Emergency Rulemaking to ICR 56 to address Fire and Life Safety Issues & Other Regulatory Changes for 2008-2009

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Introduction

- Emergency rulemaking revision 2008-2009 to ICR 56 to address Fire & Life Safety Issues

- Explain some of the major revisions in the 2008 guidance document (v2.0)

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Fire & Life Safety Issues - to be added within ICR56

- Accessible Means of Egress from all work areas shall be installed, marked inside and out, and shall be maintained throughout the asbestos project, as per all pertinent federal state and local regulations.

- If building is occupied, no alterations allowed to existing means of egress including exit signage and illumination. Existing means of egress must be maintained for the duration of the asbestos project.

- For vacant buildings greater than fifty (50) feet in height, or four or more stories, at least one lighted stairway with adequate exit signage including directionality, shall be provided and maintained for the duration of the asbestos project.

- Maintain existing fire protection systems at building throughout asbestos project as per New York State Uniform Fire Prevention and Building Code requirements, and any local regulations. Pre-demolition asbestos projects at vacant buildings with an existing standpipe, must have such standpipe maintained in an operational condition to one floor below the asbestos project work.
A copy of the fire safety and evacuation plan for the asbestos project shall be available on-site and a copy shall be provided to the Fire Marshall or Fire Chief having jurisdiction at the site. Emergency evacuation route maps for each work area shall be posted at the attached decontamination system enclosure and at all emergency and fire exits.

If variation from The New York State Uniform Fire Prevention and Building Code or local regulations is required for fire or life safety issues relating to, or resulting from the asbestos project, all appropriate permits must be obtained using licensed design professionals as required by pertinent state or local agency. If a permit is not required for the variation, then written approval of the variation must be obtained from the pertinent agency and made part of the project record. This documentation must be available on-site for the duration of Phase II of the asbestos project. Copies of each approved variation to pertinent regulations shall be given to the Fire Marshall or Fire Chief having jurisdiction at the site, prior to implementation of the variation.
Fire & Life Safety Issues - to be added within ICR56

- **Negative Air Ventilation System Disconnect Switch.** For all multi-floor or entire floor asbestos projects, and for all partial floor asbestos projects with the floor containment area greater than 15,000 square foot, a negative air ventilation system disconnect switch that controls the entire operational system shall be installed, maintained and located at the ground floor exterior of the building. The switch location shall be coordinated with the Fire Marshall or Fire Chief who has jurisdiction at the site.

- **Fire-Retardant Plywood.** All sheathing used for construction of temporary barriers and decontamination system enclosures at Phase II asbestos project operations shall be fire-retardant plywood at a minimum.

- **Exits.** Emergency and fire exits from the regulated abatement work area shall be maintained or alternate exits shall be established and appropriately signed according to all applicable codes. Emergency exits shall be constructed using two (2) layers of at least six (6) mil fire-retardant plastic sheeting sealed airtight with duct tape. Utility knives shall be taped to the work area side of each emergency exit once the exit has been established.
Fire & Life Safety Issues - to be added within ICR56

- **Barriers Over Active Fire Protection System Components.** Active fire protection system components shall not be considered fixed objects subject to plasticization, and shall not be obscured with critical barriers or isolation barriers.

- Exposed fire protection system devices shall be cleaned by wet-wiping and/or HEPA-vacuuming during each required stage of cleaning.

- All variance petition submissions shall include a statement by a currently registered New York State Licensed Architect or Professional Engineer regarding compliance with all aspects of The New York State Uniform Fire Prevention and Building Code and local regulations for fire or life safety issues relating to, or resulting from the asbestos project. Form DOSH-752 to be revised accordingly.

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ICR 56 Guidance Document (v2.0) Development

- The Code Rule can not address every situation. DOL has developed the guidance document to supplement the regulation and to assist stakeholders in implementing the regulation.
- The most recent revision of the guidance document is based upon current interpretations/clarifications and responses to pertinent questions received.
- Located on DOL website.
- Dynamic in nature - first revision to be released by end of 2008 ~ 120 new questions/answers added.
MAJOR ISSUES INCLUDED WITHIN 1ST REVISION OF GUIDANCE DOCUMENT
Asbestos Cleanup Project Preliminary Requirements

For all cleanup scenarios the following applies:

- Once a disturbance (debris) is discovered, it must be cleaned up as soon as possible.
- For all disturbances, the room/space/area must be vacated and isolated immediately, and an asbestos contractor must be hired by the owner for appropriate cleanup of affected room/area/space.
- A site-specific variance is necessary for cleanup of any disturbance other than a Minor size incidental disturbance.
- 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.
- 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.
Asbestos Cleanup Project Preliminary Requirements (cont.)

- For all minor size cleanups [see 2.1(b)(p) definition] emergency notification as per 56-3.5 and 56-11.2 must occur [phone call to local ACB district to notify the supervisor of the pertinent details regarding the minor size asbestos project cleanup], prior to proceeding with the cleanup as per 56-11.2(f).
- In addition, any cleanup scenario over a minor size (10 sq. ft. of affected surfaces to be cleaned), requires submission of a site-specific variance petition.
- For 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, exposure potential 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 and necessary precautions must be included for maintaining isolation of the affected area until cleanup is scheduled and completed. The Department will review the plan, assessment of exposure potential and proposed procedures, prior to granting a variance decision that will not adversely affect the building occupants or the general public.
Q: Is overlayment of ACM floor tile with mastic and carpet, and/or covering with floor leveler an asbestos project?

A: Overlayment of a floor, wall, ceiling or roofing system over an intact non-friable ACM using an adhesive or leveling compound is not considered an asbestos project unless the ACM is disturbed during the overlayment procedure.

- Any penetrations to the ACM or impact to the intact ACM matrix would be considered a disturbance.
- Note: non-asbestos contractor performing overlayment must be informed of the presence and location of the ACM, and that disturbance is prohibited. All on-site contractor personnel must have current OSHA asbestos awareness training.
Q: For miscellaneous materials, the EPA states that bulk sampling should be performed as follows:

- **Miscellaneous material & Non-friable suspected ACBM.** In a manner sufficient to determine whether material is ACM or not ACM, an accredited inspector shall collect bulk samples from each homogeneous area…

Does this mean for miscellaneous and non-friable ACBM, a minimum of **two** samples per homogeneous area must be collected and analyzed to verify the material is negative?

A: Yes, you are correct. As provided by EPA, “EPA agrees that the regulations cited (AHERA 763.86 c&d) use the plural word "samples" and, therefore, two samples are the minimum number of samples for miscellaneous material and nonfriable suspected ACBM.” Thus, if a minimum of two bulk samples have not been collected and analyzed, then the homogenous area is still assumed to be ACM until the appropriate number of bulk samples have been collected and analyzed. Only with an adequate number of negative bulk sample analyses, can the ACM assumption be rebutted as per OSHA, and EPA requirements.
Waste Clean-up in Work Area

- Q: May I temporarily store single bagged ACM in the work area until removal is complete?
- A: At no time can the single-bagged waste that is temporarily stored in the regulated abatement work area impede entry/exit to or from the work area.
  
  - For example, a room within the work area (not part of the egress route from the work area) may be designated as a temporary storage area for single-bagged waste, until a waste bagout can be scheduled, but a hallway that is part of the egress route in the work area, could not be used for temporary storage of waste bags as the work area egress route would be impeded.

- Obviously, all waste bags/containers must be removed from the work area prior to commencement of the project monitor visual inspection required as per ICR 56-9.
Q: Is the use of aggressive air sampling techniques required for collection of clearance air samples from a regulated abatement work area without a negative pressure enclosure (full containment or tent enclosure)?

A: For exterior regulated abatement work areas that are not required to have a negative pressure containment enclosure of some kind, aggressive methods are not require to be utilized.

However, nothing is included in ICR 56 regarding relief from aggressive air sampling procedures for interior asbestos projects completed without a negative pressure enclosure, such as wrap and cut asbestos projects completed as per 56-11.8(b)(4). For these type of asbestos projects, Clearance air sampling is required, but as there is no negative pressure enclosure, the Department agrees that consistent with intent, relief is granted from the aggressive sampling techniques requirement for this situation. This clarification will be included within the next revision to ICR 56.