



New York State Department of Labor

David A. Paterson, *Governor*

M. Patricia Smith, *Commissioner*

January 21, 2009

Pat Evangelista
WTC Coordinator
New York City Response and Recovery Operations
US EPA – Region II
290 Broadway
New York, NY 10007-1866

**Re: Comments on Asbestos/WTC Dust Portion of
Regulatory Submittal Part I(D) Deconstruction Operation Work Plan, dated October 27, 2008
Fiterman Hall Building
30 West Broadway
New York, NY**

Dear Pat,

The Department has received and reviewed the Regulatory Submittal Part I(D) Deconstruction Operation Work Plan document, dated October 27, 2008, as it relates to asbestos material (ACM) and WTC dust/residue removal/cleanup procedures.

The Department has discussed aspects of the documents with the New York City Department of Environmental Protection (DEP), and DEP concurs with the Department's comments on the submitted documents. Several items within the work plan must be revised to address Departmental concerns.

Specific Comments

REGULATORY SUBMITTAL PART I(D) – WORK PLAN

- 3.2 REGULATORY NOTIFICATIONS – NYS DOL NOTIFICATION

As previous comments indicated, the notification referenced by Section 3.2 and is included in Attachment I, expired on June 30, 2008. Please provide a copy of the current notification.

- 3.3 REGULATORY NOTIFICATIONS – NYS DOL VARIANCE DECISION

These Sections indicate that a NYS DOL Deconstruction Variance Petition and Decision are included within Attachment II for the deconstruction phase abatement work. However, only a variance petition attachment letter was apparent within Attachment II of the work plan. The Department has not received a site-specific variance petition for this work and thus no variance decision has been granted. Following are comments regarding the variance petition attachment letter found in Attachment II:

- Referenced Drawings. *All drawings and diagrams referenced by the variance petition must be included with the petition, as all pertinent supporting information must be provided along with the petition application.*
- 1. Removal of Assumed Contaminated Heavy Machinery & Equipment.
 - *This section indicates, "In the event that the poly wrapping is compromised the OEC NYS DOL certified project monitor will assess the situation to determine the necessary*



New York State Department of Labor

David A. Paterson, Governor

M. Patricia Smith, Commissioner

course of action to be taken. At the direction of the OEC NYS DOL certified project monitor, the NYS DOL and NYC DEP certified asbestos handlers will repair the damaged wrapping. If deemed necessary by the OEC NYS DOL certified project monitor, the NYS DOL and NYC DEP certified asbestos handlers will perform clean up of the affected area by HEPA vacuuming and wet wiping." However, nothing is included regarding the criteria of the project monitor evaluation, or any details of resulting work area isolation barriers and engineering control installation based upon the evaluation. The criteria of the evaluation and the details of all intended procedures including proposed clearance procedures must be provided to address the various anticipated scenarios.

- It is unclear how many inside work area air samples and how many outside work area air samples will be collected on a daily basis during this work. Provide details regarding number and anticipated locations of inside work area and outside work area daily abatement air samples. These air samples shall be collected daily during each entire work shift.
- Regarding procedures to be employed as a result of a daily abatement air sample exceedance, this section indicates, "In the case of any exceedance, the OEC NYS DOL certified project monitor will perform a visual inspection of the area to determine the course of action. If deemed necessary by the OEC NYS DOL certified project monitor, the NYS DOL and NYC DEP certified asbestos handlers will perform clean up of the affected area by HEPA vacuuming and wet wiping. A set of final air samples will then be run..." However, nothing is included regarding the criteria of the project monitor evaluation, or any details of resulting work area isolation barriers and engineering control installation based upon the evaluation. The criteria of the evaluation and the details of all intended procedures must be provided to address the various anticipated scenarios.
- 2. Abatement of Non-friable Mastic on Spandrel Beams.
 - This section indicates the use of a remote waste decontamination facility for processing of sealed asbestos waste bags. Remote waste decontamination facilities are not allowed. Please see section 56-7.5(f) for waste decontamination system enclosure requirements when a remote personal decontamination system enclosure is allowed.
 - It is unclear how many inside work area air samples and how many outside work area air samples will be collected on a daily basis during this work. Provide details regarding number and anticipated locations of inside work area and outside work area daily abatement air samples. These air samples shall be collected daily during each entire work shift.
 - Regarding procedures to be employed as a result of a daily abatement air sample exceedance, this section indicates, "In the case of any exceedance, the OEC NYS DOL certified project monitor will perform a visual inspection of the area to determine the course of action. If deemed necessary by the OEC NYS DOL certified project monitor, the NYS DOL and NYC DEP certified asbestos handlers will perform clean up of the affected area by HEPA vacuuming and wet wiping. A set of final air samples will then be run..." However, nothing is included regarding the criteria of the project



New York State Department of Labor

David A. Paterson, Governor

M. Patricia Smith, Commissioner

monitor evaluation, or any details of resulting work area isolation barriers and engineering control installation based upon the evaluation. The criteria of the evaluation and the details of all intended procedures must be provided to address the various anticipated scenarios.

- *Table of ICR 56 Subsections from which relief is requested [abatement in accordance with 56-11.6]*
 - *Relief from 56-7.5(d) (remote personal decon) requested. This is unnecessary as remote personal decontamination system enclosures are allowed as per 56-11.6(b)(3).*
 - *Relief from 56-7.10 (pre-cleaning) requested. This is unnecessary as pre-cleaning is only intended for critical barrier locations as indicated within Section 56-11.6(4).*
 - *Relief from 56-11.6(b)(1) (airlocks) requested. Provide details on what facilities will be provided for a changing area in lieu of using an attached airlock as a changing area.*
 - *Relief from 56-7.11(a) & 56-11.6(b)(4) (critical barriers). Requesting relief from Section 56-7.11(a) is redundant, as 56-11.6(b)(4) relates specifically to critical barrier installation at exterior non-friable ACM asbestos abatement projects.*

Please revise the variance petition application letter attachment included within Attachment II and submit the entire petition to the Department, including the necessary application, revised petition application attachment and pertinent plan drawings. The complete variance petition must be submitted as soon as possible to allow adequate time for processing, prior to finalizing the deconstruction phase documents.

- **7.0 DECONSTRUCTION PROCESS**

This Section indicates that “A NYS DOL certified asbestos inspector will be present during deconstruction activities to determine if any ACM and/or contaminated dust and debris is present that will require environmentally controlled removal”. This section further indicates that an asbestos contractor will be called in to clean up the dust and/or debris and limited procedures are provided for the cleanup activities. As these procedures relate to the cleanup of discovered asbestos dust/debris, the procedures of section 56.11.2(f) must be followed, provided the square footage of surfaces to be cleaned does not exceed ten square foot. Any alternative procedures must be approved by site-specific variance. This item must be addressed within the variance petition if compliance with ICR 56 is not intended for these potential asbestos cleanup project activities.

- **7.2.1 DECONSTRUCTION PROCESS - ASSUMED CONTAMINATED HEAVY MACHINERY & EQUIPMENT**

This Section must be revised consistent with all variance petition attachment letter comments above that relate to Removal of Assumed Contaminated Heavy Machinery & Equipment. The variance petition and the work plan must both be revised consistently.

- **7.7 DECONSTRUCTION PROCESS - REMOVAL OF PERIMETER COLUMNS AND SPAMDREL BEAMS (INCLUDING ACM ABATEMENT)**



New York State Department of Labor

David A. Paterson, *Governor*

M. Patricia Smith, *Commissioner*

This Section must be revised consistent with all variance petition attachment letter comments above that relate to Abatement of Non-friable Mastic on Spandrel Beams. The variance petition and the work plan must both be revised consistently

- ATTACHMENT I – NYS DOL REGULATORY NOTIFICATION

As indicated above, the notification that is included in Attachment I expired on June 30, 2008. Please provide a copy of the current notification.

- ATTACHMENT II – NYS DOL VARIANCE DECISION

As previously indicated, a site-specific variance petition must be submitted for all abatement work procedures that are not in compliance with the requirements of ICR 56. Please revise the variance petition application letter attachment included within Attachment II and submit the entire petition to the Department, including the necessary application, revised petition application attachment and all pertinent plan drawings. The complete variance petition must be submitted as soon as possible to allow adequate time for processing, prior to finalizing the deconstruction phase documents.

Please note that if an unanticipated situation is encountered during the ACM removal and WTC dust/residue cleanup during implementation of the deconstruction operation work plan, which requires additional relief from 12 NYCRR 56, the owner's asbestos project designer firm must submit a reopening request to the site-specific variance decision as necessary, or submit an additional site-specific variance petition to address the situation. If you have any questions please contact our office at (518) 457-1536.

Sincerely,

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

ec Krish Radhakrishnan, P.E. - NYC DEP
Chief Weinlein – NYC FDNY
Richard Mendelson – USDOL/OSHA
Robert Iulo – NYC DOB
Suzanne Mattei – NYS DEC
Norma Aird – NYS DOL
Benn Lewis – Airtek
07-1004