

Interoffice Memo

Hoechst Celanese

PLAINTIFF'S EXHIBIT

CEL-1125

Date **August 15, 1989**

TWS-89-45

To **Distribution**

From **Tom Scott**

Dept./Location

Dept./Location **Charlotte 264**

Subject: **OSHA Asbestos Update (ORC Memo)**

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Please find the attached memo from ORC on OSHA Asbestos issues.

A particularly critical issue continues to involve the use of glove bags for removal projects. According to the Asbestos Standard, glove bags can be used if a small amount of asbestos is removed, and its removal is secondary to the performance of the job. Conversely, if asbestos is being removed, and the removal is the main purpose of the job, glove bags are not allowed.

However, there is still an argument inside OSHA, according to the ORC memo, as to whether the Asbestos Standard applies when the monitoring results indicate fiber counts below the PEL of 0.2 f/cc. OSHA, according to the memo, wants the authority to require negative pressure equipment regardless of the fiber count. In fact, OSHA has given citations when negative pressure enclosures are not used, regardless of the airborne levels measured. Several of these citations have been challenged, and, according to the memo, OSHA is concerned that it will lose these cases when brought to court.

Regarding our own asbestos abatement activities, the glove bag controversy may have a significant impact on our operations. If the courts rule in favor of glove bag

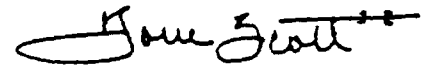
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controls when the documented exposure levels are below the PEL, then it would seem appropriate to continue the use of such controls if our levels are below the PEL. For those abatement projects with monitoring results above the PEL, the glove bag control method would probably be out of compliance with the Standard. If, however, the courts rule that glove bag controls can be used only for small jobs with the asbestos removal as secondary to the operation, glove bags would not be allowed, and negative pressure enclosures would be mandated.

Attachments 3 and 4 discuss an interesting approach to the glove bag control method. The Brand Companies met with OSHA and discussed the use of "negative air bags"... glove bags which are under negative pressure. According to the correspondence, OSHA is of the opinion that the use of negative air bags meets the requirement for establishing a negative pressure enclosure and approved their use.



Tom Scott

Attachments

cc: Bruce Bowyer - 264
Merrily Caldwell - 264



Interoffice Memorandum

TO (Name and Location)	DATE
See Below	September 15, 1986
FROM (Name and Location)	REFERENCE NO.
Tom W. Scott	TWS-86-56

E. F. Bazen - Palmetto	D. V. Perry - Salisbury
R. E. Caldwell - Greenville	D. B. Smith - Salisbury
N. A. Culbertson - Celriver	R. S. Smith - Charlotte
K. E. Hart - Celco	C. M. Spangler - Shelby
J. J. Henley - Fayetteville	R. D. Tankersley - Celco
D. A. James - Palmetto	C. W. Whaley - Charlotte
J. R. Kelley - Greenville	R. V. Williams - Celriver

SUBJECT: ORC's Review of the Comments Made at the August 27, 1986 Task Force Meeting on Asbestos

Referencing my letter to you TWS-86-52, entitled Minutes of ORC's Asbestos Task Force Meeting, you may want to read ORC's notes on this same meeting.

Tom Scott

Attachments

cc: B. T. Bowyer

DO IT RIGHT THE FIRST TIME

National Place, Suite 911
1331 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
202-737-6330



Memorandum

September 4, 1986

To: ORC Occupational Safety and Health Group
Asbestos Task Force

From: W. *William* Ament and Darrell K. Mattheis *Darrell*

Subject: Review of the Comments Made at the August 27, 1986 Task
Force Meeting on Asbestos

The August 27, 1986 ORC Task Force meeting on Asbestos was instructive for a variety of reasons. First it indicated to all those present, including the OSHA Representatives, Leo Carey, the Deputy Director of the Directorate of Field Operations, and Dave Smith, the Chief of the Office of Health Compliance Assistance, that there were many unresolved issues concerning the Asbestos Standard. These issues involve both substantive matters, such as problems concerning showers for workers who work on telephone lines, and procedures, such as whether an employee is covered by the general industry, or the Exposure to Asbestos Construction Standard.

The following is a summary of the Task Force meeting which includes a number of questions that were raised by participants at the meeting, and others that were given to us after the meeting. We are going to discuss the issues raised in the paper with OSHA next week. There is still time for you to send us additional questions or comments that you would like to have us include in the discussion with OSHA.

The following OSHA responses were made during give and take discussions and are not necessarily OSHA policy and should not be stated as such. They are included here for the purpose of obtaining your views on the issues under discussion. The final OSHA positions maybe somewhat different, and these comments should not be used to show discrepancies in the Agency's views!

respirator in place of a PAPR? This is particularly important in light of the recent revelations regarding the effectiveness of PAPRs.

- o What is meant by "best fit" for respirators - qualitative or quantitative fit testing?
- o OSHA prohibits the spraying of any asbestos, including tremolite, anthophyllite and actinolite. Many talcs are contaminated with these three. Most paints contain a fair amount of talc as fillers, and the talc contains small amounts of tremolite as a contaminant. Can we still spray paints? (Some say that the Pfizer talcs have no asbestos, and that they can be used as a substitute very easily!)
- o Is there any exemption from the requirement to monitor on every small job? For instance, can an employer collect monitoring data on a procedure he is using, if the procedure is standardized, and the employees are trained in its use, and then only monitor every 4 months (assuming that the employees are using PPE)?
- o The construction standard requires that bulk samples be taken of all insulation that may contain asbestos, and that, unless the percent of asbestos is less than 0.1 percent, it be labeled as asbestos. The polarized light optical microscopy method, however, is no good below 1 percent. To get to 0.1 percent, (and you must or label it asbestos) you must go to a scanning electron microscope (SEM) or a transmission electron microscope (TEM). This is very expensive, running \$400.00 per sample or more. Additionally, there are not enough SEMs or TEMs around to meet the demand for such analysis.

Question: Does the standard require use of International Labor Organization (ILO) record keeping system?

Answer: The standard does not specifically require the use of ILO record keeping or B-readers, but rather gives a variety of options in the requirements.

OSHA Comment - Stayed Compliance Dates:

These will probably go into effect within thirty days of OMB's decision on their approval. OMB is not believed to have any serious problems with any of the record keeping provisions stayed temporarily.

Question: What is a small job or a big job?

Answer: If it can be done in a glove bag in one day, it is a small job. It is not always necessary to have a regulated area for these jobs. In another sense if you can do the job from outside the enclosure it is small, if you must go inside the enclosure it is a big job. OSHA wants to be sure that employers do not do big jobs a little bit at a time, treating them like small jobs.

Question: What about potential exposure of a person who has changed out of PPE in a regulated, area and is walking back to a shower facility?

Answer: OSHA would monitor the person, the area, but would retest if they found above .2f/cc. OSHA would be very cautious about issuing a citation in this case.

Question: Has the EPA pamphlet on brake repair and asbestos caused OSHA any problems?

Answer: Overall the EPA brake mechanics voluntary guidelines have not caused a problem. OSHA will try to sit down with EPA and coordinate.

Question: How do phone installers find out about the presence of asbestos in a building they are working in.

Answer: Phone installers and the employers they are installing equipment for must communicate regarding presence or absence of asbestos. Unfortunately employers or businesses leasing room in a building usually do not know about the presence or absence of asbestos. In this case OSHA will have to make a judgement on the culpability of the employer.

Answer: Once an individual is exposed above .1, medical surveillance must continue for the working life of the employee. If the employer has an examination program underway in a satisfactory manner, but not yet complete, he probably would not be cited.

Question: Must all insulation containing asbestos be labeled?

Answer: OSHA says you must label but not every foot or even 6-10 feet, but there must be some labels that can be seen. Labeling implies that some training has been done with employees about the problems of asbestos and how to deal with it. Employees who have not had the training should not be allowed to work with asbestos.

Question: Where a building has sprayed on asbestos above a dropped ceiling, where would you put the labels?

Answer: The answer would depend on the feasibility of the particular situation. There must be some labeling however, sign, label, banding, etc.

Question: When is a contractor going to fall under the construction standard?

Answer: A contractor may fall under the construction standard when doing rip-out or removal operations. (P--705). In a chemical plant if the piping is associated with a process in place and operating, it is maintenance not removal, it would fall under general industry standard. Even if it is a long run of piping, if it is maintenance, it is general industry. Maintenance of a structure is general industry. If the work is being done to replace something with a new or modified operation or structure, it then becomes construction.

In the eyes of the average compliance officer, the general industry standard covers routine maintenance operations.

14. Once an employee is included in the medical surveillance program as per the conditions in the standard, how long must he/she be included in the annual program? Is there any criteria for removing him/her from the medical surveillance program; e.g. exclusion from any further asbestos exposure?
15. The labeling provision of the Construction Standard Part (K) (2) (vi) (B) is not required if asbestos concentration is less than 0.1%. However, according to the U.S. EPA NESHAPS Asbestos Regulations (40 CFR 61, Subpart M) the limit for asbestos labeling is 1.0%. If labeling of installed asbestos is required, and the limit is 0.1%, then a transmission electron microscope must be used to analyze bulk samples which has a limit of detection of at least 0.1%. This will increase the cost of bulk sample analysis to about \$300.00 per sample, whereas the phase contrast microscope analysis, with a detection limit of 1.0%, is \$30.00 per analysis.
16. Request that OSHA address the mandatory Appendices in its compliance directives.
17. How will a compliance officer be instructed to define "feasible" under 6(e). Since the majority of the operations will be conducted outside at E&P, negative pressure enclosures would be infeasible and unnecessary.
18. Must the "competent person" under 6(e) be present continuously during the defined operations? The section states that this person must "control entry and exit from the enclosure." Must the competent person stand guard at the entrance?
19. How will a compliance officer be instructed to define "small scale" and "short duration" under 6(e)(iv)? The section provides an exemption for the requirement of negative-pressure enclosures.
20. How can an employer remove an employee from the medical surveillance program when exposure ceases or the use of negative-pressure respirators is discontinued?
21. What is company's obligation to employees who were on the medical surveillance program when they retire?
22. For asbestos in good condition labelling of ACM in-place, it should be sufficient to label in anyway decided upon by the company with proper training, of course, e.g. label "Asbestos" or use color-coding.
23. Will OMB delay cause effective dates to change?
24. Are engineering and work practice controls required for outdoor removals?