

STATE OF NEW YORK – DEPARTMENT OF LABOR
DIVISION OF SAFETY AND HEALTH
ENGINEERING SERVICES UNIT

STATE OFFICE BUILDING CAMPUS
 ALBANY, N.Y. 12240-0010

PREPARE APPLICATION IN TRIPLICATE
 SUBMIT ALL APPLICATIONS TO THE
 ADDRESS SHOWN WITH A CERTIFIED
 CHECK OR MONEY ORDER (made
 payable to the Commissioner of Labor)

PETITION FOR A VARIANCE OR OTHER RELIEF
 (NOT APPLICABLE FOR PUBLIC EMPLOYERS)

1. NAME AND ADDRESS OF PETITIONER Mr. Arnel Javal TRC Environmental Corporation 1430 Broadway, 10th Floor New York New York 10018 As Petitioners Agent for: Lower Manhattan Development Corporation One Liberty Plaza, 20th Floor New York, New York 10006	4. FOR AN ASBESTOS PROJECT ONLY. PETITION OR AGENT IS OR HOLDS (Check appropriate box) <input type="checkbox"/> Asbestos Contractor - License No. _____ <input type="checkbox"/> Air Monitor – Certificate No. _____ <input checked="" type="checkbox"/> Project Designer - Certificate No. AH 92-10951 <input type="checkbox"/> Project Monitor - Certificate No. _____ <input type="checkbox"/> Management Planner - Certificate No. _____ <input type="checkbox"/> Other (Specify) _____
2. PETITIONER'S TELEPHONE NUMBER 212-221-7822 (Arnel Javal, Agent for the Petitioner)	
3. PETITIONER'S FEDERAL EMPLOYER IDENTIFICATION NUMBER (FEIN)	
5. AFFECTING PREMISES KNOWN AS 130 Liberty Street	6. STREET ADDRESS OF SUCH PREMISES 130 Liberty Street, New York, New York 10006

7. This facility is situated south side of Liberty Street

(Check one) in City TOWN VILLAGE OF **New York** County of **New York**

8. NAME AND ADDRESS OF ALL DESIGNATED EMPLOYEE REPRESENTATIVES (Enter "None" if no employee organization)

*****This question is not applicable to an Asbestos Project*****

THE PETITIONER HEREBY PETITIONS THE COMMISSIONER OF LABOR FOR A VARIANCE (OR OTHER RELIEF) FROM THE REQUIREMENTS OF THE LABOR LAW, ORDERS OF THE COMMISSIONER OF LABOR REQUIRING COMPLIANCE WITH THE STATE BUILDING CONSTRUCTION CODE, THE NEW YORK STATE UNIFORM FIRE PREVENTION AND BUILDNG CODE AND/OR THE RULES OF THE COMMISSIONER OF LABOR AS STATED BELOW.

A. CITATION

LIST THE APPLICABLE SECTION AND PARAGRAPH OF THE RELEVANT LAW, CODE, OR REGULATION (S) FOR WHICH A VARIANCE IS BEING REQUIRED.

9. LABOR LAW <p style="text-align: center;">Art.30, Sec. 906</p>	10. STATE BUILDING CONSTRUCTION CODE <p style="text-align: center;">Not Applicable</p>	11. UNIFORM FIRE PREVENTION CODE <p style="text-align: center;">Not Applicable</p>	12. INDUSTRIAL CODE RULE NUMBER <p style="text-align: center;">ICR 56</p>
13. ORDERS ISSUED: <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes if yes, enter date issued	14. ISSUED BY: <input type="checkbox"/> STATE INSPECTOR <input type="checkbox"/> LOCAL INSPECTOR	15. ISSUED TO: <input type="checkbox"/> OWNER <input type="checkbox"/> AGENT <input type="checkbox"/> LESSEE (Enter name appearing on Notice of Violation) _____	

16. QUOTE THE TEXT OF THE ORDERS AS GIVEN ON THE NOTICE OF VIOLATION AND ORDER TO COMPLY, if applicable.

Not Applicable

17. IF A VARIANCE HAS BEEN GRANTED PREVIOUSLY COVERING THE SAME SECTION AND PARAGRAPH AS SPECIFIED ABOVE IN IT 5-8, LIST THE CASE NUMBER AND DATE SUCH VARIANCE WAS GRANTED.

Not Applicable

B. DESCRIPTION OF PREMISES

(To be filled out only when pertinent to the petition)

18. Date building was constructed 1976 Wood; Non-fireproof; Fireproof; L

19. No. Stories: Front 41 Rear 41

20. Construction of building is (Masonry walls, wood floors and roof) (Masonry walls, concrete floors and metal roof)

21. Size of lot: At street level Feet front 200 Feet deep 200

22. Size of building: At street level Feet front 200 Feet deep 200

23. Size of building: At typical floor level Feet front 200 Feet deep 200

24. Use of each floor and maximum number of persons on each floor are as follow: Unoccupied

Floor	Equipped with Automatic Sprinklers		Use	Present		Proposed	
	Yes	No		Men	Women	Men	Women
Cellar							
1							
2							
3							
4							
5							

C. REASON FOR REQUEST FOR VARIANCE

25. State the grounds for a variance (or other relief) setting forth difficulties and/or hardships involved in complying with the requirements stated above. Failure to complete this section may result in dismissal or denial of this petition.

Refer To Attachment

D. PROPOSAL

26. State the proposal, if any, for securing safety or protecting health without literal compliance with such requirements.

Refer To Attachment

***** This question is not applicable to an Asbestos Project*****

27. I affirm that a copy of this Petition

has been set or shall be sent within 3 days of sending this Petition to the Commissioner of Labor, to all designated employee representatives by certified mail, return receipt requested

AND

has been posted or shall be posted within one week of sending this Petition to the Commissioner of Labor at the site affected by the variance in an easily accessible location

I certify that the information contained in this Petition is true and accurate



June 10, 2005

Arnel Javal, TRC as Agent for Petitioner

28. DATE

29. SIGNATURE OF PETITIONER OR PETITIONERS AGENT

Return THREE copies of this application and the \$350.00 fee to the address shown on front (Use additional 8 1/2 x 11 sheets, if necessary)

130 LIBERTY STREET, NEW YORK, NY
REQUEST FOR VARIANCE
PHASE II: EXTERIOR ABATEMENT AND STRUCTURAL DECONSTRUCTION

NATURE OF THE WORK

The proposed Phase II Exterior Abatement will be conducted so that the Building can be safely deconstructed to allow for redevelopment of the WTC Site. This Phase of the project entails removal of exterior building materials containing asbestos which were present on the Building exterior prior to September 11, 2001. This variance request addresses materials specific to Phase II of the deconstruction, however work may be performed concurrently with Phase I work as addressed in previous Variance File No. 05-0427.

REASON FOR REQUESTING A VARIANCE

LMDC, its consultants and its contractor are committed to compliance with applicable law throughout the cleaning and deconstruction of the Building. Accordingly, the Request for Variance is intended to comply with applicable federal, state and local law. It is the goal of LMDC, its consultants, and its contractor to conduct the proposed abatement in a manner which (i) will not expose the general public to asbestos, (ii) will minimize worker exposure to asbestos through the use of appropriate controls and personal protective equipment, (iii) will minimize adverse impacts of the project on the adjacent community, (iv) will address the practical operational opportunities and challenges presented by the Building and the Building conditions, and (v) will prepare the Building for deconstruction.

PROPOSED EXEMPTIONS

We request exemption from the following sections of Title 12 NYCRR Part 56, also known as Industrial Code Rule (“ICR”) 56:

56- 6.1 Ventilation;

56- 8.1(j), (k)(1-5) Isolation Barriers;

56- 9.1 (a) – Attached Personal Decontamination Enclosure System;

56- 10.1 (a) – Attached Waste Decontamination Enclosure System;

56- 11.1 (b) – Pre-abatement Settling Period;

56-12.1 (c) – Handling

56- 15.2(c-e) – Post-abatement Requirements

Exemption from these subsections is requested based on the following:

- a. The subject facility is a vacant 40 floor high-rise office building in lower Manhattan scheduled for deconstruction.
- b. This exterior abatement work will be coordinated with the building deconstruction.
- c. Exterior building materials containing asbestos which were present in the Building prior to September 11, 2001 (referred to herein as “ACBM”) are non-friable and will be removed manually utilizing wet methods.
- d. HEPA filtered local exhaust ventilation, as required by Industrial Code Rule 56-7.1(j), shall be utilized.
- e. All openings within twenty-five feet of the active abatement area (including, but not limited to windows, doors, ducts and grilles) on the roof level shall be sealed with two (2) layers of at least six mil fire retardant polyethylene sheeting (“poly”).
- f. A personal decontamination enclosure system “remote” from the work area but otherwise compliant with Subpart 56-9, shall be utilized.
- g. A waste decontamination enclosure system “remote” from the work area but otherwise compliant with Subpart 56-10, shall be utilized.
- h. Exterior work will not be performed within a negative pressure enclosure.

130 LIBERTY STREET, NEW YORK, NY
REQUEST FOR VARIANCE
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I. ROOFTOP COOLING TOWER TRANSITE AND CAULKING MATERIALS

1. The work area shall be cordoned off with barrier tape or line and shall be accessible through only one entrance/exit. The asbestos work area shall extend beyond the active abatement area to the roof edge or a maximum distance of twenty five (25) feet, whichever is less.
2. We propose that in areas where these distances are not attainable due to obstructions (equipment, structural components) an orange construction fence shall be erected at the furthest point achievable to demarcate the work area.
3. The work area below the materials to be removed shall be plasticized using a drop cloth consisting of six mil fire retardant poly. The poly shall extend outward from below the active abatement area at least ten feet, where possible.
4. The area surrounding the cooling tower and roof top penthouse from which transite or caulking is to be removed shall be plasticized using two layers of at least six mil poly. That poly shall extend outward on the surface of the rooftop from the perimeter of the structure for a distance of at least six (6) feet.
5. Uncertified persons shall not be permitted within the work area. The vacating of each work area and warning signs shall comply with ICR 56-8.1(b).
6. All openings (including, but not limited to windows, doors, ducts, and grilles) on the roof level within twenty-five (25) feet of the active abatement area shall be sealed with two (2) layers of at least six mil poly.
7. The transite and caulking materials shall be removed using manual methods whenever possible. HEPA filtered local exhaust ventilation shall be utilized, as required by Industrial Code Rule 56-7.1(j), whenever removal of ACBM requires the use of power tools.
8. Precautions shall include, but not be limited to, the use of amended water to adequately wet the transite panels and the use of controlled methods to lower the panels. The transite panels shall be transferred to a waste consolidation area for packaging prior to being lowered to ground level for placement into a transportation container. Properly packaged and labeled waste will be transferred from the ground level staging area to the transport container.
9. Caulking shall be wetted with amended water during removal and immediately placed in asbestos disposal bags of at least six mil poly and sealed airtight.
10. Personal protective equipment as required by Industrial Code Rule 56-4.1(d) shall be provided and used by all personnel within the work area.
11. A personal decontamination enclosure system "remote" from the work area but otherwise compliant with Subpart 56-9, shall be utilized. The personal decontamination enclosure shall be removed only after satisfactory clearance air monitoring results have been achieved.
12. The Contractor shall establish an equipment area adjacent to the regulated work area for the decontamination of employees and their equipment. This equipment area shall consist of an area covered with an impermeable drop cloth (two layers of six mil poly, at a minimum) on the horizontal

130 LIBERTY STREET, NEW YORK, NY
REQUEST FOR VARIANCE
PHASE II: EXTERIOR ABATEMENT AND STRUCTURAL DECONSTRUCTION

working surface. The equipment area shall be of sufficient size to accommodate cleaning of equipment and removing the outer disposable personal protective clothing without spreading visible accumulations of contamination beyond the equipment area boundaries.

13. Air sampling and analysis shall be conducted, in each work area, according to the requirements of Subpart 56-17. An area sample will be taken within ten (10) feet of the work area boundary in an adjacent non work area, for each day of work in that area.
14. In addition to the requirements of Subpart 56-17, air monitoring of the entire work area shall be conducted when abatement activities are being conducted. If air sample 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, methods shall be altered to reduce the airborne asbestos fiber concentrations(s) to the aforementioned level and work shall not resume until that level is attained.
15. If at any time a worker has to pass through an uncontaminated area to access a remote decontamination unit or the next work area, the worker shall don two suits of PPE, remove one suit while in the work area, wet wipe the inner suit, don a clean suit and proceed either to the next work area or the decontamination unit.

II. NON-FRIABLE EXTERIOR ACBM WASTE CONSOLIDATION AREA

1. The Contractor shall establish a waste consolidation area in close proximity to the regulated exterior work area for the preparation and packaging of non-friable waste for transportation and disposal. The waste consolidation area shall consist of an area covered with an impermeable drop cloth (consisting of two layers of six mil poly, at a minimum) on the floor/deck or horizontal working surface.
2. The waste consolidation area shall be of sufficient size to accommodate consolidation and packaging of waste.
3. The waste consolidation area shall be enclosed with barrier tape at a minimum distance of ten feet from the edge of the impermeable drop cloth.
4. Prior to being removed from the waste consolidation area, all waste will be wrapped in two layers of 6-mil poly, sealed leak tight.
5. The exterior surface of the properly packaged waste shall be wet-wiped prior to removal from the waste consolidation area. Properly packaged waste will be transported from the waste consolidation area directly to the disposal container.

PROJECT SCOPE

Exterior Caulk (Roof Level)	100	LF
Cooling Tower Transite (Roof Level)	20,000	SF