

Article 19.

Asbestos Hazard Management.

**§ 130A-444. Definitions.**

Unless a different meaning is required by the context, the following definitions apply throughout this Article:

- (1) "AHERA" means Title II, Asbestos Hazard Emergency Response Act of the Toxic Substances Control Act, 15 U.S.C. § 2601, et seq., as amended by the Asbestos School Hazard Abatement Reauthorization Act of 1990, P.L. 101-637, 104 Stat. 4589 ("ASHARA").
- (2) "Asbestos" means asbestiform varieties of chrysotile (serpentine), crocidolite (riebeckite), amosite (cummingtonite-grunerite), anthophyllite, tremolite and actinolite.
- (3) "Asbestos containing material" means material which contains more than one percent (1%) asbestos, including friable asbestos containing material and nonfriable asbestos containing material.
- (3a) "Asbestos NESHAP for demolition and renovation" means that portion of the National Emission Standards for Hazardous Air Pollutants for asbestos that governs demolition and renovation as set out in 40 CFR §§ 61.141, 61.145, 61.150, and 61.154 (1 July 1993 edition).
- (4) "Abatement" means work performed to repair, maintain, remove, isolate, or encapsulate asbestos containing material. The term does not include inspections, preparation of management plans, abatement project design, taking of samples, or project overview.
- (5) "Friable" means any material that when dry can be broken, crumbled, pulverized, or reduced to powder by hand pressure, and includes previously nonfriable material after such material becomes damaged to the extent that when dry it can be crumbled, pulverized, or reduced to powder by hand pressure.
- (6) "Management" means all activities related to asbestos containing material, including inspections, preparation of management plans, abatement project design, abatement, project overview, and taking of samples.
- (6a) "Person" means an individual, a corporation, a company, an association, a partnership, a unit of local government, a State or federal agency, or any other legal entity.
- (7) "Public area" means those areas in any building other than a residence that are not covered under the Occupational Safety and Health Act of 1970, Pub. L. 91-596, 84 Stat. 1590, 29 U.S.C. § 651, et seq., as amended.
- (8) "Removal" means stripping, chipping, sanding, sawing, drilling, scraping, sucking, and other methods of separating material from its installed location in a building.
- (9) "Residence" means any single family dwelling or any multi-family dwelling of fewer than 10 units. (1989, c. 724, s. 1; 1993 (Reg. Sess., 1994), c. 686, s. 2; 1995, c. 123, s. 7.)

**§ 130A-445. Management of asbestos containing material in schools.**

All school buildings subject to the provisions of AHERA shall be inspected for asbestos containing materials and shall prepare and submit management plans to the Department. The Commission shall adopt rules governing school management plans. These rules shall specify the content and format of plans, the plan review and approval process, schedules and methods for implementation of approved plans, and periodic inspection requirements. (1989, c. 724, s. 1.)

**§ 130A-446. Asbestos exposure standard for public areas.**

The Commission shall adopt rules to establish a maximum airborne asbestos exposure level for public areas. Such rules shall also specify sampling and analysis procedures. (1989, c. 724, s. 1.)

**§ 130A-447. Accreditation of persons performing asbestos management and approval of training courses.**

(a) No person shall commence or continue to perform asbestos management activities unless he has been accredited by the Department. No person shall commence or continue to provide asbestos related training courses unless the course has been approved by the Department. The Commission shall adopt rules governing the accreditation of persons performing asbestos management activities and the approval of training courses. Such rules shall include categories of accreditation and shall specify appropriate education, experience, and training requirements. The rules shall establish separate categories of accreditation for inspectors, management planners, abatement designers, supervisors, workers, air monitors, and supervising air monitors. These rules shall be at least as stringent as the accreditation plan required under AHERA and regulations adopted pursuant thereto.

(b) A person who applies for accreditation in the worker category may engage in asbestos containing material management activities as though he were accredited in the worker category for up to 90 days after the date he submits his application. No person whose application is rejected may continue to engage in asbestos containing material management activities under this subsection.

(c) The following persons are exempt from the accreditation requirements:

- (1) The owner or operator of a building, other than school buildings subject to the provisions of AHERA, and his permanent employees when performing small-scale, short duration activities, as defined in 40 C.F.R. Pt. 763, Subpt. E, Appendix C (1994).
- (2) A person performing asbestos containing material management activities in his personal residence.
- (3) Governmental regulatory personnel performing inspections of asbestos containing material management activities solely for the purpose of determining compliance with applicable statutes or regulations.
- (4) Persons licensed by the General Contractors Licensing Board, State Board of Examiners of Plumbing and Heating Contractors, State Board of Examiners of Electrical Contractors, or the State Board of Refrigeration Examiners when engaged in activities associated with their license when performing small-scale, short duration activities, as defined in 40 C.F.R. Pt. 763, Subpt. E, Appendix C (1994). (1989, c. 724, s. 1; 1993 (Reg. Sess., 1994), c. 686, s. 3; 1995, c. 123, s. 8.)

**§ 130A-448. Asbestos management accreditation fees and course approval fees.**

(a) The Department shall establish and collect asbestos containing material management accreditation and annual renewal fees to support the asbestos hazard management program. The fees shall not exceed one hundred dollars (\$100.00) per accreditation category, except that the fee for the abatement worker category shall not exceed twenty-five dollars (\$25.00). A person who is accredited in more than one category shall pay a fee for each category.

(b) The Department shall establish and collect fees for approving asbestos management training courses and fees for renewing course approval annually to support the asbestos hazard management program. The fees for approving a training course shall not exceed one thousand five hundred dollars (\$1,500) for each course. The annual renewal fees shall not exceed five hundred dollars (\$500.00) for each course. Each category of a training course shall be subject to a separate fee for its initial approval and a separate fee for its annual renewal. (1989, c. 724, s. 1; 1993 (Reg. Sess., 1994), c. 686, s. 4.)

**§ 130A-449. Asbestos containing material removal permits.**

No person shall engage in asbestos abatement involving more than 35 cubic feet, 160 square feet, or 260 linear feet per job of asbestos containing material without an asbestos containing material removal permit issued by the Department. The Commission shall adopt rules governing such permits. Such rules may provide for exemption from the requirements of this section. (1989, c. 724, s. 1.)

**§ 130A-450. Asbestos containing material removal permit fees.**

An applicant for an asbestos containing material removal permit is subject to a fee payable to the Department. The fee is a departmental receipt of the Department and must be used to offset the cost of the asbestos hazard management program. An applicant for a permit must indicate whether the asbestos is to be removed as part of a renovation or a demolition. If the asbestos is to be removed as part of a renovation, the fee is the amount set by the Department and may not exceed one percent (1%) of the contracted price or twenty cents (\$.20) per square foot or linear foot of asbestos containing material to be removed, whichever is greater. If the asbestos is to be removed as part of a demolition, the fee is the greater of the following, not to exceed one thousand five hundred dollars (\$1,500):

- (1) One percent (1%) of the contracted price.
- (2) An amount set by the Department not to exceed twenty cents (\$.20) per square foot or linear foot of asbestos containing material to be removed. (1989, c. 724, s. 1; 2008-107, s. 29.6(a).)

**§ 130A-451. Commission to adopt rules.**

For the protection of the public health, the Commission shall adopt rules to implement this Article, AHERA, and the asbestos NESHAP for renovations and demolitions. (1989, c. 724, s. 1; 1993 (Reg. Sess., 1994), c. 686, s. 5.)

**§ 130A-452. Local air pollution control programs.**

(a) The Department may authorize any local air pollution control program to adopt and enforce the asbestos NESHAP for demolition and renovation if the local air pollution control program is certified by the North Carolina Environmental Management Commission pursuant to G.S. 143-215.112. The Department shall authorize any local air pollution control program to adopt and enforce the asbestos NESHAP for demolition and renovation if the local air pollution control

program was certified by the North Carolina Environmental Management Commission pursuant to G.S. 143-215.112 prior to October 1, 1994. A local air pollution control program shall continue to be authorized by the Department to enforce the asbestos NESHAP for demolition and renovation so long as the local air pollution control program maintains its certification under G.S. 143-215.112 and complies with any rules adopted by the Commission for Public Health pursuant to subsection (b) of this section. Any local air pollution control program authorized to adopt and enforce the asbestos NESHAP for demolition and renovation shall have the authority to enforce the asbestos NESHAP for demolition and renovation under G.S. 130A-18, 130A-22(b1), 130A-22(b2), and 130A-25. Judicial review of an administrative penalty assessed under G.S. 130-22(b1) and G.S. 130A-22(b2) shall be as provided in G.S. 143-215.112(d2)(1) and Article 4 of Chapter 150B of the General Statutes.

(b) The Commission for Public Health shall adopt rules regarding the authorization of local air pollution control programs to enforce the asbestos NESHAP for demolition and renovation. (1993 (Reg. Sess., 1994), c. 686, s. 7; 1995, c. 123, s. 6; 2007-182, s. 2.)

**§ 130A-453. Reserved for future codification purposes.**