



Permit Issues in Demolition and Renovation: Asbestos Filings

Can a contractor or sub-contractor violate an asbestos regulation where there is no asbestos?

It seems an easy question. If you assume that asbestos regulations are designed to ensure that asbestos-containing materials are properly managed during construction projects, you might reasonably think that the answer is “no.” And, if you were shown a form entitled “Notification of Intention to Demolish or Renovate Structure(s) or Equipment Having Asbestos-Containing Material,” or an Alabama Department of Environmental Management form entitled “Notice of Demolition and/or Asbestos Removal,” you might conclude that such a form only was required if the “structure” being demolished or renovated had asbestos in it.

You would be wrong. Not only would you be wrong, but your failure to file the correct form could result in a significant fine. To make matters worse, you might not be the only one fined; a similar fine might also be imposed on the building owner. Needless to say, the impact of the fine on your relationship with the owner could have even more serious implications than your payment of the fine.

So what do you need to know to avoid such an issue?

First, if you are doing any demolition work on an “institutional, commercial, public, industrial, or residential structure, installation, or building (including any structure, installation, or building containing condominiums or individual dwelling units operated as a residential cooperative, but excluding residential buildings having four or fewer dwelling units); any ship; and any active or inactive waste disposal site” (40 CFR 61.141), you must submit a notification form before the demolition work begins. This is true even if there is no asbestos.

Second, if you are doing renovation work, the rule is different and more complicated. Accordingly, before beginning any renovation work, you should make sure that you know and comply with the applicable rules. In particular, make sure that you correctly identify the agency with authority over the construction and submit the proper documentation to that agency.

Third, rules like this exist throughout the United States.

Finally, if you receive a Notice of Violation for a failure to comply with these rules, you should move swiftly and proactively to address the situation and to resolve the matter with the agency that issued it. There is some flexibility in fine amounts, and a cooperative posture and quick settlement can result in reduced fines.

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