



Oregon Environmental Quality Commission meeting
Nov. 15-16, 2018
Agency Staff Report
Rulemaking, Action Item F

Revisions to Asbestos Regulations 2018

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DEQ recommendation to the EQC

DEQ recommends the Oregon Environmental Quality Commission adopt the proposed rules as seen on pages 48 through 98 of this report, revising Oregon asbestos regulations as part of Chapter 340 of the Oregon Administrative Rules division number 248.

The proposed revisions clarify regulations and standards for asbestos-related activities, where a potential for exposure to asbestos fibers exists. The recommended changes to the asbestos rules are based on existing asbestos-related laws from the Environmental Protection Agency, Oregon Occupational Safety and Health Division, and laws in other U.S. cities and states.

Proposed EQC motion language:

“I move that the Oregon Environmental Quality Commission adopt the proposed rules as seen on pages 48 through 98 of this report to revise Oregon asbestos regulation as part of Chapter 340, Division 248 of the Oregon Administrative Rules.”

Overview

Background

DEQ is proposing comprehensive updates to its asbestos rules. Several changes have financial implications, and are described in more detail in the summary of proposed rule changes, below. In addition to these major changes, DEQ is proposing updates to the rule language to comply with plain language requirements and address inconsistencies within the rule language. DEQ has operated an asbestos program since 1988, with updates in 2002 and 2015 to address specific elements of the program and rules.

Asbestos is a natural mineral that has been mined and used extensively over the previous decades in numerous products, particularly in construction because of the material's durability and heat resistance. Asbestos is also a potent carcinogen when fibers are inhaled. There is no acceptable safe level of human exposure to asbestos.

Oregon's asbestos rules establish requirements to remove asbestos prior to conducting a renovation or demolition of a building. Oregon's rules implement the federal asbestos removal requirements, called the National Emission Standards for Hazardous Air Pollutants, or NESHAP, for asbestos. Oregon's asbestos rules provide: training and certification requirements for asbestos abatement workers and supervisors; training provider accreditation requirements; work practices for asbestos abatement projects; notification requirements to inform DEQ of asbestos removal projects; fees; and packaging, labeling, transport, and disposal requirements.

DEQ verifies compliance with the asbestos rules through inspections scheduled from contractor notifications, complaint response, discovery, and investigation of demolition or renovation projects. DEQ asbestos program staff provide education, technical assistance, and support to contractors, building owners, local governments, disposal site owners, operators, and the public through emails and phone calls, fact sheets, presentations, newsletters, and content on the DEQ website. DEQ coordinates with Oregon OSHA, EPA, local governments, the Construction Contractor Board, and the Fire Marshall to address complaints, emergencies, routine inspections, and requests for assistance to address asbestos related concerns.

The Oregon Legislature established the asbestos abatement program in 1987. DEQ adopted rules to implement the program in 1988. The original legislation gave Oregon the ability to carry out the federal NESHAP regulations for friable asbestos-containing material and to establish Oregon's program to regulate nonfriable asbestos-containing materials. Friable means material that can be crumbled, pulverized, or reduced to powder by hand pressure. Nonfriable means asbestos-containing material that is not friable. When dry, nonfriable asbestos material cannot be crumbled, pulverized, or reduced to powder by hand pressure; however, nonfriable materials can be rendered friable through improper work practices, removal, transportation and disposal. Additionally, DEQ established requirements for abatement contractors, workers, supervisors and training providers.

DEQ updated its rules in 2002 to prohibit open accumulation of asbestos-containing waste materials and to require an asbestos survey of non-residential buildings prior to renovation or demolition. A survey requirement was added to the rules to ensure that Oregon DEQ can carry out the federal requirements. In 2015, the Oregon Legislature required DEQ to adopt rules requiring an asbestos survey prior to residential demolitions. During that rulemaking process, DEQ identified additional changes to strengthen the rules and to provide consistent requirements for the regulated community, but additional rules changes were outside the scope of the 2015 rulemaking. This proposed 2018 rulemaking incorporates the additional changes identified in the 2015 rulemaking.

Summary of proposed rule changes

DEQ recommends the Oregon Environmental Quality Commission approve revisions to the asbestos rules to improve regulations and standards for asbestos-related activities where a potential for exposure to asbestos fibers exists. This report focuses on the three proposed rule revisions expected to have a financial impact. Additional proposed rule changes would clarify language, including updates to comply with state requirements for plain language, and to address rule inconsistencies. The proposed rule changes were provided to the advisory committee and to the public during the comment period and public hearing.

1. Residential Renovation Survey

DEQ is recommending that the existing requirement to conduct an asbestos survey prior to a residential demolitions be extended to residential renovations by contractors (with certain exceptions for newer buildings and for renovations carried out by owner-occupants). The survey requirement is currently in place for *demolitions* of residential buildings constructed prior to 2004, and for both demolitions and renovations of industrial, institutional, and commercial buildings. Building owners are required to have asbestos properly removed by certified personnel and by licensed contractors regardless of whether a survey is carried out.

Owner-occupants who perform asbestos abatement in their private residence are exempt from the proposed rule change to require a survey prior to a residential renovation. Owner-occupants are also exempt from hiring a licensed asbestos abatement contractor, notification and fees, and work practice requirements in OAR 340 division 248. However, an owner occupant is not exempt from following proper packaging and disposal requirements for asbestos-containing material. The owner occupant exemptions are provided in Oregon Revised Statute 468A.755 and OAR 340-248-0250(2)(a).

DEQ has identified numerous asbestos removal violations that exposed or potentially exposed people to asbestos fibers. These violations could have been avoided if building owners surveyed residential renovations prior to construction, and properly removed identified asbestos-containing material before renovation or demolition. Please refer to the informational paper for the survey exemption for residential renovations [online](#). This paper was provided by DEQ to the advisory committee and posted online during the stakeholder engagement process.

DEQ's recommendation to require a survey for a residential renovations of older buildings has been carefully evaluated regarding the identified costs associated with this change. The additional costs for homeowners are offset by the benefits of reduced exposure to asbestos fibers by construction workers, neighbors and disposal facility workers. DEQ anticipates significant reductions in violations of residential renovations leading to penalties and costly decontaminations incurred by building owners, contractors, and other industry workers.

2. Make nonfriable and friable disposal requirements the same

DEQ recommends that the commission adopt the proposed rule change to remove the Nonfriable Asbestos Disposal Requirements section, OAR 340-248-0290, and combine requirements for nonfriable asbestos-containing material and asbestos-containing waste material to the Friable Asbestos Disposal Requirements section, OAR 340-248-0280. This change would reduce exposure and potential exposure to asbestos fibers from the mismanagement of nonfriable asbestos-containing materials, because nonfriable asbestos-containing material can become friable when improperly handled, packaged, and disposed of through disposal procedures. This proposed rule change will mean similar requirements for packaging, labelling, transport, and disposal for friable and nonfriable asbestos-containing material. The result will be less exposure to asbestos fibers by building owners, homeowners, neighbors, contractors, and disposal facility workers.

This report provides the costs associated with this proposed rule change. Many contractors already package nonfriable asbestos-containing material and asbestos-containing waste material the same as friable asbestos-containing material. This proposed rule change will support safer work conditions for disposal site workers, and fewer precautions will be needed to prevent the inadvertent release of asbestos fibers. Please refer to the informational paper for the nonfriable disposal requirements [online](#).

3. Accredited laboratories for asbestos testing

DEQ requests that the commission adopt proposed regulations to require laboratories that analyze material samples for the presence of asbestos to demonstrate proficiency through participation in a nationally recognized accreditation program or an equivalent testing program. Currently, the requirements do not include regulations for laboratory competency. The proposed requirements allow a two-year phase-in period for laboratories to demonstrate proficiency in performing the asbestos analysis and more accurately identifying the percentage of asbestos fibers from samples. This proposed change could increase costs to laboratories for staff training and for participating in a nationally accredited program or an equivalent testing program. DEQ provided a range of options for laboratories to meet the proposed requirements because of the additional costs.

Request for other options

During the public comment period, DEQ requested input about whether to consider other options for achieving the goal of the proposed rule changes while reducing negative economic impact on business. In this report, DEQ provides responses to comment received. DEQ did not identify other options for reducing exposure to asbestos fibers beyond what is proposed in the rule changes.

Reasons for doing this rulemaking

The 2018 rulemaking expands on a previous asbestos rulemaking in 2015 to specifically implement Senate Bill 705 (2015 Oregon Legislative Session). Senate Bill 705 required DEQ to adopt rules requiring an asbestos survey before demolishing a residential building. DEQ convened a rules advisory committee for the rulemaking in 2015 to discuss the proposed rule change. The input from that committee included asking DEQ to consider other changes to the asbestos rules, but those potential changes were outside the scope of the Legislative direction and could not be incorporated at that time. The proposed 2018 rulemaking addresses the input from the stakeholders in the 2015 rulemaking, and other rule changes identified to improve regulations and standards for asbestos-related activities where a potential for exposure to asbestos fibers exists.

DEQ consulted the Oregon Occupational Safety and Health Division, the EPA federal NESHAP asbestos-related rules, and regulations in other states and local governments for the 2018 rulemaking.

Regulated parties

These rules apply to any person who owns, controls, operates, or supervises asbestos-related activities including asbestos milling, manufacturing, fabricating, abatement, disposal, or any situation where a potential for exposure to asbestos fibers exists, as described in OAR chapter 340, division 248.

Statement of Need

The following recommended rule changes are identified as having a financial impact to stakeholders. DEQ made other rule changes in this rulemaking to clarify language or address inconsistencies.

Proposed Rule	Discussion
1. Residential renovation survey	
<p>What need would the proposed rule address?</p>	<p>According to the Agency for Toxic Substances and Disease Registry, asbestos-containing materials can release tiny asbestos fibers, too small to see, into the air. Workers and others who breathed asbestos fibers over many years have developed asbestos-related diseases, including asbestosis, pleural disease, lung cancer, and mesothelioma.</p> <p>Currently, Oregon rules require an asbestos survey prior to commercial demolitions and renovations, and for residential demolitions constructed prior to Jan. 1, 2004. Residential renovations are currently exempt from the asbestos survey requirement even though the licensing, certification, notification, removal, packaging, and disposal of asbestos-containing waste materials are currently required.</p> <p>DEQ has responded to several complaints about residential remodeling where asbestos was improperly removed in ways that disturbed asbestos and potentially exposed workers, neighbors, and owner occupants to asbestos fibers. Requiring the survey prior to residential remodeling will reduce the likelihood that homeowners, contractors, neighbors, the public, and disposal site workers will be exposed to asbestos fibers from improper removal of asbestos-containing materials.</p> <p>The estimated costs to hire an accredited inspector to perform the asbestos survey in addition to the costs of other asbestos requirements (providing project notification to DEQ and hiring a licensed asbestos abatement contractor) are significantly less than the</p>

Proposed Rule	Discussion
	<p>costs associated with improper removal of asbestos, decontamination of a project site, and paying costs associated with penalties for illegal abatement and disposal of asbestos. Additional health-cost savings are associated with reducing human exposure to asbestos fibers.</p>
<p>How would the proposed rule address the need?</p>	<p>The proposed rule would address the need by requiring the area of work covered by the residential renovation projects to be surveyed for asbestos-containing material to reduce exposure to asbestos by homeowners, neighbors, contractors, transporters, and disposal facility workers.</p>
<p>How will DEQ know the rule addressed the need?</p>	<p>DEQ would receive notifications from building owners or licensed abatement contractors for asbestos abatement projects associated with residential remodeling projects.</p>
<p>2. Nonfriable asbestos disposal requirements identical to friable disposal requirements</p>	
<p>What need would the proposed rule address?</p>	<p>The National Institute for Occupational Safety and Health reports that when handled, asbestos can separate into microscopic-size particles that remain in the air and are easily inhaled. Friable asbestos-containing materials easily release asbestos fibers when crumbled. Nonfriable asbestos-containing materials refers to asbestos that is sealed or bound together in solid form, where the fibers cannot readily escape.</p> <p>Nonfriable asbestos-containing material is generally considered safe if maintained in good condition; however, it can become friable by demolition, renovation, transportation, and disposal activities that crush, break, or otherwise mishandle nonfriable materials during removal, packaging, transport, and disposal.</p> <p>Currently, nonfriable asbestos-containing materials do not have to be handled in the same manner as friable asbestos-containing materials. Through complaint</p>

Proposed Rule	Discussion
	<p>response and inspections, DEQ has identified many nonfriable asbestos-containing materials that have been handled improperly resulting in the material becoming friable.</p> <p>Many contractors currently package, label, transport, and dispose of nonfriable asbestos waste similar to how they handle friable asbestos waste. This proposed change will provide a safer environment for employees, neighbors, homeowners, contractors, and disposal facility workers.</p>
<p>How would the proposed rule address the need?</p>	<p>The proposed rule makes packaging, labeling, and disposal requirements for nonfriable asbestos-containing waste materials the same as friable asbestos-containing waste materials. Similar requirements will prevent nonfriable asbestos-containing materials from becoming friable during transportation to disposal facilities. This change provides a safer work environment for contractors, homeowners, neighbors, transporters, and disposal facility workers, by preventing exposure to asbestos fibers.</p>
<p>How will DEQ know the rule addressed the need?</p>	<p>DEQ anticipates that contractors and disposal sites will increase use of DEQ asbestos disposal forms. DEQ will receive notifications that nonfriable asbestos has been disposed of similar to friable asbestos waste.</p> <p>DEQ will be able to verify through inspections that licensed abatement contractors have packaged, stored, transported, and disposed of nonfriable asbestos-containing waste material with the same standards as friable asbestos-containing materials. When nonfriable asbestos-containing waste material is packaged and disposed of with the same precautions as friable asbestos-containing waste material, there should be less potential to disturb nonfriable asbestos-containing waste materials that can become friable.</p>

Proposed Rule	Discussion
3. Require proficiency testing for laboratories that analyze samples for asbestos	
What need would the proposed rule address?	<p>DEQ proposes that laboratories analyzing asbestos samples meet established standards by participating in a nationally recognized testing program with proficiency testing or an equivalent testing program. Building owners or contractors will be able to trust that the asbestos analysis results they receive are accurate no matter which laboratory analyzed the material. Accreditations or equivalent testing programs ensure integrity of testing results for asbestos, appropriately trained staff, properly handled samples, and clear laboratory reporting.</p>
How would the proposed rule address the need?	<p>DEQ proposes requiring that laboratories analyzing asbestos samples meet established standards by participating in a nationally recognized testing program with proficiency testing or an equivalent testing program within two years of rule adoption.</p> <p>Accreditations or equivalent testing programs ensure integrity of testing results for asbestos, appropriately trained staff, properly handled samples, and more transparent laboratory reporting. DEQ recognizes that some labs will need some time to meet proficiency requirements and will allow up to two years for laboratories to comply with the proposed rules.</p>
How will DEQ know the rule addressed the need?	<p>DEQ will verify that laboratories are participating in a nationally recognized asbestos accreditation program or testing program, and DEQ will maintain a list of these laboratories.</p>

Rules affected, authorities, supporting documents

Lead division

Air Quality Division

Program or activity

Asbestos program

Chapter 340 action

Amend - OAR

340-248-0005	340-248-0010	340-248-0100	340-248-0110
340-248-0120	340-248-0130	340-248-0140	340-248-0150
340-248-0160	340-248-0170	340-248-0180	340-248-0205
340-248-0210	340-248-0220	340-248-0230	340-248-0240
340-248-0250	340-248-0260	340-248-0270	340-248-0275
340-248-0280			

Repeal – OAR

340-248-0290

Statutory authority – ORS

468.020	468.065	468A.700-.760	468A.025	468A.135
468				

Statute implemented – ORS

468A.700-.760	468A.025	468.020
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Documents relied on for rulemaking

Document title	Document or website location
Licensed Asbestos Abatement Contractors, October 30, 2017	Oregon Department of Environmental Quality 700 NE Multnomah Street, Suite 600, Portland Oregon 97232
DEQ Informational Paper: Asbestos Surveys and Survey Report Requirements	http://www.oregon.gov/deq/Rulemaking%20Docs/Asbestos2018ACASSRR.pdf
Agency for Toxic Substances and Disease Registry, U.S. Department of Health & Human Services	https://www.atsdr.cdc.gov/asbestos/overview.html
DEQ Informational Paper: Survey Exemption for Residential Renovations	http://www.oregon.gov/deq/Rulemaking%20Docs/Asbestos2018ACRRSE.pdf
National Institute for Occupational Safety and Health (NIOSH) Respiratory Health Division	https://www.cdc.gov/niosh/topics/asbestos/
DEQ Informational Paper: Nonfriable Asbestos Disposal Requirements	http://www.oregon.gov/deq/Rulemaking%20Docs/Asbestos2018ACNDR.pdf
Asbestos 2017 Rulemaking Advisory Committee meeting notes, September 28, 2017 (Number of licensed construction contractors.)	http://www.oregon.gov/deq/Rulemaking%20Docs/rasbestos2018m1notes.pdf
National Institute of Standards and Technology (NIST), National Voluntary Laboratory Accreditation Program (NVLAP)	https://www.nist.gov/nvlap/about-nvlap
American Industrial Hygiene Association (AIHA), Industrial Hygiene Laboratory Accreditation Program (IHLAP)	https://www.aihaaccreditedlabs.org/LabAccreditationPrograms/IHLAP/Pages/default.aspx
Bulk Asbestos Proficiency Analysis Testing Program, operated by AIHA (BAPAT)	https://www.aihapat.org/Programs/Pages/default.aspx

Fee Analysis

This rulemaking does not involve fees.

Statement of fiscal and economic impact

Fiscal and Economic Impact

DEQ expects that the proposed rules would add a direct cost to the following:

1. Residential renovations for survey requirements;
2. Nonfriable disposal requirements; and
3. Laboratory asbestos testing for accreditation.

Statement of Cost of Compliance

The following estimations outline the approximate cost of compliance:

1. **Residential Renovation Survey:** A residential renovation survey rule may create approximately more than the 725 estimated additional yearly statewide surveys for demolitions discussed in the Senate Bill 705 rulemaking. Estimates for residential renovation surveys have the potential to change yearly. DEQ estimates those costs as \$450 to \$650 for each residential renovation survey, including laboratory analysis and travel by an accredited asbestos inspector to perform the survey.

DEQ assumes that a new survey requirement would increase public awareness about the presence of asbestos and the survey would result in more notifications and abatement projects.

2. **Nonfriable moved to friable disposal requirements:** At this time, DEQ is unable to quantify the impacts for removing the Nonfriable Asbestos Disposal Requirements section, 340-248-0290, and adding nonfriable to the Friable Asbestos Disposal Requirements section, 340-248-0280. At the time of this fiscal and economic impact statement, the cost for a box of 50 plastic bags that are 6-mil thick, generally used to package friable asbestos-containing material in rule OAR 340-248-0280(2)(b), is \$60. The additional costs to deposit asbestos-containing waste material at a permitted disposal site authorized by DEQ may vary by \$10 to \$50 per ton depending on the disposal site.
3. **Accredited laboratories for asbestos testing:** The approximate costs are below:

Accreditation	
National Institute of Standards and Technology (NIST), National Voluntary Laboratory Accreditation Program (NVLAP) includes ISO 17025:2005	Approximately \$20,000 over the first two years and an estimated \$15,000 over each subsequent two-year period (includes inspections). Annual Fee \$5,225. Assessment fee \$4,480. Initial assessment required and follow-up assessment after the first year.

	Assessments every other year after. Includes proficiency testing.
American Industrial Hygiene Association (AIHA), Industrial Hygiene Laboratory Accreditation Program (IHLAP). - ISO 17025:2017	Approximately \$13,000 over the first two years and an estimated \$9,000 over each subsequent two-year period. Annual Fee \$1,995. Annual application fee \$950. Assessment Fee \$1,600. Includes proficiency testing.
Proficiency Analysis Testing	
Bulk Asbestos Proficiency Analysis Testing Program (BAPAT), operated by AIHA.	Proficiency testing program provided by the AIHA Proficiency Analytical Testing Programs, LLC (AIHA PAT Programs, LLC) Estimated costs are \$2,685/year. BAPAT is not an accreditation program.

State agencies

1. **Residential Renovation Survey:** DEQ does not expect that the residential renovation asbestos survey rules would impose any additional direct fiscal or economic impact on any other state or federal agencies. There could be an increase in communication about asbestos abatement projects between asbestos industry professionals, disposal facilities, the public, and Oregon Occupational Safety and Health Division, with insignificant fiscal impact.
2. **Nonfriable moved to friable disposal requirements:** DEQ does not expect that the addition of nonfriable to the friable asbestos disposal requirements section would impose any additional direct fiscal impact or economic impact on any other state or federal agencies.
3. **Accredited laboratories for asbestos testing:** DEQ does not expect that the addition of laboratory accreditation or proficiency testing program requirements would impose any additional direct fiscal impact or economic impact on any other state or federal agencies.

Local governments

1. **Residential Renovation Survey:** The proposed rule changes for the residential renovation asbestos survey would not create any known direct fiscal or economic impact for local governments. These rules may not change local governments' residential renovation permitting processes. This change may support local government residential renovation building code programs that elect to include an asbestos survey requirement in residential renovation permitting forms.
2. **Nonfriable moved to friable disposal requirements:** The proposed rule changes for the addition of nonfriable to the friable asbestos disposal requirements section would not create any known direct fiscal or economic impacts for local governments.

3. **Accredited laboratories for asbestos testing:** DEQ does not expect that the addition of laboratory accreditation or proficiency testing program requirements would impose any additional direct fiscal impact or economic impact on any other state or federal agencies.

Public

1. **Residential Renovation Survey:** The proposed rule changes for the residential renovation asbestos survey would add cost to a member of the public who purchases or owns a residential building requiring renovation. A purchaser or owner of a residential building requiring renovation would spend approximately \$450-\$650 and up to \$1,000 (including travel and laboratory analysis) for larger homes for the asbestos survey, depending on the size and the location of the building. DEQ estimates that there is a chance the survey would produce a positive result for asbestos-containing material when surveyed. In the case of a positive result for asbestos-containing material, the costs for a licensed abatement contractor to perform the asbestos abatement would pass through to the residential building owner. DEQ estimates each project may cost from \$2,000 to \$10,000 depending on the amount of asbestos-containing material abated. Please note that the asbestos abatement costs are not a change due to the rules. Asbestos abatement of asbestos-containing materials is required regardless of whether a survey is conducted or not. The requirement to conduct a survey should result in fewer improper disturbances or impacts to asbestos-containing material.
2. **Nonfriable moved to friable disposal requirements:** The proposed rule changes for the addition of nonfriable to the friable asbestos disposal requirements section may add a minimal cost to members of the public that work with a certified asbestos abatement contractor to properly abate and dispose of asbestos-containing material. These costs are generally internalized into the contractor’s project costs.
3. **Accredited laboratories for asbestos testing:** The proposed rule change for laboratory accreditation or proficiency testing program requirements may add a cost to members of the public if using a laboratory for asbestos analysis that is not currently accredited or participating in a proficiency-testing program. The costs are generally internalized into the laboratory costs.

**Large businesses – businesses with more than 50 employees and
Small businesses – businesses with 50 or fewer employees**

Residential renovation survey	Large businesses, more than 50 employees	Small businesses, 50 or fewer employees
Residential Developers	These businesses may experience negative fiscal impacts from the cost of renovating a residential building with four or fewer dwelling units by the cost of the survey estimated to be \$450 to \$650. This additional cost may be passed on to the purchaser of the renovated property.	

Residential renovation survey	Large businesses, more than 50 employees	Small businesses, 50 or fewer employees
Licensed Construction Contractors¹	DEQ estimates the majority of the 38,000 licensed construction contractors in Oregon are large businesses.	Approximately 25 percent of the 38,000 licensed construction contractors in Oregon are small businesses.
	The proposed rule changes may cause large and small businesses licensed for residential construction a direct cost for the residential renovation asbestos survey estimated to be \$450 to \$650. These businesses may pass these costs on to the purchaser of the renovated property.	
Licensed Asbestos Abatement Contractors	An estimated two of the approximate 55 licensed asbestos abatement contractors in Oregon may be considered large businesses.	An estimated 53 of approximate 55 licensed asbestos abatement contractors may be considered small businesses.
	Licensed asbestos abatement contractors would experience a positive fiscal impact from these rules generated by the increased demand for asbestos abatement projects. Each project may net increased revenue ranging from \$2,000 to \$10,000 depending on the amount of asbestos-containing material to be abated. This cost would pass through to the residential building owner.	
Waste Disposal Facilities	Large or small businesses that dispose of asbestos-containing material may experience a positive fiscal impact from these rules generated by an increase in identified asbestos-containing waste material at the generation point, in the construction and renovation waste stream.	
	Permitted disposal sites may experience an increased flow of asbestos containing material. This may result in either positive or negative fiscal impacts.	
Accredited Asbestos Inspectors	Large businesses may or may not experience a positive impact depending on the business model of the large business to work on surveys	Many accredited asbestos inspectors for residential renovations are small businesses. These businesses may experience a positive fiscal impact from these

¹ The 38,000 number of licensed construction contractors is provided Construction Contractors Board, and the percent that is attributed to small and large businesses of that amount comes from the Oregon Department of Employment using a broad category selection of types of construction contractors.

Residential renovation survey	Large businesses, more than 50 employees	Small businesses, 50 or fewer employees
	for residential renovations with four or fewer units.	proposed rules generated by the increased demand for asbestos surveys. Each survey may generate an increase in revenue ranging from \$450-\$650.

Nonfriable moved to friable disposal requirements	Large businesses, more than 50 employees	Small businesses, 50 or fewer employees
Residential Developers	The proposed rule changes for adding nonfriable to the friable asbestos disposal requirements rule section may add a minimal cost indirectly to total project costs, from licensed construction contractors packaging the nonfriable asbestos-containing material as friable for disposal, and disposal of the asbestos-containing waste material. The business may pass this cost on to the renovated property's purchaser.	
Licensed Construction Contractors	The proposed rule changes for the addition of nonfriable to the friable asbestos disposal requirements section may add a direct cost when packaging the nonfriable asbestos-containing material as friable for disposal and disposal of the asbestos-containing waste material. This cost may pass through to the building owner.	
Waste Disposal Facilities	<p>The proposed rule changes may have a positive impact on the waste disposal facilities that have procedures designed to reduce the health risks of customers and workers that come from exposure to asbestos fibers. In most cases, the nonfriable asbestos-containing waste material requirements at permitted disposal facilities are as rigorous as, or are similar to, requirements for friable asbestos-containing waste material provided in OAR 340-248-0280 Friable Asbestos Disposal Requirements, even though this is not currently required in OAR 340, Division 248.</p> <p>The proposed rule changes may reduce the costs to non-permitted disposal facilities by reducing the need to survey suspect loads and hire certified asbestos abatement contractors to clean up a site where asbestos was identified. More information about practices of permitted disposal</p>	

	sites can be found on an information paper for this rulemaking online .
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Accredited laboratories for asbestos testing requirements	Large businesses, more than 50 employees	Small businesses, 50 or fewer employees
Residential Developers	The proposed rule changes adding the requirement that laboratories that analyze bulk samples must participate in a nationally recognized testing program with proficiency testing or an equivalent testing program may add a cost to total project costs for residential developers that are required to survey residential renovation (in draft rule) or demolition projects. Businesses may pass this additional cost on to the renovated property's purchaser.	
Licensed Construction Contractors	The proposed rule changes adding a requirement that laboratories that test bulk samples must participate in a nationally recognized testing program with proficiency testing or an equivalent testing program may add a cost to total project costs for licensed construction contractors if they are providing services that include asbestos surveys performed by an accredited inspector. This cost may pass through to the building owner.	
Laboratories	Many of the labs are representative of small businesses with 50 or fewer employees. If the laboratory is not currently participating in a nationally recognized testing program with proficiency testing or an equivalent testing program, the laboratory costs would increase to cover the cost to meet those requirements.	

a. Estimated number of small businesses and types of businesses and industries with small businesses subject to proposed rule.

- Estimated 38,000 licensed construction contractors (a mix of large and small).
- Estimated 55 licensed asbestos abatement contractors (a mix of large and small).
- Unknown number of total laboratories that provide asbestos testing for Oregon projects. DEQ estimates 17 laboratories in Oregon and Washington at minimum that perform this work.
- Additional unknown number of active residential property development businesses. These businesses may be diverse in size, ranging from sole proprietorships to national property development companies.

b. Projected reporting, record keeping and other administrative activities, including costs of professional services, required for small businesses to comply with the proposed rule.

Projected direct cost for professional services required for residential surveys of \$450 to \$650 to conduct more than the estimated 725 asbestos surveys for residential demolitions discussed in the Senate Bill 705 rulemaking. The draft rules would impose minimal administrative costs for electronically transmitting asbestos survey reports to DEQ upon request.

The projected direct cost for a laboratory that is not currently participating in a nationally recognized testing program with proficiency testing or an equivalent testing program for recordkeeping or other administrative activities is unknown.

c. Projected equipment, supplies, labor, and increased administration required for small businesses to comply with the proposed rule.

Licensed asbestos abatement contractors may pay an estimated additional \$60 per box of 50, 6-mil thick plastic bags for any additional packaging or other additional packaging methods used instead of plastic bags to meet the disposal requirements. Costs for disposal may increase by \$10 to \$50 at permitted disposal facilities.

The projected increase in direct costs for a laboratory that is not currently participating in a nationally recognized testing program with proficiency testing is unknown. Direct costs for equipment, supplies, and labor to participate in a testing program may not increase.

d. Describe how DEQ involved small businesses in developing this proposed rule.

DEQ convened a 24-member advisory committee that included small business representatives to discuss the proposed rule changes. During the meetings, DEQ provided several opportunities for input from the public audience that included small businesses.

Documents relied on for fiscal and economic impact

Document title	Document or website location
Licensed Asbestos Abatement Contractors, October 30, 2017	Oregon Department of Environmental Quality 700 NE Multnomah Street, Suite 600, Portland Oregon 97232
Agency for Toxic Substances and Disease Registry, <u>U.S. Department of Health & Human Services</u>	https://www.atsdr.cdc.gov/asbestos/overview.html

Document title	Document or website location
National Institute for Occupational Safety and Health (NIOSH) Respiratory Health Division	https://www.cdc.gov/niosh/topics/asbestos/
Asbestos 2017 Rulemaking Advisory Committee meeting notes, September 28, 2017 (Number of licensed construction contractors.)	http://www.oregon.gov/deq/Rulemaking%20Docs/rasbestos2018m1notes.pdf
National Institute of Standards and Technology (NIST), National Voluntary Laboratory Accreditation Program (NVLAP)	https://www.nist.gov/nvlap/about-nvlap
American Industrial Hygiene Association (AIHA), Industrial Hygiene Laboratory Accreditation Program (IHLAP)	https://www.aihaaccreditedlabs.org/LabAccreditationPrograms/IHLAP/Pages/default.aspx
Bulk Asbestos Proficiency Analysis Testing Program, operated by AIHA (BAPAT)	https://www.aihapat.org/Programs/Pages/default.aspx

Federal relationship

Relationship to federal requirements

ORS 183.332, 468A.327 and OAR 340-011-0029 require DEQ to attempt to adopt rules that correspond with existing equivalent federal laws and rules unless there are reasons not to do so.

The proposed rules add requirements additional to those in federal requirements.

The federal National Emission Standards for Hazardous Air Pollutants (NESHAP) for asbestos regulate asbestos abatement and disposal. DEQ is adding requirements that are additional to NESHAP where a survey is required only for residential buildings with more than four dwelling units.

Human health can be protected by performing asbestos surveys prior to renovation and demolition. When a residential renovation is conducted that impacts, disturbs, or improperly removes asbestos-containing material, the asbestos fibers may be released into the home, and the occupants may be exposed to the asbestos fibers. There are no known safe levels of exposure to asbestos fibers. Asbestos can cause diseases such as asbestosis, mesothelioma or lung cancer and serious respiratory illnesses.

The asbestos survey is a tool used to ensure compliance with the asbestos abatement rules. Current Oregon rules require an asbestos survey prior to commercial demolitions and renovations, and for residential demolitions of buildings constructed prior to January 1, 2004. Residential renovation construction projects are currently exempt from the asbestos survey requirement.

When a demolition or renovation on a facility is properly executed with consideration for asbestos-containing material, the facility owners, contractors, waste haulers, and disposal facilities benefit. Asbestos-containing materials can be accurately identified and project budgets can account for abatement costs in advance of the project start date. Facility owners can ensure their project is not posing a risk of asbestos exposure to themselves, other building occupants, contractors, workers, or neighbors. Contractors can ensure that they can accurately identify building materials for asbestos-containing material to support a work-plan that is safe for workers and has required removal work practices according to OAR 340 Division 248. Disposal sites improve their facility management when they can review a survey for asbestos-containing waste material derived loads, regardless of knowing if the asbestos-containing waste material came from a facility renovation or demolition, or are provided adequately packaged asbestos-containing waste material to ensure proper management, employee health, and environmental safety.

Housing cost

As ORS 183.534 requires, DEQ evaluated whether the proposed rules would have an effect on the development cost of a 6,000-square-foot parcel and construction of a 1,200-square-foot detached, single-family dwelling on that parcel. DEQ determined the proposed rules may affect the development costs by increasing the cost of a residential renovation by the cost of the survey. The cost of residential renovation may also increase by the cost of an asbestos abatement if the results of the survey positively identify asbestos-containing materials.

Land Use

Land-use considerations

In adopting new or amended rules, ORS 197.180 and OAR 340-018-0070 require DEQ to determine whether the proposed rules significantly affect land use. If so, DEQ must explain how the proposed rules comply with statewide land-use planning goals and local acknowledged comprehensive plans.

Under OAR 660-030-0005 and OAR 340 Division 18, DEQ considers that rules affect land use if:

- The statewide land use planning goals specifically refer to the rule or program, or
- The rule or program is reasonably expected to have significant effects on:
 - Resources, objectives or areas identified in the statewide planning goals, or
 - Present or future land uses identified in acknowledged comprehensive plans.

To determine whether the proposed rules involve programs or actions that affect land use, DEQ reviewed its Statewide Agency Coordination plan, which describes the DEQ programs that have been determined to significantly affect land use. DEQ considers that its programs specifically relate to the following statewide goals:

Goal	
5	Open Spaces, Scenic and Historic Areas, and Natural Resources
6	Air, Water and Land Resources Quality
9	Ocean Resources
11	Public Facilities and Services
16	Estuarial Resources

Statewide goals also specifically reference the following DEQ programs:

- Nonpoint source discharge water quality program – Goal 16
- Water quality and sewage disposal systems – Goal 16
- Water quality permits and oil spill regulations – Goal 19

Determination

DEQ determined that these proposed rules do not affect land use under OAR 340-018-0030 or DEQ's State Agency Coordination Program.

Advisory Committee

Advisory committee

Background

DEQ convened an advisory committee that included representatives from local governments and industry met three times. The location of the committee's web page: [Asbestos 2018](#).

The committee members were:

Name
Michael Freese
Marilyn Bull
Nancy Thorington
Tim Lenihan
Maryhelen Kincaid
Bob Gordon
James Adkins
BJ Hutchins
Gerry Strawn
Penny Erickson
Jim Slusher
Kathleen Kincade
Willie Tiffany
Greg Olson
Greg Baker
Rosa Martinez
Ame LeCocq

Name
Garry Penning
Dave Bartz
John Hill
Dave McCall
Ed Joyce
John Sandie
Kim Kaminski

Meeting notifications

To notify people about the advisory committee’s activities, DEQ:

- Sent GovDelivery bulletins, a free e-mail subscription service, to the following lists:
 - Rulemaking
 - Asbestos Issues
 - DEQ Public Notices
 - People who signed up for the advisory committee bulletin.
- On September 14, 2017 DEQ sent a one-time notice to subscribers to describe how to sign up for advisory committee meeting notices, and
- Added advisory committee announcements to DEQ’s calendar of public meetings at [DEQ Calendar](#).

Committee discussions

Meeting minutes and recordings are available by request from DEQ or from the advisory committee webpage at: [Asbestos Rulemaking Advisory Committee Web Page](#).

DEQ did not present additional information specific to this proposed rule revision.

EQC prior involvement

DEQ shared general information with EQC about this rulemaking proposal under Item E, Informational Item: Meeting Planning at the May 10, 2018 EQC meeting in The Dalles, Oregon. DEQ did not present additional information specific to this proposed rule revision.

Public Notice

DEQ provided notice of the proposed rulemaking and rulemaking hearing on May 15, 2018 by:

- Filing notice with the Oregon Secretary of State for publication in the April 2018 Oregon Bulletin;
- Notifying the EPA by mail;
- Posting the Notice, Invitation to Comment and Draft Rules on the web page for this rulemaking, located at: [Asbestos 2018](#);
- Emailing approximately 10,326 interested parties on the following DEQ lists through GovDelivery:
 - Rulemaking
 - DEQ public notices
 - Asbestos Issues
- Emailing the following key legislators required under [ORS 183.335](#):
 - Senator Michael Dembrow, Chair, Senate Interim Environment and Natural Resources Committee
 - Representative Alissa Keny-Guyer, Chair, House Interim Committee on Human Services and Housing
 - Representative Tina Kotek, House Speaker
- Emailing advisory committee members,
- Postings on Twitter and Facebook
- Posting on the DEQ event calendar: [DEQ Calendar](#)

Request for other options

During the public comment period, DEQ requested public comment on whether to consider other options for achieving the rules' substantive goals while reducing the rules' negative economic impact on business. This document includes a summary of comments and DEQ responses.

Public Hearings

DEQ held one public hearing. DEQ received 10 public comments. Later sections of this document include a summary of comments received, DEQ's responses, and a list of the commenters. Original comments are on file with DEQ.

Presiding Officer's Record

Hearing 1	
Date	Wednesday, June 20, 2018
Time	6:30 p.m
Street Address	Lloyd building floor 3 at 700 NE Multnomah Street
City	Portland
Presiding Officer	DEQ staff
Staff Presenter	Michele Martin
Attend remotely at a regional office:	
Salem	
Street Address	4026 Fairview Industrial Drive SE
City	Salem, OR 97302
DEQ staff on site	Dottie Boyd
Medford	
Street Address	221 Stewart Avenue, Suite 201
City	Medford, OR 97501
DEQ staff on site	Steve Croucher
Coos Bay	
Street Address	381 N Second Street
City	Coos Bay, OR 97420
DEQ staff on site	Martin Abts
Bend	
Street Address	475 NE Bellevue Dr., Suite 110
City	Bend, OR 97701
DEQ staff on site	Frank Messina
Pendleton	
Street Address	800 SE Emigrant, Ste. 330
City	Pendleton, OR 97801
DEQ staff on site	Tom Hack

The presiding officer convened the hearing, summarized procedures for the hearing, and explained that DEQ was recording the hearing. The presiding officer asked people who wanted to present verbal comments to sign the registration list, or if attending by phone, to indicate their intent to present comments. The presiding officer advised all attending parties interested in receiving future information about the rulemaking to sign up for GovDelivery email notices.

As Oregon Administrative Rule 137-001-0030 requires, the presiding officer summarized the content of the rulemaking notice.

DEQ added all names and affiliations of hearing participants who presented testimony to the commenter section of this staff report. DEQ added all written and oral comments presented at each hearing to the summary of comments and agency responses section of this staff report.

Public comment period

DEQ accepted public comment on the proposed rulemaking from May 15, 2018 until 4:00 p.m. on June 22, 2018.

Summary of comments and DEQ responses

The table below lists eight people and organizations that submitted public comments about the proposed rules by the deadline. Original comments are on file with DEQ.

List of Commenters		
#	Name	Affiliation
1	Larry Tillford	Marion County employee
2	Bob Strong	EnviroTest LLC
3	Traci Strong	Creekwood Estates HOA
4	Lisa Stohosky	JSE Labs
5	Anonymous	
6	Joette Storm	Private Citizen
7	Joe White	Environmental Testing & Training NorthWest
6	Edwin Edinger	Asbestos Training Project
7	Kim Kaminski	Waste Management of Oregon, Inc.
8	John Mayer	LOI Environmental & Demolition Services

Public comments received by the close of the public comment period are organized by commenter. DEQ's response follows the summary comment. Original comments are on file with DEQ.

DEQ did not change the proposed rules in response to comments.

1. Larry Tillford

Comment #1: Strongly opposed to the section of this legislation making it a requirement on homeowners to test for asbestos. The entire science around asbestos is deeply flawed and the only people who have had problems with it are the dockworkers from the seventies who had major long-term exposure.

Response: All research and information available to DEQ indicates that asbestos fibers are a respiratory hazard proven to cause lung cancer, mesothelioma, and asbestosis. Asbestos is a danger to public health and a hazardous air contaminant for which there is no known safe exposure level.

DEQ recommends that the Environmental Quality Commission (EQC) adopt the requirement that residential remodeling projects have an asbestos survey completed before conducting the remodeling. This requirement is already in place for residential demolition and for all industrial, institutional, and commercial renovations and demolitions. Building

owners, except residential owner occupants, are required to have asbestos properly removed by trained and licensed contractors regardless of whether a survey is required or not. Without the survey requirement, DEQ has identified numerous asbestos removal violations that exposed or potentially exposed people to asbestos fibers. These violations could have been avoided if building owners had a survey conducted and any identified asbestos properly removed before renovation or demolition. Please refer to the informational paper for the survey exemption for residential renovations [online](#) provided by DEQ during the stakeholder engagement process.

An owner occupant conducting renovation activities inside their own home is exempt from the asbestos survey requirement according to Oregon Revised Statute 468A.755 and OAR 340-248-0250(2)(a). Owner occupants must follow requirements in OAR 340 division 248 for emission standards, procedural requirements, and disposal.

Comment #2: This proposal [homeowners to test for asbestos] places huge financial burdens on the residents of Oregon State.

Response: DEQ carefully evaluated the recommendation to change the requirement in OAR 340 division 248 to require a survey for a residential renovation regarding the identified the costs associated with the recommended rule changes. Building owners are required to properly abate and remove asbestos regardless of whether a survey is conducted. The costs for a survey would be added to the cost of asbestos abatement which should be happening now. The benefits of reduced exposure to asbestos fibers by homeowners, construction workers, neighbors, and disposal industry professionals will offset the costs of the recommended changes.

DEQ anticipates the recommended change to require a survey for residential renovations will significantly reduce violations leading to penalties incurred by building owners, contractors, and other industry workers. Additionally, the rules for homeowners who conduct a renovation within their own home are not changing. Owner-occupants conducting their own abatement are exempt from the survey and work practice requirements in OAR 340 division 248, except packaging and disposal to a facility permitted to accept asbestos-containing waste material. Owner occupants must follow requirements in OAR 340 division 248 for emission standards, procedural requirements, and disposal.

2. EnviroTest LLC

Comment #3: Small-scale, short duration renovating and maintenance activity, (definition 42) should allow for removal of a small section of plaster just as it now allows for removal of a small section of drywall.

Response: The list of activities in OAR 340-248-0010(42) is representative of the types of activities considered small-scale, short-duration renovating and maintenance activities and is not all-inclusive. DEQ would consider removing a small section of plaster to be similar to removing a small section of drywall. If a material contains asbestos the person doing, the removing must package and dispose of the material as OAR 340 division 248 requires.

Comment #4: Small-scale, short duration renovating and maintenance activity, (Definition 42) should provide for installation of plumbing conduits through or proximate to asbestos-containing materials similar to electrical conduits. These two additions would provide for the vast majority of plumbing and electrical service visits where a new electrical switch or outlet is required, running new electrical service through the use of small openings in walls and ceilings, and re-piping a house or repairing a plumbing leak within a wall.

Response: DEQ considers installing plumbing conduits similar to that identified for electrical conduits, and may fit within the definition of small-scale, short duration renovating and maintenance activity. The owner or operator is required to package and dispose of asbestos-containing material according to OAR 340 division 248, including any of the disturbed debris if asbestos-containing. Additionally, the owner (non-occupant) and operator must ensure compliance with other agency requirements including Oregon OSHA requirements as they relate to asbestos-related activities.

3. Creekwood Estates HOA

Comment #5: I think these new rules should definitely be imposed. Currently my homeowners association is dealing with an illegal dump on our common property which contains both Asbestos and Lead. I would feel much more confident knowing that the abatement and removal is safer for my two young kids especially considering we only live one house away from the dump site.

Response: Thank you for your comment voicing support for the recommended changes in OAR 340 division 248.

4. JSE Labs

Comment #6: There is a fundamental and vast difference between national accreditation programs and bulk asbestos proficiency analytical testing (BAPAT) programs. DEQ should require and enforce assurance of competency through accreditation or a proven equivalent, not substandard programs. Labs must be willing to put forth the effort and financial commitment to do analysis that could affect public health.

Response: Currently there are no laboratory standards in place in Oregon for asbestos analysis. The changes in the rulemaking propose a range of options for laboratories in an effort to provide a cost-effective certification or program option for laboratories. The recommended requirement improves consistency and standards for analysis for all laboratories. Please see the costs in the Statement of Fiscal and Economic Impact in this Staff Report.

5. Anonymous

Comment #7: OAR 340-248-0270(3) For demolitions and renovations of residential buildings, the department may approve, on a case-by-case basis, requests to waive the asbestos survey requirement of OAR 340-248-0270(1). The owner or operator of the residential building must submit a written request to the department, along with supporting documentation that demonstrates to the department satisfaction that a survey is not warranted. Since DEQ allows a case-by-case evaluation under demolitions why can they not allow it for renovations for residential buildings?

Response: The proposed rules include the words “or renovations” in OAR 340-248-0270(4). This allows DEQ to consider case-by-case requests to waive the asbestos survey requirement.

6. Private citizen

Comment #8: When I was in elementary school asbestos was thought to be a miracle product improving our lives. Then we all learned how the substance could cause harm to health. We must protect ourselves and others by strengthening the rules for how asbestos is used and how workers are protected from the cancer causing agents.

Response: Thank you for your comment supporting the proposed changes to the asbestos rules.

7. Environmental Testing & Training NorthWest

Comment #9: OAR 340-248-0270(3) Accredited laboratories for asbestos testing. The accreditation column lists two accreditation programs, NIST/NVLAP and AIHA or Proficiency Analysis Testing under BAPAT. A requirement for accreditation by NVLAP/NIST or IHLAP/AIHA would be a financial burden for laboratories such as ETTNW. ETTNW primarily focuses on clients in the water restoration and remodeling market. The alternative to participate in BAPAT/AIHA PAT programs would not be nearly the financial burden as a requirement for NVLAP and AIHA accreditation requirements.

Response: DEQ has re-evaluated the requirements for asbestos testing in the TNI 2009 standard. The TNI has a requirement for quarterly inter-laboratory round-robin sample testing. The BAPAT/AIHA PAT studies would meet that criteria. Based on this re-evaluation, a laboratory accredited for bulk asbestos under the NELAP program, using The NELAC Institute (TNI) 2009 Standard would be acceptable.

Comment #10: Is there value for an Oregon PLM Lab participating in the NELAC/ORELAP PLM Accreditation program as an alternative to NCLAP/AIHA? We refer to the NELAC 2003 Standard, Appendix D.6, Asbestos Testing which specifically refers to follow the NIST SRMs for accreditation of Asbestos Labs for PLM under NELAC.

Response: Currently, the ORELAP program is not accrediting laboratories for bulk asbestos testing and there are no laboratories that are accredited by ORELAP for asbestos testing in a solid matrix. DEQ would accept a laboratory with NELAP accreditation to the TNI Standard for bulk asbestos in solid materials if they were using the appropriate analytical methods. A laboratory could obtain accreditation from another NELAP recognized state or a non-governmental accreditation body approved by TNI.

Comment #11: OAR 340-248-0270(3)(d)(E) Asbestos survey report that contains the following: Description of the facility or area surveyed, including its past and current use, area square footage, approximate construction date, and number of floors. This information may not be readily apparent or available to the building inspector, nor will the construction date be easily ascertained. This is asking the inspector to do additional research that does not have a direct bearing on the results of the survey.

Response: DEQ considers the requirement in OAR 340-248-0270(3)(d) to be relevant information to inform the building owner about materials in the building that may contain asbestos. The asbestos surveyor should have the requested information in OAR 340-248-0270(3)(d)(E) readily available from the building owner or from publicly available records such as property tax records.

Comment #12: OAR 340-248-0270(3)(d)(I) Asbestos survey report that contains the following: A recommendation of a response action that complies with the requirements of division 248. This requires the inspector to exceed the normal scope of work for the sampling required prior to a renovation activity for which the sampling is required. The abatement company would provide this information to the building owner, depending on the positive or negative results of the analysis of the building materials sampled for asbestos.

Response: DEQ has identified that a recommended response action in an asbestos survey report is a standard element in many asbestos survey reports the agency reviewed. People who procure services of an accredited inspector to perform an asbestos survey and who read the subsequent asbestos survey report may be unaware of the asbestos requirements in OAR 340 division 248 when the report identifies asbestos-containing materials. For example, the owner or operator may be unaware that the asbestos-containing materials identified on the asbestos survey report require a licensed asbestos abatement contractor who is required to follow the requirements in OAR 340 division 248. Adding a requirement to provide a recommended response action provides critical information to the recipient of the survey report.

8. Asbestos Training Project

Comment #13: OAR 340-248-0010(1) add to the definition, "...and section C (Examinations)"

Response: The federal requirements in 40 CFR Part 763 Subpart E of the proposed rules adequately address the requirements in OAR 340 division 248.

Comment #14: OAR 340-248-0010(9) "contaminated" used in this definition is not defined. It's a colloquial term and represents an opinion.

Response: OAR 340-248-0010(9) refers to the definition for asbestos-containing waste material that contains or is contaminated by asbestos-containing material and includes waste from asbestos-related activities and from renovation or demolition waste that has been commingled with asbestos-containing material. DEQ confirmed that other asbestos regulations from Washington State, at the time of this rulemaking, also use the term "contaminated" in their definition for asbestos-containing waste material, including Southwest Clean Air Agency, Spokane Regional Clean Air Agency, and Puget Sound Clean Air Agency.

Comment #15: If a disposal box contains construction or demolition debris, the current interpretation [of OAR 340-248-0010(9) Asbestos-containing waste material] regardless of amount of asbestos-containing material in the box, is considered contaminated. Abatement for that material comes at considerable cost. For consistency, small amounts of asbestos-containing material for a disposal box should be the same for a small project.

Response: When asbestos-containing material is commingled with material that is not asbestos-containing, irrespective of the quantity, the likelihood of the contents in the drop-box being contaminated with asbestos fibers increases. There is no known safe level of asbestos fiber exposure. As such, DEQ defines comingled, asbestos-containing material with material that is not asbestos-containing, as asbestos-containing waste material. Handling such material is considered as an asbestos abatement project in OAR 340 division 248. If the asbestos-containing material is friable, a licensed asbestos abatement contractor is required for the clean-up, packaging, and decontamination of the drop-box.

Comment #16: DEQ should reference the OR-OSHA rules for negative air enclosures instead of trying to duplicate them in the definition in OAR 340-248-0010(32) for negative pressure enclosure.

Response: DEQ recommends the changes to the definition for negative pressure enclosure in OAR 340-248-0010(32) for clarity and to support the requirements in OAR 340 division 248 which mentions the term negative pressure enclosure.

Comment #17: OAR 340-248-0010(39) Regulated area. The new requirement of requiring the same signs as OR-OSHA seems unnecessarily duplicative.

Response: DEQ recommends the language in the definition for regulated area in OAR 340-248-0010(39) for clarity and to support the requirements in OAR 340 division 248 where the term regulated area is mentioned, and to support the protection of the public and the environment.

Comment #18: The definition for small-scale, short duration renovating and maintenance activity in OAR 340-248-0010(42) seems to unnecessarily add the word of “renovating” within context of full ASHARA-MAP definition.

Response: The definition for small-scale, short duration renovating and maintenance activity in OAR 340 division 248 has been changed to be consistent with ORS 468A.707(3).

Comment #19: The potential for a supervisor to show experience with general construction, environmental, or maintenance supervisor experiences seems to have been eliminated. It’s limiting to only say that a qualified supervisor is only a person that has hands-on experiences with asbestos abatements. Changing the requirements for Supervisor from three months/five projects to one year/ten projects, seems problematical and of limited benefit. Instead of a blanket experience requirement, if there would be a way to have two tiers of supervisors; lead-men and project manager types depending on the size of project.

Response: Thank you for your input and alternative suggestions for the rules in OAR 340-248-0130. The intention of DEQ’s recommended changes to these rules come from DEQ’s identifying certified supervisors at asbestos abatement projects who do not show the experience to properly implement the rules in OAR 340 division 248. Being a certified worker may provide that missing experience..

The supervisor is responsible for ensuring the asbestos abatement project meets the requirements in OAR 340 division 248. An asbestos supervisor who supervises asbestos abatement projects without having asbestos worker experience has been identified as problematic. In some cases this resulted in asbestos rule violations and asbestos exposure which caused civil penalties and decontamination activities at the cost to the licensed asbestos abatement contractors.

Conducting friable asbestos abatement projects requires specific training and experience. General construction, environmental consulting, or maintenance supervisory experience does not apply to asbestos abatement projects. DEQ recommends that individuals who wish to obtain a supervisor certification card first have experience conducting asbestos abatement projects. This approach is very similar to apprenticeship programs used in the trades including electricians, welders, HVAC technicians, carpentry, and heavy equipment operators.

Comment #20: In addition the requirement for experience with PAPR (powered air purifying respirator) is outdated. Type of respirator is no longer a good measure of experience.

Response: The PAPR requirement is beneficial to determine the applicant’s knowledge and experience with conducting friable asbestos abatement projects with high concentrations of asbestos typically in thermal system insulation and surfacing materials (e.g. monokote, fireproofing, surfacing materials, and mechanical insulations). Projects with these materials are Class I OSHA projects that require additional engineering controls and personnel

decontamination (e.g., 3-stage decontamination chamber). DEQ asbestos inspectors, when conducting compliance inspections, have identified that PAPRs are currently used on asbestos abatement projects.

Comment #21: When the asbestos certification program began, reciprocity was simpler. If someone had a current State or Federal certificate they could directly grandfather in to the Oregon program, with no need for proof of job site experience. And the system seemed to work fairly well. The Supervisor grandfather process has changed and become more restrictive. We need a more flexible approach.

Response: DEQ reciprocity for asbestos certification from other States has remained the same. DEQ requires the applicant to submit their out of state certification as a certified worker or certified supervisor and identify their work experience conducting asbestos abatement. Oregon's rules may be different than those in other states. DEQ has always considered that when evaluating reciprocity requests.

Comment #22: 340-248-0250(2)(e) I have been told haulers and landfills think any material that is more than 1% has to be disposed of as asbestos containing waste.

Response: This interpretation of asbestos-containing material as being more than one percent and disposed of as asbestos-containing waste material according to OAR 340 division 248 is correct. DEQ defines an asbestos-containing material as any material containing more than one percent asbestos by weight. Asbestos-containing materials are required to be packaged and disposed of at a facility permitted to accept asbestos-containing waste material.

Comment #23: In the section for exemptions, certain materials, even though were asbestos containing, were extremely unlikely to release asbestos to the air and such a low hazard the regulations need not apply. With the same intent, other materials should also be included: Latex based materials like window putty are very stable and very unlikely to release asbestos into the air.

Response: This proposed rulemaking is not attempting to broaden exemptions for certain types of materials. Currently there are provisions in the rules to allow for case-by-case exemption requests.

Comment #24: 340-248-0250(2)(f) If we're dealing with an exempt project of such a small amount, then we are also below the Federal RQ (reportable quantity) and also of questionable jurisdiction for the Department. If it is minimal concern about disposal, then the exemption should read through 340-248-0280.

Response: DEQ's authority for OAR 340 division 248 comes from ORS 468 and 468A. Because there is no safe level of exposure to asbestos fibers, some small scale projects are subject to regulation OAR 340 division 248 and must be evaluated on a case-by-case basis regarding which specific requirements apply.

DEQ has not proposed a change in packaging requirements for small-scale projects. DEQ packaging and disposal requirements remain in effect for small-scale short-duration projects where asbestos abatement is not the primary objective, but abatement is needed for an emergency repair (e.g, water pipe is leaking that has asbestos insulation).

Comment #25: OAR 340-248-0270(3) If the survey requirement is for “affected facility, or part of the facility where the demolition or renovation operation will occur” it needs to be clear that if we’re to assume materials are asbestos and treat them as such, that it is only for those materials that are *to be disturbed* in the facility, not the entire facility.

Response: OAR 340-248-0250(2)(d) exempts projects from the survey requirement when performing demolition and renovation activities if all of the materials at the affected facility are treated, removed, handled, managed, transported, and disposed of as friable asbestos-containing material according to the requirements in OAR 340 division 248.

Comment #26: OAR 340-248-0270(3)(a) and (b) are about how many samples are taken during the survey process. The standard for sample taking for thermal system insulation, surfacing, and miscellaneous materials is under the EPA AHERA standard 40 CFR 763.86, originally for schools. DEQ requires the use of an AHERA accredited inspector, which implies the use of the AHERA survey protocol.

Response: DEQ requires that an accredited inspector has completed training and received accreditation under 40 CFR Part 763 Subpart E, Appendix C (Model Accreditation Plan), Section B (Initial Training), Subsection 3 (Inspector), (1994). However, with this accreditation, the inspector may perform “good faith” demolition and renovation asbestos surveys that do not require the sampling method in the model accreditation.

DEQ requires in 340-248-0270(3)(a) collecting samples of all materials suspected of being asbestos-containing material, unless the material is presumed to be asbestos-containing material, including at least one bulk sample for each homogenous material suspected of being asbestos-containing material. 340-248-0270(3)(b) is for sprayed or trowelled-on surfacing materials. It requires collecting at least three random bulk samples for each homogenous area.

Comment #27: OAR 340-248-0270(3)(c) This section deals with a requirement that laboratories have some type of accreditation. There is recognized additional cost of this requirement, but is there evidence of any problem? There is no evidence of labs giving out false reports. In addition this section along with 340-248-205(4), may limit technological advances that do not require a laboratory to field test samples for asbestos. There is equipment available now that can determine asbestos content in the field and immediately report results.

Response: DEQ interprets the reference to “false reports” as referring to inaccurate laboratory reports. Accreditation may reduce the likelihood for false reports but does not necessarily prevent them. Laboratory accreditation will demonstrate that laboratories are more competent to perform the asbestos testing and the laboratory reports will be more

likely to correctly identify the presence or absence of asbestos-containing material. Methods to test bulk samples must be determined using federal requirements, but the proposed rule in OAR 340-248-0205(4) provides for another substantially similar method approved by DEQ.

Required proficiency test samples performed on a quarterly basis require the laboratory to be correctly identifying both asbestos and non-asbestos containing material on a routine basis. For example, reporting a false positive value is as problematic as reporting a false negative value. The benefit of accreditation is a demonstration of competency over time and the assurance that the laboratory has quality systems in place to ensure trained staff and regular monitoring of their internal processes to ensure compliance with regulations, analytical methodology, and to the laboratory's policies and procedures.

The accreditation ensures the laboratories have written procedures to ensure consistent analyses and internal quality control practices, including data review. The laboratory accreditation also ensures a corrective action system. If a problem is detected there is a system in place to determine the root cause and to develop corrective action. In these cases, customers are notified if analytical results are impacted. Accreditation also ensures laboratories maintain a record keeping system to properly document the history of their activities from the time they receive the sample until they finally issue the laboratory report.

Comment #28: Regarding sections OAR 340-248-0270(8)(d) and 340-248-0270(8)(e)(D) that may be in contradiction. Section (d), which has been called the 'cut and wrap' technique, removing whole sections for removal and disposal, without actually disturbing large amounts of friable material, is efficient and cost effective, but rarely done with any form of negative pressure enclosure which, adds no real safety factor.

Response: The rule in OAR 340-248-0270(8)(e)(F)(ii) is intended to clarify where a negative pressure enclosure is not required for abatement of friable asbestos-containing materials when abating a total project amount of asbestos-containing material that may be contained in a single glove bag.

Comment #29: OAR 340-248-0270(8)(e)(D) and 340-248-0270(8)(e)(F)(ii) These two sections may be in contradiction. Section (e)(D) requires a negative pressure enclosure and (e)(F)(ii) gives an exception for single glove bags. Does this mean the use of multiple glove bags on a project or the use of continuous glove bags requires the use of negative pressure?

Response: The sections of the rule mentioned in the comment are not in contradiction, because they relate to two different work practices of when to use a negative pressure enclosure and when a negative pressure enclosure is not required for abatement of friable asbestos-containing material. To clarify, if the project requires multiple glove-bags or removal exceeds one glove-bag, a negative pressure enclosure is required according to the rules in OAR 340-248-0270.

Comment #30: OAR 340-248-0270(8)(i) Covering or sealing the faces of negative air machines with plastic when not in use is a good work practice, but would seem to be an

OSHA issue. This seem unnecessary for DEQ, since if there is any visible dust on the machines, it would be a visible emission or visible accumulation.

Response: HEPA filtration units (HFU) that are used for asbestos abatement projects must be sealed when not in use, because there is a potential for asbestos fibers to be released when the HFU is not in use.

Comment #31: The idea of combining friable and nonfriable materials in OAR 340-248-0280 to have same packaging certainly has an attraction of being simpler in packaging, transport. It would seem difficult to justify additional expenses for consumers if we cannot show if there is measurable hazard employees, neighbors, and disposal facility workers.

Response: The recommendation to add nonfriable to friable disposal requirements ensures the protection of human health and the environment throughout the asbestos abatement cycle. For example, treating nonfriable asbestos wastes similar to friable asbestos wastes provides a safer work environment for employees, neighbors, and disposal facility workers. The National Institute for Occupational Safety and Health reports that, when handled, asbestos can separate into microscopic-size particles that remain in the air and are easily inhaled.

At the time of this report, the cost for a box of 50 plastic bags that are 6-mil thickness, generally used to package friable asbestos-containing material in rule OAR 340-248-0280(2)(b) is \$60. The cost to deposit asbestos-containing waste material at a permitted disposal site authorized by DEQ may vary by \$10 to \$50 per ton depending on the disposal site. Please refer to the informational paper provided during the stakeholder engagement process [online](#) for more information about this recommended rule change.

9. Waste Management of Oregon, Inc.

Comment #32: Waste Management of Oregon is pleased that problematic language *potentially contaminated with asbestos-containing material* was eliminated from the final proposed definition for asbestos-containing waste material. However, the National Emissions Standards for Hazardous Air Pollutants definition of asbestos-containing waste materials is constricted compared to the DEQ definition of asbestos-containing waste material that is overly broad and attempts to capture waste materials that will likely not contain asbestos-containing waste material.

Response: The language in the rule definition of asbestos-containing waste material means any waste that contains or is contaminated by asbestos-containing material from sources generated by the activities in division 248. The definition provides materials that meet this criteria, but it does not mean that other materials generated by activities in division 248 would not apply. The language in the definition for asbestos-containing waste material that did not change includes: asbestos tailings or any commercial asbestos; filters from control devices; waste generated by a source subject to OAR 340-248-0205 through 340-248-0280; and bags or containers that previously contained commercial asbestos. DEQ added language

from NESHAP in the definition that relates to asbestos abatement project waste that cannot be decontaminated and asbestos abatement project waste including demolition and renovation debris. DEQ reviewed definitions from Washington State air agencies including: Southwest Clean Air Agency, Spokane Regional Clean Air Agency, and Puget Sound Clean Air Agency, which use similar language in their definition for asbestos-containing waste material.

Comment #33: Remove *filters from control equipment devices* from the definition of asbestos-containing waste material. *Control equipment devices* is not defined in the rules. Instead, add language to the definition of asbestos-containing waste material in OAR 340-248-0010(9)(e) Asbestos abatement project waste that states: *filters from air pollution control equipment devices*.

Response: Thank you for this recommendation. The NESHAP definition of asbestos-containing waste materials has the language: this term includes filters from control devices. DEQ included this portion of the NESHAP definition.

Comment #34: The asbestos regulations should explain what activities trigger laboratory analysis. Otherwise confusion exists, for example, when a homeowner who has generated construction and demolition waste from a small renovation project and who would be exempt from the survey requirement, arrives at the transfer station without analytical results, the load would be rejected without analytical results.

Response: A private residence is exempt from certain provisions in the rules if the residence is occupied by the owner; and the owner occupant is performing the asbestos abatement work as provided in ORS 468A.755. Demolition or renovation activities at residential buildings with four or fewer dwelling units constructed after 2004 are also currently exempt from the survey requirement, but not the requirements in OAR 340-248-0280 for disposal.

To determine if a residence has asbestos, in the case of an owner occupant performing the asbestos abatement work, the owner occupant can take a sample of the materials for asbestos analysis at a laboratory. Alternatively, they can assume the materials contain asbestos. Regardless, the owner will follow the rules in ORS 340-248-0280 to ensure proper packaging and disposal including filling out the correct form for disposal, and dispose of the waste at a landfill permitted to accept asbestos-containing waste material.

Comment #35: Activities that qualify for the asbestos survey exemption in OAR 340-248-0250(2) should also be exempt from requirements to obtain asbestos analysis.

Response: The requirements to obtain samples are part of the survey requirement, OAR 340-248-2070(3). A person or an activity that is exempt from the survey requirements may obtain and analyze samples in order to ensure compliance with packaging, disposal, and any other applicable requirements of OAR 340 division 248.

Comment #36: Eliminate the exemption in OAR 340-248-0250(2)(e): Projects involving the removal of mastics and roofing projects that re fully encapsulated with a

petroleum-based binder and re not hard, dry, or brittle are exempt from OAR 340-248-0110 through OAR 340-248-0280 provided the materials are not made friable. These materials can and often arrive fragmented and broken at our sites.

Response: Mastics and roofing products that are fully encapsulated with a petroleum-based binder and are not hard, dry, or brittle are exempt from certain rule requirements because there is reduced exposure risk associated with these materials where asbestos fibers are bound within the material's matrix.

Disposal customers that attempt to apply the exemption to petroleum-bound roofing that has been rendered friable either as a result of the removal process or during transportation would mean that the exemption does not apply to the material, because the material has been rendered friable. In this case, disposal facilities, as defined and permitted by OAR 340 division 93 through division 96, would refer to their DEQ-approved Operations Plan and Special Waste Management Plan to guide their response. Additionally, DEQ is well placed to address such loads through enforcement and technical assistance to ensure entities are aware of the requirements in OAR 340 division 248.

Comment #37: The newly created exemption in OAR 340-248-0250(6) should instead allow for solid waste facilities to manage inadvertently received nonfriable asbestos-containing material in accordance with their DEQ-approved operations plan and Special Waste Management plan.

Response: The language in the recommended exemption allows for disposal sites to follow their DEQ-approved Operations Plans and Special Waste Management Plans in place of OAR 340-248-0280 under the following conditions: the nonfriable asbestos-containing material is discovered by the permitted disposal site on its tipping floor or within the permitted facility's transfer container, and the management of the nonfriable asbestos-containing material in accordance with 340-248-0280 would present an immediate risk to health and safety.

Comment #38: DEQ should include both friable and nonfriable asbestos in the OAR 340-248-0250(6) exemption, particularly because DEQ has comingled nonfriable and friable disposal requirements in OAR 340-248-0280.

Response: Because friable materials have a greater potential to release fibers, DEQ requires that disposal sites that identify suspect friable materials inadvertently received at disposal sites to isolate, wet, and sample the materials. This is the current standard practice in disposal site Operations Plans and Special Waste Management Plans.

Comment #39: The asbestos rules should require an asbestos survey report to have an expiration date of one-year after the date performed.

Response: A thorough survey should identify the asbestos materials within a building with the expectation that the quantity of asbestos in a building will not vary over time. If through

demolition or remodeling a suspect material is uncovered, then the building owner or contractor is required to stop and have the suspect material sampled.

10. LOI Environmental & Demolition Services

Comment #40: The definition OAR 340-248-0010(32) Negative pressure enclosure. Not all projects require full enclosure of all surfaces and 6 mill sheeting may not always be needed. Change language to “Use plastic sheeting that is adequate to provide an impermeable barrier using materials that will best contain the abatement area and minimize the risk of containment failure. Seal all openings as defined above, with any ports utilized for makeup air from outside the containment to continually clean the containment air being constructed of a lightly weighted flapped opening to insure closure in the event of a drop in the negative pressure”

Response: OAR 340-248-0010(32) provides the definition for a negative pressure enclosure, where OAR 340-248-0270, provides the asbestos abatement work practices and procedures for a negative pressure enclosure. DEQ strives to provide clear requirements in the work practices about the use of a negative pressure enclosure. The intention is to have rules that are consistently implemented to support human and environmental health.

Comment #41: OAR 340-248-0130 Remove language about different levels of respiratory protection that is covered by OSHA.

Response: Please refer to the response to comment #16.

Comment #42: The requirement for a year of experience on friable asbestos removal projects, while not an uncommon standard for an abatement contractor, may be excessive. Six months of experience is an adequate compromise.

Response: Please refer to the response to comment #19.

Comment #43: 340-248-0240(2)(b) Once the required 10 day waiting period to satisfy the NESHAP requirement is satisfied, and the documentation of no asbestos is present has been received, it should no longer be an issue for DEQ. There are ample rules already in place to deal with what has to happen if suspect material is found during the demolition. That scheduled start and completion dates, times of work for an Asbestos Notification makes sense.

Response: The asbestos requirements OAR 340-248-0240 are for Oregon Title V Operating Permit Program Sources. DEQ cannot substantially change or delete a rule in this section without having changed corresponding rules in the Title V permitting rules.

Comment #44: OAR 340-248-0250(2)(e) Change to read “Projects involving the removal of mastics, caulking, roofing products, and other materials with a petroleum or latex binder, or other binders with similar properties, that are not hard, dry, or brittle, are exempt from the provisions of OAR 240-248-0270(1)”

Response: DEQ did not expand the exemption OAR 340-248-0250(2)(e) to include “or latex binder, or other binders with similar properties. The rule language in this comment may be too vague for implementation. The exemption in the DEQ rules is specifically for projects involving the removal of mastics and roofing products that are fully encapsulated with a petroleum-based binder and are not hard, dry, or brittle, and provides an exemption from OAR 340-248-0110 through 340-248-0280 provided the materials are not made friable.

Comment #45: OAR 340-248-0260(8). While it is reasonable that the department has costs it must cover from the processing of the notification intake process, it is unfair to place a sometimes unachievable burden on the contractor to gain a refund of up to \$3,500. There should be a better way for this to be addressed.

Response: OAR 340-248-0260(8) is intended to clarify the requirements for requesting a refund, not to increase the burden of obtaining a refund.

Comment #46: Is there a reason we are unable to pay the department notification fees by electronic transfer or Credit Card?

Response: The DEQ asbestos program does not currently have the ability to accept payments by credit card.

Comment #47: OAR 340-248-0270(3)(c)(H)(v) [reader note: DEQ interprets this comment to be about OAR 340-248-0270(3)(d)(H)(v)] Should read “The identification of the material as friable, nonfriable, or exempt;”

Response: This language refers to OAR 340-248-0270(3)(d)(H) where the requirement is to have a table listing all of the homogeneous materials sampled and identified as asbestos-containing material and all of the presumed asbestos-containing materials. The identification of asbestos-containing material and presumed asbestos-containing material will be either friable or nonfriable. Exemptions for OAR 340 division 248 are largely in OAR 340-248-0250.

Comment #48: OAR 340-248-0270(7)(b) [reader note: DEQ interprets this comment to be about OAR 340-248-0270(8)(b)] This language is vague as it could be interpreted to mean that asbestos not planned for removal in a renovation must be removed.

Response: OAR 340-248-0270(8)(b) provides that asbestos-containing materials must be removed as part of the asbestos abatement project before any other demolition or renovation activity begins that would break up, dislodge, or disturb the materials or preclude access to the materials for subsequent removal.

This rule provides for asbestos-containing material that does not need to be removed if: (A) They are on a facility component that is encased in concrete or other similar material and are adequately wetted whenever exposed during demolition or renovation; or (B) They were not

discovered before demolition or renovation and cannot be removed because of unsafe conditions as a result of the demolition or renovation.

Comment #49: OAR 340-248-0270 I would like to see, and request, the size of the viewing window reduced to a minimum of 12”x12”.

Response: The current, unchanged viewing window minimum of two feet by two feet made out of a material that will allow a clear view inside the enclosure was determined as adequate for the purpose intended.

Comment #50: OAR 340-248-0270(7)(F)(i) [reader note: DEQ interprets this comment to be about OAR 340-248-0270(8)(e)(F)(ii)] "Abating a total project amount of asbestos-containing material that may be contained in a single glove bag *or continuous glove bag system.*"

Response: OAR 340-248-0270(8)(e)(F)(ii) provides for abating a total project amount of asbestos-containing material that may be contained in a single glove bag, but is not intended for a continuous glove bag system.

Comment #51: Requirements prior to final air clearance that air and surfaces must be sprayed with an encapsulant prior to air clearance sampling. Not all instances require encapsulating all surfaces prior to clearness. It's generally a decision that is made based on the type of material being removed and the conditions of the substrate, remaining surfaces that must be left in place and the use of the spaces.

Response: The requirements in rule are established to ensure consistency of implementation among the regulated community to protect human and environmental health. DEQ requires that prior to final air clearance sampling as required for negative pressure enclosure involving more than 160 square feet or 260 linear feet, regardless of the type of asbestos-containing material, that an encapsulant must be sprayed in the air and on surfaces prior to running the samples.

Implementation

Notification

The proposed rules would become effective upon filing on approximately September 14, 2018. DEQ would notify affected parties through a communications plan that includes Website updates, email notification to interested parties that signed up for DEQ's email notification of the Asbestos rules, and by email to parties regulated by DEQ.

Compliance and enforcement and measuring, sampling, monitoring, and reporting, training

- Education and outreach through emails and presentations to affected parties. These rules apply to any person who owns, controls, operates, or supervises asbestos-related activities including asbestos milling, manufacturing, fabricating, abatement, disposal, laboratory analysis, or any situation where a potential for exposure to asbestos fibers exists, as described in OAR chapter 340, division 248.
- Education through internal staff updates to DEQ staff, for example, air quality staff, solid waste staff, and business office staff.

Systems

- Website – updates and edits to the website

Five-year review

ORS 183.405

Requirement

Oregon law requires DEQ to review new rules within five years after EQC adopts them. The law also exempts some rules from review. DEQ determined whether the rules described in this report are not subject to the five-year review. DEQ based its analysis on the law in effect when EQC adopted these rules.

Exemption from five-year rule review

The Administrative Procedures Act exempts OAR 340 division 248 of the proposed rules from the five-year review because the proposed rules would:

- Amend or repeal an existing rule. ORS 183.405(4).

Draft Rules – With Edits Highlighted

Key to Identifying Changed Text:

~~Strikethrough: Deleted Text~~

Underline: New/inserted text

~~Double-strikethrough/underline: Text deleted from one location/and moved to another location~~

DEPARTMENT OF ENVIRONMENTAL QUALITY

DIVISION 248

ASBESTOS REQUIREMENTS

340-248-0005

Applicability

OAR 340-248-0010 through 340-248-~~0290-0280~~ apply~~ies~~ to asbestos milling, manufacturing, fabricating, abatement, and disposal, or any situation where a potential for exposure to asbestos fibers exists.

Stat. Auth.: ORS 468.020, ORS 468A.025, ORS 468A.135 & ORS 468A.745

Stats. Implemented: ORS 468A.700 - ORS 468A.760

Hist.: DEQ 1-2002, f. & cert. ef. 2-4-02

340-248-0010

Definitions

The definitions in OAR 340-200-0020 and this rule apply to this division. If the same term is defined in this rule and 340-200-0020, the definition in this rule applies to this division.

(1) "Accredited inspector" means a person ~~that~~ who has completed training, ~~and~~ received accreditation, and maintains valid accreditation under 40 C.F.R. Part 763 Subpart E, Appendix C (Model Accreditation Plan), Section B (Initial Training), Subsection 3 (Inspector), ~~(1994)~~.

(2) "Accredited trainer" means a provider of asbestos abatement training courses authorized by ~~the Department~~ DEQ to offer training courses that satisfy requirements for worker and supervisor training.

(3) "Adequately wet" means to sufficiently mix or penetrate asbestos-containing material or asbestos-containing waste material with liquid to prevent the release of particulate asbestos materials. An asbestos-containing material or asbestos-containing waste material is not adequately wetted if visible emissions originate from that material. Precipitation is not an appropriate method for wetting asbestos-containing material or asbestos-containing waste material.

(4) "Agent" means an individual who works on an asbestos abatement project for a contractor but is not an employee of the contractor.

(5) "Asbestos" means the asbestiform varieties of serpentine (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite (amosite), anthophyllite, actinolite, and tremolite.

(6) "Asbestos abatement project" means ~~any~~ demolition, renovation, repair, construction, or maintenance activity of ~~any public or private~~ facility that involves the repair, enclosure, encapsulation, removal, salvage, handling, or disposal of ~~any~~ asbestos-containing material with the potential of releasing asbestos fibers from asbestos-containing material into the air.

(7) "Asbestos manufacturing operation" means the combining of commercial asbestos, or in the case of woven friction products, the combining of textiles containing commercial asbestos, with ~~any~~ other material(s) including commercial asbestos, and the processing of this combination into a product as specified in OAR 340-248-0210(3).

(8) "Asbestos-containing material" means ~~any~~ material containing more than one-percent asbestos by weight.

~~(129)~~ "Asbestos-containing waste material" means any waste that contains or is contaminated by asbestos-containing material. Asbestos-containing waste material includes, but is not limited to:

(a) Waste asbestos tailings or ~~any~~ commercial asbestos; ~~and is~~

(b) Waste generated by a source subject to OAR 340-248-0205~~50~~ through 340-248-0290~~0280~~; This term includes, but is not limited to,

(c) ~~f~~Filters from control devices;

(d) ~~asbestos abatement project waste, and b~~ Bags or containers that previously contained commercial asbestos; and

(e) Asbestos abatement project waste including:

(A) Disposable equipment and clothing;

(B) Material used to establish a negative pressure enclosure;

(C) Demolition or renovation debris;

(D) HEPA filters; and

(E) Other asbestos abatement project waste that cannot be decontaminated.

(910) "Asbestos mill" means ~~any~~ facility engaged in ~~the conversion~~converting, or any intermediate step in ~~the conversion of~~converting, asbestos ore into commercial asbestos.

~~(1011)~~ "Asbestos tailings" mean ~~any~~ solid waste product of asbestos mining or milling operations that contains asbestos.

~~(12) "Asbestos-containing waste material" means any waste that contains asbestos tailings or any commercial asbestos, and is generated by a source subject to OAR 340-248-0205 through 340-248-0290. This term includes, but is not limited to, filters from control devices, asbestos abatement project waste, and bags or containers that previously contained commercial asbestos. (1112)~~

"Asbestos waste generator" means ~~any~~ person performing an asbestos abatement project, the owner or operator of a demolition or renovation activity, or ~~any~~ owner or operator of a source or facility subject to OAR 340-248-0005 through 248-~~0290~~0280 whose act or process generates asbestos-containing waste material.

(13) "Asbestos waste shipment record" means the shipment document, required to be originated and signed by the asbestos waste generator; used to track and substantiate the disposition of asbestos-containing waste material.

(14) "Certified supervisor" means a person who has a current Oregon supervisor certification card.

(15) "Certified worker" means a person who has a current Oregon worker certification card.

(16) "Contractor" means a person that undertakes for compensation an asbestos abatement project for another person. As used in this ~~D~~ivision, "compensation" means wages, salaries, commissions, and ~~any~~ other forms of remuneration paid to a person for personal services.

(17) "Commercial asbestos" means asbestos that is produced by extracting asbestos from asbestos ore.

~~(18) "Commission" means the Environmental Quality Commission.~~

~~(189)~~ "Demolition" means ~~the~~ wrecking or removal of any load-supporting structural member of a facility together with ~~any~~ related handling operations or the intentional burning of ~~any~~ facility.

~~(20) "Department" means the Department of Environmental Quality.~~

~~(21) "Director" means the Director of the Department of Environmental Quality.~~

~~(22) "EPA" means the U.S. Environmental Protection Agency.~~

~~(2319)~~ "Fabricating" means ~~any~~ processing (e.g., cutting, sawing, drilling) ~~of~~ a manufactured product that contains commercial asbestos, with the exception of processing at temporary sites (field fabricating) for the construction or restoration of facilities. In the case of friction products,

fabricating includes bonding, debonding, grinding, sawing, drilling, or other similar operations performed as part of fabricating.

(2420) "Facility" means all or part of ~~any~~ public or private building, structure, installation, equipment, vehicle, or vessel, including but not limited to ships.

(2521) "Friable asbestos material" means ~~any~~ asbestos-containing material that when dry can be crumbled, pulverized, or reduced to powder by hand pressure ~~can crumble, pulverize or reduce to powder when dry~~ or by the forces expected to act upon the material in the course of demolition, renovation, transportation, or disposal.

(22) "Glove bag" means a sealed compartment with attached inner gloves used for the handling of asbestos-containing materials.

(23) "Grinding" means to reduce to powder or small fragments and includes mechanical chipping or drilling.

(2624) "HEPA filter" means a high efficiency particulate air filter capable of filtering 0.3 micron particles with 99.97 percent efficiency.

(25) "In poor condition" means the binding of the material is losing its integrity as indicated by peeling, cracking, or crumbling of the material.

(2726) "Inactive asbestos-containing waste disposal site" means ~~any~~ disposal site for asbestos-containing waste where the operator has allowed ~~the Department's~~ DEQ's solid waste permit to lapse, has gone out of business, or no longer receives asbestos-containing waste.

(278) "Interim storage of asbestos-containing waste material" means the storage of asbestos-containing waste material that meets the packaging requirements of this division and has been placed ~~in a container~~ outside a regulated area until transported to a ~~n authorized disposal site~~ landfill permitted to receive such waste.

(28) "Installation" means a building or structure or a group of buildings or structures at a single demolition or renovation site that are under the control of the same owner or operator, or under the control of owners or operators of demolition or renovation activities that are under common control.

(2929) "Licensed" means a contracting entity has met ~~the Department's~~ DEQ's training and experience requirements to offer and perform asbestos abatement projects and has a current asbestos abatement contractor license. For purposes of this definition, a license is not a permit subject to OAR chapter 340, division 216 or 218.

(30) "Leak-tight" means that neither solids (including dust) nor liquids can escape or spill out.

(3031) "Negative pressure enclosure" means a barrier surrounding the area of asbestos abatement comprised of a plastic with a minimum thickness of 6 mil ~~any enclosure of an asbestos abatement project area where the air pressure outside the enclosure is greater than the air pressure inside the enclosure and the air inside the enclosure is changed at least four times an hour by exhausting it~~ exhausting through a HEPA filter exhaust system measured by an attached and functioning

manometer or similar device and resulting in a negative pressure environment of -0.02 inches of water column. The barrier must cover all gaps in the area surrounding the asbestos abatement including doorways, windows, HVAC systems, drains, plumbing, and other gaps.

(~~31~~32) "Nonfriable asbestos material" means ~~any~~ asbestos-containing material that is not friable. When dry, nonfriable asbestos material cannot be crumbled, pulverized, or reduced to powder by hand pressure or by the forces expected to act on the material in the course of demolition, renovation, transportation, or disposal.

(33) "Occupant" means an individual person who lives in a subject private residence.

(~~32~~34) "Open accumulation" means ~~any~~ accumulation, placement, or, including interim storage, of friable asbestos material or asbestos-containing waste material other than material securely ~~enclosed~~ packaged and stored as required by this division.

(~~33~~35) "Owner or operator of a demolition or renovation activity" means ~~any~~ person who owns, leases, operates, controls, or supervises ~~a~~ the facility ~~being undergoing~~ demolition ~~shed~~ or renovated ~~or~~ ~~of~~ ~~any~~ person who owns, leases, operates, controls, or supervises ~~the~~ the demolition or renovation operation, or both, ~~or both.~~

(~~34~~36) "Particulate asbestos material" means ~~any~~ finely divided particles of asbestos material.

(~~35~~37) "Person" means an individual, public or private corporation, nonprofit corporation, association, firm, partnership, joint venture, business trust, joint stock company, municipal corporation, political sub-division, the state and ~~any~~ agency of the state, or ~~any~~ other entity, public or private, however organized.

(38) "Regulated area" means an area that:

(a) Is established by the person performing an asbestos abatement project;

(b) Includes all areas where asbestos abatement work and associated activities are conducted and an adjoining area where asbestos-containing waste material generated from the project site is securely packaged and stored;

(c) Restricts access to authorized personnel only; and

(d) Is demarcated with prominent warning signs along the perimeter that state, in bold, all-capital letters and separated as shown here:

“DANGER

ASBESTOS

MAY CAUSE CANCER

ASBESTOS CAUSES DAMAGE TO LUNGS

AUTHORIZED PERSONNEL ONLY”

(3639) "Renovation" means altering ~~in any way~~ one or more facility components. Renovation includes replacing, stripping, or repairing facility components, such as mechanical ventilation systems, pipes, ceilings, walls, flooring, and insulating materials. Operations in which load-supporting structural members are wrecked or removed are excluded.

(40) "Residential building" means a facility used as a residence and that is a site-built homes, modular homes constructed off site, mobile homes, condominiums, duplex, or a multi-unit facility consisting of four units or less. Exceptions are that residential building does not mean a facility that is:

(a) Used by a fire department for training exercises;

(b) Demolished as part of a larger project including urban renewal projects, highway construction projects, or property developed for commercial use, industrial use, or multi-unit residential buildings with more than four units;

(c) Renovated or demolished along with one or more other facilities on the same site by the same owner or operator of a demolition or renovation activity as part of the same project; or

(d) A residential dwelling unit located in a commercial facility.

(3741) "Small-scale, short-duration renovating and maintenance activity" means a task for which ~~the removal of~~ removing asbestos is not the primary objective of the job, including, but not limited to:

(a) ~~Removal of~~ Removing ~~small quantities of~~ asbestos-containing insulation on pipes on beams or above ceilings;

(b) ~~Replacement of an asbestos-containing gasket on a valve~~ Removing small quantities of asbestos-insulation on beams or above ceilings;

(c) ~~Installation or removal of a small section of wallboard~~ Replacing an asbestos-containing gasket on a valve;

(d) ~~Removal of asbestos-containing thermal system insulation not to exceed amounts greater than those that can be contained in a single glove bag~~ Installing or removing a small section of drywall;
or

(e) ~~Minor repairs to damaged thermal system insulation that do not require removal~~ Installing electrical conduits through or proximate to asbestos-containing materials.;

~~(f) Repairs to asbestos-containing wallboard;~~

~~(g) Installation of electrical conduits through or proximate to asbestos-containing materials;~~

~~(h) Repairs, involving encapsulation, enclosure, or removal, of small amounts of friable asbestos material in the performance of emergency or routine maintenance activity and not intended solely as asbestos abatement. Such work may not exceed amounts greater than those that can be contained~~

~~in a single prefabricated mini enclosure. Such an enclosure must conform spatially and geometrically to the localized work area, in order to perform its intended containment function.~~

(3842) "Structural member" means ~~any~~ load-supporting member of a facility, such as beams and load-supporting walls; or ~~any~~ non-supporting member, such as ceilings and non-load-supporting walls.

~~(39) "Survey" means to conduct a detailed inspection of a building, structure, or facility for the presence of asbestos-containing material. The survey must be conducted by an accredited inspector and include sampling of materials suspected to contain asbestos, analysis of those samples to determine asbestos content, and evaluation of the materials in order to assess their condition.~~

(4043) "Training Day" means a day of classroom instruction that consists of at least seven hours of actual classroom instruction and hands-on practice.

(44) "Visible emissions" means emissions that are visually detectable without the aid of instruments.

~~[Publications: Publications referenced are available from the agency.]~~

~~Stat. Auth.: ORS 468 & ORS 468A~~ Stat. Auth.: ORS 468.020, ORS 468A.025, ORS 468A.135 & ORS 468A.745

~~Stats. Implemented: ORS 468A.700~~ Stats. Implemented: ORS 468A.700 - ORS 468A.760

Hist.: DEQ 10-1988, f. & cert. ef. 5-19-88 (and corrected 6-3-88); DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90); DEQ 18-1991, f. & cert. ef. 10-7-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1995, f. 6-16-95, cert. ef. 7-1-95; DEQ 96, f. 9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82; DEQ 9-1988, f. 5-19-88, cert. ef. 6-1-88 (and corrected 6-3-88); DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90 & 7-8-91); DEQ 18-1991, f. & cert. ef. 10-7-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 18-1993, f. & cert. ef. 11-4-93; Renumbered from 340-025-0455; DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 15-1995, f. & cert. ef. 6-16-95; DEQ 22-1995, f. & cert. ef. 10-6-95]; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-033-0020, 340-032-5590; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

~~Asbestos Licensing and Certification Requirements~~

340-248-0100

Asbestos Licensing and Certification Requirements: Applicability

~~(1)~~ OAR 340-248-01005 through 340-248-0180 provide the requirements, standards, and procedures for contractor licensing, worker and supervisor certification, and asbestos abatement trainer accreditation. These requirements apply to any asbestos abatement project except as provided under OAR 340-248-0250.

~~(a) Apply to asbestos contractor licensing, worker and supervisor certification, asbestos abatement trainer accreditation, and the Department's administration and enforcement;~~

~~(b) Apply to any asbestos abatement project; and~~

~~(c) Provide training, licensing, and certification standards for implementation of OAR 340-248-0205 through 340-248-0280, Emission Standards and Procedural Requirements for Asbestos.~~

~~(2) OAR 340-248-0100 through 340-248-0180 do not apply to:~~

~~(a) An asbestos abatement project exempted by OAR 340-248-0250(2)(a); and~~

~~(b) Persons performing vehicle brake and clutch maintenance or repair.~~

~~Stat. Auth.: ORS 468.065, ORS 468A.745 & ORS 468A.750~~ Stat. Auth.: [ORS 468.020, ORS 468A.025, ORS 468A.135 & ORS 468A.745](#)

~~Stats. Implemented: ORS 468A.745~~ Stats. Implemented: [ORS 468A.700 - ORS 468A.760](#)

Hist.: DEQ 10-1988, f. 5-19-88, cert. ef. 5-19-88 (and corrected 6-3-88); DEQ 18-1991, f. & cert. ef. 10-7-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 18-1993, f. & cert. ef. 11-4-93; DEQ 19-1994, f. 9-6-94, cert. ef. 10-1-94; DEQ 15-1995, f. 6-16-95, cert. ef. 7-1-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-033-0010; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

340-248-0110

General Provisions Asbestos Licensing and Certification Requirements: Licensing and Certification Requirements

(1) Except as provided under OAR 340-248-0250(1)(a) ~~A~~any person performing an asbestos abatement project must be a certified supervisor or worker, under OAR 340-248-0130. A certified supervisor may work as a certified worker without having certification as a worker. ~~unless exempted by OAR 340-248-0100(2).~~

(2) An owner or operator of a facility ~~of a facility~~ may not allow ~~any persons other than those employees of the facility owner or operator who are appropriately to perform an asbestos abatement project in or on the facility unless the person is certified or a licensed under the provisions of this division to perform an~~ asbestos abatement ~~contractor to perform an asbestos abatement project in or on that facility.~~

(3) An owner or operator of a demolition or renovation activity may not allow a person to perform an asbestos abatement project as part of the demolition or renovation unless the person is certified or licensed under the provisions of this division to perform an asbestos abatement project.

~~(4) Any contractor that performs an asbestos abatement project must be licensed by the Department~~ DEQ ~~under the provisions of OAR 340-248-0120.~~

~~(4) Any person acting as the supervisor for any asbestos abatement project must be certified by the Department as a supervisor under the provisions of OAR 340-248-0130.~~

~~(5) Any person engaged in or working on any asbestos abatement project must be certified by the Department as a worker or a supervisor under the provisions of OAR 340-248-0130.~~

~~(56) Except as provided under OAR 340-248-0250(1)(h), A~~ certified supervisor ~~is required~~ must to be present on each asbestos abatement project ~~other than a small scale short duration activity.~~

~~(67) Each training provider for asbestos abatement certification must be accredited by the~~ Department DEQ under ~~the provisions of~~ OAR 340-248-0140.

~~(78) Each person~~ DEQ licenses ~~ed, certifie~~ ed, or accredits ~~ed by the Department~~ under the provisions of this ~~D~~ivision must comply with OAR 340-248-0005 through 340-248-~~0290-0280~~ and maintain a current address on file with ~~the Department~~ DEQ. DEQ may suspend or revoke the license, certification, or accreditation of any person who does not ~~Failure to comply with this section paragraph will subject such persons to suspension or revocation of license, certification, or accreditation.~~

~~(89) The Department~~ DEQ may require training providers to ask applicants to provide their social security number and to retain records of those numbers for ~~the Department~~ DEQ's use in identifying and tracking workers and supervisors. Trainers must notify each applicant that providing their social security number is voluntary and explain how ~~the Department~~ DEQ proposes to use the social security number.

~~(910) A regional air pollution authority~~ ~~which that~~ has been delegated authority under OAR 340-244-0020(2) may inspect for and enforce against violations of licensing and certification regulations. A regional air pollution authority may not approve, deny, suspend or revoke a training provider accreditation, contractor license, or worker certification, but may refer violations to ~~the~~ Department DEQ and recommend denials, suspensions, or revocations.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.707

Hist.: DEQ 10-1988, f. & cert ef. 5-19-88 (and corrected 6-3-88); DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90); DEQ 18-1991, f. & cert. ef. 10-7-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 18-1993, f. & cert. ef. 11-4-93; DEQ 15-1995, f. 6-16-95, cert. ef. 7-1-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-033-0030; DEQ 1-2002, f. & cert. ef. 2-4-02

340-248-0120

Asbestos Licensing and Certification Requirements: Contractor Licensing

~~(1) Any contractor performing an asbestos abatement project must be licensed by the~~ Department DEQ.

~~(12) A contractor~~ ~~Application must submit an application~~ for a licenses ~~must be submitted on a~~ DEQ-approved forms ~~prescribed by the Department~~ and must include ~~be accompanied by~~ the following:

(a) Documentation that the contractor, or the contractor's employee representative, is a certified supervisor;

(b) Certification that the contractor has read and understands the applicable Oregon and federal rules and regulations on asbestos abatement and agrees to comply with the rules and regulations;

(c) A list of all certificates or licenses, issued to the contractor by ~~any~~ other jurisdiction, that have been suspended or revoked during the past year, and a list of ~~any~~ asbestos-related enforcement actions taken against the contractor during the past year;

(d) A list of additional project supervisors for asbestos abatement projects and their certification numbers;

(e) A summary of all asbestos abatement projects the contractor conducted ~~by the contractor~~ during the past 12 months; and

(f) A license application fee.

(23) ~~The Department~~ DEQ will review the application for completeness. If the application is incomplete, ~~the Department~~ DEQ will notify the applicant in writing of the deficiencies.

(43) ~~The Department~~ DEQ will deny, in writing, a license to a contractor who has not satisfied the license application requirements.

(45) ~~The Department~~ DEQ will issue a license to the applicant after the license is approved.

(56) A license is valid for a period of 12 months. DEQ may extend the licenses ~~but will be extended~~ pending ~~the Department~~ DEQ's review of a renewal application if provided applicant files the renewal application ~~is filed~~ with DEQ no later than 60 days before the expiration date of the contractor's license.

(67) Renewals:

(a) License renewals must be applied for in the same manner as required for the initial license;

(b) For renewal, the contractor or employee representative must have a valid certified supervisor card; and

(c) The applicant must submit ~~the~~ complete renewal application ~~must be submitted~~ no later than 60 days before the license expiration date.

(78) ~~The Department~~ DEQ may suspend or revoke a license if the licensee:

(a) Fraudulently obtains or attempts to obtain a license; ~~or~~

(b) Fails at any time to satisfy the qualifications for a license; ~~or~~

(c) Fails to meet ~~any~~ applicable state or federal standard relating to asbestos abatement; ~~or~~

(d) Permits an untrained or uncertified worker to work on an asbestos abatement project; ~~or~~

(e) Employs a worker who fails to comply with applicable state or federal rules or regulations relating to asbestos abatement; ~~or~~

(f) Fails to make current certification cards readily available at worksites for inspection by ~~the Department~~ [DEQ](#); or

(g) Fails to pay delinquent application fees, notification fees, or civil penalty assessments.

~~(89)~~ A contractor whose license has been revoked may reapply for a license after demonstrating to ~~the Department~~ [DEQ](#) that the [contractor has resolved the](#) cause of the revocation ~~has been resolved~~.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.707

Hist.: DEQ 10-1988, f. & cert ef. 5-19-88 (and corrected 6-3-88); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1995, f. 6-16-95, cert. ef. 7-1-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-033-0040; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

340-248-0130

Asbestos Licensing and Certification Requirements: Certification

~~(1) Any persons working on an asbestos abatement project must be either an Oregon certified supervisor or certified worker. A certified supervisor may work as a certified worker without having separate certification as a worker.~~

~~(12)~~ Application for Certification -- General Requirements:

(a) ~~Any~~ person wishing to become a certified supervisor or relying on prior training, as provided in OAR 340-248-0160 must apply to ~~the Department~~ [DEQ](#), through the training provider, for certification.

(b) ~~Any~~ person applying for worker certification without prior training and ~~any~~ certified worker taking a refresher course must apply directly to the accredited training provider using ~~Department~~ [DEQ](#)-approved forms.

~~(23)~~ An application to be a certified supervisor must include:

(a) Documentation that the applicant has successfully completed the supervisor-level training and examination as specified in OAR 340-248-0150 ~~and the Department's Asbestos Training Guidance Document~~; and

(b) Documentation that the applicant has: [been certified as a worker and has at least one year of asbestos abatement experience, including time on powered air purifying respirators and experience on at least ten separate friable asbestos abatement projects.](#)

~~(A) Been certified as a worker and has at least three months of asbestos abatement experience, including time on powered air purifying respirators and experience on at least five separate asbestos abatement projects; or~~

~~(B) Successfully completed certified worker training and six months of general construction, environmental or maintenance supervisory experience demonstrating skills to independently plan,~~

~~organize and direct personnel in conducting an asbestos abatement project. The Department will determine if an applicant's experience satisfies those requirements.~~

(34) An application to be a certified worker must include documentation that the applicant has successfully completed the level of training and examination as specified in OAR 340-248-0150, ~~and the Department's Asbestos Training Guidance Document.~~

(45) ~~The training course provider will issue~~ A typed certification card and a certificate of course completion ~~will be issued by the training course provider~~ to an applicant who has fulfilled the ~~certification~~ requirements ~~of certification.~~

(56) Certification at all levels is valid for one year after the date of issue.

(67) Annual Recertification:

(a) Previously certified Oregon workers and supervisors must apply through the training provider to take recertification refresher courses;

(b) Applicants for re-certification must possess a valid certification card in order to take the refresher course;

(c) All certified supervisors and workers must complete an annual recertification course during the three months before the expiration date of their certification card. A certified supervisor or worker may reinstate certification by taking the appropriate refresher course up to one year after the expiration date of the current Oregon certification card. After that time, such persons must take the initial course to be recertified.

(78) A current worker certification card must be readily available for inspection by ~~the~~ Department DEQ at each asbestos abatement project for each worker or supervisor engaged in asbestos abatement activities.

(89) Suspensions and Revocations: ~~The Department~~ DEQ may suspend or revoke a person's certification if the person:

(a) Fails to comply with state or federal asbestos abatement regulations; ~~or~~

(b) Performs asbestos removal without ~~having physically~~ possessing ~~on of~~ a current certification card; ~~or~~

(c) ~~Allows one person to use or duplicate another person's~~ Permits the use or duplication of one's certification card or certificate by another; ~~or~~

(d) Obtains certification from a training provider that does not have ~~the Department~~ DEQ's or the EPA's approval to offer training for the particular discipline; or

(e) Fails to pay delinquent application fees, or civil penalties.

(910) A person whose certification has been revoked may not apply for recertification until 12 months after the revocation date.

~~[Publications: Publications referenced are available from the agency.]~~

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ 10-1988, f. & cert ef. 5-19-88 (and corrected 6-3-88); DEQ 9-1989(Temp), f. & cert. ef. 6-7-89; DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90); DEQ 18-1991, f. & cert. ef. 10-7-91; DEQ; DEQ 15-1995, f. 6-16-95, cert. ef. 7-1-95; DEQ 26-1995, f. & cert. ef. 12-6-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-033-0050; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

340-248-0140

Asbestos Licensing and Certification Requirements: Training Provider Accreditation

(1) General:

(a) ~~Any~~ person may apply to become an Oregon accredited asbestos training provider under this ~~D~~division.

(b) Only training providers DEQ ~~accredited by the Department~~ may offer training in Oregon to satisfy the certification requirements contained in this ~~D~~division.

(c) ~~The Department~~DEQ will accredit each individual training course.

(d) Course instructors must have academic credentials, demonstrated knowledge, prior training, or field experience in their respective training roles.

(e) Training course providers must permit representatives of ~~the Department~~DEQ or its designee to attend, evaluate and monitor ~~any~~ training course without charge. ~~The Department~~DEQ is not required to give advance notice of its inspection. ~~The Department~~DEQ may suspend or withdraw approval of a training course based ~~upon~~on the grounds specified in OAR 340-248-0140(4).

(f) All initial worker and supervisor certification training, or initial refresher training involving persons wishing to be certified in Oregon using prior training from an EPA approved accreditation or certification course, must take place in Oregon.

(g) ~~The Department~~DEQ may require accredited training providers to pay a fee to cover the reasonable travel expenses for one ~~Department~~DEQ representative to audit for compliance with this ~~D~~division any accredited refresher course that is not offered in the State of Oregon. This fee is an addition to the standard accreditation application fee.

(2) Application for Accreditation:

(a) Applicants must submit applications for accreditation ~~must be submitted to the~~ ~~Department~~DEQ in writing on forms DEQ provides ~~d by the Department~~ and include the information this section requires ~~d by this section~~:

(A) Name, address, telephone number of the firm, individual~~(s)~~, or sponsor~~s~~ conducting the course, including the name under which the training provider intends to conduct the training;

(B) The type of course~~(s)~~ for which the applicant requests approval ~~is requested~~;

(C) A detailed course outline showing topics covered and the amount of time given to each topic, and that includes: working with asbestos-substitute materials, fitting and using respirators, use of glove -bag, donning protective clothing, ~~and~~ constructing a decontamination unit, the number of students to be accommodated, ~~;~~ the number of instructors, ~~;~~ and the amount of time for hands-on skill training;

(D) A copy of the course manual, instructor notebooks and all printed material to be distributed in the course;

(E) A description of teaching methods to be employed, including description of audio-visual materials to be used. Upon ~~the Department~~DEQ's request the applicant must provide copies of the materials. ~~Any a~~Audio-visual materials provided to ~~the Department~~DEQ will be returned to the applicant;

(F) A description of the hands-on facility to be utilized including protocol for instruction;

(G) A description of the equipment that will be used during classroom lectures and hands-on training;

(H) A list of all personnel involved in course preparation and presentation and a description of the background, special training and qualification of each, as well as the subject matter covered by each;

(I) A copy of each written examination to be given including the scoring methodology to be used in grading the examination; and a detailed statement about the development and validation of the examination;

(J) A list of the tuition or other fees required;

(K) A sample of the certificate of completion;

(L) A description of the procedures and policies for re-examin~~ation of~~ students who do not successfully complete the training course examination;

(M) A list of ~~any states~~ or accrediting systems~~s~~ that approve the training course;

(N) A description of student evaluation methods (other than written examination to be used) associated with the hands-on skill training and course evaluation methods students use ~~used by students~~;

(O) ~~Any r~~Restrictions on attendance such as class size, language, affiliation, or target audience of class;

(P) A description of the procedure for issuing replacement certification cards to workers who were issued a certification card by the training provider within the previous 12 months and whose cards have been lost or destroyed;

(Q) ~~Any a~~Additional information or documentation ~~the Department~~DEQ may require in order to evaluate the adequacy of the application; and

(R) The accreditation application fee.

(b) The training provider must retain a copy of the application materials listed above for at least three years. ~~The applicant must make S~~such applications ~~must be made~~available for inspection by ~~the Department~~DEQ or its designees upon request.

(c) ~~An applicant must submit the A~~application for initial training course accreditation and course materials ~~must be submitted to the Department~~DEQ at least 45 days before the requested approval date.

(d) Upon approval of an initial or refresher asbestos training course, ~~the Department~~DEQ will issue a certificate of accreditation. The certificate is valid for one year from the date of issuance.

(e) Application for renewal of accreditation must follow the procedures described for the initial accreditation. In addition, course instructors must demonstrate that they have maintained proficiency in their instructional specialty and adult training methods during the 12 months before renewal.

(3) Training Provider Administrative Tasks. Accredited training providers must perform the following as a condition of accreditation:

(a) Administer the training course only to those persons who ~~DEQ has~~~~have been~~ approved ~~by the Department~~, or have surrendered their expired certification cards to the trainer and others who are otherwise qualified according to these rules. Such persons may take the examination to complete the training course.

(b) Issue a numbered certificate and a photo certification card to each student who successfully passes the training course examination and meets all other requirements for certification. Each certificate and photo certification card must include:

(A) A unique certificate number;

(B) Name of certified person;

(C) Training course completed;

(D) Dates of the training course;

(E) Date of the examination;

(F) An expiration date of one year after the date upon which the person successfully completed the course and examination;

(G) The name, address, and telephone number of the training provider that issued the certificate; and

(H) A statement that the person receiving the certificate has completed the requisite training for asbestos certification as specified in OAR-340-248-0130.

(c) Provide ~~the Department~~ DEQ with advance payment for each certificate to be issued.

(d) Utilize and distribute to all class participants, as part of the course information, ~~or~~ training aides DEQ furnishes ~~d by the Department~~.

(e) Provide ~~the Department~~ DEQ with a monthly class schedule at least one week before the schedule begins. Notification must include time and location of each course. Training providers must obtain DEQ approval ~~from the Department~~ before starting or offering any class ~~taking place~~ that is not on ~~their~~ the provider's monthly schedule, and if the trainer wishes to hold a class with less than one week advanced notice.

(f) Training Providers must comply with the following recordkeeping requirements:

(A) Maintain the training records required by this subsection for a minimum of three years and make them readily available for inspection by ~~the Department~~ DEQ or its designee.

(B) Retain copies of all instructional materials used during each classroom course.

(C) Retain copies of all instructor resumes and instructor approvals issued by either ~~the Department~~ DEQ or US EPA.

(D) Document the following information for each accredited course:

(i) The date the exam was given;

(ii) Training course for which the exam was given;

(iii) The exam proctor's name ~~of the exam proctor~~;

(iv) The name and score of each person taking the exam and a single copy of the exam;

(v) Attendance record;

(vi) Course evaluation form; and

(vii) The names of the instructors for each part of the course offered.

(E) Maintain records of certificates issued to students, including the following information:

(i) Name, address, telephone number, social security number of person receiving the certificate;

(ii) Certificate number given to each person;

(iii) Photograph of each person;

(iv) Discipline for which the certificate was given; and

(v) Dates of training and certificate expiration.

(F) If a training provider is not accredited or ceases to give asbestos worker certification training, the training provider must notify and allow ~~the Department~~ DEQ to take possession of the records for lawful disposition.

(G) Submit certification class information to ~~the Department~~ DEQ within 30 days after the end of each training class or as DEQ directs ~~ed by the Department~~.

(g) Notify ~~the Department~~ DEQ before issuing a replacement certification card.

(h) Have a current accreditation certificate at the training location.

(4) Denial, Suspension or Revocation of Accreditation. ~~The Director~~ DEQ may deny, suspend, or revoke an application or current accreditation for any of the reasons contained in this section. ~~The Department~~ DEQ will issue a notice of denial, suspension, or revocation specifying the reasons for the action and ~~any conditions that must be met~~ the applicant must meet before the certificate will be issued or reinstated. Applicants may appeal the Director's determination by requesting a contested case hearing ~~pursuant under~~ to the provisions of OAR chapter 340 division 11. DEQ considers ~~The the~~ following ~~are considered as~~ grounds for denial, revocation or suspension:

(a) Misrepresenting the extent of a training course's approval by a State or the EPA; ~~or~~

(b) Failing to submit required information or notifications in a timely manner; ~~or~~

(c) Failing to report to ~~the Department~~ DEQ ~~any~~ change in staff or program ~~that which~~ substantially deviates from the information contained in the application; ~~or~~

(d) Failing to maintain requisite records; ~~or~~

(e) Falsifying accreditation records, instructor qualifications, or other accreditation information; ~~or~~

(f) Failing to adhere to this division's ~~the~~ training standards and requirements ~~of this Division~~; ~~or~~

(g) Failing to comply with this division's ~~the~~ administrative tasks and ~~any other requirement of this Division~~; ~~or~~

(h) Providing concurrent training for either initial or refresher courses for supervisors and asbestos workers; ~~or~~

(i) Failing to pay delinquent application fees, notification fees, or civil penalties; or

(j) ~~The Department may suspend or withdraw a training course's approval if a~~ An approved training course instructor or other person with supervisory authority over the ~~delivery of training~~ who

violates ~~any~~ other asbestos regulations administered by ~~the Department~~ [DEQ, EPA](#), or other [government](#) agencies.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ 10-1988, f. & cert. ef. 5-19-88 (and corrected 6-3-88); DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1995, f. 6-16-95, cert. ef. 7-1-95; DEQ 26-1995, f. & cert. ef. 12-6-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-033-0060; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

340-248-0150

Asbestos Licensing and Certification Requirements: General Training Standards

(1) The training provider must limit each class to a maximum of 25 participants unless ~~the Department~~ [DEQ](#) grants an exception in writing. The student to instructor ratio for hands-on training must be equal to or less than ten to one (10:1). To apply for an exception allowing class size to exceed 25, the course sponsor must submit the following information in writing to ~~the Department~~ [DEQ](#) and receive approval before expanding the class size:

(a) The new class size limit;

(b) The teaching methods and techniques for training the proposed larger class;

(c) The protocol for conducting the written examination; and

(d) Justification for a larger class size.

(2) Course instructors must have academic credentials, demonstrated knowledge, prior training, or field experience in their respective training roles.

(3) ~~The Department~~ [DEQ](#) may require ~~any~~ accredited training provider to use examinations [DEQ](#) developed ~~by the Department~~ in lieu of the examinations [the training provider](#) offers ~~ed by the training provider~~.

(4) Courses of instruction required for certification must be specific for each of the certificate categories and must be ~~in accordance~~ [comply](#) with ~~the Department~~ [DEQ](#)'s requirements. The [provider must present](#) course instruction ~~must be presented~~ through a combination of lectures, demonstrations, and hands-on practice.

(5) Courses requiring hands-on training must provide participants actual experience performing tasks associated with asbestos abatement. Demonstrations not involving individual participation are unacceptable as a substitute for hands-on training.

(6) ~~Any~~ person seeking certification as a supervisor must successfully complete an accredited training course of at least five training days [by a DEQ accredited training provider](#) ~~that satisfies the elements contained in the Department Asbestos Training Guidance Document~~. The training course must include lectures, demonstrations, at least 14 hours of hands-on training, individual

respirator fit testing, course review, and a written examination consisting of multiple choice questions. To successfully complete the course, the candidate must attend the lectures and demonstrations, fully participate in the hands-on training, and achieve a passing score on the closed book examination.

(7) ~~Any~~ person seeking certification as a worker must successfully complete an accredited training course of at least four training days by a DEQ accredited training provider. ~~as outlined in the Department Asbestos Training Guidance Document.~~ The training course must include lectures, demonstrations, at least 14 hours of actual hands-on training, individual respirator fit testing, course review, and an examination of multiple choice questions. To successfully complete the course, the candidate must attend the lectures and demonstrations, fully participate in the hands-on training, and achieve a passing score on the closed book examination.

(8) Refresher training consists of one training day for certified supervisors and workers. The refresher courses must include a review of key areas of initial training, and updates, ~~and an examination of multiple choice questions as outlined in the Department Asbestos Training Guidance Document.~~ To successfully complete the course, the candidate must attend the course, fully participate in ~~any~~ hands-on training, and achieve a passing score on the closed book examination.

~~{Publications: Publications referenced are available from the agency.}~~

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.745

Hist.: DEQ 10-1988, f. & cert. ef. 5-19-88 (and corrected 6-3-88); DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1995, f. 6-16-95, cert. ef. 7-1-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-033-0070; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

340-248-0160

Asbestos Licensing and Certification Requirements: Prior Training

A candidate may rely on successfully completing on of a training course accredited by a governmental agency other than ~~the Department~~ DEQ to satisfy the training and examination requirements of OAR 340-248-0130 and 340-248-0140 if all of the following conditions are met:

(1) ~~The Department~~ DEQ determines that the course and examination requirements are equivalent to or exceed the requirements of OAR 340-248-0130 and 340-248-0140 ~~and the Department's Asbestos Training Guidance Document~~ for the level of certification sought or ~~the Department~~ DEQ has a reciprocity agreement with the other jurisdiction.

(2) To qualify for a refresher course and certification, an applicant must have completed prior training ~~must have occurred~~ during the two years preceding the date the applicant applies to ~~the Department~~ DEQ. Applicants must have a current certification from EPA or an equivalent certification from another state when applying under this section.

~~{Publications: Publications referenced are available from the agency.}~~

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.745

Hist.: DEQ 10-1988, f. & cert ef. 5-19-88 (and corrected 6-3-88); DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90); DEQ 15-1995, f. 6-16-95, cert. ef. 7-1-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-033-0080; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

340-248-0170

Asbestos Licensing and Certification Requirements: Reciprocity

~~The Department~~DEQ may develop reciprocity agreements with other jurisdictions regarding all activities under this ~~D~~ivision.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.745

Hist.: DEQ 10-1988, f. & cert ef. 5-19-88 (and corrected 6-3-88); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1995, f. 6-16-95, cert. ef. 7-1-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-033-0090

340-248-0180

Asbestos Licensing and Certification Requirements: Fees

(1) ~~The Department~~DEQ may assess the following fees to provide revenues to operate the asbestos control program.

(a) Contractor Licenses: A non-refundable license application fee of \$1000 for a one-year Asbestos Abatement Contractor license;

(b) Worker and Supervisor Certifications: A non-refundable application fee of \$65 for a one-year certification as an asbestos supervisor and \$45 for a one-year certification as an asbestos worker;

(c) Training Provider Accreditation: A non-refundable accreditation application fee of:

(A) \$320 for a one-year accreditation to provide a course for training asbestos supervisors;

(B) \$320 for a one-year accreditation to provide a course for training asbestos workers; and

(C) \$320 each for a one-year accreditation to provide a course for refresher training for ~~any level of~~ Oregon asbestos certification.

(d) Asbestos Abatement Project Notification fees as required ~~in~~-under OAR 340-248-0260.

(2) Requests for waiver of fees must be made in writing to the Director, on a case-by-case basis, and be based upon financial hardship. Applicants for waivers must describe the reason for the request and certify financial hardship. The Director may waive part or all of a fee.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.745

Hist.: DEQ 10-1988, f. & cert. ef. 5-19-88 (and corrected 6-3-88); DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90); DEQ 18-1991, f. & cert. ef. 10-7-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 19-1994, f. 9-6-94, cert. ef. 10-1-94; DEQ 15-1995, f. 6-16-95, cert. ef. 7-1-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-033-0100; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

~~Asbestos Emission Standards and Procedural Requirements~~

340-248-0205

Asbestos Emission Standards and Procedural Requirements: General Provisions

(1) ~~No~~ A person may not openly accumulate friable asbestos material or asbestos-containing waste material.

(2) Contractors working on asbestos abatement projects at secure facilities must ensure that all security clearance requirements are completed before asbestos abatement projects at secure facilities start so ~~Department~~ that DEQ inspectors may gain immediate access to perform required asbestos project inspections.

(3) ~~Any asbestos-containing material that is subjected to~~ A person may not sanding, grinding, sawing, or abrading asbestos-containing material unless during such activity the material is ~~must~~ be handled and disposed of as friable asbestos material as this division provides.

(4) The content of asbestos in ~~any~~ asbestos-containing material must be determined using the method specified by the Environmental Protection Agency as listed in EPA/600/R-93/116, July 1993, "Method for the Determination of Asbestos in Bulk Building Materials" in 40 CFR Part 763 Subpart E, Appendix E, Section 1, Polarized Light Microscopy or another substantially similar method approved by ~~the Department~~ DEQ. Bulk samples must not be composited for analysis.

[Note: Referenced publications are available through the link below.]

Stat. Auth.: ORS 468.020, ORS 468A.025, ORS 468A.135 & ORS 468A.745

Stats. Implemented: ORS 468A.700 - ORS 468A.760

Hist.: DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

340-248-0210

Asbestos Emission Standards and Procedural Requirements : Asbestos Requirements for Mills, Roadways and Parking lots, and Manufacturing Operations

(1) Emission standard for asbestos mills. No person may cause or allow to be discharged into the atmosphere ~~any~~ visible emissions, including fugitive emissions, from any asbestos milling operation except as provided under OAR 340-248-0275(2) Air Cleaning. For purposes of this rule, the presence of uncombined water in the emission plume is not a violation of the visible emission

requirement. Outside storage of asbestos materials is not part of an asbestos mill operation. The owner or operator of an asbestos mill must meet the following requirements:

(a) Monitor each potential source of asbestos emissions from ~~any~~ part of the mill facility, including air cleaning devices, process equipment, and buildings that house equipment for material processing and handling, at least once each day, during daylight hours, for visible emissions to the outside air during periods of operations. The monitoring must be by visual observation of at least 15 seconds duration per source of emissions.

(b) Inspect each air cleaning device at least once each week for proper operation and for changes that signal the potential for malfunction including, to the maximum extent possible without dismantling other than opening the device, the presence of tears, holes, and abrasions in filter bags and for dust deposits on the clean side of bags. For air cleaning devices that cannot be inspected on a weekly basis, submit to ~~the Department~~DEQ, revise as necessary, and implement a written maintenance plan to include, at a minimum, a maintenance schedule and recordkeeping plan.

(c) Maintain records of the results of visible emissions monitoring and air cleaning device inspections using a format approved by ~~the Department~~DEQ and including the following information:

(A) Date and time of each inspection;

(B) Presence or absence of visible emissions;

(C) Condition of fabric filters, including presence of ~~any~~ tears, holes, and abrasions;

(D) Presence of dust deposits on clean side of fabric filters;

(E) Brief description of corrective actions taken, including date and time; and

(F) Daily hours of operation for each air cleaning device.

(d) Furnish upon request, and make available at the affected facility during normal business hours for inspection by ~~the Department~~DEQ, all records this section requires~~d under this section~~.

(e) Retain a copy of all monitoring and inspection records for at least two years.

(f) Submit a copy of visible emission monitoring records to ~~the Department~~DEQ quarterly. The quarterly reports must be postmarked by the 30th day following the end of the calendar quarter.

(g) Asbestos-containing waste material produced by ~~any~~ asbestos milling operation must be disposed of according to OAR 340-248-0280 ~~and 0290~~.

(2) Roadways and Parking Lots. No person may construct or maintain, or allow to be constructed or maintained a roadway with asbestos tailings or asbestos-containing waste material on that roadway, unless (for asbestos tailings):

(a) It is a temporary roadway on an area of asbestos ore deposits (asbestos mine); ~~or~~

(b) It is a temporary roadway at an active asbestos mill site and is encapsulated with a resinous or bituminous binder. The encapsulated road surface must be maintained at least once per calendar year or within 12 months of road construction to prevent dust emissions; or

(c) It is encapsulated in asphalt concrete meeting the specifications contained in Section 401 of **Standard Specifications for Construction of Roads and Bridges on Federal Highway Projects, FP-85, 1985**, or their equivalent.

(3) Manufacturing. No person may cause or allow to be discharged into the atmosphere ~~any~~ visible emissions, except as provided in OAR 340-248-0275(2), from ~~any~~ building or structure in which manufacturing operations utilizing commercial asbestos are conducted, or directly from ~~any~~ such manufacturing operations if they are conducted outside buildings or structures, or from ~~any~~ other fugitive emissions. All asbestos-containing waste material a manufacturing operation produces ~~ed by any manufacturing operation~~ must be disposed of according to OAR 340-248-0280 ~~and 0290~~. Visible emissions from boilers or other points not producing emissions directly from the manufacturing operation and having no possible asbestos material in the exhaust gases are not a violation of this rule. The presence of uncombined water in the exhaust plume is not a violation of the visible emission requirements:

(a) Applicability. Manufacturing operations subject to this rule are as follows:

(A) ~~The m~~Manufacturing ~~of~~ cloth, cord, wicks, tubing, tape, twine, rope, thread, yarn, roving, lap, or other textile materials;

(B) ~~The m~~Manufacturing ~~of~~ cement products;

(C) ~~The m~~Manufacturing ~~of~~ fire proofing and insulating materials;

(D) ~~The m~~Manufacturing ~~of~~ friction products;

(E) ~~The m~~Manufacturing ~~of~~ paper, millboard, and felt;

(F) ~~The m~~Manufacturing ~~of~~ floor tile;

(G) ~~The m~~Manufacturing ~~of~~ paints, coatings, caulks, adhesives, or sealants;

(H) ~~The m~~Manufacturing ~~of~~ plastics and rubber materials;

(I) ~~The m~~Manufacturing ~~of~~ chlorine, using asbestos diaphragm technology;

(J) ~~The m~~Manufacturing ~~of~~ shotgun shell wads;

(K) ~~The m~~Manufacturing ~~of~~ asphalt concrete; and

(L) ~~Any o~~Other manufacturing operation that results or may result in the release of asbestos material to the ambient air.

(b) The owner or operator of the manufacturing operation must monitor each potential source of asbestos emissions from ~~any~~ part of the manufacturing facility, including air cleaning devices,

process equipment, and buildings housing material processing and handling equipment. Monitoring must be done at least once each day during daylight hours for visible emissions to the outside air during periods of operation and be by visual observation of at least 15 seconds duration per source of emissions.

(c) The owner or operator of the manufacturing operation must inspect each air cleaning device at least once each week for proper operation and for changes that signal the potential for malfunctions, including, to the maximum extent possible without dismantling other than opening the device, the presence of tears, holes, and abrasions in filter bags and for dust deposits on the clean side of bags. For air cleaning devices that cannot be inspected on a weekly basis, submit to ~~the Department~~ [DEQ](#), revise as necessary, and implement a written maintenance plan to include, at a minimum, a maintenance schedule and recordkeeping plan.

(d) The owner or operator of a manufacturing operation must maintain records of the results of visible emission monitoring and air cleaning device inspections using a format [DEQ](#) approves ~~d by the Department~~ and including the following information:

(A) Date and time of each inspection;

(B) Presence or absence of visible emissions;

(C) Condition of fabric filters, including presence of ~~any~~ tears, holes and abrasions;

(D) Presence of dust deposits on clean side of fabric filters;

(E) Brief description of corrective actions taken, including date and time; and

(F) Daily hours of operation for each air cleaning device.

(e) The owner or operator of a manufacturing operation must furnish upon request, and make available at the affected facility during normal business hours for inspection by ~~the Department~~ [DEQ](#), all records ~~this section~~ requires ~~d under this section~~.

(f) The owner or operator of a manufacturing operation must retain a copy of all monitoring and inspection records for at least two years.

(g) The owner or operator of a manufacturing operation must submit quarterly a copy of the visible emission monitoring records to ~~the Department~~ [DEQ](#) if visible emissions occurred during the report period. Quarterly reports must be postmarked by the 30th day following the end of the calendar quarter.

(h) Asbestos-containing waste material produced by any asbestos manufacturing operation must be disposed of according to OAR 340-248-0280 ~~or 340-248-0290~~.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.745

Hist.: DEQ 96, f. 9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82; DEQ 9-1988, f. 5-19-88 (and corrected 6-3-88), ef. 6-1-88; DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90 & 7-8-91); DEQ 8-1990, f. 3-13-90, cert. ef. 4-23-90; DEQ 18-1991, f. & cert. ef. 10-7-91; Section (4)(a)

- (d) renumbered to 340-025-0466; Section (5)(a-d) renumbered to 340-025-0467; Sections (6) - (12) renumbered to 340-025-0468; Sections (13) - (15) renumbered to 340-025-0469; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 18-1993, f. & cert. ef. 11-4-93; Renumbered from 340-025-0465; DEQ 15-1995, f. & cert. ef. 6-16-95; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-5600; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

340-248-0220

Asbestos Emission Standards and Procedural Requirements: Reporting Requirements for Asbestos Sources Using Air Cleaning Devices

(1) New sources this rule covered ~~by this rule~~ must submit the requested information 90 days before initial startup. The reporter must submit ~~Existing sources covered by this rule must comply by March 1, 1996. C~~hanges in the information provided to ~~the Department~~DEQ ~~must be submitted~~ within 30 days after the change.

(2) Sources covered by OAR 340-248-0210(1) Mills, 340-248-0210(3) Manufacturing, 340-248-0275(4) Fabricating, and 340-248-0230 Asbestos to Nonasbestos Conversion Operations, must provide the following information to ~~the Department~~DEQ:

(a) A description of the emission control equipment used for each process; ~~and~~

(b) If a fabric filter device is used to control emissions:

(A) The airflow permeability in m³/min/m² (ft³/min/ft²) if the fabric filter device uses a woven fabric, and, if the fabric is synthetic, whether the fill yarn is spun or not spun; and

(B) If the fabric filter device uses a felted fabric, the density in g/m² (oz/yd²), the minimum thickness in millimeters (inches), and the airflow permeability in m³/min/m² (ft³/min/ft²); ~~and~~.

(c) If a HEPA filter is used to control emissions, the certified efficiency.

(3) Sources covered by this rule and subject to OAR 340-248-0280(1) through 340-248-0280(9) ~~or 340-248-0290~~ must submit the following information:

(a) A brief description of each process that generates asbestos-containing waste material;

(b) The average volume of asbestos-containing waste material disposed of, measured in m³/day (yd³/day);

(c) The emission control methods used in all stages of waste disposal; and

(d) The type of disposal site or incineration site used for ultimate disposal, the name of the site operator, and the name and location of the disposal site.

(4) Sources this rule covered ~~by this rule~~ and subject to OAR 340-248-0280(10) or; 340-248-0280(11) ~~or 340-248-0290~~ must provide the following information:

- (a) A brief description of the site; and
- (b) The method or methods used to comply with the standards, or alternative procedures used.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.745

Hist.: DEQ 26-1995, f. & cert. ef. 12-6-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-5604; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

340-248-0230

Asbestos Emission Standards and Procedural Requirements: Asbestos to Nonasbestos Conversion Operations

- (1) 40 C.F.R. Part 61.155 (~~July 1, 2001~~) is by this reference adopted and incorporated herein.
- (2) The following substitutions are made in 40 C.F.R. Part 61.155:
 - (a) "Administrator" means "~~Department~~DEQ";
 - (b) §61.150 means OAR 340-248-0280;
 - (c) §61.152 means OAR 340-248-02750(~~132~~)(a);
 - (d) §61.154 means OAR 340-248-0280;
 - (e) §61.154(e) means OAR 340-248-0280(10)(a)(~~C~~)(~~G~~); and
 - (f) §61.154(f) means OAR 340-248-0280(10)(b).

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.745

Hist.: DEQ 26-1995, f. & cert. ef. 12-6-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-5605; DEQ 1-2002, f. & cert. ef. 2-4-02

340-248-0240

Asbestos Emission Standards and Procedural Requirements: Asbestos Inspection Requirements for Oregon Title V Operating Permit Program Sources

This rule applies to renovation and demolition ~~activities~~ at major sources subject to the Oregon Title V Operating Permit program as defined in OAR 340-200-0020.

- (1) To determine applicability of ~~the Department~~DEQ's asbestos regulations, the owner or operator of a renovation or demolition ~~activity~~project must thoroughly survey, using an accredited inspector, the affected area for the presence of asbestos, including nonfriable asbestos. A copy of that survey report must remain on site during ~~any~~ demolition or renovation activity.

(2) For demolition or renovation projects where no asbestos-containing material is present, the facility owner or operator, the owner or operator of a demolition or renovation activity, or the contractor must submit written notification ~~must be submitted to the Department~~ DEQ on an approved form. The submitter notification ~~must provide notification~~ be submitted by the owner or operator or by the demolition contractor as follows:

(a) Submit the notification, as specified in section (3) of this rule, to ~~the Department~~ DEQ at least ~~ten~~ 10 days before beginning ~~any~~ demolition project.

(b) A notification of demolition is void if the submitter does not ~~Failure to~~ notify the Department DEQ before making any changes in the scheduled starting or completion dates or any other substantive ~~change~~ s renders the notification of demolition void.

(3) The submitter must provide the following information ~~must be provided~~ for each notification of demolition or renovation:

(a) Name, address, and telephone number of the person conducting the demolition or renovation:-

(b) Contractor's Oregon demolition license number, if applicable:-

(c) Certification that no asbestos was found during the predemolition ~~asbestos~~ survey and that if asbestos-containing material is uncovered during demolition the procedures found in OAR 340-248-0250 through 340-248-~~0290~~ 0280 will be followed:-

(d) Description of building, structure, facility, installation, vehicle, or vessel to be demolished, including:

(A) The age and present and prior use of the facility; and

(B) Address or location of the scheduled demolition project:-

(e) Major source owner or operator name, address and phone number:-

(f) Scheduled starting and completion dates of demolition work; and:-

(g) ~~Any o~~Other information requested on ~~the Department~~ DEQ form.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.745

Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 24-1994, f. & cert. ef. 10-28-94; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-5610; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

340-248-0250

~~Asbestos Abatement Project~~ Asbestos Emission Standards and Procedural Requirements:
Exemptions

~~(1) Any person who conducts or provides for the conduct of an asbestos abatement project must comply with the provisions of OAR 340-division 248 except as provided in this rule.~~

~~(12) The following asbestos abatement projects are exempt from certain provisions of this Division as listed in this Section:~~

(a) Asbestos abatement conducted inside a single unit private residence is exempt from OAR 340-248-0110 through 340-248-0180, 340-248-0210 through 340-248-0240 and 340-248-0260 through 340-248-0270 if the owner occupies the residence ~~is occupied by the owner~~ and the owner occupant is performing the asbestos abatement project work.

(b) Asbestos abatement the owner conducted outside of a single unit private residence ~~by the owner~~ is exempt from the notification requirements contained in OAR 340-248-0260, if the residence is not a rental property, a commercial business, or intended to be demolished.

~~(c) Renovation activities at residential buildings with four or fewer dwelling units are exempt from the provisions of OAR 340-248-0270(1).~~

~~(d) Demolition and renovation activities~~ at residential buildings with four or fewer dwelling units, that were constructed after January 1, 2004, are exempt from the provisions of OAR 340-248-0270(1).

~~(e) Demolition and renovation activities at residential buildings with four or fewer dwelling units~~ are exempt from the provisions of OAR 340-248-0270(1) if all of the materials at the affected facility are treated, removed, handled, managed, transported, and disposed of as friable asbestos-containing material as required by this division.

~~(f) Projects that involve the removing of~~ mastics and roofing products that are fully encapsulated with a petroleum-based binder and are not hard, dry, or brittle are exempt from OAR 340-248-0110 through 340-248-0280 provided the materials are not made friable.

~~(g) Projects that involve the removing of~~ less than three square feet or three linear feet of asbestos-containing material are exempt from OAR 340-248-0110 through 340-248-0180, ~~and the~~ notification requirements in 340-248-0260, and the survey requirements in 340-248-0270, provided that ~~the removing of~~ asbestos is not the primary objective, is part of a needed repair operation, and the methods of removal comply with OAR 437-003-1926.1101 Asbestos, paragraph (g) Methods of Compliance, in Division 3 Construction, Subdivision Z Toxic and Hazardous Substances ~~OAR 437 division 3 "Construction" Subsection Z and 29 C.F.R. 1926.1101(g) (1998)~~. Asbestos abatement projects may not be subdivided into smaller sized units in order to qualify for this exemption.

~~(h) Projects that involve the removing of~~ asbestos-containing materials that are sealed from the atmosphere by a rigid casing are exempt from OAR 340-248-0110 through 340-248-~~0280~~0275, provided the casing is not broken or otherwise altered such that asbestos fibers could be released during removal, handling, and transport to an ~~authorized~~ permitted disposal site.

(h) Small-scale short duration renovation and maintenance activities are exempt from the requirement to have a certified supervisor present on the asbestos abatement project.

~~(3) Any person who removes non-friable asbestos-containing material not exempted under OAR 340-248-0250(2) must comply with the following:~~

~~(a) Submit asbestos removal notification and the appropriate fee to the Department DEQ Business Office on a Department form in accordance with OAR 340-248-0260.~~

~~(b) Remove nonfriable asbestos materials in a manner that ensures the material remains nonfriable.~~

~~(c) A nonfriable asbestos abatement project is exempt from the asbestos licensing and certification requirements under OAR 340-248-0100 through 340-248-0180. The exemption ends whenever the asbestos-containing material becomes friable.~~

(24) Emergency fire-fighting is not subject to this division.

(35) Asbestos-containing waste material that is handled and disposed of in compliance with a solid waste permit issued pursuant to under ORS chapter 459 is not subject to OAR 340-248-0205(1).

(4) Municipal landfills, transfer stations, and material recovery facilities as defined and permitted by OAR 340 division 93 through OAR 340 division 96 that are following DEQ approved operations and special waste management plans are exempt from managing nonfriable asbestos-containing material as OAR 340-248-0280 specifies if the nonfriable asbestos-containing material is first discovered by the permitted disposal site on its tipping floor or within the permitted facility's transfer container, and managing the nonfriable asbestos-containing material as OAR 340-248-0280 requires would present an immediate risk to health and safety. A disposal site that manages its waste under this subpart must immediately notify the final permitted disposal site, as applicable, and notify DEQ within 24 hours of discovering nonfriable asbestos containing material on its tipping floor or in its transfer container.

(5) A person performing vehicle brake and clutch maintenance or repair is exempt from OAR 340-248-0100 through OAR 340-248-0180.

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468A.745

Hist.: DEQ 96, f. 9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82; DEQ 9-1988, f. 5-19-88 (and corrected 6-3-88), ef. 6-1-88; DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90 & 7-8-91); DEQ 8-1990, f. 3-13-90, cert. ef. 4-23-90; DEQ 18-1991, f. & cert. ef. 10-7-91, Section (1)(a) - (d) renumbered from 340-025-0465(4)(a) - (d); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 18-1993, f. & cert. ef. 11-4-93, Renumbered from 340-025-0466; DEQ 19-1994, f. 9-6-94, cert. ef. 10-1-94; DEQ 15-1995, f. & cert. ef. 6-16-95; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-5620; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03; DEQ 11-2015(Temp), f. 12-10-15, cert. ef. 1-1-16 thru 6-28-16; DEQ 3-2016, f. & cert. ef. 4-21-16

340-248-0260

Asbestos Emission Standards and Procedural Requirements: Asbestos Abatement Notification Requirements

(1) Except as provided for in under OAR 340-248-0250, written notification of any asbestos abatement project must be provided submitted to the Department DEQ on a DEQ-approved form prepared by and available from the Department, accompanied by the appropriate fee. The notification must be submitted by the facility owner or operator, the owner or operator of a

demolition or renovation activity, or by the contractor ~~in accordance with one of the procedures specified as required by~~ in sections (2) through (5)~~(1), (2), or (3)~~ of this rule, except as provided in sections ~~(6), (7), or and~~ (8). A notification revision must be submitted by the facility owner or operator, the owner or operator of a demolition or renovation activity, or the contractor in accordance with section (10) of this rule.

~~(2)~~ DEQ must receive ~~Submit the n~~otifications as specified in section (5) of this rule and the project notification fee ~~to the Department~~ at least ~~ten-10~~ days before beginning ~~any~~ friable asbestos abatement project and at least five days before beginning ~~any~~ non-friable asbestos abatement project.

(a) The project notification fee is:

(A) \$100 for each project that will abate less than 40 linear feet or 80 square feet of asbestos-containing material, is at a residential building, or is a non-friable asbestos abatement project not subject to paragraph (K).

(B) \$200 for each project that will abate more~~greater~~ than or equal to 40 linear feet or 80 square feet but less than 260 linear feet or 160 square feet of asbestos-containing material.

(C) \$400 for each project ~~greater~~that will abate more than or equal to 260 linear feet or 160 square feet, and less than 1300 linear feet or 800 square feet of asbestos-containing material.

(D) \$525 for each project ~~greater~~that will abate more than or equal to 1300 linear feet or 800 square feet, and less than 2600 linear feet or 1600 square feet of asbestos-containing material.

(E) \$900 for each project ~~greater~~that will abate more than or equal to 2600 linear feet or 1600 square feet, and less than 5000 linear feet or 3500 square feet of asbestos-containing material.

(F) \$1,050 for each project that will abate more ~~greater~~ than or equal to 5000 linear feet or 3500 square feet, and less than 10,000 linear feet or 6000 square feet of asbestos-containing material.

(G) \$1,700 for each project that will abate more ~~greater~~ than or equal to 10,000 linear feet or 6000 square feet, and less than 26,000 linear feet or 16,000 square feet of asbestos-containing material.

(H) \$2,800 for each project that will abate more ~~greater~~ than or equal to 26,000 linear feet or 16,000 square feet, and less than 260,000 linear feet or 160,000 square feet of asbestos-containing material.

(I) \$3,500 for each project that will abate more ~~greater~~ than 260,000 linear feet or 160,000 square feet of asbestos-containing material.

(J) \$750 for annual notifications for friable asbestos abatement projects ~~involving removal~~that will abate ~~of~~ 40 linear feet or 80 square feet or less of asbestos-containing material.

(K) \$500 for annual notifications for non-friable asbestos abatement projects performed at schools, colleges, and facilities.

(b) Project notification fees must accompany the project notification form. Notification has not occurred until DEQ receives the completed notification form and appropriate ~~notification fee is received by the Department.~~

(c) ~~The Department~~DEQ may waive the ~~ten~~10-day and the five-day notification requirement in section (42) of this rule in emergencies that directly affect human life, health, and property. This includes:

(A) Emergencies where there is an imminent threat of loss of life or severe injury;

(B) Emergencies where the public is potentially exposed to air-borne asbestos fibers; ~~or and~~

(C) Emergencies where significant property damage will occur if repairs are not made immediately.

(d) ~~The Department~~DEQ may waive the ~~ten~~10-day and the five-day notification requirement in section (42) of this rule for asbestos abatement projects that were not planned, resulted from unexpected events, and will cause damage to equipment or impose unreasonable financial burden if not performed immediately. This includes the non-routine failure of equipment.

(e) In either subsection (c) or (d) of this section persons responsible for such asbestos abatement projects must submit an emergency or unexpected event abatement request to notify the ~~Department~~DEQ by telephone before ~~commencing~~starting work or by 9:00 am of the next working day if the work was performed on a weekend, evening, or holiday. The request must include a copy of the completed and appropriate notification form. ~~In any case, a~~ Notification as specified in section (45) of this rule and the appropriate fee must be submitted to ~~the Department~~DEQ within three days of ~~commencing~~starting emergency or unexpected event asbestos abatement projects.

~~(f) Failure to notify the Department before any changes in the scheduled starting or completion dates or other substantial changes will render the notification void.~~

~~(g) The duration of an asbestos abatement notification may not exceed one year beyond the original starting date. The project starting and completion date provided in a notification for an asbestos abatement project must be commensurate with the amount of asbestos-containing material involved. If a project exceeds one year in duration, a new notification must be provided as described in this rule, including payment of a new notification fee. If an asbestos project equal to or greater than 2,600 linear feet or 1,600 square feet continues for more than one year from the original start date of the project a new notification and fee must be submitted annually thereafter until the project is complete.~~

~~(h) Residential buildings include: site built homes, modular homes constructed off site, mobile homes, condominiums, and duplexes or other multi-unit residential buildings consisting of four units or less.~~

~~(32) The facility owner or operator, the owner or operator of a demolition or renovation activity, or the contractor may submit A~~ annual notification for ~~small-scale~~ friable asbestos abatement projects. ~~This notification may be used only for projects~~ where no more than 40 linear or 80 square feet of asbestos-containing material is removed at each project. ~~The small-scale f~~ Friable asbestos abatement projects subject to an annual notification may be conducted at multiple facilities by a single licensed asbestos contractor, or at a facility that has a centrally controlled asbestos operation

and maintenance program where the facility owner uses appropriately trained and certified personnel to remove asbestos. The contractor owner or operator must submit the notification as follows:

(a) Establish eligibility for use of this notification procedure with ~~the Department~~ DEQ prior to use.

(b) ~~Maintain on file with the Department a general asbestos abatement plan. The plan~~ The notification must contain the information specified in subsections (45)(a) through (45)(i) of this rule to the extent possible.

(c) Provide to ~~the Department~~ DEQ on a DEQ form a summary report of all asbestos abatement projects conducted in the previous three months by the 15th day of the month following the end of the calendar quarter. The summary report must include the information specified in subsections (45)(i) through (45)(l) of this rule for each project, ~~a description of any significant variations from the general asbestos abatement plan; and a description of asbestos abatement projects anticipated for the next quarter when possible.~~

(d) Provide to ~~the Department~~ DEQ, upon request, a list of asbestos abatement projects that are scheduled or are being conducted at the time of the request.

(e) Submit project notification and fee prior to use of this notification procedure.

(f) Failure to provide payment for use of this notification procedure will void the ~~general asbestos abatement plan notification~~ and each subsequent abatement project will be individually assessed a project notification fee.

(43) Annual non-friable asbestos abatement projects may only be performed at schools, colleges, and facilities where certified asbestos abatement workers perform the removal work ~~is done by certified asbestos abatement workers~~. Submit the notification as follows:

(a) Establish eligibility for use of this notification procedure with ~~the Department~~ DEQ prior to use.

(b) ~~Maintain on file with the Department a general non friable asbestos abatement plan. The plan~~ The notification must contain the information specified in subsections (45)(a) through (45)(i) of this rule to the extent possible.

(c) Provide to ~~the Department~~ DEQ on a DEQ form, a summary report of all non-friable asbestos abatement projects conducted in the previous three months by the 15th day of the month following the end of the calendar quarter. The summary report must include the information specified in subsections (45)(i) through (45)(l) of this rule for each project, ~~a description of any significant variations from the general asbestos abatement plan, and a list describing the non friable asbestos abatement projects anticipated for the next quarter, when possible.~~

(d) Submit project notification and fee ~~prior to use of~~ before using this notification procedure.

(e) Failure to provide payment for use of this notification procedure will void the ~~general non-friable asbestos abatement plan notification~~ and DEQ will individually asses each subsequent non-friable abatement project ~~will be individually assessed~~ a project notification fee.

(f) Provide to DEQ, upon request, a list of nonfriable asbestos abatement projects that are scheduled or are being conducted at the time of the request.

(54) The following information must be provided for each notification:

(a) Name, phone number, and address of person conducting asbestos abatement project.

(b) The Oregon asbestos abatement contractor's license number and certification number of the supervisor for the asbestos abatement project or, for non-friable asbestos abatement projects, the name of the supervising person that meets Oregon OSHA's competent person qualifications as required in 29 C.F.R. 1926.1101(b), adopted by reference under OAR 437-003-0001(25). ~~OAR 437, division 3 "Construction," Subdivision Z, 1926.1101(b) "Competent person," (2/10/1994).~~

(c) Method of asbestos abatement to be employed.

(d) Procedures to be employed to insure compliance with OAR 340-248-0270 through 340-248-~~0290~~0280.

(e) Names, addresses, and phone numbers of waste transporters.

(f) Name and address or location of the permitted disposal site ~~waste disposal site~~ where the asbestos-containing waste material will be deposited.

(g) Description of asbestos disposal procedure.

(h) Description of building, structure, facility, installation, vehicle, equipment, or vessel to be demolished or renovated, including:

(A) The ~~age~~construction or manufacture date, and the present and prior use of the facility; and

(B) Address or location where the asbestos abatement project is to be accomplished, including building, floor, and room numbers.

(i) ~~Facility owner or operator~~ Full name, address, and phone number of the owner or operator of a demolition or renovation activity.

(j) ~~Scheduled starting~~ Starting and completion dates of asbestos abatement work.

(k) Description of the asbestos-containing material, type of asbestos, ~~approximate asbestos content~~ (percent) asbestos, and location of the asbestos-containing material.

(l) Amount of asbestos-containing material to be abated: linear feet, or square feet, ~~thickness~~.

(m) For facilities described in OAR 340-248-0270(8)(f) provide the name, title and authority of the State or local government official who ordered the demolition, date the order was issued, and the date demolition is to begin.

(n) ~~Any o~~Other information requested on the ~~Department~~DEQ form.

~~(65)~~ The project notification fees specified in this section will be increased by 50% when an asbestos abatement project is commenced without filing ~~of a project notification, or~~ submittal of a notification fee, or when notification is provided ~~of~~ less than ~~ten~~ 10 days or five days prior to commencement of work, as applicable. ~~is provided~~ under subsections ~~(12)~~ (2)(c) and (d) of this rule.

~~(76) The Director~~ DEQ may waive part or all of a ~~project~~-notification fee. ~~Requests for waiver of fees must be made in writing to the Director,~~ on a case-by-case basis, ~~and be~~ based upon financial hardship. Requests for waiver of fees must be made in writing to DEQ. Applicants for waivers must describe the reason for the request and certify financial hardship.

~~(87) Pursuant to ORS 468A.135~~ Subject to OAR 340-200-0010(3), a regional authority may adopt project notification fees for asbestos abatement projects in different amounts than are set forth in this rule. The regional authority will base the fees ~~will be based upon the its~~ costs ~~of the regional authority~~ in carrying out the delegated asbestos program. The regional authority may collect, retain, and expend such project notification fees for asbestos abatement projects within its jurisdiction.

(9) Notification fee refunds. DEQ will consider a refunding a notification fee only as this section provides. A request for a refund of fees must be made in writing to DEQ, and must be submitted prior to the project's original start date. DEQ will not consider a refund request that does not include all required information described in this section. If DEQ receives a complete request for refund under this section, then DEQ may refund the notification fee the requestor paid if it determines that a refund is warranted based on the reason the refund is requested. Requests for refunds must include the following written information and documentation:

(a) A description of the reason that a refund is requested;

(b) A copy of the original notification and the most recent revision;

(c) Proof that the requester was awarded the contract for the project prior to submitting the notification to DEQ;

(d) Verification of payment to DEQ; and

(e) Proof that asbestos-containing material or asbestos-containing waste material was present at the project site, such as laboratory results, or when material was assumed to be asbestos-containing and treated as such in order to avoid survey and laboratory costs, a depiction of the material.

(10) DEQ must receive ~~(f) Failure to notify the Department before any changes in the scheduled starting or completion dates or other substantial changes will render the notification void.~~ notification revisions before changes are made to the start date or completion date of the project or immediately upon discovery that other changes to the project notification form are necessary. A notification of a revision under this section must indicate that it is a revised notification.

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468.020 & 468A.025

Hist.: DEQ 96, f. 9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82; DEQ 9-1988, f. 5-19-88 (and corrected 6-3-88), ef. 6-1-88; DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90 & 7-8-91); DEQ 8-1990, f. 3-13-90, cert. ef. 4-23-90; DEQ 18-1991, f. & cert. ef. 10-7-91, Renumbered

from 340-025-0465(5)(a) - (d); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 18-1993, f. & cert. ef. 11-4-93, Renumbered from 340-025-0467; DEQ 19-1994, f. 9-6-94, cert. ef. 10-1-94; DEQ 15-1995, f. & cert. ef. 6-16-95; DEQ 26-1995, f. & cert. ef. 12-6-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-5630; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03; DEQ 9-2007, f. 11-21-07, cert. ef. 11-30-07

340-248-0270

Asbestos Emission Standards and Procedural Requirements: ~~Asbestos Abatement~~ Work Practices and Procedures

(1) Except as OAR 340-248-0250 provides, ~~prior to before~~ performing a demolition or renovation ~~activity on a facility or an installation~~, the owner or operator of a demolition or renovation activity facility must have an accredited inspector complete a survey according to OAR 340-248-0270(3) ~~thoroughly survey the affected facility, or part of the facility where the demolition or renovation operation will occur, for the presence of asbestos-containing material, including nonfriable asbestos material.~~

(2) The owner or operator of a demolition or renovation activity facility that requires a survey under OAR 340-248-0270(1) must send a copy of the asbestos survey survey report report ~~to the department DEQ~~ upon request by ~~the department DEQ~~ and keep a copy of the asbestos survey survey report report onsite at the facility facility during ~~any~~ demolition or renovation activity.

(3) The asbestos survey required by OAR 340-248-0270(1) must include all of the following:

(a) Collecting samples of all materials suspected of being asbestos-containing materials, unless the material is presumed to be asbestos-containing material, including at least one bulk sample for each homogeneous material suspected of being asbestos-containing material;

(b) For sprayed or troweled on surfacing materials, collection of at least three (3) random bulk samples for each homogeneous area;

(c) Beginning January 1, 2021, each sample collected under subsections (a) and (b) must be analyzed to determine whether it is asbestos-containing material by a laboratory with proficiency demonstrated by participation in a nationally recognized laboratory accreditation program for asbestos testing, or participate in, and maintain passing status in a nationally recognized bulk asbestos proficiency testing program;

(d) An asbestos survey report that contains the following:

(A) The date or dates that the survey was performed;

(B) The phone number and a copy of the certificate of each accredited inspector that performed a survey;

(C) Site address and location where the survey was performed;

(D) Name and phone number of the owner or operator of the facility where the survey was performed and the owner or operator of the demolition or renovation activity if different;

(E) Description of the facility and area surveyed, including its past and current use, area square footage, approximate construction date, and number of floors;

(F) The purpose of the survey, for example, whether it is for a project involving pre-demolition, renovation, removal of asbestos-containing material due to damage from fire, water, or other purpose;

(G) Detailed description of limitations on the thoroughness of the survey, for example an inaccessible area; and

(H) A table listing all of the homogeneous materials sampled and identified as asbestos-containing material and all of the presumed asbestos-containing materials. The table must include the following for each material:

(i) The percent asbestos and type of asbestiform, as determined by the laboratory that analyzes the sample;

(ii) A description of the material color, texture, and pattern;

(iii) The location of where in the facility the material was collected;

(iv) A description of the material condition as in good condition or in poor condition;

(v) The identification of the material as friable or nonfriable; and

(vi) The approximate quantity of the material at the facility.

(I) A recommendation of response actions that comply with the requirements of this division; and

(J) A complete copy of the laboratory report for all samples taken and analyzed under subsections (a) – (c) of this section. The minimum requirements for the laboratory report include:

(i) Laboratory name, address, and phone number;

(ii) Unique sample analysis identification number;

(iii) Bulk sample analysis results showing asbestos content;

(iv) Name of the analyst; and

(v) Completed chain of custody for the samples.

(34) For a demolitions or renovation of a residential buildings, the department DEQ may approve, on a case-by-case basis, a requests to waive the asbestos-survey requirement of OAR 340-248-

0270(1). The owner or operator of the residential building must submit a written request to ~~the department~~DEQ, along with supporting documentation that demonstrates to ~~the department's~~DEQ's satisfaction that a survey is not warranted. The owner or operator of the residential building must obtain ~~the department's~~DEQ's written approval waiving the ~~asbestos~~ survey requirement prior to ~~any~~ demolition or renovation activity. The owner or operator of the residential building must maintain as readily available at the demolition or renovation site a copy of ~~the department's~~DEQ's written approval under this rule.

(5) Upon discovering asbestos-containing materials or asbestos-containing waste materials found during demolition, renovation, or after an emergency or unexpected event including an event that causes fire, water, earthquake, or wind damage, the owner or operator of the demolition or renovation activity or the owner or operator performing the emergency response must:

(a) Stop work immediately;

(b) Keep the exposed asbestos-containing materials and asbestos-containing waste material, adequately wet and cover with 6 mil plastic or equivalent at all times until a licensed asbestos abatement contractor begins removal activities in compliance with this division; and

(c) Have the licensed asbestos abatement contractor remove, handle and dispose of all friable asbestos-containing waste material and asbestos-containing waste material as friable asbestos-containing material.

(36) ~~Any~~ person who removes non-friable asbestos-containing material not exempted under OAR 340-248-0250(12) must comply with the following:

(a) Submit asbestos removal notification and the appropriate fee to the ~~Department~~DEQ Business Office on a ~~Department~~DEQ form in accordance with OAR 340-248-0260.

(b) Remove nonfriable asbestos materials in a manner that ensures the material remains nonfriable.

(c) A nonfriable asbestos abatement project is exempt from the asbestos licensing and certification requirements under OAR 340-248-0100 through 340-248-0180. The exemption ends whenever the asbestos-containing material becomes friable.

(7) Before a facility is demolished by intentional burning, all asbestos-containing material must be removed and disposed of in accordance with OAR 340-248-0010 through 340-248-0280.

(48) Except as OAR 340-248-0250 provides-, ~~any~~ person ~~who conducts or provides for the conduct of~~performing an asbestos abatement project must employ the following procedures:

(a) Conduct the asbestos abatement project inside a regulated area.

(ab) Remove all asbestos-containing materials as part of the asbestos abatement project before ~~any~~other demolition or renovation activity begins that would break up, dislodge, or disturb the materials or preclude access to the materials for subsequent removal. Asbestos-containing materials need not be removed if:

(A) They are on a facility component that is encased in concrete or other similar material and are adequately wetted whenever exposed during demolition or renovation; or

(B) They were not discovered before demolition or renovation and cannot be removed because of unsafe conditions ~~as a result of~~ the demolition or renovation caused.

(~~ec~~) Adequately wet ~~A~~ asbestos-containing materials ~~must be adequately wetted~~ when they are being removed. In renovation, maintenance, repair, and construction operations, where wetting would unavoidably damage equipment, ~~or~~ is incompatible with specialized work practices, or presents a safety hazard, adequate wetting is not required if the person performing the asbestos abatement project ~~owner or operator~~:

(A) Obtains prior written approval from ~~the Department~~ DEQ for dry removal of asbestos-containing material;

(B) Keeps a copy of ~~the Department~~ DEQ's written approval available for inspection at the work site;

(C) Adequately wraps or encloses ~~any~~ asbestos-containing material during handling to avoid releasing fibers; and

(D) Uses a local exhaust ventilation and collection system designed and operated to capture the particulate asbestos material produced by the asbestos abatement project.

(d) When a facility component covered or coated with asbestos-containing materials is being taken out of the facility as units or in sections, the person performing the asbestos abatement project:

(A) Must ~~A~~ adequately wet ~~any~~ asbestos-containing materials exposed during cutting or disjoining operation;

(B) Must ~~C~~ carefully lower the units or sections to ground level, not dropping them or throwing them; and

(C) May leave ~~Asbestos~~ asbestos-containing materials ~~do not need to be removed from~~ in large facility components such as reactor vessels, large tanks, and steam generators, but excluding beams, if the following requirements are met:

(i) The component is removed, transported, stored, disposed of, or reused without disturbing or damaging the ~~regulated~~ asbestos-containing material; ~~and~~

(ii) The component is encased in leak-tight wrapping; and

(iii) The leak-tight wrapping is labeled according to OAR 340-248-0280(2)(b) during all loading and unloading operations and during storage.

(e) For friable asbestos materials being ~~removed or stripped~~ abated:

(A) Adequately wet the materials to ensure that they remain wet until they are disposed of in accordance with OAR 340-248-0280;

(B) Carefully lower the materials to the floor, not dropping or throwing them;

(C) With DEQ's prior written approval ~~from the Department~~, transport the materials to the ground via dust-tight chutes or containers if they have been removed or stripped above ground level and were not removed as units or in sections;

(D) Enclose the area where friable asbestos materials are to be ~~abated removed~~ with a negative pressure enclosure prior to and during abatement unless DEQ grants written approval for an alternative ~~is granted by the Department~~;

(E) Install A a minimum of one viewing window ~~will be installed~~ in all enclosures, including negative pressure enclosures, in accordance with the following:

(i) Each viewing window must be a minimum of two feet by two feet and be made of a material that will allow a clear view inside the enclosure; and;

(ii) For large enclosures, including negative pressure enclosures, install one viewing window for every 5,000 square feet of area when spatially feasible; and;

(F) A negative pressure enclosure is not required for abatement of friable asbestos-containing material when:

(i) Abating asbestos-containing petroleum-based roofing products or cement asbestos roofing; or

(ii) Abating a total project amount of asbestos-containing material that may be contained in a single glove bag.

(f) ~~Any~~ person ~~who~~that demolishes a facility under an order of the State of Oregon or a local governmental agency, issued because the facility is structurally unsound and in danger of imminent collapse must comply with the following:

(A) Obtain DEQ's written approval ~~from the Department~~ for an ordered demolition procedure before that demolition takes place; and

(B) Send a copy of the order and an asbestos abatement project notification (as described in OAR 340-248-0260) to ~~the Department~~DEQ before ~~commencing~~starting demolition work; and

(C) Keep a copy of the order, ~~Department's~~DEQ's approval, and the notification form at the demolition site during all phases of demolition until final disposal of the project waste at a an authorized landfill~~permitted disposal site~~; and

(D) Keep asbestos-containing materials and asbestos ~~contaminated debris~~containing waste materials adequately wet during demolition and comply with the disposal requirements set forth in OAR 340-248-0280 ~~or 340-248-0290~~.

(g) A Ppersons performing asbestos abatement may not use mechanical equipment to remove asbestos containing material outside of a full negative pressure ~~containment enclosure~~must obtain without prior written approval from ~~the Department~~DEQ ~~before using mechanical equipment to remove asbestos containing material~~.

~~(h) Before a facility is demolished by intentional burning, all asbestos-containing material must be removed and disposed of in accordance with OAR 340-248-0010 through 340-248-0290.~~

~~(i) None of the operations in section (1) through (4) of this rule may cause any Visible emissions are not allowed during an asbestos abatement activity, except within a negative air pressure enclosure. Any local exhaust ventilation and collection system or vacuuming equipment used during an asbestos abatement project, must be equipped with a HEPA filter or other filter of equal or greater collection efficiency.~~

(i) Any exhaust ventilation and collection system, negative air machine, or vacuuming equipment used during an asbestos abatement project must be equipped with a HEPA filter or other filter of equal or greater collection efficiency and must be sealed with a 6 mil plastic or equivalent when not in use.

(j) ~~The Director~~DEQ may approve, on a case-by-case basis, requests to use an alternative to the requirements contained in this rule. The ~~contractor or facility owner or operator~~person performing the asbestos abatement project must submit a written description of the proposed alternative and demonstrate to ~~the Director~~DEQ's satisfaction that the proposed alternative provides public health protection equivalent to the protection that would be provided by the specific requirement, or that such level of protection cannot be obtained for the asbestos abatement project.

(k) Final Air Clearance Sampling Requirements apply to projects involving more than 160 square feet or 260 linear feet of asbestos-containing material. Before ~~containment~~the negative pressure enclosure around such an area is removed, the person performing the abatement must have at least one air sample collected. All samples collected that documents that the air inside the ~~containment~~negative pressure enclosure has no more than 0.01 fibers per cubic centimeter of air. ~~The air sample(s) collected may not exceed 0.01 fibers per cubic centimeter of air. The Department~~DEQ may grant a waiver to this section or exceptions to the following requirements upon receiving an advanced written request:

(A) The air clearance samples must be ~~performed~~collected and analyzed by a party who is National Institute of Occupational Safety and Health (NIOSH) 582 certified and financially independent from the person~~(s) conducting performing~~ the asbestos abatement project, other than receiving compensation for undertaking the specific sampling and analysis required in this paragraph;

(B) Before final air clearance sampling is performed the following must be completed:

(i) All visible asbestos-containing material and asbestos-containing waste material must be removed and properly packaged and stored according to the requirements of ~~this section~~this division;

(ii) The air and surfaces within the ~~containment~~negative pressure enclosure must be sprayed with an encapsulant prior to air clearance sampling;

(iii) Air sampling may ~~commence~~start when the encapsulant has settled sufficiently so that the filter of the sample is not clogged by airborne encapsulant; and

(iv) Air filtration units must remain on during the air-monitoring period;:-

(C) Air clearance sampling inside ~~containment~~ [negative pressure enclosure](#) areas must be aggressive and comply with the following procedures:

(i) Immediately before starting the sampling pumps, direct exhaust from a minimum one horse power forced air blower against all walls, ceilings, floors, ledges, and other surfaces in the ~~containment~~ [negative pressure enclosure](#);

(ii) Then place stationary fans in locations that will not interfere with air monitoring equipment and ~~then directed~~ [the fans](#) toward the ceiling. Use one fan per 10,000 cubic feet of room space;

(iii) Start sampling pumps and sample an adequate volume of air to detect concentrations of 0.01 fibers of asbestos per cubic centimeter according to NIOSH 7400 method;

(iv) When sampling is completed turn off the pump and then the fan(s); [and](#)

(v) As an alternative ~~to meeting the requirements of paragraphs (A) through (D) of this subsection;~~ [the](#) air clearance sample analysis may be performed according to Transmission Electron Microscopy Analytical Methods prescribed by 40 C.F.R. 763, Appendix A to Subpart E (Interim Transmission Electron Microscopy Analytical Methods); ~~:-~~ [and](#)

(D) The person performing [an](#) asbestos abatement projects ~~must submit the~~ [requiring final](#) air clearance sample ~~ing must submit the clearance~~ results to ~~the Department~~ [DEQ](#) on a ~~Department~~ [DEQ](#) form ~~and include all third-party air clearance analysis reports~~. The clearance results must be received by ~~the Department~~ [DEQ](#) within 30 days after the completion date of the asbestos abatement project.

[\[Note: Referenced publications are available through the link below.\]](#)

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468A.745

Hist.: DEQ 96, f. 9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82; DEQ 9-1988, f. 5-19-88. ef. 6-1-88 (and corrected 6-3-88); DEQ 18-1991, f. & cert. ef. 10-7-91, Renumbered from 340-025-0465(6) - (12); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 18-1993, f. & cert. ef. 11-4-93, Renumbered from 340-025-0468; DEQ 15-1995, f. & cert. ef. 6-16-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-5640; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03; DEQ 11-2015(Temp), f. 12-10-15, cert. ef. 1-1-16 thru 6-28-16; DEQ 3-2016, f. & cert. ef. 4-21-16

340-248-0275

Asbestos Emission Standards and Procedural Requirements: Asbestos Standards for Air Cleaning, Spraying, Molded Insulation, and Fabricating

The following methods must be employed for air cleaning, fabricating, and sprayed-on and molded insulation applications:

(1) Options for Air Cleaning. Rather than meet the no visible emissions requirements of OAR 340-248-0210(1) and (3), owners and operators may elect to use methods specified in Section (2).

(2) Air Cleaning. All persons electing to use air cleaning methods rather than comply with the no visible emission requirements must ~~meet one of the provisions of~~ comply with subsections (a), through (b), and (d) of this section; ~~and all of the requirements specified in subsections (e) and (f) of this section;~~

(a) All persons electing to use air cleaning methods must meet one of the provisions in this subsection:

(A) Fabric filter collection devices must be used, except as provided in subsections (b) and (c) of this section. Such devices must be operated at a pressure drop of no more than four inches (10.16 cm) water gauge as measured across the filter fabric. The air flow permeability, as determined by ASTM Method D737-75, must not exceed 30 ft.³/min./ft.² (9 m³/min./m²) for woven fabrics or 35 ft.³/min./ft.² (11 m³/min./m²) for felted fabrics with the exception that airflow permeability of 40 ft.³/min./ft.² (12 m³/min./m²) for woven and 45 ft.³/min./ft.² (14 m³/min./m²) for felted fabrics must be allowed for filtering air emissions from asbestos ore dryers. Each square yard of felted fabric must weigh at least 14 ounces (475 grams per square meter) and be at least 1/16 inch (1.6 mm) thick throughout. ~~Any~~ Synthetic fabrics used must not contain fill yarn other than that which is spun;

~~(b)~~ B If ~~the use of~~ fabric filters creates a fire or explosion hazard, ~~the department~~ DEQ may authorize the use of wet collectors designed to operate with a unit contacting energy of at least 40 inches (101.6 cm) of water gauge pressure;

~~(c)~~ C If High Efficiency Particulate Air (HEPA) filters are used to control emissions the certified efficiency must be at least 99.97 percent for particles 0.3 microns or greater; or

~~(d)~~ D ~~The Department~~ DEQ may authorize ~~the use of~~ filtering equipment other than that described in this subsection (a), (b), or (c) of this rule if such filtering equipment is satisfactorily demonstrated to provide filtering of asbestos material equivalent to that of the described equipment;

~~(e)~~ b All air cleaning devices this section ~~authorizes~~ d by this section must be properly installed, operated, and maintained. Devices to bypass the air cleaning equipment may be used only during upset and emergency conditions, and then only for such time as is necessary to shut down the operation generating the particulate asbestos material;

~~(f)~~ c Fabric filters collection devices installed after January 10, 1989 must be easily inspected for faulty bags.

(3) Spraying:

(a) No person may cause or allow to be discharged into the atmosphere ~~any~~ visible emissions from ~~any~~ spray-on application of materials containing more than one percent asbestos on a dry weight basis used to insulate or fireproof equipment or machinery, except as provided in section (2) of this rule. Spray-on materials used to insulate or fireproof buildings, structures, pipes, and conduits must contain less than one-percent asbestos on a dry weight basis. If ~~any~~ city or area of local jurisdiction has ordinances or regulations for spray application materials more stringent than those in this section, the provisions of such ordinances or regulations apply;

(b) ~~Any~~ person intending to spray asbestos materials to insulate or fireproof buildings, structures, pipes, conduits, equipment, or machinery must notify ~~the Department~~ [DEQ](#) in writing 20 days before the spraying operation begins. The notification must contain the following:

(A) Name and address of person intending to conduct the spraying operation;

(B) Address or location of the spraying operation;

(C) The name and address of the owner of the facility being sprayed.

(c) The spray-on application of materials in which the asbestos fibers are encapsulated with a bituminous or resinous binder during spraying and which are not friable after drying is exempted from the requirements of subsections (a) and (b) of this section.

(4) Fabricating. Except as provided in section (2) of this rule no person may cause or allow to be discharged into the atmosphere ~~any~~-visible emissions, including fugitive emissions, from fabricating operations including the following:

(a) Applicability. This section applies to [the following](#) fabricating operations using commercial asbestos:

(A) ~~The f~~[Fabricating on of](#) cement building products;

(B) ~~The f~~[Fabricating on of](#) friction products, except those operations that primarily install asbestos friction materials on motor vehicles; [and](#)

(C) ~~The f~~[Fabricating on of](#) cement or silicate board for ventilation hoods; ovens; electrical panels; laboratory furniture; bulkheads, partitions, and ceilings for marine construction; and flow control devices for the molten metal industry.

(b) The owner or operator of a fabricating operation must monitor each potential source of asbestos emissions from any part of the fabricating facility, including air cleaning devices and process equipment for material processing and handling, at least once each day, during daylight hours, for visible emissions to the outside air during periods of operation. The monitoring must be by visual observation of at least 15 seconds duration per source of emissions.

(c) The owner or operator of a fabricating operation must inspect each air cleaning device at least once each week for proper operation and for changes that signal the potential for malfunctions, including to the maximum extent possible without dismantling other than opening the device, the presence of tears, holes, and abrasions in filter bags and for dust deposits on the clean side of bags. For air cleaning devices that cannot be inspected on a weekly basis according to this subsection, submit to the department, revise as necessary, and implement a written maintenance plan to include, at a minimum, a maintenance schedule and recordkeeping plan.

(d) The owner or operator of a fabricating operation must maintain records of the results of visible emission monitoring and air cleaning device inspections using a format approved by ~~the~~ [Department](#) [DEQ](#) that includes the following information:

(A) Date and time of each inspection;

- (B) Presence or absence of visible emissions;
 - (C) Condition of fabric filters, including presence of ~~any~~ tears, holes, and abrasions;
 - (D) Presence of dust deposits on clean side of fabric filters;
 - (E) Brief description of corrective actions taken, including date and time; [and](#)
 - (F) Daily hours of operation for each air cleaning device.
- (e) The owner or operator of a fabricating operation must furnish [to DEQ](#) upon request and make available at the affected facility during normal business hours for inspection by ~~the Department~~[DEQ](#), all records required under this section.
 - (f) The owner or operator of a fabricating operation must retain a copy of all monitoring and inspection records for at least two years.
 - (g) The owner or operator of a fabricating operation must submit a copy of the visible emission monitoring records to ~~the Department~~[DEQ](#) quarterly. The quarterly report must be postmarked by the 30th day following the end of the calendar quarter.
- (5) Insulation. No owner or operator of a facility may install or reinstall on a facility component any insulating materials that contain commercial asbestos if the materials are either molded and friable or wet-applied and friable after drying. The provisions of this section do not apply to insulating materials regulated under section (3) of this rule.

[\[Note: Publications referenced are available from the agency.\]](#)

Stat. Auth.: ORS 468.020, ORS 468A.025, ORS 468A.135 & ORS 468A.745

Stats. Implemented: ORS 468A.700 - ORS 468A.760

Hist.: DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

340-248-0280

~~Friable~~ [Asbestos Emission Standards and Procedural Requirements: Asbestos Disposal Requirements](#)

Work practices and procedures for packaging, storing, transporting, and disposing of ~~friable~~ asbestos-containing waste material: The [asbestos waste generator, transporter,](#) owner or operator of a [disposal site, and the owner or operator of](#) ~~facility or an activity covered under the provisions of OAR 340-248-0205 through 340-248-0280 or any other sources~~ of ~~friable~~ asbestos-containing waste material must meet the following standards:

- (1) There may be no visible emissions to the atmosphere during the collection; processing; packaging; transporting; or deposition of any asbestos-containing waste material. ~~that is generated by a facility.~~
- (2) All asbestos-containing waste materials must be [either:](#)

~~(a) Processed into nonfriable pellets or other shapes; or adequately wetted to ensure that they remain wet until delivered to an authorized landfill, and:~~

~~(ab) Adequately wetted to ensure that they remain wet until delivered to a disposal site permitted to accept such material and packaged in leak-tight containers such as within two plastic bags, each with a minimum thickness of 6 mil., within a fiber or metal drum, or within a similar leak-tight packaging. Containers must be labeled as follows:~~

~~(a) Processed into nonfriable pellets or other shapes; or~~

~~(bc) Packaged in leak-tight containers such as two plastic bags, each with a minimum thickness of 6 mil., or fiber or metal drum. Containers must be labeled as follows:~~

(A) The name of the asbestos waste generator and the location where the waste was generated; and

(B) A warning label that complies with either subparagraph (i) or (ii):

(i) A warning label that states the following in bold, all-capital letters and separated as shown here:

“DANGER

CONTAINS ASBESTOS FIBERS~~Contains Asbestos Fibers~~

AVOID CREATING DUST~~Avoid Creating Dust~~

CANCER AND LUNG DISEASE HAZARD~~Cancer and Lung Disease Hazard~~

AVOID BREATHING AIRBORNE~~Avoid Breathing Airborne~~

ASBESTOS FIBERS~~Asbestos Fibers”~~

(ii) Alternatively, warning labels specified by 29 C.F.R. 1926.1101(k)(7) ~~(1994)~~ may be used.

(C) The containers must be labeled prior to removal from the regulated area.

(3) If the asbestos-containing materials are not removed from a facility before demolition or renovation, as described in OAR 340-248-0270(5), adequately wet the asbestos-containing waste material at all times before and after demolition or renovation and keep it wet during handling and loading for transport to a permitted disposal site. Such asbestos-containing waste materials must be transported in lined and leak-tight covered containers for bulk disposal.

(4) The interim storage of asbestos-containing waste material must protect the waste from dispersal into the environment and provide physical security from tampering by unauthorized persons. The interim storage of asbestos-containing waste material is the ~~sole~~-responsibility of the ~~contractor~~, owner or operator of the facility and of the person performing the asbestos abatement project.

(5) All asbestos-containing waste material must be deposited as soon as possible by the asbestos waste generator or transporter at:

(a) A permitted disposal site ~~waste disposal site~~ authorized by ~~the Department~~ DEQ to receive asbestos-containing waste material and operated in accordance with this rule; or

(b) A ~~Department~~ DEQ approved site that converts asbestos-containing waste material into nonasbestos (asbestos-free) material according to the provisions of OAR 340-248-0230 Asbestos to Nonasbestos Conversion Operations.

(6) Persons disposing of asbestos-containing waste material must notify the permitted disposal site ~~landfill~~ operator of the type and volume of the waste material and obtain the approval of the permitted disposal site ~~landfill~~ operator before bringing the waste to the permitted disposal site.

(7) For each waste shipment the asbestos waste generator must record the following information ~~must be recorded~~ on a ~~Department~~ DEQ form, and provide a copy of the form to the waste transporter.

(a) Waste Generation:

(A) The asbestos abatement project site name, address, and telephone number of the asbestos waste generator.;

(B) A description of the asbestos-containing waste material and ~~The the~~ number and type of asbestos-containing waste material containers and volume in cubic yards; ~~and~~.

(C) A certification that the information on the DEQ form is accurate and properly describes the generator name and that the asbestos-containing waste material is ~~contents of this consignment are carefully and accurately described by proper shipping name and are~~ classified, packed, marked, and labeled, and ~~are~~ is in all respects in proper condition for transport by highways according to applicable regulations.

(b) Waste Transportation:

(A) The date transported; ~~and~~.

(B) The name, address, and telephone number of the transporter(s).

(c) Waste Disposal:

(A) The name and telephone number of the disposal site operator.;

(B) The name and address or location of the permitted disposal site ~~waste disposal site~~.;

(C) The quantity of the asbestos-containing waste material in cubic yards.;

(D) The presence of improperly enclosed or uncovered waste, or ~~any~~ asbestos-containing waste material not sealed in leak-tight containers.;

(E) The date asbestos-containing waste is received at disposal site.;

(d) Other information requested on the DEQ form.

(8) For the transportation of asbestos-containing waste material:

(a) The asbestos waste generator must:

(A) Maintain the asbestos waste shipment records for at least ~~two~~ three years and ensure that all the information requested on the ~~Department~~ DEQ form regarding waste generation and transportation has been supplied; ~~-~~

(B) Limit access into loading and unloading area to authorized personnel; ~~and-~~

(C) ~~(i)~~ Mark vehicles, while loading and unloading asbestos-containing waste material, with signs (20 in. x 14 in.) that ~~state~~ comply with either subparagraph (i) or (ii):

(i) State the following in all-capital letters and separated as shown here:

“DANGER

ASBESTOS DUST HAZARD

CANCER AND LUNG DISEASE HAZARD

AUTHORIZED PERSONNEL ONLY ~~Authorized Personnel Only”~~

(ii) ~~Alternatively,~~ Use language that conforms to the requirements of ~~29 CFR 1926.1101(k)(6) (1994)~~ 29 C.F.R. 1926.1101(k)(8) (2013) ~~may be used.~~

(b) The waste transporter must:

(A) Immediately notify the permitted disposal site ~~landfill~~ operator upon arrival of the waste at the disposal site; ~~and-~~

(B) Provide a copy of the asbestos waste shipment record to the disposal site owners or operators when the asbestos-containing waste material is delivered to the disposal site.

(9) After initial transport of asbestos-containing waste material the asbestos waste generator must:

(a) Receive a copy of the completed asbestos waste shipment record within 35 days, or determine the status of the waste shipment. A completed asbestos waste shipment record must include the signature of the owner or operator of the designated disposal site; ~~-~~

(b) Receive a copy of the completed asbestos waste shipment record within 45 days, or submit to ~~the Department~~ DEQ a written report including:

(A) A copy of the asbestos waste shipment record when a confirmation of delivery was not received; and

(B) A cover letter signed by the asbestos waste generator explaining the efforts taken to locate the asbestos waste shipment and the results of those efforts; ~~and-~~

(c) Keep asbestos waste shipment records, including a copy signed by the owner or operator of the designated ~~permitted disposal site~~~~waste disposal site~~, for at least three years. Make all disposal records available upon request to ~~the Department~~DEQ. ~~If a contractor~~~~For an asbestos abatement project conducted by a contractor~~ licensed under OAR 340-248-0120 conducts the asbestos abatement project that generated the asbestos containing waste material, then the contractor must retain the records described in this section.~~must be retained by the licensed contractor~~. For ~~any~~ other asbestos abatement projects, the owner or operator of the facility must retain the records.~~records must be retained by the facility owner~~.

(10) Each owner or operator of an active permitted disposal site authorized by DEQ to receive asbestos-containing waste material~~asbestos-containing waste disposal site~~ must meet the following standards:

(a) For all asbestos-containing waste material received:

(A) Ensure that off-loading of asbestos-containing waste material is done under the direction and supervision of the permitted disposal site~~landfill~~ operator or ~~their~~its authorized agent, and that it is accomplished in a manner that prevents the leak-tight transfer containers from rupturing and prevents the release of visible emissions to the air.:-

(B) Ensure that off-loading of asbestos-containing waste material occurs at the immediate location where the waste will be buried and restrict public access to off-loading area until waste is covered in accordance with paragraph (H), of this subsection.:-

(C) Maintain asbestos waste shipment records for at least two years and ensure that all information requested on the ~~Department~~DEQ form regarding waste disposal has been supplied.:-

(D) Immediately notify ~~the Department~~DEQ by telephone, followed by a written report to ~~the Department~~DEQ the following working day, of the presence of improperly enclosed or uncovered waste. Submit a copy of the asbestos waste shipment record along with the report.:-

(E) As soon as possible, and no more than 30 days after receiving the waste, send a copy of the signed asbestos waste shipment record to the asbestos waste generator.:-

(F) Upon discovering a discrepancy between the quantity of waste designated on the asbestos waste shipment records and the quantity actually received, attempt to reconcile the discrepancy with the asbestos waste generator. Report in writing to ~~the Department~~DEQ ~~any~~any discrepancies between the quantity of waste designated on the asbestos waste shipment records and the quantity actually received that cannot be reconciled between the asbestos waste generator and the permitted disposal site ~~waste disposal site~~ within 15 days after receiving the waste. Describe the discrepancy and attempts to reconcile it, and submit a copy of the asbestos waste shipment record along with the report. Include the ~~Department~~DEQ assigned asbestos project number in the discrepancy report.:-

(G) Select the waste burial site in an area of minimal work activity that is not subject to future excavation; and:-

(H) Cover all asbestos-containing waste material deposited at the permitted disposal site with at least 12 inches of soil or six inches of soil plus 12 inches of other waste before running compacting equipment over it, and complete such covering and compaction ~~but~~ no later than the end of the operating day that the waste is received.

(b) Maintain, until site closure, records of the location, depth and area, and quantity in cubic yards of asbestos-containing waste material within the permitted disposal site on a map or diagram of the disposal area.

(c) Excavation or disturbance of asbestos-containing waste material that has been deposited at a disposal site ~~waste disposal site~~ and is covered is considered an asbestos abatement project. The notification for ~~any~~ such a project must be submitted as specified in OAR 340-248-0260 except as follows:

(A) Submit the project notification and project notification fee to ~~the Department~~ DEQ at least 45 days before beginning ~~any~~ excavation or disturbing ~~ancee of~~ asbestos-containing waste at the disposal site ~~waste disposal site~~.

(B) State the reason for disturbing the waste.

(C) Explain the procedures for controlling emissions during the excavation, storage, transport and ultimate disposal of the excavated asbestos-containing waste material. ~~The Department~~ DEQ may require changes in the proposed emission control procedures.

(D) State the location of ~~any~~ the temporary storage site and the final permitted disposal site.

(d) Upon closure of an active asbestos-containing waste disposal site, each site owner or operator must:

(A) Comply with all the provisions for inactive asbestos-containing waste disposal sites; ~~-~~

(B) Submit to ~~the Department~~ DEQ a copy of records of asbestos waste disposal locations and quantities; ~~-and~~

(C) Make available during normal business hours and furnish upon request all records required under this section for inspection by ~~the Department~~ DEQ.

(11) The owner or operator of an inactive ~~asbestos-containing waste~~ disposal site that accepted asbestos-containing waste material must meet the following standards:

(a) Maintain a cover of at least two feet of soil or one foot of soil plus one foot of other waste; ~~-~~

(b) Grow and maintain a cover of vegetation on the area to prevent erosion of the non-asbestos-containing cover of soil or other waste materials. In desert areas where vegetation would be difficult to maintain, a layer of at least three inches of well-graded, nonasbestos crushed rock may be placed and maintained on top of the final cover instead of vegetation; ~~-~~

(c) For inactive ~~asbestos waste~~ disposal sites for with asbestos-containing tailings, a resinous or petroleum-based dust suppression agent that effectively binds dust to control surface air emissions may be used and maintained to achieve the requirements of subsections (a) and (b) of this section, provided the prior written approval of ~~the Department~~ DEQ is obtained; ~~-~~

(d) Excavating or disturbing ~~any the~~ inactive ~~asbestos-containing waste~~ disposal site is an asbestos abatement project. The notification for ~~any such a~~ project must be submitted as specified in OAR 340-248-0260, except as follows:

(A) Submit the project notification and project notification fee to ~~the Department~~ DEQ at least 45 days before beginning ~~any~~ excavation or disturbing ~~ance of an~~ asbestos-containing waste disposal site:-

(B) State the reason for disturbing the waste:-

(C) Explain the procedures to be used to control emissions during the excavation, storage, transport and ultimate disposal of the excavated asbestos-containing waste material. ~~The Department~~ DEQ may require changes in the proposed emission control procedures to be used; ~~and~~-

(D) State the location of ~~any the~~ temporary storage site and the final disposal site:- ~~and~~

(e) Within 60 days of a site's becoming inactive, request in writing that the ~~Commission~~ EQC issue an environmental hazard notice for the site. This environmental hazard notice will notify in perpetuity ~~any~~ potential purchaser of the property that:

(A) The land has been used for the disposal of asbestos-containing waste material;

(B) The survey plot and record of the location and quantity of asbestos-containing waste material disposed ~~of~~ within the disposal site, as required for active asbestos disposal sites, have been filed with ~~the Department~~ DEQ; and

(C) The site is subject to the provisions of OAR 340-248-0205 through 340-248-~~0290~~ 0280.

(12) Rather than meet the requirements of this rule, ~~an owner or operator a person~~ may use alternative packaging, storage, transport, or disposal methods after receiving written approval by ~~the Department~~ DEQ.

~~[Publications: Publications referenced are available from the agency.]~~ Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ 96, f. 9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82; DEQ 9-1988, f. 5-19-88 (and corrected 6-3-88), ef. 6-1-88; DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90 & 7-8-91); DEQ 8-1990, f. 3-13-90, cert. ef. 4-23-90; DEQ 18-1991, f. & cert. ef. 10-7-91; Renumbered from 340-025-0465(13) - (15); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 18-1993, f. & cert. ef. 11-4-93; Renumbered from 340-025-0469; DEQ 15-1995, f. & cert. ef. 6-16-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-5650; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

~~340-248-0290~~

~~Nonfriable Asbestos Disposal Requirements~~

~~Work practices and procedures for packaging, storing, transporting, and disposal of nonfriable asbestos-containing waste material: The owner or operator of a facility or an activity covered under~~

~~the provisions of OAR 340-248-0205 through 340-248-0290 and any other source of nonfriable asbestos-containing waste material must meet the following standard:~~

~~(1) Any waste that contains nonfriable asbestos material must be handled and disposed of using methods that will prevent the release of airborne asbestos-containing material.~~

~~(2) Rather than meet the requirements of this rule, an owner or operator may use alternative packaging, storage, transport, or disposal methods after receiving written approval from the Department.~~

~~Stat. Auth.: ORS 468.020, ORS 468A.025, ORS 468A.135 & ORS 468A.745~~

~~Stats. Implemented: ORS 468A.700—ORS 468A.760~~

~~Hist.: DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03~~

Draft Rules – With Edits Included

DEPARTMENT OF ENVIRONMENTAL QUALITY

DIVISION 248

ASBESTOS REQUIREMENTS

340-248-0005

Applicability

OAR 340-248-0010 through 340-248-0280 apply to asbestos milling, manufacturing, fabricating, abatement, and disposal, or any situation where a potential for exposure to asbestos fibers exists.

Stat. Auth.: ORS 468.020, ORS 468A.025, ORS 468A.135 & ORS 468A.745

Stats. Implemented: ORS 468A.700 - ORS 468A.760

Hist.: DEQ 1-2002, f. & cert. ef. 2-4-02

340-248-0010

Definitions

The definitions in OAR 340-200-0020 and this rule apply to this division. If the same term is defined in this rule and 340-200-0020, the definition in this rule applies to this division.

(1) "Accredited inspector" means a person who has completed training, received accreditation, and maintains valid accreditation under 40 C.F.R. Part 763 Subpart E, Appendix C (Model Accreditation Plan), Section B (Initial Training), Subsection 3 (Inspector).

(2) "Accredited trainer" means a provider of asbestos abatement training courses authorized by DEQ to offer training courses that satisfy requirements for worker and supervisor training.

(3) "Adequately wet" means to sufficiently mix or penetrate asbestos-containing material or asbestos-containing waste material with liquid to prevent the release of particulate asbestos materials. An asbestos-containing material or asbestos-containing waste material

is not adequately wetted if visible emissions originate from that material. Precipitation is not an appropriate method for wetting asbestos-containing material or asbestos-containing waste material.

(4) "Agent" means an individual who works on an asbestos abatement project for a contractor but is not an employee of the contractor.

(5) "Asbestos" means the asbestiform varieties of serpentine (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite (amosite), anthophyllite, actinolite, and tremolite.

(6) "Asbestos abatement project" means a demolition, renovation, repair, construction, or maintenance activity of a facility that involves the repair, enclosure, encapsulation, removal, salvage, handling, or disposal of asbestos-containing material with the potential of releasing asbestos fibers from asbestos-containing material into the air.

(7) "Asbestos manufacturing operation" means the combining of commercial asbestos, or in the case of woven friction products, the combining of textiles containing commercial asbestos, with other material including commercial asbestos, and the processing of this combination into a product as specified in OAR 340-248-0210(3).

(8) "Asbestos-containing material" means a material containing more than one-percent asbestos by weight.

(9) "Asbestos-containing waste material" means waste that contains or is contaminated by asbestos-containing material. Asbestos-containing waste material includes, but is not limited to:

(a) Waste asbestos tailings or commercial asbestos;

(b) Waste generated by a source subject to OAR 340-248-0205 through 340-248-0280;

(c) Filters from control devices;

(d) Bags or containers that previously contained commercial asbestos; and

(e) Asbestos abatement project waste including:

(A) Disposable equipment and clothing;

(B) Material used to establish a negative pressure enclosure;

(C) Demolition or renovation debris;

(D) HEPA filters; and

(E) Other asbestos abatement project waste that cannot be decontaminated.

- (10) "Asbestos mill" means a facility engaged in converting, or any intermediate step in converting, asbestos ore into commercial asbestos.
- (11) "Asbestos tailings" mean a solid waste product of asbestos mining or milling operations that contains asbestos.
- (12) "Asbestos waste generator" means a person performing an asbestos abatement project, the owner or operator of a demolition or renovation activity, or an owner or operator of a source or facility subject to OAR 340-248-0005 through 248-0280 whose act or process generates asbestos-containing waste material.
- (13) "Asbestos waste shipment record" means the shipment document, required to be originated and signed by the asbestos waste generator; used to track and substantiate the disposition of asbestos-containing waste material.
- (14) "Certified supervisor" means a person who has a current Oregon supervisor certification card.
- (15) "Certified worker" means a person who has a current Oregon worker certification card.
- (16) "Contractor" means a person that undertakes for compensation an asbestos abatement project for another person. As used in this division, "compensation" means wages, salaries, commissions, and other forms of remuneration paid to a person for personal services.
- (17) "Commercial asbestos" means asbestos that is produced by extracting asbestos from asbestos ore.
- (18) "Demolition" means wrecking or removing a load-supporting structural member of a facility together with related handling operations or the intentional burning of a facility.
- (19) "Fabricating" means processing (e.g., cutting, sawing, drilling) a manufactured product that contains commercial asbestos, with the exception of processing at temporary sites (field fabricating) for the construction or restoration of facilities. In the case of friction products, fabricating includes bonding, debonding, grinding, sawing, drilling, or other similar operations performed as part of fabricating.
- (20) "Facility" means all or part of a public or private building, structure, installation, equipment, vehicle, or vessel, including but not limited to ships.
- (21) "Friable asbestos material" means asbestos-containing material that when dry can be crumbled, pulverized, or reduced to powder by hand pressure or by the forces expected to act upon the material in the course of demolition, renovation, transportation, or disposal.
- (22) "Glove bag" means a sealed compartment with attached inner gloves used for the handling of asbestos-containing materials.

(23) "Grinding" means to reduce to powder or small fragments and includes mechanical chipping or drilling.

(24) "HEPA filter" means a high efficiency particulate air filter capable of filtering 0.3 micron particles with 99.97 percent efficiency.

(25) "In poor condition" means the binding of the material is losing its integrity as indicated by peeling, cracking, or crumbling of the material.

(26) "Inactive asbestos-containing waste disposal site" means a disposal site for asbestos-containing waste where the operator has allowed DEQ's solid waste permit to lapse, has gone out of business, or no longer receives asbestos-containing waste.

(27) "Interim storage of asbestos-containing waste material" means the storage of asbestos-containing waste material that meets the packaging requirements of this division and has been placed outside a regulated area until transported to a disposal site permitted to receive such waste.

(28) "Installation" means a building or structure or a group of buildings or structures at a single demolition or renovation site that are under the control of the same owner or operator, or under the control of owners or operators of demolition or renovation activities that are under common control.

(29) "Licensed" means a contracting entity has met DEQ's training and experience requirements to offer and perform asbestos abatement projects and has a current asbestos abatement contractor license. For purposes of this definition, a license is not a permit subject to OAR chapter 340, division 216 or 218.

(30) "Leak-tight" means that neither solids (including dust) nor liquids can escape or spill out.

(31) "Negative pressure enclosure" means a barrier surrounding the area of asbestos abatement comprised of a plastic with a minimum thickness of 6 mil exhausting through a HEPA filter exhaust system measured by an attached and functioning manometer or similar device and resulting in a negative pressure environment of -0.02 inches of water column. The barrier must cover all gaps in the area surrounding the asbestos abatement including doorways, windows, HVAC systems, drains, plumbing, and other gaps.

(32) "Nonfriable asbestos material" means asbestos-containing material that is not friable. When dry, nonfriable asbestos material cannot be crumbled, pulverized, or reduced to powder by hand pressure or by the forces expected to act on the material in the course of demolition, renovation, transportation, or disposal.

(33) "Occupant" means an individual person who lives in a subject private residence.

(34) "Open accumulation" means an accumulation, placement, or storage of friable asbestos material or asbestos-containing waste material other than material securely packaged and stored as required by this division.

(35) "Owner or operator of a demolition or renovation activity" means a person who owns, leases, operates, controls, or supervises the facility undergoing demolition or renovation or a person who owns, leases, operates, controls, or supervises the demolition or renovation operation, or both.

(36) "Particulate asbestos material" means finely divided particles of asbestos material.

(37) "Person" means an individual, public or private corporation, nonprofit corporation, association, firm, partnership, joint venture, business trust, joint stock company, municipal corporation, political sub-division, the state and an agency of the state, or other entity, public or private, however organized.

(38) "Regulated area" means an area that:

(a) Is established by the person performing an asbestos abatement project;

(b) Includes all areas where asbestos abatement work and associated activities are conducted and an adjoining area where asbestos-containing waste material generated from the project site is securely packaged and stored;

(c) Restricts access to authorized personnel only; and

(d) Is demarcated with prominent warning signs along the perimeter that state, in bold, all-capital letters and separated as shown here:

“DANGER

ASBESTOS

MAY CAUSE CANCER

ASBESTOS CAUSES DAMAGE TO LUNGS

AUTHORIZED PERSONNEL ONLY”

(39) "Renovation" means altering one or more facility components. Renovation includes replacing, stripping, or repairing facility components, such as mechanical ventilation systems, pipes, ceilings, walls, flooring, and insulating materials. Operations in which load-supporting structural members are wrecked or removed are excluded.

(40) "Residential building" means a facility used as a residence and that is a site-built home, modular home constructed off site, mobile home, condominium, duplex, or a multi-

unit facility consisting of four units or less. Exceptions are that residential building does not mean a facility that is:

- (a) Used by a fire department for training exercises;
- (b) Demolished as part of a larger project including urban renewal projects, highway construction projects, or property developed for commercial use, industrial use, or multi-unit residential buildings with more than four units;
- (c) Renovated or demolished along with one or more other facilities on the same site by the same owner or operator of a demolition or renovation activity as part of the same project; or
- (d) A residential dwelling unit located in a commercial facility.

(41) "Small-scale, short duration renovating and maintenance activity" means a task for which removing asbestos is not the primary objective of the job, including, but not limited to:

- (a) Removing asbestos-containing insulation on pipes;
- (b) Removing small quantities of asbestos-insulation on beams or above ceilings;
- (c) Replacing an asbestos-containing gasket on a valve;
- (d) Installing or removing a small section of drywall; or
- (e) Installing electrical conduits through or proximate to asbestos-containing materials.

(42) "Structural member" means a load-supporting member of a facility, such as beams and load-supporting walls; or a non-supporting member, such as ceilings and non-load-supporting walls.

(43) "Training Day" means a day of classroom instruction that consists of at least seven hours of actual classroom instruction and hands-on practice.

(44) "Visible emissions" means emissions that are visually detectable without the aid of instruments.

Stat. Auth.: ORS 468.020, ORS 468A.025, ORS 468A.135 & ORS 468A.745

Stats. Implemented: ORS 468A.700 - ORS 468A.760

Hist.: DEQ 10-1988, f. & cert. ef. 5-19-88 (and corrected 6-3-88); DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90); DEQ 18-1991, f. & cert. ef. 10-7-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1995, f. 6-16-95, cert. ef. 7-1-95; DEQ 96, f. 9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82; DEQ 9-1988, f. 5-19-88, cert. ef. 6-1-88 (and corrected 6-3-88); DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90 & 7-8-91);

DEQ 18-1991, f. & cert. ef. 10-7-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 18-1993, f. & cert. ef. 11-4-93; Renumbered from 340-025-0455; DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 15-1995, f. & cert. ef. 6-16-95; DEQ 22-1995, f. & cert. ef. 10-6-95]; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-033-0020, 340-032-5590; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

340-248-0100

Asbestos Licensing and Certification Requirements: Applicability

OAR 340-248-0100 through 340-248-0180 provide the requirements, standards, and procedures for contractor licensing, worker and supervisor certification, and asbestos abatement trainer accreditation. These requirements apply to any asbestos abatement project except as provided under OAR 340-248-0250.

Stat. Auth.: ORS 468.020, ORS 468A.025, ORS 468A.135 & ORS 468A.745

Stats. Implemented: ORS 468A.700 - ORS 468A.760

Hist.: DEQ 10-1988, f. 5-19-88, cert. ef. 5-19-88 (and corrected 6-3-88); DEQ 18-1991, f. & cert. ef. 10-7-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 18-1993, f. & cert. ef. 11-4-93; DEQ 19-1994, f. 9-6-94, cert. ef. 10-1-94; DEQ 15-1995, f. 6-16-95, cert. ef. 7-1-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-033-0010; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

340-248-0110

Asbestos Licensing and Certification Requirements: Licensing and Certification Requirements

(1) Except as provided under OAR 340-248-0250(1)(a) a person performing an asbestos abatement project must be a certified supervisor or worker under OAR 340-248-0130. A certified supervisor may work as a certified worker without having certification as a worker.

(2) An owner or operator of a facility may not allow a person to perform an asbestos abatement project in or on the facility unless the person is certified or licensed under the provisions of this division to perform an asbestos abatement project.

(3) An owner or operator of a demolition or renovation activity may not allow a person to perform an asbestos abatement project as part of the demolition or renovation unless the person is certified or licensed under the provisions of this division to perform an asbestos abatement project.

- (4) A contractor that performs an asbestos abatement project must be licensed by DEQ under OAR 340-248-0120.
- (5) Except as provided under OAR 340-248-0250(1)(h), a certified supervisor must be present on each asbestos abatement project.
- (6) Each training provider for asbestos abatement certification must be accredited by DEQ under OAR 340-248-0140.
- (7) Each person DEQ licenses, certifies, or accredits under the provisions of this division must comply with OAR 340-248-0005 through 340-248-0280 and maintain a current address on file with DEQ. DEQ may suspend or revoke the license, certification, or accreditation of any person who does not comply with this section.
- (8) DEQ may require training providers to ask applicants to provide their social security number and to retain records of those numbers for DEQ's use in identifying and tracking workers and supervisors. Trainers must notify each applicant that providing their social security number is voluntary and explain how DEQ proposes to use the social security number.
- (9) A regional air pollution authority that has been delegated authority under OAR 340-244-0020(2) may inspect for and enforce against violations of licensing and certification regulations. A regional air pollution authority may not approve, deny, suspend or revoke a training provider accreditation, contractor license, or worker certification, but may refer violations to DEQ and recommend denials, suspensions, or revocations.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.707

Hist.: DEQ 10-1988, f. & cert. ef. 5-19-88 (and corrected 6-3-88); DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90); DEQ 18-1991, f. & cert. ef. 10-7-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 18-1993, f. & cert. ef. 11-4-93; DEQ 15-1995, f. 6-16-95, cert. ef. 7-1-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-033-0030; DEQ 1-2002, f. & cert. ef. 2-4-02

340-248-0120

Asbestos Licensing and Certification Requirements: Contractor Licensing

- (1) A contractor must submit an application for a license on a DEQ-approved form and must include the following:
 - (a) Documentation that the contractor, or the contractor's employee representative, is a certified supervisor;

(b) Certification that the contractor has read and understands the applicable Oregon and federal rules and regulations on asbestos abatement and agrees to comply with the rules and regulations;

(c) A list of all certificates or licenses, issued to the contractor by another jurisdiction, that have been suspended or revoked during the past year, and a list of asbestos-related enforcement actions taken against the contractor during the past year;

(d) A list of additional project supervisors for asbestos abatement projects and their certification numbers;

(e) A summary of all asbestos abatement projects the contractor conducted during the past 12 months; and

(f) A license application fee.

(2) DEQ will review the application for completeness. If the application is incomplete, DEQ will notify the applicant in writing of the deficiencies.

(3) DEQ will deny, in writing, a license to a contractor who has not satisfied the license application requirements.

(4) DEQ will issue a license to the applicant after the license is approved.

(5) A license is valid for a period of 12 months. DEQ may extend the licenses pending DEQ's review of a renewal application if applicant files the renewal application with DEQ no later than 60 days before the expiration date of the contractor's license.

(6) Renewals:

(a) License renewals must be applied for in the same manner as required for the initial license;

(b) For renewal, the contractor or employee representative must have a valid certified supervisor card; and

(c) The applicant must submit the complete renewal application no later than 60 days before the license expiration date.

(7) DEQ may suspend or revoke a license if the licensee:

(a) Fraudulently obtains or attempts to obtain a license;

(b) Fails at any time to satisfy the qualifications for a license;

(c) Fails to meet an applicable state or federal standard relating to asbestos abatement;

- (d) Permits an untrained or uncertified worker to work on an asbestos abatement project;
 - (e) Employs a worker who fails to comply with applicable state or federal rules or regulations relating to asbestos abatement;
 - (f) Fails to make current certification cards readily available at worksites for inspection by DEQ; or
 - (g) Fails to pay delinquent application fees, notification fees, or civil penalty assessments.
- (8) A contractor whose license has been revoked may reapply for a license after demonstrating to DEQ that the contractor has resolved the cause of the revocation.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.707

Hist.: DEQ 10-1988, f. & cert. ef. 5-19-88 (and corrected 6-3-88); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1995, f. 6-16-95, cert. ef. 7-1-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-033-0040; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

340-248-0130

Asbestos Licensing and Certification Requirements: Certification

(1) Application for Certification -- General Requirements:

(a) A person wishing to become a certified supervisor or relying on prior training, as provided in OAR 340-248-0160 must apply to DEQ, through the training provider, for certification.

(b) A person applying for worker certification without prior training and a certified worker taking a refresher course must apply directly to the accredited training provider using DEQ-approved forms.

(2) An application to be a certified supervisor must include:

(a) Documentation that the applicant has successfully completed the supervisor-level training and examination as specified in OAR 340-248-0150; and

(b) Documentation that the applicant has been certified as a worker and has at least one year of asbestos abatement experience, including time on powered air purifying respirators and experience on at least ten separate friable asbestos abatement projects.

(3) An application to be a certified worker must include documentation that the applicant has successfully completed the level of training and examination as specified in OAR 340-248-0150.

(4) The training course provider will issue a typed certification card and a certificate of course completion to an applicant who has fulfilled the certification requirements.

(5) Certification at all levels is valid for one year after the date of issue.

(6) Annual Recertification:

(a) Previously certified Oregon workers and supervisors must apply through the training provider to take recertification refresher courses;

(b) Applicants for re-certification must possess a valid certification card in order to take the refresher course;

(c) All certified supervisors and workers must complete an annual recertification course during the three months before the expiration date of their certification card. A certified supervisor or worker may reinstate certification by taking the appropriate refresher course up to one year after the expiration date of the current Oregon certification card. After that time, such persons must take the initial course to be recertified.

(7) A current worker certification card must be readily available for inspection by DEQ at each asbestos abatement project for each worker or supervisor engaged in asbestos abatement activities.

(8) Suspensions and Revocations: DEQ may suspend or revoke a person's certification if the person:

(a) Fails to comply with state or federal asbestos abatement regulations;

(b) Performs asbestos removal without physically possessing a current certification card;

(c) Allows one person to use or duplicate another person's certification card or certificate by another;

(d) Obtains certification from a training provider that does not have DEQ's or the EPA's approval to offer training for the particular discipline; or

(e) Fails to pay delinquent application fees, or civil penalties.

(9) A person whose certification has been revoked may not apply for recertification until 12 months after the revocation date.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ 10-1988, f. & cert. ef. 5-19-88 (and corrected 6-3-88); DEQ 9-1989(Temp), f. & cert. ef. 6-7-89; DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90); DEQ 18-1991, f. & cert. ef. 10-7-91; DEQ; DEQ 15-1995, f. 6-16-95, cert. ef. 7-1-95; DEQ 26-1995, f. & cert. ef. 12-6-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-033-0050; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

340-248-0140

Asbestos Licensing and Certification Requirements: Training Provider Accreditation

(1) General:

(a) A person may apply to become an Oregon accredited asbestos training provider under this division.

(b) Only training providers DEQ accredits may offer training in Oregon to satisfy the certification requirements contained in this division.

(c) DEQ will accredit each individual training course.

(d) Course instructors must have academic credentials, demonstrated knowledge, prior training, or field experience in their respective training roles.

(e) Training course providers must permit representatives of DEQ or its designee to attend, evaluate and monitor a training course without charge. DEQ is not required to give advance notice of its inspection. DEQ may suspend or withdraw approval of a training course based on the grounds specified in OAR 340-248-0140(4).

(f) All initial worker and supervisor certification training, or initial refresher training involving persons wishing to be certified in Oregon using prior training from an EPA approved accreditation or certification course, must take place in Oregon.

(g) DEQ may require accredited training providers to pay a fee to cover the reasonable travel expenses for one DEQ representative to audit for compliance with this division any accredited refresher course that is not offered in the State of Oregon. This fee is an addition to the standard accreditation application fee.

(2) Application for Accreditation:

(a) Applicants must submit applications for accreditation to DEQ in writing on forms DEQ provides and include the information this section requires:

- (A) Name, address, telephone number of the firm, individual, or sponsor conducting the course, including the name under which the training provider intends to conduct the training;
- (B) The type of course for which the applicant requests approval;
- (C) A detailed course outline showing topics covered and the amount of time given to each topic, and that includes: working with asbestos-substitute materials, fitting and using respirators, use of glove bag, donning protective clothing, constructing a decontamination unit, the number of students to be accommodated, the number of instructors, and the amount of time for hands-on skill training;
- (D) A copy of the course manual, instructor notebooks and all printed material to be distributed in the course;
- (E) A description of teaching methods to be employed, including description of audio-visual materials to be used. Upon DEQ's request the applicant must provide copies of the materials. Audio-visual materials provided to DEQ will be returned to the applicant;
- (F) A description of the hands-on facility to be utilized including protocol for instruction;
- (G) A description of the equipment that will be used during classroom lectures and hands-on training;
- (H) A list of all personnel involved in course preparation and presentation and a description of the background, special training and qualification of each, as well as the subject matter covered by each;
- (I) A copy of each written examination to be given including the scoring methodology to be used in grading the examination; and a detailed statement about the development and validation of the examination;
- (J) A list of the tuition or other fees required;
- (K) A sample of the certificate of completion;
- (L) A description of the procedures and policies for re-examining students who do not successfully complete the training course examination;
- (M) A list of a state or accrediting system that approve the training course;
- (N) A description of student evaluation methods (other than written examination to be used) associated with the hands-on skill training and course evaluation methods students use;

(O) Restrictions on attendance such as class size, language, affiliation, or target audience of class;

(P) A description of the procedure for issuing replacement certification cards to workers who were issued a certification card by the training provider within the previous 12 months and whose cards have been lost or destroyed;

(Q) Additional information or documentation DEQ may require in order to evaluate the adequacy of the application; and

(R) The accreditation application fee.

(b) The training provider must retain a copy of the application materials listed above for at least three years. The applicant must make such applications available for inspection by DEQ or its designees upon request.

(c) An applicant must submit the application for initial training course accreditation and course materials to DEQ at least 45 days before the requested approval date.

(d) Upon approval of an initial or refresher asbestos training course, DEQ will issue a certificate of accreditation. The certificate is valid for one year from the date of issuance.

(e) Application for renewal of accreditation must follow the procedures described for the initial accreditation. In addition, course instructors must demonstrate that they have maintained proficiency in their instructional specialty and adult training methods during the 12 months before renewal.

(3) Training Provider Administrative Tasks. Accredited training providers must perform the following as a condition of accreditation:

(a) Administer the training course only to those persons who DEQ has approved, or have surrendered their expired certification cards to the trainer and others who are otherwise qualified according to these rules. Such persons may take the examination to complete the training course.

(b) Issue a numbered certificate and a photo certification card to each student who successfully passes the training course examination and meets all other requirements for certification. Each certificate and photo certification card must include:

(A) A unique certificate number;

(B) Name of certified person;

(C) Training course completed;

(D) Dates of the training course;

- (E) Date of the examination;
 - (F) An expiration date of one year after the date upon which the person successfully completed the course and examination;
 - (G) The name, address, and telephone number of the training provider that issued the certificate; and
 - (H) A statement that the person receiving the certificate has completed the requisite training for asbestos certification as specified in OAR-340-248-0130.
- (c) Provide DEQ with advance payment for each certificate to be issued.
 - (d) Utilize and distribute to all class participants, as part of the course information, training aides DEQ furnishes.
 - (e) Provide DEQ with a monthly class schedule at least one week before the schedule begins. Notification must include time and location of each course. Training providers must obtain DEQ approval before starting or offering a class that is not on the provider's monthly schedule, and if the trainer wishes to hold a class with less than one week advanced notice.
 - (f) Training Providers must comply with the following recordkeeping requirements:
 - (A) Maintain the training records required by this subsection for a minimum of three years and make them readily available for inspection by DEQ or its designee.
 - (B) Retain copies of all instructional materials used during each classroom course.
 - (C) Retain copies of all instructor resumes and instructor approvals issued by either DEQ or US EPA.
 - (D) Document the following information for each accredited course:
 - (i) The date the exam was given;
 - (ii) Training course for which the exam was given;
 - (iii) The exam proctor's name;
 - (iv) The name and score of each person taking the exam and a single copy of the exam;
 - (v) Attendance record;
 - (vi) Course evaluation form; and

- (vii) The names of the instructors for each part of the course offered.
- (E) Maintain records of certificates issued to students, including the following information:
 - (i) Name, address, telephone number, social security number of person receiving the certificate;
 - (ii) Certificate number given to each person;
 - (iii) Photograph of each person;
 - (iv) Discipline for which the certificate was given; and
 - (v) Dates of training and certificate expiration.
- (F) If a training provider is not accredited or ceases to give asbestos worker certification training, the training provider must notify and allow DEQ to take possession of the records for lawful disposition.
- (G) Submit certification class information to DEQ within 30 days after the end of each training class or as DEQ directs.
 - (g) Notify DEQ before issuing a replacement certification card.
 - (h) Have a current accreditation certificate at the training location.
- (4) Denial, Suspension or Revocation of Accreditation. DEQ may deny, suspend, or revoke an application or current accreditation for any of the reasons contained in this section. DEQ will issue a notice of denial, suspension, or revocation specifying the reasons for the action and conditions the applicant must meet before the certificate will be issued or reinstated. Applicants may appeal the Director's determination by requesting a contested case hearing under to the provisions of OAR chapter 340 division 11. DEQ considers the following as grounds for denial, revocation or suspension:
 - (a) Misrepresenting the extent of a training course's approval by a State or the EPA;
 - (b) Failing to submit required information or notifications in a timely manner;
 - (c) Failing to report to DEQ a change in staff or program that substantially deviates from the information contained in the application;
 - (d) Failing to maintain requisite records;
 - (e) Falsifying accreditation records, instructor qualifications, or other accreditation information;

- (f) Failing to adhere to this division's training standards and requirements;
- (g) Failing to comply with this division's administrative tasks and other requirement;
- (h) Providing concurrent training for either initial or refresher courses for supervisors and asbestos workers;
- (i) Failing to pay delinquent application fees, notification fees, or civil penalties; or
- (j) An approved training course instructor or other person with supervisory authority over the training who violates other asbestos regulations administered by DEQ, EPA, or other government agency.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ 10-1988, f. & cert. ef. 5-19-88 (and corrected 6-3-88); DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1995, f. 6-16-95, cert. ef. 7-1-95; DEQ 26-1995, f. & cert. ef. 12-6-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-033-0060; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

340-248-0150

Asbestos Licensing and Certification Requirements: General Training Standards

(1) The training provider must limit each class to a maximum of 25 participants unless DEQ grants an exception in writing. The student to instructor ratio for hands-on training must be equal to or less than ten to one (10:1). To apply for an exception allowing class size to exceed 25, the course sponsor must submit the following information in writing to DEQ and receive approval before expanding the class size:

- (a) The new class size limit;
- (b) The teaching methods and techniques for training the proposed larger class;
- (c) The protocol for conducting the written examination; and
- (d) Justification for a larger class size.

(2) Course instructors must have academic credentials, demonstrated knowledge, prior training, or field experience in their respective training roles.

(3) DEQ may require an accredited training provider to use examinations DEQ developed in lieu of the examinations the training provider offers.

(4) Courses of instruction required for certification must be specific for each of the certificate categories and must be comply with DEQ's requirements. The provider must present course instruction through a combination of lectures, demonstrations, and hands-on practice.

(5) Courses requiring hands-on training must provide participants actual experience performing tasks associated with asbestos abatement. Demonstrations not involving individual participation are unacceptable as a substitute for hands-on training.

(6) A person seeking certification as a supervisor must successfully complete an accredited training course of at least five training days by a DEQ accredited training provider. The training course must include lectures, demonstrations, at least 14 hours of hands-on training, individual respirator fit testing, course review, and a written examination consisting of multiple choice questions. To successfully complete the course, the candidate must attend the lectures and demonstrations, fully participate in the hands-on training, and achieve a passing score on the closed book examination.

(7) A person seeking certification as a worker must successfully complete an accredited training course of at least four training days by a DEQ accredited training provider. The training course must include lectures, demonstrations, at least 14 hours of actual hands-on training, individual respirator fit testing, course review, and an examination of multiple choice questions. To successfully complete the course, the candidate must attend the lectures and demonstrations, fully participate in the hands-on training, and achieve a passing score on the closed book examination.

(8) Refresher training consists of one training day for certified supervisors and workers. The refresher courses must include a review of key areas of initial training and updates. To successfully complete the course, the candidate must attend the course, fully participate in hands-on training, and achieve a passing score on the closed book examination.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.745

Hist.: DEQ 10-1988, f. & cert. ef. 5-19-88 (and corrected 6-3-88); DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1995, f. 6-16-95, cert. ef. 7-1-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-033-0070; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

340-248-0160

Asbestos Licensing and Certification Requirements: Prior Training

A candidate may rely on successfully completing a training course accredited by a governmental agency other than DEQ to satisfy the training and examination requirements of OAR 340-248-0130 and 340-248-0140 if all of the following conditions are met:

(1) DEQ determines that the course and examination requirements are equivalent to or exceed the requirements of OAR 340-248-0130 and 340-248-0140 for the level of certification sought or DEQ has a reciprocity agreement with the other jurisdiction.

(2) To qualify for a refresher course and certification, an applicant must have completed prior training during the two years preceding the date the applicant applies to DEQ. Applicants must have a current certification from EPA or an equivalent certification from another state when applying under this section.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.745

Hist.: DEQ 10-1988, f. & cert ef. 5-19-88 (and corrected 6-3-88); DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90); DEQ 15-1995, f. 6-16-95, cert. ef. 7-1-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-033-0080; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

340-248-0170

Asbestos Licensing and Certification Requirements: Reciprocity

DEQ may develop reciprocity agreements with other jurisdictions regarding all activities under this division.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.745

Hist.: DEQ 10-1988, f. & cert ef. 5-19-88 (and corrected 6-3-88); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 15-1995, f. 6-16-95, cert. ef. 7-1-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-033-0090

340-248-0180

Asbestos Licensing and Certification Requirements: Fees

(1) DEQ may assess the following fees to provide revenues to operate the asbestos control program.

(a) Contractor Licenses: A non-refundable license application fee of \$1000 for a one-year Asbestos Abatement Contractor license;

(b) Worker and Supervisor Certifications: A non-refundable application fee of \$65 for a one-year certification as an asbestos supervisor and \$45 for a one-year certification as an asbestos worker;

(c) Training Provider Accreditation: A non-refundable accreditation application fee of:

(A) \$320 for a one-year accreditation to provide a course for training asbestos supervisors;

(B) \$320 for a one-year accreditation to provide a course for training asbestos workers; and

(C) \$320 each for a one-year accreditation to provide a course for refresher training for Oregon asbestos certification.

(d) Asbestos Abatement Project Notification fee required under OAR 340-248-0260.

(2) Requests for waiver of fees must be made in writing to the Director, on a case-by-case basis, and be based upon financial hardship. Applicants for waivers must describe the reason for the request and certify financial hardship. The Director may waive part or all of a fee.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.745

Hist.: DEQ 10-1988, f. & cert. ef. 5-19-88 (and corrected 6-3-88); DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90); DEQ 18-1991, f. & cert. ef. 10-7-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 19-1994, f. 9-6-94, cert. ef. 10-1-94; DEQ 15-1995, f. 6-16-95, cert. ef. 7-1-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-033-0100; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

340-248-0205

Asbestos Emission Standards and Procedural Requirements: General Provisions

(1) A person may not openly accumulate friable asbestos material or asbestos-containing waste material.

(2) Contractors working on asbestos abatement projects at secure facilities must ensure that all security clearance requirements are completed before asbestos abatement projects at secure facilities start so that DEQ inspectors may gain immediate access to perform required asbestos project inspections.

(3) A person may not sand, grind, saw, or abrade asbestos-containing material unless during such activity the material is handled and disposed of as friable asbestos material as this division provides.

(4) The content of asbestos in asbestos-containing material must be determined using the method specified by the Environmental Protection Agency as listed in EPA/600/R-93/116, July 1993, "Method for the Determination of Asbestos in Bulk Building Materials" or another substantially similar method approved by DEQ. Bulk samples must not be composited for analysis.

[Note: Referenced publications are available through the link below.]

Stat. Auth.: ORS 468.020, ORS 468A.025, ORS 468A.135 & ORS 468A.745

Stats. Implemented: ORS 468A.700 - ORS 468A.760

Hist.: DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

340-248-0210

Asbestos Emission Standards and Procedural Requirements : Asbestos Requirements for Mills, Roadways and Parking lots, and Manufacturing Operations

(1) Emission standard for asbestos mills. No person may cause or allow to be discharged into the atmosphere visible emissions, including fugitive emissions, from any asbestos milling operation except as provided under OAR 340-248-0275(2) Air Cleaning. For purposes of this rule, the presence of uncombined water in the emission plume is not a violation of the visible emission requirement. Outside storage of asbestos materials is not part of an asbestos mill operation. The owner or operator of an asbestos mill must meet the following requirements:

(a) Monitor each potential source of asbestos emissions from a part of the mill facility, including air cleaning devices, process equipment, and buildings that house equipment for material processing and handling, at least once each day, during daylight hours, for visible emissions to the outside air during periods of operations. The monitoring must be by visual observation of at least 15 seconds duration per source of emissions.

(b) Inspect each air cleaning device at least once each week for proper operation and for changes that signal the potential for malfunction including, to the maximum extent possible without dismantling other than opening the device, the presence of tears, holes, and abrasions in filter bags and for dust deposits on the clean side of bags. For air cleaning devices that cannot be inspected on a weekly basis, submit to DEQ, revise as necessary, and implement a written maintenance plan to include, at a minimum, a maintenance schedule and recordkeeping plan.

(c) Maintain records of the results of visible emissions monitoring and air cleaning device inspections using a format approved by DEQ and including the following information:

(A) Date and time of each inspection;

(B) Presence or absence of visible emissions;

(C) Condition of fabric filters, including presence of tears, holes, and abrasions;

(D) Presence of dust deposits on clean side of fabric filters;

(E) Brief description of corrective actions taken, including date and time; and

(F) Daily hours of operation for each air cleaning device.

(d) Furnish upon request, and make available at the affected facility during normal business hours for inspection by DEQ, all records this section requires.

(e) Retain a copy of all monitoring and inspection records for at least two years.

(f) Submit a copy of visible emission monitoring records to DEQ quarterly. The quarterly reports must be postmarked by the 30th day following the end of the calendar quarter.

(g) Asbestos-containing waste material produced by an asbestos milling operation must be disposed of according to OAR 340-248-0280.

(2) Roadways and Parking Lots. No person may construct or maintain, or allow to be constructed or maintained a roadway with asbestos tailings or asbestos-containing waste material on that roadway, unless (for asbestos tailings):

(a) It is a temporary roadway on an area of asbestos ore deposits (asbestos mine);

(b) It is a temporary roadway at an active asbestos mill site and is encapsulated with a resinous or bituminous binder. The encapsulated road surface must be maintained at least once per calendar year or within 12 months of road construction to prevent dust emissions; or

(c) It is encapsulated in asphalt concrete meeting the specifications contained in Section 401 of **Standard Specifications for Construction of Roads and Bridges on Federal Highway Projects, FP-85, 1985**, or their equivalent.

(3) Manufacturing. No person may cause or allow to be discharged into the atmosphere visible emissions, except as provided in OAR 340-248-0275(2), from a building or structure in which manufacturing operations utilizing commercial asbestos are conducted, or directly from such manufacturing operations if they are conducted outside buildings or structures, or from other fugitive emissions. All asbestos-containing waste material a manufacturing operation produces must be disposed of according to OAR 340-248-0280. Visible emissions from boilers or other points not producing emissions directly from the manufacturing operation and having no possible asbestos material in the exhaust gases are not a violation of this rule. The presence of uncombined water in the exhaust plume is not a violation of the visible emission requirements:

(a) Applicability. Manufacturing operations subject to this rule are as follows:

(A) Manufacturing cloth, cord, wicks, tubing, tape, twine, rope, thread, yarn, roving, lap, or other textile materials;

(B) Manufacturing cement products;

- (C) Manufacturing fire proofing and insulating materials;
- (D) Manufacturing friction products;
- (E) Manufacturing paper, millboard, and felt;
- (F) Manufacturing floor tile;
- (G) Manufacturing paints, coatings, caulks, adhesives, or sealants;
- (H) Manufacturing plastics and rubber materials;
- (I) Manufacturing chlorine, using asbestos diaphragm technology;
- (J) Manufacturing shotgun shell wads;
- (K) Manufacturing asphalt concrete; and
- (L) Other manufacturing operation that results or may result in the release of asbestos material to the ambient air.

(b) The owner or operator of the manufacturing operation must monitor each potential source of asbestos emissions from a part of the manufacturing facility, including air cleaning devices, process equipment, and buildings housing material processing and handling equipment. Monitoring must be done at least once each day during daylight hours for visible emissions to the outside air during periods of operation and be by visual observation of at least 15 seconds duration per source of emissions.

(c) The owner or operator of the manufacturing operation must inspect each air cleaning device at least once each week for proper operation and for changes that signal the potential for malfunctions, including, to the maximum extent possible without dismantling other than opening the device, the presence of tears, holes, and abrasions in filter bags and for dust deposits on the clean side of bags. For air cleaning devices that cannot be inspected on a weekly basis, submit to DEQ, revise as necessary, and implement a written maintenance plan to include, at a minimum, a maintenance schedule and recordkeeping plan.

(d) The owner or operator of a manufacturing operation must maintain records of the results of visible emission monitoring and air cleaning device inspections using a format DEQ approves and including the following information:

- (A) Date and time of each inspection;
- (B) Presence or absence of visible emissions;
- (C) Condition of fabric filters, including presence of tears, holes and abrasions;

- (D) Presence of dust deposits on clean side of fabric filters;
 - (E) Brief description of corrective actions taken, including date and time; and
 - (F) Daily hours of operation for each air cleaning device.
- (e) The owner or operator of a manufacturing operation must furnish upon request, and make available at the affected facility during normal business hours for inspection by DEQ, all records this section requires.
- (f) The owner or operator of a manufacturing operation must retain a copy of all monitoring and inspection records for at least two years.
- (g) The owner or operator of a manufacturing operation must submit quarterly a copy of the visible emission monitoring records to DEQ if visible emissions occurred during the report period. Quarterly reports must be postmarked by the 30th day following the end of the calendar quarter.
- (h) Asbestos-containing waste material produced by any asbestos manufacturing operation must be disposed of according to OAR 340-248-0280.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.745

Hist.: DEQ 96, f. 9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82; DEQ 9-1988, f. 5-19-88 (and corrected 6-3-88), ef. 6-1-88; DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90 & 7-8-91); DEQ 8-1990, f. 3-13-90, cert. ef. 4-23-90; DEQ 18-1991, f. & cert. ef. 10-7-91; Section (4)(a) - (d) renumbered to 340-025-0466; Section (5)(a-d) renumbered to 340-025-0467; Sections (6) - (12) renumbered to 340-025-0468; Sections (13) - (15) renumbered to 340-025-0469; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 18-1993, f. & cert. ef. 11-4-93; Renumbered from 340-025-0465; DEQ 15-1995, f. & cert. ef. 6-16-95; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-5600; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

340-248-0220

Asbestos Emission Standards and Procedural Requirements: Reporting Requirements for Asbestos Sources Using Air Cleaning Devices

- (1) New sources this rule covers must submit the requested information 90 days before initial startup. The reporter must submit changes in the information provided to DEQ within 30 days after the change.
- (2) Sources covered by OAR 340-248-0210(1) Mills, 340-248-0210(3) Manufacturing, 340-248-0275(4) Fabricating, and 340-248-0230 Asbestos to Nonasbestos Conversion Operations, must provide the following information to DEQ:

- (a) A description of the emission control equipment used for each process;
- (b) If a fabric filter device is used to control emissions:
 - (A) The airflow permeability in m³/min/m² (ft³/min/ft²) if the fabric filter device uses a woven fabric, and, if the fabric is synthetic, whether the fill yarn is spun or not spun; and
 - (B) If the fabric filter device uses a felted fabric, the density in g/m² (oz/yd²), the minimum thickness in millimeters (inches), and the airflow permeability in m³/min/m² (ft³/min/ft²); and
- (c) If a HEPA filter is used to control emissions, the certified efficiency.

(3) Sources covered by this rule and subject to OAR 340-248-0280(1) through 340-248-0280(9) must submit the following information:

- (a) A brief description of each process that generates asbestos-containing waste material;
- (b) The average volume of asbestos-containing waste material disposed of, measured in m³/day (yd³/day);
- (c) The emission control methods used in all stages of waste disposal; and
- (d) The type of disposal site or incineration site used for ultimate disposal, the name of the site operator, and the name and location of the disposal site.

(4) Sources this rule covers and subject to OAR 340-248-0280(10) or 340-248-0280(11) must provide the following information:

- (a) A brief description of the site; and
- (b) The method or methods used to comply with the standards, or alternative procedures used.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.745

Hist.: DEQ 26-1995, f. & cert. ef. 12-6-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-5604; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

340-248-0230

Asbestos Emission Standards and Procedural Requirements: Asbestos to Nonasbestos Conversion Operations

(1) 40 C.F.R. Part 61.155 is by this reference adopted and incorporated herein.

(2) The following substitutions are made in 40 C.F.R. Part 61.155:

(a) "Administrator" means "DEQ";

(b) §61.150 means OAR 340-248-0280;

(c) §61.152 means OAR 340-248-0275(2)(a);

(d) §61.154 means OAR 340-248-0280;

(e) §61.154(e) means OAR 340-248-0280(10)(a); and

(f) §61.154(f) means OAR 340-248-0280(10)(b).

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.745

Hist.: DEQ 26-1995, f. & cert. ef. 12-6-95; DEQ 14-1999, f. & cert. ef. 10-14-99,

Renumbered from 340-032-5605; DEQ 1-2002, f. & cert. ef. 2-4-02

340-248-0240

Asbestos Emission Standards and Procedural Requirements: Asbestos Inspection Requirements for Oregon Title V Operating Permit Program Sources

This rule applies to renovation and demolition at major sources subject to the Oregon Title V Operating Permit program as defined in OAR 340-200-0020.

(1) To determine applicability of DEQ's asbestos regulations, the owner or operator of a renovation or demolition activity must thoroughly survey, using an accredited inspector, the affected area for the presence of asbestos, including nonfriable asbestos. A copy of that survey report must remain on site during a demolition or renovation activity.

(2) For demolition or renovation where no asbestos-containing material is present, the facility owner or operator, the owner or operator of a demolition or renovation activity, or the contractor must submit written notification to DEQ on an approved form. The submitter must provide notification as follows:

(a) Submit the notification, as specified in section (3) of this rule, to DEQ at least 10 days before beginning a demolition project.

(b) A notification of demolition is void if the submitter does not notify DEQ before making a change in the scheduled starting or completion date or any other substantive change.

(3) The submitter must provide the following information for each notification of demolition or renovation:

(a) Name, address, and telephone number of the person conducting the demolition or renovation;

(b) Contractor's Oregon demolition license number, if applicable;

(c) Certification that no asbestos was found during the predemolition survey and that if asbestos-containing material is uncovered during demolition the procedures found in OAR 340-248-0250 through 340-248-0280 will be followed;

(d) Description of building, structure, facility, installation, vehicle, or vessel to be demolished, including:

(A) The age and present and prior use of the facility; and

(B) Address or location of the scheduled demolition project;

(e) Major source owner or operator name, address and phone number;

(f) Scheduled starting and completion dates of demolition work; and

(g) Other information requested on DEQ form.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468A.745

Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 24-1994, f. & cert. ef. 10-28-94; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-5610; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

340-248-0250

Asbestos Emission Standards and Procedural Requirements: Exemptions

(1) The following asbestos abatement projects are exempt from certain provisions of this division:

(a) Asbestos abatement conducted inside a single unit private residence is exempt from OAR 340-248-0110 through 340-248-0180, 340-248-0210 through 340-248-0240 and 340-248-0260 through 340-248-0270 if the owner occupies the residence and the owner occupant is performing the asbestos abatement project.

(b) Asbestos abatement the owner conducts outside of a single unit private residence is exempt from the notification requirements contained in OAR 340-248-0260, if the residence is not a rental property, a commercial business, or intended to be demolished.

(c) Demolition and renovation at residential buildings with four or fewer dwelling units, that were constructed after January 1, 2004, are exempt from the provisions of OAR 340-248-0270(1).

(d) Demolition and renovation are exempt from the provisions of OAR 340-248-0270(1) if all of the materials at the affected facility are treated, removed, handled, managed, transported, and disposed of as friable asbestos-containing material as required by this division.

(e) Projects that involve removing mastics and roofing products that are fully encapsulated with a petroleum-based binder and are not hard, dry, or brittle are exempt from OAR 340-248-0110 through 340-248-0280 provided the materials are not made friable.

(f) Projects that involve removing less than three square feet or three linear feet of asbestos-containing material are exempt from OAR 340-248-0110 through 340-248-0180, the notification requirements in 340-248-0260, and the survey requirements in 340-248-0270, provided that removing asbestos is not the primary objective, is part of a needed repair operation, and the methods of removal comply with OAR 437-003-1926.1101 Asbestos, paragraph (g) Methods of Compliance, in Division 3 Construction, Subdivision Z Toxic and Hazardous Substances. Asbestos abatement projects may not be subdivided into smaller sized units in order to qualify for this exemption.

(g) Projects that involve removing asbestos-containing materials that are sealed from the atmosphere by a rigid casing are exempt from OAR 340-248-0110 through 340-248-0275, provided the casing is not broken or otherwise altered such that asbestos fibers could be released during removal, handling, and transport to a permitted disposal site.

(h) Small-scale short duration renovation and maintenance activities are exempt from the requirement to have a certified supervisor present on the asbestos abatement project.

(2) Emergency firefighting is not subject to this division.

(3) Asbestos-containing waste material that is handled and disposed of in compliance with a solid waste permit issued under ORS chapter 459 is not subject to OAR 340-248-0205(1).

(4) Municipal landfills, transfer stations, and material recovery facilities as defined and permitted by OAR 340 division 93 through OAR 340 division 96 that are following DEQ approved operations and special waste management plans are exempt from managing nonfriable asbestos-containing material as OAR 340-248-0280 specifies if the nonfriable asbestos-containing material is first discovered by the permitted disposal site on its tipping floor or within the permitted facility's transfer container, and managing the nonfriable

asbestos-containing material as OAR 340-248-0280 requires would present an immediate risk to health and safety. A disposal site that manages its waste under this subpart must immediately notify the final permitted disposal site, as applicable, and notify DEQ within 24 hours of discovering nonfriable asbestos containing material on its tipping floor or in its transfer container.

(5) A person performing vehicle brake and clutch maintenance or repair is exempt from OAR 340-248-0100 through OAR 340-248-0180.

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468A.745

Hist.: DEQ 96, f. 9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82; DEQ 9-1988, f. 5-19-88 (and corrected 6-3-88), ef. 6-1-88; DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90 & 7-8-91); DEQ 8-1990, f. 3-13-90, cert. ef. 4-23-90; DEQ 18-1991, f. & cert. ef. 10-7-91, Section (1)(a) - (d) renumbered from 340-025-0465(4)(a) - (d); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 18-1993, f. & cert. ef. 11-4-93, Renumbered from 340-025-0466; DEQ 19-1994, f. 9-6-94, cert. ef. 10-1-94; DEQ 15-1995, f. & cert. ef. 6-16-95; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-5620; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03; DEQ 11-2015(Temp), f. 12-10-15, cert. ef. 1-1-16 thru 6-28-16; DEQ 3-2016, f. & cert. ef. 4-21-16

340-248-0260

Asbestos Emission Standards and Procedural Requirements: Asbestos Abatement Notification Requirements

(1) Except as provided under OAR 340-248-0250, written notification of an asbestos abatement project must be submitted to DEQ on a DEQ-approved form, accompanied by the appropriate fee. The notification must be submitted by the facility owner or operator, the owner or operator of a demolition or renovation activity, or by the contractor as required by sections (2) through (5) of this rule, except as provided in sections (6), (7), and (8). A notification revision must be submitted by the facility owner or operator, the owner or operator of a demolition or renovation activity, or the contractor in accordance with section (10) of this rule.

(2) DEQ must receive notifications as specified in section (5) of this rule and the project notification fee at least 10 days before beginning a friable asbestos abatement project and at least five days before beginning a nonfriable asbestos abatement project.

(a) The project notification fee is:

(A) \$100 for each project that will abate less than 40 linear feet or 80 square feet of asbestos-containing material, is at a residential building, or is a nonfriable asbestos abatement project not subject to paragraph (K).

(B) \$200 for each project that will abate more than or equal to 40 linear feet or 80 square feet but less than 260 linear feet or 160 square feet of asbestos-containing material.

(C) \$400 for each project that will abate more than or equal to 260 linear feet or 160 square feet, and less than 1300 linear feet or 800 square feet of asbestos-containing material.

(D) \$525 for each project that will abate more than or equal to 1300 linear feet or 800 square feet, and less than 2600 linear feet or 1600 square feet of asbestos-containing material.

(E) \$900 for each project that will abate more than or equal to 2600 linear feet or 1600 square feet, and less than 5000 linear feet or 3500 square feet of asbestos-containing material.

(F) \$1,050 for each project that will abate more than or equal to 5000 linear feet or 3500 square feet, and less than 10,000 linear feet or 6000 square feet of asbestos-containing material.

(G) \$1,700 for each project that will abate more than or equal to 10,000 linear feet or 6000 square feet, and less than 26,000 linear feet or 16,000 square feet of asbestos-containing material.

(H) \$2,800 for each project that will abate more than or equal to 26,000 linear feet or 16,000 square feet, and less than 260,000 linear feet or 160,000 square feet of asbestos-containing material.

(I) \$3,500 for each project that will abate more than 260,000 linear feet or 160,000 square feet of asbestos-containing material.

(J) \$750 for annual notifications for friable asbestos abatement projects that will abate 40 linear feet or 80 square feet or less of asbestos-containing material.

(K) \$500 for annual notifications for nonfriable asbestos abatement projects performed at schools, colleges, and facilities.

(b) Project notification fees must accompany the project notification form. Notification has not occurred until DEQ receives the completed notification form and appropriate fee.

(c) DEQ may waive the 10-day and the five-day notification requirement in section (2) of this rule in emergencies that directly affect human life, health, and property. This includes:

(A) Emergencies where there is an imminent threat of loss of life or severe injury;

(B) Emergencies where the public is potentially exposed to air-borne asbestos fibers; and

(C) Emergencies where significant property damage will occur if repairs are not made immediately.

(d) DEQ may waive the 10-day and the five-day notification requirement in section (2) of this rule for asbestos abatement projects that were not planned, resulted from unexpected events, and will cause damage to equipment or impose unreasonable financial burden if not performed immediately. This includes the non-routine failure of equipment.

(e) In either subsection (c) or (d) of this section persons responsible for such asbestos abatement projects must submit an emergency or unexpected event abatement request to DEQ before starting work or by 9:00 am of the next working day if the work was performed on a weekend, evening, or holiday. The request must include a copy of the completed and appropriate notification form. Notification as specified in section (5) of this rule and the appropriate fee must be submitted to DEQ within three days of starting emergency or unexpected event asbestos abatement projects.

(f) The duration of an asbestos abatement notification may not exceed one year beyond the original starting date. The project starting and completion date provided in a notification for an asbestos abatement project must be commensurate with the amount of asbestos-containing material involved. If a project exceeds one year in duration, a new notification must be provided as described in this rule, including payment of a new notification fee.

(3) The facility owner or operator, the owner or operator of a demolition or renovation activity, or the contractor may submit annual notification for friable asbestos abatement projects where no more than 40 linear or 80 square feet of asbestos-containing material is removed at each project. Friable asbestos abatement projects subject to an annual notification may be conducted at multiple facilities by a single licensed asbestos contractor, or at a facility that has a centrally controlled asbestos operation and maintenance program where the facility owner uses appropriately trained and certified personnel to remove asbestos. The contractor owner or operator must submit the notification as follows:

(a) Establish eligibility for use of this notification procedure with DEQ prior to use.

(b) The notification must contain the information specified in subsections (5)(a) through (5)(i) of this rule to the extent possible.

(c) Provide to DEQ on a DEQ form a summary report of all asbestos abatement projects conducted in the previous three months by the 15th day of the month following the end of the calendar quarter. The summary report must include the information specified in subsections (5)(i) through (5)(l) of this rule for each project.

(d) Provide to DEQ, upon request, a list of asbestos abatement projects that are scheduled or are being conducted at the time of the request.

(e) Submit project notification and fee prior to use of this notification procedure.

(f) Failure to provide payment for use of this notification procedure will void the notification and each subsequent abatement project will be individually assessed a project notification fee.

(4) Annual nonfriable asbestos abatement projects may only be performed at schools, colleges, and facilities where certified asbestos abatement workers perform the removal work. Submit the notification as follows:

(a) Establish eligibility for use of this notification procedure with DEQ prior to use.

(b) The notification must contain the information specified in subsections (5)(a) through (5)(i) of this rule to the extent possible.

(c) Provide to DEQ on a DEQ form, a summary report of all nonfriable asbestos abatement projects conducted in the previous three months by the 15th day of the month following the end of the calendar quarter. The summary report must include the information specified in subsections (5)(i) through (5)(l) of this rule for each project.

(d) Submit project notification and fee before using this notification procedure.

(e) Failure to provide payment for use of this notification procedure will void the notification and DEQ will individually assess each subsequent nonfriable abatement project a project notification fee.

(f) Provide to DEQ, upon request, a list of nonfriable asbestos abatement projects that are scheduled or are being conducted at the time of the request.

(5) The following information must be provided for each notification:

(a) Name, phone number, and address of person conducting asbestos abatement project.

(b) The Oregon asbestos abatement contractor's license number and certification number of the supervisor for the asbestos abatement project or, for nonfriable asbestos abatement projects, the name of the supervising person that meets Oregon OSHA's competent person qualifications as required in 29 C.F.R. 1926.1101(b), adopted by reference under OAR 437-003-0001(25).

(c) Method of asbestos abatement to be employed.

(d) Procedures to be employed to insure compliance with OAR 340-248-0270 through 340-248-0280.

(e) Names, addresses, and phone numbers of waste transporters.

(f) Name and address or location of the permitted disposal site where the asbestos-containing waste material will be deposited.

- (g) Description of asbestos disposal procedure.
 - (h) Description of building, structure, facility, installation, vehicle, equipment, or vessel to be demolished or renovated, including:
 - (A) The construction or manufacture date, and the present and prior use of the facility; and
 - (B) Address or location where the asbestos abatement project is to be accomplished, including building, floor, and room numbers.
 - (i) Full name, address, and phone number of the owner or operator of a demolition or renovation activity.
 - (j) Starting and completion dates of asbestos abatement work.
 - (k) Description of the asbestos-containing material, type of asbestos, percent asbestos, and location of the asbestos-containing material.
 - (l) Amount of asbestos-containing material to be abated: linear feet or square feet.
 - (m) For facilities described in OAR 340-248-0270(8)(f) provide the name, title and authority of the State or local government official who ordered the demolition, date the order was issued, and the date demolition is to begin.
 - (n) Other information requested on the DEQ form.
- (6) The project notification fees specified in this section will be increased by 50% when an asbestos abatement project is commenced without filing a project notification, submittal of a notification fee, or when notification is provided less than 10 days or five days prior to commencement of work, as applicable, under subsections (2)(c) and (d) of this rule.
- (7) DEQ may waive part or all of a notification fee, on a case-by-case basis, based upon financial hardship. Requests for waiver of fees must be made in writing to DEQ. Applicants for waivers must describe the reason for the request and certify financial hardship.
- (8) Subject to OAR 340-200-0010(3), a regional authority may adopt project notification fees for asbestos abatement projects in different amounts than are set forth in this rule. The regional authority will base the fees on its costs in carrying out the delegated asbestos program. The regional authority may collect, retain, and expend such project notification fees for asbestos abatement projects within its jurisdiction.
- (9) Notification fee refunds. DEQ will consider a refunding a notification fee only as this section provides. A request for a refund of fees must be made in writing to DEQ, and must be submitted prior to the project's original start date. DEQ will not consider a refund request that does not include all required information described in this section. If DEQ

receives a complete request for refund under this section, then DEQ may refund the notification fee the requestor paid if it determines that a refund is warranted based on the reason the refund is requested. Requests for refunds must include the following written information and documentation:

- (a) A description of the reason that a refund is requested;
 - (b) A copy of the original notification and the most recent revision;
 - (c) Proof that the requester was awarded the contract for the project prior to submitting the notification to DEQ;
 - (d) Verification of payment to DEQ; and
 - (e) Proof that asbestos-containing material or asbestos-containing waste material was present at the project site, such as laboratory results, or when material was assumed to be asbestos-containing and treated as such in order to avoid survey and laboratory costs, a depiction of the material.
- (10) DEQ must receive notification revisions before changes are made to the start date or completion date of the project or immediately upon discovery that other changes to the project notification form are necessary. A notification of a revision under this section must indicate that it is a revised notification.

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468.020 & 468A.025

Hist.: DEQ 96, f. 9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82; DEQ 9-1988, f. 5-19-88 (and corrected 6-3-88), ef. 6-1-88; DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90 & 7-8-91); DEQ 8-1990, f. 3-13-90, cert. ef. 4-23-90; DEQ 18-1991, f. & cert. ef. 10-7-91, Renumbered from 340-025-0465(5)(a) - (d); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 18-1993, f. & cert. ef. 11-4-93, Renumbered from 340-025-0467; DEQ 19-1994, f. 9-6-94, cert. ef. 10-1-94; DEQ 15-1995, f. & cert. ef. 6-16-95; DEQ 26-1995, f. & cert. ef. 12-6-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-5630; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03; DEQ 9-2007, f. 11-21-07, cert. ef. 11-30-07

340-248-0270

Asbestos Emission Standards and Procedural Requirements: Asbestos Work Practices and Procedures

- (1) Except as OAR 340-248-0250 provides, before performing a demolition or renovation, the owner or operator of a demolition or renovation activity must have an accredited inspector complete a survey according to OAR 340-248-0270(3).

(2) The owner or operator of a demolition or renovation activity that requires a survey under OAR 340-248-0270(1) must send a copy of the asbestos survey report to DEQ upon request by DEQ and keep a copy of the asbestos survey report onsite at the facility during a demolition or renovation activity.

(3) The asbestos survey required by OAR 340-248-0270(1) must include all of the following:

(a) Collecting samples of all materials suspected of being asbestos-containing materials, unless the material is presumed to be asbestos-containing material, including at least one bulk sample for each homogeneous material suspected of being asbestos-containing material;

(b) For sprayed or troweled on surfacing materials, collection of at least three (3) random bulk samples for each homogeneous area;

(c) Beginning January 1, 2021, each sample collected under subsections (a) and (b) must be analyzed to determine whether it is asbestos-containing material by a laboratory with proficiency demonstrated by participation in a nationally recognized laboratory accreditation program for asbestos testing, or participate in, and maintain passing status in a nationally recognized bulk asbestos proficiency testing program;

(d) An asbestos survey report that contains the following:

(A) The date or dates that the survey was performed;

(B) The phone number and a copy of the certificate of each accredited inspector that performed a survey;

(C) Site address and location where the survey was performed;

(D) Name and phone number of the owner or operator of the facility where the survey was performed and the owner or operator of the demolition or renovation activity if different;

(E) Description of the facility and area surveyed, including its past and current use, area square footage, approximate construction date, and number of floors;

(F) The purpose of the survey, for example, whether it is for a project involving pre-demolition, renovation, removal of asbestos-containing material due to damage from fire, water, or other purpose;

(G) Detailed description of limitations on the thoroughness of the survey, for example an inaccessible area; and

(H) A table listing all of the homogeneous materials sampled and identified as asbestos-containing material and all of the presumed asbestos-containing materials. The table must include the following for each material:

(i) The percent asbestos and type of asbestiform, as determined by the laboratory that analyzes the sample;

(ii) A description of the material color, texture, and pattern;

(iii) The location of where in the facility the material was collected;

(iv) A description of the material condition as in good condition or in poor condition;

(v) The identification of the material as friable or nonfriable; and

(vi) The approximate quantity of the material at the facility.

(I) A recommendation of response actions that comply with the requirements of this division; and

(J) A complete copy of the laboratory report for all samples taken and analyzed under subsections (a) – (c) of this section. The minimum requirements for the laboratory report include:

(i) Laboratory name, address, and phone number;

(ii) Unique sample analysis identification number;

(iii) Bulk sample analysis results showing asbestos content;

(iv) Name of the analyst; and

(v) Completed chain of custody for the samples.

(4) For a demolition or renovation of a residential building, DEQ may approve, on a case-by-case basis, a request to waive the survey requirement of OAR 340-248-0270(1). The owner or operator of the residential building must submit a written request to DEQ, along with supporting documentation that demonstrates to DEQ's satisfaction that a survey is not warranted. The owner or operator of the residential building must obtain DEQ's written approval waiving the survey requirement prior to a demolition or renovation. The owner or operator of the residential building must maintain as readily available at the demolition or renovation site a copy of DEQ's written approval under this rule.

(5) Upon discovering asbestos-containing materials or asbestos-containing waste materials found during demolition, renovation, or after an emergency or unexpected event including an event that causes fire, water, earthquake, or wind damage, the owner or operator of the

demolition or renovation activity or the owner or operator performing the emergency response must:

(a) Stop work immediately;

(b) Keep the exposed asbestos-containing materials and asbestos-containing waste material, adequately wet and cover with 6 mil plastic or equivalent at all times until a licensed asbestos abatement contractor begins removal activities in compliance with this division; and

(c) Have the licensed asbestos abatement contractor remove, handle and dispose of all friable asbestos-containing waste material and asbestos-containing waste material as friable asbestos-containing material.

(6) A person who removes nonfriable asbestos-containing material not exempted under OAR 340-248-0250(1) must comply with the following:

(a) Submit asbestos removal notification and the appropriate fee to the DEQ Business Office on a DEQ form in accordance with OAR 340-248-0260.

(b) Remove nonfriable asbestos materials in a manner that ensures the material remains nonfriable.

(c) A nonfriable asbestos abatement project is exempt from the asbestos licensing and certification requirements under OAR 340-248-0100 through 340-248-0180. The exemption ends whenever the asbestos-containing material becomes friable.

(7) Before a facility is demolished by intentional burning, all asbestos-containing material must be removed and disposed of in accordance with OAR 340-248-0010 through 340-248-0280.

(8) Except as OAR 340-248-0250 provides, a person performing an asbestos abatement project must employ the following procedures:

(a) Conduct the asbestos abatement project inside a regulated area.

(b) Remove all asbestos-containing materials as part of the asbestos abatement project before another demolition or renovation activity begins that would break up, dislodge, or disturb the materials or preclude access to the materials for subsequent removal. Asbestos-containing materials need not be removed if:

(A) They are on a facility component that is encased in concrete or other similar material and are adequately wetted whenever exposed during demolition or renovation; or

(B) They were not discovered before demolition or renovation and cannot be removed because of unsafe conditions the demolition or renovation caused.

(c) Adequately wet asbestos-containing materials when they are being removed. In renovation, maintenance, repair, and construction operations, where wetting would unavoidably damage equipment, is incompatible with specialized work practices or presents a safety hazard, adequate wetting is not required if the person performing the asbestos abatement project:

(A) Obtains prior written approval from DEQ for dry removal of asbestos-containing material;

(B) Keep a copy of DEQ's written approval available for inspection at the work site;

(C) Adequately wraps or encloses asbestos-containing material during handling to avoid releasing fibers; and

(D) Uses a local exhaust ventilation and collection system designed and operated to capture the particulate asbestos material produced by the asbestos abatement project.

(d) When a facility component covered or coated with asbestos-containing materials is being taken out of the facility as units or in sections, the person performing the asbestos abatement project:

(A) Must adequately wet an asbestos-containing materials exposed during cutting or disjoining operation;

(B) Must carefully lower the units or sections to ground level, not dropping them or throwing them; and

(C) May leave asbestos-containing materials in large facility components such as reactor vessels, large tanks and steam generators, but excluding beams, if the following requirements are met:

(i) The component is removed, transported, stored, disposed of, or reused without disturbing or damaging the asbestos-containing material;

(ii) The component is encased in leak-tight wrapping; and

(iii) The leak-tight wrapping is labeled according to OAR 340-248-0280(2)(b) during all loading and unloading operations and during storage.

(e) For friable asbestos materials being abated:

(A) Adequately wet the materials to ensure that they remain wet until they are disposed of in accordance with OAR 340-248-0280;

(B) Carefully lower the materials to the floor, not dropping or throwing them;

(C) With DEQ's prior written approval, transport the materials to the ground via dust-tight chutes or containers if they have been removed or stripped above ground level and were not removed as units or in sections;

(D) Enclose the area where friable asbestos materials are to be abated with a negative pressure enclosure prior to and during abatement unless DEQ grants written approval for an alternative;

(E) Install a minimum of one viewing window in all enclosures, including negative pressure enclosures, in accordance with the following:

(i) Each viewing window must be a minimum of two feet by two feet and be made of a material that will allow a clear view inside the enclosure; and

(ii) For large enclosures, including negative pressure enclosures, install one viewing window for every 5,000 square feet of area when spatially feasible; and

(F) A negative pressure enclosure is not required for abatement of friable asbestos-containing material when:

(i) Abating asbestos-containing petroleum-based roofing products or cement asbestos roofing; or

(ii) Abating a total project amount of asbestos-containing material that may be contained in a single glove bag.

(f) A person who demolishes a facility under an order of the State of Oregon or a local governmental agency, issued because the facility is structurally unsound and in danger of imminent collapse must comply with the following:

(A) Obtain DEQ's written approval for an ordered demolition procedure before that demolition takes place;

(B) Send a copy of the order and an asbestos abatement project notification (as described in OAR 340-248-0260) to DEQ before starting demolition work;

(C) Keep a copy of the order, DEQ's approval, and the notification form at the demolition site during all phases of demolition until final disposal of the project waste at a permitted disposal site; and

(D) Keep asbestos-containing materials and asbestos-containing waste materials adequately wet during demolition and comply with the disposal requirements set forth in OAR 340-248-0280.

(g) A person performing asbestos abatement may not use mechanical equipment to remove asbestos containing material outside of a full negative pressure enclosure without prior written approval from DEQ.

(h) Visible emissions are not allowed during an asbestos abatement activity, except within a negative air pressure enclosure.

(i) An exhaust ventilation and collection system, negative air machine, or vacuuming equipment used during an asbestos abatement project must be equipped with a HEPA filter or other filter of equal or greater collection efficiency and must be sealed with a 6 mil plastic or equivalent when not in use.

(j) DEQ may approve, on a case-by-case basis, requests to use an alternative to the requirements contained in this rule. The person performing the asbestos abatement project must submit a written description of the proposed alternative and demonstrate to DEQ's satisfaction that the proposed alternative provides public health protection equivalent to the protection that would be provided by the specific requirement, or that such level of protection cannot be obtained for the asbestos abatement project.

(k) Final Air Clearance Sampling Requirements apply to projects involving more than 160 square feet or 260 linear feet of asbestos-containing material. Before the negative pressure enclosure around such an area is removed, the person performing the abatement must have at least one air sample collected. All samples collected that document that the air inside the negative pressure enclosure has no more than 0.01 fibers per cubic centimeter of air. DEQ may grant a waiver to this section or exceptions to the following requirements upon receiving an advanced written request:

(A) The air clearance samples must be collected and analyzed by a party who is National Institute of Occupational Safety and Health (NIOSH) 582 certified and financially independent from the person performing the asbestos abatement project, other than receiving compensation for undertaking the specific sampling and analysis required in this paragraph;

(B) Before final air clearance sampling is performed the following must be completed:

(i) All visible asbestos-containing material and asbestos-containing waste material must be removed and properly packaged and stored according to the requirements of this division;

(ii) The air and surfaces within the negative pressure enclosure must be sprayed with an encapsulant prior to air clearance sampling;

(iii) Air sampling may start when the encapsulant has settled sufficiently so that the filter of the sample is not clogged by airborne encapsulant; and

(iv) Air filtration units must remain on during the air-monitoring period;

(C) Air clearance sampling inside negative pressure enclosure areas must be aggressive and comply with the following procedures:

(i) Immediately before starting the sampling pumps, direct exhaust from a minimum one horse power forced air blower against all walls, ceilings, floors, ledges, and other surfaces in the negative pressure enclosure;

(ii) Then place stationary fans in locations that will not interfere with air monitoring equipment and direct the fans toward the ceiling. Use one fan per 10,000 cubic feet of room space;

(iii) Start sampling pumps and sample an adequate volume of air to detect concentrations of 0.01 fibers of asbestos per cubic centimeter according to NIOSH 7400 method;

(iv) When sampling is completed turn off the pump and then the fan(s); and

(v) As an alternative the air clearance sample analysis may be performed according to Transmission Electron Microscopy Analytical Methods prescribed by 40 C.F.R. 763, Appendix A to Subpart E (Interim Transmission Electron Microscopy Analytical Methods); and

(D) The person performing an asbestos abatement project must submit the final air clearance sample results to DEQ on a DEQ form and include all third-party air clearance analysis reports. The clearance results must be received by DEQ within 30 days after the completion date of the asbestos abatement project.

[Note: Referenced publications are available through the link below.]

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468A.745

Hist.: DEQ 96, f. 9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82; DEQ 9-1988, f. 5-19-88, ef. 6-1-88 (and corrected 6-3-88); DEQ 18-1991, f. & cert. ef. 10-7-91, Renumbered from 340-025-0465(6) - (12); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 18-1993, f. & cert. ef. 11-4-93, Renumbered from 340-025-0468; DEQ 15-1995, f. & cert. ef. 6-16-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-5640; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03; DEQ 11-2015(Temp), f. 12-10-15, cert. ef. 1-1-16 thru 6-28-16; DEQ 3-2016, f. & cert. ef. 4-21-16

340-248-0275

Asbestos Emission Standards and Procedural Requirements: Asbestos Standards for Air Cleaning, Spraying, Molded Insulation, and Fabricating

The following methods must be employed for air cleaning, fabricating, and sprayed-on and molded insulation applications:

(1) Options for Air Cleaning. Rather than meet the no visible emissions requirements of OAR 340-248-0210(1) and (3), owners and operators may elect to use methods specified in Section (2).

(2) Air Cleaning. All persons electing to use air cleaning methods rather than comply with the no visible emission requirements must comply with (a), (b), and (c) of this section:

(a) All persons electing to use air cleaning methods must meet one of the provisions in this subsection:

(A) Fabric filter collection devices must be used, except as provided in subsections (b) and (c) of this section. Such devices must be operated at a pressure drop of no more than four inches (10.16 cm) water gauge as measured across the filter fabric. The air flow permeability, as determined by ASTM Method D737-75, must not exceed 30 ft.³/min./ft.² (9 m³/min./m²) for woven fabrics or 35 ft.³/min./ft.² (11 m³/min./m²) for felted fabrics with the exception that airflow permeability of 40 ft.³/min./ft.² (12 m³/min./m²) for woven and 45 ft.³/min./ft.² (14 m³/min./m²) for felted fabrics must be allowed for filtering air emissions from asbestos ore dryers. Each square yard of felted fabric must weigh at least 14 ounces (475 grams per square meter) and be at least 1/16 inch (1.6 mm) thick throughout. Synthetic fabrics used must not contain fill yarn other than that which is spun;

(B) If using fabric filters creates a fire or explosion hazard, DEQ may authorize the use of wet collectors designed to operate with a unit contacting energy of at least 40 inches (101.6 cm) of water gauge pressure;

(C) If High Efficiency Particulate Air (HEPA) filters are used to control emissions the certified efficiency must be at least 99.97 percent for particles 0.3 microns or greater; or

(D) DEQ may authorize using filtering equipment other than that described in this section if such filtering equipment is satisfactorily demonstrated to provide filtering of asbestos material equivalent to that of the described equipment.

(b) All air cleaning devices this section authorizes must be properly installed, operated, and maintained. Devices to bypass the air cleaning equipment may be used only during upset and emergency conditions, and then only for such time as is necessary to shut down the operation generating the particulate asbestos material.

(c) Fabric filters collection devices installed after January 10, 1989 must be easily inspected for faulty bags.

(3) Spraying:

(a) No person may cause or allow to be discharged into the atmosphere visible emissions from a spray-on application of material containing more than one percent asbestos on a dry weight basis used to insulate or fireproof equipment or machinery, except as provided in

section (2) of this rule. Spray-on materials used to insulate or fireproof buildings, structures, pipes, and conduits must contain less than one-percent asbestos on a dry weight basis. If a city or area of local jurisdiction has ordinances or regulations for spray application materials more stringent than those in this section, the provisions of such ordinances or regulations apply;

(b) A person intending to spray asbestos materials to insulate or fireproof buildings, structures, pipes, conduits, equipment, or machinery must notify DEQ in writing 20 days before the spraying operation begins. The notification must contain the following:

(A) Name and address of person intending to conduct the spraying operation;

(B) Address or location of the spraying operation;

(C) The name and address of the owner of the facility being sprayed.

(c) The spray-on application of materials in which the asbestos fibers are encapsulated with a bituminous or resinous binder during spraying and which are not friable after drying is exempted from the requirements of subsections (a) and (b) of this section.

(4) Fabricating. Except as provided in section (2) of this rule no person may cause or allow to be discharged into the atmosphere visible emissions, including fugitive emissions, from fabricating operations including the following:

(a) Applicability. This section applies to the following fabricating operations using commercial asbestos:

(A) Fabricating cement building products;

(B) Fabricating friction products, except those operations that primarily install asbestos friction materials on motor vehicles; and

(C) Fabricating cement or silicate board for ventilation hoods; ovens; electrical panels; laboratory furniture; bulkheads, partitions, and ceilings for marine construction; and flow control devices for the molten metal industry.

(b) The owner or operator of a fabricating operation must monitor each potential source of asbestos emissions from any part of the fabricating facility, including air cleaning devices and process equipment for material processing and handling, at least once each day, during daylight hours, for visible emissions to the outside air during periods of operation. The monitoring must be by visual observation of at least 15 seconds duration per source of emissions.

(c) The owner or operator of a fabricating operation must inspect each air cleaning device at least once each week for proper operation and for changes that signal the potential for malfunctions, including to the maximum extent possible without dismantling other than

opening the device, the presence of tears, holes, and abrasions in filter bags and for dust deposits on the clean side of bags. For air cleaning devices that cannot be inspected on a weekly basis according to this subsection, submit to the department, revise as necessary, and implement a written maintenance plan to include, at a minimum, a maintenance schedule and recordkeeping plan.

(d) The owner or operator of a fabricating operation must maintain records of the results of visible emission monitoring and air cleaning device inspections using a format approved by DEQ that includes the following information:

(A) Date and time of each inspection;

(B) Presence or absence of visible emissions;

(C) Condition of fabric filters, including presence of tears, holes, and abrasions;

(D) Presence of dust deposits on clean side of fabric filters;

(E) Brief description of corrective actions taken, including date and time; and

(F) Daily hours of operation for each air cleaning device.

(e) The owner or operator of a fabricating operation must furnish to DEQ upon request and make available at the affected facility during normal business hours for inspection by DEQ, all records required under this section.

(f) The owner or operator of a fabricating operation must retain a copy of all monitoring and inspection records for at least two years.

(g) The owner or operator of a fabricating operation must submit a copy of the visible emission monitoring records to DEQ quarterly. The quarterly report must be postmarked by the 30th day following the end of the calendar quarter.

(5) Insulation. No owner or operator of a facility may install or reinstall on a facility component any insulating materials that contain commercial asbestos if the materials are either molded and friable or wet-applied and friable after drying. The provisions of this section do not apply to insulating materials regulated under section (3) of this rule.

[Note: Publications referenced are available from the agency.]

Stat. Auth.: ORS 468.020, ORS 468A.025, ORS 468A.135 & ORS 468A.745

Stats. Implemented: ORS 468A.700 - ORS 468A.760

Hist.: DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03

340-248-0280

Asbestos Emission Standards and Procedural Requirements: Asbestos Disposal Requirements

Work practices and procedures for packaging, storing, transporting, and disposing of asbestos-containing waste material: The asbestos waste generator, transporter, owner or operator of a disposal site, and the owner or operator of other sources of asbestos-containing waste material must meet the following standards:

(1) There may be no visible emissions to the atmosphere during the collection; processing; packaging; transporting; or deposition of any asbestos-containing waste material.

(2) All asbestos-containing waste materials must be either:

(a) Processed into nonfriable pellets or other shapes; or

(b) Adequately wetted to ensure that they remain wet until delivered to a disposal site permitted to accept such material and packaged in leak-tight containers such as within two plastic bags, each with a minimum thickness of 6 mil., within a fiber or metal drum, or within a similar leak-tight packaging. Containers must be labeled as follows:

(A) The name of the asbestos waste generator and the location where the waste was generated; and

(B) A warning label that complies with either subparagraph (i) or (ii):

(i) A warning label that states the following in bold, all-capital letters and separated as shown here:

“DANGER

CONTAINS ASBESTOS FIBERS

AVOID CREATING DUST

CANCER AND LUNG DISEASE HAZARD

AVOID BREATHING AIRBORNE

ASBESTOS FIBERS”

(ii) Alternatively, warning labels specified by 29 C.F.R. 1926.1101(k)(7) may be used.

(C) The containers must be labeled prior to removal from the regulated area.

(3) If the asbestos-containing materials are not removed from a facility before demolition or renovation, as described in OAR 340-248-0270(5), adequately wet the asbestos-

containing waste material at all times before and after demolition or renovation and keep it wet during handling and loading for transport to a permitted disposal site. Such asbestos-containing waste materials must be transported in lined and leak-tight covered containers for bulk disposal.

(4) The interim storage of asbestos-containing waste material must protect the waste from dispersal into the environment and provide physical security from tampering by unauthorized persons. The interim storage of asbestos-containing waste material is the responsibility of the owner or operator of the facility and of the person performing the asbestos abatement project.

(5) All asbestos-containing waste material must be deposited as soon as possible by the asbestos waste generator or transporter at:

(a) A permitted disposal site authorized by DEQ to receive asbestos-containing waste material and operated in accordance with this rule; or

(b) A DEQ approved site that converts asbestos-containing waste material into nonasbestos (asbestos-free) material according to the provisions of OAR 340-248-0230 Asbestos to Nonasbestos Conversion Operations.

(6) Persons disposing of asbestos-containing waste material must notify the permitted disposal site operator of the type and volume of the waste material and obtain the approval of the permitted disposal site operator before bringing the waste to the permitted disposal site.

(7) For each waste shipment the asbestos waste generator must record the following information on a DEQ form, and provide a copy of the form to the waste transporter.

(a) Waste Generation:

(A) The asbestos abatement project site name, address, and telephone number of the asbestos waste generator;

(B) A description of the asbestos-containing waste material and the number and type of asbestos-containing waste material containers and volume in cubic yards; and

(C) A certification that the information on the DEQ form is accurate and properly describes the generator name and that the asbestos-containing waste material is classified, packed, marked, and labeled, and is in all respects in proper condition for transport by highways according to applicable regulations.

(b) Waste Transportation:

(A) The date transported; and

(B) The name, address, and telephone number of the transporter.

(c) Waste Disposal:

(A) The name and telephone number of the disposal site operator;

(B) The name and address or location of the permitted disposal site;

(C) The quantity of the asbestos-containing waste material in cubic yards;

(D) The presence of improperly enclosed or uncovered waste, or an asbestos-containing waste material not sealed in leak-tight containers;

(E) The date asbestos-containing waste is received at disposal site; and

(d) Other information requested on the DEQ form.

(8) For the transportation of asbestos-containing waste material:

(a) The asbestos waste generator must:

(A) Maintain the asbestos waste shipment records for at least three years and ensure that all the information requested on the DEQ form regarding waste generation and transportation has been supplied;

(B) Limit access into loading and unloading area to authorized personnel; and

(C) Mark vehicles, while loading and unloading asbestos-containing waste material, with signs (20 in. x 14 in.) that comply with either subparagraph (i) or (ii):

(i) State the following in all-capital letters and separated as shown here:

“DANGER

ASBESTOS DUST HAZARD

CANCER AND LUNG DISEASE HAZARD

AUTHORIZED PERSONNEL ONLY”

(ii) Use language that conforms to the requirements of 29 C.F.R. 1926.1101(k)(8) (2013).

(b) The waste transporter must:

(A) Immediately notify the permitted disposal site operator upon arrival of the waste at the disposal site; and

(B) Provide a copy of the asbestos waste shipment record to the disposal site owners or operators when the asbestos-containing waste material is delivered to the disposal site.

(9) After initial transport of asbestos-containing waste material the asbestos waste generator must:

(a) Receive a copy of the completed asbestos waste shipment record within 35 days, or determine the status of the waste shipment. A completed asbestos waste shipment record must include the signature of the owner or operator of the designated disposal site;

(b) Receive a copy of the completed asbestos waste shipment record within 45 days, or submit to DEQ a written report including:

(A) A copy of the asbestos waste shipment record when a confirmation of delivery was not received; and

(B) A cover letter signed by the asbestos waste generator explaining the efforts taken to locate the asbestos waste shipment and the results of those efforts; and

(c) Keep asbestos waste shipment records, including a copy signed by the owner or operator of the designated permitted disposal site, for at least three years. Make all disposal records available upon request to DEQ. If a contractor licensed under OAR 340-248-0120 conducts the asbestos abatement project that generated the asbestos containing waste material, then the contractor must retain the records described in this section. For other asbestos abatement projects, the owner or operator of the facility must retain the records.

(10) Each owner or operator of an active permitted disposal site authorized by DEQ to receive asbestos-containing waste material must meet the following standards:

(a) For all asbestos-containing waste material received:

(A) Ensure that off-loading of asbestos-containing waste material is done under the direction and supervision of the permitted disposal site operator or its authorized agent, and that it is accomplished in a manner that prevents the leak-tight transfer containers from rupturing and prevents the release of visible emissions to the air;

(B) Ensure that off-loading of asbestos-containing waste material occurs at the immediate location where the waste will be buried and restrict public access to off-loading area until waste is covered in accordance with paragraph (H), of this subsection;

(C) Maintain asbestos waste shipment records for at least two years and ensure that all information requested on the DEQ form regarding waste disposal has been supplied;

(D) Immediately notify DEQ by telephone, followed by a written report to DEQ the following working day, of the presence of improperly enclosed or uncovered waste. Submit a copy of the asbestos waste shipment record along with the report;

(E) As soon as possible, and no more than 30 days after receiving the waste, send a copy of the signed asbestos waste shipment record to the asbestos waste generator;

(F) Upon discovering a discrepancy between the quantity of waste designated on the asbestos waste shipment records and the quantity actually received, attempt to reconcile the discrepancy with the asbestos waste generator. Report in writing to DEQ discrepancies between the quantity of waste designated on the asbestos waste shipment records and the quantity actually received that cannot be reconciled between the asbestos waste generator and the permitted disposal site within 15 days after receiving the waste. Describe the discrepancy and attempts to reconcile it, and submit a copy of the asbestos waste shipment record along with the report. Include the DEQ assigned asbestos project number in the discrepancy report;

(G) Select the waste burial site in an area of minimal work activity that is not subject to future excavation; and

(H) Cover all asbestos-containing waste material deposited at the permitted disposal site with at least 12 inches of soil or six inches of soil plus 12 inches of other waste before running compacting equipment over it, and complete such covering and compaction no later than the end of the operating day that the waste is received.

(b) Maintain, until site closure, records of the location, depth and area, and quantity in cubic yards of asbestos-containing waste material within the permitted disposal site on a map or diagram of the disposal area.

(c) Excavation or disturbance of asbestos-containing waste material that has been deposited at a disposal site and is covered is considered an asbestos abatement project. The notification for such a project must be submitted as specified in OAR 340-248-0260 except as follows:

(A) Submit the project notification and project notification fee to DEQ at least 45 days before beginning excavation or disturbing asbestos-containing waste at the disposal site.

(B) State the reason for disturbing the waste.

(C) Explain the procedures for controlling emissions during the excavation, storage, transport and ultimate disposal of the excavated asbestos-containing waste material. DEQ may require changes in the proposed emission control procedures.

(D) State the location of the temporary storage site and the final permitted disposal site.

(d) Upon closure of an active asbestos-containing waste disposal site, each site owner or operator must:

(A) Comply with all the provisions for inactive asbestos-containing waste disposal sites;

(B) Submit to DEQ a copy of records of asbestos waste disposal locations and quantities; and

(C) Make available during normal business hours and furnish upon request all records required under this section for inspection by DEQ.

(11) The owner or operator of an inactive disposal site that accepted asbestos-containing waste material must meet the following standards:

(a) Maintain a cover of at least two feet of soil or one foot of soil plus one foot of other waste;

(b) Grow and maintain a cover of vegetation on the area to prevent erosion of the nonasbestos-containing cover of soil or other waste materials. In desert areas where vegetation would be difficult to maintain, a layer of at least three inches of well-graded, nonasbestos crushed rock may be placed and maintained on top of the final cover instead of vegetation;

(c) For inactive disposal sites with asbestos-containing tailings, a resinous or petroleum-based dust suppression agent that effectively binds dust to control surface air emissions may be used and maintained to achieve the requirements of subsections (a) and (b) of this section, provided the prior written approval of DEQ is obtained;

(d) Excavating or disturbing the inactive disposal site is an asbestos abatement project. The notification for such a project must be submitted as specified in OAR 340-248-0260, except as follows:

(A) Submit the project notification and project notification fee to DEQ at least 45 days before beginning excavation or disturbing an asbestos-containing waste disposal site;

(B) State the reason for disturbing the waste;

(C) Explain the procedures to be used to control emissions during the excavation, storage, transport and ultimate disposal of the excavated asbestos-containing waste material. DEQ may require changes in the proposed emission control procedures to be used; and

(D) State the location of the temporary storage site and the final disposal site; and

(e) Within 60 days of a site's becoming inactive, request in writing that the EQC issue an environmental hazard notice for the site. This environmental hazard notice will notify in perpetuity a potential purchaser of the property that:

(A) The land has been used for the disposal of asbestos-containing waste material;

(B) The survey plot and record of the location and quantity of asbestos-containing waste material disposed within the disposal site, as required for active asbestos disposal sites, have been filed with DEQ; and

(C) The site is subject to the provisions of OAR 340-248-0205 through 340-248-0280.

(12) Rather than meet the requirements of this rule a person may use alternative packaging, storage, transport, or disposal methods after receiving written approval by DEQ.

Stat. Auth.: ORS 468 & ORS 468A

Stats. Implemented: ORS 468.020 & ORS 468A.025

Hist.: DEQ 96, f. 9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82; DEQ 9-1988, f. 5-19-88 (and corrected 6-3-88), ef. 6-1-88; DEQ 4-1990, f. & cert. ef. 2-7-90 (and corrected 5-21-90 & 7-8-91); DEQ 8-1990, f. 3-13-90, cert. ef. 4-23-90; DEQ 18-1991, f. & cert. ef. 10-7-91; Renumbered from 340-025-0465(13) - (15); DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 18-1993, f. & cert. ef. 11-4-93; Renumbered from 340-025-0469; DEQ 15-1995, f. & cert. ef. 6-16-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-032-5650; DEQ 1-2002, f. & cert. ef. 2-4-02; DEQ 19-2002(Temp), f. & cert. ef. 12-23-02 thru 6-21-03; DEQ 9-2003, f. 5-21-03, cert. ef. 6-21-03