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ASBESTOS LAWS AND REGULATIONS

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OAKLAND—Joel Cohen, an industrial hygienist, and Robert Peterson, an attorney, have just completed a series of concise seminars about asbestos use in construction. COR attended the Oakland seminar. Participants were told if they were doing demolition, reconstruction or remodeling work, they should expect asbestos. Dust might not be visible in the air at the 0.1 fiber action level; it would be at the two fiber permissible exposure level. (Cal-OSHA's ceiling, or short-time concentration limit, is 10 fibers longer than five micrometers per cubic centimeter of air.)

When in doubt, take an air sample, said Cohen.

"The Cal-OSHA regulation presumes that you recognize asbestos and requires that you report it," Peterson said.

"You can collect bulk samples yourself," Cohen said. "Put them in zip-lock baggies or a tiny film can. Try to keep them contained. Also be sure you patch the area where you got the sample. Keep good records of when and where samples were taken."

He said a lab would charge \$35 for bulk analysis a customer brings in, whereas if an IH technician comes out to sample, the charge would be \$35 per hour.

They passed out copies of Cal-OSHA's asbestos safety order, General Industry § 5208, and a whole page listing other agencies with asbestos laws and regulations: the Department of Health Services, Air Quality Management Districts, the California Highway Patrol, the U.S. Environmental Protection Agency and the U.S. Department of Transportation.

"If you comply with the Cal-OSHA regulations, you probably won't have trouble with any other agency," said Peterson. "Everything you need to know is in 5208."

REPORTS OF USE

"Reports of use are very important. That's subpart I," Peterson said most of his clients get cited by Cal-OSHA for violations of subpart (I)(1)(C) or (D)—operations or processes requiring reporting. Use of any material with more than one percent of asbestos by dry weight must be reported to the Division of Occupational Safety and Health.

Drop ceilings and false ceilings in hospitals or anywhere else can cause trouble. Peterson said when employees work up there, courts will call it maintenance.

"EPA regulations require that schools be inspected carefully," Cohen said. It also has reporting requirements before the job starts.

WORK PRACTICES

Cohen said hand power tools need a local exhaust ventilation system. Engineering controls are preferable, but not always possible. If control must be achieved by work practices, this means water. The material must be handled wet.

"The state will air monitor and cite if the concentration is over 0.1 if they don't think the material is wet enough," Peterson said. They have the burden of proof to make the citation stick.

RESPIRATORY EQUIPMENT

Not only must the material be wetted down, respirators must be provided if concentrations exceed the PEL (subsection d) of 5208). How elaborate a respirator depends on how heavy the exposure. Cohen showed different kinds, from \$17 disposables to cartridge respirators that must be personally assigned. "None of these work with a beard," he said.

Breathing inside a respirator can be difficult. Medical advice is needed where use of a respirator is required. GISO § 5144 outlines a full respiratory protection program, Cohen said. There must be a medical examination, training, fit testing and written procedures, including a signoff. "Obviously, the disposables do not afford 100% protection. The ultimate would be self-contained breathing apparatus (SCBA)."

How do you find an MD familiar with the Title 8 requirements?

Cohen: "That's tough. It's a good idea to xerox (j)(1)(B) of the asbestos regulations and instruct the MD to follow them. It shouldn't cost \$200 or anything close."

A man in the audience said the bill should be \$60 or \$80 for a medical examination.

ASBESTOS AS HAZARDOUS WASTE

Cohen said the California Highway Patrol (CHP) is supposed to control transportation of asbestos scrap, but it actually doesn't know how to handle it. There is no CHP requirement that trucks be placarded. CHP refers to DOT, which would rather not be involved. "So there are no rules, really."

The state Department of Health Services (DOHS) does have a concern, he said. See Title 22, California Administrative Code § 66016, and § 25100 of the Health and Safety Code. DOHS licenses registered haulers, who take asbestos away. "If you don't know if a hauler is registered, you can call the department and ask."

"There is also the waste hauler's manifest that you, as the generating source, must fill out. A registered hauler would have the manifest. You're supposed to get a copy back and then your obligation is over." He said asbestos can be taken to a Class II dump, which is county-regulated. Haulers are regulated by DOHS and EPA.

Gerald Brickel in San Francisco, with the EPA's air management division, was recommended as being knowledgeable. He can be reached at 415-974-8082.

"It's a good idea to call the land fill and ask will it accept what you're unloading," Cohen said.

Peterson said he would touch base with EPA and Air Quality and all those other agencies before starting a job.

DECONTAMINATION: Cohen showed full body disposable suits that are inexpensive and can be thrown away at the end of the day along with the asbestos debris. He said there are also portable decontamination vans on the market now.

CRIMINAL ACTIONS: The Cal-OSH Act has criminal provisions, Peterson said. "We are starting to see more criminal actions. Los Angeles city is very active in the area of hazardous substances. They have charged one man for moving demolition debris, mixing it with other substances and moving it to a Class II dump. There are about 100 counts and \$200 million in damages proposed against this guy."

RESPONSIBILITY ON THE JOB SITE

Who's required to do what when there are mixed crews on the site?

"You're required to protect your own people," Peterson said.

"But if the general knows about the problem, he should tell the sub," Cohen added.

Peterson said the law looks to the general for more responsibility. There is a lot of law relating to hazardous substances coming out of Sacramento, and asbestos is a hazardous substance.

Besides that, asbestos is on the Director's List (Cal-OSHA). "Lawsuits are saying if you knew about the stuff and didn't tell others, you're in trouble."

So the general should make sure the sub is following Cal-OSHA rules?

"Yes," said Peterson. "If you have a good safety staff, go with it."

But you assume more liability that way.

Peterson said that was why a good staff was important. There is such a bias around the word "asbestos" that the courts will lay liability on the general anyway, "so we need to do as much as we can."

CALIFORNIA'S ASBESTOS SAFETY
AND HEALTH STANDARD

SAN FRANCISCO—Need an authoritative guide to General Industry § 5208, the Cal-OSHA asbestos standard? The Cal-OSHA Communications unit has printed a helpful guide to the standard called "Cal-OSHA Resource List and Standard for Asbestos." Copies are available from the unit, 525 Golden Gate Ave., 3rd Floor, San Francisco 94102; or call 415-557-2237 and ask for S-620 (November, 1983).

ordered 2 copies 9/24/84