virginia 18 VAC 15-20-456 (also found on page 39 of Code of Virginia, title 54.1 chapter 5 section 503)
6. Code of Virginia, title 54.1 chapter 5 section 503
7. 40CFR 61.145 subpart M “Standard for demolition and renovation”