



## NYC DEPARTMENT OF ENVIRONMENTAL PROTECTION

### Asbestos Control Program

59-17 Junction Boulevard, 8<sup>th</sup> Floor, Corona, NY 11368-5107

### Instruction Sheet for Filing a Variance Application

A person in direct technical responsibility for and/or direct technical control over the subject abatement project must sign at item V (Applicant Name and Signature) of the Variance Application Form (ACP9).

Applications may be sent in by U.S. Postal Service, express mail services (e.g., FedEx, UPS, etc.), or messenger. However, the applicant is strongly advised to file the application in person to avoid rejection for minor correctable error(s).

An initial review will be conducted prior to the Department's acceptance of the application to ensure completeness, clarity, and accuracy. The reason(s) for a rejection will be provided in writing at the time of this initial review on Form VR (Rejection Sheet).

Enter the information as specified:

- Item I. Premise Address, Borough of New York City, and Zip Code
- Item II. Applicant's Name, Telephone Number, Address (Building Number and Street Name), State, Zip Code  
Check the capacity of the applicant on this project.  
Specify a contact person who can provide specific information regarding the project.
- Item III. Specify the numbered/lettered subsection(s) of Title 15, Chapter 1, of the Rules of the City of New York or Part 56 of Title 12 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Industrial Code Rule 56), from which relief is requested. Specify floor(s) and/or areas where work involving this variance application is to occur.
- Item IV. Calculate the applicable fee based on the variance request and amount of ACM to be abated in accordance with the variance provisions. The total amount of ACM is calculated for you when you enter the square and linear footage.
- Item V: Applicant and Owner Name and Signatures, Date. Original signatures are required.

In addition to the completed ACP9 Form, the application package must include:

- a narrative description of the provisions from which relief is requested (e.g., Section 1-81(m) - No plastic on the walls and floor.)
- a detailed statement of why the procedure(s) or condition(s) required by the subsections listed in Item III cannot be used.
- a proposal stating the alternative procedures to be used.

*The applicant must sign relevant DEP/ALCP or NYS DOL alternative procedures (attachments or applicable variances) that are proposed.*

*A proposal for dry removal of asbestos requires a prior written approval from:*

*USEPA, Region II  
Division of Enforcement and Compliance Assistance  
290 Broadway  
New York, New York 10007-1866  
(212) 637-3000*

- sketches or architectural drawings that are color-coded and labeled showing the locations of the decontamination enclosure systems, the type and amount of all ACM to be abated, and the compass heading for due north. Plan views are required, and elevations may be included to illustrate ACM to be stripped from vertical surfaces.
- a listing of the amounts of ACM to be abated identified by project phase and/or method of abatement.
- a copy of the ACP7 form filed for the affected ACM at the subject premises with either the NYC Department of Buildings (DOB) or this Department. For ACP7s filed with DOB, a receipt of fee payment is necessary. Additional copies of the ACP7 are not necessary if the ACP9 and ACP7 are filed together.
- a separate check for the exact amount of the variance fee as indicated in item IV of the ACP9 Form.

- An application for a waiver from the seven (7) day advance notification requirements (i.e., Section 1-25(c)) must include a completed Form "G" notification indicating the proposed start date, and a separate letter from the Building Owner(s) or authorized agent providing verifiable health- and/or safety-related justification for the waiver.

*Applications are accepted during the hours of 9:00 a.m. through 3:00 p.m., and should be submitted at least two weeks prior to the proposed start of work. Applications must be filed in duplicate. If a "date stamped" copy of the filing is required for the applicant's records, a third copy of the application must be submitted.*

*Failure to include any of the above items is cause for initial review rejection. DEP/ALCP staff cannot provide consultation services to facilitate the selection of an abatement strategy.*

### **Pre-abatement Inspections**

During the initial review, the applicant may be assigned to a specific date, time, and meeting location to facilitate a pre-abatement inspection of the work area(s). The applicant will be requested to designate a competent person familiar with the project who will accompany the DEP representative on an inspection of the work site and answer questions. An appointment may be rescheduled once.

All scheduled appointments may be confirmed on the day before the scheduled appointment by contacting the Department at (718) 595-3715. Requests for alternative appointments will be considered on a case-by-case basis.

*DENIAL or CANCELLATION of a variance application (or any part of it) may result during the post-filing applicability review and/or after the pre-abatement inspection(s).*

*Work involving a variance may not commence prior to the receipt of the Department's written approval of the application. Any violation of the terms of any variance issued pursuant to Title 15, Chapter 1 of the RCNY Section 1-03 is considered a violation of the lettered subdivision modified by the variance. Every applicant is advised the Department may not approve any or all of a variance application based on violation of relevant asbestos control program rules within the past six(6) months.*

**NOTE: Only typewritten forms will be accepted. To facilitate this, you can fill out the form fields directly in Acrobat and print out the result.**