Medical Exams Required for Employees Exposed to Any Level of Asbestos

In two separate cases, citations were affirmed for *GAF Corporation's* failure to provide medical examinations for its employees in occupations exposed to airborne concentrations of asbestos fibers. The Judges rejected the employer's contention that the standard cited requires medical examinations only for those employees exposed to concentrations reaching or exceeding the maximum permissible levels. No such limitation is placed on the obligation to provide examinations; tests must be made available for employees receiving any exposure.

The cases appear at ¶ 18,289 and 18,318.

PLAINTIFF'S
EXHIBIT
AL-1309

[¶ 18,289] GAF Corporation

Digest of Judge's Decision dated July 18, 1974. OSHRC Docket No. 3203. Henry K. Osterman, Judge.

Airborne Asbestos Concentrations—Employee Exposure—Medical Examinations. A penalty of $40 was deemed appropriate for an employer's violation of § 1910.93a(j) through failure to provide medical examinations for its employees exposed to airborne concentrations of asbestos fibers. The Judge rejected the employer's contention that the standard requires medical examinations only for those employees exposed to concentrations reaching or exceeding the maximum permissible levels established by § 1910.93a(b). No such limitation is placed on the obligation to provide examinations; tests must be made available to employees receiving any exposure.

Back references: ¶ 6802.1; 6805.3.

Allan Sloan for the employer. Louis Weiner for the Secretary.

[¶ 18,318] GAF Corporation

Digest of Judge's Decision dated July 23, 1974. OSHRC Docket No. 4008. Vernon Riehl, Judge.

Asbestos—Employees' Exposure—Medical Examinations—Threshold Values—Abatement. Ruling that employees were exposed on a regular basis to concentrations of asbestos dust and that the employer had not made medical examinations available to employees, a Judge found the employer had violated the requirements of § 1910.93a(j)(3). Although accepted testing methods were used to determine employee exposure to asbestos fibers longer than four microns for 8-hour daily shifts on an average of five days per week, it was noted that the standard requiring medical examinations makes no reference to a threshold value and is applicable to all employees exposed to asbestos airborne concentrations. The clear intent of the standard as adopted was to provide early detection of asbestos-related diseases which are statistically inevitable regardless of exposure limits. After considering the gravity of violation, size of business, good faith and prior history of violations a zero penalty was proposed. An abatement period of 120 days was also affirmed.

Back reference: ¶ 6805.3.

McNeill Stokes for the employer. Donald McCoy for the Secretary.

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