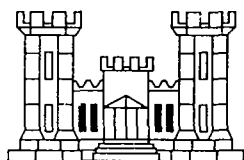


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**U.S. Army Corps of Engineers  
Baltimore District**

**Phases I and II Interim Removal Action  
Component 2 — Phases 1 and 2  
Former Lake Ontario Ordnance Works  
Lewiston and Porter  
Niagara County, New York**

**Final Permit Application Report and  
Environmental Compliance Checklist**

**100% Design**

Contract Number DACA31-96-D-0006  
Delivery Order 0002

June 1998

*Prepared for:*

U.S. ARMY CORPS OF ENGINEERS  
Baltimore District  
10 South Howard Street  
Baltimore, Maryland 21201

98P-1325

*Prepared by:*



Roy F. Weston, Inc.  
1 Weston Way  
West Chester, PA 19380-1499

**INTERIM REMOVAL ACTION  
COMPONENT 2—PHASES 1 AND 2  
FORMER LAKE ONTARIO ORDNANCE WORKS  
LEWISTON AND PORTER  
NIAGARA COUNTY, NEW YORK**

**FINAL PERMIT APPLICATION REPORT AND  
ENVIRONMENTAL COMPLIANCE CHECKLIST**

**100% DESIGN**

Prepared for

**U.S. ARMY CORPS OF ENGINEERS  
BALTIMORE DISTRICT**  
10 South Howard Street  
Baltimore, Maryland 21201

June 1998

Prepared by

**ROY F. WESTON, INC.**  
1 Weston Way  
West Chester, PA 19380-1499

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## **FINAL PERMIT APPLICATION REPORT**

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## FINAL PERMIT APPLICATION REPORT

This Final Permit Application Report provides application forms, procedures, and supporting data for identified permit applications for the Phase I Interim Removal Action for Component 2, Phases 1 and 2 at the former Lake Ontario Ordnance Works (LOOW). Component 2 consists of the following phases to be conducted on the Somerset Group property:

- Phase 1 — Asbestos removal inside of Buildings 6-01, 6-02, 6-03, and 30A (includes debris outside of 30A); asbestos removal from Building 6-01 courtyard (Area A-1) and surrounding soils (approximately 5-6 ft around the courtyard); asbestos panel removal, cleaning of concrete pads, and asbestos/solid removal surrounding T-1 and T-2 foundations; asbestos insulation removal at pipe bridge and removal of surrounding asbestos soils; and removal/disposal of miscellaneous chemicals.
- Phase 2 — Removal of asbestos/soils and outdoor debris at Areas A-2, B, C, D, E, F.

The only anticipated permit applications potentially required for Component 2, Phases 1 and 2 are related to asbestos and demolition.

Asbestos abatement activities are to include removal of friable and loose asbestos-containing material (ACM) and removal of some nonfriable ACM from the buildings/areas designated in the Contract Specifications. Some nonfriable asbestos will be left in-place in the designated buildings/areas. The presence of this nonfriable asbestos will require a notice in the facility deed. In addition, asbestos abatement activities require notification and approval from U.S. Environmental Protection Agency (EPA) Region II and the New York State Department of Labor (NYSDOL). In addition, the Contractor must be licensed to handle asbestos and must use certified personnel for the asbestos abatement work in accordance with New York State (NYS) Industrial Code Rule (ICR) 56. Attachment 1 provides a copy of the project notification forms for ACM abatement activities for NYSDOL and EPA Region II, and license/certification information. If the abatement work is not performed in accordance with NYS ICR 56, then a variance needs to be obtained from NYSDOL in addition to filing the project notification form.

A demolition permit will be required from the Town of Porter for the removal activities. There is no formal application for the demolition permit. The procedure for obtaining the permit is to go to the Town of Porter Building Inspector's office, prior to the start of work, with the following:

- \$25 permit fee.
- Information identifying buildings and/or areas that the work is to be performed, dates of work, and personnel performing the work.

The contact is Bill Surton, Building Inspector at (716) 745-3730.

Attachment 2 provides the information necessary for preparing an Erosion and Sedimentation Control Plan, a permit for which is not necessary.

The environmental checklist is provided following Attachment 2.

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**ATTACHMENT 1—PROJECT NOTIFICATION FORMS FOR ASBESTOS  
ABATEMENT ACTIVITIES FOR NEW YORK STATE DEPARTMENT OF  
LABOR AND EPA REGION II**

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# NOTIFICATION OF DEMOLITION AND RENOVATION\*

Operator Project #	Postmark	Date Received	Notification #
<b>I. TYPE OF NOTIFICATION</b> (O=Original, R=Revised, C=Cancelled):			
<b>II. FACILITY INFORMATION</b> (Identify owner, removal contractor, and other operator)			
OWNER NAME:			
Address:			
City:	State:	Zip:	
Contact:			Tel:
REMOVAL CONTRACTOR:			
Address:			
City:	State:	Zip:	
Contact:			Tel:
OTHER OPERATOR:			
Address:			
City:	State:	Zip:	
Contact:			Tel:
<b>III. TYPE OF OPERATION</b> (D=Demo, O=Ordered Demo, R=Renovation, E=Emer. Renovation):			
<b>IV. IS ASBESTOS PRESENT?</b> (Yes/No)			
<b>V. FACILITY DESCRIPTION</b> (Include building name, number and floor or room number)			
Bldg Name:			
Address:			
City:	State:	County:	
Site Location:			
Building Size:	# of Floors:	Age in Years:	
Present Use:	Prior Use:		
<b>VI. PROCEDURE, INCLUDING ANALYTICAL METHOD, IF APPROPRIATE, USED TO DETECT THE PRESENCE OF ASBESTOS MATERIAL:</b>			
<b>VII. APPROXIMATE AMOUNT OF ASBESTOS, INCLUDING:</b>		<b>Non-friable Asbestos Material Not To Be Removed</b>	
1. Regulated ACM To Be Removed 2. Category I ACM Not Removed 3. Category II ACM Not Removed		RACM To Be Removed	Indicate Unit of Measurement Below
		Cat I	Cat II
		UNIT	
Pipes			Ln Ft    Ln m:
Surface Area			Sq Ft    Sq m:
Vol RACM Off Facility Component			Cu Ft    Cu m:
<b>VIII. SCHEDULED DATES ASBESTOS REMOVAL (MM/DD/YY)</b>		Start: _____ Complete: _____	
<b>IX. SCHEDULED DATES DEMO/RENOVATION (MM/DD/YY)</b>		Start: _____ Complete: _____	
*Source - EPA Standard 40CFR Part 61			

# **NOTIFICATION OF DEMOLITION AND RENOVATION\*** (Continued)

<b>X.</b>	<b>DESCRIPTION OF PLANNED DEMOLITION OR RENOVATION WORK, AND METHOD(S) TO BE USED:</b>		
<b>XI.</b>	<b>DESCRIPTION OF WORK PRACTICES AND ENGINEERING CONTROLS TO BE USED TO PREVENT EMISSIONS OF ASBESTOS AT THE DEMOLITION AND RENOVATION SITE:</b>		
<b>XII.</b>	<b>WASTE TRANSPORTER #1</b>		
	Name:		
	Address:		
	City:	State:	Zip:
	Contact Person:	Telephone:	
	<b>WASTE TRANSPORTER #2</b>		
	Name:		
	Address:		
	City:	State:	Zip:
	Contact Person:	Telephone:	
<b>XIII.</b>	<b>WASTE DISPOSAL SITE</b>		
	Name:		
	Location:		
	City:	State:	Zip:
	Telephone:		
<b>XIV.</b>	<b>IF DEMOLITION ORDERED BY A GOVERNMENT AGENCY, PLEASE IDENTIFY THE AGENCY BELOW:</b>		
	Name:	Title:	
	Authority:		
	Date of Order (MM/DD/YY):	Date Ordered to Begin (MM/DD/YY):	
<b>XV.</b>	<b>FOR EMERGENCY RENOVATIONS</b>		
	Date and Hour of Emergency (MM/DD/YY):		
	Description of the Sudden, Unexpected Event:		
	Explanation of how the event caused unsafe conditions or would cause equipment damage or an unreasonable financial burden:		
<b>XVI.</b>	<b>DESCRIPTION OF PROCEDURES TO BE FOLLOWED IN THE EVENT THAT UNEXPECTED ASBESTOS IS FOUND OR PREVIOUSLY NON-FRIABLE ASBESTOS MATERIAL BECOMES CRUMBLED, PULVERIZED, OR REDUCED TO POWDER.</b>		
<b>XVI.</b>	I CERTIFY THAT AN INDIVIDUAL TRAINED IN THE PROVISIONS OF THIS REGULATION (40 CFR PART 61, SUBPART M) WILL BE ON-SITE DURING THE DEMOLITION OR RENOVATION AND EVIDENCE THAT THE REQUIRED TRAINING HAS BEEN ACCOMPLISHED BY THIS PERSON WILL BE AVAILABLE FOR INSPECTION DURING NORMAL BUSINESS HOURS. (Required after 20 November 1991)		
	_____ (Signature of Owner/Operator)		_____ (Date)
<b>XVII.</b>	I CERTIFY THAT THE ABOVE INFORMATION IS CORRECT.		
	_____ (Signature of Owner/Operator)		_____ (Date)

\*Source - EPA Standard 40CFR Part 61





STATE OF NEW YORK  
DEPARTMENT OF LABOR  
DIVISION OF SAFETY AND HEALTH

CONTACT INFORMATION  
FOR  
ASBESTOS PROJECTS

The Department of Labor regulates most asbestos control activities in the State through its Asbestos Control Bureau; all contractors must be licensed and all asbestos handlers certified by the Department's License and Certificate Unit. Projects must be conducted in accordance with safety standards promulgated by the Commissioner of Labor to avoid potential public health hazards that can result from the improper handling of asbestos or asbestos material, a potential carcinogen.

For more information, call or write the New York State Department of Labor, Division of Safety and Health at one of the following locations:

ASBESTOS CONTROL BUREAU  
DISTRICT OFFICES

**ALBANY**

State Office Campus  
Building 12 - Room 133  
Albany, NY 12240  
Tel: (518) 457-2072

**BUFFALO**

65 Court Street  
Room 405  
Buffalo, NY 14202  
Tel: (716) 847-7601

**SYRACUSE**

450 South Salina Street  
4th Floor - Room 401  
Syracuse, NY 13202  
Tel: (315) 479-3215

**NEW YORK CITY**

P.O. Box 683  
New York, NY 10014-0683  
Tel: (212) 352-6109

**PROGRAM MANAGER'S OFFICE** To submit an Asbestos Project Notification and/or emergency notification

NYS Department of Labor, Division of Safety and Health, Asbestos Control Bureau, State Office Campus, Building 12 - Room 133, Albany, NY 12240, Tel: (518) 457-1255

\*\*\*\*\*

**LICENSE AND CERTIFICATE UNIT** Questions about obtaining and/or renewing an Asbestos License or any type of Asbestos Certificate

NYS Department of Labor, Division of Safety and Health, Industry Inspection Bureau, License and Certificate Unit, P.O. Box 687, New York, NY 10014-0687; Telephone Numbers: (212) 352-6103 for an Asbestos License or (212) 352-6106 for an Asbestos Certificate.



STATE OF NEW YORK - DEPARTMENT OF LABOR  
DIVISION OF SAFETY AND HEALTH  
ASBESTOS CONTROL BUREAU  
State Office Campus  
Building 12 - Room 454  
Albany, N.Y. 12240

## ASBESTOS PROJECT NOTIFICATION INFORMATION SHEET

### GENERAL INFORMATION

#### WHO MUST SUBMIT

Any contractor who proposes to engage in that portion of an asbestos project (conducted anywhere in New York State) which involves the removal, encapsulation, enclosure, or disturbance of friable asbestos, or any handling of asbestos material that may result in the release of asbestos fiber must provide the Asbestos Control Bureau with a written notice of such project.

Such notification is required if the project involves more than 260 linear feet or 160 square feet of asbestos or asbestos material.

Additionally, a written notice is required if a single asbestos project involves several locations, each of which does not involve the amounts of asbestos or asbestos material specified above, but which in total equal or exceed this amount.

#### WHEN TO SUBMIT

Project Notifications must be received by the Asbestos Bureau at least 10 days prior to the commencement of the project.

### TYPES OF NOTIFICATIONS

#### INITIAL NOTICE

A Project Notification, in writing, must be prepared and submitted to the NYS Department of Labor, Division of Safety and Health's Asbestos Control Bureau at least **TEN DAYS** before the start of an asbestos project.

#### AMENDED NOTICE

If a project is postponed or cancelled, the contractor must advise the Bureau AT LEAST ONE DAY PRIOR TO THE STARTING DATE LISTED ON THE INITIAL NOTIFICATION PREVIOUSLY SUBMITTED. Such notice may be given in writing or by telephone; however, a telephone notice must be followed by a written confirmation.

When telephone notification is given for a postponed or cancelled project, *written confirmation must be submitted within 5 working days of the date of the telephone notice.* For example, if the Bureau is called on January 5 - the written notice must be received in the Bureau by January 10.

For a postponed project the code requires that the written, amended notice must be received by the Bureau **NO LATER THAN 3 DAYS PRIOR TO THE COMMENCEMENT OF THE PROJECT.** For example, a contractor calls on January 5 to say that the project previously scheduled to start on January 10 will now begin on January 12, the written notice to the Bureau must be received by January 9.

#### EMERGENCY NOTICE

When an emergency situation arises which requires immediate action without the submission of a prior notification, the contractor or other responsible party **MUST OBTAIN APPROVAL** from the Program Manager's Office of the Asbestos Control Bureau **PRIOR TO THE COMMENCEMENT OF WORK** on the asbestos project. The Program Manager is located at the address shown above and can be contacted by calling (518) 457-1255.

**NOTE:** An emergency is defined as "An unexpected, unanticipated or unforeseen occurrence, . . . which poses (a) an imminent danger to the health and safety of the public, the response to which will constitute an asbestos project; or (b) an asbestos-related risk to the health and safety of the public from exposure to asbestos fibers."

## EMERGENCY NOTICE (cont'd.)

After obtaining specific information on the project and the reason for the emergency request, the Program Manager (or other duly authorized person) will determine whether to grant or deny the request.

### EMERGENCY REQUEST GRANTED

When permission is granted, the contractor may proceed with the emergency asbestos project without filing a prior notification. However, **WITHIN TWO WORKING DAYS OF THE DATE THAT THE EMERGENCY APPROVAL WAS GRANTED**, the contractor must submit duplicate copies of the "Asbestos Project Notification" form with the appropriate fee. The Notification forms and the required fee should be sent to the Program Manager at the address shown above.

### EMERGENCY REQUEST DENIED

If permission to proceed with the emergency asbestos project is denied, the contractor must conduct all work on the project in conformance with the requirements of the Labor Law and Code Rule 56. That is, the Asbestos Control Bureau must receive a Notification form 10 days before the asbestos project may commence.

## MATERIAL TO BE SUBMITTED

### FORMS

**INITIAL NOTICE** - prepare the form (items 1-28) in triplicate; submit the original and one copy with an ink signature on both copies; retain a copy for your records and/or to submit an Amended or Emergency Notice.

**AMENDED NOTICE** - take your copy of the initial notification form previously submitted and complete all applicable questions in the box labeled "Amended Notification" located in the upper left hand corner; submit two photocopies of this updated form to the Bureau within the required timeframe.

**EMERGENCY NOTICE** - prepare an initial notice as indicated above or take your copy of the notification form previously submitted AND complete all questions in the box labeled "Emergency Notification Requested" located in the upper right hand corner; submit two copies of the notification to the Bureau within TWO WORKING DAYS of the emergency approval.

### FEE

The required fee should be paid by a certified check or money order, made payable to the Commissioner of Labor. The amount of the fee is based on the size of the asbestos project listed on the Notification form. This fee is non-refundable.

**NOTE:** If the size of an Asbestos Project consists of both linear and square feet, you must submit a check for the amount shown next to each box. For example, the fee for a project of 290 linear feet and 385 square feet is \$100 + \$200 for a total fee of \$300.

## SUBMITTAL INFORMATION

The completed Notification forms (in duplicate) with the required fee should be mailed to the NYS Department of Labor, Division of Safety and Health, ASBESTOS CONTROL BUREAU, State Office Campus, Bldg. 12- Room 454, Albany, NY 12240.

Any questions regarding a Project Notification or a request for an emergency approval, should be directed to the Asbestos Control Bureau Program Manager at the address given above; telephone (518) 457-1255.



STATE OF NEW YORK - DEPARTMENT OF LABOR  
DIVISION OF SAFETY AND HEALTH  
ASBESTOS CONTROL BUREAU  
State Office Campus  
Building 12 - Room 454  
Albany, N.Y. 12240

**EMERGENCY NOTIFICATION REQUESTED**

a. Date of Request      b. Time of Day

c. Name of Person Granting Request

**WITHIN TWO WORKING DAYS OF THE EMERGENCY APPROVAL, you must submit duplicate copies of this form with the appropriate fee to the Asbestos Control Bureau at the address shown.**

**AMENDED NOTIFICATION**

- a. ☐ Postponed ☐ Cancelled  
b. New Start Date \_\_\_\_\_  
c. New End Date \_\_\_\_\_  
d. Submitted By \_\_\_\_\_

Refer to Information Sheet or Code Rule 56 for Time Deadlines

**ASBESTOS PROJECT NOTIFICATION**

1. NAME AND ADDRESS OF CONTRACTOR

2. FEDERAL EMPLOYER IDENTIFICATION NO.

3. ASBESTOS LICENSE NO.

4. MAILING ADDRESS, (if different than listed in ITEM 1)

5. NAME AND ADDRESS OF PARTY FOR WHOM THE PROJECT IS BEING PERFORMED

6. a. NAME AND TITLE OF DULY AUTHORIZED REPRESENTATIVE

b. TELEPHONE NO.

(      )

**PROJECT INFORMATION**

*PROVIDE ALL INFORMATION REQUESTED FOR THE BUILDING/SITE AT WHICH THE ASBESTOS PROJECT WILL BE CONDUCTED.*

7. ADDRESS (INCLUDE NAME OF BUILDING, ROOM NO., CITY, TOWN, VILLAGE)

8. NAME OF BUILDING OWNER

9. COUNTY

10. CURRENT USE OF BUILDING

11. AGE OF BUILDING

12. TOTAL CONTRACT AMOUNT

13. PROJECT DATE(S) - List phased project dates in REMARKS (Item 28)

a. ACTUAL STARTING DATE

b. PROJECTED ENDING DATE

14. TYPE OF ASBESTOS WORK (CHECK ALL WHICH APPLY)

- ☐ Pipe Related  
☐ Sprayed on Insulation  
☐ Roofing/Flashing  
☐ Vessel Covering  
☐ Siding  
☐ VAT  
☐ Demolition  
☐ Other (Specify) \_\_\_\_\_

15. WILL WORK ON THE PROJECT BE CONDUCTED UNDER A VARIANCE? If yes, specify the type of variance:

- ☐ APPLICABLE VARIANCE - NO.: \_\_\_\_\_  
☐ INDIVIDUAL VARIANCE - PETITION NO.: \_\_\_\_\_

16. WILL SUBCONTRACTORS BE USED ON THE PROJECT? ☐ NO ☐ YES

If yes, please list name and federal employer identification number of each subcontractor in REMARKS (Item 28) on reverse of form.

17. ASBESTOS PROCEDURE(S) TO BE USED (CHECK ALL WHICH APPLY)

- ☐ REMOVAL      ☐ DEMOLITION  
☐ ENCLOSURE      ☐ DISTURBANCE  
☐ ENCAPSULATION      ☐ HANDLING  
☐ OTHER (Specify) \_\_\_\_\_

18. TYPE OF ASBESTOS MATERIAL

- ☐ FRIABLE  
  
☐ NON-FRIABLE

19. AMOUNT OF ASBESTOS INVOLVED - CHECK ALL APPLICABLE BOX(ES)

- | LINEAR FEET  | SQUARE FEET  |
|--|--|
| <input type="checkbox"/> Less than 260 _____ (Specify) | <input type="checkbox"/> Less than 160 _____ (Specify) |
| <input type="checkbox"/> (\$100) 260-429               | <input type="checkbox"/> (\$100) 160-259               |
| <input type="checkbox"/> (\$200) 430-824               | <input type="checkbox"/> (\$200) 260-499               |
| <input type="checkbox"/> (\$500) 825-1649              | <input type="checkbox"/> (\$500) 500-999               |
| <input type="checkbox"/> (\$1000) 1650 OR MORE         | <input type="checkbox"/> (\$1000) 1000 OR MORE         |
| _____ (Specify)  | _____ (Specify)  |

20. METHODS TO BE USED AT PROJECT SITE TO PREVENT ASBESTOS DISSEMINATION (INCLUDING TYPE OF EQUIPMENT AND VENTILATION SYSTEMS USED)

21. I verify that the information specified on this notification is true and accurate and that the project will be conducted in compliance with the requirements of Code Rule 56.

a. Signature of the Contractor or Duly Authorized Representative

b. Date

**PREPARE THIS APPLICATION IN TRIPLICATE AND SUBMIT:**

- An original and one copy (with an ink signature on both copies) to the New York State Department of Labor, Division of Safety and Health, Asbestos Control Bureau, State Office Campus, Building 12-Room 454, Albany, NY 12240; *retain one copy for your records.*
- A certified check or money order, made payable to the Commissioner of Labor, for the fee due based on the project size as shown in item 19. *This notification must be submitted at least 10 days prior to the starting date of the asbestos project.*

22. METHOD(S) TO BE USED AT PROJECT SITE TO TREAT OR DISPOSE OF CONTAMINATED WASTE WATER (IF APPLICABLE)

23. NAME AND ADDRESS OF WASTE DISPOSAL SITE, IF ANY

24. NAME AND ADDRESS OF WASTE HAULER/TRANSPORTER, IF ANY

25. METHOD(S) TO BE USED AT WASTE DISPOSAL SITE (IF APPLICABLE)

26. LIST ALL EQUIPMENT TO BE USED FOR THIS ASBESTOS PROJECT, e.g. NEGATIVE AIR FILTRATION UNITS, RESPIRATORS, WETTING DEVICES, HEPA VACUUMS, ETC. DO NOT INCLUDE NON-ASBESTOS RELATED EQUIPMENT OR EXPENDABLE SUPPLIES. (ATTACH ADDITIONAL SHEETS IF NECESSARY)

DESCRIPTION OF EQUIPMENT	MANUFACTURER	MODEL NUMBER	QUANTITY

27. LABORATORY ANALYSIS TO BE PERFORMED BY: \_\_\_\_\_

a. NAME \_\_\_\_\_

b. ELAP REGISTRATION NUMBER

28. REMARKS



STATE OF NEW YORK - DEPARTMENT OF LABOR  
**DIVISION OF SAFETY AND HEALTH**  
**ENGINEERING SERVICES UNIT**  
STATE OFFICE BUILDING CAMPUS  
ALBANY, N.Y. 12240

PREPARE APPLICATION IN TRIPLICATE  
SUBMIT ALL APPLICATIONS TO THE  
ADDRESS SHOWN WITH A CERTIFIED  
CHECK OR MONEY ORDER (made  
payable to the Commissioner of Labor)

**PETITION FOR A VARIANCE OR OTHER RELIEF**  
(NOT APPLICABLE FOR PUBLIC EMPLOYERS)

1. NAME AND ADDRESS OF PETITIONER	4. <b>FOR AN ASBESTOS PROJECT ONLY</b> , PETITIONER OR AGENT IS OR HOLDS (Check appropriate box)  <input type="checkbox"/> Asbestos Contractor - License No. _____ <input type="checkbox"/> Air Monitor - Certificate No. _____ <input type="checkbox"/> Project Designer - Certificate No. _____ <input type="checkbox"/> Project Monitor - Certificate No. _____ <input type="checkbox"/> Management Planner - Certificate No. _____ <input type="checkbox"/> Other (Specify) _____
2. PETITIONER'S TELEPHONE NUMBER:	
3. PETITIONER'S FEDERAL EMPLOYER IDENTIFICATION NUMBER (FEIN)	
5. AFFECTING PREMISES KNOWN AS	6. STREET ADDRESS OF SUCH PREMISES

7. These premises are situated on \_\_\_\_\_ side of \_\_\_\_\_  
NORTH-EAST-SOUTH-WEST STREET-AVENUE-ROAD  
(Check one) in the ☐ CITY ☐ TOWN ☐ VILLAGE OF \_\_\_\_\_, County of \_\_\_\_\_

8. NAME AND ADDRESS OF ALL DESIGNATED EMPLOYEE REPRESENTATIVES (Enter "None" if no employee organization)

\*\*\*This question is not applicable to an Asbestos Project\*\*\*

THE PETITIONER HEREBY PETITIONS THE COMMISSIONER OF LABOR FOR A VARIANCE (OR OTHER RELIEF) FROM THE REQUIREMENTS OF THE LABOR LAW, ORDERS OF THE COMMISSIONER OF LABOR REQUIRING COMPLIANCE WITH THE STATE BUILDING CONSTRUCTION CODE, THE NEW YORK STATE UNIFORM FIRE PREVENTION AND BUILDING CODE, AND/OR THE RULES OF THE COMMISSIONER OF LABOR AS STATED BELOW.

**A. CITATION**

LIST THE APPLICABLE SECTION AND PARAGRAPH OF THE RELEVANT LAW, CODE, OR REGULATION(S) FOR WHICH A VARIANCE IS BEING REQUESTED.

9. LABOR LAW	10. STATE BUILDING CONSTRUCTION CODE	11. UNIFORM FIRE PREVENTION CODE	12. INDUSTRIAL CODE RULE NUMBER
13. ORDERS ISSUED: <input type="checkbox"/> No <input type="checkbox"/> Yes If yes, enter date issued	14. ISSUED BY: <input type="checkbox"/> STATE INSPECTOR <input type="checkbox"/> LOCAL INSPECTOR	15. ISSUED TO: <input type="checkbox"/> OWNER <input type="checkbox"/> AGENT <input type="checkbox"/> LESSEE (Enter name appearing on Notice of Violation)	

16. QUOTE THE TEXT OF THE ORDERS AS GIVEN ON THE NOTICE OF VIOLATION AND ORDER TO COMPLY, if applicable.

17. IF A VARIANCE HAS BEEN GRANTED PREVIOUSLY COVERING THE SAME SECTION AND PARAGRAPH AS SPECIFIED ABOVE IN ITEMS 5-8., LIST THE CASE NUMBER AND DATE SUCH VARIANCE WAS GRANTED.

**B. DESCRIPTION OF PREMISES**  
(To be filled out only when pertinent to the petition)

18. Date building was constructed \_\_\_\_\_ 19. No. Stories: Front \_\_\_\_\_ Rear \_\_\_\_\_
20. Construction of building is ☐ Wood; Non-fireproof; ☐ Fireproof;  
☐ (Masonry walls, wood floors and roof) ☐ (Masonry walls, concrete floors and roof)
21. Size of lot: At street level Feet front \_\_\_\_\_ Feet deep \_\_\_\_\_
22. Size of building: At street level Feet front \_\_\_\_\_ Feet deep \_\_\_\_\_
23. Size of building: At typical floor level Feet front \_\_\_\_\_ Feet deep \_\_\_\_\_
24. Use of each floor and maximum number of persons on each floor are as follows:

Floor	Equipped with Automatic Sprinklers		USE	OCCUPANCY			
				Present		Proposed	
	Yes	No		Men	Women	Men	Women
Cellar							
1							
2							
3							
4							
5							

**C. REASON FOR REQUEST FOR VARIANCE**

25. State the grounds for a variance (or other relief) setting forth difficulties and/or hardships involved in complying with the requirements stated above. Failure to complete this section may result in dismissal or denial of this petition.

**D. PROPOSAL**

26. State the proposal, if any, for securing safety or protecting health without literal compliance with such requirements.

**\*\*\*This question is not applicable to an Asbestos Project\*\*\***

27. I affirm that a copy of this Petition

☐ has been sent or ☐ will be sent within 3 days of sending this Petition to the Commissioner of Labor, to all designated employee representatives by certified mail, return receipt requested

AND

☐ has been posted or ☐ will be posted within one week of sending this Petition to the Commissioner of Labor at the site affected by the variance in an easily accessible location

I certify that the information contained in this Petition is true and accurate.

\_\_\_\_\_  
28. DATE

\_\_\_\_\_  
29. SIGNATURE OF PETITIONER OR PETITIONER'S AGENT

**Return THREE copies of this application and the \$350.00 fee to the address shown on front.**

(Use additional 8½ x 11 sheets, if necessary)

# ASBESTOS RELATED APPLICABLE VARIANCES



*New York State Department of Labor  
Division of Safety and Health  
Asbestos Control Bureau*



# miscellaneous notices

## PUBLIC NOTICE

Department of Labor

In the Matter of	:	X	COMMISSIONER'S
	:		DECISION
Part 56 of Title 12 of the Official Compilation	:		APPLICABLE
of Codes, Rules and Regulations	:		VARIANCE
of the State of New York	:		(AY 33)
(Cited as 12 NYCRR 56)	:		ASBESTOS
	:		BUILT-UP
	:		ROOFING
(As Amended Effective December 15, 1987)	:		
Code Rule Section 56-4.1; Section 56-4.1.	:		DATED
Subdivision (k), Paragraphs	:		MARCH 20, 1989
(1)(2)(3)(4) and (5);	:		
Section 56-13.2, Subdivisions (c)(4)(e)	:		
	:	X	

Pursuant to Section 30 of the Labor Law, the Commissioner of Labor has reviewed the aforesaid provisions of Industrial Code Rule 56 as they relate to the removal of built-up roofing; and

Has also reviewed numerous petitions for variance or other relief and the decisions rendered relative to the petitions.

The Commissioner finds that the issuance of an applicable variance from the aforesaid provisions of Industrial Code Rule 56, as such pertain to the removal of built-up roofing, would not violate the spirit and purpose of the said rules and would secure the public safety as contemplated by the said rules.

### APPLICABLE VARIANCE

A variance from the aforesaid provisions of Industrial Code Rule 56 is hereby GRANTED, relative to the removal of built-up roofing without the ventilation, isolation barriers-specific, firm sheeting removal and third cleaning requirements of the aforesaid rules, subject to the following conditions:

### CONDITIONS

1. The entire roof shall be regarded as the work area. Unsanitized persons shall not be permitted on the roof.
2. Amended water shall be used to wet the asbestos containing materials.

3. All openings (including but not limited to windows, doors, ducts, grilles) on the roof level and the floor below shall be sealed with two layers of, at least six mil, plastic sheeting.

4. The roof shall be cut/removed using manual methods whenever possible.

5. In addition to the requirements of Subpart 56-17, air monitoring of the entire work area shall be conducted daily. Sampling and analysis turnaround time shall not exceed twenty-four hours. If air sampling results indicate any airborne asbestos fiber concentration(s) at or above 0.01 fibers per cubic centimeter, or the background level, whichever is greater, work shall be stopped immediately, methods shall be altered to reduce the airborne asbestos fiber concentration(s) to the aforementioned level and work shall not resume until that level is attained.

6. A copy of this APPLICABLE VARIANCE shall be conspicuously posted at the entrance to the personal decontamination enclosure.

7. All other applicable provisions of Industrial Code Rule 56-1 through 56-17 shall be complied.

This variance shall apply and shall be applied by all enforcement officials to all persons and in all places to which the aforementioned provisions of Industrial Code Rule 56 apply to the removal of built-up roofing with the same force and effect as if this variance were duly granted upon separate petition for the use and benefit of every person affected by the aforementioned provisions of Industrial Code Rule 56.

In the Matter of	X	COMMISSIONER'S
Part 56 of Title 12 of the Official Compilation	:	DECISION
of Codes, Rules and Regulations	:	APPLICABLE
of the State of New York	:	VARIANCE
(Cited as 12 NYCRR 56)	:	(AV 84)
	:	ASBESTOS
	:	TRANSITE
	:	ROOFING
	:	and
	:	TRANSITE SIDING
(As Amended Effective December 15, 1987)		
Code Rule Section 56-6.1; Paragraphs 56-8.1(k)(1),	:	DATED
56-8.1(k)(2), 56-8.1(k)(3), 56-8.1(k)(4),	:	MARCH 20, 1989
56-8.1(k)(5); and Subdivisions 56-15.2(c),		
56-15.2(d) and 56-15.2(e)	X	

Pursuant to Section 30 of the Labor Law, the Commissioner of Labor has reviewed the aforementioned provisions of Industrial Code Rule 56 as they relate to the removal of transite roofing and transite siding; and

Has also reviewed numerous petitions for variance or other relief and the decisions rendered relative to these petitions.

The Commissioner of Labor finds that the issuance of an applicable variance from the aforementioned provisions of Industrial Code Rule 56, as such pertain to the removal of transite roofing and transite siding, would not violate the spirit and purpose of the said rules and would secure the public safety as contemplated by the said rules.

#### APPLICABLE VARIANCE

A variance from the aforementioned provisions of Industrial Code Rule 56 is hereby GRANTED, relative to the removal of transite roofing and transite siding without the ventilation, the isolation barriers—specific and the post abatement cleanup procedure requirements of the aforementioned rules, subject to the following conditions as specified for the type of transite removal undertaken:

#### CONDITIONS TRANSITE ROOFING

1. A DOSH-465 form, entitled "NON-FRIABLE ASBESTOS OR ASBESTOS MATERIAL ROOFING PROJECT(S)," shall be completed, signed, submitted and received, in the office of the Engineering Services Unit of the NYSDOL, within fifteen (15) days of the implementation of this Applicable Variance.

2. The entire roof shall be considered the asbestos work area. Uncertified persons shall not be permitted on the roof.

3. The work area shall be cordoned off with barrier tape or line and shall be accessible through only one entrance/exit.

4. All openings (including, but not limited to windows, doors, ducts and grilles) on the roof level and the floor below shall be sealed with two (2) layers of at least six mil plastic sheeting.

5. The transite roofing materials shall be removed using manual methods whenever possible. HEPA filtered local exhaust ventilation as required by Industrial Code Rule 56-7.1(j), shall be utilized.

6. Precautions shall include, but not be limited to, the use of amended water to continually wet the transite panels and the use of nylon slings to lower the same. The transite panels shall be individually wrapped in two layers of, at least, six mil plastic and sealed airtight immediately after being removed.

7. Personal protective equipment as required by Industrial Code Rule 56-4.1(d) shall be provided and used.

8. A personal decontamination enclosure system, which may be "remote" from the work area but otherwise complies with Subpart 56-9, shall be utilized. The personal decontamination enclosure shall be removed only after satisfactory clearance air monitoring results have been achieved.

9. In addition to the requirements of Subpart 56-17, air monitoring of the entire work area shall be conducted daily. If air sample results indicate any airborne asbestos fiber concentration(s) at or above 0.01 fibers per cubic centimeter, or the background level, whichever is greater, work shall be stopped immediately, methods shall be altered to reduce the airborne asbestos fiber concentration(s) to the aforementioned level and work shall not resume until that level is attained.

10. A waste decontamination enclosure system, which may be "remote" from the work area but otherwise complies with Subpart 56-10, shall be utilized.

#### CONDITIONS TRANSITE SIDING

1. The cordoning off of the work area and the associated warning signs shall comply with Industrial Code Rule 56-8.1(b).

2. Precautions shall include, but not be limited to, the use of amended water to continually wet the transite panels and the use of nylon slings to lower the same. The transite panels shall be individually wrapped in two layers of, at least, six mil plastic and sealed airtight immediately after being removed.

3. All openings (including but not limited to windows, doors, ducts and grilles) within one floor level of the transite panels shall be sealed with two (2) layers of, at least, six mil plastic sheeting.

4. The provisions of conditions 5, 7, 8, 9 and 10, as delineated for the removal of "TRANSITE ROOFING", shall be complied by the removal contractor.

In addition to the specific conditions required for the removal of transite roofing and/or transite siding, the removal contractor shall also comply with the following general conditions:

#### GENERAL CONDITIONS

1. A copy of this APPLICABLE VARIANCE and a copy of the completed, signed DOSH-465 form, entitled "NON-FRIABLE ASBESTOS OR ASBESTOS MATERIAL ROOFING PROJECT(S)," where required shall be conspicuously displayed at the entrance to the personal decontamination enclosure.

2. All other applicable provisions of Industrial Code Rules 56-1 through 56-17 shall be complied.

This variance shall apply and shall be applied by all enforcement officials to all persons and in all places to which the aforementioned provisions of Industrial Code Rule 56 apply to the removal of transite roofing and transite siding with the same force and effect as if this variance were duly granted upon separate petition for the use and benefit of every person affected by the aforementioned provisions of Industrial Code Rule 56.

In the Matter of	X	COMMISSIONER'S
Part 56 of Title 12 of the Official Compilation	:	DECISION
of Codes, Rules and Regulations	:	APPLICABLE
of the State of New York	:	VARIANCE
(Cited as 12 NYCRR 56)	:	(AV 85)
	:	ASBESTOS
	:	FLOOR TILE
(As Amended Effective December 15, 1987)		
Code Rule Section 56-8.1,	:	DATED
Subdivision (k), Paragraph (5)	:	MARCH 20, 1989
	X	

Pursuant to Section 30 of the Labor Law, the Commissioner of Labor

has reviewed the aforesaid provision of Industrial Code Rule 56 as it relates to the removal of floor tile; and

Has also reviewed numerous petitions for variance or other relief and the decisions rendered relative to these petitions.

The Commissioner finds that the issuance of an applicable variance from the aforesaid provision of Industrial Code Rule 56, as such pertains to the removal of floor tile, would not violate the spirit and purpose of the said rule and would secure the public safety as contemplated by the said rule.

#### APPLICABLE VARIANCE

A variance from the aforesaid provision of Industrial Code Rule 56 is hereby GRANTED, relative to the removal of floor tile without the plasticizing of the floor and ceiling, subject to the following conditions:

1. Floor tiles shall be periodically misted with amended water prior to, during and subsequent to removal.
2. All persons shall be furnished with and shall wear personal protective clothing in accordance with Industrial Code Rule 56-4.1(d).
3. Work areas shall be sealed off with isolation barriers in accordance with Code Rule Section 56-8.1(j).
4. All tools shall be HEPA vacuumed and removed from work area upon completion of work.
5. Clearance air monitoring, as per the schedule for air sampling and analysis, shall be conducted in accordance with Industrial Code Rule 56-15.2(h).
6. Negative air pressure ventilation, as per Subpart 56-6 shall be provided and the air outlet from the work area shall be at or near floor level.
7. All movable objects shall be removed from the floor tiles.
8. The floor tiles shall be removed using manual methods only.
9. The walls of the work area shall be covered with two layers of, at least six mil, plastic sheeting as per Industrial Code Rule 56-8.1(k)(5).
10. Air sampling and analysis shall be performed in compliance with Subpart 56-17.
11. In addition to the requirements of Subpart 56-17, air monitoring of the entire work area shall be conducted daily. If air sampling results indicate any airborne asbestos fiber concentration(s) at or above 0.01 fibers per cubic centimeter or the background level, whichever is greater, work shall be stopped immediately, methods shall be altered to reduce the asbestos fiber concentration(s) to the aforementioned level and work shall not resume until that level is attained.
12. A copy of this APPLICABLE VARIANCE shall be conspicuously posted at the entrance to the personal decontamination enclosure provided at the work area.
13. All other applicable provisions of Industrial Code Rule 56-1 through 56-17 shall be complied.

This variance shall apply and be applied by all enforcement officials to all persons and in all places to which the aforesaid provision of Industrial Code Rule 56 applies to the removal of floor tile with the same force and effect as if this variance were duly granted upon separate petition for the use and benefit of every person affected by the aforesaid provision of Industrial Code Rule 56.

In the Matter of	X	
Part 56 of Title 12 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Cited as 12 NYCRR 56)	:	COMMISSIONER'S DECISION APPLICABLE VARIANCE (AV 86) ASBESTOS CEILING REMOVAL
(As Amended Effective December 15, 1987) Code Rule Section 56-8.1, Subdivision (k), Paragraph (5)	:	DATED
	X	MARCH 20, 1989

Pursuant to Section 30 of the Labor Law, the Commissioner of Labor has reviewed the aforesaid provision of Industrial Code Rule 56; and

Has also reviewed numerous petitions for variance or other relief and the decisions rendered relative to these petitions.

The Commissioner finds that the issuance of an applicable variance from the aforesaid provision of Industrial Code Rule 56, as such pertains to the plasticizing of ceilings from which asbestos containing materials are to be removed, would not violate the spirit and purpose of the said rule and would secure the public safety as contemplated by the said rule.

#### APPLICABLE VARIANCE

A variance from the aforesaid provision of Industrial Code Rule 56 is hereby GRANTED, relative to the removal of a ceiling without the plasticizing such ceiling, subject to the following conditions:

#### CONDITIONS

1. Where the ceiling is attached directly to the underside of the floor or roof deck above, such as in the case of sprayed on fire proofing, the walls and floors of the work area shall be separated from the remainder of the work site by construction of isolation barriers conforming to the provisions of rules 56-8.1(k)(1-5).
2. When the asbestos containing materials are in a drop ceiling, the floors and walls up to the ceiling level of the work area shall be plasticized in conformance with the requirements of the provisions of rules 56-8.1(k)(1-5).
3. The ceiling tiles framing the perimeter of the work area shall be carefully removed in accordance with all other applicable provisions of Industrial Code Rule 56.
4. Once the perimeter ceiling tiles have been removed, the remaining wall surfaces up to the underside of the floor or roof deck shall be plasticized in accordance with the provisions of rules 56-8.1(k)(1-5).
5. In all ceiling removals, the floor or roof deck framing the actual ceiling of the work area shall be inspected prior to any removal of asbestos containing materials to insure that such deck is free of any penetrations and is a closed system. Should any penetrations be found, they shall be properly sealed.
6. If during the removal operations a penetration of the deck area is found, work shall stop immediately and the penetration shall be properly sealed.
7. A copy of the Applicable Variance shall be conspicuously displayed at the entrance to the personal decontamination enclosure.
8. All other applicable provisions of Industrial Code Rule 56-1 through 56-17 shall be complied.

This variance shall apply and shall be applied by all enforcement officials to all persons and in all places to which the aforesaid provision of Industrial Code Rule 56 applies relative to the plasticizing of ceilings from which asbestos containing materials are to be removed with the same force and effect as if this variance were duly granted upon separate petition for the use and benefit of every person affected by the aforesaid provision of Industrial Code Rule 56.

In the Matter of	X	
Part 56 of Title 12 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Cited as 12 NYCRR 56)	:	COMMISSIONER'S DECISION APPLICABLE VARIANCE (AV 87) ASBESTOS WRAPPED PIPING
(As Amended Effective December 15, 1987) Code Rule Section 56-8.2, Subdivision (d)	:	DATED
	X	MARCH 20, 1989

Pursuant to Section 30 of the Labor Law, the Commissioner of Labor has reviewed the aforesaid provision of Industrial Code Rule 56 as it relates to the removal of above ground insulated piping; and

Has also reviewed numerous petitions for variance or other relief and the decisions rendered relative to these petitions.

The Commissioner finds that the issuance of an applicable variance from the aforesaid provision of Industrial Code Rule 56, as such pertains to the removal of above ground insulated piping, would not violate the spirit and purpose of the said rule and would secure the public safety as contemplated by the said rule.

#### APPLICABLE VARIANCE

A variance from the aforesaid provision of Industrial Code Rule 56 is hereby GRANTED, relative to the removal of above ground insulated piping without the isolation barriers—specific as required by Section 56-8.1(k) which requirement is included among those specified in Section 56-8.2(d), subject to the following conditions as they pertain to the removal of above ground insulated piping located either in a building or external to a building:

#### CONDITIONS

1. Compliance with all applicable provisions of Industrial Code Rule

Section 56-8.2(d) is required with the exception of Code Rule Section 56-8.1, Subdivision (k), Paragraphs (1) through (5) only.

2. The entirety of the building(s)/complex shall be considered to be the work area. Uncertified persons shall not be permitted within the work area.

3. Amended water shall be used to wet the asbestos.

4. Personal protective equipment as required by Industrial Code Rule Section 56-4.1, Subdivision (d) shall be provided and used.

5. A personal decontamination enclosure system that complies with Subpart 56-9 shall be utilized. The enclosure system shall be removed only after satisfactory clearance air monitoring results have been achieved.

6. In addition to the requirements of Subpart 56-17, air monitoring of the entire work area shall be conducted daily. If air sample results indicate any airborne asbestos fiber concentration(s) at or above 0.01 fibers per cubic centimeter, or the background level, whichever is greater, work shall be stopped immediately, methods shall be altered to reduce the airborne asbestos fiber concentration(s) to the aforementioned level and work shall not resume until that level is attained.

7. A waste decontamination enclosure system that fully complies with Subpart 56-10 shall be utilized.

8. All openings (including but not limited to windows, doors, ducts, grilles) to the exterior of the building(s) shall be sealed with two layers of at least six mil plastic sheeting.

9. Air sampling and analysis shall be performed in compliance with the requirements of Industrial Code Rule 56-17.

10. The entirety of the pipe/insulation shall be wrapped in two layers of, at least six mil, plastic sheeting and sealed airtight prior to the commencement of glovebag operations.

11. Nylon slings shall be used to lower/move insulated pipe sections of convenient lengths.

12. A copy of this Applicable Variance shall be conspicuously posted at the entrance to the personal decontamination enclosure.

13. All other applicable provisions of Industrial Code Rule 56-1 through 56-17 shall be complied.

This variance shall be applied by all enforcement officials to all persons and in all places to which the aforesaid provision of Industrial Code Rule 56 applies to the removal of above ground insulated piping with the same force and effect as if this variance were duly granted upon separate petition for the use and benefit of every person affected by the aforesaid provision of Industrial Code Rule 56.

In the Matter of	:	COMMISSIONER'S DECISION
Part 56 of Title 12 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Cited as 12 NYCRR 56)	:	APPLICABLE VARIANCE (AV 88)
(As Amended Effective December 15, 1987) Code Rule Section 56-6.1, Paragraphs 56-8.1(k)(1) through (k)(5); Subdivisions 56-15.2(c) through (e).	:	ASBESTOS ROOF SHINGLES
	:	DATED
	:	MARCH 20, 1989
	X	

Pursuant to Section 30 of the Labor Law, the Commissioner of Labor has reviewed the aforesaid provisions of Industrial Code Rule 56 as they relate to the removal of roof shingles; and

Has also reviewed numerous petitions for variance or other relief and the decisions rendered relative to these petitions.

The Commissioner finds that the issuance of an applicable variance from the aforesaid provisions of Industrial Code Rule 56, as such pertain to the removal of roof shingles, would not violate the spirit and purpose of the said rules and would secure the public safety as contemplated by the said rules.

#### APPLICABLE VARIANCE

A variance from the aforesaid provisions of Industrial Code Rule 56 is hereby GRANTED, relative to the removal of shingles from roofs without requiring the specific isolation barriers, the ventilation in said isolation barriers and certain clean up procedures relating to said isolation barriers, subject to the following conditions:

#### CONDITIONS

1. The entire roof area shall be considered the asbestos work area.

2. The cordoning off of the work area and the associated warning signs shall comply with Industrial Code Rule 56-8.1(b).

3. During asbestos roof shingle removal, only certified persons shall be allowed on the roof.

4. One worker shall continuously apply amended water to the asbestos roof shingles being removed.

5. If more than one area of non-friable asbestos roof shingles is being removed simultaneously, at least one person shall continuously apply amended water to the non-friable asbestos roof shingles at each removal site.

6. Personal protective equipment as required by Industrial Code Rule 56-4.1(d) shall be provided and used.

7. All communicating openings (including but not limited to windows, doors, vents, ducts and grilles), on the roof level and one floor below shall be sealed with two layers of at least six mil plastic.

8. The asbestos roof shingles shall be removed and placed into, at least six mil, plastic bags. The bagging shall be doubled before passing through the waste decontamination enclosure system.

9. All power operated tools utilized shall be provided with HEPA filtered local exhaust ventilation, as required by Industrial Code Rule 56-7.1(g).

10. In addition to the requirements of Subpart 56-17, air monitoring of the entire work area shall be conducted daily. If air sample results indicate any airborne asbestos fiber concentration(s) at or above 0.01 fibers per cubic centimeter, or the background level, whichever is greater, work shall be stopped immediately, methods shall be altered to reduce the airborne asbestos fiber concentration(s) to the aforementioned level and work shall not resume until that level is attained.

11. A personal decontamination enclosure system, which may be "remote" from the work area but otherwise complies with the provisions of Subpart 56-9, shall be utilized.

12. A waste decontamination enclosure system, which may be "remote" from the work area but otherwise complies with the provisions of Subpart 56-10, shall be utilized.

13. Not less than fifteen (15) days prior to the commencement of a project utilizing the terms of this applicable variance the contractor shall submit a copy of the completed and signed DOSH 465 form, entitled "NON-FRIABLE ASBESTOS OR ASBESTOS MATERIAL ROOFING PROJECT(S)" to the Engineering Services Unit of the Department of Labor in Albany, New York.

14. A copy of this applicable variance and a copy of the completed, signed DOSH 465 form, entitled "NON-FRIABLE ASBESTOS OR ASBESTOS MATERIAL ROOFING PROJECT(S)," shall be conspicuously displayed at the entrance to the personal decontamination enclosure.

15. The Petitioner shall comply with all other applicable provisions of Industrial Code Rule 56-1 through 56-17.

This variance shall apply and shall be applied by all enforcement officials to all persons and in all places to which the aforesaid provisions of Industrial Code Rule Section 56 apply to the removal of asbestos containing shingles from roof(s) with the same force and effect as if this variance were duly granted upon separate petition for the use and benefit of every person affected by the aforesaid provisions of Industrial Code Rule 56.

In the Matter of	:	COMMISSIONER'S DECISION
Part 56 of Title 12 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Cited as 12 NYCRR 56)	:	APPLICABLE VARIANCE (AV 89)
(As Amended Effective December 15, 1987) Code Rule Section 56-6.1; Section 56-8.1, Subdivision (k), Paragraphs (1)(2)(3)(4) and (5); Section 56-15.2, Subdivisions (c)(d) and (e)	:	ASBESTOS SHINGLE SIDING
	:	DATED
	:	MARCH 20, 1989
	X	

Pursuant to Section 30 of the Labor Law, the Commissioner of Labor has reviewed the aforesaid provisions of Industrial Code Rule 56 as they relate to the removal of shingle siding; and

Has also reviewed numerous petitions for variance or other relief and the decisions rendered relative to these petitions.

The Commissioner finds that the issuance of an applicable variance from the aforesaid provisions of Industrial Code Rule 56, as such pertain to the removal of shingle siding, would not violate the spirit and purpose of the said rules and would secure the public safety as contemplated by the said rules.

#### APPLICABLE VARIANCE

A variance from the aforesaid provisions of Industrial Code Rule 56 is hereby GRANTED, relative to the removal of shingle siding without the ventilation, the isolation barriers-specific and first sheeting removal and third cleaning requirements of the aforesaid rules, subject to the following conditions:

#### CONDITIONS

1. The area surrounding the structure from which the shingle siding is to be removed shall be plasticized using two layers of, at least six mil, plastic sheeting. The said plastic shall extend outward on the ground from the perimeter of the structure for a distance of at least six feet.
  2. Each structure and the surrounding area within fifty (50) feet of its perimeter shall be considered to be the work area.
  3. Uncertified persons shall not be permitted within the work area. The vacation of each work area and warning signs shall comply with Industrial Code Rule 56-8.1(b).
  4. Each work area shall be segregated by the use of barricades or fences and shall be accessible through only one entrance/exit.
  5. HEPA filtered local exhaust ventilation, as required by Industrial Code Rule 56-7.1(j), shall be utilized on all power operated tools.
  6. Personal protective equipment as required by Industrial Code Rule 56-4.1(d) shall be provided and used by all persons within the work area.
  7. A personal decontamination enclosure system that complies with Subpart 56-9 shall be utilized. The personal decontamination enclosure shall be removed only after satisfactory clearance air monitoring results have been achieved.
  8. In addition to the requirements of Subpart 56-17, air monitoring of the entire work area shall be conducted daily. If air sample results indicate any airborne asbestos fiber concentration(s) at or above 0.01 fibers per cubic centimeter, or the background level, whichever is greater, work shall be stopped immediately, methods shall be altered to reduce the airborne asbestos fiber concentration(s) to the aforementioned level and work shall not resume until that level is attained.
  9. A waste decontamination enclosure system, that fully complies with the provisions of Subpart 56-10 shall be utilized.
  10. All openings (including but not limited to windows, doors, ducts, grilles) within any structure being abated or within fifty (50) feet of its perimeter shall be sealed with two layers of, at least, six mil plastic sheeting.
  11. The shingle siding shall be removed intact and using manual methods only.
  12. Amended water shall be used to continually wet the shingle siding prior to, during and subsequent to removal.
  13. Any water accumulation shall be filtered and treated as asbestos containing water before it is discharged into a waste system.
  14. All air sampling and analysis shall be performed in compliance with all provisions of Subpart 56-17.
  15. A copy of this APPLICABLE VARIANCE shall be conspicuously displayed at the entrance to the personal decontamination enclosure.
  16. All other applicable provisions of Industrial Code Rule 56-1 through 56-17 shall be met.
- This variance shall be applied by all enforcement officials to all persons and in all places to which the aforesaid provisions of Industrial Code Rule 56 apply to the removal of shingle siding with the same force and effect as if this variance were duly granted upon separate petition for the use and benefit of every person affected by the aforesaid provisions of Industrial Code Rule 56.

(As Amended Effective December 15, 1987)

Code Rule Section 56-6.1.

Paragraphs 56-8.1(k)(1) through (k)(5);

Subdivision 56-15.2(c) through (c)

DATED

MARCH 20, 1989

Pursuant to Section 30 of the Labor Law, the Commissioner of Labor has reviewed the aforesaid provisions of Industrial Code Rule 56 as they relate to the removal of roof flashing; and

Has also reviewed numerous petitions for variance or other relief and the decisions rendered relative to these petitions.

The Commissioner finds that the issuance of an applicable variance from the aforesaid provisions of Industrial Code Rule 56, as such pertain to the removal of roof flashing, would not violate the spirit and purpose of the said rules and would secure the public safety as contemplated by the said rules.

#### APPLICABLE VARIANCE

A variance from the aforesaid provisions of Industrial Code Rule 56 is hereby GRANTED, relative to the removal of roof flashing without requiring the specific isolation barriers, the ventilation in said isolation barriers and certain clean up procedures relating to said isolation barriers, subject to the following conditions:

#### CONDITIONS

1. The entire roof area shall be considered the asbestos work area.
2. The cordoning off of the work area and the associated warning signs shall comply with Industrial Code Rule 56-8.1(b).
3. During roof flashing removal, only certified persons shall be permitted on the roof.
4. One worker shall continuously apply amended water to the asbestos flashing being removed.
5. If more than one area of roof flashing is being removed simultaneously, at least one person shall continuously apply amended water to the asbestos flashing at each removal site.
6. Personal protective equipment as required by Industrial Code Rule 56-4.1(d) shall be provided and used.
7. All communicating openings on the roof level, and one floor below shall be sealed with two layers, of at least six mil, plastic (including but not limited to windows, doors, vents, ducts and grilles).
8. The roof flashing shall be removed and placed into, at least six mil, plastic bags. The bagging shall be doubled before passing through the waste decontamination enclosure system.
9. All power operated tools utilized shall be provided with HEPA filtered local exhaust ventilation, as required by Industrial Code Rule 56-7.1(j).
10. In addition to the requirements of Subpart 56-17, air monitoring of the entire work area shall be conducted daily. If air sample results indicate any airborne asbestos fiber concentration(s) at or above 0.01 fibers per cubic centimeter, or the background level, whichever is greater, work shall be stopped immediately, methods shall be altered to reduce the airborne asbestos fiber concentration(s) to the aforementioned level and work shall not resume until that level is attained.
11. A personal decontamination enclosure system, which may be "remote" from the work area but otherwise complies with the provisions of Subpart 56-9, shall be utilized.
12. A waste decontamination enclosure system, which may be "remote" from the work area but otherwise complies with the provisions of Subpart 56-10, shall be utilized.
13. Not less than fifteen (15) days prior to the commencement of a project utilizing the terms of this applicable variance the contractor shall submit a copy of the completed and signed DOSH 465 form, entitled "NON-FRIABLE ASBESTOS OR ASBESTOS MATERIAL ROOFING PROJECT(S)" to the Engineering Services Unit of the Department of Labor in Albany, New York.
14. A copy of this applicable variance and a copy of the completed, signed DOSH 465 form, entitled "NON-FRIABLE ASBESTOS OR ASBESTOS MATERIAL ROOFING PROJECT(S)," shall be conspicuously displayed at the entrance to the personal decontamination enclosure.
15. The Petitioner shall comply with all other applicable provisions of Industrial Code Rule 56-1 through 56-17.

This variance shall apply and shall be applied by all enforcement officials to all persons and in all places to which the aforesaid provisions

In the Matter of	X	COMMISSIONER'S
Part 56 of Title 12 of the Official Compilation	:	DECISION
of Codes, Rules and Regulations	:	APPLICABLE
of the State of New York	:	VARIANCE
(Cited as 12 NYCRR 56)	:	(AY 90)
	:	ASBESTOS
	:	ROOF FLASHING

of Industrial Code Rule Section 56 apply to the removal of roof flashing with the same force and effect as if this variance were duly granted upon separate petition for the use and benefit of every person affected by the aforesaid provisions of Industrial Code Rule 56.

	X	
In the Matter of	:	COMMISSIONER'S
Part 56 of Title 12 of the Official Compilation	:	DECISION
of Codes, Rules and Regulations	:	APPLICABLE
of the State of New York	:	VARIANCE
(Cited as 12 NYCRR 56)	:	(AY 96)
	:	ASBESTOS
	:	SPRAY
	:	PLASTIC
(As Amended Effective December 15, 1987)	:	
Code Rule Section 56-4.1, Subdivisions (k) and Par-	:	DATED
agraph (5)	:	May 31, 1990
	X	

Pursuant to Section 30 of the Labor Law, the Commissioner of Labor has reviewed the aforesaid provision of Industrial Code Rule 56 as it relates to the use of spray plastic for asbestos projects; and

Has also reviewed petitions for variance or other relief and the decisions rendered relative to these petitions.

The Commissioner finds that the issuance of an applicable variance from the aforesaid provision of Industrial Code Rule 56, as such pertains to the use of spray plastic for asbestos projects, would not violate the spirit and purpose of the said rule and would secure the public safety as contemplated by the said rule.

#### APPLICABLE VARIANCE

A variance from the aforesaid provision of Industrial Code Rule 56 is hereby GRANTED, relative to the use of spray plastic for asbestos projects, subject to the following conditions:

#### CONDITIONS

1. All work area(s) shall be pre-cleaned as per the requirements of Industrial Code Rule 56-8.1(f).
  2. Pre-abatement air sampling/analysis shall not commence until at least twelve hours have elapsed following wet cleaning and there are no visible pools of liquid or remaining condensation.
  3. The spray plastic shall be applied by persons that have been trained by the manufacturer, its representatives or others authorized by the manufacturer to perform such training.
  4. The spray plastic shall be used/applied/maintained/removed in accordance with the manufacturer's detailed procedures for the same.
  5. Wet Application shall be made at a rate to dry not less than 6 mils thick.
  6. After the layer of spray plastic has cured/dried, a secondary layer of plastic sheeting shall be installed over the spray plastic. This secondary plastic sheeting shall be at least 6 mil thick and shall overlap with the floor sheeting by at least 12 inches. Seams on this secondary layer of plastic sheeting shall be separated by at least six feet and shall be sealed airtight with tape. The tape sealing the secondary layer of plastic sheeting shall be sprayed with spray plastic to ensure the integrity and construction of the isolation barriers.
  7. Post-abatement cleanup shall be performed in compliance with the requirements of Industrial Code Rule 56-15.2. The layer of spray plastic shall be cleaned/removed as if it were the "remaining plastic" under Industrial Code Rule 56-15(d).
  8. The spray plastic shall be considered to be asbestos waste material and shall be processed/disposed of as such.
  9. A copy of this APPLICABLE VARIANCE and the aforementioned manufacturer's detailed procedures shall be conspicuously posted together at the entrance to the work area(s).
  10. All other applicable provisions of Industrial Code Rules 56-1 through 56-17 shall be complied.
- This variance shall apply and shall be applied by all enforcement officials to all persons and in all places to which the aforesaid provision of Industrial Code Rule 56 applies to the use of spray plastic for asbestos projects with the same force and effect as if this variance were duly granted upon separate petition for the use and benefit of every person affected by the aforesaid provision of Industrial Code Rule 56.

	X	
In the Matter of	:	COMMISSIONER'S
Part 56 of Title 12 of the Official Compilation	:	DECISION
of Codes, Rules and Regulations	:	APPLICABLE
of the State of New York	:	VARIANCE
(Cited as 12 NYCRR 56)	:	(AY 92)
	:	ASBESTOS
	:	FLOOR COVERINGS;
	:	OVERLAYING OF
	:	FLOORS;
	:	FLOATED ROOFS
	:	AND/OR FLASHINGS
(As Amended Effective December 15, 1987)	:	
Code Rule Section 56-1.5; Section 1.6;	:	DATED
Section 56-2.1; Section 56-2.2; Subpart 56-3;	:	
Subpart 56-4; Subpart 56-5;	:	
Subpart 56-6; Subpart 56-7;	:	
Subpart 56-8; Subpart 56-9;	:	
Subpart 56-10; Subpart 56-11; Subpart 56-12;	:	
Subpart 56-13; Subpart 56-14; Subpart 56-15;	:	
Subpart 56-16; Subpart 56-17	:	
	X	

Pursuant to Section 30 of the Labor Law, the Commissioner of Labor has reviewed the aforesaid provisions of Industrial Code Rule 56 as they relate to floor coverings, overlaying of floors and floated roofs and/or flashings; and

Has also reviewed numerous petitions for variance or other relief and the decisions rendered relative to these petitions.

The Commissioner finds that the issuance of an Applicable Variance from the aforesaid provisions of Industrial Code Rule 56, as such pertain to floor coverings, overlaying of floors and floated roofs and/or flashings, would not violate the spirit and purpose of the said rules and would secure the public safety as contemplated by the said rules.

#### APPLICABLE VARIANCE

A variance from the aforesaid provisions of Industrial Code Rule 56 is hereby GRANTED, relative to floor coverings, overlaying of floors and floated roofs and/or flashings, subject to the following conditions:

#### CONDITIONS

1. If, at any time during or subsequent to the project, friable asbestos or asbestos material is disturbed, the project and/or any future activity shall be deemed to be an asbestos project and all such further work activity shall be conducted in accordance with the requirements of Industrial Code Rules 56-1 through 56-17.

2. A copy of this applicable variance shall be conspicuously displayed at the entrance to each project area.

This variance shall apply and shall be applied by all enforcement officials to all persons and in all places to which the aforesaid provision of Industrial Code Rule 56 apply to floor coverings, overlaying of floors and floated roofs and/or flashings with the same force and effect as if this variance were duly granted upon separate petition for the use and benefit of every person affected by the aforesaid provisions of Industrial Code Rule 56.

JUNE 5, 1989

# MISCELLANEOUS NOTICES/HEARINGS

## PUBLIC NOTICE Department of Labor

	X	
In the Matter of :		COMMISSIONER'S DECISION
Part 56 of Title 12 of the Official Compilation of Codes, Rules and Regulations of the State of New York :		APPLICABLE VARIANCE (AV 97)
(Cited as 12 NYCRR 56) (As Amended Effective January 1, 1992) :		ASBESTOS
Code Rule Section 56-3.1 (f) :		IN-PLANT DECONTAMINATION FACILITIES
	X	DATED February 6, 1992

Pursuant to Section 30 of the Labor Law, the Commissioner of Labor has reviewed Section 56-3.1 (f) of Industrial Code Rule 56 requiring the personal and waste decontamination facilities as set forth elsewhere in such Code Rule be provided on projects conducted under the provision of Subpart 56-3, In-Plant and Emergency Operations; and

The Commissioner has also reviewed subdivision 12 of section 901 of the New York State Labor Law and has determined that the provision of subdivision 56-3.1 (f) were not a part of the limitation in scope of the "in-plant operations" exception created by said law, and as such were not appropriate for inclusion under the aforementioned subpart; and

The Commissioner finds that the issuance of an Applicable Variance from the aforesaid provision of Industrial Code Rule 56, as such pertain to in-plant decontamination facilities, would not violate the spirit and purpose of said rule and would secure the public safety as contemplated by said rule.

### APPLICABLE VARIANCE

A variance from the aforesaid provisions of Industrial Code Rule 56 is hereby GRANTED, relative to the in-plant decontamination facilities subject to the following conditions:

### CONDITIONS

1. In-plant projects shall be conducted in accordance with all applicable provisions of section 56-3.1 of Industrial Code Rule 56, with the exception that the provisions of subdivision 56-3.1 (f) are no longer required.

2. A copy of this applicable variance shall be conspicuously displayed at the entrance to each in-plant project area.

This variance shall apply and shall be applied by all enforcement officials to all persons and in all places to which the aforesaid provisions of Industrial Code Rule 56 applies to in-plant decontamination facilities with the same force and effect as if this variance were duly granted upon separate petition for the use and benefit of every person affected by the aforesaid provisions of Industrial Code Rule 56.

For further information contact: Robert Perez, Department of Labor, Bldg. 12, Rm. 454, Albany, NY 12240, (518) 457-1255

# MISCELLANEOUS NOTICES/HEARINGS

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## PUBLIC NOTICE Department of Labor

The Department of Labor hereby gives notice of the following applicable  
variances for Asbestos 103-109 inclusive.

In the Matter of

Part 56 of Title 12 of the  
Official Compilation of  
Codes, Rules and Regulations  
of the State of New York  
(Cited as 12 NYCRR 56)  
(As Amended Effective  
November 9, 1994)  
Code Rule Section 56-2.2;  
Subdivisions (a) and (b)

COMMISSIONER'S  
DECISION

APPLICABLE  
VARIANCE  
(AV 103)\*

ASBESTOS  
TEMPORARY  
REQUIREMENTS  
FOR  
INITIAL  
CERTIFICATION  
DATED  
APRIL 2, 1997



Pursuant to Section 30 of the Labor Law, the Commissioner of Labor has reviewed the aforementioned provisions of Industrial Code Rule 56 as they relate to the employment of persons who have applied for an asbestos handling certificate prior to the issuance of that certificate by the New York State Department of Labor, Division of Safety and Health; and

Has also reviewed numerous petitions for variance or other relief and the decisions rendered relative to the petitions.

The Commissioner finds that the issuance of an applicable variance from the aforementioned provisions of Industrial Code Rule 56, pertaining to the employment of persons having applied for an asbestos handling certificate prior to the issuance of that certificate by the New York State Department of Labor, Division of Safety and Health, would not violate the spirit and purpose of the said rules and would secure the public safety as contemplated by said rules.

#### APPLICABLE VARIANCE

A variance from the aforementioned provisions of Industrial Code Rule 56 is hereby GRANTED, relative to employment of persons having applied for an asbestos handling certificate prior to the issuance of that certificate by the New York State Department of Labor, Division of Safety and Health, subject to the following conditions:

#### CONDITIONS

1. Any person not currently possessing a valid asbestos handling certificate issued by the New York State Department of Labor seeking employment on an asbestos containment/removal project shall provide the employer with the following:
  - a) A photo identification card issued by an authorized government entity showing that the applicant is at least 18 years old.
  - b) The student copy of the signed and dated New York State Department of Health Certificate of Asbestos Safety Training Form (DOH 2832) indicating successful completion of an approved, initial asbestos safety program.
2. Each employer shall receive and be responsible for the authenticity of the documentation submitted under Condition No. 1 above.
3. Any employer employing person(s) is not currently possessing a valid asbestos handling certificate shall conspicuously display at entrance to the work area, one copy of this APPLICABLE VARIANCE and copies of the documentation from each employee as stipulated under Condition No. 1 above.
4. Any employee working under the provisions of this APPLICABLE VARIANCE shall only perform those tasks which are related to the discipline(s) that he/she has received training in.
5. Any employee working under the provisions of this APPLICABLE VARIANCE shall carry at all times the student copy of the Form DOH 2832, and a photo identification.
6. Under the provisions of this APPLICABLE VARIANCE, no person shall be employed more than forty-five (45) days from the issuance date indicated on his/her approved asbestos safety program course diploma/documentation without a valid asbestos handling certificate.
7. The provisions of this APPLICABLE VARIANCE shall not apply to individual seeking a renewal of certification.
8. The Petitioner shall comply with all other applicable provisions of Industrial Code Rule Subparts 56-1 through 56-17.

This variance shall apply and shall be applied by all enforcement officials to all persons and in all places to which the aforementioned

provisions of Industrial Code Rule 56 apply to the employment of persons who have applied for an asbestos handling certificate prior to the issuance of that certificate by the New York State Department of Labor, Division of Safety and Health with the same force and effect as if this variance were duly granted upon separate petition for the use and benefit of every person affected by the aforementioned provisions of Industrial Code Rule 56.

DATED: APRIL 2, 1997

JOHN E. SWEENEY  
COMMISSIONER OF LABOR

• This DECISION supersedes APPLICABLE VARIANCE 93A, COMMISSIONER'S TERMINATION DECISION DATED MAY 29, 1992.

In the Matter of

COMMISSIONER'S  
DECISION

Part 56 of Title 12 of the  
Official Compilation of  
Codes, Rules and Regulations  
of the State of New York  
(Cited as 12 NYCRR 56)  
(As Amended Effective  
November 9, 1994)  
Code Rule Section 56-2.1(d)(3)

APPLICABLE  
VARIANCE  
(AV 104)

ASBESTOS  
CONTRACTOR  
LICENSING  
REQUIREMENTS

DATED  
JUNE 3, 1997

Pursuant to Section 30 of the Labor Law, the Commissioner of Labor has reviewed the aforementioned provisions of Industrial Code Rule 56 as they relate to contractor licensing requirements; and

Has also reviewed numerous petitions for variance or other relief and the decisions rendered relative to the petitions.

The Commissioner finds that the issuance of an APPLICABLE VARIANCE from the aforementioned provisions of Industrial Code Rule 56, as such pertain to contractor licensing requirements, would not violate the spirit and purpose of the said rules and would secure the public safety as contemplated by said rules.

#### APPLICABLE VARIANCE

A VARIANCE from the aforementioned provisions of Industrial Code Rule 56 is hereby GRANTED, relative to contractor licensing requirements, subject to the following conditions:

#### CONDITIONS

1. For contractors other than those that perform abatement of asbestos, Section 56-2.1(d)(3) of the Industrial Code Rule 56 shall omit the following sentence: "Each license application shall include the name of the supervisor designated as the contractor's agent as required by section 902(1) of the Labor Law." The certified supervisor requirement shall only apply to contractors that perform the actual removal of asbestos for abatement purposes.
2. Any contractor who wishes to be licensed under the terms of this

APPLICABLE VARIANCE must submit a notarized statement to the Department of Labor when applying for a license which states that their activities shall not include the abatement of asbestos during the period for which the license is valid.

3. Licenses issued under the provisions of this APPLICABLE VARIANCE shall be subject to the restrictions of this APPLICABLE VARIANCE.
4. Penalties for performing abatement of asbestos while licensed under the provisions of this APPLICABLE VARIANCE shall include the immediate suspension of the project and appropriate fines and/or license revocation.
5. A copy of this APPLICABLE VARIANCE shall be conspicuously posted at the entrance to the personal decontamination enclosure.
6. All other applicable provisions of Industrial Code Rule 56-1 through 56-18 shall be complied.

This VARIANCE shall apply to and shall be applied by all enforcement officials to all persons and in all places to which the aforementioned provisions of Industrial Code Rule 56 apply in which contractor licensing requirements with the same force and effect as if this VARIANCE were duly granted upon separate petition for the use and benefit of every person affected by the aforementioned provisions of Industrial Code Rule 56.

DATED: JUNE 3, 1997

JOHN E. SWEENEY  
COMMISSIONER OF LABOR

In the Matter of

COMMISSIONER'S  
DECISION

Part 56 of Title 12 of the  
Official Compilation of  
Codes, Rules and Regulations  
of the State of New York  
(Cited as 12 NYCRR 56)  
(As Amended Effective  
November 9, 1994)  
Code Rule Section 56-1.6(b); Section 56-6.1;  
Section 56-8.1(k)(1-5); Section 56-9.1;  
Section 56-10.1; Section 56-15.2(c-e);  
Section 56-17.2(a)(1)

APPLICABLE  
VARIANCE  
(AV 105)  
  
ASBESTOS  
INCIDENTAL  
DISTURBANCE  
OF AN  
ASBESTOS  
CONTAINING  
MATERIAL

DATED  
JUNE 3, 1997

Pursuant to Section 30 of the Labor Law, the Commissioner of Labor has reviewed the aforementioned provisions of Industrial Code Rule 56 as they relate to an incidental disturbance of an asbestos containing material; and

Has also reviewed numerous petitions for variance or other relief and the decisions rendered relative to the petitions.

The Commissioner finds that the issuance of an APPLICABLE VARIANCE from the aforementioned provisions of Industrial Code Rule 56, as such pertain to the incidental disturbance of asbestos, would not

violate the spirit and purpose of the said rules and would secure the public safety as contemplated by said rules.

APPLICABLE VARIANCE

A VARIANCE from the aforementioned provisions of Industrial Code Rule 56 is hereby GRANTED, relative to the incidental disturbance of an asbestos containing material, subject to the following conditions:

CONDITIONS

1. Upon discovery of an incidental disturbance (an unintentional asbestos containing material failure or act of nature involving asbestos containing material that causes fiber release and requires immediate cleanup of the affected area to prevent further fiber release), the affected area shall be cordoned off with barrier tape at a distance of twenty-five (25) feet, if possible, from the outermost limit of the disturbance. Adequate signage as described in ICR Subpart 56-8.1(b), and shall apply to any size project, shall be posted around the affected area. Appropriate decontamination enclosure systems and airlocks shall be set in place.
2. This VARIANCE allows, clean up of affected areas but does not allow removal of undisturbed material.
3. Only certified persons or authorized visitors shall be allowed within the affected area after the disturbance is discovered.
4. Methods shall be employed to minimize further disturbance of the affected material.
5. Notification to the Asbestos Control Bureau, Department of Labor shall be made as soon as possible and in accordance with Industrial Code Rule 56.
6. For other than "minor" size disturbances (as described in ICR 56) a personal decontamination enclosure system that complies with ICR Subpart 56-9 shall be utilized. A waste decontamination enclosure system that fully complies with ICR Subpart 56-10 shall be utilized. These enclosure systems may be remote and shall be removed only after satisfactory clearance air monitoring results have been achieved.
7. For a disturbance within an interior space the following shall be installed as soon as possible: isolation barriers that conform to ICR Subpart 56-8.1(j), negative air and a barrier consisting of two (2) layers of six-mil poly separating the occupied areas from the work area.
8. Relief from ICR Subpart 56-6.1 applies only to exterior disturbances.
9. If disturbance is outdoors all adjacent building openings within twenty-five (25) feet of the outermost limit of the disturbance shall be sealed with two (2) layers of six-mil fire retardant plastic sheeting.
10. For disturbances greater than ten (10) square feet or twenty-five (25) lineal feet an airlock shall be required at the entrance to the affected area. Workers shall double suit prior to entering the affected area. Prior to leaving the affected area the worker shall remove the outer suit in the airlock, don a new outer suit, and proceed directly to the remote personal decontamination unit.
11. For "minor" disturbances one (1) air test shall be taken inside and outside of each work area during and after abatement. For "small" disturbances three (3) air tests shall be taken inside and outside of each work area during and after abatement. For "large" disturbances five (5) air tests shall be taken inside and outside of each work area during and after abatement.
12. After cleanup of the debris caused by the incidental disturbance,

encapsulation of the affected areas shall be performed.

13. For disturbances involving pipe insulation, glovebags shall be used.
14. If air sampling results indicate any airborne asbestos fiber concentrations at or above 0.01 fibers per cubic centimeters work shall be stopped immediately, and methods shall be altered to reduce the asbestos fiber concentration.
15. All tools used during cleanup operations shall be decontaminated via wet wiping and HEPA vacuuming.
16. The contractor shall observe a four (4) hour waiting (settling/drying) period prior to clearance air monitoring.
17. Due to the nature of this work background and preabatement air samples cannot be taken.
18. After completion of the drying period, an authorized and qualified individual, (i.e., the Project Monitor, Air Monitor or Design Engineer) shall inspect the abatement location for dryness and debris. Once the abatement area is inspected and determined dry and free of debris, clearance air tests may be performed.
19. If air test results are unacceptable the abatement area shall be recleaned, a new settling period observed and the test rerun.
20. A copy of this APPLICABLE VARIANCE shall be conspicuously posted at the entrance to the personal decontamination enclosure.
21. All other applicable provisions of Industrial Code Rule 56-1 through 56-18 shall be complied.

This VARIANCE shall apply and shall be applied by all enforcement officials to all persons and in all places to which the aforementioned provisions of Industrial Code Rule 56 apply to the incidental disturbance of an asbestos containing material with the same force and effect as-if this VARIANCE were duly granted upon separate petition for the use and benefit of every person affected by the aforementioned provisions of Industrial Code Rule 56.

DATED: JUNE 3, 1997

JOHN E. SWEENEY  
COMMISSIONER OF LABOR

In the Matter of	COMMISSIONER'S DECISION
Part 56 of Title 12 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Cited as 12 NYCRR 56) (As Amended Effective November 9, 1994) Code Rule Section 56-1.9 Subdivision (a): Section 56-6.1; Section 56-8.1, Subdivision (j); Section 56-9.1; Section 56-10.1; Section 56-11.1, Subdivision (b); Section 56-12.1, Subdivision (c); Section 56-15.2, Subdivision (b),(c),(d) and (e). Pursuant to Section 30 of the Labor Law, The Commissioner of	APPLICABLE VARIANCE (AV 106)*  ASBESTOS  DEMOLITION OF CONDEMNED BUILDINGS OR STRUCTURES  DATED JUNE 3, 1997

Labor has reviewed the aforementioned provisions of Industrial Code Rule 56, as they relate to the felling of structurally unsound asbestos containing buildings or structures and the imminent danger said buildings or structures present to the public, were they to collapse due to fire, rain, snow loads, or other unpredictable natural disasters.

The Commissioner of Labor has also reviewed numerous petitions for variance or other relief relative to condemned buildings or structures and the decisions rendered relative to these petitions.

The Commissioner of Labor finds that the issuance of an APPLICABLE VARIANCE from the aforementioned provisions of Industrial Code Rule 56, as such pertain to felling structurally unsound buildings that contain asbestos or asbestos materials which meet the aforementioned qualifications, would not violate the spirit and purpose of the said rules and would secure the public safety as contemplated by the said rules.

For the purposes of this variance, a building may be determined to be structurally unsound only by a building official of the local municipality or by a currently registered New York State Licensed Professional Engineer or Registered Architect who has deemed the building condemned due to its being unsafe and in imminent danger of collapse.

#### APPLICABLE VARIANCE

A VARIANCE from the aforementioned provisions of Industrial Code Rule (ICR) 56 is hereby granted, relative to felling a structurally unsound asbestos containing buildings which has been inspected and condemned by a local building official or a currently registered New York State Professional Engineer or Registered Architect licensed in the State of New York after the building was deemed structurally unsound/unsafe as a result of damage incurred from fire, rain, snow loads or other unpredictable natural disaster. Pursuant to this variance, the condemned building may be felled without surveying the building for the quantity and locations of asbestos and without remediating the asbestos and asbestos containing materials prior to proceeding with building demolition, subject to the following conditions:

#### THE CONDITIONS

##### Letter of Condemnation:

1. A copy of the letter of condemnation issued by either a local building official or a currently registered New York State Licensed Professional Engineer or Registered Architect shall be received by the New York State Department of Labor, Division of Safety and Health, Engineering Services Unit prior to commencing the demolition. A copy of the Letter of Condemnation shall be posted with this Applicable Variance at the work site.

##### Notification Fee:

1. Unless the size of the project can be positively quantified, the project shall be deemed to be a large project with the appropriate notification fee of \$2,000.00.

##### Work Area Notification:

1. The entire demolition area shall be enclosed within a barrier or fence (example: orange construction fence or snow fence). The intent of this barrier is to define the work area, alert the public to the asbestos work and associated hazards and to prevent unauthorized entry into the work area.
2. The work area shall be vacated as per ICR Section 56-8.1(a) and secured against unauthorized entry/exit. The building/structure shall be secured by sealing and/or boarding up all doors, windows and other openings to the maximum extent possible.
3. Signage in accordance with the requirements of ICR 56-8.1(b)

shall be posted on the exterior of the work areas barrier warning the public of the asbestos hazard.

Unauthorized Individuals:

1. Uncertified persons shall be prohibited from the work area during the entirety of the asbestos project; that is, prior to preparation of the work area and until satisfactory clearance air monitoring results have been achieved.

Personnel:

1. Entry/exit of all persons and equipment shall be through one designated and secured "doorway" in the barrier or fence which shall provide an adequate and appropriate means of egress from the work area.
2. Personal protective equipment as required by ICR Section 56-4.1(d) shall be provided and used by all persons within the work area.
3. Only persons who are directly involved with the project and who have the required certification shall be permitted within the barrier.

Plasticizing:

1. Fire-resistant six-mil polyethylene shall be used to plasticize dumpsters and to cover debris and contain waste water.

Decontamination Areas:

1. A personal decontamination enclosure system that complies with Subpart 56-9 shall be utilized. It shall be located in close proximity to the work area. This personal decontamination system shall be removed only after satisfactory clearance air monitoring results have been achieved.
2. An equipment decontamination area shall be cordoned off within the worksite for cleaning of heavy equipment, i.e., backhoes, excavators, loaders, etc. The ground surface in this decontamination area shall be banked on the sides to confine the contaminated waste water.
3. Equipment shall be decontaminated utilizing a pressure wash system, after which all exposed surfaces of the equipment shall be manually wet wiped. Upon completion of the decontamination procedures, the interior of the equipment decontamination area shall be wet wiped.
4. The earth surface below the equipment decontamination area shall be scraped and any residual asbestos contamination shall be removed and disposed of as asbestos contaminated material.

Waste Water:

1. The demolition waste shall be wetted on a continuous basis prior to, during and subsequent to its actual collection and removal. Fog nozzles, or similar type equipment, shall be used to perform the wetting.
2. Waste water shall be confined to within the controlled demolition area. All waste water shall be collected by means of trenching or ditches and directed into a holding tank. Disposal of such waste water shall be in accordance with all applicable laws, regulations, etc.
3. After the waste water has dissipated, the earth surface below the trenches and holding tank shall be scraped and any residual asbestos contamination shall be removed and disposed of as asbestos contaminated material.

Demolition Debris:

1. All debris, structural-members, barrier components, used filters and similar items shall be considered to be asbestos containing

materials/asbestos contaminated waste unless fully decontaminated as per this Rule.

2. No dry disturbance or removal of asbestos material shall be permitted.
3. All material being removed shall be kept completely saturated at all times. This shall be accomplished by misting debris prior to and during removal. Until each disposal container is sealed for removal from the site, each container shall be continually misted.
4. Pending disposal, all demolition waste shall be placed in hardwall, closed containers or vehicles with at least six-mil plastic draped loosely over the sides and top so as to facilitate being wrapped over the top of the load and sealed prior to transport from the site.
5. The earth surface below the rubble shall be scraped and any residual asbestos contamination shall be removed and disposed of as asbestos contaminated material.

Air Monitoring:

1. Air monitoring shall be conducted in accordance with the requirements of Industrial Code Rule Subpart 56-17.7.
2. In addition to the requirements of Industrial Code Rule Subpart 56-17.7, air monitoring of the entire work area shall be conducted daily. If air sample results indicate any airborne asbestos fiber concentration(s) at or above 0.01 fibers per cubic centimeter, or the background level, whichever is greater, work shall be stopped immediately, methods shall be altered to reduce the airborne asbestos fiber concentration(s) to the aforementioned level and work shall not resume until that level is attained.
3. Work area perimeter air sampling shall be conducted during the project in accordance with ICR Subpart 56-17.
4. Final air clearance shall be obtained in accordance with ICR Subpart 56-17.

General Conditions:

1. A copy of this APPLICABLE VARIANCE shall be conspicuously posted at the entrance to the personal decontamination enclosure.
2. This APPLICABLE VARIANCE is limited in its applicability to the demolition project involving the demolition and removal of waste from the subject premises.
3. The Petitioner shall perform inspections of the worksite at least daily to ensure that the provisions of the APPLICABLE VARIANCE are being complied with.
4. The Petitioner shall comply with all other applicable provisions of Industrial Code Rule Subparts 56-1 through 56-18.

This VARIANCE shall apply and shall be applied by all enforcement officials to all persons and in all places to which the aforementioned provisions of Industrial Code Rule 56 apply to the demolition of condemned buildings with the same force and effect as if this VARIANCE were duly granted upon separate petition for the use and benefit of every person affected by the aforementioned provisions of Industrial Code Rule 56.

DATED: JUNE 3, 1997

JOHN E. SWEENEY  
COMMISSIONER OF LABOR

\* This DECISION supersedes APPLICABLE VARIANCE 100, COMMISSIONER'S DECISION dated December 1, 1994.

In the Matter of

COMMISSIONER'S  
DECISION

Part 56 of Title 12 of the  
Official Compilation of  
Codes, Rules and Regulations  
of the State of New York

APPLICABLE  
VARIANCE  
(AV 107)

(Cited as 12 NYCRR 56)

(As Amended Effective  
November 9, 1994)

Section 56-1.9 Subdivision (a);

Section 56-6.1;

Section 56-8.1, Subdivision (j);

Section 56-9.1; Section 56-10.1;

Section 56-11.1, Subdivision (b);

Section 56-12.1, Subdivision (c);

Section 56-15.2, Subdivisions (b),

(c), (d) and (e).

ASBESTOS  
DEMOLITION OF  
VACANT  
RESIDENTIAL  
PROPERTIES  
OWNED BY  
MUNICIPALITIES

DATED  
JUNE 3, 1997

Pursuant to Section 30 of the Labor Law, The Commissioner of Labor has reviewed the aforementioned provisions of Industrial Code Rule 56, as they relate to the felling of asbestos containing Vacant Residential Properties (Four Living Units or Less) Owned by Municipalities.

The Commissioner of Labor has also reviewed numerous petitions for variance or other relief relative to such buildings and the decisions rendered relative to these petitions.

The Commissioner of Labor finds that the issuance of an APPLICABLE VARIANCE from the aforementioned provisions of Industrial Code Rule 56, as such pertain to felling such buildings that contain asbestos or asbestos materials which meet the aforementioned qualifications, would not violate the spirit and purpose of the said rules and would secure the public safety as contemplated by the said rules.

## APPLICABLE VARIANCE

A VARIANCE from the aforementioned provisions of Industrial Code Rule (ICR) 56 is hereby granted, relative to felling an asbestos containing building. Pursuant to this VARIANCE, the building may be felled without surveying the building for the quantity and locations of asbestos and without remediating the asbestos and asbestos containing materials prior to proceeding with building demolition, subject to the following conditions:

## Notification Fee:

1. Unless the size of the project can be positively quantified, the project shall be deemed to be a large project with the appropriate notification fee of \$2,000.00.

## THE CONDITIONS

## Work Area Isolation:

1. The entire demolition area shall be enclosed within a barrier or fence (orange construction fence or snow fence). The intent of this barrier is to define the work area, alert the public to the asbestos work and associated hazards and to prevent unauthorized entry into the work area.
2. The work area shall be vacated as per ICR Section 56-8.1(a) and secured against unauthorized entry/exit. The building/structure

shall be secured by sealing and/or boarding up all doors, windows and other openings to the maximum extent possible.

3. Signage in accordance with the requirements of ICR 56-8.1(b) shall be posted on the exterior of the work areas barrier warning the public of the asbestos hazard.

## Unauthorized Individuals:

1. Uncertified persons shall be prohibited from the work area during the entirety of the asbestos project; that is, prior to preparation of the work area and until satisfactory clearance air monitoring results have been achieved.

## Personnel:

1. Entry/exit of all persons and equipment shall be through one designated and secured "doorway" in the barrier or fence which shall provide an adequate and appropriate means of egress from the work area.
2. Personal protective equipment as required by ICR Section 56-4.1(d) shall be provided and used by all persons within the work area.
3. Only persons who are directly involved with the project and who have the required certification shall be permitted within the barrier.

## Plasticizing:

1. Fire-resistant polyethylene shall be used to plasticize dumpsters and to cover debris and contain waste water.

## Decontamination Areas:

1. A personal decontamination enclosure system that complies with Subpart 56-9 shall be utilized. It shall be located in close proximity to the work area. This personal decontamination system shall be removed only after satisfactory clearance air monitoring results have been achieved.
2. An equipment decontamination area shall be cordoned off within the worksite for cleaning of heavy equipment, i.e., backhoes, excavators, loaders, etc. The ground surface in this decontamination area shall be banked on the sides to confine the contaminated waste water.
3. Equipment shall be decontaminated utilizing a pressure wash system, after which all exposed surfaces of the equipment shall be manually wet wiped. Upon completion of the decontamination procedures, the interior of the equipment decontamination area shall be wet wiped.
4. The earth surface below the equipment decontamination area shall be scraped and any residual asbestos contamination shall be removed and disposed of as asbestos contaminated material.

## Waste Water:

1. The demolition waste shall be wetted on a continuous basis prior to, during and subsequent to its actual collection and removal. Fog nozzles, or similar type equipment, shall be used to perform the wetting.
2. Waste water shall be confined to within the controlled demolition area. All waste water shall be collected by means of trenching or ditches and directed into a holding tank. Disposal of such waste water shall be in accordance with applicable laws and regulations.
3. After the waste water has dissipated, the earth surface below the trenches and holding tank shall be scraped and any residual asbestos contamination shall be removed and disposed of as asbestos contaminated material.

## Demolition Debris:

1. All debris, structural members, barrier components, used filters and similar items shall be considered to be asbestos containing materials/asbestos contaminated waste unless fully decontaminated as per this Rule.
2. No dry disturbance or removal of asbestos material shall be permitted.
3. All material being removed shall be kept completely saturated at all times. This shall be accomplished by misting debris prior to and during removal. Until each disposal container is sealed for removal from the site, each container shall be continually misted.
4. Pending disposal, all demolition waste shall be placed in hardwall, closed containers or vehicles with at least six-mil plastic draped loosely over the sides and top so as to facilitate being wrapped over the top of the load and sealed prior to transport from the site.
5. The earth surface below the rubble shall be scraped and any residual asbestos contamination shall be removed and disposed of as asbestos contaminated material.

**Air Monitoring:**

1. Air monitoring shall be conducted in accordance with the requirements of Industrial Code Rule Subpart 56-17.7.
2. In addition to the requirements of Industrial Code Rule Subpart 56-17.7, air monitoring of the entire work area shall be conducted daily. If air sample results indicate any airborne asbestos fiber concentration(s) at or above 0.01 fibers per cubic centimeter, or the background level, whichever is greater, work shall be stopped immediately, methods shall be altered to reduce the airborne asbestos fiber concentration(s) to the aforementioned level and work shall not resume until that level is attained.
3. Work area perimeter air sampling shall be conducted during the project in accordance with ICR Subpart 56-17.
4. Final air clearance shall be obtained in accordance with ICR Subpart 56-17.

**General Conditions:**

1. A copy of this APPLICABLE VARIANCE shall be conspicuously posted at the entrance to the personal decontamination enclosure.
2. This APPLICABLE VARIANCE is limited in its applicability to the demolition project involving the demolition and removal of waste from the subject premises.
3. The Petitioner shall perform inspections of the worksite at least daily to ensure that the provisions of the APPLICABLE VARIANCE are being complied.
4. The Petitioner shall comply with all other applicable provisions of Industrial Code Rule Subparts 56-1 through 56-18.

This VARIANCE shall apply and shall be applied by all enforcement officials to all persons and in all places to which the aforementioned provisions of Industrial Code Rule 56 apply to the demolition of buildings with the same force and effect as if this VARIANCE were duly granted upon separate petition for the use and benefit of every person affected by the aforementioned provisions of Industrial Code Rule 56.

DATED: JUNE 3, 1997

JOHN E. SWEENEY  
COMMISSIONER OF LABOR

In the Matter of

COMMISSIONER'S  
DECISION

Part 56 of Title 12 of the  
Official Compilation  
of Codes, Rules and Regulations  
of the State of New York

(Cited as 12 NYCRR 56)

(As Amended Effective

November 9, 1994)

Code Rule Sections 56-6.1; 56-8.1,

Subdivision (j), Subdivision (k),

Paragraphs (1) through (5);

Section 56-9.1, Section 56-10.1;

Section 56-11.1(b); Section 56-15.2,

Subdivisions (b) through (e);

Section 56-16.1, Subdivision (a)

and Section 56-17.2

Subdivision (a)(1).

APPLICABLE  
VARIANCE  
(AV 108)\*

ASBESTOS  
GLOVEBAG  
OPERATIONS

DATED  
JUNE 3, 1997

Pursuant to Section 30 of the Labor Law, the Commissioner of Labor has reviewed the aforementioned provisions of Industrial Code Rule 56 as they relate to the use of glovebags for the removal of asbestos or asbestos containing material; and

Has also reviewed numerous petitions for variance or other relief and the decisions rendered relative to the petitions.

The Commissioner finds that the issuances of an applicable variance from the aforementioned provisions of Industrial Code Rule 56, as such pertain to the use of glovebags for the removal of asbestos or asbestos containing material, would not violate the spirit and purpose of the said rules and would secure the public safety as contemplated by said rules.

**APPLICABLE VARIANCE**

A variance from the aforementioned provisions of Industrial Code Rule 56 is hereby GRANTED, relative to the use of glovebags for the removal of asbestos or asbestos containing material, subject to the following conditions:

**CONDITIONS**

1. A personal decontamination enclosure system that complies with Subpart 56-9 shall be utilized. A waste decontamination enclosure system that fully complies with Subpart 56-10 shall be utilized. These enclosure systems can be remote and shall be removed only after satisfactory clearance air monitoring results have been achieved.
2. If remote decontamination units are used, workers shall don two (2) suits; and the containment shall have an attached air lock within which workers shall remove their outer suit, wipe off their inner suit and don a clean outer suit prior to proceeding to another work area or to the remote decontamination unit.
3. Each glovebag work location shall be completely enclosed in a tent or "mini-containment". The inside of the tent or "mini-containment" is the work area. All tents shall have floor, ceiling, walls, and an attached airlock. Negative air pressurization shall be utilized.
4. The requirements of Section 56-15.4 shall be complied with in the event of glovebag failure.
5. A tape barrier shall be installed at an appropriate distance from the perimeter of the tent to isolate the work area.
6. Uncertified workers shall be prohibited from all work area(s).

7. In addition to the requirements of Subpart 56-17, air monitoring shall be conducted daily in each section of the work area in which glovebag techniques are being utilized. Sample and analysis turnaround time shall not exceed twenty-four hours. If air sampling results indicate airborne asbestos fiber concentration at or above 0.01 fibers per cubic centimeter, or the background level, whichever is greater, work shall be stopped immediately and methods shall be altered to reduce the airborne asbestos fiber concentration to the aforementioned level. Work shall not resume until that level is attained.
8. Individual glovebags shall be used no more than once during the course of an asbestos removal project and shall not be moved or reused.
9. The contractor shall observe, at a minimum, four (4) hour waiting (settling/drying) periods.
10. After completion of the final four (4) hour drying period, an authorized and qualified individual, (i.e., the Project Monitor, Air Monitor or Design Engineer) shall inspect abatement locations for dryness and debris. Once abatement areas are inspected and determined dry and free of debris, clearance air tests may be performed.
11. If clearance air test results fail, abatement areas shall be recleaned, a new four (4) hour settling period observed and tests rerun.
12. If tents are required to be up more than one day, daily air tests shall be required. Once acceptable air results have been attained and area is free of debris the tent shall be disassembled.
13. A copy of this APPLICABLE VARIANCE shall be conspicuously posted at the entrance to the personal decontamination enclosure.
14. All other applicable provisions of Industrial Code Rule 56-1 through 56-18 shall be complied.

This VARIANCE shall apply and shall be applied by all enforcement officials to all persons and in all places to which the aforementioned provisions of Industrial Code Rule 56 apply to the use of glovebags for the removal of asbestos or asbestos containing material with the same force and effect as if this VARIANCE were duly granted upon separate petition for the use and benefit of every person affected by the aforementioned provisions of Industrial Code Rule 56.

DATED: JUNE 3, 1997

JOHN E. SWEENEY  
COMMISSIONER OF LABOR

\*This DECISION supersedes APPLICABLE VARIANCE 91, COMMISSIONER'S DECISION dated March 20, 1989.

In the Matter of  
  
Part 56 of Title 12 of the  
Official Compilation  
of Codes, Rules and Regulations  
of the State of New York

(Cited as 12 NYCRR 56)  
(As Amended Effective  
November 9, 1994)

COMMISSIONER'S  
DECISION

APPLICABLE  
VARIANCE  
(AV 109)

ASBESTOS  
NEGATIVE

Code Rule Sections 56-6.1,  
Subdivision (j).

PRESSURE  
VENTILATION  
EXHAUST  
LOCATION

DATED  
JUNE 3, 1997

Pursuant to Section 30 of the Labor Law, the Commissioner of Labor has reviewed the aforementioned provisions of Industrial Code Rule 56 as they relate to negative pressure ventilation exhaust location; and Has also reviewed numerous petitions for variance or other relief and the decisions rendered relative to the petitions.

The Commissioner finds that the issuances of an applicable variance from the aforementioned provisions of Industrial Code Rule 56, as such pertain to the negative pressure ventilation exhaust location, would not violate the spirit and purpose of the said rules and would secure the public safety as contemplated by said rules.

#### APPLICABLE VARIANCE

A variance from the aforementioned provisions of Industrial Code Rule 56 is hereby GRANTED, relative to the negative pressure ventilation exhaust location, subject to the following conditions:

#### CONDITIONS

1. Prior to exhausting, negative air shall be filtered through two (2) negative air machines (HEPA Filtered Exhaust Units) connected in series. The exhaust of one machine shall be the intake of the second. Both machines shall be located within the work area.
2. Negative air machine filters shall be checked on a daily basis and replaced if clogged.
3. Air monitoring shall be performed at the final exhaust location of the second negative air machine.
4. Negative air shall be exhausted outside the building. A tape barrier shall be constructed a minimum of ten (10) feet from the exhaust vent to isolate the area from public access. The area receiving the exhaust shall have no HVAC air inlets.
5. If negative air cannot be exhausted outside the building then a site specific variance shall be required.
6. Uncertified workers shall be prohibited from all work area(s).
7. Daily inspections shall be conducted to ensure that the exhaust ducts, fans and joints are properly sealed, braced and supported so as to maintain an air tight system.
8. A copy of this APPLICABLE VARIANCE shall be conspicuously posted at the entrance to the personal decontamination enclosure.
9. All other applicable provisions of Industrial Code Rule 56-1 through 56-18 shall be complied.

This VARIANCE shall apply and shall be applied by all enforcement officials to all persons and in all places to which the aforementioned provisions of Industrial Code Rule 56 apply to negative pressure ventilation exhaust with the same force and effect as if this VARIANCE were duly granted upon separate petition for the use and benefit of every person affected by the aforementioned provisions of Industrial Code Rule 56.

DATED: JUNE 3, 1997

JOHN E. SWEENEY  
COMMISSIONER OF LABOR



STATE OF NEW YORK - DEPARTMENT OF LABOR  
DIVISION OF SAFETY AND HEALTH  
LICENSE AND CERTIFICATE UNIT  
PO BOX 687  
NEW YORK, NY 10014-0687

## INFORMATION FOR ASBESTOS HANDLING LICENSE APPLICANTS

### GENERAL INFORMATION

#### WHO NEEDS A LICENSE

Any contractor engaged in an asbestos project.

All firms, corporations or other business entities providing management planning, project design, monitoring, inspection and/or air monitoring services shall obtain an Asbestos Handling License. (Additionally, management planners, project designers, and project monitors shall obtain an asbestos certificate appropriate to the task performed by such person.)

**NOTE:** An in-plant operation is subject to all the licensing requirements established by Article 30 of the Labor Law and Code Rule 56.

#### ASBESTOS PROJECT

Work undertaken by a contractor which at any time involves any aspect of the removal, encapsulation, enclosure or disturbance of friable asbestos, or any handling of asbestos material that may result in the release of asbestos fiber, except work in an owner-occupied single family dwelling performed by the owner of such dwelling.

An asbestos project shall include the planning, design, monitoring, inspection and air sampling of abatement work, as well as the supervising of such activities.

Where all asbestos work on a project is subcontracted to a contractor with an asbestos handling license, only that part of the work involving asbestos shall be deemed to be an asbestos project.

#### DULY AUTHORIZED REPRESENTATIVE

A duly authorized representative is the contact person who is authorized to sign for and in behalf of the company or organization listed on the asbestos license application.

#### PUBLIC WORK PROJECTS

Prior to the award of any public work contract, the bidder must submit to the party soliciting bids a copy of a valid asbestos license.

#### ASBESTOS WORKERS

Any individual who is engaged in work on an asbestos project or who supervises persons engaged in work on an asbestos project must have the asbestos handling certificate appropriate to the tasks performed by such individual.

#### INSURANCE

An "Application For Certificate of Workers' Compensation Insurance" (C-105.2) **MUST** be filed as proof of acceptable Workers' Compensation Insurance in New York State. The License and Certificate Unit at the address shown above should be entered in the "to be filed with" and "change or cancellation" sections of the form. Such certification may be obtained from the Workers' Compensation Board district office nearest to you.

Disability Insurance is required in New York State if the applicant is a "covered employer"; that is, if one or more of the applicant's employees is employed in New York State for at least 30 days (which need not be consecutive) in any calendar year. An applicant who is a covered employer must submit a copy of his/her certificate of Disability Insurance; an applicant who is not a covered employer must submit a grant of exemption from the Disability Insurance requirement issued by the Workers' Compensation Board.

Further information on insurance may be obtained by contacting the Workers' Compensation Board, 180 Livingston Street, Brooklyn, NY 11248; 1(800) 877-1373.



## APPLICATION PACKETS

An asbestos license application packet may be obtained from the New York State Department of Labor, Division of Safety and Health, License and Certificate Unit PO BOX 687, New York, NY 10014-0687; telephone (212) 352-6103.

## LICENSE INFORMATION

### DENIED LICENSE

The denial of a license on any grounds other than failure to complete the license application shall be in writing and shall set forth the reason for such denial.

Any applicant denied a license, on any grounds other than failure to complete a license application, may ask for a hearing by submitting a written request for such hearing within 10 days of the receipt of the denial notice.

### FEE

A fee of **\$300** (by a check or money order made payable to the Commissioner of Labor) must be submitted along with either the initial or renewal application.

### EXPIRATION

A license is valid for one year from its date of issuance.

### RENEWAL

A license renewal application will be mailed to you approximately 60 days prior to the expiration of your current license.

### DISPLAY

A copy of the contractor's valid New York State Asbestos License must be displayed conspicuously at an asbestos project; such display should be proximate to but outside the work area.

### UPDATING INFORMATION

Any change to the the information contained in the license application must be reported in writing within 30 calendar days of the effective date of the change. Such changes include (but are not limited to) changes in address, principals, ownership, designated supervisor, insurance coverage, etc.

The written report of updated license information should be submitted to

New York State Department of Labor  
Division of Safety and Health  
License and Certificate Unit  
PO BOX 687  
New York, NY 10014-0687

### REPLACEMENT LICENSE

If an Asbestos License is lost or stolen prior to its expiration, the individual to whom it was issued may request a replacement.

Such individual must submit

- a notarized letter which includes an explanation of the loss, and a statement that the individual understands that submittal of false information shall subject the individual to penalties or other legal action.
- a non-refundable fee of **\$300** by check or money order, made payable to the Commissioner of Labor.



STATE OF NEW YORK - DEPARTMENT OF LABOR  
DIVISION OF SAFETY AND HEALTH  
LICENSE AND CERTIFICATE UNIT  
PO BOX 687  
NEW YORK, N.Y. 10014-0687

## INSTRUCTIONS ON APPLYING FOR AN ASBESTOS HANDLING LICENSE

Article 30 of the New York State Labor Law and the rules and regulations promulgated thereunder, provides that it shall be unlawful for any contractor to engage in an asbestos project unless such contractor has a valid Asbestos Handling License issued by the Commissioner of Labor.

### GENERAL INFORMATION

#### WHO NEEDS A LICENSE

Any contractor engaged in an asbestos project.

All firms, corporations or other business entities providing management planning, project design, monitoring, inspection and/or air monitoring services shall obtain an Asbestos Handling License. (Additionally, management planners, project designers, and project monitors shall obtain an asbestos certificate appropriate to the task performed by such person.)

**NOTE:** An in-plant operation is subject to all the licensing requirements established by the code.

### APPLICATION PROCEDURE

#### OBTAINING AN APPLICATION PACKET

An asbestos license application packet may be obtained from the NYS Department of Labor, Division of Safety and Health, License and Certificate Unit, PO Box 687, New York, NY 10014-0687; telephone (212) 352-6103. In addition, application packets may be obtained from the Division of Safety and Health district office nearest to you.

#### MATERIAL TO BE SUBMITTED

##### *Application*

An original and one copy of the application form with the Applicant Statement signed in ink and notarized on both copies; one copy is retained for your records.

##### *Fee*

A non-refundable application fee of \$300 in the form of a check or money order made payable to the Commissioner of Labor.

##### *Training*

A copy of the Supervisor Certificate issued by New York State to the contractor, or a supervisor designated to act as the contractor's agent, must be submitted as evidence of successful completion of an approved asbestos safety program.

For specific information on asbestos training programs, contact the NYS Department of Health, Asbestos Safety Training Program, Bureau of Occupational Health, 2 University Place, Albany, NY 12203; telephone: (518) 458-6483.

## Insurance

An "Application For Certificate of Worker's Compensation Insurance" (C-105, **MUST** be filed as proof of acceptable Worker's Compensation Insurance in New York State. The License and Certificate Unit at the address shown below should be entered in the 'to be filed with' and 'change or cancellation' sections of the form. Such certification may be obtained from the Workers' Compensation Board district office nearest to you.

Disability insurance is required in New York State if the applicant is a "covered employer", i.e., if one or more of the applicant's employees is employed in New York State for at least 30 days in any calendar year; the 30 days need not be consecutive. An applicant who is a covered employer must submit a copy of his/her certificate of Disability Insurance; An applicant who is not a covered employer must submit a grant of exemption from the Disability Insurance requirement issued by the Workers' Compensation Board.

Further information on insurance may be obtained by contacting the Workers' Compensation Board, 180 Livingston Street, Brooklyn, NY 11248, telephone: 1 (800) 877-1373.

## SUBMITTAL INFORMATION

All application material should be mailed to the

New York State Department of Labor  
Division of Safety and Health  
License and Certificate Unit  
PO Box 687  
New York, NY 10014-0687

## LICENSE INFORMATION

### EXPIRATION

A license is valid for one year from its date of issuance.

### RENEWAL

A license renewal application will be mailed to you approximately 60 days prior to the expiration of your current license.

### UPDATING INFORMATION

Any change to the the information contained in the license application must be reported in writing within 30 calendar days of the effective date of the change. Such changes include (but are not limited to) changes in address, principals, ownership, designated supervisor, insurance coverage, etc.

The updated license information should be submitted to the License and Certificate Unit at the address shown above.

### REPLACEMENT LICENSE

If an Asbestos License is lost or stolen prior to its expiration, the individual to whom it was issued may request a replacement.

Such individual must submit

- a notarized letter which includes an explanation of the loss, and a statement that the individual understands that submittal of false information shall subject the individual to penalties or other legal action.
- a non-refundable fee of \$300 by check or money order, made payable to the Commissioner of Labor.

	APPROVED <input type="checkbox"/> DISAPPROVED <input type="checkbox"/>	REASON (If Disapproved)	
DATE	APPLICATION		LICENSE NUMBER

ABOVE SPACE FOR OFFICE USE ONLY



STATE OF NEW YORK - DEPARTMENT OF LABOR  
 DIVISION OF SAFETY AND HEALTH  
 LICENSE AND CERTIFICATE UNIT  
 ONE MAIN STREET  
 BROOKLYN, NY 11201

## APPLICATION FOR AN ASBESTOS HANDLING LICENSE

1. TYPE OF LICENSE <input type="checkbox"/> ORIGINAL <input type="checkbox"/> RENEWAL				THE FEE FOR AN ASBESTOS LICENSE IS <b>\$300.00</b>	
2. NAME OF COMPANY OR ORGANIZATION				3. FEDERAL EMPLOYER IDENTIFICATION NUMBER	
4. STREET ADDRESS				CITY	STATE
				ZIP CODE	
5. DULY AUTHORIZED REPRESENTATIVE a. Name of Representative  b. Business Telephone Number  c. Job Title				6. SUPERVISOR CERTIFICATE TRAINING a. Name of Person Issued Certificate  b. <input type="checkbox"/> Contractor <input type="checkbox"/> Designated Supervisor  c. Certificate Number	
7. TYPE OF BUSINESS <input type="checkbox"/> Contractor <input type="checkbox"/> Management Planning <input type="checkbox"/> Project Design <input type="checkbox"/> Monitoring <input type="checkbox"/> Inspection <input type="checkbox"/> Air Monitoring <input type="checkbox"/> Other (Specify) _____				8. TYPE OF ORGANIZATION <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Government <input type="checkbox"/> Other (Specify) _____	

9. DATE INCORPORATED (IF APPLICABLE)	10. STATE IN WHICH INCORPORATED (IF APPLICABLE)	11. HOW LONG HAS THE COMPANY BEEN OPERATING UNDER ITS CURRENT NAME? YEARS _____ MONTHS _____		
12. IF THE COMPANY NAME HAS CHANGED IN THE PAST TWO YEARS, LIST THE FORMER NAME AND ADDRESS.				
13. IS THE COMPANY AN AFFILIATE OR A SUBSIDIARY OF ANY OTHER ORGANIZATION? YES <input type="checkbox"/> NO <input type="checkbox"/> IF YES, LIST NAME(S) AND ADDRESS(ES) OF THE AFFILIATE OR SUBSIDIARY AND THE RELATIONSHIP BELOW				
NAME		ADDRESS		RELATIONSHIP
14. LIST BELOW ALL OWNERS, PARTNERS, SHAREHOLDERS (10% OR MORE), OFFICERS AND DIRECTORS OF THE COMPANY (ATTACH ADDITIONAL SHEETS IF NECESSARY)				
NAME	HOME ADDRESS	OFFICE OR TITLE HELD (If Any)	SOCIAL SECURITY NUMBER	% OWNERSHIP

## 15. INSURANCE

As proof of acceptable Workers' Compensation Insurance in New York State, an applicant must file an "Application For Certificate of Workers' Compensation Insurance" (C-105.2). NYS Department of Labor, Division of Safety and Health, License and Certificate Unit, 1 Main Street - Room 801, Brooklyn, NY 11201 should be entered in the "to be filed with" and "change or cancellation" sections of the form. Such certification may be obtained from the Workers' Compensation Board District Office nearest to you.

Disability Insurance is required in New York State if the applicant is a "covered employer", that is, if one or more of the applicant's employees is employed in New York State for at least 30 days (which need not be consecutive) in any calendar year. If the applicant is a "covered employer" as defined by New York State law, the applicant must furnish a copy of his/her certificate of Disability Insurance. If the applicant is not a "covered employer", the applicant must submit a grant of exemption from the Disability Insurance requirement issued by the Workers' Compensation Board.

Further information on insurance may be obtained by contacting the Workers' Compensation Board, 180 Livingston Street, Brooklyn, NY 11248; telephone 1 (800) 877-1373.

## 16. FIRM HISTORY

*You must answer either YES or NO to every question listed below.*

Within the last five years has the license applicant, the firm, any affiliate, any predecessor company or entity, owner of 5% or more of the firm's shares, director, officer, partner or proprietor been subject to any of the following:

**YES                  NO**

☐      ☐      A Notice of Violation and/or Order to Comply, an administrative hearing or proceeding, or a determination involving a violation of the New York State Labor Law or any rule or regulation issued under the Labor Law?

☐      ☐      A citation, an administrative hearing or proceeding, or a determination involving a violation of Local Laws 70 and 76, and the asbestos control program rules and regulations enforced by the City of New York?

☐      ☐      Any violation of the Asbestos Training regulations (10NYCRR73) of the New York State Department of Health?

A violation of a federal, state or local

☐      ☐      a. apprenticeship requirement?

☐      ☐      b. health regulation or statute?

☐      ☐      c. environmental regulation or statute?

☐      ☐      d. education regulation or statute?

☐      ☐      e. Employee Retirement Income Security Act (ERISA)?

☐      ☒      f. law or regulation governing payment of prevailing wages including the Davis-Bacon Act?

☐      ☐      g. law or regulation governing wages and hours including the Fair Labor Standards Act (FLSA)?

☐      ☐      A citation, administrative hearing or proceeding for violation of a federal Occupational Safety and Health Administration (OSHA) standard?

☐      ☐      A federal or state suspension or debarment?

☐      ☐      A prevailing wage or supplement payment violation?

☐      ☐      A suspension or revocation of any business or professional license?

**FOR EVERY "YES" RESPONSE**, you must describe in detail the circumstances surrounding the situation. You may use the space provided on this form and/or attach additional sheets, if necessary.

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## 17. APPLICANT STATEMENT

This statement must be signed by the contractor applying for the license or a duly authorized representative of the contractor who is authorized to sign for and on behalf of the company or organization named in this application; **SUCH CERTIFICATION MUST BE NOTARIZED.**

### THE APPLICANT VERIFIES THAT

- (a) All persons employed by him / her on an asbestos project will:
  - (i) Possess a valid asbestos certificate issued by the New York State Department of Labor;
  - (ii) Perform ONLY work authorized by the type of certificate(s) held by such employee;
  - (iii) Be provided with a copy of Code Rule 56 and notified of the Employee's obligation to abide by its provisions.
- (b) He/She will abide by all requirements of Article 30 of the NYS Labor Law and all rules and regulations promulgated pursuant to such article, and will comply with all federal, state and local laws with regard to the conduct of an asbestos project.
- (c) The information contained in this application is accurate, true and complete to the best of his/her knowledge.

### THE APPLICANT UNDERSTANDS THAT

- (d) This application is subject to verification and agrees to provide any additional documentation as required.
- (e) Outside sources may be contacted to verify information contained in this application and the applicant does hereby give permission for disclosure of any information which may be needed to process this license application.
- (f) Failure to provide full disclosure of any of the requested or required information may result in rejection of this application.
- (g) False statements made in this application are subject to the applicable provisions of the New York State Penal Law and could result in the denial of license issuance or revocation of a previously issued asbestos contractor's license as well as criminal prosecution.

I HEREBY ACKNOWLEDGE THAT INTENTIONAL SUBMISSION OF FALSE OR MISLEADING INFORMATION MAY CONSTITUTE A FELONY UNDER PENAL LAW §210.40 OR A MISDEMEANOR UNDER PENAL LAW §210.35 OR §210.45, AND MAY ALSO BE PUNISHABLE BY A FINE OF UP TO \$10,000 OR IMPRISONMENT OF UP TO FIVE YEARS UNDER 18 U.S.C. §1001; AND CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION AND ANY ATTACHED PAGES IS TRUE, ACCURATE AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Sworn to before me this

\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

SIGNATURE: \_\_\_\_\_  
CONTRACTOR/DULY AUTHORIZED REPRESENTATIVE

\_\_\_\_\_  
NOTARY PUBLIC (Please Affix Stamp)

TITLE: \_\_\_\_\_

### PREPARE THIS APPLICATION IN TRIPPLICATE AND SUBMIT

- a. an original and one copy (*with a notarized ink signature on both copies*) to the New York State Department of Labor, Division of Safety and Health, License and Certificate Unit, One Main Street - Room 801, Brooklyn, NY 11201; retain one copy for your records;
- b. a non-refundable fee of \$300.00 ( for either an original or a renewal license ) in the form of a certified check or money order, made payable to the Commissioner of Labor;
- c. a photocopy of the Supervisor Certificate issued to the contractor or to the supervisor designated as the contractor's agent;
- d. the required insurance certifications.



STATE OF NEW YORK - DEPARTMENT OF LABOR  
DIVISION OF SAFETY AND HEALTH  
LICENSE AND CERTIFICATE UNIT  
PO BOX 687  
NEW YORK, N.Y. 10014-0687

## INFORMATION ON ASBESTOS CERTIFICATES AND TRAINING REQUIREMENTS

**PLEASE NOTE:** YOU WILL BE ALLOWED TO PERFORM ONLY THOSE TASKS SPECIFIED FOR THE TYPE OF ASBESTOS CERTIFICATE (S) YOU HOLD.

### TYPES OF CERTIFICATES

#### ASBESTOS HANDLER

Any person who, within a work area removes, encapsulates or disturbs friable asbestos, or who handles asbestos material in any manner which may result in the release of asbestos fiber.

*Completion of the initial training course for Asbestos Handler will allow you to apply for an Operations and Maintenance or Allied Trades Certificate.*

#### OPERATIONS AND MAINTENANCE

Any person who engages in operations, maintenance and repair activities of "small-scale, short duration" which may disturb asbestos or asbestos containing material.

The Operations and Maintenance (O&M) certificate permits work only on a Minor Asbestos Project (10 square feet or 25 linear feet of asbestos or asbestos material).

#### RESTRICTED ASBESTOS HANDLER - ALLIED TRADES

Any person who performs limited or special tasks in preparation for or ancillary to an asbestos project, or any person who may incidentally disturb asbestos during the course of any employment.

#### ASBESTOS PROJECT AIR SAMPLING TECHNICIAN

Any person who performs air sampling inside the enclosure

An applicant for this certificate must be an industrial hygienist, air sampling technician or air sampling technologist who has been trained in the selected methodology of sampling and analysis of asbestos.

*Completion of initial training courses for Project Monitor will allow you to apply for an Air Sampling Technician Certificate.*

#### INSPECTOR

Any person who performs the limited tasks involved in the survey, identification and assessment of the condition of asbestos and asbestos material and the recording and reporting thereof, or who is involved in the collection of bulk samples of asbestos material or suspected asbestos material for laboratory analysis.

#### MANAGEMENT PLANNER

Any person who assesses the hazard posed by the presence of asbestos or asbestos containing material and/or who recommends appropriate response action and a schedule for such response actions.



ABATEMENT PROJECT DESIGNER

Any person who plans the a scope, timing, phasing and/or remediation methods to be utilized on any asbestos project.

SUPERVISOR

Any person who performs supervision of persons (other than authorized visitors) permitted to enter the work area.

*Completion of the initial training course for Supervisor will allow you to apply for an Asbestos Handler, Operations and Maintenance, and/or an Allied Trades Certificate.*

PROJECT MONITOR

Any person, other than an asbestos contractor or an employee or agent thereof, who oversees the scope, timing, phasing and/or remediation methods to be utilized on any asbestos project.

## TRAINING INFORMATION

TRAINING REQUIREMENTS

The requirements specified for both the initial and refresher training for each type of asbestos certificate is contained in Part 73 of Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York (10NYCRR Part 73). Specific details on asbestos training courses may be obtained from the New York State Department of Health, Asbestos Safety Training Program, Bureau of Occupational Health, 2 University Place, Albany, NY 12203; telephone (518) 458-6483

**SPECIAL NOTE:**

If you have used a single initial training course to obtain more than one type of certificate **PLEASE BE AWARE THAT THE REFRESHER TRAINING REQUIREMENTS FOR EACH TYPE OF CERTIFICATE ARE NOT ALWAYS EQUIVALENT.** If you need specific information or have any questions on this subject, please contact the Department of Health at the address shown a above.

TRAINING COURSE

The initial or annual refresher training used to obtain or renew your asbestos certificate must have been taken **NO MORE THAN ONE YEAR** from the date your (1) application is submitted or (2) certificate expires.

PROOF OF TRAINING

The **ONLY** proof of training which the Department of Labor will accept is one of the following:

- (1) The "Certificate of Asbestos Safety Training" (DOH-2832) marked DEPARTMENT OF LABOR issued by a Department of Health approved school or course provider.
- (2) A determination by the New York State Department of Health of approved equivalency training.

Detailed information on how to apply for an asbestos certificate is contained in the "Submission Instructions for Asbestos Certificate Applicants" form enclosed in this packet.



STATE OF NEW YORK - DEPARTMENT OF LABOR  
DIVISION OF SAFETY AND HEALTH  
LICENSE AND CERTIFICATE UNIT  
PO BOX 687  
NEW YORK, NY 10014-0687

## GENERAL INFORMATION FOR ASBESTOS CERTIFICATE APPLICANTS

Article 30 of the New York State Labor Law and the rules and regulations enacted thereunder, require that an appropriate asbestos certificate be obtained by any individual whose duties involve the removal, encapsulation, enclosure or disturbance of friable asbestos, or any handling of asbestos material that may result in the release of asbestos fiber or the supervision thereof.

**PLEASE NOTE:** YOU WILL BE ALLOWED TO PERFORM ONLY THOSE TASKS SPECIFIED FOR THE TYPE OF ASBESTOS CERTIFICATE (S) YOU HOLD.

### OBTAINING APPLICATION PACKET

You may obtain an asbestos certificate application packet from the New York State Department of Labor, Division of Safety and Health, License and Certificate Unit, 345 Hudson Street, PO Box 687, New York, NY 10014-0687; telephone (212) 352-6106. In addition, packets may be obtained from the Division of Safety and Health District Office nearest to you.

The latest listing of all NYS Department of Health approved courses can be obtained by writing to the Department of Health, Asbestos Safety Training Program, Bureau of Occupational Health, 2 University Place, Albany, NY 12203 or by calling (518) 458-6483.

### AGE REQUIREMENT

An applicant must be 18 years of age by the date that the application is submitted.

### TYPES OF CERTIFICATES

The Department of Labor issues 9 different asbestos certificates. Detailed information on each of the certificate categories and any specific requirements is contained in the "Information on Asbestos Certificates and Training Requirements" form enclosed in this packet.

*The Department will issue only a single asbestos certificate; this certificate will be coded to show each category of certificate for which you have qualified.*

### TRAINING COURSE

The initial or annual refresher training used to obtain or renew your asbestos certificate must have been taken NO MORE THAN ONE YEAR from the date your (1) application is submitted or (2) certificate expires.

### MAIL APPLICATIONS TO

New York State Department of Labor, Division of Safety and Health, License and Certificate Unit, PO Box 687, New York, NY 10014-0687.

### DENIED CERTIFICATES

An applicant denied a certificate on any grounds other than failure to complete a certificate application may request a hearing by submitting a written request for such hearing within ten days of the receipt of denial.

## CARRYING A CERTIFICATE

Any person employed on an asbestos project requiring certification, must have the appropriate asbestos certificate (or a copy) in his/her possession during his/her work on the project. The Commissioner of Labor may permit some appropriate alternate location proximate to, but outside the work area, at which such certificates or copies may be kept by the contractor.

## REPLACEMENT CERTIFICATES

If your asbestos certificate is lost or stolen, you may obtain a replacement certificate by submitting (to the License and Certificate Unit at the address shown on the reverse) the following:

- \* a notarized letter that states how the certificate was lost or stolen, and that you understand that submitting false information may result in a penalty or legal action; the letter must list your name, address, social security number and certificate number (if known);
- \* a check or money order, made payable to the Commissioner of Labor, for the fee due for each type of certificate you hold;
- \* three full face photographs (1-1/2 x 1-1/2).

## CERTIFICATE EXPIRATION AND RENEWAL

Your asbestos certificate will expire each year on the last day of the month in which you were born.

A renewal notice will be sent to you approximately **TWO MONTHS** prior to the expiration of your certificate. Therefore, if you change your address, please notify the Department, IN WRITING. Your letter should be sent to the License and Certificate Unit at PO Box 687, New York, NY 10014-0687, and should include your name, social security number, certificate number, old address and new address. Only if we have a correct address can we send a renewal notice in a timely manner.

Prior to renewing an asbestos certificate, you are required to take the annual refresher course designated for the type of certificate(s) you hold and wish to renew; such refresher training must have been taken NO MORE THAN ONE YEAR from the date your (1) application is submitted or (2) certificate expires.

The renewal fee will be the same amount as is charged for the initial certificate(s); for the specific fee required, please refer to the fee schedule listed on the "Submission Instructions for Asbestos Certificate Applicants" form enclosed in this packet.

## RENEWING A CURRENT CERTIFICATE AND APPLYING FOR AN ADDITIONAL CLASS OF CERTIFICATE

You may apply for an additional type of certificate when you renew your current certificate. To do so, you must complete both the Asbestos Certificate Application and the Renewal Application for an Asbestos Certificate forms, and attach proof that you have completed the initial training course and the refresher course appropriate for the type of certificates you are requesting. In addition, the fee due for the additional category and for the renewal certificate must be submitted - one check, made payable to the Commissioner of Labor, for the total amount due is acceptable. *Only one set of 3 pictures should be enclosed.*



STATE OF NEW YORK - DEPARTMENT OF LABOR  
DIVISION OF SAFETY AND HEALTH  
LICENSE AND CERTIFICATE UNIT  
PO BOX 687  
NEW YORK, N.Y. 10014-0687

## SUBMISSION INSTRUCTIONS FOR ASBESTOS CERTIFICATE APPLICANTS

**PLEASE NOTE:** YOU WILL BE ALLOWED TO PERFORM ONLY THOSE TASKS SPECIFIED FOR THE TYPE OF ASBESTOS CERTIFICATE (S) YOU HOLD.

### QUALIFYING FOR A CERTIFICATE

#### NEW YORK STATE APPROVED TRAINING COURSE

If you have successfully completed a training course approved by the New York State Department of Health, the school will provide you with a "Certificate of Asbestos Safety Training" (DOH-2832) marked DEPARTMENT OF LABOR. The submission of this Certificate is the **ONLY** proof the Department of Labor will accept from applicants who attend a Department of Health approved training course.

#### COMPLETION OF DEPARTMENT OF HEALTH APPROVED EQUIVALENCY COURSE

If you have successfully completed an out-of-state course or have completed a course that has not yet been approved by the Department of Health, you must obtain a determination of equivalency from the New York State Department of Health. Your request for a determination of equivalency should be submitted as soon as possible in order to allow time for the Health Department to process your request. Please bear in mind that your request will be returned **WITHOUT ACTION** if all materials listed below are not submitted.

You must enclose all of the following:

- (1) name and address of the course or program sponsor;
- (2) date and location of the course or program attended;
- (3) a schedule or outline of the course or program which indicates the subject matter presented, and the amount of time devoted to each subject;
- (4) a letter or diploma from the course or program sponsor stating that the applicant has satisfactorily completed all requirements of the course.

All material should be sent to the New York State Department of Health, Asbestos Safety Training Program, Bureau of Occupational Health, 2 University Place, Albany, NY 12203. If you have any specific questions regarding training courses, you may contact the Department of Health at (518) 458-6483.

### SUBMISSION MATERIAL

#### APPLICATION

The "Application for an Asbestos Certificate" should be prepared in triplicate. Submit the original and one copy with your signature (in ink on two forms) under the Applicant Verification Statement; retain one copy for your records.

The same application may be used to apply for one or more category of asbestos certificate.

If you wish to apply for a new class of certificate in addition to any you currently hold, you must complete new application forms, submit the required fee, proof of training, 3 photographs, and **return the current original certificate in your possession**. When you have been approved for the additional class, you will be issued a new certificate coded to show each certificate category for which you have qualified. (For purposes of employment, you may use a photocopy of your current certificate until the new certificate is issued.)

#### PHOTOGRAPHS

Three identical, 1-1/2 x 1-1/2, full face photographs taken within the last 30 days are required. Affix one photograph in the space provided on two copies of the application; attach the third photograph with a paper clip to the front of one of the application forms.

## SUBMISSION MATERIAL (cont'd.)

### FEES

A non-refundable application fee must be submitted for each type of certificate you are requesting. If you are applying for more than one type of certificate, you may submit one check to cover the total fee due. Only a check or money order, made payable to the Commissioner of Labor, will be accepted.

The code assigned and the schedule of fees for each asbestos certificates is as follows:

<u>CODE</u>	<u>CERTIFICATE</u>	<u>FEE DUE</u>
A	ASBESTOS HANDLER	\$ 30.00
F	OPERATIONS AND MAINTENANCE	\$ 30.00
B	RESTRICTED HANDLER - ALLIED TRADES	\$ 30.00
C	AIR SAMPLING TECHNICIAN	\$ 50.00
D	INSPECTOR	\$100.00
E	MANAGEMENT PLANNER	\$150.00
I	PROJECT DESIGNER	\$150.00
G	SUPERVISOR	\$ 50.00
H	PROJECT MONITOR	\$150.00

### TRAINING DOCUMENTATION

The only proof of training which the Department of Labor will accept is one of the following:

- (1) The "Certificate of Asbestos Safety Training" (DOH-2832) marked DEPARTMENT OF LABOR issued by a Department of Health approved school or course provider.
- (2) A determination by the New York State Department of Health of approved equivalency training.

The initial or annual refresher training used to obtain or renew your asbestos certificate must have been taken NO MORE THAN ONE YEAR from the date your (1) application is submitted or (2) certificate expires.

Other than the Exception noted below, separate training documentation must be submitted for each type of certificate being requested.

**EXCEPTION:** In certain cases, a single initial training course may allow you to apply for more than one category of certificate. Specific information on this subject is given in the "Information on Asbestos Certificate and Training Requirements" form in this packet.

\* \* \* \* \*

### MAIL TO

All submission material listed above should be sent to the New York State Department of Labor, Division of Safety and Health, License and Certificate Unit, PO Box 687, New York, NY 10014-0687.

### REPLACEMENT CERTIFICATES

Information on how to obtain a replacement certificate, if yours has been lost or stolen, can be found on the "General Information for Asbestos Certificate Applicants" form enclosed in this packet.



STATE OF NEW YORK - DEPARTMENT OF LABOR  
DIVISION OF SAFETY AND HEALTH  
LICENSE AND CERTIFICATE UNIT  
PO BOX 687  
NEW YORK, NY 10014-0687

FOR OFFICE USE
AH _____

## ASBESTOS CERTIFICATE APPLICATION

1. ASBESTOS CERTIFICATION REQUESTED (Check the box for each type of certificate for which you are submitting separate training documentation; circle the certificate title being requested, if you are applying for more than one certificate using a single training course.)

<input type="checkbox"/> A ASBESTOS HANDLER \$ 30	<input type="checkbox"/> D INSPECTOR \$100	<input type="checkbox"/> G SUPERVISOR \$ 50
<input type="checkbox"/> B RESTRICTED - ALLIED TRADES \$ 30	<input type="checkbox"/> E MANAGEMENT PLANNER \$150	<input type="checkbox"/> H PROJECT MONITOR \$150
<input type="checkbox"/> C AIR SAMPLING TECHNICIAN \$ 50	<input type="checkbox"/> F OPERATIONS AND MAINTENANCE \$ 30	<input type="checkbox"/> I PROJECT DESIGNER \$150

2. LAST NAME		FIRST		MI.	3. SOCIAL SECURITY NUMBER		
4. HOME ADDRESS		STREET		CITY		STATE	ZIP CODE
5. HOME TELEPHONE ( )	6. HEIGHT FT. IN.	7. WEIGHT lbs.	8. HAIR COLOR	9. EYE COLOR	10. DATE OF BIRTH / /	11. SEX (M / F)	
12. HAVE YOU EVER BEEN ISSUED AN ASBESTOS CERTIFICATE FROM THE NEW YORK STATE DEPARTMENT OF LABOR? <input type="checkbox"/> YES <input type="checkbox"/> NO; IF YES, LIST TITLE(S) AND CERTIFICATE NUMBER.							

### 13. APPLICANT VERIFICATION STATEMENT

The applicant agrees that he/she will abide by the requirements of Article 30 of the New York State Labor Law and all the rules and regulations promulgated pursuant to Article 30 of the Labor Law.

The applicant attests that the information contained in this application is accurate, true, and complete to the best of the applicant's knowledge and that false statements made in this application are subject to the applicable provisions of the New York State Penal Law.

The applicant understands (1) that this application is subject to verification and agrees to provide any additional documentation as required, and (2) that outside sources may be contacted to verify information contained in this application and does hereby give permission for disclosure of any information which may be needed to process this certificate application.

The applicant understands that failure to provide full disclosure of any of the requested or required information may result in rejection of this application.

a. SIGNATURE OF APPLICANT

b. PRINT NAME

c. DATE

ATTACH ONE PHOTOGRAPH HERE
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<input type="checkbox"/> APPROVED DATE _____ TRAINING <table border="1"><tr><td><input type="checkbox"/> A</td><td><input type="checkbox"/> B</td><td><input type="checkbox"/> C</td><td><input type="checkbox"/> D</td><td><input type="checkbox"/> E</td><td><input type="checkbox"/> F</td><td><input type="checkbox"/> G</td><td><input type="checkbox"/> H</td><td><input type="checkbox"/> I</td></tr><tr><td><input type="checkbox"/> E</td><td><input type="checkbox"/> A</td><td><input type="checkbox"/> B</td><td><input type="checkbox"/> C</td><td><input type="checkbox"/> D</td><td><input type="checkbox"/> E</td><td><input type="checkbox"/> F</td><td><input type="checkbox"/> G</td><td><input type="checkbox"/> H</td><td><input type="checkbox"/> I</td></tr></table> EXPIRES _____	<input type="checkbox"/> A	<input type="checkbox"/> B	<input type="checkbox"/> C	<input type="checkbox"/> D	<input type="checkbox"/> E	<input type="checkbox"/> F	<input type="checkbox"/> G	<input type="checkbox"/> H	<input type="checkbox"/> I	<input type="checkbox"/> E	<input type="checkbox"/> A	<input type="checkbox"/> B	<input type="checkbox"/> C	<input type="checkbox"/> D	<input type="checkbox"/> E	<input type="checkbox"/> F	<input type="checkbox"/> G	<input type="checkbox"/> H	<input type="checkbox"/> I	<input type="checkbox"/> DISAPPROVED (EXPLAIN REASON)  DATE _____ BY _____
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ABOVE SPACE FOR OFFICE USE ONLY																				

## GENERAL INFORMATION

- You may apply for one or more type of asbestos certificate; however, for each type of certificate being requested you must complete the necessary training and pay the required fee. (How you may obtain more than one type of certificate using a single initial training course is explained in the various information sheets enclosed in this packet.)
- You will be issued only one Asbestos Certificate - no matter how many types you qualify for; such certificate will be coded to show each type of asbestos certificate for which you have qualified.
- Asbestos Certificate holders who wish to apply for an additional category, MUST SUBMIT THEIR CURRENT ORIGINAL CERTIFICATE IN ADDITION TO ALL OTHER REQUIRED APPLICATION MATERIAL. For purposes of employment, a photocopy of your current certificate may be used until a new certificate is issued to you.
- IF AN ADDITIONAL CATEGORY IS BEING REQUESTED AT THE SAME TIME THAT A CURRENT ASBESTOS CERTIFICATE IS BEING RENEWED, THE APPLICANT MUST SUBMIT SEPARATE DOCUMENTATION. That is, both the "Asbestos Certificate Application" and the "Renewal Application for an Asbestos Certificate" forms must be completed, proof for the initial training course and the refresher course must be submitted, and a check to cover the total fee due for the additional category and for the renewal certificate must be provided. *However, only 3 photographs need be submitted.* After the Department's review of all material submitted, a single certificate that is coded to show all the categories which the applicant qualified for will be issued.

## SUBMITTAL INFORMATION

1. Prepare this application in triplicate making sure that the Applicant Verification Statement is signed (in ink) on two forms.
2. Affix one photograph to the front of the original and to one copy of the application form; attach one photograph by paper clip to the front of the original.
3. Submit the original and one copy - retain one copy for your files. (A blank application form may be photocopied if additional copies are needed.)
4. Enclose the appropriate fee for each type of certificate for which you are applying. If you are requesting more than one certificate, you may submit ONE check to cover the total amount due. That is, if you apply for an Asbestos Handler (\$30) and an Inspector (\$100) certificate at the same time, you should send a check for \$130.00.

NOTE: Please submit a check, bank cashier's check or money order, made payable to the Commissioner of Labor, for the total amount due. No other means of payment will be accepted. The fee is non-refundable.

5. Enclose the "Certificate of Asbestos Safety Training" marked DEPARTMENT OF LABOR issued by a Department of Health approved school or a determination by the New York State Department of Health of approved equivalency training FOR EACH TYPE OF ASBESTOS CERTIFICATE BEING REQUESTED UNLESS YOU QUALIFY USING A SINGLE TRAINING COURSE. (How you may obtain more than one type of certificate using a single initial training course is explained in the various information sheets enclosed in this packet.)

**NO OTHER PROOF OF TRAINING WILL BE ACCEPTED BY THE DEPARTMENT OF LABOR.**

### **SUBMIT ALL MATERIAL TO:**

New York State Department of Labor  
DIVISION OF SAFETY AND HEALTH  
License and Certificate Unit  
PO Box 687  
New York, NY 10014-0687



STATE OF NEW YORK - DEPARTMENT OF LABOR  
DIVISION OF SAFETY AND HEALTH  
ENGINEERING SERVICES UNIT  
STATE OFFICE BUILDING CAMPUS  
ALBANY, NEW YORK 12240-0100

**ROOFING PROJECT DESCRIPTION**  
**NON-FRIABLE ASBESTOS OR ASBESTOS CONTAINING MATERIAL**

1. TYPE OF PROJECT

2. OWNER OF PREMISES

3. ADDRESS OF PREMISES

4. PROJECT IDENTIFICATION, IF ANY

5. AMOUNT OF ASBESTOS MATERIAL (IN SQUARE FEET)

6. DATE OF PROJECT

STARTING

ENDING

7. SCOPE OF WORK

8. METHOD(S) TO BE UTILIZED (If you plan to use an Applicable Variance, you must list the specific Applicable Variance which will be used.)

9. NAME (Print or Type)

10. TITLE

11. NAME OF ASBESTOS CONTRACTOR

12. CONTRACTOR'S NYS ASBESTOS HANDLING LICENSE NUMBER

13. MAILING ADDRESS OF ASBESTOS CONTRACTOR

14. I hereby certify that the above project will only involve the abatement of non-friable asbestos or asbestos containing material. Furthermore, the method(s) to be utilized on this project will not release asbestos fibers in concentrations that could create a risk to the public health and safety.

SIGNATURE

DATE

DOSH-465 (6-91)

**SEND THE COMPLETED FORM WITH A PETITION FOR A VARIANCE OR OTHER RELIEF (DOSH 751) TO: NEW YORK STATE DEPARTMENT OF LABOR, DIVISION OF SAFETY AND HEALTH, ENGINEERING SERVICES UNIT, ROOM 155, STATE OFFICE BUILDING CAMPUS, ALBANY, NY 12240-0100**



## 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 November 9, 1994

State of New York  
Department of Labor

Copies of this Rule may be obtained, free of charge, by individuals and groups when, in the judgment of the Commissioner, such distribution will further safety education and compliance with the Code Rules.

Requests for copies by mail should be directed to State of New York, Department of Labor, Office of Communications, State Office Building Campus, Albany, N.Y. 12240; however, single copies may be obtained by applying in person at the Albany Office, Room 511.

## EXTRACTS FROM THE LABOR LAW

### Section 241. Construction, excavation and demolition work.

10. Prior to advertising for bids or contracting for or commencing work on any demolition work on buildings covered under this section except agricultural buildings as defined in regulations promulgated by the commissioner and except buildings the construction of which was begun on or after January first, nineteen hundred seventy-four, all owners and their agents, except owners of one and two-family dwellings who contract for but do not direct or control the work, shall conduct or cause to be conducted a survey to determine whether or not the building to be demolished contains asbestos or asbestos material as defined in section nine hundred one of this chapter. Such surveys shall be conducted in conformance with rules and regulations promulgated by the commissioner. Information derived from such survey shall be immediately transmitted to the commissioner and to the local governmental entity charged with issuing a permit for such demolition under applicable state or local laws or, if no such permit is required, to the town or city clerk. If such survey finds that a building to be demolished contains asbestos or asbestos material as defined by section nine hundred one of the <sup>1/</sup>chapter, no bids shall be advertised nor contracts awarded nor demolition work commenced by any owner or agent prior to completion of an asbestos remediation contract performed by a licensed asbestos contractor as defined by section nine hundred one of this chapter.

<sup>1/</sup> So in original

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## ARTICLE 30 ASBESTOS OR PRODUCTS CONTAINING ASBESTOS; LICENSING

- Section    900. Legislative findings and declaration.  
            901. Definitions.  
            902. Licensing and certification requirements.  
            903. License and certification procedure.  
            904. Notice and recordkeeping requirements.  
            905. Training and education.  
            906. Regulations.  
            907. Investigations and complaints.  
            908. Injunction.  
            909. Civil penalties and revocation.  
            910. Enforcement.  
            911. Advisory board.

§ 900. Legislative findings and declaration. The legislature hereby finds and declares that exposure to asbestos fibers, a known carcinogenic agent, creates a serious risk to the public health and safety. The legislature also finds that the public is more frequently exposed to these risks as a result of an increasing number of rehabilitation and reconstruction projects on buildings containing asbestos or asbestos materials.

The legislature finds that the risks associated with asbestos are exacerbated by the improper and uninformed manner in which some contractors and their employees handle asbestos. Improper design, implementation or inspection of asbestos projects creates unnecessary health and safety hazards which are detrimental to the state's interest, and that of its citizens.

The legislature, therefore, finds and declares it to be its purpose and policy to reduce asbestos related hazards by encouraging proper training of persons employed to design, implement or inspect asbestos projects and those who supervise or employ them, by requiring the licensing of contractors and the certification of individuals involved in asbestos projects pursuant to regulations promulgated by the commissioner, prior to the, removal, enclosure, encapsulation or disturbance of friable asbestos or any handling of asbestos material which may result in the release of asbestos fiber and by conferring upon the commissioner the authority to inspect ongoing asbestos projects and promulgate and enforce safety and health standards regulating the conduct of those projects through injunctions, and the imposition of civil and criminal penalties.

Sec. 900 as last amended by L1989, C520, eff. July 16, 1989

§ 901. Definitions. As used in this article, the following terms have the meanings indicated:

1. "Approved asbestos safety program" means a program approved by the commissioner of health providing training in the handling and use of asbestos and asbestos material, education concerning safety and health risks inherent in such handling and use and training in techniques for minimizing exposure of the public to asbestos fibers.

2. "Asbestos" means any naturally occurring hydrated mineral silicate separable into commercially usable fibers, including chrysotile (serpentine), amosite (cummingtonite-grunerite), crocidolite (riebeckite), tremolite, anthrophyllite and actinolite.

3. "Asbestos contract" means an oral or written agreement contained in one or more documents for the performance of work on an asbestos project and includes all labor, goods and services.

4. "Asbestos handling certificate" means a certificate issued by the commissioner pursuant to the provisions of this article to a person who has satisfactorily completed an approved asbestos safety program.

5. "Asbestos handling license" means a license issued by the commissioner pursuant to the provisions of this article to a contractor engaged in an asbestos project.

Subd. 5 as last amended by L1989, C520, eff. July 16, 1989

6. "Asbestos material" means any material containing more than one percent by weight of asbestos.

7. "Asbestos project" means work undertaken by a contractor which involves the removal, encapsulation, enclosure or disturbance of friable asbestos, or any handling of asbestos material that may result in the release of asbestos fiber except for work in an owner-occupied single family dwelling performed by the owner of such dwelling and, for the purpose of compliance with regulations promulgated pursuant to subdivision one of section nine hundred six of this article, except for in-plant operations as defined in subdivision twelve of this section. Where all asbestos work on a project is subcontracted to a contractor with an asbestos handling license, only that part of the work involving asbestos shall be deemed to be an asbestos project.

Subd. 7 as last amended by L1989, C520, eff. July 16, 1989

8. "Commissioner" means the commissioner of labor.

9. "Contractor" means the state, any political subdivision of the state, a public authority or any other governmental agency or instrumentality thereof, self-employed person, company, unincorporated association, firm, partnership or corporation and any owner or operator thereof, which engages in an asbestos project or employs persons engaged in an asbestos project.

10. "Department" means the department of labor.

11. "Friable" means that condition of crumbled, pulverized, powdered, crushed or exposed asbestos which is capable of being released into the air by hand pressure.

12. "In-plant operations" means work within the premises of an employer other than the state, any political subdivision of the state, a public authority or other governmental agency or instrumentality thereof, in an area to which persons other than employees of that employer directly involved in the work will not have access during the course of the work and which is performed in a manner consistent with federal regulations promulgated under the federal occupational safety and health act pursuant to chapter 17<sup>1/</sup> of title twenty-nine of the United States code, and is performed in a manner which will not expose the public or employees of that employer not directly involved with the asbestos project to asbestos fibers in excess of background levels or .01 fibers per cubic centimeter, provided that the work involves the encapsulation, enclosure, removal, disturbance or handling of (a) less than one hundred sixty square feet or two hundred sixty linear feet of asbestos or asbestos material and is performed by employees of such employer or (b) built up roofing, roofing shingles, asbestos cement or galbestos siding, shingle siding, transite piping or vinyl asbestos tile.

Subd. 12 as added by L1989, C520, eff. July 16, 1989

<sup>1/</sup> Should be chapter 15

13. "Person" means any natural person.

Subd. 13, formerly Subd. 12, as renumbered by L1989, C520, eff. July 16, 1989

§ 902. Licensing and certification requirements. 1. It shall be unlawful for any contractor to engage in an asbestos project unless such contractor has a valid asbestos handling license issued by the commissioner. Such license will not be issued without evidence of successful completion by the contractor, or a supervisor designated to act as the contractor's agent, of an approved asbestos safety program which is, at the least, equivalent to the U.S. Environmental Protection Agency Model Accreditation Plan (40 CFR Part 763) and the submission of any additional information which the commissioner may require.

Subd. 1 as last amended by L1989, C520, eff. July 16, 1989

2. A copy of a valid asbestos handling license or other proof of the issuance of a valid asbestos handling license granted to the contractor who will be undertaking the asbestos project must be submitted by the bidder in a form acceptable to the commissioner prior to the award of any public works contract all or part of which involves an asbestos project.

3. A copy of a valid asbestos handling license must be conspicuously displayed at the work site on an asbestos project.

4. It shall be unlawful for any contractor to engage in or to permit a person employed by the contractor, including but not limited to handlers, project designers, inspectors and management planners, to engage in work on an asbestos project or to supervise persons engaging in work on an asbestos project unless each such person and supervisor has a valid asbestos handling certificate. Such certificate will not be issued without evidence of successful completion by each such person of an approved asbestos safety program and the submission of any additional information which the commissioner may require.

Subd. 4 as last amended by L1989, C520, eff. July 16, 1989

5. Any person employed on an asbestos project or the supervisor of any person engaged in work on an asbestos project or any other person who is otherwise required by law or regulation to obtain an asbestos handler's certificate shall have in his or her possession at all times during the work on the project a copy of the asbestos handling certificate issued to the person by the commissioner.

Subd. 5 as last amended by L1989, C520, eff. July 16, 1989

§ 903. License and certification procedure. 1. All applications for asbestos handling licenses or certificates shall be submitted in writing on forms furnished by the commissioner and shall contain such information which the commissioner may require. An application for an asbestos handling license shall contain a verified statement by the contractor or its duly authorized representative that all persons employed by the contractor on any asbestos project whose duties involve the removal, encapsulation,

enclosure or disturbance of friable asbestos, or any handling of asbestos material that may result in the release of asbestos fiber or the supervision thereof, shall have valid asbestos handling certificates and that the contractor will abide by all the rules and regulations promulgated pursuant to this article. The commissioner shall have the authority to deny the issuance or renewal of a license for good cause shown, including the applicant's serious violation of state, federal or local laws with regard to the applicant's conduct of any job involving asbestos or asbestos material.

Subd. 1 as last amended by L1989, C520, eff. July 16, 1989

2. The fee for an asbestos handling license shall be three hundred dollars, which shall accompany each license application.

Subd. 2 as last amended by L1990, C190, eff. May 25, 1990

3. The renewal fee for an asbestos handling license shall be three hundred dollars, which shall accompany each license renewal application.

Subd. 3 as last amended by L1990, C190, eff. May 25, 1990

4. An asbestos handling license shall be valid for a period of one year from the date of issuance and may be renewed on conditions set by the commissioner related to additional training.

Subd. 4 as last amended by L1989, C520, eff. July 16, 1989

5. The fee for an asbestos handling certificate shall be assessed in accordance with the following and shall accompany each certificate application.

Schedule: Asbestos Handling Certificate Category	Application Fee
Management Planner	\$150
Project Designer	150
Inspector	100
Air Monitor	50
Supervisor	50
Asbestos Handler	30

Subd. 5 as last amended by L1990, C190, eff. May 25, 1990

6. The renewal fee for any annual asbestos handling certificate shall be equal to the application fee set forth herein, and shall accompany each certificate renewal application.

Subd. 6 as last amended by L1990, C190, eff. May 25, 1990

7. An asbestos handling certificate shall be valid for a period of one year from date of issuance and may be renewed on conditions set by the commissioner related to additional training.

Subd. 7 as added by L1989, C520, eff. July 16, 1989

8. Within thirty days of the receipt of the application and fee for any license or certificate issued under this section, the commissioner shall either issue the license or certificate or deny the license or certificate setting forth the reason for such denial in writing.

Subd. 8, formerly Subd. 6, as last amended by L1989, C520, eff. July 16, 1989

§ 904. Notice and recordkeeping requirements. 1. Each contractor shall keep and maintain for at least thirty years a record of each asbestos project in which it engages, which record shall include the following information: the name, address and social security number of the person who supervised the asbestos project; the location and description of the asbestos project; the amount of asbestos or asbestos material that was removed, enclosed, encapsulated, or disturbed; the starting and completion date of the asbestos project; the name and address of the deposit or waste disposal site or sites where the asbestos material was deposited or disposed of; the name and address of any interim storage sites used for the asbestos or asbestos materials prior to deposit or disposal; the name and address of any transporters used to move asbestos or asbestos material; the name, address and social security number of all persons who worked on the asbestos project; and any other information which the commissioner may require.

Subd. 1 as last amended L1989, C520, eff. July 16, 1989

2. Any contractor engaged in an asbestos project involving more than two hundred sixty linear feet or more than one hundred sixty square feet of asbestos or asbestos materials shall notify both the United States Environmental Protection Agency, Region II, Air and Hazardous Material Division and the commissioner in writing ten days prior to the commencement of work on the project or, if emergency conditions make it impossible to provide ten days prior notice, as soon as practicable after identification of the project. The notice to the commissioner shall include the following information: the name, address and asbestos handling license number of the contractor working on the project; the address and description of the building or area, including size, age and prior use of the building or area; the amount of friable asbestos material present in square feet and/or linear feet, if applicable; room designation numbers or other local information where such asbestos material is found unless such material is found throughout the entire structure; the scheduled starting and completion dates for removal; the procedures and equipment, including ventilating systems that will be employed; any additional information which the commissioner may require; and shall be accompanied by a project notification fee as follows:

Project Size/Linear Feet	Fee
260-429	\$100
430-824	200
825-1649	500
1650 or more	1000



Project Size/Square Feet	Fee
160-259	\$100
260-499	200
500-999	500
1000 or more	1000

Subd. 2 as last amended by L1990, C190, eff. May 25, 1990

3. Upon the expiration, revocation or non-renewal of an asbestos handling license, or at any other time at the request of the commissioner, any records required to be kept pursuant to this section shall be given to the commissioner.

4. A contractor shall post or otherwise provide for written notification to residential and business occupants of a building ten days prior to the commencement of work on any asbestos project in the building or, if the work is scheduled to begin less than ten days after the execution of the contract, at least three days prior to the commencement of work, or if emergency conditions make it impossible to provide ten days notice or three days notice as applicable, as soon as practicable after identification of the project. The notification shall be made in such a manner and shall contain such information as is reasonably necessary to advise such occupants of any asbestos project in the building, according to regulations promulgated by the commissioner. If posted, such notice shall remain in place until completion of the project. It shall be a violation of this chapter for any person to interfere with the obligations of a contractor under this subdivision.

Subd. 4 as added by L1989, C520, eff. July 16, 1989

§ 905. Training and education. The commissioner of health shall have authority to approve asbestos safety programs and shall maintain a list of approved programs which shall be made available to license applicants, certificate applicants and other interested parties upon request. The commissioner of health shall promulgate rules and regulations setting forth the criteria for approval of such programs, the procedures to be followed in applying for such approval and any other rules or regulations as shall be necessary and proper to effectuate the purposes of this section and to comply with the requirements of the Federal Asbestos Hazard Emergency Response Act<sup>1/</sup> and any other applicable federal standards.

Sec. 905 as last amended by L1989, C520, eff. July 16, 1989

§ 906. Regulations. The commissioner shall promulgate such rules and regulations as shall be necessary and proper to effectuate the purposes and provisions of this article and to comply with the requirements of the Federal Asbestos Hazard Emergency Response Act<sup>1/</sup> and any other applicable federal standards. Such regulations shall include but not be limited to (1) standards for asbestos projects including methods of removing, encapsulating, enclosing or disturbing friable asbestos and standards for any handling of asbestos material which may result in the creation of friable asbestos or any

<sup>1/</sup> 15 U. S. C. A. § 2641 et seq

handling of asbestos material that may result in the release of asbestos fibers, as shall be necessary to protect the public health and safety and shall include regulations which will permit such disturbance that results from actions that are necessary to abate an emergency which poses an immediate threat to safety or the public health; (2) standards for asbestos projects and in-plant operations setting licensing and certification requirements; and (3) standards for asbestos projects and in-plant operations setting goal air monitoring and clearance requirements, including those necessary to insure that asbestos work is properly designated as an in-plant operation as defined in subdivision twelve of section nine hundred one of this chapter.

Sec. 906 as last amended by L1989, C520, eff. July 1, 1989

§ 907. Investigations and complaints. The commissioner shall have the authority to inspect ongoing or completed asbestos projects and to conduct an investigation upon his or her own initiation or upon receipt of a complaint by any person or entity.

§ 908. Injunction. If the commissioner finds that any asbestos project is not being performed in accordance with this article or the rules and regulations promulgated hereunder, the commissioner may, by delivery of notice to the contractor engaged in the asbestos project or its agent or representative, enjoin any further work on such asbestos project. Such notice shall specifically enumerate the violations of law or regulation which are occurring on the asbestos project and shall prohibit any further work on the asbestos project until the violations complained of cease and the notice is rescinded by the commissioner. Upon receipt of a written notification from the contractor that the violations have been corrected, the commissioner shall, within ten days, issue a determination as to whether the notice shall be rescinded. Any person or contractor who may be adversely affected by a notice or determination issued under this section may challenge the validity or applicability of such notice or determination by commencing a proceeding pursuant to article seventy-eight of the civil practice law and rules.

§ 909. Civil penalties and revocation. 1. a. The commissioner may impose a civil penalty upon a contractor of up to one thousand five hundred dollars for the initial violation of section nine hundred two of this article and up to two thousand five hundred dollars for the second or subsequent violation of such section.

b. If, after an investigation and a formal hearing, the commissioner finds that a contractor has violated any provision of this article, other than section nine hundred two or any rule or regulation promulgated hereunder, the commissioner shall, by an order which shall describe in detail the nature of the violation or violations, assess the contractor a civil penalty of not more than the greater of twenty-five percent of the monetary value of the contract upon which the violation was found to have occurred or five thousand dollars per violation. Any contractor who, having previously been assessed a civil penalty under this section, violates any provision of this article or any rule or regulation promulgated hereunder, shall be subject to a civil penalty of not more

than the greater of fifty percent of the monetary value of the contract upon which the violation was found to have occurred or twenty-five thousand dollars per violation. Each day a violation continues may be considered a separate violation under this section. In assessing the amount of penalty, the commissioner shall give due consideration to the size of the contractor's business, the good faith of the contractor, the gravity of the violation and the history of previous violations.

Subd. 1 as last amended by L1990, C190, eff. May 25, 1990

Subd. 2 repealed by L1990, C190, eff. May 25, 1990

2. If, after an investigation and a formal hearing, the commissioner finds that a contractor has violated any provision of this article or any rule or regulation promulgated hereunder within three years of the last assessment of a civil penalty against the contractor under this article, or has been found to have committed serious violations of other state, federal or local laws with regard to the contractor's conduct of any asbestos project or has otherwise demonstrated a lack of responsibility in the conduct of any job involving asbestos or asbestos material of such seriousness as to warrant the revocation of the contractor's license, the commissioner may, by an order which describes in detail the nature of the violation or violations, revoke the contractor's asbestos handling license and such contractor shall not be eligible to apply for a new asbestos handling license for a period of up to two years.

Subd. 2, formerly Subd. 3, as last amended by L1990, C190, eff. May 25, 1990

3. If, after an investigation and a formal hearing, the commissioner finds that a person who has been issued an asbestos handling certificate has willfully violated any provision of this article, or any rule or regulation promulgated hereunder, the commissioner may, by order which describes in detail the nature of the violation or violations, suspend or revoke the asbestos handling certificate of such person.

Subd. 3, formerly Subd. 4, as last amended by L1990, C190, eff. May 25, 1990

4. Any person or contractor who may be adversely affected by an order issued under this section may challenge the validity or applicability of such order by commencing a proceeding pursuant to article seventy-eight of the civil practice law and rules. The commissioner may file with the county clerk of the county where the employer resides or has a place of business, the order containing the amount of civil penalty, unless a proceeding for judicial review as provided in this article shall then be pending or the time for initiation of such proceeding has not expired. The filing of such order or decision shall have the full force and effect of a judgment duly docketed in the office of such clerk. The order or decision may be enforced by and in the name of the commissioner in the same manner, and with like effect, as that prescribed by the civil practice law and rules for the enforcement of a money judgment.

Subd. 4, formerly Subd. 5, as last amended by L1990, C190, eff. May 25, 1990

§ 910. Enforcement. 1. Nothing in this article shall be construed to prevent municipalities from enacting local laws or ordinances which impose standards or requirements relating to the handling of asbestos or asbestos material more effective than those set forth in this article or in any rule or regulation promulgated hereunder.

2. The commissioner shall enforce the provisions of this article and rules and regulations adopted hereunder; provided, however, that the provisions of this section and sections nine hundred seven, nine hundred eight and nine hundred nine of this article shall not be enforced in reference to persons or contractors performing work in a city or municipality which files with the commissioner a duly certified copy of a local law or ordinance assuming full responsibility for enforcing the provisions of this article and the rules and regulations adopted hereunder. Such city or municipality shall have all the powers of the commissioner in enforcing the provisions of this article and the rules and regulations adopted hereunder, including but not limited to the collection and retention of monetary penalties.

3. Each city or municipality which elects such local enforcement option shall submit a report to the commissioner annually on or before the first day of June of the manner in which this article and the rules and regulations promulgated thereunder have been and are administered, and the results of such administration under the jurisdiction of such city or municipality and shall from time to time submit to the commissioner such other reports as to such other matters as the commissioner may require.

4. A city or municipality may file with the commissioner a duly certified copy of a local law or ordinance terminating its enforcement responsibilities which shall be effective thirty days from the filing thereof.

§ 911. Advisory board. There shall be a five person advisory board, with three persons appointed by the governor, one by the majority leader of the senate and one by the speaker of the assembly, which shall meet on a quarterly basis to advise the commissioner on the implementation and operation of this article. The chairperson of the board shall be designated by the governor from among the persons appointed. The members shall represent the public, employers, employee organizations, medical or health professions and architects. The member shall be paid a per diem fee of seventy-nine dollars plus necessary expenses. The commissioners of health, education, commerce<sup>1/</sup> and environmental conservation shall have ex officio representation. The board shall prepare an annual report for the governor and the legislature, copies of which shall be sent to the commissioners of health, education, commerce, labor and environmental conservation.

<sup>1/</sup> Now economic development

TABLE OF CONTENTS  
for  
ASBESTOS  
(Code Rule 56)

<u>Section</u>	<u>Subject</u>	<u>Page</u>
<b>56-1</b>	<b>GENERAL PROVISIONS</b>	
56-1.1	Title and citation .....	1
56-1.2	Purpose and intent of Part (rule) .....	1
	(a) <i>Legislative concern</i> .....	1
	(b) <i>Purpose and intent</i> .....	1
56-1.3	Application .....	2
56-1.4	Definitions .....	2
56-1.5	Responsibility of contractor .....	11
56-1.6	Notice and recordkeeping requirements .....	11
	(a) <i>Recordkeeping</i>	
	(1) Detail .....	11
	(2) Surrender of Records .....	11
	(b) <i>Notification</i> .....	12
	(1) When Required .....	12
	(2) Content .....	12
	(3) Postponement or Cancellation of Projects .....	13
	(4) Cumulative project notification .....	13
56-1.7	Emergency asbestos project notification .....	14
	(a) <i>Initial notification</i> .....	14
	(b) <i>Emergency approval</i> .....	14
	(c) <i>Follow-up notification</i> .....	14
56-1.8	Notification of residential and business occupants .....	14
	(a) <i>Ten-day notice</i> .....	14
	(b) <i>Three-day notice</i> .....	14
	(c) <i>Other notice</i> .....	15
	(d) <i>Duration of posting</i> .....	15
	(e) <i>Content</i> .....	15
	(f) <i>Noninterference</i> .....	15

<u>Section</u>	<u>Subject</u>	<u>Page</u>
56-1.9	Building demolition survey .....	15
	(a) Survey required .....	15
	(b) Building survey requirements .....	15
	(c) Building survey information .....	16
	(d) Transmittal of building survey information .....	17
	(e) Abatement required .....	17
<b>56-2</b>	<b>LICENSING AND CERTIFICATION</b>	
56-2.1	Licensing requirements and procedures .....	18
	(a) License required .....	18
	(b) Proof of license .....	18
	(c) Display of license .....	18
	(d) Application for license and renewal .....	18
56-2.2	Certification requirements and procedures .....	20
	(a) Certification and training required .....	20
	(b) Employee certification .....	20
	(c) ... categories of certification ... ..	20
	(d) Proof of course completion .....	22
	(e) Age requirement .....	22
	(f) Application for certification and renewal .....	22
56-2.3	Replacement of licenses and certificates .....	24
<b>56-3</b>	<b>IN-PLANT AND EMERGENCY OPERATIONS</b>	
56-3.1	In-Plant-General .....	26
	(a) ... permissible ... that meet all of the following criteria ..	26
	(b) The "in-plant operations" exception... ..	26
	(c) ....limited exception...from...the following conditions are met: .....	27
	(d) In-plant operations work area .....	27
	(e) Licensing, notification and certification .....	27
	(f) Air sampling and analysis .....	27
	(g) Failure to meet "in-plant operations" criteria .....	27
56-3.2.	Emergency - General .....	28
	(a) Emergency projects permissible... ..	28
	(b) Licensing and certification .....	28
	(c) Air sampling and analysis .....	28
	(d) Notification .....	28
	(e) Approval .....	28
	(f) If permission to proceed... ..	28

<u>Section</u>	<u>Subject</u>	<u>Page</u>
<b>56-4</b>	<b>WORK AREA ENTRY AND EXIT PROCEDURES</b>	
<b>56-4.1</b>	<b>General Requirements</b> .....	<b>29</b>
	(a) <i>Entry and exit</i> .....	29
	(b) <i>Entry/exit log</i> .....	29
	(c) <i>Knowledge of procedures</i> .....	29
	(d) <i>Personal protective equipment</i> .....	29
	(e) <i>Tools</i> .....	29
	(f) <i>Removal of gross contamination</i> .....	29
	(g) <i>Removal of personal protective equipment</i> .....	29
	(h) <i>Showering</i> .....	30
	(i) <i>Clean room/clothing</i> .....	30
<b>56-5</b>	<b>EQUIPMENT AND WASTE CONTAINER DECONTAMINATION AND REMOVAL PROCEDURES</b>	
<b>56-5.1</b>	<b>Large asbestos projects</b> .....	<b>31</b>
	(a) <i>First cleaning</i> .....	31
	(b) <i>Removal to washroom</i> .....	31
	(c) <i>Second cleaning</i> .....	31
	(d) <i>Recontainerizing</i> .....	31
	(e) <i>Removal to airlock</i> .....	31
	(f) <i>Removal to holding area</i> .....	31
	(g) <i>Holding carts</i> .....	31
	(h) <i>Enclosure security</i> .....	31
	(i) <i>Enclosure restrictions</i> .....	31
<b>56-5.2</b>	<b>Small asbestos projects</b> .....	<b>32</b>
	(a) <i>Assigned persons</i> .....	32
	(b) <i>Holding carts</i> .....	32
	(1) <i>Cart usage and cleaning</i> .....	32
<b>56-6</b>	<b>ENGINEERING CONTROLS</b>	
<b>56-6.1</b>	<b>Ventilation</b> .....	<b>33</b>
	(a) <i>Negative air pressure equipment</i> .....	33
	(b) <i>Operation</i> .....	33
	(c) <i>Negative air pressure</i> .....	33
	(d) <i>Ventilation units</i> .....	33
	(e) <i>Power supply</i> .....	33
	(f) <i>Power failure</i> .....	33
	(g) <i>Air changes</i> .....	33
	(h) <i>Openings in enclosure</i> .....	33
	(i) <i>Installation and care</i> .....	33
	(1) <i>Ducts....</i> .....	32
	(2) <i>Airtight systems</i> .....	34
	(j) <i>Exhaust location</i> .....	34

<u>Section</u>	<u>Subject</u>	<u>Page</u>
<b>56-7</b>	<b>MATERIALS AND EQUIPMENT</b>	
<b>56-7.1</b>	<b>General requirements</b>	
	(a) <i>Storage of materials</i> .....	35
	(b) <i>Damaged or deteriorating materials</i> .....	35
	(c) <i>Fireproofing or insulation protection</i> .....	35
	(d) <i>Plastic sheeting</i> .....	35
	(e) <i>Adhesive materials</i> .....	35
	(f) <i>Surfactants</i> .....	35
	(g) <i>Containers</i> .....	35
	(h) <i>Plastic bags</i> .....	35
	(i) <i>Enclosure project materials</i> .....	35
	(j) <i>Ventilation for power tools</i> .....	35
	(k) <i>Ladders and/or scaffolds for visitors</i> .....	35
<b>56-8</b>	<b>WORK AREA PREPARATION</b>	
<b>56-8.1</b>	<b>General requirements - large and small asbestos projects</b> .....	37
	(a) <i>Vacating of work</i> .....	37
	(b) <i>Signs</i> .....	37
	(c) <i>Electric power</i> .....	37
	(d) <i>Start of project-enclosure installation or construction</i> ..	37
	(e) <i>Heating, ventilating and air conditioning (HVAC)</i> <i>system isolation</i> .....	37
	(1) <i>Shut down and isolation</i> .....	37
	(2) <i>Local isolation</i> .....	37
	(3) <i>Positive pressurization</i> .....	37
	(f) <i>HVAC filters and ducts</i> .....	38
	(g) <i>Movable objects</i> .....	38
	(h) <i>Fixed objects</i> .....	38
	(i) <i>Precleaning</i> .....	38
	(j) <i>Isolation barriers - general</i> .....	39
	(k) <i>Isolation barriers - specific</i> .....	39
	(1) <i>Wall construction</i> .....	39
	(2) <i>Sheathing thickness</i> .....	39
	(3) <i>Sealing of partitions</i> .....	39
	(4) <i>Plastic sheeting</i> .....	39
	(5) <i>Plasticizing/sealing</i> .....	39
	(l) <i>Removal of mounted objects</i> .....	39
	(m) <i>Removal of ceilings</i> .....	39
	(n) <i>Exits</i> .....	40
	(o) <i>Boiler areas</i> .....	40
	(p) <i>Elevator shutdown or isolation</i> .....	40
	(1) <i>Isolation-detail</i> .....	40
	(2) <i>Elevator shaft ports</i> .....	40
	(q) <i>Toilet facilities</i> .....	40



<u>Section</u>	<u>Subject</u>	<u>Page</u>
56-8.2	Demolition - large and small asbestos projects .....	40
	(a) <i>Timing-removal of salvage</i> .....	40
	(b) <i>Flooring</i> .....	40
	(c) <i>Chimney effects</i> .....	41
	(d) <i>Specific requirements</i> .....	41
	(e) <i>Enclosure projects</i> .....	41
56-8.3	Minor asbestos projects	
	(a) <i>Vacation of work areas</i> .....	41
	(b) <i>Isolation of work area</i> .....	41
	(c) <i>Signs</i> .....	41
<b>56-9</b>	<b>PERSONAL DECONTAMINATION ENCLOSURE SYSTEM</b>	
56-9.1	Large asbestos projects .....	42
	(a) <i>Enclosure - general</i> .....	42
	(b) <i>Rooms and configuration</i> .....	42
	(c) <i>Showers</i> .....	43
	(d) <i>Enclosure security</i> .....	43
	(e) <i>Plastic sheeting</i> .....	43
	(f) <i>Prefabricated or trailer units</i> .....	43
	(g) <i>Clean room</i> .....	43
	(h) <i>Shower room</i> .....	43
	(i) <i>Equipment room</i> .....	44
56-9.2	Small asbestos projects .....	44
	(a) <i>Enclosure requirements</i> .....	44
56-9.3	Restricted Entry .....	44
<b>56-10</b>	<b>WASTE DECONTAMINATION ENCLOSURE SYSTEM</b>	
56-10.1	Large and small asbestos projects .....	45
	(a) <i>Rooms and configuration</i> .....	45
	(1) <i>Washroom/cleanup room</i> .....	45
	(2) <i>Holding area</i> .....	46
	(b) <i>Equipment/washroom alternative</i> .....	46
	(c) <i>Drains</i> .....	47
	(d) <i>Shower/washroom alternative</i> .....	47
56-10.2	Restricted entry .....	47

<u>Section</u>	<u>Subject</u>	<u>Page</u>
<b>56-11</b>	<b>ACCESS TO AND MAINTENANCE OF DECONTAMINATION ENCLOSURE SYSTEMS AND WORK AREA BARRIERS</b>	
56-11.1	General requirements .....	48
(a)	Access .....	48
(b)	Preabatement settling period .....	48
(c)	Inspection of barriers .....	48
(d)	Repairs to barriers and/or enclosure systems .....	48
(e)	Testing of barriers and enclosure systems .....	48
(f)	Loss of enclosure integrity .....	48
(g)	Daily cleaning of enclosures .....	48
<b>56-12</b>	<b>HANDLING AND REMOVAL PROCEDURES</b>	
56-12.1	General requirements .....	49
(a)	Dry removal or disturbance .....	49
(b)	Wetting requirements .....	49
(c)	Handling .....	49
(d)	Chutes .....	49
(e)	Handling large components .....	49
(f)	Sharp-edged components .....	49
(g)	Cleaning of surfaces .....	49
(h)	Cleanup procedures .....	49
(i)	Encapsulant use during cleanup .....	49
<b>56-13</b>	<b>ENCAPSULATION PROCEDURES</b>	
56-13.1	General requirements .....	50
(a)	Work area preparation .....	50
(b)	Repair materials .....	50
(c)	Asbestos material removal .....	50
(d)	Testing of encapsulants .....	50
(e)	Bridging encapsulants .....	50
(1)	Thickness requirement .....	50
(2)	Color requirement .....	50
(f)	Penetrating encapsulants .....	50
(1)	Penetration requirement .....	50
(2)	Testing of penetration .....	50
(3)	Color requirement .....	50
(g)	Method of application .....	50
(1)	Spraying pressure .....	51
(2)	Spray tip .....	51
(3)	Subsequent coats .....	51
(4)	Encapsulant solvent or vehicle .....	51

<u>Section</u>	<u>Subject</u>	<u>Page</u>
	(h) Encapsulant properties .....	51
	(i) Latex paint .....	51
	(j) Marking or labeling .....	51
	(k) Cleanup .....	51
<b>56-14</b>	<b>ASBESTOS MATERIAL ENCLOSURE PROCEDURES</b>	
<b>56-14.1</b>	<b>General requirements .....</b>	<b>52</b>
	(a) Work area preparation .....	52
	(b) Use of amended water .....	52
	(c) Loose/hanging asbestos material .....	52
	(d) Repair of fireproofing/thermal insulation .....	52
	(e) Integrity of installation .....	52
	(f) Utility maintenance .....	52
	(g) Ducts .....	52
	(h) Air plenums .....	52
	(i) Cleanup .....	52
	(j) Marking or labeling .....	52
<b>56-15</b>	<b>CLEANUP PROCEDURES</b>	
<b>56-15-1</b>	<b>General requirements .....</b>	<b>53</b>
	(a) Frequency for containerizing .....	53
	(b) Frequency for dust .....	53
	(c) Frequency for enclosures .....	53
	(d) Cleanup tools and equipment .....	53
<b>56-15.2</b>	<b>Post-abatement requirements .....</b>	<b>53</b>
	(a) Cleanup tools and equipment .....	53
	(b) First cleaning .....	53
	(c) First sheeting removal .....	53
	(d) Second cleaning and sheeting removal .....	53
	(e) Third cleaning .....	54
	(f) Removal of waste .....	54
	(g) Removal of tools and equipment .....	54
	(h) Clearing air monitoring .....	54
	(i) Removal of isolation barriers .....	54
<b>56-15.3</b>	<b>Demolition requirements .....</b>	<b>54</b>
	(a) Method, tools and equipment .....	54
	(b) Removal of waste .....	54
	(c) Cleanup of surfaces .....	54
	(d) Plastic sheeting removal .....	54
	(e) Removal of tools and equipment .....	55
	(f) Clearance air monitoring .....	55
	(g) Removal of isolation barriers .....	55

<u>Section</u>	<u>Subject</u>	<u>Page</u>
56-15.4	Minor asbestos projects .....	55
(a)	<i>Isolation barrier construction</i> .....	55
	(1) HVAC isolation .....	55
	(2) Uncontaminated areas .....	55
(b)	<i>Negative air pressure equipment ventilation</i> .....	55
(c)	<i>Cleanup</i> .....	55
	(1) Method, tools and equipment .....	55
	(2) Cleanup of surfaces .....	55
	(3) Second cleaning .....	55
(d)	<i>Removal of contaminated equipment and waste</i> .....	56
(e)	<i>Clearance air monitoring</i> .....	56
(f)	<i>Removal of isolation barrier</i> .....	56
<b>56-16</b>	<b>MINOR PROJECT PROCEDURE</b>	
56-16.1	General requirement .....	57
(a)	<i>Types</i> .....	57
(b)	<i>Glovebag use</i> .....	57
	(1) Size .....	57
	(2) Sealing .....	57
	(3) Seal testing .....	57
	(4) Surface irregularities .....	57
	(5) Amended water .....	57
	(6) Post-stripping wetting .....	57
	(7) Sealing of pipe ends .....	57
	(8) Collapsing of the glovebag .....	58
	(9) Tool segregation .....	58
	(10) Containerizing the glovebag .....	58
	(11) Sealing of contaminated items .....	58
(c)	<i>Tent construction</i> .....	58
(d)	<i>Tent use</i> .....	58
	(1) Personal protective equipment .....	58
	(2) Exhausting the tent .....	58
	(3) Amended water .....	58
	(4) Abatement procedures .....	58
	(5) Cleanup .....	58
	(6) Sealing of surfaces and edges .....	58
	(7) Removal of personal protective equipment .....	59
	(8) Exiting procedures .....	59
	(9) Collapsing and containerizing the tent .....	59
	(10) Showering .....	59

<u>Section</u>	<u>Subject</u>	<u>Page</u>
<b>56-17</b>	<b>AIR SAMPLING, MONITORING AND ANALYSIS</b>	
56-17.1	Schedules and methods .....	60
56-17.2	Pre-abatement and post-abatement monitoring (clearance air monitoring)	
	(a) <i>Drying time</i> .....	61
	(b) <i>Number of samples-large asbestos projects</i> .....	61
	(c) <i>Additional samples</i> .....	61
	(d) <i>Number of samples-small asbestos projects</i> .....	61
	(e) <i>Placement of air-sampling equipment</i> .....	61
	(f) <i>Aggressive sampling techniques</i> .....	61
	(1) <i>Presampling agitation</i> .....	61
	(2) <i>Ongoing agitation</i> .....	61
	(3) <i>Begin sampling</i> .....	61
	(4) <i>End sampling</i> .....	61
	(g) <i>Air changes</i> .....	61
	(h) <i>Samplers outside of the work area</i> .....	62
	(i) <i>Placement of outdoor samplers</i> .....	62
56-17.3	Air sampling during abatement .....	62
	(a) <i>Sample locations-large asbestos projects</i> .....	62
56-17.4		
	(a) <i>Air Sampling and Analysis</i> .....	62
	(b) <i>Qualifications of person(s)</i> .....	63
	(c) <i>Certification of laboratory</i> .....	63
	(d) <i>Consistency of methodologies</i> .....	63
56-17.5	Air sampling .....	63
	(a) <i>Sampling equipment</i> .....	63
	(b) <i>Duration flow rate and calibration</i> .....	63
	(c) <i>Sample records</i> .....	63
56-17.6	Analysis and results-general requirements .....	63
	(a) <i>Turnaround time</i> .....	63
	(b) <i>Microscope detail</i> .....	63
56-17.7	Criteria during abatement procedures - work stoppage level .....	64
56-17.8	Clearance air-monitoring results criteria - satisfactory level .....	64
	(a) <i>... results shall be considered satisfactory ...</i> .....	64
	(b) <i>Applicable Variances (AV's)</i> .....	64

<u>Section</u>	<u>Subject</u>	<u>Page</u>
56-17.9	Failure .....	64
	(a) <i>Recleaning</i> .....	64
	(b) <i>Placement of new samples</i> .....	65
	(c) <i>Repeating of air sampling, monitoring and analysis</i> ...	65
56-18	MISCELLANEOUS	
56-18.1	Severability .....	66
56-18.2	Variances .....	66
56.18.3	Right of entry .....	66

# **ASBESTOS**

(Statutory Authority: Labor Law Section 906)

## **Part 56 of Title 12 of the State of New York Official Compilation of Codes, Rules and Regulations**

**NOTE:** Section 30 of the Labor Law sets forth procedures and standards which must be met by parties who desire to obtain variations of any of the requirements of this (Part) rule.

### **SUBPART 56-1**

#### **GENERAL PROVISIONS**

**Section 56-1.1 Title and citation.** Within and for the purposes of the Department of Labor, this Part (rule) may be known as Industrial Code Rule No. 56, relating to hazards to the public safety and health, during the removal, encapsulation, enclosure, or the disturbance of friable asbestos, or any handling of asbestos material that may result in the release of asbestos fiber. It may be cited as Rule 56 Asbestos as an alternative and without prejudice to its designation and citation established by the Secretary of State.

**56-1.2 Purpose and intent of Part (rule).** (a) *Legislative concern.* The Legislature has declared that exposure to asbestos fibers, a known carcinogenic agent, creates a serious risk to the public safety and health and that the public is more frequently exposed to these risks as a result of an increasing number of rehabilitation, reconstruction and demolition projects on buildings or structures containing asbestos or asbestos materials.

(b) *Purpose and intent.* It is the purpose and intent of this Part (rule) to reduce the risks to the public associated with exposure to asbestos and to conform to Federal requirements set forth in the Asbestos Hazard Emergency Response Act (AHERA) by requiring appropriate training and certification of persons employed in all aspects of an asbestos project, as well as those who supervise and employ them; by requiring the licensing of asbestos contractors; by setting forth standards and procedures that shall be followed when removing, enclosing, encapsulating, or disturbing friable asbestos or handling asbestos or asbestos materials in a manner which may result in the release of asbestos fiber; by requiring notification of the Department of Labor prior to commencement of large asbestos projects; by requiring notification of building

occupants and pre-demolition surveys; by setting forth recordkeeping and reporting requirements for asbestos contractors; and by establishing an inspection and enforcement program within the Department of Labor.

**56-1.3 Application.** This Part (rule) shall apply throughout the State of New York to the State, any political subdivision of the State, public authorities, or any other governmental agencies or instrumentalities thereof, self-employed persons, companies, unincorporated associations, firms, partnerships or corporations, and any owners or operators thereof, which engage in or employ persons in the conduct of any phase of an asbestos project, including planning, design, monitoring, inspection, or actual abatement. This Part (rule) shall not apply to the manufacture of asbestos or asbestos material or to manufacturing processes involving the use of asbestos or asbestos material.

**56-1.4 Definitions.** As used in or in connection with this Part (rule) the following terms mean:

- (a) **Abatement.** Procedures to control fiber release from asbestos material. This includes removal, encapsulation, enclosure, repair, disturbance of friable asbestos or any handling of asbestos material that may result in the release of asbestos fiber.
- (b) **Aggressive sampling.** A method of sampling in which the person collecting the air sample creates activity by the use of mechanical equipment during the sampling period to stir up settled dust and simulate activity in that area of the building.
- (c) **Agricultural building.** A building which is/was exclusively used for agricultural or horticultural activity but not structures or buildings used for residential purposes or the processing or retail merchandising of agricultural or horticultural commodities.
- (d) **AIHA.** The American Industrial Hygiene Association. (As of 1991, located at P.O. Box 8390, 435 White Pond Drive, Akron, OH 44320.)
- (e) **Airlock.** A system for permitting entrance and exit while restricting air movement between a contaminated area and an uncontaminated area. It consists of two curtained doorways separated by a distance of at least three feet, such that one passes through one doorway into the airlock, allowing the doorway sheeting to overlap and close off the opening before proceeding through the second doorway, thereby preventing flow-through contamination.
- (f) **Air sampling.** The process of measuring the fiber content of a known volume of air collected during a specific period of time.



- (g) Amended water. Water to which a surfactant has been added.
- (h) Approved asbestos safety training program. A program, approved by the Commissioner of Health, providing training in the various disciplines which may be involved in an asbestos project.
- (i) Area air sampling. Any form of air sampling or monitoring where the sampling device is placed at some stationary location.
- (j) Asbestos. Any naturally occurring hydrated mineral silicate separable into commercially usable fibers, including chrysotile (serpentine), amosite (cumingtonite-grunerite), crocidolite (riebeckite), tremolite, anthophyllite and actinolite.
- (k) Asbestos handler. Any person who performs the duties described in section 56-2.2 (c) (1) of this Part.
- (l) Asbestos handling certificate. A certificate issued by the commissioner in any of the categories set forth in section 56-2.2 (c) of this Part..
- (m) Asbestos handling license. A license issued by the commissioner pursuant to the provisions of this Article to a contractor engaged in an asbestos project.
- (n) Asbestos material. Any material containing more than one percent by weight of asbestos.
- (o) Asbestos project. Work undertaken by a contractor which at any time involves any aspect of the removal, encapsulation, enclosure or disturbance of friable asbestos, or any handling of asbestos material that may result in the release of asbestos fiber, except work in an owner-occupied single family dwelling performed by the owner of such dwelling. An asbestos project shall include the planning, design, monitoring, inspection and air sampling of abatement work, as well as the supervising of such activities.
- (1) Where all asbestos work on a project is subcontracted to a contractor with an asbestos handling license, only that part of the work involving asbestos shall be deemed to be an asbestos project.
- (2) Asbestos projects include large asbestos projects, small asbestos projects, minor asbestos projects, repairs and emergency projects as defined elsewhere in the Part (rule). For purposes of licensing, certification, notification, and air monitoring, asbestos project shall include in-plant operations.
- (p) Asbestos project air sampling technician. An individual who performs the duties described in section 56-2.2 (c) (3) of this Part.

- (q) Asbestos waste. Asbestos material or asbestos contaminated objects requiring disposal pursuant to any applicable State or Federal law or regulation.
- (r) Authorized visitor. The building owner, his or her agent or representative, any party contracting for services on an asbestos project whether on his or her own behalf or on behalf of another, insurance appraisers or inspectors, utility company representatives, the commissioner or his/her agents, and personnel of any regulatory or other agency having jurisdiction over the project.
- (s) Background level monitoring. A method used to determine airborne asbestos fiber concentrations inside and outside of a building or structure prior to starting an asbestos project.
- (t) Building owner. The person in whom legal title to the premises is vested unless the premises are held in land trust, in which instance building owner means the person in whom beneficial title is vested.
- (u) CIH. Certified Industrial Hygienist is the certification status designated by the American Board of Industrial Hygiene (ABIH) (As of 1991, located at 4600 Saginaw, Suite 101, Lansing, MI 48917-2737).
- (v) Clean room. An uncontaminated area or room which is a part of the personal decontamination enclosure with provisions for storage of persons' street clothes and protective equipment.
- (w) Cleanup. The utilization of HEPA vacuuming and/or wet cleaning to control and eliminate accumulations of asbestos material and asbestos waste material.
- (x) Clearance air monitoring. The collection of a volume of air using aggressive sampling techniques and analyzed to determine the airborne concentration of fibers upon conclusion of an asbestos abatement project.
- (y) Commissioner. The Commissioner of Labor.
- (z) Contractor. The State, any political subdivision of the State, a public authority or any other governmental agency or instrumentality thereof, self-employed person, company, unincorporated association, firm, partnership or corporation and any owner or operator thereof, which engages in an asbestos project or employs persons engaged in any phase of an asbestos project.
- (aa) Curtained doorway. A device which consists of at least three overlapping sheets of plastic over an existing or temporarily framed doorway. One sheet shall be secured at the top and left side, the second sheet at the top and right side, and the third sheet at the top and left side. All sheets shall have weights attached to the bottom to insure that the sheets hang straight and maintain a seal over the doorway when not in use.

(ab) Decontamination enclosure system. A series of connected rooms, separated from the work area and from each other by air locks, for the decontamination of persons, materials and equipment.

(1) The component rooms of the personal decontamination system shall consist of the following:

- (i) clean room;
- (ii) shower room; and
- (iii) equipment room.

(2) The component rooms of a waste decontamination system shall consist of the following:

- (i) washroom or clean-up room; and
- (ii) holding area.

(3) See Figures 1, 2, 3 and 4 and the definitions for each room or area found elsewhere in section 56-1.4 of this Subpart. See also Subparts 56-9 and 56-10 of this Part.

(ac) Demolition. The total razing of a building or an entire portion thereof.

(ad) Department. The Department of Labor.

(ae) Emergency. An unexpected, unanticipated or unforeseen occurrence, including but not limited to, a steam, chemical, gas or water line rupture, a boiler failure, or a building collapse, which poses

(1) an imminent danger to the health and safety of the public, the response to which will constitute an asbestos project; or

(2) an asbestos-related risk to the health and safety of the public from exposure to asbestos fibers. See Subpart 56-3.2 of this Part.

(af) Encapsulant (sealant) or encapsulating agent. A liquid material which can be applied to asbestos material and which prevents the release of asbestos fibers from the material either by creating a membrane over the surface (bridging encapsulant) or by penetrating into the material and binding its components together (penetrating encapsulant).

(ag) Encapsulation. The coating or spraying of asbestos material with an encapsulant (sealant) or encapsulating agent.

(ah) Enclosure. The construction of airtight walls, ceilings and floors between the asbestos material and the facility environment, or around surfaces coated with asbestos material, or any other appropriate procedure as determined by the department which prevents the release of asbestos fiber.

(ai) EPA. The Environmental Protection Agency, Region II, Air and Hazardous Material Division. (As of 1990, located at 26 Federal Plaza, New York, NY 10278.)

(aj) Equipment room. A contaminated area or room which is part of the personal decontamination enclosure system with provisions for the storage of contaminated clothing and equipment. See Subpart 56-9 of this Part.

(ajk) Fixed object. A unit of equipment, furniture or other fixture in the work area which cannot be readily removed from the work area.

(al) Friable. That condition of crumbled, pulverized, powdered, crushed or exposed asbestos which is capable of being released into the air by hand pressure.

(am) Friable material containment. The encapsulation or enclosure of any friable asbestos material.

(an) Glovebag technique. A method for removing asbestos material from heating, ventilating, and air conditioning (HVAC) ducts, piping runs, valves, joints, elbows, and other nonplanar surfaces. The glovebag assembly is a manufactured device consisting of a glovebag constructed of at least six-mil transparent plastic, two inward-projecting longsleeve gloves, which may contain an inward-projecting waterwand sleeve, an internal tool pouch, and an attached, labeled receptacle or portion for asbestos waste. The glovebag is constructed and installed in such a manner that it surrounds the object or area to be decontaminated and contains all asbestos fibers released during the abatement process.

(ao) HEPA filter. A high efficiency particulate air filter capable of trapping and retaining 99.97 percent of asbestos fibers greater than 0.3 microns equivalent aerodynamic diameter.

(ap) HEPA vacuum equipment. Vacuuming equipment with a high efficiency particulate air filtration system.

(aq) Holding area. A chamber in the waste decontamination enclosure located between the washroom and an adjacent uncontaminated area.

(ar) Homogeneous work area. A site within the abatement area where one type of asbestos material is contained and one type of abatement is used.

(as) In-plant operations. Any work within the premises of an employer other than the State, any political subdivision of the State, a public authority or other governmental agency or instrumentality thereof, in an area to which persons other than those directly involved in the work will not have access during the course of the work and which is performed in a manner consistent with Federal regulations promulgated under the Federal Occupational Safety and Health Act pursuant to chapter 15 of title 29 of the United States Code (OSHA), and is performed in a manner which will not expose the public to asbestos fibers in excess of background levels or .01 fibers per cubic centimeter, whichever is greater, provided that the work involves the encapsulation, enclosure, removal, disturbance or handling of: less than 160 square feet or 260 linear feet of asbestos or asbestos material and is performed by employees of such employer; or (2) built-up roofing material, flashing, transite roofing and siding, roofing shingles, asbestos cement siding and pipe, galbestos roofing and siding, shingle siding, transite pipe, vinyl asbestos tile, ceiling tiles/panels, fire curtains, and transite or galbestos panels (such as, but not limited to, those used in soffits, fences, thermal dividers, laboratory hoods, drive-in screens and water towers).

**NOTE:** The "in-plant operations" exception created in section 901(12) of the Labor Law is LIMITED in scope.

(1) There is no exemption from requirements for licensing and certification set forth elsewhere in this Part (rule). See Subpart 56-2 of this Part.

(2) There is no exemption from requirements for air monitoring set forth in this Part (rule). See Subpart 56-17 of this Part..

(3) There is no exemption from requirements for project notification or from notice to residents/occupants set forth in this Part (rule). See Sections 56-1.6 and 56-1.8 of this Subpart, respectively.

(4) There is no exemption from recordkeeping requirements of Labor Law section 904 and section 56-1.6 (a) (1).(i-ix) of this Subpart..

(5) For all of these purposes, in-plant operations are asbestos projects as defined in section 56-1.4 (o) of this Subpart..

(6) There is a LIMITED EXEMPTION from other Code Rule 56 work practices where ALL of the following conditions are met:

(i) The project takes place within the premises of the non-public employer; and

(ii) The project takes place in an area to which persons other than those directly involved in the work will not have access during the course of the work; and

- (iii) The project is performed in a manner consistent with OSHA standards; and
  - (iv) The project is performed in a manner which will not expose the public to fiber concentrations exceeding background levels or .01 fibers per cubic centimeter, whichever is greater; and
  - (v) The project (a) involves encapsulation, enclosure, removal, disturbance or handling of less than 160 square feet or 260 linear feet of asbestos or asbestos material and the work is performed by employees of the employer; or
    - (b) involves the encapsulation, enclosure, removal, disturbance or handling of built-up roofing material, flashing, transite roofing and siding, roofing shingles, asbestos cement siding and pipe, galbestos roofing and siding, shingle siding, transite pipe, vinyl asbestos tile, ceiling tiles/panels, fire curtains, and transite or galbestos panels (such as, but not limited to, those used in soffits, fences, thermal dividers, laboratory hoods, drive-in screens and water towers).
- (7) If the materials listed in clause (6) (v) (b) of this subdivision are involved, an employer may employ an outside contractor (i.e., the work need not be performed by employees of such employer.)
- (at) Inspector. Any person who performs the duties described at Section 56-2.2 (c) (4) of this Part.
  - (au) Large asbestos project. An asbestos project involving the removal, disturbance, enclosure, encapsulation or handling of 160 square feet or more of asbestos or asbestos material or 260 linear feet or more of asbestos or asbestos material.
  - (av) Management planner. Any person who performs the duties described at section 56-2.2 (c) (9) of this Part.
  - (aw) Minor asbestos project. An asbestos project involving the removal, disturbance, repair, encapsulation, enclosure or handling of 10 square feet or less of asbestos or asbestos material, or 25 linear feet or less of asbestos or asbestos material.
  - (ax) Movable object. A unit of equipment, piece of furniture or any fixture in the work area which can be readily removed from the work area.
  - (ay) Negative air pressure equipment. A local exhaust system equipped with HEPA filtration. The system shall be capable of creating and maintaining a negative pressure differential between the outside and the inside of the work area.

- (az) NIOSH. The National Institute for Occupational Safety and Health. (As of 1990 located at CDC - NIOSH, Building J N.E., Room 3007, Atlanta, GA 30333.)
- (ba) Non-asbestos material. Any material containing one percent or less by weight of asbestos.
- (bb) Occupied area. Any frequented portion of the work site where abatement is not taking place.
- (bc) Operations and maintenance worker. Any person who performs the duties described at section 56-2.2 (c) (5) of this Part.
- (bd) OSHA. The Occupational Safety and Health Administration. (As of 1990, located at 200 Constitution Avenue, N.W., Washington, D.C. 20210.)
- (be) Outside air. The air outside the building or structure.
- (bf) Person. Any natural person.
- (bg) Personal decontamination enclosure system. An area designated for controlled passage of all persons, consisting of a clean room, a shower room, and an equipment room, in series, separated from each other and from the work area by airlocks.
- (bh) Personal protective equipment. Clothing, head gear, eye protection, footwear and gloves as required by this Part (rule).
- (bi) Plasticize. To cover floors, walls, ceilings and other surfaces with fire-retardant plastic sheeting as herein specified.
- (bj) Project designer. Any person who performs the duties described at section 56-2.2 (c) (7) of this Part.
- (bk) Project monitor. Any person who performs the duties described at section 56-2.2(c)(8).
- (bl) Public. Any natural person except (1) a person engaged in an asbestos project; (2) an authorized visitor; (3) police, fire, or other public safety personnel.
- (bm) Removal. The stripping of any asbestos material.
- (bn) Repair. Corrective action using required work practices to control fiber release from damaged asbestos material.
- (bo) Respiratory protection. Respiratory protection required of authorized visitors in accordance with this Part (rule).

- (bp) Restricted asbestos handler - allied trades. Any person who performs the duties described at section 56-2.2 (c) (2) of this Part.
- (bq) Satisfactory clearance air monitoring results. For all post-abatement samples, airborne concentrations of asbestos fibers that are less than 0.01 fibers per cubic centimeter or background levels, whichever is greater.
- (br) Shower room. A room between the clean room and the equipment room in the personal decontamination enclosure with hot and cold running water controllable at the tap and arranged for complete showering during decontamination.
- (bs) Small asbestos project. An asbestos project involving the removal, encapsulation, enclosure, or disturbance of friable asbestos, or any handling of more than 10 and less than 160 square feet of asbestos or asbestos material or more than 25 and less than 260 linear feet of asbestos or asbestos material.
- (bt) Staging area. The area near the waste transfer airlock where containerized asbestos waste has been placed prior to removal from the work area.
- (bu) Supervisor. Any person who performs the duties described at section 56-2.2 (c) (6) of this Part.
- (bv) Surfactant. A chemical wetting agent added to water to improve its penetration.
- (bw) Visible emissions. Any emissions of particulate material that can be seen without the aid of instruments.
- (bx) Washroom. A room between the work area and the holding area in the waste decontamination enclosure system, where equipment and waste containers are wet cleaned and/or HEPA vacuumed.
- (by) Waste decontamination enclosure system. An area, consisting of a washroom and a holding area, designated for the controlled transfer of materials and equipment.
- (bz) Wet cleaning. The process of eliminating asbestos contamination from surfaces, equipment or other objects by using cloths, mops, or other cleaning tools which have been dampened with amended water.
- (ca) Work area. Designated area within a work site where an asbestos project occurs which either is contained or to which access is restricted under this Part (rule).
- (cb) Work site. Premises where an asbestos project takes place.



**56-1.5 Responsibility of contractor.** The contractor shall permit only those persons who hold valid asbestos handling certificates appropriate to the tasks actually performed by such persons to engage in work on an asbestos project.

**56-1.6 Notice and recordkeeping requirements.**

(a) *Recordkeeping.*

(1) Detail. Every contractor shall maintain for at least 30 years a record of each asbestos project in which the contractor engages. Such record shall include the following information:

- (i) the name, address, social security number and asbestos certificate number of the person who supervised the asbestos project;
- (ii) the location and description of the asbestos project;
- (iii) the amount of asbestos or asbestos material that was removed, enclosed, encapsulated, disturbed or handled;
- (iv) the commencement and completion date of the asbestos project;
- (v) the name and address of the deposit or waste disposal site or sites where the asbestos waste material was deposited or disposed of;
- (vi) the name and address of any sites that were used for the interim storage of asbestos or asbestos waste materials prior to final deposit or disposal;
- (vii) the name and address of any transporters that were used to transport asbestos or asbestos material;
- (viii) the name, address, social security number and asbestos license or certificate number of all persons who were engaged on that portion of the asbestos project for which the contractor has responsibility; and
- (ix) any other information which the commissioner may require on a form and according to instructions provided by the commissioner.:

(2) Surrender of Records. Within 10 working days of the expiration, revocation, or nonrenewal of a contractor's asbestos handling license, or upon the receipt of the written request of the commissioner, any records kept pursuant to this Part shall be delivered to the department's Division of Safety and Health, Asbestos Control Bureau.

(b) *Notification.*

(1) **When Required.** Any contractor who proposes to engage in an asbestos project of more than 260 linear feet or more than 160 square feet of asbestos or asbestos materials shall notify in writing both the EPA and the Asbestos Control Bureau of the department's Division of Safety and Health. For the purposes of this section, an asbestos abatement contractor shall be the contractor who engages in that portion of the project which involves the removal, encapsulation, enclosure, or disturbance of friable asbestos, or any handling of asbestos material that may result in the release of asbestos fiber. Such notice must be received at least 10 days prior to commencement of the project. If an asbestos hazard is present which requires immediate attention, or if emergency conditions make it impossible to give notification 10 days prior to commencement of the project, notification, in accordance with section 56-1.7 of this Part (rule), shall be given. All project notifications shall be accompanied by a nonrefundable fee paid by noncertified or bank cashier's check or bank or postal money order made payable to the commissioner of labor in the amounts set forth in the Labor Law. Any such checks which are returned to the Commissioner as unpaid, for any reason, shall be subject to a return check processing fee of twenty dollars and any entity submitting such checks to the Department may be subject to all other appropriate penalties set forth in statute and code, including but not limited to enjoining of the asbestos project.

(2) **Content.** The written notification to the Division of Safety and Health's Asbestos Control Bureau shall be made on a form(s) provided by the commissioner and shall include, but not be limited to, the following:

- (i) the name, address and asbestos license number of the contractor for the project;
- (ii) the address and description of the building or area, including size, age and prior use of the building or area;
- (iii) the amount of asbestos or asbestos material present in square feet and/or linear feet, if applicable;
- (iv) room designation numbers or other local information where asbestos material is found, unless such material is found throughout the entire building or structure;
- (v) the proposed commencement and completion dates for abatement;

**NOTE:** A separate notification must be submitted for each period of up to 12 months during which work will be performed. No additional fee is required unless the size of the project increases from that originally submitted on

the initial notification, then a fee would be required for the additional material only.

(vi) the procedures and equipment, including ventilating/exhaust systems, that will be employed;

(vii) the name and ELAP registration number of the laboratory which will perform analysis of air samples for the project;

(viii) any other information which the commissioner may require.

(3) Postponement or Cancellation of Projects.

(i) Whenever the starting date of a project for which notification has already been submitted is postponed, or if a project for which a notification has been submitted is cancelled, the contractor shall notify the Asbestos Control Bureau of the postponement or cancellation, in writing or by telephone, no later than one day prior to the start day set forth on the previously submitted notification.

(ii) If notice of postponement or cancellation is given by telephone, it shall be followed by written confirmation of the postponement or cancellation which shall be provided to the Asbestos Control Bureau within five working days of the telephone notice.

(iii) In any case in which the starting date of a project has been postponed, an amended notification form shall be submitted to the Asbestos Control Bureau no later than three days prior to the commencement of the project.

(iv) Where time periods set forth herein allow, the notice requirements of subparagraphs (ii) and (iii) of this paragraph may be satisfied by the submittal of a single amended notification form.

(4) Cumulative project notification. If a single asbestos project involves several locations in a building or area, each of which does not involve the amounts of asbestos or asbestos material specified in section 56-1.6(b) of this Part, but which in total equal or exceed this amount, written notification shall be required. Each building will be considered a separate project for the purpose of meeting all notification requirements set forth in the statute and code. A separate project notification form and fee must be submitted for each building.

**NOTE:** Where one contract is entered into for several component projects, notification will be required. Similarly, separate bids for component projects will not necessarily avoid notification requirement. (Substance rather than form will be determinative.)

#### **56-1.7 Emergency asbestos project notification.**

- (a) *Initial notification.* Prior to the commencement of an asbestos project which is necessary to respond to an emergency as defined in section 56-1.4(ad) of this subpart (rule), the owner, owner's agent, consultant or contractor shall contact the Program Manager's Office, Asbestos Control Bureau, in Albany, New York, via telephone or in person to request permission to proceed with the asbestos project. The individual giving such notification may be asked to provide some or all of the information required of an individual giving full written notification of an asbestos project.
- (b) *Emergency approval.* The Program Manager, Asbestos Control Bureau, or other duly authorized representative of the commissioner, upon ascertaining all pertinent facts relating to the request, shall be empowered to either allow or deny the request for permission to proceed with an emergency asbestos project without the filing of prior notification. Unless permission to proceed with the project under alternative conditions is granted pursuant to section 56-3.2 of this Part (rule), all work on the project shall conform to the requirements set forth in this Part (rule).
- (c) *Follow-up notification.* If permission to proceed with the emergency asbestos project is granted, the person to whom such permission is granted shall within two working days, file the written notification required by section 56-1.6 of this Subpart (rule) with the Program Manager, Asbestos Control Bureau, Albany, New York.

#### **56-1.8 Notification of residential and business occupants. (a) Ten-day notice.**

- (1) Every contractor engaged in the abatement portion of a project shall post or otherwise provide for a written notification to residential and business occupants of a building 10 days prior to the commencement of work on any asbestos project in the building. With regard to projects being conducted in school buildings, the faculty, staff and students attending such school shall be considered to be business occupants and shall receive notice as required in the Part (rule).
- (2) *Notification-procedure-detail.* The written notification shall be given to those business and residential occupants of a building, or portion thereof, who are located on the floor or floors where the actual project is to be conducted, and one floor above and one floor below the floor or floors containing the project. In addition, such written notification shall also be given to those occupants of adjacent buildings who have direct horizontal access to these floors. Posted notice shall be provided at all direct means of access to the floor, such as but not limited to, stairways, ramps, emergency ingress/egress, elevators, escalators, ladders, hallways, corridors and trapdoors.
- (b) *Three-day notice.* If the work is scheduled to begin less than 10 days after the execution of the contract, each contractor shall post or otherwise provide written

notice of any asbestos project to residential and business occupants in the building where work will be performed at least three days prior to commencement of work.

(c) *Other notice.* If an emergency makes it impossible to provide the notice required by subdivision (a) or (b) of this section, every contractor shall post or otherwise provide for written notification to residential and business occupants of the building, as soon as practicable after identification of the project, in the manner set forth in section 56-1.7 of this Subpart.

(d) *Duration of posting.* Posted notices shall remain in place until completion of the project.

(e) *Content.* Each notification shall include the following information:

- (1) the room, location(s) or area designation of the asbestos project;
- (2) the amounts and types of asbestos or asbestos material, in square feet and/or linear feet, that is being handled, removed, enclosed, encapsulated, or disturbed;
- (3) the commencement and completion dates of the asbestos project;
- (4) the name and asbestos license number of the contractor performing the project; and
- (5) the name and address of the air monitor and laboratory for the project.

(f) *Noninterference.* No person shall interfere with the obligations of a contractor under this section.

**56-1.9 Building demolition survey.** (a) *Survey required.* Prior to advertising for bids or contracting for or commencing work on any demolition work on a building, except an agricultural building or a building the construction of which was begun on or after January 1, 1974, an owner and his/her agents, except the owner of one and two-family dwellings who contracts for but does not direct or control the work, shall conduct or cause to be conducted a survey to determine whether or not the building or portion thereof to be demolished contains asbestos or asbestos material as defined in section 56-1.4 of this Subpart. All such surveys shall be conducted in conformance with the requirements of subdivision (b) of this section.

(b) *Building survey requirements.* The survey shall include the inspection for and identification of all asbestos or asbestos material throughout the building or portion thereof to be demolished. The required inspection shall be performed by a certified inspector, and, at a minimum, shall include identification of asbestos or asbestos material by the following methods:

- (1) The review of building plans and records, if available, for references to asbestos or asbestos material used in construction, renovation or repair.
  - (2) The sampling of suspect material and subsequent analysis by a laboratory that meets the requirements of section 56-17.4 of this Part.
  - (3) The mapping out of all locations of asbestos or asbestos material.
- (c) *Building survey information.* (1) The survey shall, at a minimum, identify and assess the condition of the following types of installations relative to the asbestos or asbestos material contained therein:
- (i) Surface treatments:
    - (a) fireproofing;
    - (b) acoustical plaster; and
    - (c) finish plasters.
  - (ii) Thermal system insulation:
    - (a) equipment insulation;
    - (b) boiler/breaching/duct/tank insulation; and
    - (c) piping and fitting insulation, including aircell, millboard, preformed plaster, job molded plaster and fibrous glass
  - (iii) Roofing and siding:
    - (a) felts;
    - (b) cementitious board (transite);
    - (c) flashing;
    - (d) shingles; and
    - (e) galbestos.
  - (iv) Other materials:
    - (a) dust and debris;
    - (b) vinyl asbestos tile;
    - (c) ceiling tile;
    - (d) gaskets/seals/sealants;
    - (e) vibration isolators;
    - (f) laboratory tables and hoods;
    - (g) cementitious board;
    - (h) fire curtains;
    - (i) fire blankets; and
    - (j) fire doors.

(2) All asbestos or asbestos material reported under paragraph (1) of this subdivision shall include an estimate of the quantities, types, and condition of same.

(3) The building survey shall also include the building location/identity, the building owner's name and address, the name and address of the owner's agent and the party performing the survey, the dates of the survey and the laboratory used for analysis of samples taken during the survey.

(d) *Transmittal of building survey information.* Information derived from the building survey shall be immediately transmitted by the building owner or his/her agent to the commissioner through the Department's Division of Safety and Health, Asbestos Control Bureau, and to the local government entity charged with issuing a permit for such demolition under applicable State or local laws or, if no such permit is required, to the town or city clerk where the building is located.

(e) *Abatement required.* If the building survey finds that a building to be demolished contains asbestos or asbestos material as defined in section 56-1.4 of this Subpart, no bids shall be advertised nor contracts awarded nor demolition work commenced by any owner or agent prior to completion of an asbestos remediation contract performed by a licensed asbestos contractor, in conformance with all standards set forth in this Part (rule).

## SUBPART 56-2

### LICENSING AND CERTIFICATION

**Section 56-2.1 Licensing requirements and procedures.** (a) *License required.* No contractor shall engage in an asbestos project unless such contractor has a valid asbestos handling license issued by the commissioner. All firms, corporations or other business entities providing management planning, project design, monitoring, inspection and/or air monitoring services shall obtain an asbestos handling license. In addition, the individuals employed by such firms, corporations or other business entities shall obtain the asbestos handling certificate appropriate to the tasks performed by such individuals.

(b) *Proof of license.* A copy of a valid asbestos-handling license, or other proof of the issuance of a valid asbestos-handling license deemed suitable by the commissioner shall be submitted by the bidder to the party soliciting bids prior to the award of any public works contract, all or part of which involves an asbestos project.

(c) *Display of license.* A copy of a valid asbestos-handling license shall be conspicuously displayed proximate to but outside the work area on an asbestos project.

(d) *Application for license and renewal.*

(1) All applications for asbestos-handling licenses shall be submitted in writing on forms furnished by the commissioner. Copies of such forms may be obtained from the New York State Department of Labor, Asbestos Licensing and Certification Unit, One Main Street, Brooklyn, New York 11201.

(2) Completion of such forms may require the inclusion of any information required by the commissioner.

(3) Each license application shall contain a verified statement by the contractor applying for the license or its duly authorized representative, that any person employed by the contractor on the asbestos project shall have a valid asbestos handling certificate as required by this Part, that the contractor will provide such person with a copy of this Part (rule) and notify him/her of the obligation to abide by its provisions, and that the contractor will abide by all the rules and regulations promulgated by the Commissioners of Labor and Health pursuant to article 30 of the Labor Law. Management planners, project designers, and project monitors shall obtain an asbestos handling license in addition to the asbestos handling certificate appropriate to the task performed by such person. (See definition of "contractor" at section 56-1.4[y] of this Part). Each license application shall include the name of the supervisor designated as the contractor's agent as required by section 902(1) of the Labor Law. Any changes or follow-up to the information



contained in the contractor's license application, (including but not limited to changes in address, principals, ownership, designated supervisor[s], and insurance coverage,) shall be reported in writing to the Asbestos Licensing and Certification Unit, New York State Department of Labor, One Main Street, Brooklyn, NY 11201, within 30 calendar days of the effective date of any change.

(4) Completed applications shall be sent to the address specified in the application package, accompanied by a nonrefundable application fee in the amount set forth in section 903 of the Labor Law. The fee shall be paid in the form of a bank or postal money order, bank cashier's check or noncertified check payable to the Commissioner of Labor. Any such checks which are returned to the Commissioner as unpaid, for any reason, shall be subject to a return check processing fee of twenty dollars and any entity submitting such checks to the Department may be subject to all other appropriate penalties set forth in statute and code, including but not limited to the immediate suspension/revocation of any license granted on the basis of such payment. No other instruments shall be used for payment of an application fee.

(5) The commissioner shall notify the license applicant in writing, no later than 30 days from receipt of the license application, of the issuance or denial of the license or the need for further information from the applicant in order to process the license application. Notification of denial of a license on any grounds other than failure to complete the license application shall set forth the grounds for such denial.

(6) An applicant denied a license on any grounds other than failure to complete a license application may request a hearing before the commissioner or his/her designee by submitting a written request for such hearing within 10 days of receipt of denial.

(7) An asbestos handling license shall be valid for a period of one year from date of issuance.

(8) Approximately two months prior to the expiration of an asbestos handling license, the commissioner shall contact the license holder and inform him/her of the need to renew the asbestos handling license. The commissioner shall also furnish a renewal application to the licensee. The renewal application may request the license holder to inform the commissioner of any changes in information previously provided to the Division of Safety and Health, Licensing and Certification Unit, and any other information deemed by the commissioner to be relevant.

(9) Completed renewal applications shall be sent to the address specified in the application package, accompanied by a nonrefundable renewal application fee in the amount set forth in section 903 of the Labor Law. The fee shall be paid in the form of a bank or postal money order, bank cashier's check or noncertified check payable to the Commissioner of Labor. Any such checks which are returned to the

Commissioner as unpaid, for any reason, shall be subject to a return check processing fee of twenty dollars and any entity submitting such checks to the Department may be subject to all other appropriate penalties set forth in statute and code, including but not limited to the immediate suspension/revocation of any license granted on the basis of such payment. No other instrument shall be used for payment of a renewal application fee.

(10) The commissioner shall notify license renewal applicants in writing of the issuance or denial of the license renewal or the need for further information from the applicant in order to process the renewal application. Notification of denial of a license renewal on any grounds other than failure to complete the renewal application shall set forth the grounds for such denial.

(11) An applicant denied renewal of a license on any grounds other than failure to complete a license renewal application may request a hearing before the commissioner or his/her designee by submitting a written request for such hearing within 10 days of receipt of denial.

#### **56-2.2 Certification requirements and procedures.**

(a) *Certification and training required.* No contractor shall engage in or permit a person employed by the contractor to engage in or supervise work on an asbestos project unless each such person has a valid asbestos handling certificate issued by the commissioner appropriate to the work performed by such person on an asbestos project as defined elsewhere in this Part (rule). Training for all certificates hereafter set forth shall meet all requirements established by the New York State Department of Health.

(b) *Employee certification.* Any person employed by a contractor on an asbestos project shall have an appropriate asbestos handling certificate or a copy thereof in his/her possession at all times during his/her work on the project. Should the commissioner at any time deem it impractical for such certificates or copies thereof to be maintained in the possession of such persons, the commissioner may permit some appropriate alternate location proximate to but outside the work area at which such certificates or copies thereof may be kept by the contractor for inspection by the commissioner or his agents. No contractor shall compel the holder of any asbestos handling certificate to surrender the original thereof for safekeeping, display, or any other purpose.

(c) The following categories of certification shall be issued pursuant to this Subpart:

(1) Asbestos handler certificate. Any person who, within a work area, removes, encapsulates or disturbs friable asbestos, or who handles asbestos material in any manner which may result in the release of asbestos fiber, and whose duties are not

otherwise described in paragraphs (2) through (9) of this subdivision shall possess a valid asbestos handler certificate and shall have such certificate or a copy thereof in his/her possession at all times while working on the project.

(2) Restricted asbestos handler - allied trades certificate. Any person performing any limited or special tasks in preparation for or ancillary to an asbestos project, such as a carpenter, electrician, plumber or similar occupation, or any other person who may incidentally disturb asbestos during the course of any employment, shall possess a valid restricted asbestos handler - allied trades certificate and shall have such certificate or a copy thereof in his/her possession at all times while working on the project.

(3) Asbestos project air sampling technician certificate. Any person who performs air sampling inside the enclosure as required by section 56-17.4 of the Part shall possess a valid asbestos project air sampling technician certificate and shall have such certificate or a copy thereof in his/her possession at all times while working on the project.

**NOTE:** A person who possesses an asbestos handler certificate may not perform the tasks described in this paragraph without obtaining an asbestos project air sampling technician certificate.

(4) Inspector certificate. Any person who performs the limited tasks involved in the survey, identification and assessment of the condition of asbestos and asbestos material and the recording and reporting thereof, or who is involved in the collection of bulk samples of asbestos material or suspected asbestos material for laboratory analysis shall possess a valid inspector certificate and shall have such certificate or a copy thereof in his/her possession at all times while working on the project.

(5) Operation and maintenance certificate. Any person who performs operations, maintenance and repair activities of small scale and short duration which may disturb asbestos or asbestos material shall possess a valid operations and maintenance certificate and shall have such certificate or a copy thereof in his/her possession at all times while working on the project.

**NOTE:** Operations and maintenance certification permits the holder to work only on minor asbestos projects as defined in section 56-1.4 of this Part.

(6) Supervisor certificate. Any person who performs supervision of persons (other than authorized visitors) permitted to enter the work area, shall possess a valid supervisor certificate and shall have such certificate or a copy thereof in his/her possession at all times while working on the project.

(7) Project designer certificate. Any person who plans the scope, timing, phasing and/or remediation methods to be utilized on any asbestos project shall

possess a valid project designer certificate and shall have such certificate or a copy thereof in his/her possession at all times while working on the project.

(8) **Project monitor certificate.** Any person, other than an asbestos abatement contractor, or an employee or agent thereof, who oversees the scope, timing, phasing and/or remediation methods to be utilized on any asbestos project shall possess a valid project monitor certificate and shall have such certificate or a copy thereof in his/her possession at all times while working on the project.

(9) **Management planner certificate.** Any person who assesses the hazard posed by the presence of asbestos or asbestos-containing material and/or who recommends appropriate response actions and a schedule for such response actions shall possess a valid management planner certificate and shall have such certificate or a copy thereof in his/her possession at all times while working on the project.

(d) *Proof of course completion.* An asbestos handling certificate shall not be issued without submission by the applicant of proof satisfactory to the commissioner of successful completion of an approved asbestos safety program. As an alternative to completing the approved asbestos safety program for the specific title for which certification is sought, the following equivalent courses may be substituted by applicants seeking the titles specified hereunder:

To Satisfy Training Requirements  
in this Discipline(s):

One Can Substitute Successful  
Completion of Training in this  
Discipline(s):

Asbestos Project Air Sampling  
Technician

Project Monitor

Allied Trades, Operations and  
Maintenance

Contractor/Supervisor or Asbestos  
Handler

Asbestos Project Air Sampling  
Technical Refresher

Project Monitor Refresher

Allied Trades Refresher, Operations  
and Maintenance Refresher

Asbestos Handler Refresher or  
Contractor/Supervisor Refresher

(e) *Age requirement.* An asbestos handling certificate shall not be issued to any person prior to his/her 18th birthday.

(f) *Application for certification and renewal.* All applications for asbestos handling certificates and renewals shall be submitted as follows:

- (1) All applications for asbestos handling certificates shall be submitted in writing on forms furnished by the commissioner. Copies of such forms may be obtained from the New York State Department of Labor, Division of Safety and Health, License and Certificate Unit.
- (2) Completion of such forms may require the inclusion of any information deemed appropriate by the commissioner. Along with such application forms, every applicant shall submit full face photographs of himself/herself in such numbers and sizes as the commissioner shall prescribe. Such photographs shall have been taken within 30 days of such submission.
- (3) Each application for an asbestos handling certificate shall contain a verified statement by the applicant that he/she will abide by all rules or regulations promulgated by either the Commissioner of Labor or Health pursuant to article 30 of the Labor Law.
- (4) Completed applications shall be sent to the address specified in the application package accompanied by a nonrefundable application fee in the amount set forth in section 903 of the Labor Law. The fee shall be paid in the form of a bank or postal money order, bank cashier's check or noncertified check payable to the Commissioner of Labor. Any such checks which are returned to the Commissioner as unpaid, for any reason, shall be subject to a return check processing fee of twenty dollars and any entity submitting such checks to the Department may be subject to all other appropriate penalties set forth in statute and code, including but not limited to the immediate suspension/revocation of any certificate granted on the basis of such payment. No other instruments shall be used for payment of an application fee.
- (5) The commissioner shall notify certificate applicants in writing no later than 30 days from the receipt of the certificate application of the issuance or denial of the certificate or of the need for further information from the applicant in order to process the certificate application. Notification of denial of a certificate on any grounds other than failure to complete the certificate application shall set forth the grounds for such denial.
- (6) An applicant denied a certificate on any grounds other than failure to complete a certificate application may request a hearing before the commissioner or his/her designee by submitting a written request for such hearing within 10 days of receipt of denial.
- (7) An asbestos handling certificate shall be valid for a period of one year from date of issuance.
- (8) Approximately two months prior to the expiration of an asbestos handling certificate, the commissioner shall contact the certificate holder and inform him/her of the need to renew the asbestos handling certificate. The commissioner

shall also furnish a renewal application to the certificate holder. The renewal application may request the certificate holder to inform the commissioner of any changes in information previously provided to the Division of Safety and Health's Licensing and Certification Unit and any other information deemed by the commissioner to be relevant.

(9) Completed renewal applications shall be sent to the address specified in the application package accompanied by a nonrefundable renewal application fee in the amount set forth in section 903 of the Labor Law. The fee shall be paid in the form of a bank or postal money order, bank cashier's check or noncertified check payable to the Commissioner of Labor. Any such checks which are returned to the Commissioner as unpaid, for any reason, shall be subject to a return check processing fee of twenty dollars and any entity submitting such checks to the Department may be subject to all other appropriate penalties set forth in statute and code, including but not limited to the immediate suspension/revocation of any certificate granted on the basis of such payment. No other instrument shall be used for payment of a renewal application fee.

(10) The commissioner shall notify certificate renewal applicants in writing of the issuance or denial of the certificate renewal or of the need for further information from the applicant in order to process the renewal application. Notification of denial of a certificate renewal on any grounds other than failure to complete the renewal application shall set forth the grounds for such denial.

(11) An applicant denied renewal of a certificate on any grounds other than failure to complete a certificate renewal application may request a hearing before the commissioner or his/her designee by submitting a written request for such hearing within 10 days of receipt of denial.

### **56-2.3 Replacement of licenses and certificates.**

(a) In the event that an asbestos handling certificate or an asbestos handling license shall be lost or stolen, the individual to whom the certificate or license had been issued may apply to the commissioner for the issuance of a replacement license or certificate.

(b) Such application shall be made in writing and shall include a notarized statement from the individual indicating that the original license or certificate has been lost and verifying that the individual applying for such replacement license or certificate understands that the submittal of false statements in connection with the request for a replacement shall subject him/her to penalties and other remedies under the law.

(c) All applications for replacement licenses or certificates shall be addressed to the Licensing and Certification Unit, New York State Department of Labor, One

Main Street, Brooklyn, NY 11201 accompanied by a nonrefundable fee. The fee shall be equal to that assessed for an initial certificate or license and shall be paid in the form of a bank or postal money order, bank cashier's check or noncertified check payable to the Commissioner of Labor. Any such checks which are returned to the Commissioner as unpaid, for any reason, shall be subject to a return check processing fee of twenty dollars and any entity submitting such checks to the Department may be subject to all other appropriate penalties set forth in statute and code, including but not limited to the immediate suspension/revocation of any replacement license or certificate granted on the basis of such payment.

(d) Each application for a replacement asbestos handling certificate shall be accompanied by full face photographs of the individual seeking the replacement certificate in such numbers and sizes as the commissioner shall require.

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## **ATTACHMENT 2—INFORMATION NECESSARY FOR PREPARING AN EROSION AND SEDIMENTATION CONTROL PLAN**

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## PHONE CONVERSATION RECORD

**Conversation with:**

Name NIAGRA COUNTY SOIL & WATER

Company CONSERVATION OFFICE

Address \_\_\_\_\_

Phone \_\_\_\_\_

Subject \_\_\_\_\_

Date 6 / 23 / 97

Time 11:00 AM / PM

☒ Originator Placed Call

☐ Originator Received Call

W.O. NO. \_\_\_\_\_

**Notes:**

LEARNED THAT NO ADDITIONAL PERMITS OR DOCUMENTATION IS REQUIRED BY NIAGRA COUNTY PROVIDED THAT THE STATE GUIDELINES ARE MET. PARTICULARLY, THE MAXIMUM OF 5 ACRES OF DISTURBED LAND AT ANY TIME.

ATTACHED ARE THE STATE GUIDELINES FOR E/S CONTROL ALONG WITH A SAMPLE WORKSHEET OF ITEMS TO BE ADDRESSED.

☐ File \_\_\_\_\_

☐ Tickle File \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

☐ Follow-Up By: \_\_\_\_\_

☐ Copy/Route To: \_\_\_\_\_

Follow-Up-Action: \_\_\_\_\_

Originator's Initials \_\_\_\_\_

# Appendix A

## NYS DEC Erosion and Sediment Control Guidelines for New Development

New York State Department of Environmental Conservation  
50 Wolf Road, Albany, New York 12233



Thomas C. Jorling  
Commissioner

• NIAGRA COUNTY SOIL & WATER CONSERVATION OFFICE  
(716) 434-4949

April 1991

### MEMORANDUM

TO: Regional Water Engineers, Bureau Directors, Section Chiefs  
FROM: Salvatore Pagano - Director, Division of Water  
SUBJECT: Division of Water Technical and Operational Guidance Series (5.1.10)

#### **EROSION AND SEDIMENT CONTROL GUIDELINES FOR NEW DEVELOPMENT (Originator: Philip M. DeGaetano)**

#### **I. PURPOSE**

To provide soil erosion and sediment control guidelines to regional water staff involved in the review of land development projects. These guidelines are to be used in conjunction with the Stormwater Management Guidelines (TOGS 5.1.8) in reviewing proposed development projects.

#### **II. DISCUSSION**

Sediment in runoff from construction sites can have a significant effect on the quality of downstream waters. It is of such concern that it has been highlighted as a source category to be addressed by the EPA regulations on stormwater management. It is also identified as a significant source category in the State Nonpoint Source Assessment Report.

The potential effects of increased sediment are varied:

\*Sediment may destroy fish habitat through blanketing of fish spawning and feeding areas and elimination of certain food organisms, directly impact fish through gill abrasion and fin rot, and reduce sunlight penetration, thereby impairing photosynthesis of aquatic plants. Suspended sediment decreases recreational values, reduces fishery habitat, adds to the mechanical wear of water supply pumps and distribution systems, and adds to treatment costs for water supplies. Nutrients and toxic substances attached to sediment particles are transported to waterbodies and may

enter aquatic food chains, cause fish toxicity problems, contribute to algal blooms, impair recreational uses, and degrade the water as a drinking water source."<sup>1</sup>

The following guidelines are designed for consideration by both government officials and project sponsors in the preparation and review of erosion and sediment control plans for a land development project. If implemented properly, the guidelines herein will assist in achieving the following water and natural resource management objectives.

- ◆ reduce the erosion potential from a development or construction project;
- ◆ decrease nonpoint source pollution and water quality degradation;
- ◆ maintain stream channels for their biological functions, as well as for drainage, through reduced sediment deposition.

The U.S. Environmental Protection Agency has recently adopted stormwater management regulations which will be implemented through the National Pollutant Discharge Elimination System (NPDES). Consequently, the N.Y. State Pollutant Discharge Elimination System (SPDES) program may be used in this state to implement the new federal regulations. The regulations contain provisions which require control of erosion from certain land development projects. However, the federal stormwater management program is not fully operational at this time.

Until the stormwater permit system is operational, it would be appropriate to use the authority of the State Environmental Quality Review Act (SEQRA) to apply the erosion and sediment control guidelines which make up this TOGS for all land development projects and construction activities when it is determined that soil erosion and sedimentation is a relevant area of environmental concern or when it is determined that soil erosion and sedimentation, if not controlled, may have a significant effect on the environment. Upon such determination, an erosion and sediment control plan should be prepared. The following are examples of projects where soil erosion and sedimentation are common relevant areas of environmental concern.

1. land clearing or land grading projects involving five or more acres;
2. residential development consisting of five or more dwelling units, unless each dwelling unit is on a lot of two or more acres;
3. industrial and/or commercial projects which result in an impervious surface of one or more acres;
4. site preparation on slopes which exceed 1½ ft. of vertical rise to 10 ft. of horizontal distance (or site preparation in areas of severe erosion potential where such areas have been mapped);
5. site preparation within 100 ft. of a wetland;
6. site preparation within 100 ft. of any watercourse;
7. excavating or filling which exceeds a total of 100 cu. yds. of material within any parcel or any contiguous parcels.

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<sup>1</sup> Nonpoint Source Management Program. January, 1990.

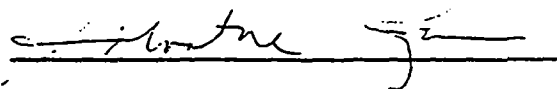
Pursuant to the consistency requirements of the New York State Nonpoint Source Management Program as authorized under Section 319 of the Federal Clean Water Act of 1987, and pursuant to Presidential Executive Order 12372 requiring intergovernmental review of federal programs, the erosion and sediment control guidelines herein should be applied to all eligible federal agencies which either undertake development projects in the State or assist development projects through funding.

### III. GUIDANCE

It is the policy of the Division of Water that an erosion and sediment control plan be prepared for all projects for which soil erosion and sedimentation has been identified as a relevant area of environmental concern, or, for which if it is not controlled, it may have a significant effect on the environment. The plan should be prepared and submitted as part of the SEQR process.

The attached guidelines were developed to aid persons in preparing and reviewing erosion and sediment control plans. They provide guidance on sound management practices, but are not fixed and inflexible rules to be applied in reviewing erosion control plans without considering the particular facts and circumstances of a particular project.

It should be noted that some communities may have duly adopted erosion control requirements, and that they should be consulted and complied with. In the absence of such requirements, Regional Water staff are encouraged to consult the management practices described in this guidance where appropriate to encourage their use by county and local agencies and by developers and consultants involved in preparing and reviewing development plans and proposed projects. To the fullest extent practicable, Regional Water staff should seek the assistance of County Soil and Water Conservation District staff during the review of erosion and sediment control plans.



Salvatore Pagano  
Director, Division of Water

#### Attachment

cc: Dr. Banks  
Mr. Campbell  
Ms. Chrimes  
Mr. Bruening  
Regional Engineers for Envir. Quality

## EROSION AND SEDIMENT CONTROL GUIDELINES FOR NEW DEVELOPMENT

- A. Existing vegetation on a project site should be retained and protected as much as possible to minimize soil loss on a project site and to minimize erosion control costs.
- B. Sediment control practices/measures, where necessary, should be designed to protect the natural character of rivers, streams, lakes, coastal waters or other waterbodies on-site and minimize erosion and sedimentation off-site from the start of land disturbance activities to establishment of permanent stabilization.
  - 1. The off-site impacts of erosion and sedimentation related to land clearing, grading and construction activities should not be any greater during and following land disturbance activities than under pre-development conditions.
  - 2. Pursuant to Part 700 et seq. of Title 6, Chapter X of NYCRR:
    - a. toxic and other deleterious substances shall not be discharged in amounts that will adversely affect the taste, color or odor thereof, or impair the waters of the state for their best (classified) usages,
    - b. suspended, colloidal and settleable solids shall not be discharged in amounts that causes substantial visible contrast to natural conditions, or causes deposition or impairs the waters for their best (classified) usages.

This means that stream reaches on-site and downstream of construction areas should not have substantial visible contrast relative to color, taste, odor, turbidity and sediment deposition from the reaches upstream of the construction area. Impacts such as these which result from construction or developmental activities are a violation of Part 700 water quality standards and may be subject to enforcement actions.

- C. Erosion and sediment control measures should be constructed in accordance with an erosion and sediment control plan. The plan should:
  - 1. describe the temporary and permanent structural and vegetative measures that will be used to control erosion and sedimentation for each stage of the project from land clearing to the finished stage.
  - 2. provide a map showing the location of erosion and sediment control measures.
  - 3. provide dimensional details of proposed erosion and sediment control facilities as well as calculations used in the siting and sizing sediment basins. (Guidance for performing calculations can be obtained in the reference cited in Section E.8.)
  - 4. identify temporary erosion and sediment control facilities which will be converted to permanent stormwater management facilities.
  - 5. provide an implementation schedule for staging temporary and permanent erosion and sediment control facilities.

6. provide a maintenance schedule for soil erosion and sediment control facilities and describe maintenance activities to be performed.
- D. Erosion and sediment control measures should be constructed prior to beginning any other land disturbances. The devices should not be removed until the disturbed land areas are stabilized.
- E. Specify guidance.
1. **Exposure Restrictions:** No more than 5 acres of unprotected soil should be exposed at any one time. Previous earthwork should be stabilized in accord with approved design standards and specifications referenced in Section E.8 before additional area is exposed. (Site factors including topography, soil erosion potential, proximity to wetlands and water courses may require limiting the amount of raw earth that can be exposed at any one time to less than 5 acres.)
  2. **Grading:** Perimeter grading should blend with adjoining properties.
  3. **Vegetative Protection:** Where protection of trees and/or other vegetation is required, the location of the site to be protected should be shown on the erosion control plan. The method of protecting vegetation during construction should conform to the design criteria referenced in Section E.8.
  4. **Drainage control.**
    - a. Surface runoff that is relatively clean and sediment free should be diverted or otherwise prevented from flowing through areas of construction activity on the project site. This will greatly reduce sediment loading in surface runoff.
    - b. A fill associated with an approved temporary sediment control structure or permanent stormwater management structure, should not be created which causes water to pond off-site on adjacent property, without first having obtained ownership or permanent easement for such use from the owner of the off-site or adjacent property.
    - c. Natural drainage channels should not be altered or relocated without the proper approvals. Pursuant to Article 15 of the Environmental Conservation Law, a protected stream and the bed and banks thereof should not be altered or relocated without the approval of the Department of Environmental Conservation.<sup>2</sup>
    - d. Runoff from any land disturbing activity should not be discharged or have the potential to be discharged off-site or into storm drains or into watercourses unless such discharge is directed through a properly designed, installed and maintained structure, such as a sediment trap, to retain sediment on-site. Accumulated sediment should be removed when 60% of the storage capacity of the sediment retention structure is filled with sediment.
    - e. For finished grading, adequate gradients should be provided so as to prevent water from standing on the surface of lawns for more than 24 hours after the end of a rainfall, except in a swale flow area which may drain as long as 48 hours after the end of rainfall.

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<sup>2</sup> A natural drainage channel refers to a swale, water course in a gully, or a protected or unprotected stream. Natural drainage channels should not be altered or relocated on adjacent properties without first having obtained ownership or a permanent easement for the altered or relocated drainage channel from the owner of the off-site or adjacent property.

- f. Permanent swales or other points of concentrated water flow should be stabilized with sod, rip-rap, paving, or covered with a approved erosion control matting as provided for in the design criteria referenced in Section E.8.
  - g. Surface flows over cut and fill slopes should be controlled as provided for in the design criteria for vegetating waterways referenced in Section E.8.
- 5. Timing.
  - a. Except as noted below, all sites should be seeded and stabilized with erosion control materials, such as straw mulch, jute mesh, or excelsior within 15 days of final grading. If construction has been suspended, or sections completed, areas should be seeded immediately and stabilized with erosion control materials. Maintenance should be performed as necessary to ensure continued stabilization.
    - i. For active construction areas such as borrow or stockpile areas, roadway improvements, and areas within 50 ft. of a building under construction, a perimeter sediment control system consisting, for example, of silt fencing or hay bales, should be installed and maintained to contain soil.
    - ii. On cut side of roads, ditches should be stabilized immediately with rock rip-rap or other non-erodible liners, or where appropriate, vegetative measures such as sod. When seeding is approved, an anchor mulch should be used and soil should be limed and fertilized in accord with recommendations referenced in Section E.8.
    - iii. Permanent seeding should optimally be undertaken in the spring from March 21 through May 20, and in late summer and early fall from August 25 to October 15. During the peak summer months and in the fall after October 15 when seeding is found to be impracticable, an appropriate mulch should be applied. Permanent seeding may be undertaken during summer if plans provide for adequate watering of the seedbed.
    - iv. All slopes steeper than 3:1 (h:v), as well as basin or trap embankments, and perimeter dikes should, upon completion, be immediately stabilized with sod, seed and anchored straw mulch, or other approved stabilization measures. Areas outside of the perimeter sediment control system should not be disturbed. Maintenance should be performed as necessary to ensure continued stabilization.
  - b. Temporary sediment trapping devices should be removed within thirty (30) calendar days following establishment of permanent stabilization in all contributory drainage areas. Stormwater management structures used temporarily for sediment control should be converted to the permanent configuration within this time period as well.
- 6. Stream protection.
  - a. The bed and banks of all on-site and off-site streams that may be impacted by land clearing, grading, and construction activities should be protected to prevent stream, river, lake or coastal sedimentation, streambank erosion, stream enlargement and degradation or loss of

fisheries habitat. Measures for protecting the bed and/or banks of a stream may include, for example, gabion baskets, rip-rap, log cribbing, and vegetative measures.<sup>3</sup>

- b. Where temporary work roads or haul roads cross stream channels, adequate waterway openings must be constructed using spans, culverts, washed rock backfill or other acceptable, clean methods that will ensure that road construction and use do not result in turbidity and sediment downstream. All stream crossing activities and appurtenances shall be in compliance with a permit issued pursuant to Article 15 of the Environmental Conservation Law, where applicable, and should be carried out in conformance with guidelines in DEC'S Stream Corridor Management manual.<sup>4</sup>

7. Maintenance.

- a. An erosion control plan for a project site should identify maintenance requirements for erosion and sediment control practices utilized, and it should provide a maintenance schedule. All erosion and sediment control measures should be inspected periodically and maintained in conformance with the schedule so as to ensure they remain in effective operating condition until such times as they are removed.
- b. All points of construction ingress and egress should be protected to prevent the deposition of materials onto traversed public thoroughfare(s) either by installing and maintaining a stabilized construction entrance, or by washing all vehicle wheels in a safe disposal area. All materials deposited onto public thoroughfare(s) should be removed immediately. Proper precautions should be taken to ensure that materials deposited onto public thoroughfares are removed so that they do not enter catch basins, storm sewers, or combined sewers.
- c. Accumulated sediment should be removed when 60% of the storage capacity of the retention structure is filled with sediment.

8. Design specifications.

Designs, standards and specifications for controlling erosion and sedimentation are found in the following publication and should be identified and shown in the erosion control plan:

Empire State Chapter, Soil & Water Conservation Society, New York Guidelines for Urban Erosion and Sediment Control, Syracuse, March 1988.

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<sup>3</sup> Whenever possible, vegetative streambank stabilization practices are recommended over structural practices such as rip-rap and gabion linings which may unnecessarily alter the existing stream ecosystem.

<sup>4</sup> New York State Department of Environmental Conservation, "Stream Corridor Management: A Basic Reference Manual," Albany, 1986.



## APPENDIX F



Nassau County Soil and Water Conservation District  
1425 Old Country Road, Building J - Plainview, NY 11803 - Phone (516) 454-0900

### EROSION AND SEDIMENT CONTROL PLAN REVIEW CHECKLIST

#### LEGEND FOR REVIEW CHECKLIST

AS = ALTERNATIVES SUGGESTED

A = ADEQUATE

INC = INCOMPLETE

R = REQUESTED, NOT SUBMITTED

NA = NOT APPLICABLE

NC = NOT CHECKED

PROJECT NAME: \_\_\_\_\_ SITE LOCATION: \_\_\_\_\_

APPLICANT'S NAME & ADDRESS: \_\_\_\_\_

THE DISTRICT HAS REVIEWED THE SUBJECT PROPOSAL AND SUGGESTS THE FOLLOWING ITEMS BE REVISED TO PROVIDE THE PROPER SOIL EROSION, SEDIMENT, AND STORMWATER CONTROLS CONSISTENT WITH THE SUBJECT TOPOGRAPHY. TECHNICAL REVIEW SUPPLIED BY THE SOIL CONSERVATION SERVICE

#### PLANS - GENERAL

- \_\_\_\_\_ 1. Scope of plan clearly delineated and noted in title block
- \_\_\_\_\_ 2. Vicinity map with scale and north arrow.
- \_\_\_\_\_ 3. Legend, scales, north arrow for plan view.
- \_\_\_\_\_ 4. Existing and proposed topography shown, contours labeled and spot elevations at critical areas.
- \_\_\_\_\_ 5. Typical designs on plan review drawings shown for necessary diversion berms, interceptor drains and outlets, level spreaders, storm drain inlet protectors, grassed waterways, etc.
- \_\_\_\_\_ 6. Limit of 100 year floodplain delineated on plan.
- \_\_\_\_\_ 7. Existing and proposed improvements and utilities.
- \_\_\_\_\_ 8. The total disturbed area delineated on site plan:
  - \_\_\_\_\_ a. Indicate the total acreage to be paved, roofed, sodded, seeded, etc.
  - \_\_\_\_\_ b. Delineate all areas to be stabilized vegetatively by seeding, sodding, or ground covers.
  - \_\_\_\_\_ c. Greenbelt areas are clearly delineated.
- \_\_\_\_\_ 9. Standard General Notes.
- \_\_\_\_\_ 10. Scale.
- \_\_\_\_\_ 11. Sequence of operations.
- \_\_\_\_\_ 12. Stock pile area designated or referenced.
- \_\_\_\_\_ 13. Property boundaries indicated, and easements as needed.
- \_\_\_\_\_ 14. Street profiles.
- \_\_\_\_\_ 15. Composite drainage area map for plans requiring more than one sheet, with sediment control measures shown in their approximate locations.

## SOILS INFORMATION

- \_\_\_\_\_ 16. Detailed soils Map attached or overlaid on plan map with interpretations.
- \_\_\_\_\_ 17. Deep soil pit logs attached and exact location shown on plan map for all proposed dry and diffusion wells, and septic systems.

## EROSION AND SEDIMENT CONTROL PLAN REVIEW CHECKLIST - Page 2

### SOIL EROSION AND SEDIMENT CONTROL

- \_\_\_\_\_ 18. Permanent Dikes (perimeter, diversion, interceptor)
  - \_\_\_\_\_ a. Practice meets purpose and design criteria.
  - \_\_\_\_\_ b. Positive drainage is maintained, and contributing drainage area shown
  - \_\_\_\_\_ c. Outlet to sediment trapping device or onto stable outlet
  - \_\_\_\_\_ d. Points of vehicular crossings shown and stabilized (mountable berm).
  - \_\_\_\_\_ e. Standard detail and construction specifications
- \_\_\_\_\_ 19. Temporary Swales (interceptor, perimeter).
  - \_\_\_\_\_ a. Practice meets purpose and design criteria.
  - \_\_\_\_\_ b. Contributing drainage area shown.
  - \_\_\_\_\_ c. Channel grade exceeding \_\_\_\_\_ % slope properly stabilized.
  - \_\_\_\_\_ d. Adequate outlet or discharge condition.
  - \_\_\_\_\_ e. Provisions for traffic crossing shown on plan.
  - \_\_\_\_\_ f. Standard detail and construction specifications
- \_\_\_\_\_ 20. Traps (Rip-rap, earth, pipe, and storm inlet).
  - \_\_\_\_\_ a. Practice meets purpose and design criteria
  - \_\_\_\_\_ b. Contributing drainage area delineated on plan.
  - \_\_\_\_\_ c. Trap sized by largest drainage area (existing or developed) to trap.
  - \_\_\_\_\_ d. Type and size of outlet structure.
  - \_\_\_\_\_ e. Outlet conditions.
  - \_\_\_\_\_ f. Plan view of trap and storage area (drawn to scale with bottom dimensioned
  - \_\_\_\_\_ g. Volume calculations.
  - \_\_\_\_\_ h. Bottom, crest and clean-out (at 50% trap efficiency) elevations.
  - \_\_\_\_\_ i. Standard detail and construction specifications
- \_\_\_\_\_ 21. Straw Bale Dike and Silt Fence
  - \_\_\_\_\_ a. Meets purpose and design criteria
  - \_\_\_\_\_ b. Controlled slope less than 100 feet
  - \_\_\_\_\_ c. Drainage area less than 1 acre per 100 feet of dike or fence. (for sheet erosion only)
  - \_\_\_\_\_ d. Standard detail and construction specifications
- \_\_\_\_\_ 22. Grade Stabilization Structure (flume, pipe, slope drain, etc.)
  - \_\_\_\_\_ a. Meets purpose and design criteria
  - \_\_\_\_\_ b. Pipe drain size noted
  - \_\_\_\_\_ c. Contributing drainage area shown
  - \_\_\_\_\_ d. Standard detail and construction specifications
- \_\_\_\_\_ 23. Permanent Structural Practices or Sediment Control Measures Exceeding the Design Criteria of the Standard detail.
  - \_\_\_\_\_ a. Practice meets purpose and design
  - \_\_\_\_\_ b. Drainage area map
  - \_\_\_\_\_ c. Runoff calculations
  - \_\_\_\_\_ d. Calculations for size, velocity, and Q
  - \_\_\_\_\_ e. Standard detail with dimensions and construction specifications
- \_\_\_\_\_ 24. Provisions for protecting cut and fill slopes from surface runoff

\_\_\_\_ 25. Site Grading

- \_\_\_\_ a. Maximum created slope of 2 foot horiz. to 1 foot vert.
- \_\_\_\_ b. Slopes requiring regular maintenance will be no steeper than 3 foot deep.
- \_\_\_\_ c. Details of cut and fill slopes shown

**EROSION AND SEDIMENT CONTROL PLAN REVIEW CHECKLIST - Page 3**

\_\_\_\_ 26. Seeding Specification and Notes

- \_\_\_\_ a. Seedbed Preparation
- \_\_\_\_ b. Permanent seeding (mix and rate) - includes method of application.
- \_\_\_\_ c. Temporary seeding (mix and rates) - includes method of application
- \_\_\_\_ d. Mulching (includes anchoring method)
- \_\_\_\_ e. Sod (type and installation)
- \_\_\_\_ f. Fertilizer (amount and type)
- \_\_\_\_ g. Lime (amount and type)
- \_\_\_\_ h. Seeding dates (temporary and Permanent - to cover entire year).

\_\_\_\_ 27. Storm inlets adequately protected (detail required)

\_\_\_\_ 28. Stabilized construction entrances shown on plan (detail required)

\_\_\_\_ 29. Provisions for sediment and erosion control of areas disturbed for storm drain and utility construction.

\_\_\_\_ 30. Storm Drainage

- \_\_\_\_ a. Drainage area map and computations
- \_\_\_\_ b. Plan and profile indicating pipe size, type, slope, Q, structures, and inlet (type), top and invert elevations
- \_\_\_\_ c. Proposed outlet protection dimensions and computations.
- \_\_\_\_ d. Constructed outfall ditch or swale cross-section and flow computations for depth and velocity
- \_\_\_\_ e. Profile of outfall sufficient to show natural gradient of accepting channel or conduit.
- \_\_\_\_ f. Outlet protection of 0% slope for minimum required distance

\_\_\_\_ 31. Riprap and Gabions

- \_\_\_\_ a. Median stone size and minimum depth of treated section shown on plan.
- \_\_\_\_ b. Riprap placed upon approved filter cloth
- \_\_\_\_ c. Cross-section detail of treated areas

\_\_\_\_ 32. Permit notification from other agencies

\_\_\_\_ 33. Storm Water Management referred to: \_\_\_\_\_ Date: \_\_\_\_\_

Nassau County DPW \_\_\_\_\_

Town of \_\_\_\_\_

City of \_\_\_\_\_

Village \_\_\_\_\_

\_\_\_\_ 34. Sediment Basin or Recharge Basin

- \_\_\_\_ a. Seedbed preparation, seeding rate and method of application, and mulch details included.

**ADDITIONAL COMMENTS**

Plans reviewed by: \_\_\_\_\_ Date Reviewed: \_\_\_\_\_

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## ENVIRONMENTAL COMPLIANCE CHECKLIST

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# REGULATORY ENVIRONMENTAL COMPLIANCE CHECKLIST — COMPONENT 2, PHASES 1 AND 2

INTERIM REMOVAL ACTION 90% DESIGN  
FORMER LAKE ONTARIO ORDNANCE WORKS

(BASED ON CENAB-EN SOP 340-5 DATED 12/19/93)

Regulation/Action	Required in Predesign	Required in Design	Required in Construction	Action Taken By	Date Action Completed	Comments
<b>National Environmental Policy Act (NEPA)</b>	✓	✓				Should follow this for removal actions.
• Signed Finding of No Significant Impact (FONSI)	✓	✓				Negative Declaration should address this.
• FONSI Published						
• Environmental Assessment (EA)	✓	✓				A short environmental assessment "checklist" form may be required; Negative Declaration to be submitted first.
• Environmental Impact Statement (EIS)						Not applicable.
• Categorical Exclusion						
• Record of Decision						
<b>Apply/Obtain Erosion &amp; Sedimentation Control Plan/Permit</b>		✓	✓			No additional permits/documentation required by Niagara County, provided State requirements are met; need to submit E&S plan to Niagara County for review and approval.

# REGULATORY ENVIRONMENTAL COMPLIANCE CHECKLIST — COMPONENT 2, PHASES 1 AND 2

INTERIM REMOVAL ACTION 90% DESIGN  
FORMER LAKE ONTARIO ORDNANCE WORKS  
(Continued)

Regulation/Action	Required in Predesign	Required in Design	Required in Construction	Action Taken By	Date Action Completed	Comments
Apply/Obtain Stormwater Management Plan/Permit						Not applicable as long as NY State E&S and stormwater guidelines are followed.
Submit NPDES for Construction Activities		✓	✓			SPDES for stormwater discharge during construction not required (but need to comply with NY Stormwater Guidelines); need to verify this with NYSDEC. SPDES permit may be required if Contractor disposes of treated or untreated water on the ground. This must be coordinated with SPDES permit requirements of property owner. CWM has specific discharge requirements as listed in the Technical Specifications.
Investigate FIPS/FIMR Requirements for Design and Construction		✓				To be determined by CENAB.
• Make FIPS/FIMR Determination		✓				To be determined by CENAB.
• Prepare Appropriate FIFMR Documentation						To be determined by CENAB.
• Prepare and Process Agency Procurement Request (APR) for Delegation of Procurement Authority (DPA)						To be determined by CENAB.
• Obtain Approved DPA Prior to CBD (Design) and Prior to Advert (Const)						To be determined by CENAB.

# REGULATORY ENVIRONMENTAL COMPLIANCE CHECKLIST — COMPONENT 2, PHASES 1 AND 2

INTERIM REMOVAL ACTION 90% DESIGN  
FORMER LAKE ONTARIO ORDNANCE WORKS  
(Continued)

Regulation/Action	Required in Pre-design	Required in Design	Required in Construction	Action Taken By	Date Action Completed	Comments
Request Local Building/Construction Permit		✓	✓			Demolition permit required for asbestos removal (Town of Porter). Construction permit for soil removal not applicable as verified by Lewiston and Porter.
Wetlands Delineation	✓	✓				Need to conduct site-specific wetlands survey (information previously obtained was locations of major wetlands in the region from NYSDEC maps).
Apply/Obtain Section 404 (CWA) Requirements		✓				Depends on results of site-specific wetlands survey and any unanticipated scope changes; not expected to be applicable for Somerset Property. Covered under EPA National Permit 38, which requires notification and NYSDEC/COE joint permit if wetlands to be disturbed.
• Water Quality Cert, Section 401 (CWA)		✓				Use joint permit application if required; see above.
• COE Section 10 Permit						Not applicable.
Request Necessary Real Estate Easements						Not applicable.
Investigate Floodplain Verification	✓					Complete.

# REGULATORY ENVIRONMENTAL COMPLIANCE CHECKLIST — COMPONENT 2, PHASES 1 AND 2

INTERIM REMOVAL ACTION 90% DESIGN  
FORMER LAKE ONTARIO ORDNANCE WORKS  
(Continued)

Regulation/Action	Required in Pre-design	Required in Design	Required in Construction	Action Taken By	Date Action Completed	Comments
Pursue National Historic Preservation Act (NHPA)	✓		✓			Areas to be remediated not known to be historically significant (need to verify with ACRES and NYS). Need to contact NY Office of Parks, Recreation, and Historic Preservation, 518-237-8643, Archeologist Bob Kiln (x 255) or Cynthia Lakemore (x 288) for procedures to follow for the possibility of encountering historical archeological resources during construction.
• Phase I Inves and Cons with SHPO						Not applicable.
• Phase II Inves and Cons with SHPO						Not applicable.
• Design Phase III (MIT)						Not applicable.
Determine Whether Project Shown on Master Plan						LOOW not on a Master Plan; not applicable.
Develop Reforestation Plan						Not applicable.
Obtain Air Quality Permits						Not applicable.
Investigate State/Local Water and Sewage Permits		✓				Not applicable except for complying with CWM's SPDES permit if water is to be discharged into their ditch system; discharge limits are listed in technical specifications.
Prepare Draft DD Form 1354		✓				Cost Engineering Branch of CENAB to prepare.
Obtain Excavation Permit			✓			Contractor to obtain from CENAB after notice to proceed.
DOT Requirements		✓				



# REGULATORY ENVIRONMENTAL COMPLIANCE CHECKLIST — COMPONENT 2, PHASES 1 AND 2

INTERIM REMOVAL ACTION 90% DESIGN  
FORMER LAKE ONTARIO ORDNANCE WORKS  
(Continued)

Regulation/Action	Required in Predesign	Required in Design	Required in Construction	Action Taken By	Date Action Completed	Comments
• Investigate Transportation/Disposal Route in Design		✓	✓			Need to review NYDOT requirements and Contractor to select route based on disposal facility selected. Contractor must comply with applicable DOT requirements (shipping papers, etc.).
• Highway Occupancy Permits			✓			Contractor must use a licensed hazardous waste hauler transporter.
Safety Review (OSHA Regulations)		✓	✓			To be done by Construction Division of CENAB and Installation.
Obtain Building Occupancy Permit						Not applicable.
Request Utility On-Site Delineation		✓	✓			Contractor to verify location of utilities and coordinate survey with property owner and local utilities companies.
Request DD Form 337		✓				To be done by CENAB.
Investigate Insect Infestation						Not applicable.
Site Categorization						Complete.
• Preliminary Assessment Screening	✓					Complete; accomplished through existing ACRES and WESTON reports (PRDI).
• Characterize HTRW Contamination	✓					Complete; accomplished through existing ACRES and WESTON reports (PRDI).
Investigate Unexploded Ordnance (UXO)						Not applicable.

# REGULATORY ENVIRONMENTAL COMPLIANCE CHECKLIST — COMPONENT 2, PHASES 1 AND 2

INTERIM REMOVAL ACTION 90% DESIGN  
FORMER LAKE ONTARIO ORDNANCE WORKS  
(Continued)

Regulation/Action	Required in Pre-design	Required in Design	Required in Construction	Action Taken By	Date Action Completed	Comments
Obtain Asbestos Survey and Abatement Approvals		✓	✓	Acres (survey only)	January 1998 (survey only)	Asbestos-containing materials (ACM) were identified; loose/friable and some nonfriable ACM has been identified for removal. A notice in the facility deed may be required for nonfriable asbestos left in-place. The Contractor must be licensed/certified in accordance with NYS ICR 56. Notification to EPA Region II and NYSDOL is required for asbestos abatement. If ICR 56 procedures are not followed, a variance is required.
Investigate PCB Presence		✓				PCBs identified in PRDI.
Investigate Lead Paint Presence				Acres	January 1998	Completed as part of asbestos survey; lead was identified in some buildings.
Investigate Radon Presence						Not applicable.
• Verify During Design						
Obtain RCRA Permit						
• 90 Day RCRA Storage						Not applicable assuming waste will be on-site less than 90 days.
Manifesting Training			✓			To be done by the Contractor.