



## Periodic Review / Retain Regulation Agency Background Document

Agency name	Virginia Department of Labor and Industry/ Safety and Health Codes Board
Virginia Administrative Code (VAC) citation	16 VAC 25- 30-10 et seq.
Regulation title	Regulations for Asbestos Emission Standards for Demolition and Renovation Construction Activities and the Disposal of Asbestos-Containing Wastes – Incorporation by Reference, 40 CFR 61.140 through 61.156
Document preparation date	July 18, 2013

This form is used when the agency has done a periodic review of a regulation and plans to retain the regulation without change. This information is required pursuant to Executive Orders 14 (2010) and 58 (1999).

### Legal basis

Chapter 541 of the 1992 Acts of Assembly transferred regulatory authority and enforcement responsibility for demolition and removal of asbestos facilities to the Department of Labor and Industry. Sections 40.1-51.23 through 40.1-51.39 of the Code of Virginia mandate that the Department of Labor and Industry enforce EPA's NESHAP regulations, 40 CFR 61.140 through 61.156. The agency was also mandated to adopt regulations that were at least as stringent as the asbestos regulations passed pursuant to Section 112 of the Clean Air Act. Because these federal regulations (40 CFR 61-140 through 61.156) were incorporated by reference, the regulation does not exceed the state mandate.

### Alternatives

The Department of Labor and Industry did not consider any alternatives to this regulation because it is mandated by state law.

### Public comment

No public comments were received on this regulation during the public comment period, which began on April 8, 2013 and ended on May 23, 2013. The agency and the Safety and Health Codes Board did not establish an informal advisory group for the purpose of assisting in the periodic review.

### Effectiveness

The regulation has two goals:

1. Reduce the incidence of material impairment of the health of Virginians due to exposure to asbestos in the workplace or as an environmental pollutant.
2. The protection of the public's health, safety and welfare with the least possible cost and intrusiveness to the citizens and businesses of the Commonwealth.

Goals are established in conjunction with the Virginia Department of Environmental Quality and the United States Environmental Protection Agency to ensure that asbestos abatement and demolition are conducted in a manner that protects the environment from asbestos pollution. Activities to achieve these goals include the collection and sharing of asbestos project and demolition data to be used for inspection targeting, to ensure compliance with NESHAP regulations. Inspections conducted for compliance with NESHAP regulations as a result of the notification process consistently resulted in fewer violations of this regulation. This increased compliance results in less material impairment of both employee and public health by assurance that adequate safety measures are taken.

This regulation is clearly written and understandable by regulated individuals.

#### Result

The Department of Labor and Industry and the Safety and Health Codes Board recommend retaining the regulation without change.

#### Small business impact

In order to minimize the economic impact of regulations on small business, please include, pursuant to § 2.2-4007.1 E and F, a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, include a discussion of the agency's determination whether the regulation should be amended or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.

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Contractors who remove asbestos from, or demolish buildings containing asbestos, must meet certain standards pursuant to the U.S. Environmental Protection Agency (EPA) NESHAP regulations and Section 112 of the federal Clean Air Act. Therefore, there is a continued need for such a regulation. There were no comments on the regulation during the public comment period. This regulation affects all businesses (large and small) that remove asbestos from or demolish buildings containing asbestos. The regulation is not overly complex. It does not increase the costs for small businesses, because the costs are the result of actions that are required by federal law and regulation to provide the protections mandated by this regulation.

As noted in item (1) above, contractors who remove asbestos from, or demolish buildings containing asbestos, must meet certain standards pursuant to the U.S. Environmental Protection Agency (EPA) NESHAP regulations and Section 112 of the federal Clean Air Act. This regulation does not overlap, duplicate, or conflict with federal or state law or regulation, as these state regulations are enforced by the Department in lieu of direct federal enforcement as per agreement between the Department and the EPA.

This regulation was last subjected to a periodic review in 2009. Since that review, there have been no significant changes in technology, economic conditions, or other factors in the area affected by the regulation. At this time, there is nothing to indicate that the regulation should be amended or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses. The Department believes that the regulation provides a positive cost/benefit to the regulated community, as adherence to the requirements of this regulation may actually lower costs to small businesses, by protecting the health and well-being of both workers and the public, and, thus, shielding the businesses from the costs of litigation due to alleged exposures.

#### Family impact

This regulation has no impact on the institution of the family or family stability.