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## Asbestos Labeling Enforcement Policy

### Background

It has been brought to Spokane Regional Clean Air Agency's (SRCAA's) attention that traditional roles or lines of distinction between retailers, distributors, and wholesalers cross over in today's markets. For example, a retailer may retail 80% of its products, but may also distribute or wholesale 20% of its products.

In drafting the legislation, it was not SRCAA's intent to burden smaller, local retailers which have little, if any, control over product labeling. While their cooperation is essential in following-up on compliance issues that may be identified, the responsibility to comply rests with U.S. manufacturers, importers, and other such entities responsible for placing a product into commerce in Washington.

### Policy

If SRCAA finds a building product purchased from a local seller (regardless of whether that seller is classified as a retailer, wholesaler or distributor) that doesn't comply with the asbestos labeling law, it is SRCAA's intent to work with that seller to identify the entity responsible for manufacturing the product or importing it into the U.S. or first placing the product into Washington commerce. With information provided by the local seller, SRCAA will contact the responsible entity to inform it that the existing product labeling is illegal in Washington. Contact with entity may be made using a Notice of Corrective Action Required (template letter attached). A copy of educational literature will be included with the Notice of Corrective Action Required.

SRCAA will work with the entity as it takes measures to come into compliance. Corrective action measures may include, but are not limited to, one or more of the following:

Ensuring the entity:

- Promptly complies with labeling requirements for products manufactured in or imported into the U.S. and for products placed into commerce in Washington;
- Accepts returned noncompliant product(s);
- Transfers the product(s) to locations outside of Washington, where existing labeling is adequate;
- Affixes labels or re-labels the products in Washington; or
- Obtains a qualifying exemption from the Department of Ecology.

A Notice of Violation (NOV) may be issued if necessary corrective action is not taken or there are any subsequent violations involving the same entity. Issuance of a NOV is typically followed by the assessment of a civil penalty.

SRCAA Director Approval: William O. Demeroutis Date: 11-22-13

*working with you for clean air*



contains 30% post-consumer waste

**DRAFT**  
[Air Agency letterhead]

[Date]

[Address]

**RE: NOTICE OF CORRECTIVE ACTION REQUIRED**

Dear \_\_\_\_\_,

In 2013, the Washington State Legislature passed Chapter \_\_\_\_\_ RCW requiring labeling of building materials that contain asbestos. The purpose of this law is to allow consumers to make informed decisions about whether to purchase or use building materials containing asbestos. Enclosed with this letter is a fact sheet summarizing that law. In addition, a hyperlink to the law is included at the bottom of this letter.

This letter is to inform you that we have purchased and tested your product, \_\_\_\_\_, and found it to contain \_\_\_% asbestos. At the time the product was purchased, it did not have the cautionary label required by law.

The product was purchased at:

Name of retailer: \_\_\_\_\_  
Address of Retailer: \_\_\_\_\_  
Date of Purchase: \_\_\_\_\_

A Notice of Violation (NOV) may be issued for violations that have already occurred and/or continue to occur. A NOV typically results in the assessment of a civil penalty.

Please contact \_\_\_\_\_ by \_\_\_\_\_ at \_\_\_\_\_ to discuss required corrective action.

Sincerely,  
Spokane Regional Clean Air Agency

[Inspector Name]

A manufacturer, wholesaler or distributor of an asbestos-containing building material may request an exemption from the requirements (of up to three years) if labeling is technically infeasible or creates an undue economic hardship. Exemption requests must be submitted in writing to the Washington State Department of Ecology. For more information, please visit the following website: [http://www.ecy.wa.gov/programs/air/AOP\\_Permits/asbestos\\_label.html](http://www.ecy.wa.gov/programs/air/AOP_Permits/asbestos_label.html)

Following is a link to Washington State Substitute Senate Bill 5458 – Relating to the labeling of certain asbestos-containing building materials: <http://apps.leg.wa.gov/documents/billdocs/2013-14/Pdf/Bills/Session%20Laws/Senate/5458-S.SL.pdf>



## **A New Requirement to Label Building Materials that Contain Asbestos**

The 2013 Legislature passed a law requiring labeling for certain building materials that contain asbestos.

Asbestos is a naturally-occurring mineral fiber. Because of its strength and heat resistance, asbestos has been used in a variety of building construction materials. Today, asbestos-containing building materials are still imported, sold, and used in the United States. Asbestos is harmful to human health.

### **Who does the new law affect?**

The new law applies to manufacturers, wholesalers, or distributors of asbestos-containing building materials.

### **What the law requires**

Effective January 1, 2014, the marketers of products described above must prominently label both the product and packaging for the following building materials:

- Any building material naturally containing more than one percent asbestos.
- Any building material that has any amount of asbestos added to it.

### **Where to put the label**

Put the label:

- In a prominent location near the product name or description on the exterior wrapping or packaging in which the product is stored, shipped, and sold.
- On the exterior surface of the asbestos-containing building material itself, unless it is sold as a liquid or paste or unless it is sand or gravel.

### **WHY IT MATTERS**

Asbestos causes painful, premature death due to asbestosis, mesothelioma, lung and gastrointestinal cancers, and other diseases and cancers.

The U.S. Environmental Protection Agency (EPA) began regulating asbestos in 1973 and banned most use of asbestos in 1989. However, that rule was overturned a few years later.

Because few regulations exist requiring the disclosure of asbestos in building materials, people can unknowingly be exposed to asbestos.

The purpose of this law is to allow people to make informed decisions about whether to purchase or use building materials containing asbestos.

### **Contact information**

Contact Ecology or your local clean air agency for more information. To find contact information for your area, go to <http://www.ecy.wa.gov/programs/air/local.html>

### **Special accommodations**

If you need this document in a format for the visually impaired, call the Air Quality Program at 360-407-6800.

Persons with hearing loss, call 711 for Washington Relay Service. Persons with a speech disability, call 877-833-6341.

**What the label should say**

At a minimum, the label must read:

**CAUTION!** This product contains **ASBESTOS**, which is known to cause cancer and lung disease. Avoid creating dust. Intentionally removing or tampering with this label is a violation of state law.

**Exemptions****Labeling**

The labeling requirement does not apply to:

- Retailers that do not manufacture, wholesale or distribute asbestos-containing building materials are exempt from the labeling requirements.
- Asbestos-containing building materials that:
  - Have already been installed, applied or used by the consumer; or
  - Are used solely for United States Military purposes.

**Building materials**

The term “building materials” does not include products designed for:

- Automobiles;
- Recreational vehicles;
- Boats; or
- Other mobile means of transportation.

**How to request an exemption**

Any manufacturer, wholesaler, or distributor may request an exemption from the labeling requirement if affixing a label is technically infeasible or creates an undue economic hardship. Exemption requests must be submitted in writing to:

Department of Ecology  
Air Quality Program  
Asbestos Labeling  
PO Box 47600  
Lacey, WA 98504-7600

**Information for consumers**

People using asbestos-containing building materials should avoid creating and breathing dust. Before starting a project involving asbestos-containing materials, contact Ecology or a local clean air agency to learn about regulations and requirements for disturbing or handling asbestos-containing materials.