



Department of Labor

PACNY

February 26, 2016

Engineering Services Unit

Edward A. Smith, P.E., C.I.H

Code Rule 56 Changes Being Considered

- Incorporate fire safety requirements (i.e. fire resistant materials like plastic and sheathing; and exhaust system disconnect)
- Granting more relief from the code by incorporating the current groups of Applicable Variances
- Better defining what should be done when conducting a survey
- Better defining what should be done when conducting a final visual inspection
- Defining more duties of the Project Monitor
- Grant relief from having to air sample elevated exhaust ducts
- Previous guidance document items are incorporated
- Clarify the requirements for demolishing a building with RACM in place to be in compliance with EPA NESHAP

Current ICR 56 Survey Requirements

- As per NYS Labor Law Section 241, buildings and structures within New York State which were **constructed prior to 1974**, are subject to surveys/inspection for asbestos, prior to commencement of construction or demolition work.
- So, buildings built after this date do not requirement a survey prior to performing work. Correct?
- No!

Article 10

- Section 241.10:
- 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.

USEPA Survey Requirement

- The USEPA also requires that buildings be inspected for the presence of asbestos prior to demolition or renovation projects. EPA does not discriminate this requirement based on the age of the structure.
- From NESHAP:
- ***“61.145 Standard for demolition and renovation.***
- *(a) Applicability. To determine which requirements of paragraphs (a), (b), and (c) of this section apply to the owner or operator of a demolition or renovation activity and prior to the commencement of the demolition or renovation, thoroughly inspect the affected facility or part of the facility where the demolition or renovation operation will occur for the presence of asbestos, including Category I and Category II nonfriable ACM. The requirements of paragraphs (b) and (c) of this section apply to each owner or operator of a demolition or renovation activity, including the removal of RACM as follows:”*

Rationale for Eliminating the 1974 Date

- § 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 and any other applicable federal standards.

Incidental Cleanup

- For all cleanup scenarios the following applies:
 1. Once a disturbance is discovered, it must be cleaned up immediately.
 2. For all disturbances, the room/space/area must be vacated and isolated immediately.
 3. An asbestos contractor must be hired for appropriate cleanup of affected room/area/space.
 4. The extent of contamination must be determined (See below)
 5. A site-specific variance is necessary for cleanup of any disturbance other than a Minor (Soon to include Small?) size incidental disturbance.
 6. For all asbestos cleanup projects, quantification is based on the affected square footage of the surfaces to be cleaned up, **not** the quantity of ACM prior to disturbance.
 7. For contamination cleanup scenarios, the notifiable quantity is the square footage of potentially contaminated surfaces.

Contamination Assessments

- **Extent of Contamination Determination:**
 - Once the affected room/space/area has been vacated and isolated, the extent of contamination shall be determined by a certified inspector (working with a project designer if a variance is anticipated), using air sampling technicians and additional inspectors as necessary.
- **These certified individuals shall use:**
 - visual debris/contamination identification and assessment,
 - static (ambient) air sampling of the potentially contaminated area, and
 - adequate bulk sampling/analysis of the remaining debris/residue to define the limits of the contamination that must be cleaned up.

Variance Request

- **Submitting Variance Proposal for Cleanup:**
 - The extent of contamination assessment is to be completed to determine the scope of the cleanup project prior to submission of the variance petition.
 - For **small** and large size cleanups that require submission of a site-specific variance petition, the project designer shall include within the variance petition, a plan for cleanup (along with any necessary removals or repair of damaged materials) that will take into account, accessibility, air movement and other pertinent conditions that may affect the proposed procedures.
 - If the project designer requests delay of scheduling the necessary cleanup projects, appropriate supporting information must be provided to adequately demonstrate the hardship and necessary precautions must be included for maintaining isolation of the affected area until cleanup is scheduled and completed.

New ICR 56-11.2 Section

- **Submission of a site-specific variance petition is necessary for cleanup of any disturbance other than a Minor or Small size ACM disturbance.**
 - For all asbestos cleanup projects, quantification is based on the affected square footage of surfaces to be cleaned, not the quantity of ACM prior to disturbance.
 - Once the affected room/space/area has been vacated and isolated, the extent of contamination shall be determined by a certified inspector (working with a certified project designer if a variance submission is anticipated), using air sampling technicians and additional certified inspectors as necessary.
 - These certified individuals shall use visual debris/contamination identification and assessment, static (ambient) air sampling of potentially affected rooms/areas/spaces, and adequate bulk sampling of the remaining debris/residue to define the limits of the contamination that shall be cleaned up.

Licensing and Certification Unit

Kirk Fisher

aka “Mean Mr. Fisher”

Emergency Notifications

- **What is an emergency:**
- An unexpected, unanticipated or unforeseen occurrence, including but not limited to, a steam, chemical, gas or water line rupture, a boiler failure, a building/structure collapse, or act of nature which may pose:
 - an imminent danger to the health and safety of the public; or
 - an asbestos-related risk to the health and safety of the public from release of asbestos fibers.

Emergency Notifications (con't)

- All emergencies are decided on a case by case basis from the **information provided**.
- Be forthright and open about what you are trying to do. Inaccurate or exaggerated information only slows down the process.
- Violations of CR 56, such as failure to initially test for asbestos reduces the likelihood of an emergency request being granted.

What to Submit for an Emergency

- Any inspections, asbestos (contamination assessments) or otherwise (insurance etc.) documenting the extent of the damage present and the cause of the emergency, should be provided with the emergency request.
- Lack of explanation as to what the emergency is and the cause of it, reduces the likelihood of the emergency being granted.
- Long standing issues are much less likely to qualify for an emergency than events that have just occurred.
- The situation should be handled as an emergency from the time the event occurs, in other words if an asbestos ceiling falls down, do not take a month or more to wait to rectify the situation. Actions speak louder than words. If the owner/contractor do not treat the situation as an emergency from the beginning it is less likely to be granted as an emergency by the DOL.
- If the project is a demo with asbestos in place a letter of condemnation from the **municipality condemning** the building and indicating that it is **structurally unsound and in imminent danger of collapse** must accompany the notification.

Thank You

Questions???