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Organization Resources
Counselors, Inc.

Memorandum

PLAINTIFF'S
EXHIBIT
AL-973

September 6, 1989

To: ORC Asbestos Task Force
From: Rebecca L. Daiss *Becky*
Subject: OSHA Interpretations Re: Negative Pressure Enclosures,
Glove Bags, and Small-Scale, Short-Duration Jobs

Attached for your information are two interpretations from OSHA regarding the small scale, short-duration operation exemption and requirements pertaining to removal, demolition, and renovation operations.

Negative Air Bags

The most recent interpretation, dated July 5, 1989, is a response to a letter from a Brand Company official asking whether Brand's Negative Air Bag constitutes a negative pressure enclosure under 1926.58(e)(6). OSHA answered with an affirmation that Brand's negative air bag meets the standard's definition of a negative pressure enclosure. Under this interpretation the use of multiple glove bags is permitted provided that negative air glove bags are used.

However, employers or contractors can be cited for failure to establish a negative pressure enclosure if they conduct a multiple glove bag operation using glove bags that do not provide negative pressure containment. The use of a single, non-negative air glove bag, no more than six feet long, is permitted for maintenance operations.

Small-Scale, Short-Duration Operations, Negative Pressure Enclosures, and PPE

In a June 2, 1989 Memo to the Region V Administrator, OSHA provides clarification of three issues: the definition of small-scale, short-duration; the requirement for negative pressure enclosures for removal, demolition and renovation operations regardless of airborne concentrations; and the required use of personal protective clothing during removal, demolition and renovation operations within negative pressure enclosures and regardless of airborne concentrations.

Small-Scale, Short-Duration Operation - Consistent with previous interpretations, OSHA states that the small-scale, short-duration is not defined by the amount of asbestos being removed or whether only glove bags are used. OSHA also notes that the Agency is under Court order to redefine small-scale, short-duration operation.

Negative Pressure Enclosures - OSHA states that negative pressure enclosures are required for removal, demolition and renovation operations regardless of exposure levels.

Personal Protective Equipment - The memo states that although the use of personal protective clothing within a negative pressure enclosure is not specifically required in the regulatory text, the requirement is implied there, and clearly established in the preamble to the rule.

Attachment

RLD3:INTERP1.MEM
ASBESTOS

JL 5, 1989

Alfred I. Greenfield
Corporate Manager, Occupational Safety
and Health
The Brand Companies, Inc.
420 Renaissance Drive
Mark Ridge, Illinois 60068

Dear Mr. Greenfield:

This is in response to your letter of May 3, regarding the use of a Negative Air Bag in the removal of asbestos pipe insulation. It is the opinion of the Occupational Safety and Health Administration (OSHA) that the use of "Negative Air Bags" as described in your letter meets the requirement for establishing a negative-pressure enclosure pursuant to 29 CFR 1926.58(e)(6), provided that all of the other provisions of the construction asbestos standard are met.

If we may be of further assistance concerning this matter, please feel free to contact us.

Sincerely,

Alan C. McMillan
Acting Assistant Secretary

CA:HOPKINS/bar/N3463/523-8036/6-8-89

CP # 7271 CP215

c:Clark/Hopkins/Subject/Chron/OCIS/ALL Regional Administrators

Attachment:

BRAND the brand
companies, Inc.

CSHA CCU #
43960

May 3, 1989

Alan McMillan
Assistant Secretary (Acting)
Occupational Safety and Health Administration
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

Dear Mr. McMillan:

On April 11, 1989, Jim Werner, Brand's Vice President of Technical Services, and I, along with members of an ad hoc committee of the Asbestos Abatement Council of AWCI, met with a joint group of OSHA and EPA officials at the Department of Labor in Washington, D.C. Representing OSHA was H. Berrien Zettler, Joseph Hopkins, Helen Li, and David Smith. EPA was represented by Robert Jordan, Brian Duncan and Kim Wong.

The primary purpose of the meeting was to express industry concerns and to exchange information on technology, engineering controls and regulatory interpretation and enforcement of glove bag use in the removal of asbestos-containing materials (ACM).

During the meeting, Brand described its procedures for the use of a Negative Air Bag in removing ACM. Both OSHA and EPA indicated verbally, that they believe the use of these bags in the manner described meets both the intent and requirement of the Standard, 29 CFR 1926.58. It was then suggested that this procedure be submitted in writing to the Administrator for a written response.

Our interpretation of Appendix G of the Standard is that glove bag procedures, as described in the Appendix, are for small-scale, short-duration projects which allow exemption from many of the provisions of the Standard. This is rarely the case in most asbestos abatement projects.

Brand's reference to a Negative Air Bag, is the same polyethylene bag with arms attached that is presently being marketed within the industry as a glove bag. However, it is in the application of this bag that Brand makes the distinction between a glove bag and a negative air bag. Brand's procedures for the use of the Negative Air Bag to remove asbestos pipe insulation are as follows:

1. The poly bag is modified so as to allow make-up air to enter the bag but not leave the bag. This is done with the addition of a poly flap which is taped inside the bag over an opening cut into the bag.
2. The area to be worked on has been regulated by barrier tape and signs, and all employees within the immediate vicinity have been notified of the work. Employees are notified and are wearing respirators.

2. The area to be worked on has been regulated by barrier tape and signs, and all employers within the immediate vicinity have been notified of the abatement project. The workers are suited up and are wearing respirators.

3. The outside of the insulation is wet wiped and sprayed with an encapsulant prior to the bag being placed on the pipe.

4. The bag is attached to the pipe using approved methods. Brand only uses seamless bags and therefore does not have to tape a bottom seam. If the size of the pipe warrants it, a small, rigid plastic collar is inserted into the bag to insure that the bag does not collapse when negative pressure is created. All of the necessary tools and equipment have been inserted into the bag prior to its being sealed.

5. Using a small HEPA filtered vacuum unit, negative pressure is created within the Negative Air Bag. This negative ventilation is created prior to any abatement work and is maintained through-out the use of the bag. What we have now created is a classic negative pressure containment. The difference being that the worker is on the outside of the containment as opposed to being on the inside as with a large containment.

6. The worker begins the removal process, using all of the normal engineering controls, including amended water, etc. During the removal process, both personal and area air samples are being taken by the independent air monitoring contractor.

7. When the removal of the insulation is complete, the Negative Air Bag is removed by the approved method and is then treated as ACM waste. The removal process is thorough and includes encapsulant being sprayed onto the open ends of the pipe.

8. When the removal of the ACM waste is complete, the workers are now required to undergo complete decontamination in the Decon Unit, which has been set up near by.

We believe that using Negative Air Bags to remove pipe insulation in this manner, that is, under negative pressure and with all other provisions of the Standard in operation, meets both the letter and the intent of the standard with regard to removal practices and procedures.

We invite your response to this procedure and would appreciate any questions you may have. Thank you.

Respectfully,

Alfred I. Greenfeld
Corporate Manager, Occupational Safety and Health

JUN 2 1989

CMH

MEMORANDUM FOR: Michael G. Connors
Regional Administrator
Region V

THROUGH: Leo Carey, Director
Office of Field Programs

FROM: Patricia K. Clark, Acting Director
Directorate of Compliance Programs

SUBJECT: Interpretations of the Asbestos Standard
Standard 1926.58

This is response to your letter of December 5, 1988, on behalf of Mr. William Thomas, the Cleveland Area Office Director. His letter concerns interpretations of the Occupational Safety and Health Administrations's (OSHA) asbestos standard in the construction industry, 29 CFR 1926.58. We apologize for the delay in response.

The answers to his questions are as follows:

1. Currently OSHA is under court order to redefine "small-scale, short-duration" operations. Since the standard does not include a definition of "small-scale, short-duration" operation, OSHA Instruction CPL 2-2.40 lists four elements to be considered inclusively in defining what is "small-scale, short-duration." The definition does not depend on the specific amount of asbestos being removed or whether only glove bags are used. OSHA intends this a "small-scale, short-duration" exemption from 1926.58(e)(6) to apply to those work operations where it is impractical to construct a negative pressure enclosure because of the configuration of the work environment. Quantities of asbestos should be small enough so as not to result in employee exposure above the action level. Generally these operations involve facility maintenance activities which can be controlled via glove bag techniques or wet methods to keep employee exposures below the action level.
2. According to the standard, negative pressure enclosures are required for all removal, demolition and renovation operations regardless of airborne concentrations. The construction standard describes two types of regulated areas which must be established based on the type of work

performed. Regulated areas are established where concentration of asbestos exceed or can reasonably be expected to exceed the permissible exposure limits (8-hour time-weighted average and/or 30-minute excursion limit). Employers performing general construction operations, such as cutting of asbestos-cement sheets, the lathing of asbestos cement pipes are also required to establish regulated areas and demarcate in accordance with 29 CFR 1926.58(e)(1) and (e)(2), respectively.

In other words, regulated area requires demarcation but not necessarily negative pressure enclosures unless removal, demolition and renovation operations are involved.

3. Paragraph (e)(6) of 29 CFR 1926.58 should be cited, which states that the competent person shall ensure the employees working within the enclosure wear protective clothing and respirators as required by paragraphs (i) and (h). Although (i)(4) does not state specifically that the protective clothing be provided, the requirement for protective clothing is implied, as (i)(4) requires the competent person to periodically inspect the work-suits for rips and tears. The preamble makes it clear that the employers are required to provide disposable work-suits for all employees working within the abatement enclosure.

Again, please accept my apology for the delay in response. If we can be of further assistance, please do not hesitate to contact us.

U.S. Department of Labor

Occupational Safety and Health Administration
230 South Dearborn Street
Chicago, Illinois 60604

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DEC

8 REC'D

DATE: December 5, 1988

MEMORANDUM FOR: Thomas J. Shepich, Director
Directorate of Compliance Programs

THROUGH: *for Jack J. Janda*
Leo Carey, Director
Office of Field Programs

FROM: *John Phillips*
Michael G. Connors
Regional Administrator
Region V

SUBJECT: Clarification/Interpretation of
Asbestos Standard 1926.58

It is our surmise that the enclosed queries have National significance. In order for all Regions to have a uniform approach, the answers to these queries should be given by your office.

We have advised Art Thomas, the Area Director of the Cleveland Area Office, that we have sent his communication to your office for further disposition.

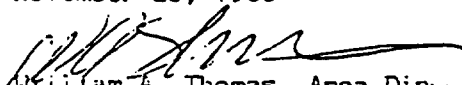
Thank you for providing us with uniform guidance on this subject.

Enclosures

U.S. DEPARTMENT OF LABOR
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
CLEVELAND AREA OFFICE - REGION V
1240 EAST 9TH STREET ROOM 899
CLEVELAND, OHIO 44199

COPY FOR YOUR
INFORMATION

DATE: November 23, 1988

REPLY TO 
ATTN OF: William A. Thomas, Area Director

SUBJECT: Asbestos Construction Standard, 1926.58

Thru: Michael G. Connors
Acting ARA/Technical Support

We have recently been reviewing the construction asbestos standard, enforcement directive and policy letters in detail, and would appreciate your thoughts on enforcement policy in the following areas:

1. What is a small - scale, short - duration operation? OSHA Instruction CPL 2-2.40 is not clear in this area. It gives four (4) different definitions: Maintenance or renovation tasks where the removal of asbestos is not the primary goal of the job, activities where exposure can be kept below the action level such as glove bags, an operation included in the employer's asbestos maintenance program and nonrepetitive operations. Does this mean that an employer is exempt from negative - pressure enclosure requirements on any job if glove - bagging methods are used for removal? Or does it depend on the amount of asbestos being removed? If so, what amount? Fifty lineal feet or fifty square feet is the cut-off established by the Ohio Department of Health.
2. When is a negative - pressure enclosure required? CPL 2-2.40 says a negative - pressure enclosure is required for all removal, demolition and renovation operations (except where not feasible). In a letter to Bernard Paul of the Indianapolis Air Pollution Control Division, Tom Shepich states that negative pressure enclosures are required for all removal, demolition and renovation operations regardless of exposure levels. In a letter to Robert Battacchi of WR. Grace and Company, John Pendergrass states that regulated areas are established only where asbestos concentrations exceed the PEL. The standard says that regulated areas shall be established whenever asbestos concentrations exceed or can reasonably be expected to exceed the standard, and that negative - pressure enclosures are required for all removal, demolition and renovation operations. Can you please provide some guidance in this area?

3. What standard should be cited to require employees to wear protective clothing during asbestos removal, demolition and renovation operation in cases where there are no air monitoring results showing exposure above the PEL? We have been citing 1926.58(i)(3) because 1926.58(i)(1) says that clothing must be provided only for exposure above the PEL. There is no requirement anywhere in the standard requiring protective clothing inside the negative-pressure enclosure, except where air levels are above the PEL. The preamble states that protective clothing is required for all employees working in the abatement enclosure by paragraph (i)(4) (page 22706), however, (i)(4) does not state that it must be provided, but rather that it should be periodically inspected and must be repaired or replaced if damaged.

cc: File

WAT/rap