

Asbestos Technical Review Unit (A-TRU) Frequently Asked Questions

1. What is the impact of A-TRU on Department of Environmental Protection (DEP) asbestos abatement jobs in progress?

Asbestos abatement jobs that are filed before Phase 1 begins on October 13, 2009, are not affected.

2. What happens at DEP during Phase 1? What happens during Phase 2?

Beginning October 13, 2009, jobs that will disturb 1,000 or more square or linear feet of asbestos containing material (ACM) on any floor must be filed in the new on-line Asbestos Reporting and Tracking System (ARTS). If ARTS determines that the project triggers an Asbestos Work Permit, the job must go through A-TRU review.

Jobs that will disturb less than 1,000 square or linear feet of ACM on any given floor may be filed with DEP using either the current ACP7 or the new on-line ARTS application, though these jobs will not be subject to review and permitting. The current ACP7 may only be used at DEP until November 13, 2009, after which all asbestos projects must be filed using ARTS. Once Phase 2 begins on January 13, 2010, all asbestos abatement projects (regardless of size) will be subject to review and permitting if the job triggers the thresholds.

3. What is the impact of A-TRU on Department of Buildings (DOB) construction and alteration jobs in progress?

If an ACP7 has been submitted to DOB prior to October 13, 2009, DOB jobs will not be affected.

4. What happens at DOB during Phase 1? What happens during Phase 2?

Beginning October 13, 2009, ACP7s cannot be submitted at DOB for jobs with 1,000 or more square or linear feet of ACM on any floor. These ACP7s must be filed directly with DEP using ARTS. Only the new ACP7 prepared online using ARTS can be submitted to DOB for jobs with less than 1,000 square or linear feet of ACM on any floor.

Beginning January 13, 2010, DOB will no longer accept ACP7s, regardless of job size, and must be filed with DEP using ARTS.

5. Do I need an A-TRU permit for all asbestos abatement projects?

An A-TRU permit will be required when an applicant indicates that the asbestos abatement job will impact the building's fire protection systems, affect the means of egress in the building, or involve work that would otherwise require a work permit from DOB.

All applicants will be required to answer questions about the proposed project details and may be required to obtain a permit. If no safety thresholds are triggered, the abatement job may proceed upon satisfactory submission of an ACP7 notification and fee. The list of activities that trigger the A-TRU permit requirement is set forth in Section 1-26(a) of the new DEP rules.

6. Do I need an ACP7 application for every floor undergoing abatement?

No. For an asbestos project covering multiple floors in a single building, applicants can – and should – continue to use a single ACP7 which allows one to report work on each floor of the building in which asbestos abatement is taking place.

7. Who must sign the ACP7?

ACP7s must be signed by the owner, air monitor, asbestos contractor, and the party serving as the applicant. Any responsible agent of the owner, such as an asbestos contractor, an air monitor, or a general contractor may serve as the applicant. Note that the owner of a building where asbestos abatement activity occurs is responsible for the performance of activities by his/her agent, contractor, employee, or other representative.

8. Who prepares the Work Place Safety Plan for submission to A-TRU?

The elements of the Work Place Safety Plan that illustrate the location of construction work must be prepared by a registered design professional, such as a registered architect (RA) or professional engineer (PE). The elements of the Plan illustrating the asbestos abatement containment area may be submitted by a licensed project designer, PE, or RA.

9. Why do I need a PE or RA to prepare the Work Place Safety Plan?

A registered PE or RA is needed because the scope of abatement work impacts building safety, such as sprinkler systems, fire alarms systems, fire-rated walls, and means of egress, and the PE or RA will be able to evaluate the conditions of the abatement work and produce documentation describing mitigation measures that comply with the law. Furthermore, work conducted to restore a site to pre-abatement conditions may require construction documents produced by a PE or

RA that describe how the site will be restored to comply with all applicable codes and rules.

10. Can ACP7s be submitted to DEP by mail?

Yes. The ACP7 may be mailed if:

- An A-TRU permit or variance is not required;
- The ACP7 is filled out using ARTS, printed and signed by all required parties;
- Filing fee is included; and
- DEP receives the ACP7 at least seven days before start date.

Applicants who mail in the ACP7 will receive notification from DEP via email (or mail if requested) that the ACP7 is accepted and is available through the applicant's ARTS account. In such cases, however, asbestos abatement work may not begin until the applicant has received such notification.

Note that the same process may be used for an ACP8.

11. What is the time frame for A-TRU review?

The review period for approval of an Asbestos Work Permit should take approximately two to three weeks, though the review will take longer if required documents have not been properly prepared or submitted. A-TRU plan examiners will work with applicants, communicating through ARTS, to help them properly prepare their submissions.

12. When is A-TRU permitted work considered complete?

In general, abatement activity is considered complete once asbestos has been removed and successful clearance air monitoring has been obtained for the area where the abatement occurred, as confirmed by a Project Monitor upon filing his or her Project Monitor's Report at DEP. The Project Monitor is a certified professional and must review the results of the air monitoring and file the report within three weeks of the successful clearance air monitoring. DEP will issue an Asbestos Project Completion Form after review of a satisfactory Project Monitor's Report.

Additionally, for abatement projects that require an Asbestos Work Permit, DEP will also require confirmation that all of the building work that was authorized by the A-TRU Permit has been conducted properly. This confirmation must be provided on an A-TR1 Form filled out and signed by a RA or PE. Once the A-TR1 and Project Monitor's Report have been satisfactorily submitted, DEP will issue an Asbestos Project Completion Form and the project will be considered complete.

In cases where a permit has been issued but the building will not be restored to a state of Building Code compliance due to pending work filed with DOB, the licensed design professional will confirm in the A-TR1 that the scope of the abatement project has not been exceeded and that the construction job has not yet begun. In such cases, DEP will issue an Asbestos Project Conditional Close-out Form. This form can also be used to pull a permit from DOB, but the Asbestos Work Permit must remain posted until the DOB permit has been pulled.

13. Can I close out separate work areas within the same building?

Yes. Work areas may be closed out separately if they are located on different stories of the building.

14. Can I close out separate work areas of an abatement job within the same floor?

Yes, if applicant obtains required prior approval from A-TRU.

15. Can I still use encapsulation as a method for abating ACM?

Yes, the DEP rules will continue to allow for encapsulation pursuant to procedures in the revised Section 1-103 of the DEP rules. Encapsulation is one of the regulated methods of abatement. Note that all relevant asbestos abatement regulations apply.

16. Will a minor asbestos abatement project (i.e., disturbing less than 25 linear feet or 10 square feet of ACM, and governed by the ACP5 form) delay the issuance of a DOB permit?

No. The current process will not change. An ACP5 may be filed directly with DOB and will not delay the issuance of a DOB permit.

17. What are the changes to the ASB4 form?

The number of projects for which an ASB4 may be used has been reduced.

Beginning on January 13, 2010, the only construction projects for which an ASB4 form may be submitted are:

- Non-demolition work in buildings constructed after April 1, 1987;
- Projects that do not include physical work (e.g. Certificate of Occupancy applications which entail no construction work); and
- Projects where no existing building construction materials will be disturbed by proposed work.

18. Who signs the ASB4?

The current process will not change. The ASB4 may be signed by a PE, RA, licensed plumber, or oil burner installer. In certain instances, the Borough Commissioner may approve the form in the absence of one of the aforementioned professionals certifying it.

19. Will the PW1 change?

There are no substantive changes to the PW1; however, when filling out Section 22 of the PW1 (“Asbestos Abatement Compliance”), you may no longer submit an ACP7 as proof if you check off the first option (“scope of work requires related asbestos abatement as defined in the regulations of the NYC Department of Environmental Protection”). Rather, you must submit an Asbestos Project Completion Form or Asbestos Project Conditional Close-Out Form.

20. What happens if I discover new ACM during the course of construction under an active DOB permit?

As is currently required by law, you must stop your work, perform an assessment as defined in DEP’s rules, and notify DEP if the quantity of ACM is greater than a “minor” project. Once the ACM have been abated, the construction work may resume.