



Reply to the Attention of:

MAY 28 1992

Mr. Darrell K. Mattheis
Organization Resources Counselors, Inc.
1910 Sunderland Place, N.W.
Washington, D.C. 20036

Dear Mr. Mattheis:

This is in response to your letter of January 28, concerning the labeling of installed asbestos-containing products.

The pertinent rule is 29 CFR 1926.58(k)(2)(i) appearing at 29 CFR 1926.58(k)(2)(i) in the asbestos standard for the construction industry. According to the rule, "Where feasible, installed asbestos ... products shall contain a visible label." You provided the understanding by Organization Resources Counselors, Inc. (ORC), of the rule and asked if it were correct.

We will repeat each of ORC's perceptions of the rule and comment on them.

1. Material that has been installed after July 21, 1986, must be labeled if it is known to contain asbestos.

Comment: All asbestos containing material (ACM) installed after July 20, 1986, must be labeled where feasible. In terms of the qualifying phrase, "if it is known to contain asbestos", employers have an inherent legal responsibility for determining whether materials installed after July 20, 1986, contain 0.1% or more asbestos by weight.

2. Material installed prior to July 21, 1986, where the employer has knowledge that asbestos is present, must be labeled.

Comment: ACM installed before July 21, 1986, must also be labeled, where feasible, if employers (1) have existing knowledge of its location(s) or (2) identify incidentally its location(s).

3. Where repairs or renovation of more than a minor nature are planned, and it is possible that ACM may be present, the employer must determine the presence or absence of asbestos, prior to the date the work is started, and if asbestos is present, label in accordance with the Asbestos Standard.

Comment: Correct, except delete the phrase, "of more than a minor nature", since the size of the jobs is not a consideration, only the possible presence of ACM.

4. The employer is not required to determine the presence or absence of asbestos in undisturbed materials that were installed prior to July 21, 1986.

Comment: Correct.

You related that many companies have adopted policies similar to the following:

- A. All insulation and gaskets in the facility are considered to contain asbestos;
- B. All employees are trained that they must treat all insulation and gaskets as ACM, and that they are not to be disturbed;
- C. Maintenance and production personnel who must handle ACM are trained to recognize it, and work safely around it;
- D. Specific standard operating procedures are developed for working around ACM and their use required;
- E. Work that may disturb potential ACM, may only be performed by those employees who have received appropriate training and have a permit;
- F. Signs are posted at the entrance and throughout the facility warning that all insulation etc. is presumed to contain asbestos, and only those with appropriate training and a permit may disturb it.

You asked if the Occupational Safety and Health Administration (OSHA) would consider a facility following the described procedures to be in compliance with the labeling requirements of the construction industry asbestos standard.

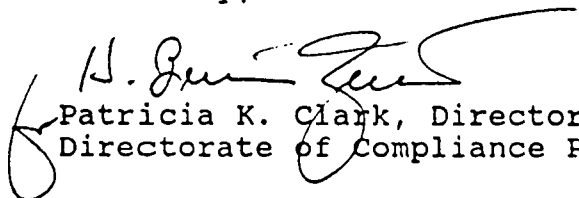
Answer: Following the described procedures does not constitute compliance with the labeling requirement at 29 CFR 1926.58(k)(2)(i). We view the procedures as training and education procedures rather than labeling procedures. We note your explanation, however, that an employer would be following such procedures because the facility was constructed prior to July 21, 1986, and asbestos is known to be present in the facility, but the employer is not aware of all its exact locations. In such a situation, if feasible, the employer must place asbestos warning labels on the installed materials that the employer knows to contain asbestos even though the described procedures are being followed.

You asked if an employer may use a system, such as a blue colored band around a pipe, to indicate the presence of ACM rather than a sign, so long as its meaning is taught in training and safety meetings.

Answer: No, not if it is feasible to place asbestos warning labels on the pipes. The asbestos warning labels are a more direct way of communicating the hazard information, and the standard specifies the text of the label to be used.

We appreciate the opportunity to clarify these matters for you.

Sincerely,


Patricia K. Clark, Director
Directorate of Compliance Programs