



Adelaide

Environmental Health Associates, Inc.

1511 Route 22, Suite C24
Brewster, NY 10509
Phone: 845.278.7710
Fax: 845.278.7750

Metro Center, 49 Court Street
Binghamton, NY 13901
Phone: 607.722.6839
Fax: 607.771.0752

1207 Delaware Avenue
Buffalo, NY 14209
Phone: 716.402.4580
Fax: 716.877.9570

www.adelaidellc.com
adelaidemail@adelaidellc.com

FULL-SERVICE ENVIRONMENTAL CONSULTING:

Hazardous materials investigation—*asbestos, lead, radon, PCBs*

Abatement planning, design, and project monitoring

Indoor air quality—*sampling, testing, and monitoring*

Industrial hygiene investigations

OSHA compliance audits and monitoring

Water testing, monitoring, and remediation

Microbiologicals consulting—*mold, bacteria*

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New NYS Asbestos Code Rule 56

On September 5, 2006 a new version of Industrial Code Rule 56, regulating the abatement of asbestos, went into effect. The NYS Department of Labor undertook this revision after many months of development and public input, in order to bring New York State regulation into greater conformity with current federal OSHA and EPA regulations. In addition, DOL has clarified many portions of the code, has incorporated most existing Applicable Variances into the new version, and has made the code more user-friendly by presenting it in the context of the consecutive steps of an abatement project.



The DOL has also published a Guidance Document to supplement the Code Rule. Based on interpretation requests that the DOL has received, the document has a question-and-answer format. "We believe that interpretation requests will continue to be submitted," notes Rosita DiCioccio of the DOL Engineering Services Unit. "Therefore the Guidance Document is an electronic document, available on the DOL Web site and updated frequently to incorporate new questions and answers."

Keeping Pace

As part of our initiative to provide a reliable information resource to the industry, Adelaide offers here a topline view of the major changes. Note there is something for everyone—consultants, owners, construction managers, designers, abatement contractors—everyone is impacted. Readers are encouraged to obtain a copy of the complete amended code rule at www.labor.state.ny.us.

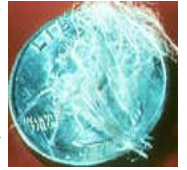
Who is responsible . . . for what?

A number of major definitions have been added to the code, including those of "asbestos contractor," "asbestos abatement contractor," and "multi-employer worksite." Understanding these terms is critical, since the new code assigns responsibilities to each of these roles. Building owners, or their representatives, must inform all employers expected to be at the worksite about the presence, location and quantity of ACM, PACM, or asbestos material, and the asbestos abatement contractor must inform all employers at the worksite about the nature and extent of their work. The asbestos abatement contractor is also responsible for notifications regarding the prohibition of ACM disturbance, and for notifications/response to elevated air sample results.

Ownership and correct procedure for dealing with the cleanup of an uncontrolled ACM disturbance is clarified, placing this responsibility on the property owner.

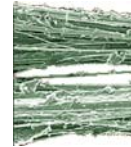
The code also places responsibility on all non-asbestos contractors for notification to the owner of newly discovered ACM/PACM. And all contractors performing a supervisory role on any work at the site must prohibit distur-

bance of ACM/PACM by non-asbestos contractors under their control, as well as require all asbestos contractors to be in compliance with the code rule. In other words, under the new code rule, no one is permitted to look the other way.



New Air Sampling Requirements

Owners are now required to obtain air monitoring services independent of the abatement contractor, to avoid the potential conflict of interest inherent in having the abatement contractor conduct air monitoring for the project. Additionally, the owner must engage an independent project monitor to conduct post-abatement visual inspection. DOL has acknowledged this will result in increased cost for the owner, but notes that costs may be contained by using the same independent firm for air monitor and project monitor, with a dually certified individual performing both roles.



Air sampling requirements are now determined by the quantity of ACM in the work area. And air sampling technicians must now remain on site for the duration of sample collection.

Recordkeeping

The project record must be available on site with the owner's representative during the "active phase" of work (the new code parses the chronology of a project into set phases), and the owner must maintain the entire project record after completion, turning it over to subsequent new owners. Also, recordkeeping requirements for non-asbestos contractors have been added to the code.

Procedural Details

Under the new code, only DOL-certified project designers may apply for a variance for any project. Other specific, detailed changes have been made to the code that affect the work-area preparation (decontamination unit size requirements, remote installations; electric shutdown, negative air and exhaust requirements, barriers and exemptions, have all been clarified or modified); handling (pre-abatement settling periods, sequential abatement of multiple types of asbestos, and dry removal are covered); final cleaning procedures have been changed and the requirement for a visual inspection by an independent project monitor following final cleaning has been added; some clearance procedures have been relaxed but more stringent requirements for waste removal in compliance with EPA standards will now apply.

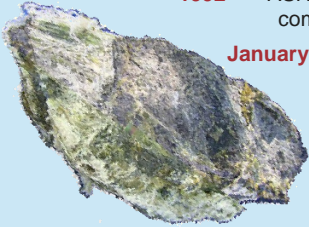
Survey and Bidding Requirements

Requirements are explicitly stated for when a survey must be completed, as are the exemptions to survey requirements. Concurrent bidding requirements for abatement projects have been included in the new code, and a number of special projects are covered. (See the complete document for details.)



AN ASBESTOS TIMELINE . . .

- 2000 BC** Egyptians use asbestos to make burial shrouds
- 800 AD** Charlemagne uses asbestos for his tablecloth, and cleans it in the fire
- 1900s** Asbestos is used with increasing frequency in American industry, especially in the building trades, driving toward today's estimate that 1.3 million American workers face significant asbestos exposure on the job
- 1926** Massachusetts Industrial Accidents Board processes the first successful compensation claim by a sick asbestos worker
- 1970** Asbestos is one of the first air pollutants regulated by the Clean Air Act
- 1986** AHERA is signed into law, regulating school management of ACM
- 1989** EPA bans all new uses of asbestos; uses established before this date are still allowed
- 1992** ASHARA becomes law, extending AHERA regulations to public and commercial buildings



January 11, 2006 NYS Department of Labor publishes final version of amended Industrial Code Rule 56; transition period begins and abatement projects may be conducted using either newly amended or previous version of Code Rule 56; site-specific variance petitions now decided based on new Code Rule 56

September 5, 2006 New York State's amended Code Rule 56 becomes effective

CAN YOU RECITE THE ASBESTOS ALPHABET?

- ACB** Asbestos Control Bureau of the New York State Department of Labor
- ACM, ACBM, PACM** asbestos-containing material, asbestos-containing building material; presumed asbestos-containing material
- AHERA** Asbestos Hazard Emergency Response Act
- ASHARA** Asbestos School Hazard Abatement Reauthorization Act
- ATSDR** Agency for Toxic Substances and Disease Registry
- CFR** Code of Federal Regulations
- COC** certificate of competence
- COC** chain of custody
- ELAP** Environmental Laboratory Accreditation Program, certifies laboratories that have demonstrated capability to analyze environmental samples using approved methods
- EPA** Environmental Protection Agency, a federal agency that regulates asbestos in tandem with OSHA
- IAQ** indoor air quality
- MFL** million fibers per liter
- NESHAPs** National Emission Standards for Hazardous Air Pollutants
- NIOSH** National Institute for Occupational Safety and Health, a federal agency within the Centers for Disease Control and Prevention that maintains and distributes asbestos information to the public
- NIST** National Institute of Standards and Technology; a nonregulatory federal agency that promotes measurements and standards; maintains the NVLAP list
- NOB** non-organically bound [material]
- NVLAP** National Voluntary Laboratory Accreditation Program, providing a list of laboratories approved to conduct PLM and/or TEM testing on bulk samples
- O&M** operations and maintenance
- OAQPS** Office of Air Quality Planning Standards, a division of the EPA
- ODW** Office of Drinking Water, federal agency that regulates contaminants
- OSHA** Occupational Safety and Health Administration, a federal agency that regulates asbestos with the EPA
- PACNY** Professional Abatement Contractors of New York Inc.
- PEL** permissible exposure limit
- PLM** polarized light microscopy; laboratory procedure used to determine the percentage of asbestos in a bulk sample
- PCM** phase contrast microscopy determines the amount of any and all fibers of a certain length, including asbestos, present in the air; most common method for air sample analysis
- TEM** transmission electron microscopy determines the percentage and type of asbestos present in bulk samples. Typically used for non-organically bound materials (NOBs). Also used to determine *the type* of fibers in the air, and is required for clearance on air samples on any NYS school projects.
- TSI** thermal system insulation

AN AHERA CHECKLIST FOR SCHOOLS

The rules implementing AHERA (CFR Chapter 40, Part 763, Subpart E) require local educational agencies (defined by EPA as “**public school districts and nonprofit private schools including charter schools and schools affiliated with religious institutions**”) to take specific actions:

- Perform an original inspection, and **re-inspection every three years**, of asbestos-containing material
- Develop, maintain, and update an asbestos management plan and keep a copy at the school
- Provide yearly notification to parent, teacher, and employee organizations regarding the availability of the school's asbestos management plan and any asbestos abatement actions taken or planned in the school
- Designate a contact person to ensure the responsibilities of the local education agency are properly implemented. (An EPA-prepared self-study guide for this designee is available on the EPA Web site at www.epa.gov/region2/ahera.)
- Perform periodic surveillance of known or suspected asbestos-containing building material
- Ensure that properly-accredited professionals perform inspections and response actions and prepare management plans
- Provide custodial staff with **asbestos-awareness training**

WHAT IS ASBESTOS?

Asbestos is a naturally occurring mineral fiber, once widely used in building materials for its thermal insulating properties and fire resistance. Although the removal of asbestos from school buildings is an option for schools, many schools and local education agencies have chosen to manage some asbestos-containing building material in place.

Intact, undisturbed asbestos-containing materials generally do not pose a health risk. These materials may become hazardous and pose increased risk if they are damaged, are disturbed in some manner, or deteriorate over time and thus release asbestos fibers into building air.

A number of building materials still in use today contain asbestos, including acoustic insulators, thermal insulation, fire proofing, roofing, flooring and other materials. You can find more information on asbestos at www.epa.gov/asbestos.