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U. S. Department of Labor

Occupational Safety and Health Administration
525 Griffin Street, Room 602
Dallas, Texas 75202
Reply to the Attention of: 6OSHA (TS)

MEMORANDUM FOR: BARRY J. WHITE
Acting Director
Directorate of Health Standards Programs

OSHA DFD #
14541

ATTENTION: JOHN MARTONIK

THROUGH: JOHN B. MILES, JR.
Director
Directorate of Field Operations

SUBJECT: Clarification of New Asbestos Standard (29 CFR 1926.58) for Construction

This is to request clarification of the new asbestos standard (29 CFR 1926.58) as it applies to the construction industry.

Under paragraph 29 CFR 1926.58(a), the scope and application of the standard is discussed. It is stated that the standard applies to all construction work including demolition and salvage of structures where asbestos is present, and removal or encapsulation of materials containing asbestos.

I have received several requests for clarification of the scope of this standard. Construction in the 29 CFR 1926.58 asbestos standard is not defined by any SIC codes but is defined by the type of activity; i.e., removal, demolition, repair, etc. In a general industry establishment where removal or repair is taking place and these activities are being conducted by a maintenance crew (not contractors), does the 29 CFR 1926.58 standard apply where those activities described in its scope; i.e., removal, repair, demolition, are taking place?

Your assistance in clarifying this matter will be appreciated.

G. J. Saulter

GILBERT J. SAULTER
Regional Administrator

PLAINTIFF'S EXHIBIT
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JUL 9 1986

OSHA Instruction CPL

Office of Health Compliance Assistance

Subject: Inspection Procedures for 29 CFR 1926.58--Asbestos, Tremolite, Anthophyllite, and Actinolite Standard

A. Purpose. This instruction establishes policies and provides clarification to ensure uniform enforcement of 29 CFR 1926.58-Asbestos, tremolite, anthophyllite, and actinolite.

B. Scope. This instruction applies OSHA-wide.

C. References.

D. Cancellation.

E. Action. OSHA Regional Administrators and Area Directors shall ensure that the guidelines presented in this instruction are followed. The Directorate of Field Operations shall provide whatever support is necessary to assist the Regional Administrators and Area Directors to enforce the asbestos, tremolite, anthophyllite, and actinolite standard.

F. Federal Program Change. This instruction describes a Federal program change which affects State programs. Each Regional Administrator shall:

1. Ensure that this change is forwarded to each State designee.

2. Provide a copy of the Federal Register notice to the State designee upon request.

3. Explain the technical content of the Federal Register notice to the State designee upon request.

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JUL 9 1986

OSHA Instruction CPL

Office of Health Compliance Assistance

I. Regional Input. Regional Administrators and Area Directors shall communicate all related difficulties to the Office of Health Compliance Assistance, Directorate of Field Operations.

J. Inspection Guidelines. The following guidance provides a general framework that is designed to assist the CSHO with inspections.

1. CSHO Protective Equipment. CSHOs shall determine during the opening conference the types of personal protection needed in the workplace. A review of employer air monitoring may be necessary during the opening conference to assist in determining the types of protection necessary before the walkaround begins.

2. Definitions--1926.58(b). Specifically noteworthy is the definition for the term "Asbestos". The definition broadens the meaning to include all known forms of asbestos regardless of whether or not they have been chemically treated.

3. Communication Among Employers. 29 CFR 1926.58(d) requires employers engaged in asbestos work to notify other employers on the worksite of the nature of the asbestos work and the requirements regarding regulated areas, no later than January 16, 1987.

4. Regulated Areas. Paragraph (e) requires employers to establish regulated areas by January 16, 1987 where airborne concentration of asbestos, tremolite, anthophyllite, actinolite or a combination of these minerals exceed or can be expected to exceed the PEL.

   a. Paragraph (e)(5) prohibits employees from eating, drinking, smoking, chewing tobacco or gum, or applying cosmetics in the regulated area.

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(a) For the purposes of this standard a "small-scale" operation shall be taken to mean a single procedure involving one of the following: valve replacement, pipe repair, electrical conduit installation, drywall removal or installation, roofing

(b) For the purposes of this standard "short-duration" shall be defined as an operation that can be completed in one 8-hour work shift.

e. If the CSHO finds that the employer has not established the regulated areas or negative-pressure enclosure, a serious citation shall be issued for violation of 29 CFR 1926.58(e)(1) or 29 CFR 1926.58(e)(6) as appropriate.

5. Exposure Monitoring. This section requires employers to perform employee exposure monitoring by January 16, 1987. Personal monitoring is to be performed within the breathing zone of the employee. Samples taken must be representative of all potentially exposed employees in each work area.

a. Limited monitoring. Each employer whose workplace or work operation falls under the scope of this standard is required to perform initial monitoring upon the inception of the asbestos work operation in order to access the concentrations of asbestos, tremolite anthophyllite, or actinolite to which employees may be exposed. The standard contains the following exceptions to the initial monitoring provisions:

(1) objective data which shows that the asbestos containing materials cannot release airborne fibers in concentrations exceeding the action level

frequency and, documentation concerning the representativeness of samples must be available before samples can be relied upon.

(2) Statistical Indications. Employer data will be considered unreliable unless the examination indicated under paragraph J. 5.e.(1) of this directive reveals that sampling has been adequately conducted. In general, more than two consecutive samples taken more than 7 days apart are necessary to serve as an indication of employee exposures.

6. Methods of Compliance. This section requires employers to implement all feasible engineering and work practice controls to reach the PEL or the lowest feasible level, whichever is higher, by January 16, 1987. The most significant changes from 29 CFR 1910.1001(1985) regarding the engineering control provisions are as follows:

a. Paragraph 29 CFR 1926.58(g)(1)(i) lists the controls that employers are to use in order to reach the PEL.

b. Where all feasible engineering and work practice controls have been implemented but are still not capable of reaching the PEL, the controls shall be used, and supplemented with respiratory protection in accordance with 29 CFR 1926.58(h).

c. Paragraph 29 CFR 1926.58(g)(2) prohibits:

(1) the use of high-speed abrasive disc saws unless equipped with proper exhaust ventilation

(2) the use of compressed air to remove asbestos unless used in conjunction with an enclosed ventilation system.

(3) Provide for the removal of employees from the regulated area if an examining physician determines that the employee will be unable to function normally, while wearing a respirator. The employer will retain the same seniority, status, and rate of pay as before the removal from the regulated area.

c. Respirator fit testing. Paragraph (h)(4) requires employers to conduct either quantitative fit test for all employees wearing negative pressure respirators. The test must be performed upon initial fitting and at least every six months thereafter. Qualitative fit test may only be used for half-mask respirators.

8. Protective work clothing and equipment. Paragraph (i)(1) requires employers to provide and require the use of protective clothing when the employee is exposed to asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals above the PEL.

a. Laundering. Paragraph (i)(2)(i) requires employers to ensure that laundering of contaminated clothing is done so as to prevent the release of asbestos, tremolite, anthophyllite, actinolite or a combination of these minerals in excess of the PEL.

b. Contaminated clothing. All contaminated clothing shall be transported in sealed impermeable bags, or other closed, impermeable containers. Containers not properly labeled will result in a violation of 29 CFR 1926.58 (k)(1)(i).

c. Protective clothing for removal, demolition,and renovation operation. Paragraphs (i)(4)(i) and (ii) requires a competent

(1) Decontamination areas are to be established adjacent and connected to the regulated area, they shall consist of an equipment room, shower area, and clean room in series. All employees shall enter and exit the regulated area through the decontamination area.

(2) Clean rooms shall be equipped with a locker or appropriate storage containers for each employee's use.

(3) Shower facilities shall be provided and must comply with 29 CFR 1910.141(d)(3) where feasible.

(a) Where feasible, showers shall be contiguous both to the equipment room and the change room.

(b) Where this is not feasible, the employer shall ensure that employees :

1 Remove contamination from worksuits using a HEPA vacuum before going to a shower that is not contiguous to the work area; or

2 Remove their contaminated worksuits, don clean worksuits and proceed to a shower that is not contiguous to the work area.

(4) Paragraph (j)(2)(iv) requires equipment rooms to be supplied with impermeable, labeled bags and containers.

(2) A combination of these minerals are present in the product at 0.1 percent or above, by weight.

c. Employee Information and Training. 29 CFR 1926.58(k)(B) requires employers to implement a training program by January 16, 1987.

(1) The employer needs to institute a training program only when employees are exposed to asbestos at or above the action level. Training may be in a language other than english.

(2) The effectiveness of the training program must be evaluated through a review of the program and discussion with employees. The following questions provide a general outline for CSHO's to use when evaluating the program:

(a) Has a training and information program been established for employees exposed at or above the action level?

(b) Is training provided prior to or at the time of initial assignment for those employees not receiving training in the previous 12 months and at least annually thereafter?

(c) Has the training program been conducted in a manner which the employee is able to understand:

1 In a language the employee readily understands,

2 At a level the employee can comprehend

(g) The medical surveillance program requirements

(h) A review of this standard, including appendices

d. Access to information and training requirements. Paragraph (k)(4)(i) requires the employer to make available without cost, a copy of the standard and its appendices to all employees exposed at or above the action level.

11. Housekeeping.

Paragraph 29 CFR 1926.58(l) specifies the housekeeping requirements of the standard.

a. Vacuum cleaners must be equipped with HEPA filters

b. all waste materials containing asbestos must be disposed of in sealed, labeled impermeable containers.

12. Medical Surveillance. Paragraph (m) requires employers to implement a medical surveillance program and to provide Medical examinations. Some of the significant changes regarding medical surveillance are:

a. All employees that are exposed to asbestos, tremolite, anthophyllite, actinolite or a combination of these minerals at or above the action level for 30 days or more per year, or who are required to wear negative pressure respirators must be provided medical surveillance.

b. Examinations must be performed by or under the supervision of a licensed physician and given on the following schedules:

is in compliance with all of the provisions of the standard that are triggered by the action level and the PEL.

b. Medical Records Examination. The CSHO shall examine a representative number of employee medical surveillance records to ensure that the medical records are complete, are accurate, and are up to date. Paragraph (n)(5)(iii) requires the employer to furnish the records to OSHA. When the requested medical records are employee identifiable, the records shall be obtained in accordance with the requirements of 29 CFR 1910.20(e)(3)(ii), and the Field Operations Manual (FOM).

c. Effective Date. The effective date for the recordkeeping requirements of the standard is January 16, 1987. However, records still have to be developed and maintained pursuant to 29 CFR 1910.1001 (1985) and 29 CFR 1910.20 prior to the start-up dates of this standard.

14. Observation of Monitoring.

a. The standard requires employers to afford employees or their designated representatives an opportunity to observe any monitoring which is required under paragraph (d) of the standard.

b. The observer must be provided with all required protective clothing and/or equipment. The observer may need to be trained in the use of such protective equipment and where exposure levels will be at or above the action level to receive training in accordance with paragraph (j)(5) of the standard.