

WSR 25-01-113
PROPOSED RULES
NORTHWEST CLEAN
AIR AGENCY

[Filed December 16, 2024, 12:02 p.m.]

Original Notice.

Proposal is exempt under RCW 70A.15.2040(1).

Title of Rule and Other Identifying Information: Regulation of the Northwest Clean Air Agency (NWCAA).

Hearing Location(s): On January 30, 2025, at 10:00 a.m., at the NWCAA Office, 1600 South 2nd Street, Mount Vernon, WA; or video and teleconference <https://us06web.zoom.us/j/81500220767>, Meeting ID 815 0022 0767, phone 253-215-8782.

Date of Intended Adoption: February 13, 2025.

Submit Written Comments to: Mark Buford, 1600 South 2nd Street, Mount Vernon, WA 98273, email info@nwcleanairwa.gov, fax 360-428-1620, beginning January 2, 2025, at 9:00 a.m., by January 30, 2025, at 4:30 p.m.

Assistance for Persons with Disabilities: Contact Tanya Asmundson, phone 360-428-1617, fax 360-428-1620, email info@nwcleanairwa.gov, by January 21, 2025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Update the regulation of the NWCAA to reflect the incorporation of San Juan County into the NWCAA jurisdiction as of July 1, 2025 (NWCAA Section 100).

Modify NWCAA section 570 to generically reference the counties within NWCAA jurisdiction (NWCAA Section 570).

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: Chapter 70A.15 RCW.

Statute Being Implemented: RCW 70A.15.1540 and [70A.15.]1550.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: NWCAA, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Mark Buford, 1600 South 2nd Street, Mount Vernon, WA, 360-428-1617.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable under RCW 70A.15.2040.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 70A.15.2040.

Explanation of exemptions: Not applicable under RCW 70A.15.2040.

Scope of exemption for rule proposal:

Is fully exempt.

December 13, 2024
Mark Buford
Executive Director

AMENDATORY SECTION

SECTION 100 - NAME OF AGENCY

100.1 The multi-county agency, consisting of Island, Skagit and Whatcom Counties and, as of July 1, 2025, San Juan County, having been

formed pursuant to the Washington State Clean Air Act RCW 70A.15, shall be known and cited as the "Northwest Clean Air Agency", and hereinafter may be cited as the "NWCAA" or the "Authority."

100.2 Any reference to the Northwest Air Pollution Authority, the Authority or the NWAPA in any document previously issued by the agency, including without limitation orders, permits, judgments, letters and the like shall be deemed reference to the Northwest Clean Air Agency or the NWCAA.

PASSED: January 8, 1969 AMENDED: July 14, 2005, August 8, 2024, February 13, 2025

AMENDATORY SECTION

SECTION 570 - ASBESTOS CONTROL STANDARDS

570.1 The Board of Directors of the Northwest Clean Air Agency recognize that asbestos is a serious health hazard. Any asbestos fibers released into the air can be inhaled and can cause lung cancer, pleural mesothelioma, peritoneal mesothelioma or asbestosis. The Board has, therefore, determined that any asbestos emitted to the ambient air is air pollution. Because of the seriousness of the health hazard, the Board of Directors has adopted this regulation to control asbestos emissions from asbestos removal projects in order to protect the public health. In addition, the Board has adopted these regulations to coordinate with the United States Environmental Protection Agency (EPA) asbestos National Emission Standards for Hazardous Air Pollutants (NESHAP); the federal Occupational Safety & Health Administration (OSHA) asbestos regulation; the Washington State Department of Labor & Industries asbestos regulations; the Washington State Department of Ecology Dangerous Waste regulation; and the solid waste regulations of the counties in NWCAA jurisdiction. ((~~Island, Skagit and Whatcom Counties.~~))

570.2 DEFINITIONS

AHERA BUILDING INSPECTOR - A person who has successfully completed the training requirements for a building inspector established by EPA Asbestos Model Accreditation Plan (40 CFR Part 763, Subpart E, Appendix C, I.B.3) and whose certification is current.

AHERA PROJECT DESIGNER - A person who has successfully completed the training requirements for an abatement project designer established by EPA regulations (40 CFR Part 763, Subpart E, Appendix C, I.B.5) and whose certification is current.

ASBESTOS - The asbestiform varieties of actinolite, amosite (cummingtonite-grunerite), tremolite, chrysotile (serpentine), crocidolite (riebeckite), or anthophyllite.

ASBESTOS-CONTAINING MATERIAL - Any material containing more than 1 percent asbestos as determined using the method specified in 40 CFR Part 763 Subpart E, Appendix E, Section 1, Polarized Light Microscopy. This definition includes any loose vermiculite, unless sampled using the Cincinnati Method (EPA 600/R-04/004) and found to contain 1 percent or less asbestos.

ASBESTOS-CONTAINING WASTE MATERIAL - Any waste that contains or is contaminated with asbestos-containing material. Asbestos-containing waste material includes asbestos waste from control equipment, materials used to enclose the work area during an asbestos project, asbestos-containing material collected for disposal, asbestos-contaminated waste, debris, containers, bags, protective clothing, or HEPA filters.

Asbestos-containing waste material does not include samples of asbestos-containing material taken for testing or enforcement purposes.

ASBESTOS PROJECT - Any activity involving the abatement, renovation, demolition, removal, salvage, clean up, or disposal of asbestos-containing material, or any other action that disturbs or is likely to disturb any asbestos-containing material. It includes the removal and disposal of stored asbestos-containing material or asbestos-containing waste material. It does not include the application of duct tape, rewettable glass cloth, canvas, cement, paint, or other non-asbestos materials to seal or fill exposed areas where asbestos fibers may be released.

ASBESTOS SURVEY - A written report describing an inspection using the procedures contained in EPA regulations (40 CFR 763.85 & 763.86), or an alternate method that has received prior written approval from the Control Officer, to determine whether materials or structures to be worked on, renovated, removed, or demolished (including materials on the outside of structures) contain asbestos.

COMPETENT PERSON - A person who is capable of identifying asbestos hazards and selecting the appropriate asbestos control strategy, has the authority to take prompt corrective measures to eliminate them, and has been trained and is currently certified in accordance with the standards established by the Washington State Department of Labor & Industries, the federal OSHA, or the EPA (whichever agency has jurisdiction).

COMPONENT - Any equipment, pipe, structural member, or other item covered or coated with, or manufactured from, asbestos-containing material.

DEMOLITION - Wrecking, razing, leveling, dismantling, or burning of a structure, making all or part of the structure permanently uninhabitable or unusable.

FRIABLE ASBESTOS-CONTAINING MATERIAL - Asbestos-containing material that, when dry, can be crumbled, disintegrated, or reduced to powder by hand pressure or by the forces expected to act upon the material in the course of demolition, renovation, or disposal. Such materials include, but are not limited to, thermal system insulation, surfacing material, and cement asbestos products.

LEAK-TIGHT CONTAINER - A dust-tight and liquid-tight container, at least 6-mil thick, that encloses asbestos-containing waste material and prevents solids or liquids from escaping or spilling out. Such containers may include sealed plastic bags, metal or fiber drums, and sealed polyethylene plastic.

NONFRIABLE ASBESTOS-CONTAINING MATERIAL - Asbestos-containing material that, when dry, cannot be crumbled, disintegrated, or reduced to powder by hand pressure or by the forces expected to act on the material in the course of demolition, renovation, or disposal.

OWNER-OCCUPIED, SINGLE-FAMILY PRIMARY RESIDENCE (OOSFPR) - Any non-multiple unit building containing space for uses such as living, sleeping, preparation of food, and eating that is currently used by one family who owns the property as their primary residence. This term includes houses, mobile homes, trailers, detached garages, houseboats, and houses with a "mother-in-law apartment" or "guest room". This term does not include rental property or multiple-family units, nor does this term include any mixed-use building, structure, or installation that contains a residential unit.

PERSON - Any individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or government agency.

RENOVATION - Altering a facility or a component in any way, except demolition.

SURFACING MATERIAL - Material that is sprayed-on, troweled-on, or otherwise applied to surfaces including, but not limited to, acoustical plaster on ceilings, paints, fireproofing materials on structural members, or other materials on surfaces for decorative purposes.

SUSPECT ASBESTOS-CONTAINING MATERIAL - Material that has historically contained asbestos including, but not limited to, surfacing material, thermal system insulation, roofing material, fire barriers, gaskets, flooring material, and siding.

THERMAL SYSTEM INSULATION - Material applied to pipes, fittings, boilers, tanks, ducts, or other structural components to prevent heat loss or gain.

570.3 ASBESTOS SURVEY REQUIREMENTS

(A) Requirements for Renovations

It shall be unlawful for any person to cause or allow a renovation unless the property owner or the owner's agent determines whether there are suspect asbestos-containing materials in the work area and obtains an asbestos survey of any suspect asbestos-containing materials by an AHERA building inspector. An AHERA building inspector is not required for asbestos surveys associated with the renovation of an owner-occupied, single-family primary residence.

(1) If there are no suspect materials in the work area, this determination shall either be posted at the work site or communicated in writing to all contractors involved in the renovation.

(2) It is not required that an AHERA building inspector evaluate any material presumed to be asbestos-containing material.

(3) Except for renovations of an owner-occupied, single-family primary residence, only an AHERA building inspector may determine that a suspect material does not contain asbestos.

(4) A summary of the results of the asbestos survey shall either be posted by the property owner or the owner's agent at the work site or communicated in writing to all persons who may come into contact with the material.

(B) Requirements for Demolitions

It shall be unlawful for any person to cause or allow any demolition unless the property owner or the owner's agent obtains an asbestos survey by an AHERA building inspector of the structure to be demolished.

(1) It is not required that an AHERA building inspector evaluate any material presumed to be asbestos-containing material.

(2) Only an AHERA building inspector may determine that a suspect material does not contain asbestos.

(3) A summary of the results of the asbestos survey shall either be posted by the property owner or the owner's agent at the work site or communicated in writing to all persons who may come into contact with the material.

570.4 NOTIFICATION REQUIREMENTS

(A) General Requirements

It shall be unlawful for any person to cause or allow any work on an asbestos project or demolition unless a complete notification, including the required fee and any additional information requested by the Control Officer, has been submitted to the NWCAA on approved

forms, in accordance with the advance notification period requirements contained in NWCAA 570.4(D).

(1) The duration of an asbestos project shall be commensurate with the amount of work involved.

(2) Notification is not required for asbestos projects except demolition involving less than 10 linear feet or 48 square feet (per structure, per calendar year) of any asbestos-containing material.

(3) Notification is not required for removal and disposal of the following nonfriable asbestos-containing materials: caulking, window glazing, or roofing. All other asbestos project and demolition requirements remain in effect except as provided by NWCAA Section 570.

(4) Notification is required for all demolitions of structures with a greater than 120 square feet footprint even if no asbestos-containing material is present. All other demolition requirements remain in effect.

(5) The written notification shall be accompanied by the appropriate nonrefundable fee as set forth in NWCAA 324.8 unless prior arrangements for payment have been made with the NWCAA.

(6) A copy of the notification, all amendments to the notification, the asbestos survey, and any written approval from NWCAA for an alternate means of compliance shall be available for inspection at all times at the asbestos project or demolition site.

(7) Annual Notification

A property owner may file one annual notification for asbestos projects to be conducted on one or more structures, vessels, or buildings during each calendar year if all of the following conditions are met:

(a) The annual notification shall be filed with the NWCAA before commencing work on any asbestos project included in an annual notification;

(b) The total amount of asbestos-containing material for all asbestos projects in a calendar year under this section is less than 260 linear feet on pipes or less than 160 square feet on other components; and

(c) The property owner submits quarterly written reports to the Control Officer on NWCAA-approved forms within 15 days after the end of each calendar quarter.

(B) Mandatory Amendments

An amendment shall be submitted to the Control Officer for the following changes in a notification:

(1) Increases in the project type or job size category that increase the fee or change the advance notification period;

(2) Changes in the type of asbestos-containing material that will be removed; or

(3) Changes in the start date, completion date, or work schedule, including hours of work.

(C) Emergencies

The Control Officer may waive the advance notification period, if the property owner submits a written request that demonstrates to the Control Officer that an asbestos project or demolition must be conducted immediately because of any of the following:

(1) There was a sudden, unexpected event that resulted in a public health or safety hazard;

(2) The project must proceed immediately to protect equipment, ensure continuous vital utilities, or minimize property damage;

(3) Asbestos-containing materials were encountered that were not identified during the asbestos survey; or

(4) The project must proceed to avoid imposing an unreasonable burden.

(D) Notification Period

Project Categories	Notification Waiting Period
Owner-Occupied Single-Family Primary Residence (OOSFPR) Projects ≥10 Ln Ft or ≥48 Sq Ft Demolition* Emergency (NWCAA 570.4(C))	Prior notice 10 days Prior notice
Other Projects 10-259 Ln Ft or 48-159 Sq Ft 260-999 Ln Ft or 160-4999 Sq Ft 1,000-9,999 Ln Ft or 5,000-49,999 Sq Ft ≥10,000 Ln Ft or ≥50,000 Sq Ft Demolition* Emergency (NWCAA 570.4(C)) Annual (NWCAA 570.4 (A)(7))	3 days 10 days 10 days 10 days 10 days Prior notice Prior notice
Alternate Means of Compliance and Amendments Alternate Means of Compliance (NWCAA 570.5(B)) Amendment (NWCAA 570.4(B))	10 days Prior notice

*At the request of the applicant, NWCAA may reduce or waive the waiting period for demolition projects with an asbestos survey showing <10 linear feet or <48 square feet of asbestos.

The Control Officer may waive the notification period, by written authorization, for disposal of unused and intact or abandoned (without the knowledge or consent of the property owner) asbestos-containing materials. All other asbestos project and demolition requirements remain in effect.

570.5 ASBESTOS REMOVAL REQUIREMENTS PRIOR TO RENOVATION OR DEMOLITION

(A) Removal of Asbestos Prior to Renovation or Demolition

Except as provided in NWCAA 570.6(C), it shall be unlawful for any person to cause or allow any demolition or renovation that may disturb asbestos-containing material or damage a structure so as to preclude access to asbestos-containing material for future removal, without first removing all asbestos-containing material in accordance with the requirements of this regulation. Asbestos-containing material need not be removed from a component if the component can be removed, stored, or transported for reuse without disturbing or damaging the asbestos.

(B) Exception for Hazardous Conditions

Asbestos-containing material need not be removed prior to a demolition, if the property owner demonstrates to the Control Officer that it is not accessible because of hazardous conditions such as: structures or buildings that are structurally unsound and in danger of imminent collapse, or other conditions that are immediately dangerous to life and health. The property owner must submit the written determination of the hazard by an authorized government official or a licensed structural engineer, and must submit the procedures that will be followed for controlling asbestos emissions during the demolition or renovation and disposal of the asbestos-containing waste material. This submittal, referred to as an alternative means of compliance, shall be submitted to NWCAA for written approval.

570.6 PROCEDURES FOR ASBESTOS PROJECTS

(A) Training Requirements

It shall be unlawful for any person to cause or allow any work on an asbestos project unless it is performed by persons trained and certified in accordance with the standards established by the Washington State Department of Labor & Industries, the federal OSHA, or the EPA (whichever agency has jurisdiction) and whose certification is current. This certification requirement does not apply to individuals who work on asbestos projects on their own owner-occupied single-family primary residence, no part of which is used for any commercial purpose.

(B) Asbestos Removal Work Practices

Except as provided in NWCAA 570.6(C), it shall be unlawful for any person to cause or allow the removal of asbestos-containing material unless all the following requirements are met:

(1) The asbestos project shall be conducted in a controlled area, clearly marked by barriers and asbestos warning signs. Access to the controlled area shall be restricted to authorized personnel only.

(2) If a negative pressure enclosure is employed it shall be equipped with transparent viewing ports, if feasible, and shall be maintained in good working order.

(3) Absorbent, asbestos-containing materials, such as surfacing material and thermal system insulation, shall be saturated with a liquid wetting agent prior to removal. Any unsaturated, absorbent, asbestos-containing materials exposed during removal shall be immediately saturated with a liquid wetting agent.

(4) Nonabsorbent, asbestos-containing materials, such as cement asbestos board or vinyl asbestos tile, shall be continuously coated with a liquid wetting agent on any exposed surface prior to and during removal. Any dry surfaces of nonabsorbent, asbestos-containing materials exposed during removal shall be immediately coated with a liquid wetting agent.

(5) Metal components (such as valves, fire doors, and reactor vessels) that have internal asbestos-containing material are exempt from the requirements of NWCAA 570.6 (B) (3) and 570.6 (B) (4) if all access to the asbestos-containing material is welded shut or the component has mechanical seals, which cannot be removed by hand, that separate the asbestos-containing material from the environment.

(6) Except for surfacing materials being removed inside a negative pressure enclosure, asbestos-containing materials that are being removed, have been removed, or may have fallen off components during an asbestos project shall be carefully lowered to the ground or a lower floor, not dropped, thrown, slid, or otherwise damaged.

(7) All asbestos-containing waste material shall be sealed in leak-tight containers as soon as possible after removal but no later than the end of each work shift.

(8) All absorbent, asbestos-containing waste material shall be kept saturated with a liquid wetting agent until sealed in leak-tight containers while saturated with a liquid wetting agent. All nonabsorbent, asbestos-containing waste material shall be kept coated with a liquid wetting agent until sealed in leak-tight containers while coated with a liquid wetting agent.

(9) The exterior of each leak-tight container shall be free of all asbestos residue and shall be permanently labeled with an asbestos warning sign as specified by the Washington State Department of Labor & Industries or the federal OSHA.

(10) Immediately after sealing, each leak-tight container shall be permanently marked with the date the material was collected for disposal, the name of the waste generator, and the address at which

the waste was generated. This marking must be readable without opening the container.

(11) Leak-tight containers shall not be dropped, thrown, slid, or otherwise damaged.

(12) The asbestos-containing waste material shall be stored in a controlled area until transported to an approved waste disposal site.

(C) Method of Removal for Nonfriable Asbestos-Containing Roofing Material

The following asbestos removal method shall be employed for asbestos-containing roofing material that has been determined to be nonfriable by a Competent Person or an AHERA Project Designer:

(1) The nonfriable asbestos-containing roofing material shall be removed using methods such as spud bar and knife. Removal methods such as sawing or grinding shall not be employed;

(2) Dust control methods shall be used as necessary to assure no fugitive dust is generated from the removal of nonfriable asbestos-containing roofing material;

(3) Nonfriable asbestos-containing roofing material shall be carefully lowered to the ground to prevent fugitive dust;

(4) After being lowered to the ground, the nonfriable asbestos-containing roofing material shall be immediately transferred to a disposal container; and

(5) Each disposal container shall have a sign identifying the material as nonfriable asbestos-containing roofing material.

570.7 COMPLIANCE WITH OTHER RULES

Other government agencies have adopted rules that may apply to asbestos projects regulated under these rules including, but not limited to, the Washington State Department of Labor & Industries, the federal OSHA, and the EPA. Nothing in the Agency's rules shall be construed as excusing any person from complying with any other applicable local, state, or federal requirement.

570.8 DISPOSAL OF ASBESTOS-CONTAINING WASTE MATERIAL

(A) Except as provided in NWCAA 570.8(C), it shall be unlawful for any person to cause or allow the disposal of asbestos-containing waste material unless it is deposited within 10 days of removal at a waste disposal site authorized to accept such waste.

(B) Waste Tracking Requirements

It shall be unlawful for any person to cause or allow the disposal of asbestos-containing waste material unless the following requirements are met:

(1) Maintain waste shipment records, beginning prior to transport, using a form that includes the following information:

(a) The name, address, and telephone number of the waste generator;

(b) The approximate quantity in cubic meters or cubic yards;

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

(d) The name and physical site location of the disposal site;

(e) The date transported;

(f) The name, address, and telephone number of the transporter;

and

(g) A certification that the contents of the consignment are fully and accurately described by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper

condition to transport by highway according to applicable international and government regulations.

(2) Provide a copy of the waste shipment record to the disposal site at the same time the asbestos-containing waste material is delivered.

(3) If a copy of the waste shipment record, signed by the owner or operator of the disposal site, is not received by the waste generator within 35 calendar days of the date the waste was accepted by the initial transporter, contact the transporter and/or the owner or operator of the disposal site to determine the status of the waste shipment.

(4) If a copy of the waste shipment record, signed by the owner or operator of the disposal site, is not received by the waste generator within 45 days of the date the waste was accepted by the initial transporter, report in writing to the Control Officer. Include in the report, a copy of the waste shipment record and a cover letter signed by the waste generator explaining the efforts taken to locate the asbestos waste shipment and the results of those efforts.

(5) Retain a copy of all waste shipment records, including a copy of the waste shipment record signed by the owner or operator of the designated waste disposal site, for at least 2 years.

(C) Temporary Storage Site

A person may establish a facility for the purpose of collecting and temporarily storing asbestos-containing waste material if the facility is approved by the Control Officer and all the following conditions are met:

(1) Accumulated asbestos-containing waste material shall be kept in a controlled storage area posted with asbestos warning signs and accessible only to authorized persons;

(2) All asbestos-containing waste material shall be stored in leak-tight containers and the leak-tight containers shall be maintained in good condition;

(3) The storage area must be locked except during transfer of asbestos-containing waste material; and

(4) Storage, transportation, disposal, and return of the waste shipment record to the waste generator shall not exceed 90 days.

(D) Disposal of Asbestos Cement Pipe

Asbestos cement pipe used on public right-of-ways, public easements, or other places receiving the prior written approval of the Control Officer may be buried in place if the pipe is covered with at least 3 feet or more of non-asbestos fill material. All asbestos cement pipe fragments that are 1 linear foot or less and other asbestos-containing waste material shall be disposed of at a waste disposal site authorized to accept such waste.

PASSED: November 12, 1998 AMENDED: July 14, 2005, November 8, 2007, September 11, 2014, November 10, 2022, February 13, 2025