



# Application for a Non-Traditional Asbestos Abatement Work Practice Approval, BWP AQ 36

## Instructions and Supporting Materials

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### Introduction

Both the Massachusetts Department of Environmental Protection (MassDEP) and the Massachusetts Department of Labor Standards (DLS) issue case-by-case approvals for deviations from prescribed asbestos abatement work practices in their regulations (MassDEP's regulation: 310 CMR 7.15; DLS's regulation: 454 CMR 28.00), to address situations in which the prescribed work practices cannot be safely implemented or are significantly impractical. MassDEP's approval is a formal permit, based on review of an Application for Non-Traditional Asbestos Abatement Work Practice Approval (BWP AQ 36). DLS's approval is obtained by contacting that agency (see end of the Permit Fact Sheet for contact information).

The situations for which MassDEP may issue a Non-Traditional Asbestos Abatement Work Practice Approval are:

- When demolition of a facility is done under an order issued by a state or local government agency because the facility is structurally unsound and in danger of imminent collapse;
- Where Asbestos-Containing Material (ACM) or Asbestos-Containing Waste Material (ACWM) was not accessible for testing and was, therefore, not discovered until after demolition began and, as a result of the demolition, the material cannot be safely removed;
- Where asbestos abatement activity is conducted as part of an emergency renovation operation;
- Where asbestos abatement activity is conducted to clean up and decontaminate a facility or portion of a facility as a result of:
  - asbestos abatement activities not conducted in compliance with 310 CMR 7.15, or
  - ACM deterioration that, if not immediately attended to, presents a safety or public health hazard;
- For a facility that is being renovated, where wetting would unavoidably damage equipment or present a safety hazard; or
- For bulk loading of ACM and/or ACWM.

The **original** signed MassDEP Application for Non-Traditional Asbestos Abatement Work Practice Approval Form (BWP AQ 36) must be submitted to the appropriate **MassDEP regional office** (see page 10 for contact information). A detailed site-specific work plan, prepared by a DLS-licensed asbestos project designer, must accompany the application form. Please include a copy of the check or money order used to pay the \$600 fee payment.



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Under separate cover, please send via USMail a check or money order made out to the "Commonwealth of Massachusetts" for the \$600 filing fee along with a **copy** of the BWP AQ 36 application form to:

MassDEP  
P.O. Box 4062  
Boston, MA 02211

Sending the fee payment via private or overnight delivery service is not advised, it will only delay processing the payment. However, if you choose to do so, then please send it along with a copy of the BWP AQ 36 application form to:

Massachusetts Department of Environmental Protection  
Revenue Division  
One Winter Street  
Boston, MA 02108-4747

Please Note: See response to Question 6 below for information about how to submit an application. See response to Question 7 below for more details on the application fee, including a list of the entities that are exempt from the fee.

**To file an Application for Non-Traditional Asbestos Abatement Work Practice Approval,** download the Application for Non-Traditional Asbestos Abatement Work Practice Approval Form (BWP AQ 36) and Instructions from MassDEP's web site: <http://mass.gov/dep/asbestos>. These documents are available in two file formats: Microsoft Word® and Adobe Acrobat PDF®. The Microsoft Word® format allows the form to be completed on a computer. It can then be printed and signed.



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## Permit Fact Sheet

### 1. What is an “asbestos abatement” and what rules govern this work?

MassDEP’s Asbestos Regulation (310 CMR 7.15) defines key terms:

- “Asbestos” means all asbestiform varieties of serpentine (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite (amosite), anthophyllite, actinolite, and tremolite, and any other asbestiform minerals designated as asbestos by the U.S. Environmental Protection Agency (EPA) in 40 CFR 61.141.
- “Asbestos Abatement Activity” means the removal, encapsulation, demolition, renovation, enclosure, repair, disturbance, handling, transportation, storage or disposal of asbestos-containing material or asbestos-containing waste material, or any other activity involving asbestos-containing material or asbestos-containing waste material that has the potential to result in a condition of air pollution. This definition does not include survey, sampling, analysis, monitoring, or visual inspection activities.
- “Asbestos-Containing Material” (ACM) means any material containing 1% or more asbestos as determined by a laboratory using protocols set forth in the “Method for the Determination of Asbestos in Bulk Building Materials” found in EPA report EPA/600/R-93/116, or another method as directed by the Department. This term includes, but is not limited to, sprayed-on and troweled-on materials applied to ceilings, walls, and other surfaces; insulation on pipes, boilers, tanks, ducts, and other equipment, structural and non-structural members; tiles; asphalt roofing or siding materials; or asbestos-containing paper.
- “Asbestos-Containing Waste Material” (ACWM) means any ACM removed during a demolition or renovation project and anything contaminated with asbestos in the course of a demolition or renovation project including, but not limited to, asbestos waste from control devices, bags, or containers that previously contained asbestos, contaminated clothing, materials used to enclose the work area during the demolition or renovation operation, and demolition or renovation debris. This definition also includes ACM on and/or in facility components that are inoperable or have been taken out of service and any ACM that is damaged or deteriorated to the point where it is no longer attached as originally applied or is no longer serving the intended purpose for which it was originally installed.
- “Facility” means any dumping ground, or any installation, structure, building establishment or ship, and associated equipment.

### 2. What are “prescribed work practices”?

The “General Asbestos Abatement Work Practice Standards” section of the MassDEP’s Asbestos Regulation (310 CMR 7.15 (7)) prescribes work practices that must be strictly followed when conducting an asbestos abatement project to prevent the release of asbestos fibers that could cause or contribute to a condition of air pollution. These include requirements for preparing and isolating the work area; covering floor, ceiling and wall surfaces as well as objects that cannot be moved away; decontaminating equipment that is used during the abatement; ventilating the work area so as to prevent fibers from migrating outside of this area; and specific requirements for



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removal and cleanup.

### 3. What are “Non-Traditional Asbestos Abatement Work Practices”?

These are work practices that deviate from the general and material specific work practices prescribed in the Asbestos Regulation and that are needed to address situations in which the prescribed work practices cannot be implemented safely (e.g., demolition of a fire-damaged or structurally unsound building; cleanup and decontamination of a facility where ACM was improperly disturbed, or where ACM has deteriorated to the point that it presents a safety or public health hazard; or in areas near high-voltage electrical equipment and other situations where wetting would be dangerous; or anytime ACM or ACWM will be bulk loaded for transport offsite). Before these Non-Traditional Asbestos Abatement Work Practices are implemented, MassDEP must be persuaded that they will:

- Not result in the discharge of visible emissions of asbestos to the outside air,
- Keep ACM and ACWM adequately wet (where appropriate) until it is placed and sealed into containers for transport to a disposal facility,
- Comply with all other applicable requirements of 310 CMR 7.15, and
- Be consistent with the requirements of applicable federal, state, and local laws and regulations.

### 4. Who may apply for a Non-Traditional Asbestos Abatement Work Practice Approval?

Applications may be submitted by the owner, operator (e.g., property manager), DLS-certified asbestos abatement contractor, or DLS-licensed project designer for a specific facility or facility component. An Approval will be issued to the person who filed the application, and that person must provide copies to all parties involved. Please note that a Non-Traditional Asbestos Abatement Work Practice Approval is a permit that applies to a specific facility or facility component, and cannot be transferred to other parties.

### 5. Is there a specific Application form?

Yes. The application must be submitted using MassDEP's “Application for Non-Traditional Asbestos Abatement Work Practice Approval” form (BWP AQ 36), and it must be accompanied by a written site-specific work plan prepared by a DLS-licensed Asbestos Abatement Project Designer. All sections of the application form must be completed (incomplete forms will not be processed until complete). The application must include the following information:

- A description of the need and justification for each requirement of 310 CMR 7.15 for which a deviation is sought,
- A description of each non-traditional work practice proposed, and
- A demonstration that the deviation(s) from 310 CMR 7.15 and the proposed non-traditional work practice(s) will not cause any visible emissions of asbestos to the outside air, and will not pose significant risk to public health, safety, or the environment, and
- Any additional information requested by the MassDEP



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Attachment 1 to this Permit Fact Sheet contains a list of specific information that must be submitted with each Application for Non-Traditional Asbestos Abatement Work Practice Approval.

The Application for Non-Traditional Asbestos Abatement Work Practice Form, and Instructions are available on MassDEP's website at <http://mass.gov/dep/asbestos>

### 6. How do I submit the Application for Non-Traditional Asbestos Abatement Work Practice Approval Form?

Two steps are required to submit your Application for Non-Traditional Asbestos Abatement Work Practice Form:

1. Send the **original signed** Form and site-specific work plan to the Asbestos Program staff in the appropriate **MassDEP regional office** (see contact information at the end of this fact sheet for email and postal addresses). This submittal may be made by regular, certified, or U.S. Postal Service Express mail. If you are seeking approval for non-traditional asbestos abatement work practices to address an emergency or time-sensitive situation, you may email a scanned version of the BWP AQ 36 Form and the accompanying proposal to the appropriate MassDEP regional office. Email submittals will need to be followed by mailing a paper copy of the signed BWP AQ 36 form to the MassDEP regional office, so that MassDEP has the original signature of the project proponent on file.
2. You must also send a **copy** of the BWP AQ 36 application form and a \$600 check or money order made out to the "Commonwealth of Massachusetts" for the filing fee (if the fee is applicable) to:

MassDEP  
P.O. Box 4062  
Boston, MA 02211

Checks are picked up from this P.O. box every working day and the MassDEP Revenue Division is notified when each check is cleared by the bank.

**Please note: Private delivery services cannot deliver to the P.O. Box.**

Sending the fee payment via private or overnight delivery service is not advised, it will only delay processing the payment. However, if you choose to do so, then please send it along with a copy of the BWP AQ 36 application form to:

Massachusetts Department of Environmental Protection  
Revenue Division  
One Winter Street  
Boston, MA 02108-4747

Note, after November 28, 2022, new address is:  
100 Cambridge Street, Suite 800, Boston, MA 02114



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Please be aware that incomplete applications will not be processed until complete. In addition, if your check is not cleared by your bank, any authorization to proceed issued by MassDEP for the project will not be valid until the application fee has been paid.

### **7. What is the permit application fee for a Non-Traditional Asbestos Abatement Work Practice Approval?**

The permit application fee required by MassDEP regulation (310 CMR 4.00, Timely Action and Fee Provisions) for a Non-Traditional Asbestos Abatement Work Practice Approval is \$600. However, cities, towns, counties, districts of the Commonwealth, federally recognized Indian tribe housing authorities, the Massachusetts Bay Transportation Authority (MBTA), and municipal housing authorities are not subject to permit application fees. Please note: 501(c)(3) non-profit organizations (e.g., churches, private schools, hospitals, etc.) and State Agencies (e.g., MassDOT, MassPort, UMass facilities) are **NOT** exempt from the NTWP fee payment.

### **8. What are MassDEP's timelines for reviewing applications for Non-Traditional Asbestos Abatement Work Practice Approvals?**

Once the BWP AQ 36 Form and proposal are received by the MassDEP regional office, it will be reviewed to determine whether it is administratively and technically complete. If the application is complete, MassDEP will issue an approval or denial within 10 working days of receipt of the application (and will strive to issue approvals or denials for emergency situations within two business days of receipt). If additional information is required, the applicant will be notified and will be asked to submit the missing information within 30 calendar days. Where the applicant responds to the deficiencies in the original application within 30 calendar days of being notified of deficiencies, MassDEP will conduct a second review, and will issue an approval or denial to the submitter within 10 working days of receiving the additional information.

### **9. Is the permit application fee refundable?**

If MassDEP does not complete its review of your Application for Non-Traditional Asbestos Abatement Work Practice Approval within 10 working days of receipt of a complete application, MassDEP will return your fee and issue an approval or denial of your application.

Your fee will not be refunded if MassDEP denies the application within the 10 working day review window, or if you decide not to implement the proposed non-traditional asbestos abatement work practice (i.e., withdraw the application).

### **10. Do I need to file a notification for my asbestos abatement once I have a Non-Traditional Asbestos Abatement Work Practice Approval?**

If you have obtained a Non-Traditional Asbestos Abatement Work Practice Approval from MassDEP, you must file a BWP AQ 04 Asbestos Notification Form (ANF-001) for the abatement work to be undertaken (this is done online using the e-DEP filing system found at the following link:



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<https://www.mass.gov/how-to/file-an-aq-04-anf-001-asbestos-removal-notification> ). When filing the ANF-001 form, please enter the MassDEP approval number for your Non-Traditional Asbestos Abatement Work Practice Permit in the appropriate space in the ANF Preform as that allows MassDEP to track abatement activities tied to the approved NTWP permit.

### 11. Where can I find DLS License and Certification Numbers for my asbestos abatement Project Designer/Contractor?

The DLS license number for your Project Designer and the DLS certification numbers of your Consulting Service Provider and the Asbestos Contractor (if known) need to be typed into the appropriate spaces in Section B of the BWP AQ 36 Form. Your Project Designer and Asbestos Contractor should supply this information to you. DLS publishes a list of licensed asbestos consultants, contractors, labs, & training providers on the DLS website. (See contact information below.)

### 12. When can I start work?

Work cannot begin until you have received MassDEP's written approval of your Application for Non-Traditional Asbestos Abatement Work Practice Approval, and you have filed a notification (via the eDEP online asbestos notification system at least 10 working days in advance of the scheduled start of your abatement). If your Non-Traditional Asbestos Abatement Work Practice Approval will address emergency conditions, you may obtain an emergency waiver of the 10 working day notification period from the appropriate MassDEP regional office (this may be issued by phone at the same time you receive a conditional authorization to proceed with the Non-Traditional Asbestos Abatement Work Practices). See Question #12 in the Permit Fact Sheet for the ANF-001 for more information about emergency waivers: <https://www.mass.gov/doc/instructions-aq-04-anf-001-asbestos-notification/download>.

**Please note that you must start work on the “start date” you indicate on the ANF-001.** If you are not going to start on that date, you must revise your notification prior to the original start date indicated, and pay a \$35 fee for filing the revision if your project is subject to this fee.

### 13. Can I file an Application for Non-Traditional Asbestos Abatement Work Practice Approval for a facility other than a building?

An Application for Non-Traditional Asbestos Abatement Work Practice Approval must specify the facility and location where the asbestos abatement work will be done. However, the definition of “facility” in 310 CMR 7.15(1) includes “any installation” or “associated equipment”, not just buildings. For example, in the case of an electric utility, the “facility” might be identified as a specific set of interconnected structures (e.g., manholes, utility poles, etc.) and equipment (e.g., substations) within a contiguous service area network.



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## 14. Can I revise my Non-Traditional Asbestos Abatement Work Practice Approval?

It is possible that unforeseen conditions may result in the need to modify approved Non-Traditional Work Practices. If modifications are needed, you will need to submit a written modification request to the appropriate MassDEP regional office. The revised Non-Traditional Work Practices cannot be used at the facility until your request has been approved by MassDEP.

## 15. How long does a Non-Traditional Asbestos Abatement Work Practice Approval remain in effect?

Your proposal should indicate the time period in which you will implement your non-traditional asbestos abatement work practices, and the approval will cover this time period. Your approval will be valid for the time period you specify in your application, but as a matter of program policy, approvals will not generally be granted for more than a 12-month period.

## 16. What can I do to avoid the most common mistakes in submitting an Application for Non-Traditional Asbestos Abatement Work Practice Approval?

- a. Fill in **all** information required on the BWP AQ 36 Form accurately and completely, and by an authorized person. An original copy of the signed form needs to be submitted to the appropriate MassDEP regional office (see question #6).
- b. Make sure that the accompanying site-specific work plan has been developed by a DLS-licensed Asbestos Abatement Project Designer, that it includes all the required information listed in Attachment 1, and that it includes an original signature of the Project Designer.
- c. Make sure that you send a check for the fee (as applicable) with a copy of the BWP AQ 36 Application Form to the MassDEP Boston PO Box (see Question # 7 above).
- d. If you have any questions completing the form, call MassDEP (see contact information at the end of this Permit Fact Sheet).

## 17. Where can I get copies of the regulations that apply to the Commonwealth's asbestos program?

These regulations include, but are not limited to:

- a. MassDEP:
  - Asbestos Regulations, 310 CMR 7.00, including 7.09 and 7.15.
  - Asbestos Disposal Regulations, 310 CMR 19.061
  - Massachusetts Contingency Plan waste site cleanup regulations, 310 CMR 40.0000.
  - Timely Action and Fee Provisions, 310 CMR 4.00.
  - Administrative Penalties Regulations, 310 CMR 5.00.





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MassDEP's regulations are available on MassDEP's website at <https://www.mass.gov/massdep-laws-rules>

b. DLS:

- Asbestos Regulations, 454 CMR 28.00.

DLS's regulations are available at DLS's web site: <https://www.mass.gov/orgs/executive-office-of-labor-and-workforce-development>.

Official copies of MassDEP's and DLS's regulations may be purchased at:

State House Bookstore  
Room 116  
Boston, MA 02133  
(617) 727-2834

State House West Bookstore  
436 Dwight Street  
Springfield, MA 01103  
(413) 784-1376



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### Contacting the Department of Environmental Protection (MassDEP)

For questions about how to complete the BWP AQ 36 Form or how to comply with MassDEP’s requirements for asbestos removal, please contact a member of the asbestos program staff in the MassDEP regional office that covers the municipality where the asbestos work will be performed. The asbestos program staff are the best source of information about any technical aspects of MassDEP’s requirements for asbestos removal.

Region	MassDEP Staff Lead	Email Address	Telephone	Mailing Address
Central	Gregg Levins	<a href="mailto:gregory.levins@mass.gov">gregory.levins@mass.gov</a>	508/767-2768	8 New Bond Street, Worcester, MA 01606
Northeast	Grady Dante	<a href="mailto:grady.dante@mass.gov">grady.dante@mass.gov</a>	617/921-1152	150 Presidential Way, Woburn, MA 01801
Southeast	Colleen Ferguson	<a href="mailto:colleen.ferguson@mass.gov">colleen.ferguson@mass.gov</a>	508/946-2832	20 Riverside Drive Lakeville, MA 02347
Western	Dave Slowick	<a href="mailto:david.slowick@mass.gov">david.slowick@mass.gov</a>	413/755-2246	436 Dwight Street Springfield, MA 01103

Find your region: <https://www.mass.gov/doc/massdep-regional-office-locations-communities-served>

**MassDEP Asbestos Program Web Page:** <http://mass.gov/dep/asbestos>

This Web Page has links to all MassDEP asbestos related documents including regulations, policies, guidance, and notification forms.

### Contacting the Department of Labor Standards (DLS)

Information, Licenses, Notifications, Complaints.....(617) 626-6960

DLS web site: <https://www.mass.gov/asbestos-safety-program>



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## Attachment 1

### Information Needed to Complete an Application for Non-Traditional Asbestos Abatement Work Practice Approval

1. Description of Facility/Site:
  - Street address and municipality
  - Name and address of property owner
  - Description of facility or facility component subject to abatement
  - Site drawing indicating:
    - Property lines
    - Location of work area
    - Exclusion zone for asbestos handling
    - Any neighboring sensitive receptors (residences, schools, day care facilities, etc.)
    - Locations of perimeter air monitors
    - Location of decontamination area
    - Location of water runoff controls
  - Asbestos survey results and/or abatement history
2. Description of specific provisions of prescribed work practices in 310 CMR 7.15 that cannot be complied with (i.e., reasons for requesting a Non-Traditional Asbestos Abatement Work Practice Approval)
3. Description of proposed Non-Traditional Asbestos Abatement Work Practices, including (as appropriate):
  - Dust control measures to ensure “no visible emissions”
  - Wetting procedures (including amended water)
  - Decontamination procedures (including equipment list, diagrams, etc.)
  - Description and location(s) of power sources if needed
  - Water runoff management (including control and disposal)
  - Air monitoring collection and analytical procedures (include calibration of instruments, identify analytical laboratory if appropriate; include reporting frequency to MassDEP regional office)
  - Waste containerization and loading procedures
  - Post removal soil testing protocol (for soil-specific areas as appropriate)
  - Post-demolition/renovation cleanup and visual inspection procedures and criteria
  - Other Non-Traditional Asbestos Abatement Work Practices
4. Project timeline and schedule
5. Copies of municipal or state-issued Order to Demolish or similar directive (if applicable)
6. Name/DLS license number of Asbestos Abatement Project Designer who prepared the proposal
7. Name/DLS certification number of the Asbestos Abatement Contractor conducting abatement (if known)



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8. Name/DLS certification number of the Consulting Service Provider that will provide the DLS license Asbestos Abatement Project Monitor (if known)
9. Name and address of the demolition contractor (if applicable)
10. Description of placarding that will be on trucks transporting ACWM generated from the project. Placarding must comply with the requirements of the U.S. Environmental Protection Agency (40 CFR Part 61), and applicable U.S. Department of Transportation, U.S. OSHA, state and local regulations
11. Any other information that will help MassDEP evaluate the application.

### ADDITIONAL REQUIREMENTS SPECIFIC TO:

- Demolition under a state or local government order because facility is unsound and in danger of imminent collapse
  - Excavation of asbestos contaminated soil or debris
  - Bulk Loading
1. Copies of municipal or state-issued Order to Demolish or similar directive
  2. Name and address of the demolition contractor
  3. Dust control measures to ensure “no visible emissions”
    - a. Specify equipment and operating procedures
  4. Wetting procedures (including amended water) to ensure ACM and ACWM are adequately wet until placed and sealed into containers
  5. Decontamination procedures
    - a. Equipment list
    - b. Truck wash diagram
    - c. Personal decontamination procedures
  6. Description and location(s) of power and water sources
  7. Water runoff management (including control and disposal)
  8. Air monitoring collection and analytical procedures (include calibration of instruments, identify analytical laboratory if appropriate; include reporting frequency to MassDEP regional office)
    - a. Specify equipment and operating procedures
    - b. Specify “stop-work” criteria
    - c. Perimeter monitoring
    - d. Downwind monitoring
    - e. Background monitoring
  9. Management of stockpiled waste/soil
  10. Waste containerization and loading procedures
  11. Post removal soil testing protocol (for soil-specific areas as appropriate)
  12. Post-demolition/renovation cleanup and visual inspection procedures and criteria
  13. Other Site-Specific Work Practices