

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

Variance Petition

of

Atlantic Testing Laboratories, Inc.
Petitioner's Agent

On Behalf Of

City of Troy
Petitioner

in re

Premises: Former Scolite Property
Madison Street
Troy, New York

**Exterior Demolition Debris Asbestos Cleanup
and Removal Project**

File No. 11-0810

DECISION

Cases 1- 5

ICR 56

The Petitioner, pursuant to Section 30 of the Labor Law, having filed Petition No. 11-0810 on July 19, 2011 with the Commissioner of Labor for a variance from the provisions of Industrial Code Rule 56 as hereinafter cited on the grounds that there are practical difficulties or unnecessary hardship in carrying out the provisions of said Rule; and the Commissioner of Labor having reviewed the submission of the petitioner dated July 13, 2011; and

Upon considering the merits of the alleged practical difficulties or unnecessary hardship and upon the record herein, the Commissioner of Labor does hereby take the following actions:

Case No. 1	ICR 56-6.2
Case No. 2	ICR 56-9.1(f)
Case No. 3	ICR 56-9.2(d)
Case No. 4	ICR 56-11.2
Case No. 5	ICR 56-11.5

VARIANCE GRANTED. The Petitioner's proposal for cleanup and removal of asbestos demolition debris from an approximate 7,200 sq. ft. exterior area at the subject premises in accordance with the attached 4-page stamped copy of the Petitioner's submittal, is accepted; subject to the Conditions noted below:

THE CONDITIONS

1. A full time independent project monitor shall be on-site to observe the abatement contractor's work practices and to ensure that no visible emissions are generated during the removal and cleanup activities. If visible emissions are observed, work practices shall be altered according to the project monitor's recommendations.
2. During Phase IIC, in addition to the requirements of Subpart 56-4.9(c), air monitoring within the work area shall be conducted daily for the entire workshift. The number of required inside work area air samples shall be consistent with the size of the work area (i.e. 1-minor, 3-small, 5-large). The inside work area sample locations shall be distributed throughout the work area.
3. In lieu of post-abatement clearance air monitoring in compliance with ICR-56-9.2(d), the most recent daily abatement air samples collected during cleaning operations in the regulated work area, shall be used for comparison with ICR 56-4.11 clearance criteria. All other applicable provisions of ICR 56-4 shall be followed for the duration of the abatement project.
4. After removal and cleanings are complete and a minimum drying period has elapsed, an authorized and qualified Project Monitor shall determine if the area is dry, the scope of work complete, and the work area free of visible asbestos debris/residue. If the area is determined to be acceptable and the most recent daily abatement air sample results meet 56-4.11 clearance criteria, the final dismantling of the site may begin.
5. Usage of this variance is limited to those asbestos removals identified in this variance or as outlined in the Petitioner's proposal.

In addition to the conditions required by the above specific variances, the Petitioner shall also comply with the following general conditions:

GENERAL CONDITIONS

1. A copy of this DECISION and the Petitioner's proposals shall be conspicuously displayed at the entrance to the personal decontamination enclosure.
2. This DECISION shall apply only to the removal of asbestos-containing materials from the aforementioned areas of the subject premises.
3. The Petitioner shall comply with all other applicable provisions of Industrial Code Rule 56-1 through 56-12.
4. The NYS Department of Labor Engineering Service Unit retains full authority to interpret this variance for compliance herewith and for compliance with Labor Law Article 30. Any deviation to the conditions leading to this variance shall render this variance Null and Void pursuant to 12NYCRR 56-12.2. Any questions regarding the conditions supporting the need for this variance and/or regarding compliance hereto must be directed to the Engineering Services Unit for clarification.
5. This DECISION shall terminate on July 31, 2012.

Date: July 19, 2011

COLLEEN C. GARDNER
COMMISSIONER OF LABOR

By



Christopher Alonge, P.E.
Associate Safety and Health Engineer

PREPARED BY: Christopher G. Alonge, P.E.
Associate Safety and Health Engineer

REVIEWED BY: Ed Smith, P.E.
Senior Safety and Health Engineer

**ATLANTIC TESTING LABORATORIES**

Albany
22 Corporate Drive
Clifton Park, NY 12065
518-383-9144 (T)
518-383-9166 (F)

July 13, 2011

New York State Department of Labor
Division of Safety and Health
Engineering Services Unit
Albany, New York 12240

Attn: Mr. Christopher Alonge, P.E.
Senior Safety and Health Engineer

Re: Site-Specific Variance Request
Demolished Building Waste Piles
Former Scolite Property
Troy, Rensselaer County, New York
ATL Report No. AT5089AV-02-07-11

Ladies/Gentlemen:

We respectfully request relief via variation from specific sections of Industrial Code Rule 56 (12 NYCRR Part 56), as described in Section 30 of the Labor Law, for the referenced project. The project consists of cleaning up of piles of building material debris co-mingled with friable asbestos-containing material (ACM). The debris piles are located on the former Scolite property in Troy, Rensselaer County, New York. The property has been abandoned for several years after a fire destroyed the former Scolite building, which is now a pile of rubble. A clean-up project was initiated on the property to remove the ACM waste, but this was never completed. There are some tarps covering the piles of ACM co-mingled with construction debris. The approximate size of the contaminated surface area to be cleaned up is 80 by 90 feet, or approximately 7,200 square feet.

A visual assessment of the former Scolite facility debris piles was performed by Zachary W. Remington (Certification No. 06-09550) of ATL, on July 1, 2011. Photographs and a site sketch depicting the debris pile locations/orientations are attached.

The debris piles contain soil, concrete, metal, brick, and miscellaneous construction debris. We request that the construction debris piles in total and top 2 inches of soil below any visible debris be disposed of as ACM.

We request that the incidental disturbances be cleaned up in accordance with NYCRR Part 56-11.2, although the abatement is considered a large project. The work will be performed utilizing provisions of NYCRR Part 56-11.5 with modifications. The work area will be cleared with a final visual inspection per NYCRR Part 56-9.1, and with the most recent daily air samples acting as

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New York State Department of Labor

July 13, 2011

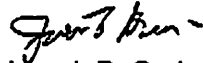
the final clearances, subsequent to removal of the identified ACM debris piles and underlying 2 inches of soil.

This variance request is to facilitate completion of the referenced project in a safe and cost effective manner, while remaining consistent with the intent of Industrial Code Rule 56. A description of the work area, and summaries of the Industrial Code Rule 56 relief requested and proposed abatement methods, are provided in Attachment #1. Photographs, site sketch of the work area, and a completed SH752 (0208) form, "Petition for Asbestos Variance", are also attached.

Thank you for your assistance in this matter. Please contact our office should you have any questions, or require additional information.

Sincerely,

ATLANTIC TESTING LABORATORIES, Limited



Joseph D. Grabowski
Senior Project Manager
NYS DOL Certified Designer #01-08166

JDG/MBR/jdg

Attachments

11-810

ATL No. AT5089AV-02-07-11
New York State Department of Labor

July 13, 2011

ATTACHMENT #1**Section 8****Work Area Description Table:**

Abatement work will consist of the cleanup of debris piles resultant of an historical incidental disturbance of ACM and co-mingled with building material. The debris piles are situated on the former Scolite property, located in Troy, Rensselaer County, New York. The total area to be cleaned is approximately 7,200 square feet of ACM debris mixed with construction debris, along with the top 2 inches of soil below the visible debris. The removal will follow NYCRR Part 56 Subpart 11.5 provisions.

Section 9**ICR 56 Relief Sought:**

The scope of work consists of the cleanup of asbestos-containing ACM debris mixed with construction debris and removal of approximately the top 2 inches of soil below the visible debris. The project will consist of following the provisions set forth in Sections 11.2 and 11.5 of the Code Rule 56 (12NYCRR) regulations, with the additional requirements specified below. This petition requests relief from the following sections of 12NYCRR Section 30 of the Labor Law, and the items for relief will be applicable only for the cleanup of the asbestos-contaminated construction debris piles, as specified.

56-11.2 Emergency Projects (Minor Incidental Disturbance)

56-11.5 Controlled Demolition with Asbestos in Place

Section 11**Proposed Abatement Method Description for Each Work Area or Method Used:**

This clean-up is intended to follow the provisions of Industrial Code Rule 56 with the following modifications:

**SEE VARIANCE CONDITIONS CEX 7/15/11*

1. A large size remote personal decontamination unit will be utilized for the project.
2. The work area set up and removal of the debris and soil will be in accordance with NYCRR Part 56-11.5 since the buildings are piles of debris at the site.
3. The debris pile consists of soil, concrete, brick, and miscellaneous construction debris. All of the construction materials located in the debris piles will be disposed of as ACM.
4. In addition to the requirements of NYCRR 56-4, *FIVE CEX 7/19/11* ~~two~~ additional air samples will be collected within the work area daily during abatement activities.
5. After abatement activities are complete, a minimum 2-hour drying period is complete, and the area is dry and free of all visible pools of water, a Project Monitor will perform a visual clearance inspection of the work area per NYCRR 56-9.1.
6. In lieu of post-abatement clearance air monitoring, and in compliance with NYCRR Part 56-9.2(d), the most recent daily abatement air samples collected during removal and cleaning operations in the regulated work area shall be used for comparison with NYCRR Part 56-4.11 clearance criteria.

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Project Location:

Forner Solite Site, Troy, New York

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ATL Project No.: AT5087

Inspector's Name(s): Zachary Pennington

Date: 6/24/11

