STATE OF NEW YORK
DEPARTMENT OF LABOR
STATE OFFICE BUILDING CAMPUS
ALBANY, NEW YORK 12240-0100

In the Matter of	COMMISSIONER'S DECISION
Part 56 of Title 12 of the Official Compilation Of Codes, Rules and Regulations Of The State of New York	APPLICABLE VARIANCE-A-1 (AV-A-1)
(Cited as 12 NYCRR 56) (As Amended January 11, 2006)	Controlled Demolition of Municipally-Owned Vacant Residential Buildings/Structures Up to 3-Stories in Height
Cases: ICR 56-11.5(b), and ICR 56-11.5(c)	DATED: August 18, 2006

Pursuant to Section 30 of the Labor Law, the Commissioner of Labor has reviewed the above cited provisions of Industrial Code Rule 56, as they relate to the controlled demolition of municipally owned vacant residential buildings/structures up to three stories in height, containing four or less dwelling units.

The Commissioner of Labor has also reviewed numerous petitions for variance or other relief relative to such asbestos projects and the decisions rendered relative to these petitions.

The Commissioner of Labor finds that the issuance of an Applicable Variance from the above cited provisions of Industrial Code Rule 56, as such pertain to the controlled demolition of municipally owned residential buildings/structures of up to three stories in height (containing four or less dwelling units), would not violate the spirit and purpose of said rules and would secure the public safety as contemplated by said rules.

APPLICABLE VARIANCE

A variance from the cited provisions of Industrial Code Rule 56 is hereby GRANTED subject to the following conditions:

THE CONDITIONS

Building/Structure Survey/Inspection Requirements

1. All requirements of Section 56-5 shall be followed for the identification of ACM within buildings/structures that are not condemned due to being structurally unsound.

2. For buildings/structures that are condemned due to being structurally unsound, all provisions of section 56-11.5 shall be followed for the controlled demolition asbestos project.

Removal of all Friable ACM, Transite/Cement Board & Other Non-friable ACM Prior to Controlled Demolition

3. All friable ACM, non-friable transite/cement board, and other non-friable ACM that will likely become crumbled, pulverized, or reduced to powder during controlled demolition at the subject premises shall be removed in accordance with ICR 56 and this variance decision, including obtaining satisfactory clearance air results for all regulated abatement work areas (as necessary), prior to the commencement of this controlled demolition asbestos project.

Secure the Work Site & Establishment of Regulated Areas

4. The entire controlled demolition area at the work site shall be considered the regulated abatement work area and shall be enclosed within a barrier or fence that defines the regulated area. The active demolition areas, cleanup areas, decontamination system enclosures/areas, staging areas and waste dumpster/trailer areas shall be cordoned off at a distance of twenty-five feet (25'), except where physical restrictions limit the barrier distance (e.g. property boundary, roadway or other right-of-way, neighboring building/structure, etc.), and the regulated abatement work area shall remain vacated except for certified workers until satisfactory clearance air monitoring results have been achieved or the abatement project is complete. The intent of this barrier/fence is to define the regulated area at the work site, alert the public to the asbestos work and associated hazards, and to prevent unauthorized entry onto the work site. Four foot high orange construction fence or snow fence is acceptable for the barrier.

5. For areas where compliance with the twenty-five foot barrier/fence requirement isn't possible, the areas shall be cordoned off to the maximum distance possible, and a daily abatement air sample shall be included within ten feet of the reduced barrier.

6. Signage in accordance with the requirements of ICR 56-7.4(c) shall be posted on the exterior of the work site boundary fence/barrier, to warn the public of the asbestos hazard.

Controlled Demolition Removals

7. The provisions of 56-11.5 shall be followed for all non-friable controlled demolition removals, except as modified by this variance.

8. Decontamination system enclosures and areas shall be constructed and utilized as per the requirements of 56-7.5(d) and 56-11.5.

9. For outdoor regulated abatement work areas, all adjacent building openings within twenty-five (25) feet of the outermost limit of the disturbance shall be sealed with two (2) layers of six (6) mil fire retardant plastic sheeting. If the owner of an adjacent building does not allow openings to be sealed as required, the asbestos abatement contractor's supervisor must document the issue within the daily project log, and have the affected building owner sign the log confirming that the owner will not allow the asbestos abatement contractor to seal the openings in the building as required. In addition, a daily abatement air sample shall be included outdoor within ten feet of the affected portion of the adjacent building.

10. Uncertified personnel shall not be allowed to access any regulated abatement work area, with the exception of waste hauler truck drivers. These truck drivers will be restricted to their enclosed cab, while temporarily in the regulated work area for waste transfer activities only. All equipment operators utilized for demolition or removal activities within the regulated work area must be certified in compliance with ICR 56-3.2.

11. No dry disturbance or removal of asbestos material shall be permitted.

12. Wastewater shall be confined within the controlled demolition area. Water may be allowed to accumulate in basements during demolition activities. Basement floors shall be wet prior to breakup, and basement walls shall be caved in and covered with two (2) feet of soil.

13. All demolition debris, structural members, barrier components, used filters and similar items shall be considered to be asbestos containing materials/asbestos contaminated waste and shall be transported and disposed of by appropriate legal method. Structural members, steel components and similar non-ACM components shall be fully decontaminated as per ICR 56, prior to being treated as salvage.

14. In addition to the requirement of Subpart 56-4.9(c), air monitoring within the work areas shall be conducted daily. If more than one shift daily is required to accomplish the work, air monitoring within the work area during abatement shall be performed on each shift, preferably at mid-shift timing.

15. Daily abatement air monitoring is required only on days when abatement or support activities such as ACM disturbance or cleaning activities are performed.

16. The contractor shall observe, at a minimum, the following waiting (settling/drying) periods: Demolition - 2 hrs.

17. After removal and cleanings are complete and a minimum drying period has elapsed, an authorized and qualified Project Monitor shall determine if the work area is dry and free of visible asbestos debris/residue. If the area is determined to be acceptable, the Project Monitor may authorize commencement of clearance air sampling.

18. Upon receipt of satisfactory clearance air sample results for the entire controlled demolition area, the final dismantling of the site may begin.

19. A copy of this Applicable Variance shall be conspicuously posted at the entrance to the personal decontamination unit(s) and to the work area(s).

20. All other applicable provisions of Industrial Code Rule 56-1 through 56-12 shall be complied with.

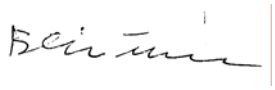
21. This DECISION supercedes Applicable Variance 107, dated June 3, 1997.

This APPLICABLE VARIANCE shall apply and shall be applied by all enforcement officials to all persons and in all places to which the aforecited provisions of Industrial Code Rule 56 apply to the controlled demolition of municipally-owned vacant residential buildings/structures with the same force and effect as if this APPLICABLE VARIANCE were duly granted upon separate petition for the use and benefit of every person affected by the cited provisions of Industrial Code Rule 56.

Date: August 18, 2006

LINDA ANGELLO
COMMISSIONER OF LABOR

By



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In the Matter of	COMMISSIONER'S DECISION
Part 56 of Title 12 of the Official Compilation Of Codes, Rules and Regulations Of The State of New York	APPLICABLE VARIANCE-A-2 (AV-A-2)
(Cited as 12 NYCRR 56) (As Amended January 11, 2006)	Negative Air Ventilation Exhaust Greater than 25 Foot in Length
Cases: ICR 56-7.8(a)(5), and 56-7.8(a)(10)	DATED: August 18, 2006

Pursuant to Section 30 of the Labor Law, the Commissioner of Labor has reviewed the above cited provisions of Industrial Code Rule 56, as they relate to the use of negative air ventilation exhaust(s) greater than 25 foot in length.

The Commissioner of Labor has also reviewed numerous petitions for variance or other relief relative to such asbestos projects and the decisions rendered relative to these petitions.

The Commissioner of Labor finds that the issuance of an Applicable Variance from the above cited provisions of Industrial Code Rule 56, as such pertain to the use of negative air ventilation exhaust(s) greater than 25 foot in length, would not violate the spirit and purpose of said rules and would secure the public safety as contemplated by said rules.

APPLICABLE VARIANCE

A variance from the cited provisions of Industrial Code Rule 56 is hereby GRANTED subject to the following conditions:

THE CONDITIONS

1. All provisions within section 56-7.8(a) shall be followed, except for negative air ventilation system exhaust duct length requirements.

    a. Negative air ventilation system exhaust duct size shall be increased to 14 inches in diameter for lengths up to 50 feet. If additional length is needed, the duct shall be increased to 16 inches for up to 100 feet of length. Lengths longer than 100 feet need an engineering analysis performed by a licensed NY Professional Engineer to verify that the additional duct will not reduce the machine's airflow below the acceptable value.

    b. The flexible duct shall be routed in such a manner as to ensure the duct is fully extended.

    c. Bends in the flexible duct shall be kept to a minimum. Where 90-degree turns are necessary to fit site conditions, use hard (metal), smooth bore rigid elbows.

    d. Changes in duct diameter shall be accomplished using a rigid, smooth bore enlarger. Enlarger shall be manufactured with a gradual taper.

    e. Contractor shall not introduce any restrictions in the duct that will reduce the diameter.

    f. Rigid duct fittings shall be thoroughly decontaminated as per section 56-9.3(b).

OR

2. Booster Exhaust Fan Units. If exhaust ducting in excess of 25 feet in length is attached to any ventilation unit, an unfiltered booster fan of equal flow capacity shall be installed per 25 foot of downstream exhaust ducting from the ventilation unit. Booster fan capacity shall be selected to ensure that the required airflow from the regulated work area is not reduced below the quantity needed to provide sufficient turnover within the work space.

a. Non-collapsible exhaust ducting shall be used between the booster fan units and also between the ventilation units and the booster fan units.

b. Where possible, these booster fan units shall be installed and operated outside of the regulated abatement work area.

c. Booster fan units installed and operated outside the regulated abatement work area require installation using GFCI protected temporary power circuits.

d. Each booster fan shall shut down automatically if airflow from the upstream filtered ventilation unit is lost (i.e. broken belt, loss of power, clogged filter, etc).

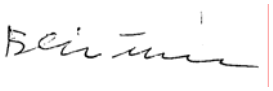
3. A copy of this Applicable Variance shall be conspicuously posted at the entrance to the personal decontamination unit(s) and to the work area(s).

4. All other applicable provisions of Industrial Code Rule 56-1 through 56-12 shall be complied with.

This APPLICABLE VARIANCE shall apply and shall be applied by all enforcement officials to all persons and in all places to which the aforecited provisions of Industrial Code Rule 56 apply to the use of negative air ventilation exhaust(s) greater than 25 foot in length with the same force and effect as if this APPLICABLE VARIANCE were duly granted upon separate petition for the use and benefit of every person affected by the cited provisions of Industrial Code Rule 56.

Date: August 18, 2006

LINDA ANGELLO
COMMISSIONER OF LABOR

By 

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In the Matter of	COMMISSIONER'S DECISION
Part 56 of Title 12 of the Official Compilation Of Codes, Rules and Regulations Of The State of New York	APPLICABLE VARIANCE-A-3 (AV-A-3)
(Cited as 12 NYCRR 56) (As Amended January 11, 2006)	Non-friable ACM Floor Covering Mastic Removal Using Chemical Methods along with Low-speed Floor Buffers
Cases: ICR 56-7.2(o), 56-7.5(d), 56-7.11(b, e), 56-9.1(f) and 56-11.7(b)(5)	DATED: May 31, 2007

Pursuant to Section 30 of the Labor Law, the Commissioner of Labor has reviewed the above cited provisions of Industrial Code Rule 56 (ICR 56), as they relate to asbestos projects consisting of non-friable ACM floor covering mastic removal using chemical methods along with low-speed floor buffers, completed as per the requirements of Section 56-11.7. The Commissioner of Labor has also reviewed numerous petitions for variance or other relief relative to such asbestos projects and the decisions rendered relative to these petitions.

The Commissioner of Labor finds that the issuance of an Applicable Variance from the above cited provisions of Industrial Code Rule 56, as such pertain to asbestos projects consisting of non-friable ACM floor covering mastic removal using chemical methods along with low-speed floor buffers, would not violate the spirit and purpose of said rules and would secure the public safety as contemplated by said rules.

APPLICABLE VARIANCE

A variance from the cited provisions of Industrial Code Rule 56 is hereby GRANTED subject to the following conditions:

THE CONDITIONS

1. Low-speed floor buffer is defined as an electrically powered floor buffer with a manufacturer limited maximum rotational speed of 300RPM.

2. In lieu of full plasticizing requirements as per Section 56-11.7(b)(5), a minimum of one-layer 6-mil fire retardant plastic sheeting shall be applied to the lower four (4) foot of the walls at the floor covering/mastic removal portions of the work area. This plastic sheeting splashguard shall be installed during work area preparation and shall be removed during the final cleaning portion of asbestos project, as per Section 56-9.1(e).

3. Critical Barriers to each room/area/space where work is being performed shall be installed in conformance to Subpart 56-7.11(a). All openings (critical barriers) shall be wet-cleaned and covered with two (2) layers of (6) six-mil fire retardant plastic sheeting or for around pipes or similar openings expandable foam or other sealant may be used. At openings only accessible to certified personnel, two-layer six-mil fire retardant plastic sheeting may be used as critical barriers/isolation barriers in lieu of temporary hardwall barriers normally required as per ICR 56-7.11(b). These plastic sheeting isolation barriers shall be adequately supported for the duration of the asbestos project. All critical barriers and isolation barriers shall remain in place until receipt of satisfactory clearance air results for the regulated abatement work area.

4. A negative pressure tent enclosure may be constructed and utilized as per ICR 56, where preparation of the entire room/space is either unfeasible or not necessary to adequately access all impacted asbestos material. Tents with greater than twenty (20) square feet of floor space shall be constructed of two (2) layers of six (6) mil fire-retardant plastic sheeting and shall include walls, ceiling and a floor (except for portions of walls, floors and ceilings that are the removal surface) with double-folded seams. Seams shall be duct taped airtight and then duct taped flush with the adjacent tent wall.

5. A remote personal decontamination system enclosure is allowed for each regulated abatement work area where low-speed buffers are utilized consistent with the Section 56-7.2(o) HEPA-filtered exhaust requirement. However, no visible trace of ACM floor tile debris or mastic is allowed on waste bags/containers that are removed from the work area, as well as remote personal decontamination system enclosure floor surfaces, designated pathway floor surfaces, and waste bag/container transfer pathways.

6. An attached personal decontamination enclosure system is required for each regulated abatement work area where non-HEPA exhausted low-speed floor buffers are utilized. The decontamination system enclosures shall be removed only after satisfactory clearance air monitoring results have been achieved for the regulated abatement work area.

7. Appropriate PPE shall be provided to the employee and utilized as per the MSDS recommendations for the chemical mastic removal solvent.

8. Floor buffers may be utilized for agitation of chemical mastic removal solvent, provided the buffer speed is below or equal to 300 RPM, and low abrasion pads are used in combination with chemical mastic remover wet methods.

9. A six (6) hour waiting/settling/drying period shall be observed after completion of the final cleaning, prior to commencement of clearance air sampling.

10. All mastic waste, used PPE, and other waste generated during mastic removal and cleaning operations shall be bagged/containerized as per ICR 56, and treated as RACM during transport and disposal.

11. All other applicable provisions of Industrial Code Rule 56-1 through 56-12 shall be complied with.

This APPLICABLE VARIANCE shall apply and shall be applied by all enforcement officials to all persons and in all places to which the aforecited provisions of Industrial Code Rule 56 apply to asbestos projects consisting of non-friable ACM floor covering mastic removal using chemical methods along with low-speed floor buffers, with the same force and effect as if this APPLICABLE VARIANCE were duly granted upon separate petition for the use and benefit of every person affected by the cited provisions of Industrial Code Rule 56.

Date: May 31, 2007

M. PATRICIA SMITH
COMMISSIONER OF LABOR

By 

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Associate Safety and Health Engineer
Division of Safety and Health
Engineering Services Unit

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In the Matter of	COMMISSIONER'S DECISION
Part 56 of Title 12 of the Official Compilation Of Codes, Rules and Regulations Of The State of New York	APPLICABLE VARIANCE-A-4 (AV-A-4)
(Cited as 12 NYCRR 56) (As Amended January 11, 2006)	Removal or Cleanup of Intact Minor Size Non-friable ACM Floor Tile
Cases: ICR 56-4 and 56-11.3(e)	DATED: May 31, 2007

Pursuant to Section 30 of the Labor Law, the Commissioner of Labor has reviewed the above cited provisions of Industrial Code Rule 56 (ICR 56), as they relate to removal or cleanup of intact Minor Size non-friable ACM floor tile. The Commissioner of Labor has also reviewed numerous petitions for variance or other relief relative to such asbestos projects and the decisions rendered relative to these petitions.

The Commissioner of Labor finds that the issuance of an Applicable Variance from the above cited provisions of Industrial Code Rule 56, as such pertain to the removal or cleanup of intact Minor Size non-friable ACM floor tile, would not violate the spirit and purpose of said rules and would secure the public safety as contemplated by said rules.

APPLICABLE VARIANCE

A variance from the cited provisions of Industrial Code Rule 56 is hereby GRANTED subject to the following conditions:

THE CONDITIONS

1. Cleanup of Non-friable Floor Tile is limited to less than ten (10) square feet of tiles that are intact, but have become detached from the substrate.

2. Removal of Non-friable Floor Tile is limited to less than ten (10 square feet of tiles that will be removed substantially intact by manual or other suitable methods (e.g. dry ice, heat, etc.). Use of abrasives, grinding, pulverizing or other aggressive methods that may potentially disintegrate the matrix of the ACM floor tile, are prohibited.

3. The removal or cleanup of the non-friable floor tiles shall be completed by employees that have at a minimum current NYS DOL Operations and Maintenance Asbestos Handler certification.

4. Drilling, sawcutting, use of chemical solvents or other method that may render the ACM friable or no longer substantially intact is prohibited.

5. If at any time during the removal or cleanup operations, friable ACM debris is observed, all removal or cleanup operations shall immediately cease. The affected area shall then be vacated and isolated as per Section 56-1.5, while the building owner contracts with an asbestos contractor for the cleanup of the ACM disturbance and the remainder of removal/cleanup operations.

6. All provisions of ICR 56-11.3 shall be followed except as modified by the conditions of this applicable variance that relate to work area preparation and ACM handling. A negative pressure tent enclosure as per Section 56-11.3 is not required for this minor size floor tile asbestos abatement project.

7. For intact ACM floor tile removal and/or cleanup projects, the affected area shall be cordoned off with barrier tape at a distance of ten (10) feet from the outer most limit of the work. This shall be considered the regulated abatement work area for the removal/cleanup of the intact ACM floor tiles. The regulated abatement work area shall be cordoned off and adequate signage shall be posted as described in Subpart 56-7.4.

8. **Personal/Equipment Decontamination Room or Area.** An existing room or area that is adjacent to the regulated abatement work area shall be used for the decontamination of personnel and equipment. The room or area shall be covered by an impermeable dropcloth on the floor or horizontal working surface. The room or area must be of sufficient size to accommodate cleaning of equipment and removing personal protective equipment. Work clothing must be cleaned with a HEPA vacuum before it is removed. All equipment and surfaces of asbestos waste bags/containers must be cleaned prior to removing them from the decontamination room or area. All personnel must enter and exit the regulated abatement work area through the decontamination room or area.

9. **Personal Protective Equipment.** All persons shall don appropriate personal protective equipment before entering the regulated abatement work area in compliance with Section 56-7.6.

10. **Amended Water.** All ACM flooring material to be removed/cleaned up shall be continuously wetted with amended water as required by ICR 56.

11. **Abatement Procedures.** Non-friable ACM floor tile shall be removed substantially intact and containerized prior to removal from the work area. Minimal breakage of ACM flooring is allowed, but the ACM matrix must remain substantially intact.

12. **Clean Up.** Cleanup shall be accomplished as follows:

    a. **Method.** All accumulations of asbestos waste material shall be containerized and removed. HEPA-vacuums shall be used to clean all surfaces after gross cleanup.
    b. **Removal of Contaminated Equipment and Waste.** Contaminated equipment and all containerized waste shall be removed from the regulated abatement work area.
    c. **Cleanup of Surfaces.** All floor surfaces in the regulated abatement work area shall be wet-cleaned using rags, mops or sponges.

13. **Visual Inspection.** Once final cleaning is complete, a visual inspection shall be completed by the asbestos abatement contractor's supervisor to confirm that the scope of abatement work for the asbestos project is complete, and no visible debris/residue, pools of liquid, or condensation remain.

14. **Removal of Personal Protective Equipment**. The worker's disposable protective clothing shall be removed and immediately containerized.

This APPLICABLE VARIANCE shall apply and shall be applied by all enforcement officials to all persons and in all places to which the aforecited provisions of Industrial Code Rule 56 apply to removal or cleanup of intact Minor Size non-friable ACM floor tile, with the same force and effect as if this APPLICABLE VARIANCE were duly granted upon separate petition for the use and benefit of every person affected by the cited provisions of Industrial Code Rule 56.

Date: May 31, 2007

M. PATRICIA SMITH
COMMISSIONER OF LABOR

By 

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