

New York City Department of Environmental Protection

Notice of Public Hearing and Opportunity to Comment on Proposed Rule

What are we proposing? The Department of Environmental Protection (“DEP” or “Department”) is proposing to amend its asbestos control program rules to update and clarify various provisions.

When and where is the hearing? DEP will hold a public hearing on the proposed rule online. The public hearing will take place at 11 am on December 23, 2021. To participate in the public hearing, please follow these instructions:

Microsoft Teams meeting

Join on your computer or mobile app

[Click here to join the meeting](#)

Or call in (audio only)

[+1 347-921-5612,,344054083#](tel:+13479215612344054083)

Phone Conference ID: 344 054 083#

How do I comment on the proposed rules? Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to the Department through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email written comments to nycrules@dep.nyc.gov.
- **Mail.** You can mail written comments to the Department of Environmental Protection, Bureau of Legal Affairs, 59-17 Junction Boulevard, 19th Floor, Flushing, NY 11373.
- **Fax.** You can fax written comments to the Department of Environmental Protection, Bureau of Legal Affairs, at 718-595-6543.
- **By speaking at the hearing.** Anyone who wants to comment on the proposed rules at the public hearing must sign up to speak. You can sign up before the hearing by calling 718-595-6531. You can speak for up to three minutes.

Is there a deadline to submit written comments? Yes, you must submit written comments by December 23, 2021.

What if I need assistance to participate in the hearing? You must tell the Department’s Bureau of Legal Affairs if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at 718-595-6531. Advance notice is

requested to allow sufficient time to arrange the accommodation. Please tell us by December 16, 2021.

This location has the following accessibility option(s) available: Not applicable

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. A few days after the hearing, a transcript of the hearing and copies of the written comments will be available to the public at the Department's Bureau of Legal Affairs.

What authorizes the Department to make these rules? Sections 1043(a) and 1403(c) of the New York City Charter ("Charter") and sections 24-105 and 24-136 of the Administrative Code of the City of New York authorize the Department to make these proposed rules. These proposed rules were included in the Department's regulatory agenda.

Where can I find the Department's rules? The Department's rules are in Title 15 of the Rules of the City of New York.

What laws govern the rulemaking process? The Department must meet the requirements of Section 1043 of the Charter when creating or changing rules. This notice is made according to the requirements of Section 1043(b) of the Charter.

Statement of Basis and Purpose

The proposed rule would amend Chapter 1 of Title 15 of the Rules of the City of New York as follows:

- Section 1-01 would be amended to clarify that false statements concerning an asbestos project or survey are prohibited not only when made to DEP but to any city agency. Purpose: To address situations where fraudulent documents have been submitted to building owners or to city agencies other than DEP.
- Section 1-02 would be amended to add new definitions of "airtight", "ARTS E-File", "Asbestos Project Air Sampling Technician", "confined space", "OSHA Construction Safety and Health card", "permanently bound log", "project monitor's report", and "warning line system", and to delete the definition of "bound notebook" as that term would no longer be used in the Rules. The definitions of "disturb," "encapsulant (sealant) or encapsulating agent," and "encapsulation" would be clarified, and the definition of "log" would be amended to make precisely clear what physical characteristics the log is required to possess. Purpose: To clarify definitions as requested by the regulated community and to define terms that are new to the Rules.
- Section 1-03 would be amended to clarify that variance applications must be filed through ARTS E-File, and to clarify submission requirements. Purpose: To reflect current filing procedure.

- Section 1-26 would be amended to add work in a confined space to the list of triggers for asbestos abatement permits, to delete the requirement that a building owner or its authorized representative retrieve a copy of the approved work place safety plan from DEP, to add the expiration date of the ACP-7 as one of the events that cause a permit to expire, to delete the provisions that allow for six-month permit extensions or reinstatements, and to clarify that letters regarding additional ACM must be filed using ARTS-E-File. Purpose: Reflects DEP's findings that work in a confined space is inherently more dangerous and should require a permit; clarifies that permit expires when ACP-7 expires, as work must be completed by ACP-7 expiration date.
- Section 1-27 would be amended to clarify that emergency project notifications must be filed using ARTS E-File, and to clarify submission requirements. Purpose: To reflect current filing procedure.
- Section 1-28 would be amended to require certified asbestos investigators (CAIs) to respond to requests for audit appointments within two weeks. Purpose: To address situations where CAIs have failed to respond to requests for audit appointments.
- Section 1-29 would be amended to require that the project record include chain of custody forms and to delete the requirement that the project record include a copy of all project monitor's reports. Purpose: To update the documents required to be included in the project record.
- Section 1-37 would be amended to require that air sampling cassettes be numbered and that air sampling equipment checks be documented. Purpose: To give greater clarity as to labeling of air monitoring equipment.
- Section 1-41 would be amended to add air monitoring requirements for minor projects and to clarify the requirements regarding location of air samplers. Purpose: Consistency with NY State requirements regarding air sampling for minor projects.
- Section 1-43 would be amended to clarify the requirements for the placement of air samplers for clearance air sampling. Purpose: Clarification of existing requirement.
- Section 1-61 would be amended to add new requirements regarding the use of ladders and scaffolds. Purpose: To address improper use of ladders, use of defective/broken ladders, improperly installed scaffolds and improve worker safety.
- Section 1-92 would be amended to clarify log requirements and responsibility for the provision of personal protective equipment and to add requirements for work in confined spaces. Purpose: Clarification of log requirements requested by regulated community. Abatement work in confined spaces is inherently more dangerous.
- Section 1-102 would be amended to prohibit the use of chutes in work areas that are not under negative pressure. Purpose: The use of chutes to transport

asbestos from rooftops and other outdoor work places is unsafe, the proposed change clarifies that this is prohibited.

- Section 1-103 would be amended to clarify applicability of the Rules during encapsulation procedures. Purpose: To clarify that full containment is required when abatement is conducted by the encapsulation procedure.
- Section 1-104 would be amended to clarify applicability of the Rules during enclosure procedures. Purpose: To clarify that full containment is required when abatement is conducted using the enclosure procedure.
- Section 1-105 would be amended to clarify applicability of the Rules during glovebag procedures, and to provide for clearance inspections. Purpose: To ensure consistency between requirements applicable to glovebag procedures and other abatement procedures.
- Section 1-106 would be amended to provide for air monitoring and clearance inspections on tent projects. Purpose: To clarify requirements for tent procedure.
- Section 1-107 would be amended to clarify application of the Rules during roofing projects, adds requirements for the use of warning line systems during roofing projects, and prohibits the use of chutes on such projects. Purpose: To ensure consistency between procedure for abating roofs and other procedures; to protect against physical hazards unique to performing rooftop abatements; to clarify that use of chutes to transport asbestos from rooftops is unsafe and is prohibited.
- Section 1-108 would be amended to clarify the application of the Rules during flooring projects and to require the documentation of the visual inspection of the work area. Purpose: To ensure consistency between requirements applicable to flooring abatements and other procedures.
- Section 1-109 would be amended to clarify the application of the Rules during vertical exterior surface projects and to clarify the sidewalk bridge requirement. Purpose: To ensure consistency between requirements applicable to abatements from vertical exterior surfaces and other procedures; to modify the requirements for sidewalk bridges in response to concerns raised by regulated community.
- Section 1-110 would be amended to clarify the documentation requirements for controlled demolitions. Purpose: Removes references to outdated process and clarifies current procedure.
- Section 1-112 would be amended to clarify the requirements related to final clean-up. Purpose: To clarify sequence of events and timing of final cleanup.

In addition, there are proposed changes made throughout the Rules to make terminology related to logs and air monitoring companies consistent and uniform.

Sections 1043(a) and 1403(c) of the New York City Charter and sections 24-105 and 24-136 of the Administrative Code authorize the Department to issue this proposed rule.

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

New material is underlined.

[Deleted material is bracketed]

§ 1. Subdivision (e) of Section 1-01 of Chapter 1 of Title 15 of the Rules of the City of New York is amended to read as follows:

(e) No person shall knowingly make a false statement or submit or provide a false document [to the Department as] to any city agency or any individual as to any matter [concerning] related to an asbestos project, asbestos survey, or any document required to be filed under these rules.

§ 2. Section 1-02 of Chapter 1 of Title 15 of the Rules of the City of New York is amended to read as follows:

§ 1-02 Definitions.

Abatement. "Abatement" shall mean any and all procedures physically taken to control fiber release from asbestos-containing materials. This includes removal, encapsulation, enclosure, cleanup and repair.

Abatement activities. "Abatement activities" shall mean all activities from the initiation of work area preparation through successful clearance air monitoring performed at the conclusion of an asbestos project or minor project.

Adequately wet. "Adequately wet" shall mean the complete penetration of a material with amended water to prevent the release of particulates. If visible emissions are observed coming from asbestos-containing material, then the material has not been adequately wetted. However, the absence of visible emissions is not evidence of being adequately wet. ACM must be fully penetrated with the wetting agent in order to be considered adequately wet. If the ACM being abated is resistant to amended water penetration, wetting agent shall be applied to the material prior to and during removal as necessary to minimize fiber release.

Aggressive sampling. "Aggressive sampling" shall mean a method of sampling in which the individual collecting the air sample creates activity by the use of mechanical equipment during the sampling period to stir up settled dust and simulate activity in that area of the building.

AHERA. "AHERA" shall mean the Asbestos Hazard Emergency Response Act of 1986.

AIHA. "AIHA" shall mean the American Industrial Hygiene Association.

Airlock. "Airlock" shall mean a system for permitting entrance and exit while restricting air movement between a contaminated area and an uncontaminated area. It consists of two curtained doorways separated by a distance of at least three feet such that one passes through one doorway into the airlock, allowing the doorway sheeting to overlap and close off the opening before proceeding through the second doorway, thereby preventing flow-through contamination.

Air sampling. "Air sampling" shall mean the process of measuring the fiber content of a known volume of air collected during a specific period of time. The procedure utilized for asbestos follows the NIOSH Standard Analytical Method 7400 or the provisional transmission electron microscopy methods developed by the USEPA and/or National Institute of Science and Technology which are utilized for lower detectability and specific fiber identification.

Airtight. "Airtight" shall mean secured and sealed utilizing 6 mil plastic sheeting and tape to make a barrier through which no air, dust or debris can be transferred.

Ambient air monitoring. "Ambient air monitoring" shall mean measurement or determination of airborne asbestos fiber concentrations outside but in the general vicinity of the worksite.

Amended water. "Amended water" shall mean water to which a surfactant has been added.

Amendment. "Amendment" shall mean [a] the [f] Form ACP-8 submitted to modify the asbestos project notification (Form ACP7) by changing information that was provided when the ACP7 was originally filed.

ANSI. "ANSI" shall mean the American National Standards Institute.

ARTS E-File: "ARTS E-File" shall mean the web-based filing system applicants utilize to submit, process, and close out asbestos project notifications; asbestos project variances; asbestos work permits; project monitor reports; and related documents to the DEP.

Area air sampling. "Area air sampling" shall mean any form of air sampling or monitoring where the sampling device is placed at some stationary location.

Asbestos. "Asbestos" shall mean any hydrated mineral silicate separable into commercially usable fibers, including but not limited to chrysotile (serpentine), amosite (cumingtonite-grunerite), crocidolite (riebeckite), tremolite, anthrophyllite and actinolite.

Asbestos-containing material. "Asbestos-containing material" (ACM) shall mean asbestos or any material containing more than one percent asbestos.

Asbestos-containing waste material. "Asbestos-containing waste material" shall

mean asbestos-containing material or asbestos-contaminated objects requiring disposal.

Asbestos-contaminated objects. "Asbestos-contaminated objects" shall mean any objects which have been contaminated by asbestos or asbestos-containing material.

Asbestos assessment report. "Asbestos assessment report" shall mean the "Form ACP-5" form, as approved by DEP, by which a DEP-certified asbestos investigator certifies that a building or structure (or portion thereof) is free of ACM or the amount of ACM to be abated constitutes a minor project.

Asbestos handler. "Asbestos handler" shall mean an individual certified by the Department who disturbs, removes, encapsulates, repairs, or encloses asbestos material.

Asbestos handler supervisor. "Asbestos handler supervisor" shall mean an individual certified by the Department who supervises the handlers during an asbestos project and ensures that proper asbestos abatement procedures as well as individual safety procedures are being adhered to.

Asbestos Project Air Sampling Technician. "Asbestos Project Air Sampling Technician" shall mean an individual who is certified by the NYS Department of Labor in accordance with 12 NYCRR 56.

Asbestos project notification. "Asbestos project notification" shall mean the "Form ACP-7" asbestos project notification form as approved by DEP.

Asbestos investigator. "Asbestos investigator" shall mean an individual certified by the Commissioner as having satisfactorily demonstrated his or her ability to identify the presence and evaluate the condition of asbestos in a building or structure.

Asbestos project. "Asbestos project" shall mean any form of work performed in a building or structure or in connection with the replacement or repair of equipment, pipes, or electrical equipment not located in a building or structure which will disturb (e.g., remove, enclose, encapsulate) more than 25 linear feet or more than 10 square feet of asbestos-containing material.

ASTM. "ASTM" shall mean the American Society For Testing and Materials.

Authorized visitor. "Authorized visitor" shall mean the building owner and his/her representative, and any representative of a regulatory or other agency having jurisdiction over the project.

[Bound Notebook. "Bound notebook" shall mean a notebook manufactured so that the pages cannot be removed without being torn out. A loose-leaf binder is not a bound notebook.]

Building owner. "Building owner" shall mean the person in whom legal title to the premises is vested unless the premises are held in land trust, in which instance building owner means the person in whom beneficial title is vested.

Building materials. "Building materials" shall mean any and all materials listed as Presumed Asbestos Containing Materials (PACM) and Suspect Miscellaneous ACM in NYSDOL ICR 56, including but not limited to interior and exterior finishes, equipment, plaster, roofing, flooring, caulking, sealants, tiles, insulation, and mortar and refractory bricks used in the construction of boilers.

Certified industrial hygienist. "Certified industrial hygienist" (CIH) shall mean an individual who is currently certified by the American Board of Industrial Hygiene.

Certified safety professional (CSP). "Certified safety professional" (CSP) shall mean an individual having a bachelor's degree from an accredited college or university and a minimum of four years experience as a safety professional and who has successfully completed both levels of the examination administered by the Board of Certified Safety Professionals and who is currently certified by that Board.

Chain of custody. "Chain of custody" shall mean the form or set of forms that document the collection and transfer of a sample, which must reflect the time and date of all transfers of that sample and identify each person that handles that sample by such person's printed full name and signature.

Clean room. "Clean room" shall mean an uncontaminated area or room which is part of the worker decontamination enclosure system with provisions for storage of workers' street clothes and protective equipment.

Clearance air monitoring. "Clearance air monitoring" shall mean the employment of aggressive sampling techniques with a volume of air collected to determine the airborne concentration of residual fibers, and shall be performed as the final abatement activity.

Commissioner. "Commissioner" shall mean the Commissioner of the New York City Department of Environmental Protection.

Confined space. "Confined space" shall mean a space that is large enough and so configured that a person can enter it; has limited or restricted means for entry and exit; and is not designed for continuous occupancy. An example of such space would be an attic, crawlspace, cellar, manhole, trench or vault.

Containerize. "Containerize" shall mean the placing of asbestos-containing material in an acceptable container for disposal, as specified by these rules.

Contractor. "Contractor" shall mean a public authority or any other governmental agency or instrumentality thereof, self-employed person, company, unincorporated association, firm, partnership or corporation and any owner or operator thereof, which engages in an asbestos project or employs persons engaged in an asbestos project.

Curtained doorway. "Curtained doorway" shall mean a device which consists of at least three overlapping sheets of fire retardant plastic over an existing or temporarily framed doorway. One sheet shall be secured at the top and left side, the second sheet at the top and right side, and the third sheet at the top and left side. All sheets shall have weights attached to the bottom to ensure that the sheets hang straight and maintain a seal over the doorway when not in use.

Decontamination enclosure system. "Decontamination enclosure system" shall mean a series of connected rooms, separated from the work area and from each other by air locks, for the decontamination of workers, materials, waste containers, and equipment.

Demolition. "Demolition" shall mean the dismantling or razing of a building, including all operations incidental thereto (except for asbestos abatement activities), for which a demolition permit from the New York City Department of Buildings is required.

Department or DEP. "Department" or "DEP" shall mean the New York City Department of Environmental Protection.

Disturb. "Disturb" shall mean any [action taken which may alter, change, or stir, such as but not limited to the removal, encapsulation, enclosure or repair of asbestos-containing material.] activity that disrupts, impregnates, or strips the matrix of ACM or PACM, or that generates debris, visible emissions, or airborne asbestos fibers from ACM or PACM. This includes but is not limited to the removal, encapsulation, enclosure, renovation, repair, or cleanup of ACM or PACM.

DOB. "DOB" shall mean the New York City Department of Buildings.

ELAP. "ELAP" shall mean the Environmental Laboratory Approval Program administered by the New York State Department of Health.

Electronic Recordkeeping System. "Electronic recordkeeping system" shall mean an electronic system in which records are collected, organized, and categorized to facilitate their preservation and use, by utilizing a format and a reliable media that enables future retrieval of these records.

Encapsulant (sealant) or encapsulating agent. "Encapsulant (sealant) or encapsulating agent" shall mean liquid material which can be applied to asbestos-containing material which temporarily controls the possible release of asbestos fibers from the material or surface either by creating a membrane over the surface (bridging encapsulant) or by penetrating into the material and binding its components together (penetrating encapsulant). A thin coat of lockdown encapsulant shall be applied to all surfaces in the work area which were not the subject of removal or abatement, including the cleaned layer of the surface barriers[, but excepting] and excluding sprinklers, standpipes, and other active elements of the fire suppression system.

Encapsulation. "Encapsulation" shall mean the coating or spraying of asbestos-containing material with an encapsulant. A thin coat of lockdown encapsulant shall be applied to all surfaces in the work area which were not the subject of removal or abatement, including the cleaned layer of the surface barriers[, but excepting] and excluding sprinklers, standpipes, and other active elements of the fire suppression system.

Enclosure. "Enclosure" shall mean the construction of airtight walls and ceilings between the ACM and the facility environment, or around surfaces coated with ACM, or any other appropriate procedure as determined by the Department which prevents the release of asbestos fibers.

EPA. "EPA" or "USEPA" shall mean the United States Environmental Protection Agency.

Equipment room. "Equipment room" shall mean a contaminated area or room which is part of the worker decontamination enclosure system with provisions for the storage of contaminated clothing and equipment.

Exit. "Exit" shall mean that portion of a means of egress system which is separated from other interior spaces of a building or structure by fire-resistance-rated construction to provide a protected path of egress travel between the exit access and the exit discharge.

Exit Passageway. "Exit passageway" shall mean a horizontal extension of a vertical exit, or a passage leading from a yard or court to an open exterior space.

FDNY. "FDNY" shall mean the Fire Department of the City of New York.

Fiber. "Fiber" shall mean an acicular single crystal or a similarity elongated polycrystalline aggregate which displays some resemblance to organic fibers by having such properties as flexibility, high aspect ratio, silky luster, axial lineation, and others, and which has attained its shape primarily through growth rather than cleavage.

Fixed object. "Fixed object" shall mean a unit of equipment, furniture, or other item in the work area which cannot be removed from the work area. Fixed objects shall include equipment, furniture, or other items that are attached, in whole or in part, to a floor, ceiling, wall, or other building structure or system or to another fixed object and cannot be reasonably removed from the work area. Fixed objects shall also include pipes and other equipment inside the work area which are not the subject of the asbestos project. Active fire suppression system components shall not be considered fixed objects.

Glovebag technique. "Glovebag technique" shall mean a method for removing asbestos-containing material from heating, ventilation and air conditioning (HVAC) ducts, short piping runs, valves, joints, elbows, and other nonplanar surfaces. The glovebag assembly is a manufactured device consisting of a large bag (constructed of

at least 6-mil transparent plastic), two inward-projecting long sleeve gloves, one inward-projecting waterwand sleeve, an internal tool pouch, and an attached, labeled receptacle for asbestos waste. The glovebag is constructed and installed in such a manner that it surrounds the object or area to be decontaminated and contains all asbestos fibers released during the removal process.

HEPA filter. "HEPA filter" shall mean a high efficiency particulate air filter capable of trapping and retaining 99.97 percent of particles (asbestos fibers) greater than 0.3 micrometers mass median aerodynamic equivalent diameter.

HEPA vacuum equipment. "HEPA vacuum equipment" shall mean vacuuming equipment with a HEPA filter.

Holding area. "Holding area" shall mean a chamber in the equipment decontamination enclosure located between the washroom and an uncontaminated area.

Homogeneous work area. "Homogeneous work area" shall mean a portion of the work area which contains one type of asbestos-containing material and/or where one type of abatement is used.

Industrial hygiene. "Industrial hygiene" shall mean that science and art devoted to the recognition, evaluation and control of those environmental factors or stresses, arising in or from the work place, which may cause sickness, impaired health and well being, or significant discomfort and inefficiency among workers or among the citizens of the community.

Industrial hygienist. "Industrial hygienist" shall mean an individual having a college or university degree or degrees in engineering, chemistry, physics, or medicine or related biological sciences who, by virtue of special studies and training, has acquired competence in industrial hygiene.

Isolation barrier. "Isolation barrier" shall mean the construction of partitions, the placement of solid materials, and the plasticizing of apertures to seal off the work place from surrounding areas and to contain asbestos fibers in the work area.

Large asbestos project. "Large asbestos project" shall mean an asbestos project involving the disturbance (e.g., removal, enclosure, encapsulation) of 260 linear feet or more of asbestos-containing material or 160 square feet or more of asbestos-containing material.

Log. "Log" shall mean a[n] permanently bound official record, maintained by the abatement contractor[,] and by the air monitoring company, of all activities that occurred during the project. At a minimum, the abatement contractor's log shall identify the building owner, agent, contractor, and workers, and other pertinent information including daily activities, cleanings and waste transfers, names and certificate numbers of asbestos handler supervisors and asbestos handlers; results of inspections of

decontamination systems, barriers, and negative pressure ventilation equipment; summary of corrective actions and repairs; work stoppages with reason for stoppage; manometer readings at least twice per work shift; daily checks of emergency and fire exits and any unusual events.

Means of egress. "Means of egress" shall mean a continuous and unobstructed path of vertical and horizontal egress travel from any occupied portion of a building or structure to a public way. A means of egress consists of three separate and distinct parts: the exit access, the exit and the exit discharge.

Minor project. "Minor project" shall mean a project involving the disturbance (e.g. removal, enclosure, encapsulation, repair) of 25 linear feet or less of asbestos containing material or 10 square feet or less of asbestos containing material.

Movable object. "Movable object" shall mean a unit of equipment or furniture in the work area which can be removed from the work area.

Negative air pressure equipment. "Negative air pressure equipment" shall mean a portable local exhaust system equipped with HEPA filtration. The system shall be capable of creating a negative pressure differential between the outside and inside of the work area.

NFPA. "NFPA" shall mean the National Fire Protection Association.

NIOSH. "NIOSH" shall mean the National Institute for Occupational Safety and Health.

NYSDOL. "NYSDOL" shall mean the New York State Department of Labor.

NYSDOL ICR 56. "NYSDOL ICR 56" shall mean Part 56 of the Official Compilation of Codes, Rules and Regulations of the State of New York or 12 NYCRR Part 56.

NYSDOH. "NYSDOH" shall mean the New York State Department of Health.

Obstruction. "Obstruction" shall mean the blocking of any means of egress with any temporary structure or barrier. A corridor shall not be considered obstructed when there is a clear path measuring at least three (3) feet wide permitting access to all required vertical exits and/or exit doors. Abatement worker egress from the work area through Polyethylene sheeting covering an egress used only by abatement workers, shall not be considered an obstruction when it is prominently marked with exit signage or paint and cutting tools (knife, razor) are attached to the work area side of the sheeting for use in the event that the sheeting must be cut to permit egress.

Occupied Area. "Occupied area" shall mean an area of the worksite where abatement is not taking place and where personnel or occupants normally function or where workers are not required to use personal protective equipment.

OSHA. "OSHA" shall mean the United States Occupational Safety and Health Administration.

OSHA Construction Safety and Health card. "OSHA Construction Safety and Health card" shall mean a card issued by the United States Occupational Safety and Health Administration (OSHA) that certifies the issuee has successfully completed an approved OSHA 10-hour or 30-hour Construction Safety and Health training class.

Outside air. "Outside air" shall mean the air outside the work place.

Permanently bound log. "Permanently bound log" shall mean a log consisting of sequentially numbered sheets of paper, pre-printed or handwritten, that are permanently secured to front and back covers by stitching, glue, and binding that creates a strong and lasting bond and makes readily discernible the removal or insertion of sheets after the log's first use.

Person. "Person" [means] shall mean any individual, partnership, company, corporation, association, firm, organization, governmental agency, administration or department, or any other group of individuals, or any officer or employee thereof.

Personal air monitoring. "Personal air monitoring" shall mean a method used to determine employees' exposure to airborne fibers. The sample is collected outside the respirator in the worker's breathing zone.

Personal protective equipment. "Personal protective equipment" (PPE) shall mean appropriate protective clothing, gloves, eye protection, footwear, head gear.

Phase contrast microscopy. "Phase contrast microscopy" (PCM) shall mean the measurement protocol for the assessment of the fiber content of air. (NIOSH Method 7400).

Physician. "Physician" shall mean an individual licensed or otherwise authorized under Article 131 § 65.22 of the New York State Education Law.

Plasticize. "Plasticize" shall mean to cover floors and walls with fire retardant plastic sheeting as herein specified or by using spray plastics as acceptable to the Department.

Polarized light microscopy. "Polarized light microscopy" (PLM) shall mean the measurement protocol for the assessment of the asbestos content of bulk materials. (Interim Method for the Determination of Asbestiform Materials in Bulk Insulation Samples - 40 CFR Part 763, Subpart F, Appendix A as amended on September 1, 1982)

Pre-demolition Abatement Activities. "Pre-demolition abatement activities" shall mean any and all asbestos abatement activities required to be performed and completed prior to the partial or total structural demolition of a building or structure,

including successful clearance air monitoring.

Presumed Asbestos Containing Material (PACM). "Presumed Asbestos Containing Material" shall mean all Thermal System Insulation and Surfacing Material as described in Section 1-38. PACM is considered to be ACM unless proven otherwise by appropriate bulk sampling and laboratory analyses.

Project designer. "Project designer" shall mean a person who holds a valid Project Designer Certificate issued by the New York State Department of Labor.

Project monitor. "Project monitor" shall mean a person who holds a valid Project Monitor Certificate issued by the New York State Department of Labor.

Project monitor's report. "Project monitor's report" shall mean the "Form ACP-15" that the project monitor is required to submit for partial or complete asbestos project closeout as approved by DEP.

Qualitative fit test. "Qualitative fit test" shall mean the individual test subject's responding (either voluntarily or involuntarily) to a chemical challenge outside the respirator face piece. Acceptable methods include irritant smoke test, odorous vapor test, and taste test.

Quantitative fit test. "Quantitative fit test" shall mean exposing the respirator wearer to a test atmosphere containing an easily detectable, nontoxic aerosol, vapor or gas as the test agent. Instrumentation, which samples the test atmosphere and the air inside the face piece of the respirator, is used to measure quantitatively the leakage into the respirator. There are a number of test atmospheres, test agents, and exercises to perform during the tests.

Registered design professional. "Registered design professional" shall mean a person licensed and registered to practice the professions of architecture or engineering under the Education Law of the State of New York.

Removal. "Removal" shall mean the stripping of any asbestos-containing materials from surfaces or components of a facility or taking out structural components in accordance with 40 CFR 61 Subparts A and M.

Renovation. "Renovation" shall mean an addition or alteration or change or modification of a building or the service equipment thereof, that is not classified as an ordinary repair as defined in §27-125 of the Administrative Code of the City of New York.

Repair. "Repair" shall mean corrective action using specified work practices e.g. glovebag, plastic tent procedures, etc. to minimize the likelihood of fiber release from minimally damaged areas of ACM.

Replacement material. "Replacement material" shall mean any material used to replace ACM that contains less than .01 percent asbestos.

Shift. "Shift" shall mean a worker's, or simultaneous group of workers', complete daily term of work.

Shower room. "Shower room" shall mean a room between the clean room and the equipment room in the worker decontamination enclosure with hot and cold running water controllable at the tap and arranged for complete showering during decontamination.

Small asbestos project. "Small asbestos project" shall mean an asbestos project involving the disturbance (e.g., removal, enclosure, encapsulation) of more than 25 and less than 260 linear feet of asbestos-containing material or more than 10 and less than 160 square feet of asbestos-containing material.

Staging area. "Staging area" shall mean the work area near the waste transfer airlock where containerized asbestos waste has been placed prior to removal from the work area.

Start date. "Start date" shall mean the date when a worker decontamination enclosure system is installed and functional.

Strip. "Strip" shall mean to remove asbestos materials from any part of the facility.

Structural member. "Structural member" shall mean any load-supporting member of a facility, such as beams and load-supporting walls, or any nonload-supporting member, such as ceiling and nonload-supporting walls.

Substrate. "Substrate" shall mean non-asbestos containing material which is beneath and supports asbestos-containing material.

Surface barriers. "Surface barriers" shall mean the plasticizing of walls, floors, and fixed objects within the work area to prevent contamination from subsequent work.

Surfactant. "Surfactant" shall mean a chemical wetting agent added to water to improve penetration.

Suspect Miscellaneous ACM. "Suspect Miscellaneous ACM" shall mean any building material that is not PACM, such as floor tiles, ceiling tiles, mastics/adhesives, sealants, roofing materials, cementitious materials, etc. All Suspect Miscellaneous ACM must be assumed to be ACM, unless proven otherwise by appropriate bulk sampling and laboratory analyses.

Transmission electron microscopy (TEM). "Transmission electron microscopy (TEM)" shall mean the measurement protocol for the assessment of the asbestos fiber

content of air. (Interim Transmission Electron Microscopy Analytical Methods - 40 CFR Part 763, Subpart E, Appendix A)

Variance. "Variance" shall mean relief from specific sections of the rule for a specific project.

Visible emissions. "Visible emissions" shall mean any emissions containing particulate material that are visually detectable without the aid of instruments.

Warning line system. "Warning line system" shall mean a barrier erected on a roof where there are no parapet walls or where parapet walls are less than 42 inches in height, which is intended to warn employees that they are approaching an unprotected roof side or edge, and which designates an area in which roofing work may take place without the use of a guardrail, safety harness, or safety net systems to protect employees in the area.

Washroom. "Washroom" shall mean a room between the work area and the holding area in the equipment decontamination enclosure system where equipment and waste containers are wet cleaned and/or HEPA vacuumed prior to disposal.

Waste decontamination enclosure system. "Waste decontamination enclosure system" shall mean the decontamination enclosure system designated for the controlled transfer of materials and equipment, consisting of a washroom and a holding area.

Wet cleaning. "Wet cleaning" shall mean the removal of asbestos fibers from building surfaces and objects by using cloths, mops, or other cleaning tools which have been dampened with water.

Wet methods. "Wet methods" shall mean the use of amended water or removal encapsulants to minimize the generation of fibers during ACM disturbance.

Work area. "Work area" shall mean designated rooms, spaces, or areas of the building or structure where asbestos abatement activities take place. For glovebag procedures, the work area shall also include the areas contiguous to where the glovebag procedure takes place. For the purpose of the survey of a building for asbestos, the work area is the premises, or those portions of the premises where the renovation or alteration work is to occur, as reflected in the Form ACP 5.

Worker. "Worker" shall mean asbestos handler and/or asbestos handler supervisor.

Worker decontamination enclosure system. "Worker decontamination enclosure system" shall mean that portion of a decontamination enclosure system designed for controlled passage of workers, and other individuals and authorized visitors, consisting of a clean room, a shower room, and an equipment room separated from each other and from the work area by airlocks and curtained doorways.

Work place. "Work place" shall mean the work area and the decontamination enclosure system(s).

Work place safety plan. "Work place safety plan" shall mean documents prepared by a registered design professional and submitted for review by DEP in order to obtain an asbestos abatement permit. Such plan shall include, but not be limited to, plans, sections, and details of the work area clearly showing the extent, sequence, and means and methods by which the work is to be performed.

Work site. "Work site" shall mean premises where asbestos abatement activity is taking place, and may be composed of one or more work areas.

§ 3. Subdivisions (a), (b) and (i) of Section 1-03 of Chapter 1 of Title 15 of the Rules of the City of New York are amended to read as follows:

- (a) Application for any variance must be made directly to the Department through the ARTS E-File System at least two weeks prior to the commencement of work. Work involving a variance may not commence prior to the receipt of the Department's approval of the application. If the Department approves the application [T]the applicant must [pull] generate an approved variance by entering a start date in the [Department's database] ARTS E-File System, and must print out and post a copy of the approved variance at the work place.
- (b) The Department's "Asbestos Variance Application" (ACP-9) form shall be prepared and submitted by a project designer and [submitted] authorized by the building owner or authorized agent, and shall include the following information:
 - (1) Identification of those portions of the rules for which a variance is requested, providing each numbered section and subsection with a description of the deviation;
 - (2) [Explanations as to why the procedures required by the rules cannot be used] A description of the hardship preventing the required procedures from being employed;
 - (3) A written proposal setting forth the alternative procedures the applicant will employ to satisfy each requirement as modified; and
 - [(4) A copy of any asbestos project notification previously filed. If the applicant has not previously filed an asbestos project notification, such notification shall be filed with the application together with the applicable fee specified in §1-25(c).]

[(5)] (4) A [sketch or]drawing illustrating the proposed modification.

(i) If the asbestos abatement contractor was the applicant for a variance, or if the building owner changes the asbestos abatement contractor[s] during the project, the variance application, and any written approval of the variance, are automatically canceled.

§ 4. Subdivisions (a), (b), (d), (e) and (i) of Section 1-26 of Chapter 1 of Title 15 of the Rules of the City of New York are amended to read as follows:

(a) *Permit required.* An asbestos abatement permit authorizing the performance of construction work shall be required for asbestos projects involving one or more of the following activities:

- (1) Obstruction of an exit door leading to an exit stair or the exterior of the building;
- (2) Obstruction of an exterior fire escape or access to that fire escape;
- (3) Obstruction of a fire-rated corridor leading to an exit door;
- (4) Removal of handrails in an exit stair or ramp within the work area;
- (5) Removal or dismantling of any fire alarm system component including any fire alarm-initiating device (e.g., smoke detectors, manual pull station) within the work area;
- (6) Removal or dismantling of any exit sign, including directional signs, or any component of the exit lighting system, including photoluminescent exit path markings within the work area;
- (7) Removal or dismantling of any part of a sprinkler system including piping or sprinkler heads within the work area;
- (8) Removal or dismantling of any part of a standpipe system including fire pumps or valves within the work area;
- (9) Any abatement activity to be performed within a building concurrently with the full demolition of such building or concurrently with the removal of one or more stories of such building.
- (10) Removal of any non-load bearing/non-fire-resistance rated wall (greater than 45 square feet or 50 per cent of a given wall) within the work area;
- (11) Any plumbing work other than the repair or replacement of plumbing fixtures within the work area;
- (12) Removal of any fire-resistance rated portions of a wall, ceiling, floor, door, corridor, partition, or structural element enclosure including spray-on fire-resistance

rated materials within the work area;

(13) Removal of any fire damper, smoke damper, fire stopping material, fire blocking, or draft stopping within fire-resistance rated assemblies or within concealed spaces;

(14) Obstruction of an interior stairway leading to an exit or exit passageway of a building[.];

(15) Any abatement activity to be performed within a work area located in a confined space.

(b) *Work Place Safety Plan.*

(1) *Plan required.* For projects requiring an asbestos abatement permit due to one or more of the activities listed in (a)(1) – [(14)] (15), the building owner or its authorized representative must submit, together with the asbestos project notification, a work place safety plan (WPSP) and any other applicable construction documents, which must be prepared by a registered design professional, and a permit fee as specified in subsection (g). If the WPSP is being submitted, pursuant to subsection (a)(9), it must also set forth the sequencing of the proposed work. The WPSP may not be approved unless it provides for a buffer of four floors or an adequate buffer as determined by the commissioner between the abatement and the demolition or floor removal work.

(2) *Work Place Safety Plan requirements.* The WPSP must include, but not be limited to, the following items, depending on the size and scope of the asbestos project:

(i) Floor plans showing the locations of all asbestos project work areas and decontamination enclosure systems in the building.

(ii) Floor plans indicating the locations of any components of the fire alarm system which have been deactivated, and setting forth mitigation measures to be implemented for the duration of the project.

(iii) Floor plans indicating the locations of obstructed or removed exit signage and lighting and setting forth mitigation measures to be implemented for the duration of the project.

(iv) Floor plans indicating the locations of any obstructed means of egress or required exit and setting forth mitigation measures to be implemented for the duration of the project.

(v) Floor plans or riser diagrams indicating the locations of any disengaged or removed components of the fire protection system and setting forth mitigation measures to be undertaken for the duration of the project.

(vi) A written description of all measures taken to mitigate compromised fire protection systems or means of egress, including but not limited to surveillance by a fire watch and an action plan setting forth procedures to be taken for the safety of building occupants in the event of an emergency.

(vii) If the asbestos project is being performed in a building where any dwelling unit is to be occupied for the duration of the permit, the WPSP shall include a tenant protection plan as required by chapter 1 of Title 28 of the Administrative Code.

(viii) A list of all non asbestos contractors who will perform work on the project.

(3) *Approval.* The documents submitted, pursuant to subsection (b) will be reviewed by DEP's asbestos technical review unit (A-TRU) and by any other relevant city agencies. Upon approval by A-TRU, DEP will issue an asbestos abatement permit to the building owner or its authorized representative, who must [retrieve the approved stamped copy of the WPSP from DEP and] post [that] a copy of the permit at the work place.

(4) Failure to comply with the approved WPSP is a violation of these rules.

(d) *Duration of Permit.* An asbestos abatement permit shall expire upon the earlier of one year from the date of issuance or when terminated pursuant to [either] one of the following:

(1) The holder of an asbestos abatement permit submits a final inspection report pursuant to (c)(2)(i).

(2) The holder of an asbestos abatement permit submits a final inspection report pursuant to (c)(2)(ii) and obtains a Department of Buildings permit for work which, when completed, will render all areas affected by the project fully compliant with the building code and all other applicable rules and laws.

(3) The expiration date of the asbestos project notification ACP-7 form.

(e) *Failure to terminate asbestos abatement permit within year.*

(1) Failure to terminate an asbestos abatement permit pursuant to subsection (d) within a year from the date of issuance of said permit shall be a violation subject to fine[unless the applicant obtains a renewal pursuant to paragraph (2) of this subdivision]. Each 60-day period during which such violation continues to occur constitutes a separate offense that may be subject to a separate fine.

[(2) The holder of an asbestos abatement permit may extend the term of such permit for additional six month periods upon the submission, within 30 days before

the expiration of said permit, of an amendment on a form prescribed by DEP and the payment of a fee in the same amount as the fee paid for the original permit.]

[(3)] (2) If the holder of an asbestos abatement permit fails to terminate an asbestos abatement permit within a year from the date of issuance, the holder shall maintain the work area in a safe manner including but not limited to any mitigation measures set forth in the WPSP and shall not perform work[unless the holder reinstates the permit upon submission of an amendment on the forms prescribed by the Department and the payment of a new fee in the same amount as the fee paid for the original permit. Such reinstatement shall be valid for a period of six months from issuance. If the asbestos abatement permit is not terminated during a six-month reinstatement period, the holder of a reinstated asbestos abatement permit must submit a subsequent amendment and fee to reinstate the permit for another six-month period].

(i) If additional ACM is added to a project that has an approved WPSP, a registered design professional must submit a letter [to the Asbestos Technical Review Unit] through the ARTS-E-file system affirming that the professional has visited the work place and that the additional asbestos abatement is consistent with the approved WPSP and that proposed changes will not impact egress or fire protection requirements.

§ 5. Subdivisions (b) and (c) of Section 1-27 of Chapter 1 of Title 15 of the Rules of the City of New York are amended to read as follows:

(b) When such an emergency asbestos project occurs, [immediate telephone notification shall be provided to DEP's asbestos control program.] an emergency notification must be submitted through the ARTS-E File system. If the applicant does not have a valid ARTS E-File account, immediate t[T]elephone notification shall be made by 311 to DEP's Asbestos Control Program and include:

- (1) Name, affiliation and telephone number of caller;
- (2) Nature of the emergency;
- (3) [Type] Scope of asbestos work to be performed and the quantity and location of ACM to be abated;
- (4) Exact location of the project including street address and borough;
- (5) Name, address, and telephone number of the asbestos abatement contractor and the air monitoring company; [and]
- (6) Starting and projected completion dates[.]; and
- (7) Such other factors as the department may determine are relevant for that project.

(c) When such an emergency asbestos project occurs, [A]an asbestos project notification (ACP-7 Form) shall be submitted [to DEP] through the ARTS E-File system in accordance with the provisions of section 1-25 of these rules as soon as possible, but not later than 48 hours after the project begins. In such cases, the ACP-7 Form shall be accompanied by a cover letter from the building owner or their authorized agent including the following information:

- (1) [that the project is an emergency asbestos project;] the nature of the emergency;
- (2) [the nature of the emergency;] a description of the scope of work. With respect to projects commenced under this section, the department, based on inspection by the department and other relevant agencies, may exempt the emergency project from the requirements of 15 RCNY § 1-26.
- [(3) the DEP emergency control number issued at the time of the telephone notification; and
- (4) a description of the scope of work.

With respect to projects commenced under this section, the department, based on inspection by the department and other relevant agencies, may exempt the emergency project from the requirements of section 1-26. Any such exemption will be confirmed in writing by the department.]

§ 6. Section 1-28 of Chapter 1 of Title 15 of the Rules of the City of New York is amended to add a new subdivision (g) to read as follows:

(g) The investigator must respond to the Department's request for inspection within fourteen (14) business days. Failure of the investigator to either respond to the Department's request for an appointment or provide a date, time, and address for an inspection will result in suspension of the Certified Asbestos Investigator's (CAI) certificate until such appointment is completed and these records are made available for inspection.

§ 7. Subdivisions (a) and (b) of Section 1-29 of Chapter 1 of Title 15 of the Rules of the City of New York are amended to read as follows:

(a) A project record shall be maintained for all small and large asbestos projects. During the project, the project record shall be kept on site at all times and may be maintained by the building owner or his authorized representative, which may be the asbestos abatement contractor or the air monitoring company. Upon completion of the project, the project record shall be maintained by the building owner. The project record shall be produced upon verbal or written request by any DEP inspector. Upon transfer of ownership of the building, all project records for past asbestos projects shall be turned over to the new owner. The project record shall consist of:

- (1) Copies of licenses of all contractors involved in the project.
- (2) Copies of DEP and NYSDOL supervisor and handler certificates for all workers engaged in the project;
- (3) Copies of all project notifications and reports filed with DEP and NYSDOL for the project, with any amendments or variances;
- (4) Copies of all asbestos abatement permits, including associated approved plans and work place safety plan;
- (5) A copy of the project air sampling log, chain of custody forms, and all air sampling results;
- (6) A copy of the abatement contractor's [and air monitor's daily log books] log;
- (7) All data related to bulk sampling including the results of any asbestos surveys performed by an asbestos investigator;
- (8) Copies of all waste manifests[;].
- [(9) A copy of all project monitor's reports.]

(b) In addition to the project record required in subsection (a), the asbestos abatement contractor shall maintain, for at least thirty (30) years after the end of the project, a project summary for each asbestos project in which they engage. These records may be maintained in an electronic recordkeeping system instead of in paper form. That project record must consist of the following:

- (1) Name, address, and DEP certificate number of all individuals who worked on the project;
- (2) Location and general description of the project;
- (3) Amount of ACM abated;
- (4) Start and completion dates;
- (5) Name, address, and NYSDOL asbestos handling license number of the air monitoring company;
- (6) Name, address, and ELAP registration number of the laboratory used for air sample analysis;
- (7) Name and address of the site used for disposal of the ACM waste generated

by the project;

(8) Name and address of the asbestos hauler;

(9) Copy of the [project] abatement contractor's log and the project air sampling log.

§ 8. Subdivision (a) of Section 1-36 of Chapter 1 of Title 15 of the Rules of the City of New York is amended to read as follows:

(a) Sampling and analysis shall be performed by:

(1) a third party who is contracted by the building owner, holds a current NYSDOL asbestos handling license, and is completely independent of all parties involved in the asbestos project. The third party who conducts air sampling on an asbestos project shall not be a subcontractor of the abatement contractor, and shall not have any business, personal, or other relationship with the abatement contractor. The building owner shall select and hire the air monitoring [firm] company without recommendation or reference from the abatement contractor. It shall be a violation of this subsection, chargeable against the abatement contractor, the air monitoring [firm] company, and the building owner, for an air monitoring [firm] company to conduct air monitoring on an asbestos project where there is a business or personal relationship between the abatement contractor and the air monitoring [firm] company. It shall be considered prima facie evidence of a business or personal relationship between an abatement contractor and an air monitoring [firm] company when the same [firm] company performs air monitoring on all or virtually all of a given abatement contractor's projects. The person who conducts sampling shall be currently certified as a New York State Asbestos Project Air Sampling Technician when performing air sampling. Failure to have a valid certification based either on office records or upon request shall be a violation chargeable against the individual conducting the sampling; or

(2) Sampling and analysis staff which may not be independent of the building owner but are independent of the abatement contractor involved in the asbestos project, but only if such staff:

(i) performs in conjunction with a third party quality assurance program in which 10 percent of the samples, except for bulk samples initially found to contain ACM, from each project are randomly selected and will be analyzed by both entities; and

(ii) in the case of air sampling, possesses valid New York State Asbestos Project Air Sampling Technician Certification.

(3) Sampling and analysis staff of a public service corporation with respect to asbestos projects that involve electric, steam or gas generation, distribution or transmission facilities provided that the requirements of subparagraphs (i) and (ii) of

paragraph 2 of this section are complied with.

(4) Only persons certified by the Department as asbestos investigators or by New York State Department of Labor as Asbestos Inspectors may select and collect bulk samples for analysis.

§ 9. Subdivisions (b), (e) and (f) of Section 1-37 of Chapter 1 of Title 15 of the Rules of the City of New York are amended to read as follows:

(b) Area air sampling requirements: Area air sampling equipment for Phase Contrast Microscopy (PCM) shall be utilized in accordance with the [equipment and] sampling procedures specified within the NIOSH 7400 Method modified for area sampling.

(e) Sampling pumps, cassettes, and tubing shall be checked before, during and after use. Cassettes must be labelled with a sample identification number prior to the commencement of air sampling. The sampling assembly shall be checked for leaks and occlusions[.] throughout the shift and documented in the project air sampling log by the Asbestos Project Air Sampling Technician or project monitor.

(f) A project air sampling log must be created and maintained in a permanently bound [note]book by the air monitoring company. The project air sampling log must be available at the work site. A copy of the project air sampling log must be submitted to the department within 72 hours of request. The project air sampling log must contain the following information for all area air samples collected on the asbestos project:

(1) Name of the [firm] company and the [certified]Asbestos Project Air Sampling Technician performing the project air sampling, per work shift or day for all area air samples collected.

(2) Dates of project air sample collection, per work shift or day of area air samples, with appropriate reference to the work area to which the air samples apply.

(3) Sample location sketch, showing the sample ID numbers, identifying all project air sample locations, per work shift or day of area air samples. The sketch must be made within one hour of the beginning of sample collection.

(4) Flow rate primary or secondary calibration device identification number, method of flow rate primary or secondary device calibration and date of last calibration, per work shift or day of area air samples.

(5) Flow rate of sampling pumps with pre and post calibration listed for each area air sample collected.

§ 10. Subdivisions (a) and (c) of Section 1-41 of Chapter 1 of Title 15 of the Rules of the City of New York are amended to read as follows:

(a) At a minimum, air sampling shall be conducted in accordance with the following schedule:

Abatement Activity		Pre-Abatement	During Abatement	Post-Abatement
Equal to or Greater than 10,000 ft. ² or 10,000 linear ft. of ACM per work area		PCM	PCM	TEM
Less than 10,000 ft. ² or 10,000 linear ft. of ACM		PCM	PCM	PCM
Large Asbestos Projects				
1.	Full Containment	10	5	10
2.	Glovebag inside Tent	5 ^a	5 ^a	5 ^a
3.	Exterior Foam and Vertical Surfaces	–	5 ^c	5 ^d
4.	Interior Foam	10	5 ^c	10 ^d
Small Asbestos Projects				
1.	Full Containment	6	3	6
2.	Glovebag inside Tent	3 ^b	3 ^b	3 ^b
3.	Tent	3 ^b	3 ^b	3 ^b
4.	Exterior Foam and Vertical Surfaces	–	3 ^c	3 ^d
5.	Interior Foam	6	3 ^c	6 ^d
Minor Projects				
1.	<i>Glovebag inside Tent</i>	–	[-] <u>1</u>	1 ^d
2.	<i>Tent</i>	–	[-] <u>1</u>	1 ^d
3.	Exterior Foam and Vertical	–	–	1 ^d
4.	Interior Foam	–	[-] <u>1</u>	1 ^d

a if more than three (3) tents then two (2) samples required per enclosure.

b if more than three (3) tents then one (1) sample required per enclosure.

c samples shall be taken within the work area(s).

d area sampling is required only if:

- visible emissions are detected during the project;
- during-abatement area sampling results exceeded 0.01 f/cc [or the pre-abatement area sampling result(s) for interior projects where applicable.]; or
- the work area to be reoccupied is an interior space at a school, healthcare, or daycare facility.

Note: TEM is acceptable wherever PCM is required. TEM is required in schools in accordance with AHERA regulations.

(c) *During abatement.* Frequency and duration of the air sampling during abatement shall be representative of the actual conditions during the abatement. Area sampling

shall be conducted daily and continuously during a work shift. If more than one daily work shift is required to accomplish the work, area sampling shall be performed on each work shift. Area sampling is not required on days when there are no abatement activities. For project air samples collected during the abatement, the period of time permitted between completion of air sample collection and receipt of results on the job site shall not exceed 48 hours. The following minimum schedule of samples shall be required during the work shift.

(1) For large asbestos projects employing full containment, area air sampling shall be performed at the following locations:

(i) Two area samples outside the asbestos project work area in uncontaminated areas of the building, remote from the decontamination facilities.

(A) Primary location selection shall be within 10 feet of isolation barriers.

(B) Where negative ventilation exhaust ducting runs through uncontaminated building areas, one area sample will be required in these areas to monitor any potential fiber release.

(C) Where exhaust tubes have been grouped together in banks of up to five (5) tubes, with each tube exhausting separately and the bank of tubes terminating together at the same controlled area, one area air sample shall be taken.

(ii) One area sample within five feet of the uncontaminated entrance to each worker decontamination and waste decontamination enclosure system, or parallel worker and waste decontamination system, if applicable; and

(iii) One area sample within 5 feet of the unobstructed exhaust from a negative pressure ventilation system exhausting indoors but not within a duct.

(iv) One area sample outside, but within 25 feet of, the building or structure, if the entire building or structure is the work area.

(2) For large asbestos projects involving interior foam method, area air sampling shall be performed at the following sampling locations:

(i) One area sample taken outside the work area within 10 feet of isolation barriers.

(ii) One area sample taken within five feet of the uncontaminated entrance to each worker decontamination and waste decontamination enclosure system, or parallel worker and waste decontamination system, if applicable.

(iii) One area sample within 5 feet of the unobstructed exhaust from a negative pressure ventilation system exhausting indoors but not within a duct, if applicable.

(iv) Three area samples inside the work area, which must be representative of the work area. The air samplers must be placed separate and apart from one another

and must not be grouped together.

(v) One area sample where the negative ventilation exhaust ducting runs through uncontaminated building areas, if applicable.

(3) For large asbestos projects involving exterior foam method or removal of ACM from vertical surfaces, a minimum of five continuous area samples shall be taken concurrently with the abatement for each work area using the following minimum requirements:

(i) Four area samples inside the work area and remote from the decontamination systems, which must be representative of the work area. The air samplers must be placed separate and apart from one another and shall not be grouped together.

(ii) One area sample within five feet of the uncontaminated entrance to each worker and waste decontamination enclosure system, or parallel worker and waste decontamination system, if applicable.

(iii) One area sample outside the work area within 25 feet of the building or structure, if the entire building or structure is the work area.

(iv) One area sample inside the building or structure at the egress point to the work area, if applicable.

(4) For large asbestos projects employing the glovebag procedure within a tent, a minimum of five continuous air samples shall be taken concurrently with the abatement for each work area, unless there are more than three enclosures, in which case two area samples per enclosure are required.

(i) Four area samples taken outside the work area within ten feet of tent enclosure(s).

(ii) One area sample taken within five feet of the uncontaminated entrance to each worker and waste decontamination enclosure system, or parallel worker and waste decontamination system, if applicable.

(iii) One area sample within five feet of the unobstructed exhaust from a negative pressure ventilation system exhausting indoors, but not within a duct, if applicable.

(iv) One area sample where negative ventilation exhaust ducting runs through uncontaminated building areas, if applicable.

(5) For small asbestos projects employing full containment, a minimum of three continuous area samples shall be taken concurrently with the abatement for each work area at the following locations:

(i) Two area samples taken outside the work area within ten feet of the isolation barriers.

(ii) One area sample within five feet of the uncontaminated entrance to each worker or waste decontamination enclosure system, or parallel worker and waste decontamination system, if applicable.

(iii) One area sample within five feet of the unobstructed exhaust from a negative pressure ventilation system exhausting indoors, but not within a duct, if applicable.

(iv) One area sample where negative ventilation exhaust ducting runs through an uncontaminated building area, if applicable.

(6) For small asbestos projects involving the use of foam method on the exterior of a building or the removal of ACM from exterior surfaces, a minimum of three continuous area samples shall be taken concurrently with the abatement for each work area at the following locations:

(i) Two area samples inside the work area and remote from the decontamination systems. Air samples inside the work area must be representative of the work area. The air samplers must be placed separate and apart from one another and shall not be grouped together.

(ii) One area sample within five feet of the uncontaminated entrance to each worker and waste decontamination enclosure system, or parallel worker and waste decontamination system, if applicable.

(iii) One area sample inside the building or structure at the egress point to the work area, if applicable.

(7) For small asbestos projects using the tent procedure (with or without the use of glovebags), a minimum of three area samples shall be taken concurrently with the abatement for each work area unless there are more than two enclosures, in which case one sample per enclosure is required.

(i) Two area samples taken outside of the work area within ten feet of the tent.

(ii) One area sample within five feet of the uncontaminated entrance to each worker and waste decontamination system, or parallel worker and waste decontamination system, if applicable.

(iii) One area sample within five feet of the unobstructed exhaust from a negative pressure ventilation system exhausting indoors, but not within a duct, if applicable.

(iv) One area sample where negative ventilation exhaust ducting runs through

uncontaminated building areas, if applicable.

(8) For small asbestos projects employing interior foam procedures, a minimum of three continuous area samples shall be taken concurrently with the abatement for each work area at the following locations:

(i) One area sample taken inside the work area.

(ii) One area sample taken within five feet of the uncontaminated entrance to each worker and waste decontamination enclosure system, or parallel worker and waste decontamination system, if applicable.

(iii) One area sample taken outside the work area within ten feet of the isolation barriers.

(iv) One area sample where negative ventilation exhaust ducting runs through uncontaminated building areas, if applicable.

(9) For minor projects employing glovebag or tent procedures, one area sample shall be taken outside the glovebag or tent, not more than five feet from the uncontaminated entrance to the glovebag or tent.

§ 11. Subdivisions (a) and (c) of Section 1-43 of Chapter 1 of Title 15 of the Rules of the City of New York are amended to read as follows:

(a) (1) Sampling shall not begin until a visual inspection, conducted by a project monitor who is independent of the abatement contractor and by the asbestos handler supervisor, confirms that all containerized waste has been removed from work and holding areas and there is no visible ACM debris or residue on or about all abated surfaces; and

(2) Sampling shall not begin until at least 1 hour after the area is dry from the third cleaning (see §1-112([e]h)) and no visible pools of water or condensation remain. For pre-demolition asbestos abatement activity, sampling shall begin 2 hours after the area is dry and no visible pools of water or condensation remain.

(c) The [representative] samplers must be placed separate and apart from one another in locations outside the work area but within the building and shall be located to [avoid] capture any air that might escape through the isolation barriers and shall be [approximately] no further than 50 feet from the entrance to the work area, and 25 feet from the isolation barriers.

§ 12. Subdivision (h) of Section 1-61 of Chapter 1 of Title 15 of the Rules of the City of New York is amended to read as follows:

(h) Ladders or scaffolds of sufficient dimension and quantity shall be available so that all work surfaces can be easily and safely reached by inspectors and asbestos handlers. [Scaffold joints and ends shall be sealed with tape to prevent incursion of asbestos fibers.]

(1) Ladders: Where ladders are used to access or reach work surfaces for the conduct of abatement activities, care must be taken to prevent breaching of the containment areas and the ladder's integrity must be maintained to ensure safety. Ladders and their use shall comply with OSHA 29 CFR 1926.Subpart X Ladders 1926.1053.

(2) Scaffolds: Where scaffolds are used to reach work surfaces or for the conduct of abatement activities, scaffold joints and ends shall be sealed with tape to prevent incursion of asbestos fibers. Scaffolds and their use shall comply with OSHA 29 CFR1926. Subpart L Scaffolds 1926.450; 451 and 452.

§ 13. Subdivision (a) of Section 1-92 of Chapter 1 of Title 15 of the Rules of the City of New York is amended to read as follows:

(a) Entrance procedures.

(1) All workers and authorized visitors shall enter the work area through the worker decontamination enclosure system.

(2) All individuals who enter the work area shall sign the abatement contractor's log located in the clean room, upon each entry and exit. The abatement contractor's log shall be permanently bound and shall identify fully the facility, owner, agents, contractor(s), the project, each work area and worker respiratory protection employed. The abatement contractor's log shall be available for examination during abatement activities by the Department, the owner and the workers. A copy of the abatement contractor's log shall be submitted directly to the Department within 72 hours of request.

(3) All individuals before entering the work area[,] shall be familiar with all posted regulations, personal protection requirements and emergency procedures. The abatement contractor's log headings shall indicate, and the signatures shall be used to acknowledge, that the regulations and procedures have been reviewed and understood by all persons prior to entering the work area. The postings and abatement contractor's log headings shall be in English and in the language of the majority of the asbestos handlers.

(4) All individuals shall proceed first to the clean room, remove all street clothing, store these items in clean sealable plastic bags or a locker and don personal protective equipment. Clean personal protective equipment shall be provided by the

abatement contractor and utilized by each individual for each separate entry into the work area.

§ 14. Section 1-92 of Chapter 1 of Title 15 of the Rules of the City of New York is amended by adding a new subdivision (c) as follows:

(c) When abatement activities are located in a confined space the contractor must comply with all the requirements set forth in OSHA 29 CFR 1910.146 and 1926.21(a) and (b). Asbestos handlers working in confined spaces must demonstrate that they hold a valid OSHA Construction Safety and Health card.

§ 15. Subdivisions (e) and (f) of Section 1-94 of Chapter 1 of Title 15 of the Rules of the City of New York are amended to read as follows:

(e) Inspections, observations, and unusual incidents (e.g. barrier damage, contamination beyond the work area, etc.) shall be documented in the abatement contractor's log by the asbestos handler supervisor.

(f) The daily inspection to ensure that exits have been checked against exterior blockage or impediments to exiting as per section 1-81(t) shall be documented in the abatement contractor's log [book].

§ 16. Subdivision (d) of Section 1-102 of Chapter 1 of Title 15 of the Rules of the City of New York is amended to read as follows:

(d) ACM on detachment from the substrate is to be bagged directly or dropped onto a flexible catch basin and promptly bagged. Detached ACM is not permitted to lie on the floor for any period of time. Excess air in the bag must be minimized and the bag must be sealed. Material that resists wetting must not be dropped. ACM must not be dropped from a height greater than 10 feet. Above 10 feet in height dust-free enclosed inclined chutes may only be used inside a work area that is under negative pressure. Vertical chutes are prohibited. The angle of the chute must not exceed 60 degrees from horizontal.

§ 17. Section 1-103 of Chapter 1 of Title 15 of the Rules of the City of New York is amended by adding new language and deleting language before subdivision (a) and by amending subdivision (b) to read as follows:

§ 1-103 Encapsulation Procedures.

All sections of these rules must be followed in conjunction with this section except 15 RCNY §1-102(e), §1-104, §1-105, §1-107 through §1-111, §1-112(c),(d),(e), (g), and (h).

Encapsulation procedures must be conducted with the full containment of the work area (see 15 RCNY § 1-81) or the tent procedure (see 15 RCNY § 1-106) as follows:

[The following procedures shall be followed for the encapsulation of ACM:]

(b) Loose or hanging asbestos-containing materials shall be removed in accordance with the requirements of §1-102["Disturbance, Handling, and Removal."] and §1-111.

§ 18. Section 1-104 of Chapter 1 of Title 15 of the Rules of the City of New York is amended by adding new language and deleting language before subdivision (a) and by amending subdivisions (a) and (e) to read as follows:

§ 1-104 Enclosure Procedures.

All sections of these rules must be followed in conjunction with this section except 15 RCNY §1-102(e), §1-103, §1-105, §1-107 through §1-111, §1-112(c),(d),(e),(g), and (h).

Enclosure procedures must be conducted with the full containment of the work area (see 15 RCNY § 1-81) or the tent procedure (see 15 RCNY § 1-106) as follows:

[The following procedures shall be followed for the enclosure of ACM:]

(a) Loose and hanging asbestos-containing materials that may be disturbed during the installation of hangers or other support/framing materials for the enclosure shall be removed by wet methods in accordance with §1-102 ["Disturbance, Handling, and Removal."] and §1-111.

(e) The following maintenance procedures are required:

(1) A periodic inspection and maintenance program, consisting of an inspection at least annually to check for damage to all enclosed surfaces. Re-enclosure and repairs are to be performed according to [NYC Work Site Procedure regulations.] the requirements of this section.

(2) Maintenance of records by the building owner, on the locations and condition of the enclosed material and on alteration, renovation, modification, or other procedures resulting in disturbance of the enclosed material.

(3) When conditions change and enclosure is no longer an appropriate method of asbestos abatement, additional abatement methods should be conducted.

§ 19. Section 1-105 of Chapter 1 of Title 15 of the Rules of the City of New York is amended by adding new language before subdivision (a) and by amending subdivisions (a) and (b) to read as follows:

§ 1-105 Glovebag Procedures.

Glovebag procedures may only be used in conjunction with the full containment of the work area (see 15 RCNY § 1-81) or the tent procedure (see 15 RCNY § 1-106).

The following procedures shall be followed during the conduct of abatement activities:

(a) Glovebag procedures must be done using commercially available glovebags of 6-mil clear plastic, appropriately sized for the project. [Glovebag procedures may only be used in conjunction with the full containment of the work area (see §1-81) or the tent procedure (see §1-106).] Glovebags may not be shifted and must not be moved from the initial surface to another surface, or reinstalled on the initial surface once removed. Glovebag procedures may only be used on horizontal piping.

(b) The glovebag procedure shall be performed in accordance with the following:

(1) All necessary tools and materials shall be brought into the work area before the glovebag procedure begins.

(2) Air monitoring shall be conducted in accordance with §§1-31 through 1-45.

(3) Glovebag procedures shall be conducted by workers specifically trained in glovebag procedures and equipped with appropriate personal protective equipment.

(4) The insulation diameter worked shall not exceed one half the bag working length above the attached gloves.

(5) The ACM within the secured glovebag shall be wetted with amended water prior to stripping.

(6) The bag shall be attached over duct tape which has been placed securely around the insulation, forming a smooth seal. The bag shall be securely attached to the insulation in a manner to prevent air transfer.

(7) After placement, each glovebag must pass a smoke test. The glovebag shall be placed under negative pressure utilizing a HEPA vacuum, and a smoke tube shall then be aspirated to direct smoke at all seams and seals from outside the glovebag. Any leaks detected by the smoke test shall be duct taped airtight.

(8) If the insulation adjacent to the section which will be worked on is damaged, or if

the insulation terminates or is jointed or contains an elbow adjacent to the work section, the adjacent insulation shall be wrapped in fire retardant 6-mil polyethylene sheeting and sealed airtight with duct tape.

(9) After the insulation has been removed, the surface shall be sprayed with amended water and brush-scrubbed to remove all visible ACM. The surface, the interior of the bag, the insulation and the tools shall then be sprayed with amended water. The enclosed volume shall be misted and time allowed for the mist to settle out before breaking the seal to remove the glovebag.

(10) Any insulation ends created by this procedure shall be:

(i) sealed with encapsulant prior to bag removal, or

(ii) thoroughly wetted before bag removal and sealed with wettable cloth end caps and spray glue or any combination of these materials immediately following bag removal.

(11) The tool pouch shall be separated from the bag prior to disposal by twisting it and the wall to which it is attached several times, and taping the twist to hold it in place, thus sealing the bag and the pouch which are severed at the midpoint of the twist. Alternatively, the tools can be pulled through with one or both glove inserts, thus turning the gloves inside out. The glove(s) is/are then twist sealed forming a new pouch, taped and [several] severed mid-seal forming two separate bags.

(12) A HEPA vacuum shall be used for evacuation of the glovebag in preparation for removal of the bag from the surface for clean-up in the event of a spill, and for post project clean-up.

(13) With the glovebag collapsed and the ACM in the bottom of the bag, the bag shall be twisted several times and taped to seal that section during bag removal.

(14) A 6-mil plastic bag shall be slipped around the glovebag while it is still attached to the surface. The bag shall be detached from the surface by removing the tape or cutting the top with blunt scissors.

(15) The asbestos-containing waste, the clean-up materials, and protective clothing shall be wetted sufficiently, double-bagged minimizing air content, sealed separately, and disposed of in conformance with §§1-93 and 1-102 of this chapter.

(16) A visual clearance inspection must be conducted by the asbestos handler supervisor and project monitor after the work area dries, to ensure the absence of ACM residue or debris in the work area. The clearance inspection must be documented in the abatement contractor's log and the project air sampling log.

§ 20. Subdivision (a) of Section 1-106 of Chapter 1 of Title 15 of the Rules of the City of New York is amended to read as follows:

(a) Tent procedures must be limited to the removal of less than 260 linear feet and 160 square feet of ACM on any individual floor and must not result in disturbance of ACM during tent erection. Tent procedures may be used as part of a large asbestos project only as provided for in section 1-81(f) or in conjunction with the glovebag procedure set forth in section 1-105 of these rules. Multiple tent enclosures may be used as part of a large asbestos project on an individual floor only in conjunction with the use of the glovebag procedure set forth in section 1-105 of these rules. Multiple tent enclosures without the use of the glovebag procedure on a large asbestos project require a variance for the use of modified tent procedures and a remote worker decontamination enclosure. Air monitoring shall be conducted in accordance with 15 RCNY §§ 1-31 through § 1-45.

§ 21. Section 1-106 of Chapter 1 of Title 15 of the Rules of the City of New York is amended by adding a new subdivision (p) to read as follows:

(p) A visual clearance inspection must be conducted by the asbestos handler supervisor and project monitor after the work area dries, to ensure the absence of ACM residue or debris in the work area. The clearance inspection must be documented in the abatement contractor's log and the project air sampling log.

§ 22. Section 1-107 of Chapter 1 of Title 15 of the Rules of the City of New York is amended by adding new language before subdivision (a) and by amending subdivisions (a), (g), (m) and (n) to read as follows:

§ 1-107 Foam Procedure for Roof Removal.

All sections of these rules must be followed in conjunction with this section with the exception of 15 RCNY § 1-81(m), § 1-81(p), § 1-91, § 1-102(b), § 1-112 (c), (d), (e),(g) and (h).

- (a) These procedures apply only to the removal of asbestos-containing roofing material (ACRM) from exterior roof surfaces. The work area on the roof must be cordoned off with clearly visible barriers such as caution tape, and only [authorized] persons authorized by the building owner or the building owner's representative may have access. [All sections of these rules must be followed in conjunction with this section with the exception of §1-81(m), §1-81(p), §1-91, §1-102(b), §1-112(d), and §1-112(g).]
- (1) The contractor must establish and maintain a warning line system on the roof throughout the project.
 - (2) The contractor must comply with the requirements set forth in OSHA 29 CFR 1926.Subpart M, Fall Protection standard, specifically 29 CFR 1926. 500; 501;

and 502.

(3) Only persons authorized by the building owner or the building owner's representative may have access to the roof during abatement activities.

(g) The worker decontamination unit may be attached to each work area at an entry/exit from each work area in accordance with section 1-82, or may be remote, in which case the work area shall be equipped with an airlock at the entrance. For removal of less than 1,000 square feet of ACRM, [I]in addition to the shower head(s), the shower room shall be equipped with a flexible hose for waste decontamination [for removal of less than 1,000 square feet of ACRM]. For 1,000 square feet or more of ACRM removal, a separate waste decontamination facility as per section 1-83 shall be located at an entry/exit from each work area. Remote holding areas for the asbestos containing waste shall comply with Title 16, Chapter 8, Rules of the City of New York (16 RCNY 8 et seq.).

(m) Clean-up procedures shall include the removal and direct bagging of ACRM, so that loose ACRM does not accumulate on the roof. Exterior or interior chutes are prohibited to transport ACRM from the roof to lower floors. Clean-up procedures shall also include the removal of all visible accumulations of asbestos containing waste[,] and the removal of all excess foam or similar viscous liquids. Following the removal of all debris, the work area shall be thoroughly wet cleaned.

(n) The work area shall be allowed to dry completely before the visual inspection is conducted. The project monitor and asbestos handler supervisor shall confirm the absence in the work area of ACM, asbestos-containing waste or debris, and foam or other viscous liquid. This visual inspection must be documented in the abatement contractor's log and project air sampling log.

§ 23. Section 1-108 of Chapter 1 of Title 15 of the Rules of the City of New York is amended by adding new language before subdivision (a) and by amending subdivisions (a) and (i) to read as follows:

§ 1-108 Foam/Viscous Liquid Use in Flooring Removal.

All sections of these rules must be followed in conjunction with this section with the exception of 15 RCNY § 1-81(m), § 1-81(p), § 1-91(c), § 1-102(b), § 1-112(d), and § 1-112(g).

(a) These procedures only apply to the removal of surface flooring material including vinyl asbestos floor tiles (VAT), ACM floor coverings (e.g., linoleum) and associated mastics and adhesives, where the only ACM being abated in the work area is flooring material. [All sections of these rules must be followed in conjunction with this section

with the exception of §1-81(m), §1-81(p), §1-91(c), §1-91(h), §1-102(b), §1-112(d), and §1-112(g).]

(i) The work area shall be allowed to dry completely before the visual inspection is conducted. The project monitor and asbestos handler supervisor shall confirm the absence in the work area of ACM, asbestos-containing waste or debris, and foam or other viscous liquid. This visual inspection must be documented in the abatement contractor's log and project air sampling log.

§ 24. Section 1-109 of Chapter 1 of Title 15 of the Rules of the City of New York is amended by adding new language and deleting language before subdivision (a) and by amending subdivisions (a) and (e) to read as follows:

§ 1-109 Abatement from Vertical Exterior Surfaces.

All applicable sections of these rules shall be followed in conjunction with this section except 15 RCNY §1-81(m), § 1-81(p), § 1-91, and § 1-112(c), (d), (e), (g), and (h).

This section shall apply to projects involving the abatement of asbestos-containing materials from the vertical exterior surfaces (and associated horizontal surfaces, e.g. coping stones on top of a parapet wall) of a building or structure, including but not limited to the following materials:

- Caulking or glazing compounds
- Asphaltic mastic or tar (e.g., flashing on parapet walls)
- Cement siding or shingles (including Transite)
- Paints
- Sealants for coping stone caps or clay roofing tiles

[All applicable sections of these rules shall be followed in conjunction with this section except sections 1-81(p), 1-91, and 1-112(d, e, g, and h).]

(a) The work area shall be prepared as follows:

(1) The entire surface to be abated and ground-level perimeter shall be considered the work area unless partitions and warning tape are used to define the work area, except that if the horizontal surface below the surface to be abated is not the ground (e.g., surface to be abated is inside parapet wall on roof), the horizontal surface underneath the abatement shall be considered the work area, not the ground.

(2) A restricted area shall be established using warning tape extending at least 25 feet from the affected areas of the building or to the nearest vertical obstruction or the curb.

(3) The restricted area may be entered only by certified workers or authorized visitors.

(4) Before plasticizing, the restricted area shall be inspected for ACM debris and, if necessary, pre-cleaned using HEPA vacuums and wet methods.

(5) All openings to the building or structure's interior which are within 25 feet of the affected ACM shall be closed and made airtight.

(6) Scaffolding erected to access the ACM shall be constructed, maintained, and used in accordance with applicable federal, state, and city laws. The contractor must comply with the requirements set forth in OSHA 29 CFR 1926.Subpart M, Fall Protection and Subpart L (Scaffolds) and the NYC Building code.

(7) Elevated platforms being used to access the affected ACM shall be plasticized with two layers of fire-retardant 6-mil plastic, which shall extend up from the platform to at least the height of the mid-rail on three sides, and shall be attached directly to the building just below the surfaces under abatement.

(8) The ground-level restricted area shall be cleared of all moveable objects and plasticized with two sheets of fire-retardant 6-mil plastic, which shall be extended one foot up the side of the building. The plasticized area shall be twenty-five feet wide or to the curb. This plastic shall be cleaned, replaced, and disposed of as asbestos waste at the end of each shift.

(9) Sidewalk bridges in the restricted area shall be covered with two layers of fire-retardant 6-mil plastic, placed over and secured to the bridge, spread across the full width[, draped over the side to ground level, and extended to a width of at least thirty feet] of the bridge and up the interior walls of the bridge so the walls are fully plasticized.

(e) *Cleanup Procedure.*

(1) The stripped substrate must be HEPA vacuumed and wet-wiped.

(2) A visual clearance inspection must be conducted by the asbestos handler supervisor and project monitor after the work area dries, to ensure the absence of ACM residue or debris in the work area.

(3) After the inspection is completed, the warning tapes and barriers may be removed.

(4) The clearance inspection must be documented in the abatement contractor's log and the project air sampling log.

§ 25. Subdivision (b) of Section 1-110 of Chapter 1 of Title 15 of the Rules of the City of

New York is amended to read as follows:

(b) A [copy of the] condemnation order or declaration issued by the Department of Buildings (DOB) or a signed and sealed condemnation letter [shall be provided to DEP.] from the Owner's registered design professional which has been acknowledged by the Department of Buildings (DOB) must be submitted to the DEP through the ARTS E-File system. A site-specific scope of work identifying the steps to control asbestos emissions during the controlled demolition must be submitted and approved by DEP prior to the commencement of work.

§ 26. Subdivisions (c), (h), and (l) of Section 1-112 of Chapter 1 of Title 15 of the Rules of the City of New York are amended to read as follows:

(c) A thin coat of lockdown encapsulant shall be applied to all surfaces in the work area which were not the subject of removal or abatement, including the cleaned layer of the surface barriers[, but excepting] and excluding sprinklers, standpipes, and other active elements of the fire suppression system.

(h) [The remaining plastic barriers shall be removed from the walls and floors.] After the plastic barriers on the walls and floors have been removed, a third cleaning shall be performed of all surfaces in the work area by wet cleaning and/or HEPA vacuuming. A minimum of a one hour waiting period shall be conducted to allow the work area to dry prior to the visual inspection by the air monitor and asbestos supervisor.

(l) After successful clearance air monitoring (see §1-31 et seq.), the isolation barriers shall be removed [in conjunction with the use of a HEPA vacuum.] and the remaining worker and waste decontamination enclosure(s) must be dismantled and removed from the work site. All plastic sheeting must be cleaned using a HEPA vacuum and disposed of as asbestos contaminated waste.

NEW YORK CITY LAW DEPARTMENT

DIVISION OF LEGAL COUNSEL

100 CHURCH STREET

NEW YORK, NY 10007

212-356-4028

CERTIFICATION PURSUANT TO

CHARTER §1043(d)

RULE TITLE: Amendment of Asbestos Control Program Rules

REFERENCE NUMBER: 2021 RG 039

RULEMAKING AGENCY: Department of Environmental Protection

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN

Date: November 12, 2021

Acting Corporation Counsel

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Amendment of Asbestos Control Program Rules

REFERENCE NUMBER: DEP-77

RULEMAKING AGENCY: Department of Environmental Protection

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Francisco X. Navarro
Mayor's Office of Operations

November 12, 2021
Date