

ASBESTOS

Part 56 of Title 12 of the Official Compilation of Codes,
Rules and Regulations of the State of New York
(Cited as 12 NYCRR Part 56)

As Amended
Effective March 21, 2007

State of New York
Department of Labor

EXCERPT

56-4.1 Asbestos Survey Requirements for Building/Structure Demolition, Renovation, Remodeling and Repair

- (a) **Asbestos Survey Required.** An owner or an owner's agent, except the owner of one and two-family dwellings who contracts for, but does not direct or control the work, shall cause to be conducted, an asbestos survey completed by a licensed asbestos contractor using inspectors certified in compliance with Section 56-3.2(d), to determine whether or not the building or structure, or portion(s) thereof to be demolished, renovated, remodeled, or have repair work, contains ACM, PACM or asbestos material. This asbestos survey shall be completed and submitted as indicated in Subdivision (g) of this Section, prior to commencing work. All such asbestos surveys shall be conducted in conformance with the requirements of Subdivision (e) of this Section.
- (b) **Exemptions To Asbestos Survey Requirements:** The asbestos survey required by this Subdivision (a) of this Section shall not be required for the following classes of buildings or structures:
- (1) an agricultural building;
 - (2) buildings or structures for which original construction commenced on or after January 1, 1974;
 - (3) A structure certified in writing to be structurally unsound by a licensed Professional Engineer, Registered Architect, Building Inspector, Fire Inspector or other official of competent jurisdiction. (See Section 56-11.5)

- (c) **Building/Structure Demolition.** If a building/structure asbestos survey is not required or performed per Subdivision (b) of this Section, and the building/structure is certified to be unsound or slated for contracted demolition, the building/structure shall be assumed to contain asbestos, and shall be demolished per this Part, unless the building/structure is adequately certified to be free of asbestos containing material. Acceptable documentation for certification shall be a previous thorough building/structure asbestos survey, abatement records or other documentation acceptable to the Commissioner or his or her representative.
- (d) **Responsibility To Comply.** No exemption to the requirement to conduct an asbestos survey shall exempt any person, asbestos contractor, property owner or business entity from the inspection or asbestos survey requirements of EPA, OSHA, and any other applicable section of this Part.
- (e) **Building/Structure Asbestos Survey Requirements.** The asbestos survey shall include a thorough inspection for and identification of all PACM, suspect miscellaneous ACM, or asbestos material throughout the building/structure or portion thereof to be demolished, renovated, remodeled, or to have repair work. The required inspection shall be performed by a certified asbestos inspector, and, at a minimum, shall include identification of PACM, suspect miscellaneous ACM or asbestos material by all of the following methods:
- (1) The review of building/structure plans and records, if available, for references to asbestos, ACM, PACM, suspect miscellaneous ACM or asbestos material used in construction, renovation or repair; and
 - (2) A visual inspection for PACM and suspect miscellaneous ACM throughout the building/structure or portion thereof to be demolished, renovated, remodeled, or repaired. For the purpose of this Part, all PACM and suspect miscellaneous ACM visually assessed shall be treated and handled as ACM and shall be assumed to be ACM, unless bulk sampling is conducted as per this Section, standard EPA and OSHA accepted methods, including multi-layered systems sampling protocols; the subsequent analyses are performed by a laboratory that meets the requirements of Section 56-4.2 of this Part; and the analyses satisfies both ELAP and federal requirements, including multi-layered sample analyses, to document non-asbestos containing material.
- (f) **Building/Structure Asbestos Survey Information.**
- (1) The asbestos survey shall, at a minimum, identify and assess with due diligence, the locations, quantities, friability and conditions of all types of installations at the affected portion of the building/structure relative to the ACM, suspect miscellaneous ACM, PACM or asbestos material contained therein. The following list is not inclusive of all types of ACMs, it only summarizes typical ACMs. The certified asbestos inspector is responsible for identification and assessment of all types ACM, PACM, suspect miscellaneous ACM and asbestos material within the affected portion of the building/structure:

PACM

(i) **Surfacing Treatments:**

- (a) Fireproofing;
- (b) Acoustical Plaster;
- (c) Finish Plasters; and
- (d) Skim Coats of Joint Compound.

(ii) **Thermal System Insulation:**

- (a) Equipment Insulation;
- (b) Boiler, Breeching, Boiler Rope, Duct, or Tank Insulation, Cement or Mortar Used for Boilers and Refractory Brick;
- (c) Piping and Fitting Insulations including but not limited to, Wrapped Paper, Aircell, Millboard, Rope, Cork, Preformed Plaster, Job Molded Plaster and coverings over fibrous glass insulation.

SUSPECT MISCELLANEOUS ACM

(i) **Roofing and Siding Miscellaneous Materials:**

- (a) Insulation Board;
- (b) Vapor Barriers;
- (c) Coatings;
- (d) Non-Metallic or Non-Wood Roof Decking
- (e) Felts;
- (f) Cementitious Board (Transite);
- (g) Flashing;
- (h) Shingles; and
- (i) Galbestos.
- (j)

(ii) **Other Miscellaneous Materials:**

- (a) Dust and Debris;
- (b) Floor Tile;
- (c) Cove Base;
- (d) Floor Leveler Compound;
- (e) Ceiling Tile;
- (f) Vermiculite Insulation
- (g) Gaskets, Seals, Sealants (including for condensate control);
- (h) Vibration Isolators;
- (i) Laboratory Tables and Hoods;
- (j) Chalkboards;
- (k) Pipe Penetration Packing or Other Firestopping Materials
- (l) Cementitious Board;
- (m) Electrical Wire Insulation;
- (n) Fire Curtains;
- (o) Fire Blankets;
- (p) Fire Doors;
- (q) Brakes and Clutches;
- (r) Mastics, Adhesives and Glues;
- (s) Caulks;

- (t) Sheet Flooring (Linoleum);
- (u) Wallpaper;
- (v) Drywall;
- (w) Plasterboard
- (x) Spackling/Joint Compound;
- (y) Textured Paint;
- (z) Grout;
- (aa) Glazing Compound; and
- (ab) Terrazzo.

- (2) All ACM, PACM, suspect miscellaneous ACM, or asbestos material reported under Paragraph (1) of this Subdivision shall include the location of the materials, an estimate of the quantities, types, friability and condition of the identified materials to be treated and handled as ACM. For the purpose of this Part, all PACM and suspect miscellaneous ACM visually assessed shall be treated and handled as ACM and shall be assumed to be ACM, unless bulk sampling is conducted as per this Section, standard EPA and OSHA accepted methods, including multi-layered systems sampling protocols; the subsequent analyses are performed by a laboratory that meets the requirements of Section 56-4.2 of this Part; and the analyses satisfies both ELAP and federal requirements, including multi-layered sample analyses, to document non-asbestos containing material.
 - (3) The building/structure asbestos survey shall also include the building/structure name, address, the building/structure owner's name and address, the name and address of the owner's agent, the name of the firm performing the asbestos survey and a copy of the firm's current asbestos handling license, the names of the certified inspector(s) performing the survey and a copy of the current asbestos handling certificate for each inspector utilized, the dates of the asbestos survey, a listing of homogeneous areas identifying which ones are ACM, all laboratory analyses reports for bulk samples collected, and copies of the appropriate certifications for the laboratory used for analysis of samples taken during the asbestos survey.
- (g) **Transmittal of Building/Structure Asbestos Survey Information.** One (1) copy of the results of the building/structure asbestos survey shall be immediately transmitted by the building/structure owner as follows:
- (1) One (1) copy of the completed asbestos survey shall be sent by the owner or their agent to the local government entity charged with issuing a permit for such demolition, renovation, remodeling or repair work under applicable State or local laws.
 - (2) The completed asbestos survey for controlled demolition (as per Subpart 56-11.5) or pre-demolition asbestos projects shall also be submitted to the appropriate Asbestos Control Bureau district office.
 - (3) The completed asbestos survey shall be kept on the construction site with the asbestos notification and variance, if required, throughout the duration

of the asbestos project and any associated demolition, renovation, remodeling or repair project.

- (h) **Removal Required.** If the building/structure asbestos survey finds that the portion of the building/structure to be demolished, renovated, remodeled, or have repair work contains ACM, PACM, suspect miscellaneous ACM assumed to be ACM, or asbestos material, which is impacted by the work, the owner or the owner's agent shall conduct, or cause to have conducted, asbestos removal performed by a licensed asbestos abatement contractor in conformance with all standards set forth in this Part. All ACM, PACM, suspect miscellaneous ACM assumed to be ACM, or asbestos material impacted by the demolition, renovation, remodeling or repair project shall be removed as per this Part, prior to access or disturbance by other uncertified trades or personnel. No demolition, renovation, remodeling or repair work shall be commenced by any owner or the owner's agent prior to the completion of the asbestos abatement in accordance with the notification requirements of this Part. For multi-phased work, the access restriction for uncertified trades or personnel applies to each intermediate portion of the entire project. Upon completion of the intermediate portion of the asbestos project, other trades or personnel may access that portion of the work site. For demolition projects that are exempt from asbestos survey requirements due to being structurally unsound, the demolition is considered an asbestos project and shall proceed as per Section 56-11.5.
- (1) All building/structure owners and asbestos abatement contractors on a demolition, renovation, remodeling, or repair project, which includes work covered by this Part, shall inform all trades on the work site about PACM, ACM, asbestos material and suspect miscellaneous ACM assumed to be ACM at the work site.
- (i) **Bidding.** Bids may be advertised and contracts awarded for demolition, remodeling, renovation, or repair work, but no work on the current intermediate portion of the project shall commence on the demolition, renovation, remodeling or repair work by any owner or agent prior to completion of all necessary asbestos abatement work for the current intermediate portion of the entire project, in conformance with all standards set forth in this Part.
- (j) **Unidentified and Unassessed Asbestos.** When any construction activity, such as demolition, remodeling, renovation or repair work, reveals PACM or suspect miscellaneous ACM that has not been identified by the asbestos survey per this Part, or has not been identified by other inspections as per current OSHA or EPA requirements, all activities shall cease in the area where the PACM or suspect miscellaneous ACM is found and the Asbestos Control Bureau shall be notified by telephone by the building/structure owner or their representative, followed with a written notice in accordance with the notification requirements of this Part. Unassessed PACM or suspect miscellaneous ACM shall be treated and handled as ACM and assumed to be ACM, unless proven otherwise by standard EPA and OSHA accepted methods, including multi-layered systems sampling protocols; subsequent analyses performed by a laboratory that meets the requirements of Section 56-4.2 of this Part; and the analyses satisfies both NYS ELAP and federal requirements, including multi-layered sample analyses, to document non-asbestos containing material.