



**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 25-20
Regulation title	Licensed Asbestos Contractor Notification, Asbestos Project Permits, and Permit Fees
Document preparation date	September 13, 2012

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

Please identify the state and/or federal legal authority for the regulation, including (1) the most relevant law and/or regulation, and (2) promulgating entity, i.e., agency, board, or person.

Section 40.1-51.20 of the Code of Virginia mandates that all licensed asbestos contractors notify the Department of Labor and Industry prior to commencement of each asbestos project. The contractor shall also obtain an asbestos permit and pay the appropriate fee in accordance with this Code section. This regulation establishes the notification requirements and provides the permit fees based on the size of the asbestos project. Section 40.1-51.21 also requires that the Department of Labor and Industry conduct on-site inspections of each licensed asbestos contractor's actual projects. This regulation does not exceed the mandate required by § 40.1-51.20.

Alternatives

Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.

There are no alternatives to this regulation because it is mandated by state law.

Public comment

Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

No public comments were received about this regulation during the public comment period which began August 13, 2012 and ended September 3, 2012. The Department and the Safety and Health Codes Board did not establish an informal advisory group for the purpose of assisting in the periodic review.

Effectiveness

Please indicate whether the regulation meets the criteria set out in Executive Order 14 (2010), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

This regulation meets the criteria set out in Executive Order 14 (2010) because it is necessary to protect public health, safety and welfare, and it is clearly written and easily understandable.

The regulation has three 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. Require asbestos contractors to notify the government of asbestos projects and pay fees to cover the costs of administering the program.
3. 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.

Result

Please state that the agency is recommending that the regulation should stay in effect without change.

The Department of Labor and Industry and the Safety and Health Codes Board recommend that this regulation remain in effect with no 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.

The purpose of this regulation is to establish the notification requirements for certain asbestos projects and provide for the payment of permit fees based on the size of the asbestos project. There is a continuing need for this regulation because it protects and promotes the safety and health of employees in places of employment.

This periodic review is the first evaluation of the regulation since it was amended in December of 2008. In that time, technology, economic conditions, and other factors have not changed in the area affected by this regulation.

No comments were received on this regulation during the public comment period, which began August 13, 2012 and concluded September 3, 2012.

This regulation is required by state law, and is not overly complex. Consistent with the stated objectives of applicable law, it has no negative impact on the regulated community or on small businesses, and does not overlap, duplicate, or conflict with federal or state law or regulation.

As a result of this Periodic Review, the Department of Labor and Industry and the Safety and Health Codes Board recommend retention of the existing regulation with no changes.

Family impact

Please provide an analysis of the regulation's impact on the institution of the family and family stability.

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