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Asbestos in New York State

Facts and Responsibilities

DANGER

ASBESTOS
CANCER AND LUNG DISEASE HAZARD
AUTHORIZED PERSONNEL ONLY



20 YEARS OF EXPERT LOCAL EXPERIENCE

Guide for Property Owners

I am a property owner* and I want to do renovations in or demolish a property. What must I do?

Hire a certified Asbestos Inspector to do an Asbestos Survey. Does the Asbestos Survey say that the work will disturb any Asbestos Containing Material (ACM)?

NO

YES

Proceed with planned construction work as usual.

Hire a certified Asbestos Abatement Contractor to abate the ACM before you have the renovation or demolition work done.

Submit a copy of the survey to the local government agency responsible for issuing permits for the planned work (all projects) and to the appropriate Department of Labor (DOL) Asbestos Control Bureau office (controlled demolitions only).

Does the Asbestos Abatement Contractor say the asbestos can be abated in accordance with Industrial Code Rule 56?

NO

YES

Hire a certified Project Designer to prepare a Site Specific Variance. The variance must be reviewed and approved by DOL before the abatement work is done.

The licensed Asbestos Abatement Contractor must submit a notification to the Department of Labor and the United States Environmental Protection Agency 10 days or more before the work starts.

Notify any residential or business occupants of the building on the floor(s) on which the work is being done and the floors above and below about the asbestos abatement. Notification must be in writing or verbally. Post a notice on all means of access to the floor(s), including doors, stairways, elevators, etc. Leave these postings in place until the work is complete.

Hire an approved air monitoring contractor to perform required air sampling during the course of the asbestos abatement work.

Once the asbestos abatement is done:

The certified Asbestos Abatement Contractor must provide a copy of the Project Record to you. Keep this record on site in accordance with federal regulations (typically for the life of the building).

*This guide does not apply to property owners of single family, owner-occupied properties where the owners do the asbestos abatement work themselves.

Frequently Asked Questions



- Q. When does a property owner have to get an asbestos survey done?
- A. An asbestos survey must be completed by a certified Asbestos Inspector whenever all or part of a building or structure will be demolished, renovated, remodeled or repaired. The survey will determine if the planned work will disturb asbestos material.
- Q. How do I find workers certified to do the asbestos-related work I need?
- A. The Department of Labor maintains a list of licensed contractors: <http://labor.ny.gov/workerprotection/safetyhealth/active-asbestos-contractor-list.shtm>.
- Q. The licensed Asbestos Abatement Contractor I hired is preparing a notification for the Department of Labor and says there is a fee. What are the notification fees?
- A. Asbestos abatement projects are charged a notification fee based on their size. They are measured in linear feet, square feet, or both. Linear foot measurements are for projects where pipe insulation is being abated. Everything else is measured in square feet. The fees for each type of project is as follows:

Linear feet:	Square feet:
0-259 - \$0	0-159 - \$0
260-429 - \$200	160-259 - \$200
430-824 - \$400	260-499 - \$400
825-1649 - \$1000	500-999 - \$1000
1650 or more - \$2000	1000 or more - \$2000

Please note that if you have a project measured in both linear feet and square feet, you must pay the appropriate notification fee for each measurement.

- Q. The licensed Asbestos Abatement Contractor I hired has told me that the asbestos in my project cannot be abated in accordance with New York State law. What happens now?
- A. You must hire a licensed Asbestos Project Designer to prepare a site-specific variance request to be submitted for review by the Department of Labor. This will allow you to still have the abatement work done, as long as it adheres to the plan the Project Designer prepares and the Department of Labor approves. There is a \$350.00 fee to request the variance.
- Q. My property has fallen down or has burned down. What is required to clean up the debris?
- A. Buildings that are structurally unsound must have a letter of condemnation from the appropriate local official (often a Municipal Building Inspector or Municipal Fire Inspector). Then, the building may be demolished with the asbestos in place. The demolition must take place in accordance with Industrial Code Rule 56-11.5. This section of the code requires certain procedures for demolition, containment and disposal of debris, and decontamination of equipment and earth surfaces. These procedures protect against release of the asbestos into the environment.
- If the building is already completely destroyed, it can be cleaned up in accordance with Industrial Code Rule 56-11.5 without a condemnation letter. However, it is treated as asbestos debris cleanup and requires a site specific variance from the Department of Labor.
- In both cases, a licensed Asbestos Abatement Contractor must be hired to do the work. This is because an Asbestos Survey cannot be done, so debris must be considered to be asbestos-contaminated waste.
- Q. There is an abandoned building that is a public hazard in my town. What can be done?
- A. If the building has been condemned by the appropriate local official, the local municipality may have the building demolished and the debris pile cleaned up in accordance with Industrial Code Rule 56-11.5. If it has not been condemned, the property owner is responsible for the maintenance of the property and for any asbestos abatement in accordance with Code Rule 56.
- Q. I want to do work on my own home. Must I get an Asbestos Survey?
- A. Industrial Code Rule 56 does not apply to owner-occupied single family dwellings where the owners perform the work themselves. However, because of the health risks associated with exposure to asbestos we recommend hiring an asbestos contractor to do the work.
- Q. How do I contact the Department of Labor Asbestos Control Bureau?
- A. See the list of Asbestos Control Bureau district offices at: www.labor.ny.gov/asbestos.



WHAT ARE THE ASBESTOS ABATEMENT REQUIREMENTS FOR A HOMEOWNER?

New York State Industrial Code Rule 56, Section 1.3 (a) states that asbestos abatement requirements do not apply to “owner-occupied single-family dwellings, where the owner performs the work.”

WHEN MAY A HOMEOWNER PERFORM ASBESTOS ABATEMENT?

A homeowner may perform asbestos abatement when the following three conditions are met:

1. The structure is a single-family dwelling, and
2. The dwelling is occupied or going to be occupied by the homeowner, and
3. The work is performed solely by the homeowner.

WHAT IS MEANT BY “OCCUPIED”?

“Occupied” means that the single-family dwelling is currently being “lived in” or is intended to be “lived in” by the homeowner. A structure slated for demolition is not “occupied” and is not eligible for the homeowner exemption.

WHAT IS MEANT BY “OWNER”?

“Owner” is the person living in or intending to live in the dwelling. Corporations, contractors, or “flippers” who are going to sell or rent the dwelling are not considered owners and are not eligible for the homeowner exemption.

WHAT IS MEANT BY “DWELLING”?

“Dwelling” is the structure being lived in, plus any commonly owned outbuildings on the property. Owners can have other dwellings, such as vacation homes or second homes, that are occupied solely by the owner. These other dwellings would be eligible for the homeowner exemption only if they are not used as full-time or part-time rental properties.

WHAT TYPE OF ABATEMENT CAN A HOMEOWNER PERFORM?

There is no restriction on the type or amount of asbestos-containing material that can be removed by a homeowner. However, homeowners should be aware of the different types of asbestos-containing materials that can be in a home. They should also be aware of the likelihood of asbestos fiber dispersal during removal and be willing to assume the responsibility and risks of removing asbestos-containing materials.

HOW CAN A HOMEOWNER KNOW IF MATERIAL CONTAINS ASBESTOS?

Some materials are assumed to contain asbestos based upon their manufacturing history and sampling results history, such as:

- White heating system pipe wrap insulation
- 9-inch x 9-inch floor tiles
- Transite (cement) siding
- Vermiculite attic insulation

However, the only certain way to determine the asbestos content of materials is by sampling and analysis. NYS DOL recommends contacting a licensed “Asbestos Inspector” to perform sampling of suspect materials and to provide guidance. NYS DOL has an online licensed contractor search tool to help find a contractor near you. It is available at: on.ny.gov/asbestos-contractors

HOW IS ASBESTOS-CONTAINING MATERIAL DISPOSED OF?

The NYS DOL has no jurisdiction over asbestos-containing material once it enters the waste stream. Transportation and disposal of asbestos-containing waste is under the jurisdiction of the NYS Department of Environmental Conservation (DEC) and the landfill being used. Contact the NYS DEC or your local landfill for further guidance and to protect your carriers and landfill operators. Visit: dec.ny.gov/chemical/8791.html

WHAT IF I DECIDE TO HIRE A LICENSED CONTRACTOR?

In the interest of minimizing risks of exposure or contamination of a home, the NYS DOL Asbestos Control Bureau recommends that asbestos-containing materials be removed by licensed asbestos contractors that employ certified workers. The online NYS DOL contractor search tool can be used to find licensed “Abatement” contractors in your area. It is available at: on.ny.gov/asbestos-contractors

WHERE CAN I FIND MORE INFORMATION ABOUT ASBESTOS?

More information about asbestos facts, and responsibilities in New York State, is available on Publication P224. This publication is available on the NYS DOL website at: dol.ny.gov/asbestos-new-york-state-facts-and-responsibilities-p224