The Petitioner, pursuant to Section 30 of the Labor Law, having filed Petition No. 765-89 on August 17, 1989 with the Commissioner of Labor for a variance from the provisions of Industrial Code Rule 56-6.1, 56-8.1(j), 56-8.1(k)(1-5), 56-15.2(b-e) and 56-16.1(a) 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 August 11, 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. 4", (2-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. The vacation of the work area and warning signs shall comply with Industrial Code Rules 56-8.1(a and b).

2. 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 2-page proposal entitled "Blanket Variance No. 4", shall be displayed conspicuously at the entrance to the personal decontamination enclosure.

2. This DECISION shall apply only to the removal of "plastic asbestos asphalt cement used as a caulking material where the concrete meets the exposed steel and along the offset edges of steel plates" on bridges.

DATED: AUGUST 22, 1989

THOMAS F. HARTNETT
COMMISSIONER OF LABOR

BY

ROBERT GOLLNICK, DIRECTOR
DIVISION OF SAFETY AND HEALTH
BACKGROUND

On railroad bridges constructed in the 1930's, a "Plastic Asbestos Asphalt Cement" was used as a caulking material where the concrete meets the exposed steel and along the offset edges of steel plates. The typical location of this material is shown on the attached sketch. PLM tests of this material indicate that it contains over 20% asbestos.

REQUEST

It is requested that a general variance be granted to the Department to remove this material on all bridges where encountered using the following proposed modification of AV 91 and that the following requirement of ICR 56 be waived:

Sections 56 - 6.1; 56 - 8.1, Subdivision (j), Subdivision (k), Paragraphs (1) through (5); 56 - 15.2, Subdivisions (b) through (e) and 56 - 16.1, Subdivision (a)

PROPOSAL

The asbestos containing material would be removed using a glove bag with the edges of the glove bag securely fastened to the adjacent steel and/or concrete with duct tape and the work would be done subject to the following conditions.

CONDITIONS

1. Air sampling and analysis shall be conducted according to the requirements of Subpart 56-17 before the start and after the completion of asbestos removal projects ranging in size from 25 to 260 linear feet.

2. Air sampling and analysis should be conducted according to the requirements of Subpart 56-17 before the start, during and after the completion of asbestos removal projects greater than 260 linear feet.

3. In addition to the requirements of Subpart 56-17, air monitoring shall be conducted daily in each section of the work area in which glove bag techniques are being utilized. Sample and analysis turnaround time shall not exceed twenty-four hours. If air sampling results indicate any airborne asbestos fiber concentration(s) at or above 0.01 fibers per cubic centimeter, or the background level, whichever is greater, work shall be stopped immediately and methods shall be altered to reduce the airborne asbestos fiber concentration(s) to the aforementioned level. Work shall not resume until that level is attained.

4. In lieu of compliance with the provisions of Condition Number 3 above, tents conforming to the requirements of Industrial Code Rules 56 - 16.1(c) and (d) shall be utilized. Actual removal of asbestos or asbestos containing material within the said tents shall be performed in conjunction with glove bag operations in compliance with the provisions of Industrial Code Rules 56-16.1 (b) (1) through (11).
5. Individual glove bags shall be used no more than once during the course of an asbestos removal project and shall not be moved or reused.

6. On all projects where the removal of asbestos or asbestos containing material is greater than 25 linear feet, notification conforming to the requirements of Industrial Code Rule 56-1.6 (b) shall be given to the Department of Labor’s Division of Safety and Health.

7. Uncertified persons shall be prohibited from all work area(s).

8. The requirements of Section 56-15.4 shall be complied with in the event of glove bag or tent failure or less of integrity.

9. Personal protective equipment as required by Industrial Code rule 56-4.1 (d) shall be provided and used.

10. A personal decontamination enclosure system, which may be remote from the tents but otherwise complies with the provision of Subpart 56-9, shall be utilized.

11. A waste decontamination enclosure system, which may be remote from the tents but otherwise complies with the provisions of Subpart 56-10, shall be utilized.

12. The entire deck of the structure shall be regarded as the work area.

13. A construction fence with appropriate signs shall be erected a minimum of 25 feet from the ends of the structure to delineate the work area.

14. The provisions of this applicable variance shall apply only to the work areas described above.

15. A copy of this Variance shall be conspicuously posted at the entrance to the work area(s).

16. All other applicable provisions of Industrial Code Rules 56-1 through 56-17 shall be complied.
Plastic Asbestos Asphalt Cement

Steel RF

Plastic Asbestos Asphalt Cement

Concrete

Typical

Not to Scale

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DNG 8/8/89
The Petitioner, pursuant to Section 30 of the Labor Law, by letter dated July 24, 1992, requested a reopening of File No. 765-89, DECISION dated August 22, 1989, with regard to General Condition No. 2; which condition defined the applicability of said variance; and

The Commissioner of Labor, having reviewed both the Petitioner's request, as well as the contents of File No. 765-89, DECISION dated August 22, 1992, does hereby reopen said file with regard to General Condition No. 2 and does hereby take the following action:

7 of 8
Blanket Variance. 4

File No. 765-89
Reopening (8/4/92)

General Condition No. 2 shall now read as follows:

2. This DECISION shall apply only to the removal of "asbestos containing caulking compounds from surfaces on bridges".

The Petitioner shall also comply with all other Specific and General Conditions not modified by this DECISION.

DATED: AUGUST 4, 1992

JOHN F. HUDACS
COMMISSIONER OF LABOR

BY

MARIA L. COLAVITO, DIRECTOR
DIVISION OF SAFETY AND HEALTH

LJT

* This DECISION shall be attached to and made a part of the Commissioner of Labor's DECISION, dated August 22, 1989, as related to File No. 765-89.