The Petitioner, pursuant to Section 30 of the Labor Law, having filed Petition No. 101-89 on February 13, 1989 with the Commissioner of Labor for a variance from the provisions of Industrial Code Rule 56-8.1(g), 56-8.1(h), 56-8.1(i), 56-8.1(j), 56-8.1(k)(1-5) and 56-10 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 February 13, 1989; 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:
The Petitioner's proposal, to utilize procedures as delineated in the technical specification entitled "Blanket Variance No. 2", (5-page stamped copy attached), is accepted subject to the following conditions:

THE CONDITIONS

1. The entire bridge and its surrounding fenced-in area shall be considered to be the work area. Uncertified persons shall not be permitted within the work area. The vacation of the work area and warning signs shall comply with Industrial Code Rules 56-8.1(a and b).

2. "Hand shoveling" shall be performed only by certified persons employed by a NYSDOL licensed contractor.

3. A personal decontamination enclosure system that may be "remote" from the bridge, but otherwise complies with Subpart 56-9, shall be utilized. The personal decontamination enclosure shall be removed only after satisfactory clearance air monitoring results have been achieved.
4. Asbestos-contaminated tools/equipment shall be decontaminated by utilizing a waste decontamination enclosure system that complies with Subpart 56-10 or by utilizing the personal decontamination enclosure system in conjunction with the applicable requirements of Industrial Code Rule 56-5.1.

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

GENERAL CONDITIONS

1. A copy of this DECISION, complete with a stamped copy of the attached 5-page proposal, entitled "Blanket Variance No. 2", shall be displayed conspicuously at the entrance to the personal decontamination enclosure.

2. This DECISION shall apply only to the removal of "asbestos containing conduits (transite pipe) buried in the ground in the approaches to bridges".

DATED: APRIL 18, 1989

THOMAS F. HARTNETT
COMMISSIONER OF LABOR

BY CARL J. THURNAU, ASSISTANT DIRECTOR
DIVISION OF SAFETY AND HEALTH
BLANKET VARIANCE NO. 2

Nature of the Work: Removal of asbestos containing conduits (transite pipe) buried in the ground in the approaches to bridges. Conduits may have been encased in concrete before being buried or buried bare.

Applicable Code Rule: 56

Reason for Request: The New York State Department of Transportation requests a variance from ICR 56 on the grounds that literal compliance would be impractical, prohibitively expensive and cause unnecessary hardship. The cost to construct an enclosure around the soil area affected, inhibits the Department from removing the transite ducts and demolishing the bridge in a cost effective manner. The proposed procedure will not expose removal workers or the general public to asbestos fibers and is a reasonable approach for the controlled removal of transite duct.

Proposed Removal Methods: The following is an outline of the work procedures to be employed.

1. Scope of Work:

   A. The segments of transite duct located in the soil will be removed using a glove bag technique, as per ICR subpart 56-16. The soil overburden will be removed to within a few inches of the duct using a power shovel. Hand shovelling would then be used to expose the entire length of duct. Duct removal will then be carried out using the glove bag procedure outlined in Part 2 of this petition, entitled Duct Removal from Soil.

   B. A New York State licensed Asbestos Contractor shall perform all work associated with removal of ducts located in the soil. All employees and project supervisors involved in the asbestos removal portion of the project will have received three (3) days of training in a course approved by the New York State Commissioner of Health, and be certified asbestos handlers in accordance with Industrial Code Rule 56.

2. Duct Removal from Soil

   A. Prior to any excavation activities, a construction fence shall be placed around the bridge and affected approach areas at a minimum distance of 25 feet from the excavation area, as shown in Figure 1, to insure complete isolation of the work area during removal procedures. Caution signs shall be posted that permit a person to read the sign and take the necessary protective measures to avoid exposure.

   B. This work involves the removal of concrete encased and bare transite ducts located in the soil. The Department of Transportation proposes to undertake soil removal above and around the duct using normal excavating equipment and procedures. The overburden will be carefully removed to within a few inches of the duct using a backhoe or similar type of equipment where feasible. Hand shovelling would then be used to carefully expose the entire length of duct to be removed.

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C. Certified workers wearing respirators and protective clothing, in accordance with Industrial Code Rule 56-4.1 (d), will be utilized during the duct removal process. A personal decontamination unit will be provided at the entrance to the work area, allowing worker decontamination and storage of personal clothing. Since it would be impossible to construct an enclosure completely around the buried pipe, the Department proposes to use a glove bag technique to minimize the possibility of asbestos escaping to the air, as detailed in the following procedure.

D. Bare Transite Pipe

Workers will wrap entire lengths of exposed transite piping in two layers of minimum six mil. polyethylene sheeting and sealed air-tight with waterproof duct tape.

1) The first layer of polyethylene will be applied with a minimum 12 inch overlap at the seam and seal it to itself.

2) The second layer of polyethylene will be applied in a similar manner, locating the seam opposite that of the first layer.

3) A waterproof tape will be used to secure the circumference of the piping at appropriate intervals.

4) Continue with step 1) below.

E. Concrete Encased Transite Pipe

1) At intervals no greater than fifteen feet, locate a pipe section (typically three feet in length) and slip a glove bag over the double wrapped piping. Fold the open edges together and seal the seam. Seal each end around the work area with duct tape to form a tight seal.

2) Testing the Glove Bag Seal – Perform a smoke test of the glove bag seal as follows:

   a) Aspirate the contents of a smoke tube through the water port access of the bag.

   b) After twist sealing the access port, the bag shall be squeezed gently and checked for any leakage points which shall be sealed airtight.

3) Using an airless sprayer, saturate the outer surface of the duct with amended water.

4) Locate and remove a one foot portion of the duct by carefully cutting around the circumference at each end while continuously applying amended water.

   a. Seal the remaining exposed ends with encapsulant.
5) Rinse piping, tools and upper portion of glove bag.

6) Fold edges of polyethylene over the remaining piping and secure with waterproof duct tape.

7) Insert HEPA - vacuum hose through side port, seal hose airtight, then turn on HEPA - vacuum to remove air from glove bag.

8) With air removed, squeeze bag tightly, twist, seal and tape closed. Turn off HEPA - vacuum, remove hose and seal port.

9) Tool segregation. With the glove bag collapsed, the tool pouch shall be separated from the bag by twisting it several times, taping the twist and thus sealing the pouch. Alternatively, the tools may be pulled through with one or both glove inlets, thus turning the gloves inside out. The gloves shall then be twisted several times, taped and thus sealed air-tight.

10) The glove bag will then be HEPA vacuumed, bagged again in a minimum six mil. poly bag, labeled as asbestos waste and disposed of as asbestos waste. Only one use per glove bag will be permitted.

11) Continue to the next duct location and follow the same glove bag procedure.

12) The adapted dumpster shall have a closeable top and end. The dumpster shall be lined with 2 layers of minimum six mil. polyethylene, leaving enough polyethylene to completely seal the contents when full. The dumpster shall be posted as containing asbestos waste, and transported to an approved disposal site.

13) Once all the duct has been separated, the double wrapped and sealed pieces will be removed from the work area and placed in an adapted dumpster, in accordance with ICR subpart 56-5.2. If nylon slings are required for removal, the nylon slings shall be attached to the metal portions of the piping and not to the insulated areas.

14) Air sampling shall be conducted daily; on the workers, inside the work area, and outside the work area. Background air samples will also be collected up wind. "Sample/Analysis" turnaround time shall not exceed 24 hours. If air sampling results indicate any airborne asbestos fiber concentrations at or above 0.01 fibers per cubic centimeter, or the background level, which ever is greater, work will be stopped immediately, and methods shall be altered to reduce the airborne fiber concentrations to the aforementioned level and work shall not resume until that level is attained. All air sampling, monitoring and analysis shall conform with ICR subpart 56-17.
15) Clean-up of the work area enclosures shall be done in accordance with Subpart 56-15 of Industrial Code Rule 56; with the provision that clean-up of the soil area affected will be accomplished by removing and disposing of asbestos waste, a minimum 2 inch layer of soil lining the sides and bottom of the resulting excavation.

3. Additional Provisions

A. Glove bags shall be a minimum six mil. clear polyethylene, minimum size of 43" x 63", maximum size of 72" x 92", approved and labeled for removal and containment of asbestos materials with tool pouch; PE coated sleeves with latex gloves and vacuum port, either of horizontal or vertical design.

B. The Contractor shall comply with all other applicable provisions of Industrial Code Rule 56-1 through 56-17.