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Demolition, Renovation and the Asbestos Regulations

The Federal government has passed several laws regarding asbestos.

1. The Environmental Protection Agency (EPA) has developed the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Asbestos (40 CFR Part 61 Subpart M). This regulation addresses public exposure to asbestos specifically in regard to demolitions, renovations, manufacture, and disposal.
2. EPA has also passed the Asbestos Hazardous Emergency Response Act (AHERA), which regulates asbestos in schools and sets training and certification standards for those who work with asbestos.
3. The Occupational Safety and Health Administration (OSHA) has promulgated asbestos regulations to protect asbestos workers.

The Nebraska Department of Environmental and Energy (NDEE) has been delegated responsibility for the NESHAP program and has adopted these regulations in [Title 129 – Nebraska Air Quality Regulations](#). The purpose of this document is to give an overview of who is subject to the NESHAP regulations, what are the requirements, and how to obtain more information.

Each State may develop additional asbestos regulations. The Nebraska Department of Health and Human Services (DHHS) has developed the Nebraska Asbestos Control Program (Title 178). These regulations specify certain work practices, accreditation, training, fees, and inspections that entities must comply with when conducting demolition or renovation projects. In Nebraska, the State asbestos program is more stringent than the Federal program. DHHS asbestos regulations are triggered by much smaller quantities of asbestos containing materials (ACM). For more information relating to demolition or renovation projects, contact DHHS at (402) 471-0386. Title 178 and additional asbestos information can be found on DHHS's web site at: <https://dhhs.ne.gov/Pages/Asbestos.aspx>.

What are the NESHAP regulations?

The Clean Air Act of 1970 gave EPA the authority to develop regulations that would minimize public exposure to asbestos. EPA created the NESHAP asbestos regulations in 1973 with the most recent amendments in 1990. The NESHAP regulations specify requirements for demolitions, renovations, notifications, work practices, and disposal. There are also requirements for asbestos mills, manufacturing, roadways, and waste disposal sites. The latter information will not be discussed in this document.

Who is subject to the NESHAP regulations?

Facilities are subject to NESHAP regulations. A facility is defined as “any institutional, commercial, public, industrial, or residential structure, installation, or building (including any structure installation, or building containing condominiums or individual dwelling units operated as a cooperative, but excluding residential buildings having four or fewer dwelling units); any ship; and any active or inactive waste disposal site.”

Residential buildings that are used as fire training exercises are subject to the regulations because the residence is being used for institutional purposes. The fire department conducting the exercise is responsible for compliance with the NESHAP regulations. (See NDEE’s [Fire Training Guidance Document](#)).

Residential buildings (more than one) demolished as part of a project (i.e. highway project, commercial development, etc.) that are in close proximity to each other may be subject to the regulations. Please contact NDEE with further questions.

When is a facility subject to the NESHAP regulations?

If a facility is being demolished, the regulations apply. If a facility is being renovated and there is ACM greater than 260 linear feet, 160 square feet or 35 cubic feet that will be disturbed, the NESHAP regulations may apply. If a facility will be demolished by means of a fire training exercise, the regulations apply.

NESHAP Requirements

Inspections

Prior to any demolition or renovation, a facility must be thoroughly inspected for the presence of asbestos-containing materials (ACM). All suspect ACM must be sampled and laboratory analyzed or is assumed to contain asbestos and must be handled as such. Suspected ACM include but are not limited to: floor tile, linoleum, pipe and boiler insulation, heat duct wrap and joint tape, cementitious siding and roofing, asphalt-based roofing, ceiling tiles, joint compound, sprayed-on-texturing, etc.

The inspector must be certified in accordance with the DHHS Nebraska Asbestos Control Program Regulations, Title 178. Contact DHHS at 402-471-0386 to discuss the requirements.

Notifications

Whether asbestos is present or not, the owner or operator of a facility that will be demolished must submit a [NESHAP notification](#) to NDEE 10 working days prior to any demolition (except exempt residential structures). Owner or operator shall mean any person who owns, leases, operates, controls, or supervises the facility being demolished or renovated or any person who owns, leases, operates, controls, or supervises the demolition or renovation operation, or both.

The owner or operator of a facility that will be renovated which contains 260 linear feet, 160 square feet or 35 cubic feet of regulated asbestos-containing material (RACM) must submit a NESHAP notification to NDEE 10 working days prior to disturbance of the material. RACM means material containing more than one percent asbestos and (a) is friable, (b) has become friable, (c) will be or has been subjected to sanding, grinding, cutting or abrading, or (d) has a high probability of becoming or has become crumbled, pulverized, or reduced to powder. Friable is defined as material that when dry, can be crumbled, pulverized, or reduced to powder by hand pressure.

Any fire department conducting a fire training exercise shall submit a [fire training demolition notification](#) 10 working days prior to the exercise. A NESHAP notification may also be required prior to the removal of any ACM. (See NDEE's [Fire Training Guidance Publication](#).)

When an emergency renovation occurs, the NDEE shall be notified as soon as possible. The notification shall include all the required elements as well as the date and hour that the emergency occurred, a description of the sudden, unexpected event, and an explanation of how the event caused an unsafe condition or would cause equipment damage or unreasonable financial burden. An emergency renovation means an operation that was not planned but results from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard, is necessary to protect equipment from damage, or is necessary to avoid imposing an unreasonable financial burden.

All NESHAP notifications must be submitted to the NDEE. If the project is located within Lancaster County, a notification shall **also** be submitted to the Lincoln Lancaster County Health Department (LLCHD). If the project is located within Omaha city limits, a notification shall **also** be submitted to the Omaha Air Quality Control (OAQC).

Please note that DHHS **also** has notification requirements regarding the Nebraska Asbestos Control Program. For further information, contact DHHS at (402) 471-0386.

Asbestos Emission Control

Asbestos must be removed prior to demolition or prior to any activity that would break up, dislodge, or disturb the asbestos material. Although Title 129 and the NESHAP regulations do not always require that asbestos be removed, the DHHS Title 178 – Nebraska Asbestos Control Program requires asbestos removal in almost every instance.

The NESHAP requires that at least one on-site representative, such as a foreman or management-level person, be trained in the regulations when handling, stripping, removing or disturbing RACM. DHHS has specific certification, training, and work practice requirements; please contact DHHS at (402) 471-0386 with any questions.

There shall be no visible emissions during collection, processing, packaging or transporting of ACM. All RACM must be adequately wetted while being removed, disturbed, or stripped and remain adequately wet until it is properly disposed. RACM must be sealed in transparent, leak-tight containers while still wet. The RACM waste bags must be properly labeled with the name of the waste generator and the location at which the waste was generated.

Waste Disposal

RACM must be transported by an asbestos trained representative in a marked vehicle and disposed of in a permitted municipal solid waste (MSW) landfill. A list of permitted MSW landfills in Nebraska can be found on the NDEE web page, <http://dee.ne.gov/>. Select Land & Waste, then select Integrated Waste Program, and then select [Integrated Waste - List of Permitted Facilities](#). Please be aware that not all permitted MSW landfills accept RACM. Contact the MSW landfill prior to transportation of the waste if you are unsure if they accept RACM.

A waste shipment record must be included with the waste. Refer to the NESHAP regulations for required information. The shipment record must be maintained for at least two years. The NESHAP regulations do not address the disposal of non-regulated ACM (i.e., nonfriable floor tile, residential waste etc.). Please contact the MSW landfill prior to disposal for handling or bagging procedures of non-regulated ACM.

Residential Asbestos

Residential structures meeting the exemption requirements discussed earlier are not subject to the NESHAP requirements. Asbestos can be removed by a homeowner or unpaid volunteer. If a homeowner hires a contractor to remove ACM in their home, the contractor may be subject to the DHHS Nebraska Asbestos regulations (Title 178).

Asbestos does not have to be removed. If ACM is in good condition, is nonfriable and is not disturbed, the risk of asbestos exposure is minimal. Please note that there is **no safe level** of asbestos exposure. ACM can be covered, sealed, repaired or left in place. ACM should be maintained and handled to ensure the least amount of disturbance.

It is best to wear a respirator and proper protective clothing when disturbing asbestos material. Keep the material wet while handling it and dispose of the material in a leak-tight container. Call your local MSW landfill or garbage hauler for further handling instructions prior to disposal.

For more information and publications regarding asbestos in the home, contact:

<http://www.epa.gov/asbestos>.

NESHAP Contacts

NDEE – (402) 471-2186 – 245 Fallbrook Blvd., P.O. Box 98922, Lincoln, NE 68521

OAQC – (402) 444-6015 - 5600 S. 10th St., Omaha, NE 68107.

LLCHD – (402) 441-8034 - 3140 “N” St., Lincoln, NE 68501

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