

# Asbestos Regulation Frequently Asked Questions

The Clean Air Act (CAA) requires the U. S. Environmental Protection Agency (EPA) to develop and enforce regulations to protect the general public from exposure to airborne contaminants that are known to be hazardous to human health. In accordance with Section 112 of the CAA, EPA established National Emissions Standards for Hazardous Air Pollutants (NESHAP) to protect the public. Asbestos was one of the first hazardous air pollutants regulated under Section 112. On March 31, 1971, EPA identified asbestos as a hazardous pollutant, and on April 6, 1973, EPA first promulgated the Asbestos NESHAP in 40 CFR Part 61. In 1982, EPA delegated primary authority for the implementation and enforcement of the Asbestos NESHAP to the State of Florida.

The Florida Department of Environmental Protection (DEP) administers an asbestos removal program under Chapter 62-257, Florida Administrative Code. The Asbestos NESHAP has been adopted by reference in section 62-204.800, Florida Administrative Code.

The program's intent is to minimize the release of asbestos fibers during activities involving the processing, handling, and disposal of asbestos-containing material. Accordingly, the Asbestos NESHAP specifies work practices to be followed during demolitions and renovations of all structures, installations, and buildings (excluding residential buildings that have four or fewer dwelling units). In addition, the regulations require the owner of the building and/or the operator to notify the applicable [DEP District Office or Local Pollution Control Agency](#) before any demolition, or before renovations of buildings that contain a certain threshold amount of asbestos or asbestos containing materials.

## **What is the purpose of the Asbestos NESHAP regulation?**

As stated above, the purpose is to protect the public health by minimizing the release of asbestos when facilities, which contain asbestos-containing materials (ACMs), are demolished or renovated.

## **What is a "facility?"**

As defined in the regulation, a "facility" is 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 residential cooperative, but excluding residential buildings having four or fewer dwelling units); any ship; or any active or inactive waste disposal site. Any building, structure or installation that contains a loft used as a dwelling is not considered residential. Any structure, installation, or building that was previously subject to the Asbestos NESHAP is not excluded, regardless of its current use or function.

## **Are facilities constructed in the past 10 years subject to the asbestos regulations?**

Yes. There is no exclusion date in the asbestos regulations for facilities constructed in the past 10 years.

## **If I renovate several two-family units, are the units defined as a "facility?"**

Residential buildings which have four or fewer dwelling units are not considered "facilities" unless they are part of a larger installation (for example, an army base, company housing, apartment or housing complex, part of a group of houses subject to condemnation for a highway right-of-way, an apartment which is an integral part of a commercial facility, etc.).

## **Are mobile homes or mobile structures regulated by the Asbestos NESHAP?**

Mobile homes used as single-family dwellings are not subject to Asbestos NESHAP unless part of a larger installation. Mobile structures used for non-residential purposes are subject to NESHAP.

## **Are Federal facilities regulated by the Asbestos NESHAP?**

Yes.

## **Are single-family private residences regulated by the Asbestos NESHAP?**

Homes that are demolished or renovated as part of a larger project or installation are regulated by the asbestos NESHAP. The demolition or renovation of multiple (more than one) small residential buildings on the same site by the same owner or operator (or owner or operator under common control) is covered by the asbestos NESHAP. The definition of a facility, found in the asbestos NESHAP, includes installation or group of buildings. If a house is part of an installation, then it would be part of a regulated facility.

Isolated single family homes that have never been used for commercial purposes, are exempt from the asbestos NESHAP. The term "isolated" means not part of a larger project such as a road widening project or the construction of a new subdivision or not part of any group of buildings or structures at a single demolition or renovation site that are under the control of the same owner or operator (or owner or operator under common control). The definition of a facility, found in the asbestos NESHAP, does not include an isolated residential house that has not been used as a business. However, if the residential house is part of a larger project, then it is not considered isolated and may be required to submit a notice and conduct a survey.

EPA's clarification of the "residential exemption" from the asbestos National Emission Standards for Hazardous Air Pollutants (NESHAP) can be found at <https://www.gpo.gov/fdsys/pkg/FR-1995-07-28/pdf/95-18620.pdf>.

### **What is a renovation?**

A renovation is altering a facility or one or more facility components in any way, including the stripping or removal of Regulated Asbestos Containing Materials (RACM) from a facility component. A renovation could be, but not limited to, any interior renovation or remodel not affecting load-supporting structural members or a roof replacement.

### **What is a demolition?**

A demolition means the wrecking or taking out of any load-supporting structural member of a facility together with any related handling operations or the intentional burning (i.e. practice burns) of any facility.

### **Is roofing work classified as a renovation or a demolition?**

Normally, roofing work with ACM is classified as a renovation in the Asbestos NESHAP. If roofing work involves wrecking or taking out load-supporting structural members, then the work would be classified as a demolition. Also see Roofing FAQ.

### **How much asbestos must be present before the Asbestos NESHAP work practice standards apply to renovation projects?**

Asbestos NESHAP regulations must be followed for all renovations of facilities with at least **80 linear meters (260 linear feet)** of regulated asbestos-containing materials (RACM) on pipes, or **15 square meters (160 square feet)** of regulated asbestos-containing materials on other facility components, or at least **one cubic meter (35 cubic feet)** off facility components where the amount of RACM previously removed from pipes and other facility components could not be measured before stripping. These amounts are known as the "threshold" amounts.

### **How much asbestos must be present before the Asbestos NESHAP work practice standards apply to demolition projects?**

Asbestos NESHAP regulations must be followed for demolitions of facilities with at least **80 linear meters (260 linear feet)** of regulated asbestos-containing materials (RACM) on pipes, **15 square meters (160 square feet)** of regulated asbestos-containing materials on other facility components, or at least **one cubic meter (35 cubic feet)** off facility components where the amount of RACM previously removed from pipes and other facility components could not be measured before stripping. However, all demolitions must notify the appropriate regulatory agency, even if no asbestos is present at the site, and all demolitions and renovations are "subject" to the Asbestos NESHAP insofar as owners and operators must determine if and how much asbestos is present at the site.

### **Am I required to submit a notification form for a demolition project when no asbestos is present?**

Yes. All demolitions must have notifications submitted to the appropriate DEP District Office or Local Pollution Control Agency. See more questions regarding notification below.

### **Are homes that are demolished or renovated to build non-residential structures regulated by the Asbestos NESHAP?**

Yes. For example, the Asbestos NESHAP regulates multiple residential structures that are demolished as part of an urban renewal project, a highway construction project, or a project to develop a shopping mall. A single home which is converted into a non-residential structure is also regulated by the Asbestos NESHAP. For example, if someone buys a house and

converts it into a store, the renovation is subject to the Asbestos NESHAP.

### **What is encapsulation, and is it regulated by the Asbestos NESHAP?**

Encapsulation is the application of a material with a sealant to stop it from releasing fibers. Normally, the Asbestos NESHAP does not regulate encapsulation unless it involves removing or stripping asbestos. However, if encapsulation is done using methods that damage asbestos and release fibers it would be covered. For example, high pressure spraying to apply encapsulant could damage asbestos. Also, if friable RACM is encapsulated, the RACM is still covered by the Asbestos NESHAP if renovation or demolition occurs.

### **What is a notification?**

A notification is a written notice of intent to renovate or demolish. Notifications must contain certain specified information, including but not limited to, the scheduled starting and completion date of the work, the location of the site, the names of operators or asbestos removal contractors, methods of removal and the amount of asbestos, and whether the operation is a demolition or renovation. See Section 61.145(b) of the Asbestos NESHAP regulation.

### **Whom do I notify?**

You should notify the [DEP District Office or Local Pollution Control Agency](#) in your area of the demolition or renovation operations subject to NESHAP. See contact information for proper submittal of notification form.

### **How do I notify?**

The completed notification form may be submitted by mail, hand or commercial delivery service to the appropriate DEP District Office or Local Pollution Control Agency.

### **Who is responsible for submitting a notification -- the owner of the building, which is being demolished or renovated, or the contractor?**

The NESHAP regulation states that either the owner of the building or operator of the demolition or renovation operation can submit the notification. Usually, the two parties decide together who will notify. If no adequate notice is provided, one or both parties can be held liable.

### **When a condominium complex is being renovated, who as owner, is responsible for submitting a notification?**

While owners and operators share responsibility for proper notification, the condominium or co-op board is responsible as the owner. The board should ensure that they are told when work takes place on individual units, so that they can comply with notification requirements, especially if multiple operators are involved.

### **Is there a form for notifications?**

Yes, there is a form for notification. You can obtain a form, and instructions on how to fill it out, from your [DEP District Office, Local Pollution Control Agency](#) or online at <http://www.dep.state.fl.us/air/rules/forms/asbestos.htm>.

### **When I notify regarding a renovation, what date do I consider the start date?**

For a renovation, the start date is the day that the removal of asbestos-containing material, or any other asbestos-handling activities, including precleaning, construction of containment, or other activities that could disturb the asbestos, will begin.

### **When I notify regarding a demolition, do I give the start date of the demolition or of the asbestos removal? Which date do I use to determine whether I've met the 10-day waiting period?**

For a demolition, the start date is the date that the removal or any removal related activity begins. The date the demolition starts also must be reported. The waiting period should be calculated based on the start date of the removal or if no removal is required then the start date of the demolition. The waiting period is necessary to give inspectors time to visit the site before activity begins.

### **Can a demolition and a renovation be notified on the same notification form?**

Yes. The notification form should include information for both the renovation and demolition. For example, start/finish dates, contractors, waste disposal site(s), etc.

**Does the 10-day notification requirement refer to "calendar" days or "working" days?**

The asbestos regulations specify "working days." A "working day" is Monday through Friday and includes holidays that fall on any of the days Monday through Friday.

**Is the 10 working days in the waiting period ever reduced?**

No. The reduction of the waiting period is not allowed in the asbestos regulations.

**Is the 10-day waiting period required on all asbestos projects?**

No. An emergency renovation is the only project where the 10-day waiting period is not required for notification.

**What constitutes an emergency renovation?**

An emergency renovation is a renovation that was not planned, but results from a sudden, unexpected event that either immediately produces unsafe conditions, or that, if not quickly remedied, could be reasonably foreseen to result in an unsafe or detrimental effect on health or is necessary to protect equipment and avoid unreasonable financial burden. The term includes renovations necessitated by non-routine equipment failures. For example, the explosion of a boiler in a chemical plant might require emergency renovations, since such an explosion would disrupt normal operations. However, renovations involving routine repairs are not emergencies.

**Under what conditions must I notify for emergency renovations? When must I notify?**

First, inspect the facility and determine the amount of RACM that may have to be removed or disturbed to repair the facility. (If you don't have the time to have samples analyzed, you should assume that all insulation is RACM.) Then, if the amount of RACM is in excess of the threshold amount, you should mail or deliver a notification as soon as possible, but certainly no later than the following workday. A notification, which is postmarked more than one working day after the emergency, will be considered in violation of the notification requirements. DEP recommends that you send the notice by overnight express mail, and that you phone in a notification as well to the [DEP District Office or Local Pollution Control Agency](#).

**What is a "nonscheduled renovation operation"?**

A "nonscheduled renovation operation" is a renovation operation that is caused by the routine failure of equipment which is expected to occur based on past operating experience, but for which an exact date cannot be predicted.

**Do I have to notify for non-scheduled operations? When?**

Yes, if you can predict based on past experience that renovations will be necessary during the calendar year and the amount of asbestos is likely to exceed the jurisdictional amount, notification is required. This notification must be submitted at least 10 working days before the end of the calendar year preceding the year for which notice is being given.

Note: Single renovation projects which exceed the threshold amount are not covered by this type of notice. A separate notification is required for these projects.

**Must I notify the agency again if I know that a specific renovation project involving more than the threshold amount (including the work covered by the calendar year notice for non-scheduled operations) is about to occur at a specific time?**

Yes.

**When does a notification need to be revised?**

A notification must be revised if information contained in the original notice has changed. For example, you must revise the notification if you change the start date of an operation. If the change relates to the amount of RACM involved, you need only revise the notification if the amount changes by more than 20 percent.

## **When do I submit a revised notification?**

You should telephone the [DEP District Office or Local Pollution Control Agency](#) as soon as possible after you realize the revision is necessary, and should then mail or hand deliver a written notice. If you delay the start date of a project, the [DEP District Office or Local Pollution Control Agency](#) must receive the revised notification no later than the original start date. If you plan to begin work before the date specified in the original notice, the [DEP District Office or Local Pollution Control Agency](#) must receive the revised notice at least 10 working days before the revised start date.

## **Does the Asbestos NESHAP require a building owner or operator to remove damaged or deteriorating asbestos-containing material?**

No. Not unless a renovation of the facility is planned which would disturb the ACM and it exceeds the threshold amount.

## **What does "adequately wet" mean?**

To "adequately wet" ACM means to sufficiently mix or penetrate the material with liquid to prevent the release of particulates. If visible emissions are observed coming from ACM, then the material has not been adequately wetted. However, the absence of visible emissions is not evidence of being adequately wet.

## **If a facility is being demolished under an order of a State or local government because the facility is structurally unsound, and therefore unsafe, do all the normal regulations covering demolitions apply?**

No. The applicable regulations are specified in section 61.145 (a)(3) of 40 CFR subpart M (Asbestos NESHAP).

## **If a facility is being demolished under an order of a State or local government, must all the debris be treated as asbestos-contaminated waste?**

If, for safety reasons, the RACM in the facility is not removed prior to demolition, the RACM must be kept adequately wet during the wrecking operations. After wrecking, all the contaminated debris must be kept adequately wet until disposal. All contaminated debris which cannot be segregated and cleaned should be disposed of as asbestos waste.

## **What is friable asbestos-containing material?**

Friable ACM is any material containing more than one percent asbestos (as determined by Polarized Light Microscopy) that, when dry, may be crumbled, pulverized, or reduced to powder by hand pressure.

## **What is non-friable ACM?**

Non-friable ACM is any material containing more than one percent asbestos (as determined by Polarized Light Microscopy) that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure. Under the Asbestos NESHAP, non-friable ACM is divided into two categories. **Category I non-friable ACM** are asbestos-containing resilient floor coverings (commonly known as vinyl asbestos tile (VAT)), asphalt roofing products, packings and gaskets. These materials rarely become friable. All other non-friable ACM are considered **category II non-friable ACM**.

## **Must I remove category I non-friable material prior to demolition or renovation?**

Under normal circumstances, category I non-friable materials need not be removed prior to demolition or renovation, because generally these materials do not release significant amounts of asbestos fibers, even when damaged. This is not, however, a hard and fast rule. If category I materials have become friable or are in poor condition, they must be removed. Also, if you sand, grind, abrade, drill, cut or chip any non-friable materials, including category I materials, you must treat the material as friable, if more than the jurisdictional amount is involved.

## **Must I remove category II non-friable materials prior to demolition or renovation?**

These materials should be evaluated on a case-by-case basis. If category II non-friable materials are likely to become crushed, pulverized or reduced to powder during demolition or renovation, they should be removed before demolition or renovation begin. For example, A/C (asbestos cement) siding on a building that is going to be demolished with a wrecking ball should be removed, because it is likely that the siding will be pulverized by the wrecking ball.

## **Does non-friable waste, if broken, damaged, etc., have to be wetted and contained?**

Non-friable ACM that has been damaged during a demolition or renovation operation such that some portions of the material are crumbled, pulverized or reduced to powder is covered by the Asbestos NESHAP if the facility contains more than the threshold amount of RACM. However, category II non-friable ACM that has a high probability of being damaged by the demolition or renovation forces expected to act on the materials such that it will be crumbled, pulverized, or reduced to powder must be removed prior to the demolition or renovation operation. It is the owner's or operator's responsibility to make these determinations. If the asbestos-containing materials are made friable then the Asbestos NESHAP would apply, including adequately wetting and containing the material.

**How should I handle bulk waste from a facility that contained RACM and that was not found until after demolition began?**

The demolition debris must be treated as asbestos-containing waste. Adequately wet the demolition debris until collected for disposal and during loading, transport it in covered vehicles and emit no visible emissions to the outside air as required by 61.150 of asbestos NESHAP. The waste must be deposited at an acceptable waste disposal site.

**Can I transport bulk asbestos waste without placing it in containers as long as I keep the waste pile wet?**

No. After wetting, seal all asbestos-containing waste material in leak-tight containers while wet and label with the appropriate signs and labels. If the waste will not fit into containers, it must be placed in leak-tight wrapping. However, for facilities that are demolished without removing the RACM and for ordered demolitions, the material must be adequately wet after the demolition has occurred and again when loading the material for transport to a disposal site. RACM covered by this paragraph may be transported in bulk without being placed in leak-tight containers or wrapping.

**How should I label asbestos-containing waste that is being taken away from the facility?**

You should label the containers or wrapped materials with the name of the waste generator and the location at which the waste was generated. An OSHA warning label must also be used.

**Where can I obtain a list of permitted landfills?**

The [DEP District Office or Local Pollution Control Agency](#) can supply a list of permitted asbestos disposal sites upon request. The DEP Bureau of Solid and Hazardous Waste maintains a list of permitted landfills on their website at [http://www.dep.state.fl.us/waste/quick\\_topics/database\\_reports/default.htm](http://www.dep.state.fl.us/waste/quick_topics/database_reports/default.htm).

**What should the owner or operator of a waste disposal site do if it is determined that there is a discrepancy between the amount of waste that left the facility and the amount of waste that was delivered to the site?**

The waste site owner or operator must contact the demolition/renovation owner or operator, and attempt to reconcile the discrepancy. If they cannot do so within 15 days after the waste was received, the waste site owner or operator must notify both the delegated agency responsible for the facility from which the waste was removed, and the delegated agency responsible for the area in which the waste was disposed.

**Does the NESHAP regulation require air monitoring during renovation or removal?**

No.

**Does the Asbestos NESHAP regulation require me to have my property inspected for asbestos?**

No, not unless demolition or renovation is planned. The NESHAP regulation requires that a thorough inspection for asbestos be conducted before demolition or renovation. An inspection for asbestos should provide an inspection report or supporting information that identifies all asbestos containing materials in the facility or part of the facility affected by the renovation or demolition.

**What is a bulk sample?**

A bulk sample is a solid quantity of insulation, floor tile, building material, etc., that is suspected of containing asbestos fibers that will be analyzed for the presence and quantity of asbestos.

**Will DEP test my building for asbestos for me?**

No. Owners and operators are responsible for getting their buildings tested.

**How can I find someone to do the testing?**

Contact a Florida licensed Asbestos Consultant in your area for information on sampling and testing for asbestos. The consultants are normally listed in the yellow pages of the phone book. The Florida Department of Business and Professional Regulation licenses the consultants in Florida and provide an online search at <https://www.myfloridalicense.com/Default.asp>.

**How do laboratories analyze bulk samples?**

Laboratories analyze bulk samples a number of ways. Most laboratories use Polarized Light Microscopy (PLM). Some laboratories use Transmission Electron Microscopy (TEM). However, there is currently no published method for bulk analysis using TEM.

**How much does it cost to have a bulk sample analyzed?**

The cost varies with the method. The cost of PLM analysis ranges from \$20.00 to \$100.00. The average cost is \$30.00. TEM analysis is more expensive.

**Does an inspector have the right to enter any facility and the containment area?**

Yes. Inspectors have the right under the section 403.091 Florida Statutes to inspect a facility to determine compliance with applicable regulations. Inspectors are trained and equipped to do this safely. Contact your [DEP District Office or Local Pollution Control Agency](#) for more details on this subject.

**Is visible asbestos-containing debris on the ground outside a removal job considered a "visible emission," and a violation of the NESHAP?**

Yes. Dry friable asbestos insulation on the ground violates the "adequately wet" requirement, and can be considered evidence of a visible emission.

**Is it appropriate for an inspector to open any bags outside the designated contaminated area?**

Yes. The inspector may open any bags outside the designated contaminated area to inspect them. The inspector may use a glovebag or other control techniques. The inspector will then properly reseal the bag, or request that the operator do so.

**Must an inspector witness improper removal of more than 160 square feet or 260 linear feet of asbestos-containing material to prove a violation of the NESHAP regulation?**

No. First, the inspector must gather information about the quantity of asbestos to prove that the project is subject to the NESHAP standards. Second, the inspector must prove that there has been improper removal. The two tasks are distinct from each other.

**Do inspectors need to follow facility training requirements including fit testing?**

No.

**What training is required in the Asbestos NESHAP?**

The Asbestos NESHAP requires at least one trained supervisor, such as a foreman or management-level person, employed by the owner and/or operator to be present at any site where RACM is stripped, removed, or otherwise disturbed at any facility which is being demolished or renovated and is regulated by NESHAP. Evidence of the training must be posted and made available for inspection at the demolition or renovation site. Training includes, at a minimum: applicability, notification, material identification, control procedures, waste disposal, reporting and record keeping, asbestos hazards and worker protection.

Every 2 years the trained individual is required to receive refresher training. Information about the training and refresher courses is available from the Florida Department of Business and Professional Regulation at <http://www.myfloridalicense.com/dbpr/pro/asbest/index.html>.