

Office of Regulatory Management
Economic Review Form

Agency name	Department of Labor and Industry
Virginia Administrative Code (VAC) Chapter citation(s)	16 VAC 25-20
VAC Chapter title(s)	Chapter 20. Regulation Concerning Licensed Asbestos Contractor Notification, Asbestos Project Permits, and Permit Fees
Action title	Periodic Review
Date this document prepared	June 1, 2023
Regulatory Stage (including Issuance of Guidance Documents)	Periodic Review

Cost Benefit Analysis

Complete Tables 1a and 1b for all regulatory actions. You do not need to complete Table 1c if the regulatory action is required by state statute or federal statute or regulation and leaves no discretion in its implementation.

Table 1a should provide analysis for the regulatory approach you are taking. Table 1b should provide analysis for the approach of leaving the current regulations intact (i.e., no further change is implemented). Table 1c should provide analysis for at least one alternative approach. You should not limit yourself to one alternative, however, and can add additional charts as needed.

Report both direct and indirect costs and benefits that can be monetized in Boxes 1 and 2. Report direct and indirect costs and benefits that cannot be monetized in Box 4. See the ORM Regulatory Economic Analysis Manual for additional guidance.

Table 1a: Costs and Benefits of the Proposed Changes (Primary Option)

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: Describe the direct costs of this proposed change here.</p> <p>Indirect Costs: Describe the indirect costs of the proposed change.</p> <p>Direct Benefits: Describe the direct benefits of this proposed change here.</p> <p>Indirect Benefits: Describe the indirect benefits of the proposed change.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) Not applicable.	(b) Not applicable.
(3) Net Monetized Benefit	Not applicable.	
(4) Other Costs & Benefits (Non-Monetized)	Not applicable.	
(5) Information Sources	Not applicable.	

Table 1b: Costs and Benefits under the Status Quo (No change to the regulation)

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: Describe the direct costs of this proposed change here.</p> <p>Indirect Costs: Describe the indirect costs of the proposed change.</p> <p>Direct Benefits: Describe the direct benefits of this proposed change here.</p> <p>Indirect Benefits: Describe the indirect benefits of the proposed change.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) Not applicable.	(b) Not applicable.
(3) Net Monetized Benefit		

(4) Other Costs & Benefits (Non-Monetized)	Not applicable.
(5) Information Sources	Not applicable.

Table 1c: Costs and Benefits under Alternative Approach(es)

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: Describe the direct costs of this proposed change here.</p> <p>Indirect Costs: Describe the indirect costs of the proposed change.</p> <p>Direct Benefits: Describe the direct benefits of this proposed change here.</p> <p>Indirect Benefits: Describe the indirect benefits of the proposed change.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) Not applicable.	(b) Not applicable.
(3) Net Monetized Benefit	Not applicable.	
(4) Other Costs & Benefits (Non-Monetized)	Not applicable.	
(5) Information Sources	Not applicable.	

Impact on Local Partners

Use this chart to describe impacts on local partners. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 2: Impact on Local Partners

<p>(1) Direct & Indirect Costs & Benefits (Monetized)</p>	<ul style="list-style-type: none"> • Direct Costs: Describe the direct costs of this proposed change here. • Indirect Costs: Describe the indirect costs of the proposed change. • Direct Benefits: Describe the direct benefits of this proposed change here. • Indirect Benefits: Describe the indirect benefits of the proposed change. <p>The regulation neither disproportionately affects particular localities, nor affects costs for local governments, unless and to the extent that a local government contracts for asbestos removal and the licensed contractor passes along the cost of its asbestos project permit fee to the local government.</p> <p>Current fees are in 16VAC25-20-30.C and -30.D:</p> <p>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:</p> <ol style="list-style-type: none"> 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. <p>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.</p> <ol style="list-style-type: none"> 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: <ol style="list-style-type: none"> 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.
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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.

The benefit of the regulation, which is mandated by statute, is to reduce the incidence of material impairment of the health of Virginians due to exposure to asbestos in the workplace or as an environmental pollutant.

What are the hazards of asbestos?

Asbestos is well recognized as a health hazard and its use is now highly regulated by both OSHA and EPA. Asbestos fibers associated with these health risks are too small to be seen with the naked eye. Breathing asbestos fibers can cause a buildup of scar-like tissue in the lungs called asbestosis and result in loss of lung function that often progresses to disability and death. Asbestos also causes cancer of the lung and other diseases such as mesothelioma of the pleura which is a fatal malignant tumor of the membrane lining the cavity of the lung or stomach. Epidemiologic evidence has increasingly shown that all asbestos fiber types, including the most commonly used form of asbestos, chrysotile, causes mesothelioma in humans.

What can be done to reduce the hazards of asbestos?

Worker exposure to asbestos hazards are addressed in specific OSHA standards for the construction industry, general industry and shipyard employment sectors. These standards reduce the risk to workers by requiring that employers provide personal exposure monitoring to assess the risk and hazard awareness training for operations where there is any potential exposure to asbestos. Airborne levels of asbestos are never to exceed legal worker exposure limits. There is no "safe" level of asbestos exposure for any type of asbestos fiber.^{4, 5} Asbestos exposures as short in duration as a few days have caused mesothelioma in humans.^{4, 5, 6, 7} Every occupational exposure to asbestos can cause injury of disease; every occupational exposure to asbestos contributes to the risk of getting an asbestos related disease.⁸ Where there is exposure,

	<p>employers are required to further protect workers by establishing regulated areas, controlling certain work practices and instituting engineering controls to reduce the airborne levels. The employer is required to ensure exposure is reduced by using administrative controls and provide for the wearing of personal protective equipment. Medical monitoring of workers is also required when legal limits and exposure times are exceeded.</p> <p>Va. Code § 40.1-51.20 mandates that all licensed asbestos contractors notify the Department at least twenty days prior to commencement of each asbestos project (the Department has the authority to waive all or any part of the twenty-day notice). The contractor is required to obtain an asbestos project permit and pay the appropriate fee in accordance with this Code section. Under Va. Code § 40.1-21, at least once a year, during an actual project, the Department of Labor and Industry is required "to conduct an on-site unannounced inspection of each licensed asbestos contractor's ... procedures in regard to installing, removing and encapsulating asbestos....." Such DOLI annual inspections are designed to identify and assure correction of asbestos hazards to reduce or eliminate asbestos exposure to employees and the general public.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) See (1) above.	(b) See (1) above.
(3) Other Costs & Benefits (Non-Monetized)	<p>As referenced above, an asbestos contractor working at a local government worksite could be subject to an inspection by DOLI. To the extent that the DOLI inspection delays completion of the project, the local government could experience a delay in use of the specific area under contract.</p> <p>If the DOLI inspection uncovers violations which could have resulted in the release of asbestos fibers in the project area, the contractor would be required to clean up the area before releasing it for use.</p>	
(4) Assistance	Not applicable.	
(5) Information Sources	<p>16VAC25-20-30.C and -30.D</p> <p>https://www.osha.gov/asbestos</p>	

Impacts on Families

Use this chart to describe impacts on families. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 3: Impact on Families

(1) Direct & Indirect Costs & Benefits (Monetized)	<ul style="list-style-type: none"> • Direct Costs: Describe the direct costs of this proposed change here. • Indirect Costs: Describe the indirect costs of the proposed change. • Direct Benefits: Describe the direct benefits of this proposed change here. • Indirect Benefits: Describe the indirect benefits of the proposed change. <p>The regulation should not result in any costs to families in single family homes or in residential buildings with four or fewer units as projects at such sites are exempt from paying a permit fee. If a family owns a residential with more than four units, they could experience costs if they contract for asbestos removal and the licensed contractor passes along the cost of its asbestos project permit fee to the family.</p> <p>See benefits listed in Table 2 above.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) See Table 2 above.	(b) See Table 2 above.
(3) Other Costs & Benefits (Non-Monetized)	<p>While rare, and usually only in response to a complaint from a family that occupies the building, an asbestos contractor working at a residential worksite could be subject to an inspection by DOLI. To the extent that the DOLI inspection delays completion of the project, the family could experience a delay in use of the specific area under contract.</p> <p>If the DOLI inspection uncovers violations which could have resulted in the release of asbestos fibers in the project area, the contractor would be required to clean up the area before releasing it for use to the family, thus eliminating potential family exposure to asbestos fibers.</p>	
(4) Information Sources	<p>16VAC25-20-30.C and -30.D</p> <p>https://www.osha.gov/asbestos</p>	

Impacts on Small Businesses

Use this chart to describe impacts on small businesses. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 4: Impact on Small Businesses

(1) Direct & Indirect Costs & Benefits (Monetized)	<ul style="list-style-type: none"> • Direct Costs: Describe the direct costs of this proposed change here. • Indirect Costs: Describe the indirect costs of the proposed change. • Direct Benefits: Describe the direct benefits of this proposed change here. • Indirect Benefits: Describe the indirect benefits of the proposed change. 	
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	<p>If the small business is a licensed asbestos contractor, they would be required to pay the fees outlined in Table 2 above. The small business has the option to either pass those costs along to its customers or not. As referenced above, a small business that is a licensed asbestos contractor is subject to being inspected by DOLI on an annual basis. If violations are cited, they could result in penalties being issued. The contractor would also be required to correct the violations, which would not normally be passed along to the customer.</p> <p>A small business could experience costs if they contract for asbestos removal and the licensed contractor passes along the cost of its asbestos project permit fee to the small business.</p> <p>See costs and benefits listed in Table 2 above.</p>	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) See Table 2 above.	(b) See Table 2 above.
(3) Other Costs & Benefits (Non-Monetized)	<p>As referenced above, an asbestos contractor working at a small business could be subject to an inspection by DOLI. To the extent that the DOLI inspection delays completion of the project, the small business could experience a delay in use of the specific area under contract.</p> <p>If the DOLI inspection uncovers violations which could have resulted in the release of asbestos fibers in the project area, the contractor would be required to clean up the area before releasing it for use.</p>	
(4) Alternatives	None. Licensed asbestos contractors are required to pay a permit fee unless otherwise exempt by statute per Va. Code § 40.1-51.20.B.	
(5) Information Sources	16VAC25-20-30.C and -30.D https://www.osha.gov/asbestos Va. Code § 40.1-51.20	

Changes to Number of Regulatory Requirements

For each individual VAC Chapter amended, repealed, or promulgated by this regulatory action, list (a) the initial requirement count, (b) the count of requirements that this regulatory package is adding, (c) the count of requirements that this regulatory package is reducing, (d) the net change in the number of requirements. This count should be based upon the text as written when this stage was presented for executive branch review. Five rows have been provided, add or delete rows as needed. In the last row, indicate the total number for each column.

Table 5: Total Number of Requirements

	Number of Requirements			
Chapter number	Initial Count	Additions	Subtractions	Net Change
16VAC25-20-10	0	0	0	0
16VAC25-20-20	0	0	0	0
16VAC25-20-30	3	0	0	0
16VAC25-20-40	0	0	0	0
TOTAL	3	0	0	0