



## **Building demolition and renovation regulations: What a municipality should know**

July 21, 2008 - Upstate New York

Navigating the regulatory labyrinth associated with environmental issues can be a daunting task for those involved with property development or redevelopment. In planning or executing a project, property owners, developers and contractors need to take into account myriad issues from wetlands and storm water management to abatement of hazardous materials and contaminated soil. Dealing with these issues is also of concern to municipalities charged with approving and issuing permits for their projects. Most individuals are aware of these environmental concerns, in a general sense. Most are probably not aware of some of the finer points and regulatory requirements. The purpose of this article is to help the reader become more familiar with the environmental issues and regulatory requirements related to building demolition and/or renovation projects.

There are a number of hazardous building materials that may be encountered in residential, commercial, and industrial construction that need attention prior to demolition or renovation activities. These range from the most commonly thought of, like asbestos and lead based paint, to less familiar items like poly-chlorinated biphenyl (PCB), mercury, and remnant fuel oil. The variety of materials that may be contaminated with these hazardous materials is broader than typically imagined. The municipality should also have an interest in the presence of these items to ensure the safety of the public and the protection of the environment.

In the case of structures containing elevated levels of lead based paint, the concern lies in the proposed future use of the property. The U.S. Dept. of Housing and Urban Development (HUD) has issued regulations aimed at reducing potential lead exposure as a result of renovation and/or demolition activities. There are a number of factors that will determine whether or not the renovation or demolition activities will trigger compliance with HUD regulations. If compliance is required, these regulations provide clearance standards for interior surfaces for re-occupancy as well as criteria for soil concentrations in the case of demolition.

Other materials containing hazardous substances are of concern with respect to proper handling and off-site disposal. Transformers and fluorescent light ballasts are of concern due to the potential presence of PCBs. Thermostats and fluorescent light tubes may contain mercury and need to be handled appropriately. In a case where properties have fuel oil storage tanks, either above or below ground, proper reclamation of oil product and tank closure procedures need to be undertaken to avoid the potential for contamination.

Finally there is asbestos. Asbestos is a hazardous building material that exists in many older building structures in one form or another. While the asbestos abatement industry has been around for years and most abatement practices and procedures are well established, there exists a responsibility on the part of the building or demolition permit seeker that is less well known, yet clearly defined in NYS Regulations.

In Sept. 2006, the NYS Dept. of Labor put into effect a revised edition of Part 56 of Title 12 of the Official Compilation of Codes, Rules, and Regulations of the state of N.Y., referred to as Industrial Code Rule 56. This part governs the handling of asbestos containing materials in all governmental, commercial, educational, and most residential structures. In this revised edition of Industrial Code Rule 56, subpart 56-5 requires the building owner to conduct a survey for asbestos containing materials prior to commencing any renovation, demolition, or repair work. It also requires that the findings of this report be transmitted to the local agency charged with issuing building permits. This survey, in the case of renovation, remodeling, or repair, need only take into account the portion of the structure directly impacted by those activities. In the case of building demolition, the survey must take into account the entire structure, interior and exterior. The transmission of the report to the local permitting agency is required by Industrial Code Rule 56 to serve as a means of hazard communication, not as a requirement for enforcement of the part.

While the path to redevelopment through renovation and/or demolition at times can be seemingly fraught with regulatory concerns, it is important for a municipality to countenance and understand the knowledge of basic environmental regulations. In doing so it allows municipalities to better participate in the protection of human health, the environment and their respective community. Hopefully, the information contained in this article has helped bring in to focus some of the requirements important to and of interest to municipalities undertaking building renovation or demolition associated with development projects.

Michael Sawyer is the senior industrial hygienist and Bryan Shults is the asbestos projects coordinator for C.T. Male Associates, P.C., Latham, N.Y.

New York Real Estate Journal - 17 Accord Park Drive #207, Norwell MA 02061 - (781) 878-4540