

STATE OF NEW YORK  
DEPARTMENT OF LABOR  
STATE OFFICE BUILDING CAMPUS  
ALBANY, NEW YORK 12226

In the Matter of

Part 56 of Title 12 of the Official Compilation  
Of Codes, Rules and Regulations  
Of The State of New York

(Cited as 12 NYCRR 56)  
(As Amended January 11, 2006)

Cases: ICR 56-4 and 56-11.3(e)

COMMISSIONER'S  
DECISION

APPLICABLE  
VARIANCE-A-4  
(AV-A-4)

Removal or Cleanup of Intact  
Minor Size Non-friable ACM  
Floor Tile

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 aforesaid 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

A handwritten signature in blue ink, appearing to read "Chris G. Alonge".

Christopher G. Alonge, P.E.  
Associate Safety and Health  
Engineer  
Division of Safety and Health  
Engineering Services Unit