



BUILDINGS BULLETIN 2009-031

Operational

Supersedes: OPPN #1/88, OPPN #10/87, OPPN #1/87, TPPN #2/87

Issuer: James P. Colgate, RA, Esq.
Assistant Commissioner for Technical Affairs and Code Development

Issuance Date: December 30, 2009

Purpose: This document clarifies the asbestos certification requirements of the Department of Environmental Protection (DEP).

Related Code Section(s): AC 28-106.1 15 RCNY 1-23

Subject(s): Asbestos; Asbestos abatement; Alteration, asbestos exemption certification; Asbestos exemption certification; Asbestos project, Asbestos Project Notification; Asbestos project, Asbestos Project Completion; Not an Asbestos Project, Asbestos Assessment Report

Effective January 13, 2010, pursuant to the new rules of the Department of Environmental Protection (DEP), applications for construction document approval shall comply with the following procedures with respect to the asbestos certification requirements.

1. **Work exempt from asbestos certification requirements of the DEP.** In accordance with new rules of the DEP, applicants may submit an Asbestos Exemption Certification form (ASB4) to the Department of Buildings (DOB) when:
 - a. the DOB permit sought does not involve any physical work, such as permits for zoning lot subdivisions, zoning lot reapportionment, or changes in the certificate of occupancy; or
 - b. no existing building materials are to be disturbed by the proposed work.

For more information, see 15 RCNY section 1-23(b), available online at the DEP website at the following link: http://www.nyc.gov/html/dep/pdf/asbestos_rules_11_16_2009.pdf

2. **Alterations to buildings constructed after April 1, 1987 exempt from asbestos certification requirements of the DEP.** Section 28-106.1 of the Administrative Code exempts buildings constructed after April 1, 1987 from DEP requirements related to asbestos certification. Therefore, an Asbestos Exemption Certification form (ASB4) may be submitted to obtain construction document approval for alterations to buildings constructed after April 1, 1987. Please note that although an ASB4 form may be submitted to the DOB for alterations in such buildings, if there exists any Asbestos Containing Material (ACM) that will be disturbed by the proposed work, the ACM is nonetheless required to be abated in accordance with DEP rules.

3. Work subject to asbestos certification requirements of the DEP. For applications for construction document approval that do not satisfy the conditions of the Asbestos Exemption Certification (see sections 1 and 2 of this document), asbestos investigations shall be conducted in accordance with DEP rules.

- a. Where the scope of work constitutes “Not an Asbestos Project,” an Asbestos Assessment Report form (ACP-5) shall be submitted to the DOB to proceed with the permit process.
- b. Where the scope of work constitutes an asbestos project as determined by an asbestos investigator, an Asbestos Project Notification form (ACP-7) shall be submitted to the DEP. Upon completion of the asbestos work, the DEP shall issue an Asbestos Project Completion form (ACP-21) or an Asbestos Project Conditional Completion form (ACP-20) which may be submitted to the DOB to proceed with the permit process.

For more information, please refer to the Asbestos Technical Review Guidance Document available online at the DEP website: http://www.nyc.gov/html/dep/pdf/cda/atru_guidance_document.pdf

Form PW-1 requirements:

The applicant that submits form ASB4, required prior to approval, shall check the box in section 22 of the PW-1 form indicating that the scope of work is exempt from the asbestos certification requirement:

21B Demolition work affects the exterior building envelope

22 Asbestos Abatement Compliance *Choose one.*

- The scope of work requires related asbestos abatement as defined in the regulations of the NYC Department of Environmental Protection (DEP).
- The scope of work does **not** require related asbestos abatement as defined in the regulations of the NYC DEP.
- The scope of work is exempt from the asbestos requirement as defined in the regulations promulgated by the NYC DEP (15 RCNY 1-23(b)).

23 Sign

The applicant that submits form ACP-5, required prior to approval, shall check the box in section 22 of the PW-1 form indicating that the scope of work does not require related asbestos abatement:

21B Demolition work affects the exterior building envelope

22 Asbestos Abatement Compliance *Choose one.*

- The scope of work requires related asbestos abatement as defined in the regulations of the NYC Department of Environmental Protection (DEP).
- The scope of work does **not** require related asbestos abatement as defined in the regulations of the NYC DEP.
- The scope of work is exempt from the asbestos requirement as defined in the regulations promulgated by the NYC DEP (15 RCNY 1-23(b)).

23 Sign

The applicant that submits form ACP-20 or ACP-21, required prior to permit, shall check the box in section 22 of the PW-1 form indicating that the scope of work requires related asbestos abatement:

21B Demolition work affects the exterior building envelope

22 Asbestos Abatement Compliance *Choose one.*

- The scope of work requires related asbestos abatement as defined in the regulations of the NYC Department of Environmental Protection (DEP).
- The scope of work does **not** require related asbestos abatement as defined in the regulations of the NYC DEP.
- The scope of work is exempt from the asbestos requirement as defined in the regulations promulgated by the NYC DEP (15 RCNY 1-23(b)).

23 Sign