

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

In the Matter of

Part 36 of Title 12 of the Official Compilation  
of Codes, Rules and Regulations  
of the State of New York

(Cited as 12NYCRR 36)  
as Amended Effective July 1, 1967

Code Rule Section 36-1.3(b)(i)

COMMISSIONER'S  
DECISION

APPLICABLE  
VARIANCE  
(AV 116)

**Tents**

Responsibility for  
Annual Approval of Plans

Dated October 26, 1998

Pursuant to Section 30 of the Labor Law, the Commissioner of Labor has reviewed the aforesaid provisions of Industrial Code Rule 36 as they relate to annual plan approvals; and

The Commissioner finds that the issuance of an applicable variance from the aforesaid provisions of Industrial Code Rule 36, relative to annual plan approvals, would not violate the spirit and purpose of the said rules and would secure the public safety as contemplated by said rule.

### Applicable Variance

WHEREAS tents are required to comply with ICR 36-1.3(b)(i) on an annual basis, nevertheless a VARIANCE from the aforesaid provisions of Industrial Code Rule 36 is hereby GRANTED, subject to the following conditions:

#### THE CONDITIONS

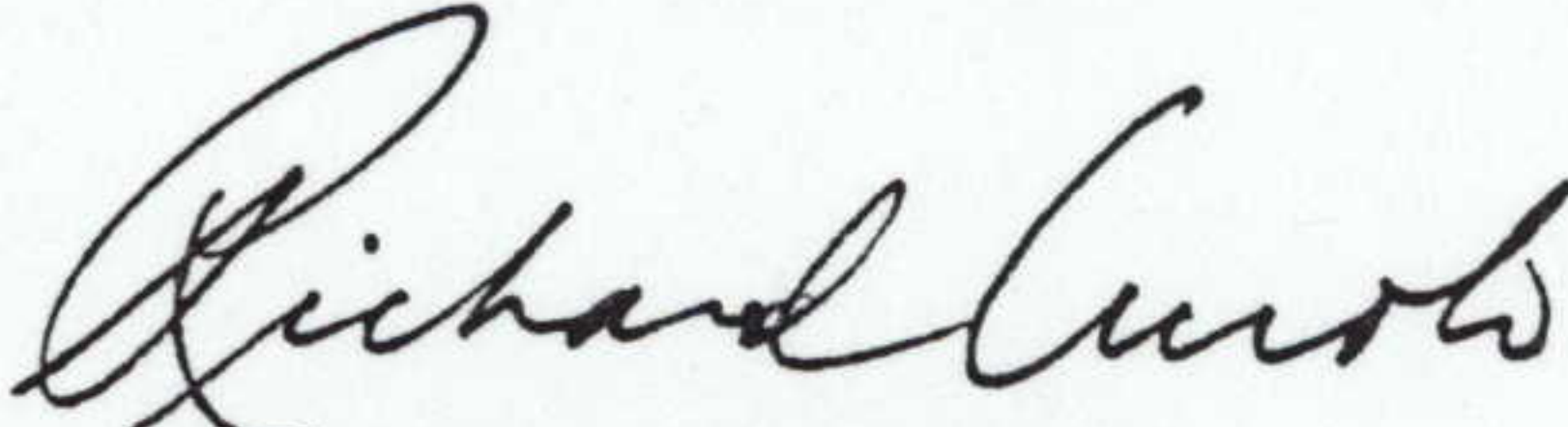
1. The requirement for annual plan reviews shall be waived if the applicant has received a conditional or full approval of plans for the identical equipment within three years of use for the equipment. The plans must still be approved but only once every three years. The prior approval may have been under Industrial Code Rules 36, 45 or the New York Uniform Fire Prevention and Building Code.
2. A copy of the previously dated approval, along with all supporting documentation shall be kept on the premises and made available to the Commissioner at every site the viewing stand and/or tent is to be used.

This variance shall apply and shall be applied by all enforcement officials to all persons and in all places for which the aforesaid provisions of Industrial Code Rule 36 apply to the approval and compliance of tents when prior approval has been

received and is still valid, with the same force and effect as if this variance were duly granted upon separate petition for the use and benefit of every person affected by the aforesaid provisions of Industrial Code Rule 36.

DATED: October 26, 1998

JAMES J. MCGOWAN  
COMMISSIONER OF LABOR

BY   
Richard Cucolo

Director, Division of Safety and Health

RSL