

U.S. Department of Labor

Assistant Secretary for
Occupational Safety and Health
Washington, D.C. 20210

PLAINTIFF'S
EXHIBIT
DUP-1189



OSHA Instruction CPL 2.60
OCT 01 1983
Office of Field Coordination

Subject: Special Emphasis Inspection Program for Asbestos

- A. Purpose. This instruction establishes a National Emphasis Program (NEP) for the programmed health inspection of establishments in industries where overexposures to airborne levels of asbestos have been found to occur.
- B. Scope. This instruction applies OSHA-wide.
- C. Action. Regional Administrators and Area Directors shall ensure that the procedures established in this instruction are adhered to in scheduling programmed inspections.
- D. Federal Program Change. This instruction describes a Federal program change which affects State programs. Each Regional Administrator shall:
 - 1. Ensure that this change is promptly forwarded to each State designee.
 - 2. Explain the technical content of this change to the State as requested.
 - 3. Ensure that State designees are asked to acknowledge receipt of this Federal program change in writing within 30 days of notification to the Regional Administrator. This acknowledgement should include a description either of the State's plan to implement the change or of the reasons why the change should not apply to that State.
 - 4. Review policies, instructions and guidelines issued by the State to determine if this change has been communicated to State program personnel. Routine monitoring activities shall also be used to determine if this change has been implemented in actual performance.

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- E. **Background.** Workers exposed to airborne asbestos in their workplaces face a significant danger of developing the disabling diseases of asbestosis, lung cancer and mesothelioma. The diseases caused by asbestos constitute the highest level of health risk for American asbestos workers.
1. While malignant mesothelioma of the pleura and peritoneum are extremely rare in persons not exposed to asbestos, scientific studies have shown that in some asbestos-exposed occupational groups, mesothelioma has accounted for 10-18 percent of all asbestos-related deaths. This form of cancer is incurable and is usually fatal within a year after diagnosis. In addition, cancers of several other types have been associated with exposure to asbestos.
 2. Considerable public attention has been focused on the dangers of asbestos and OSHA is continuing its work on a permanent asbestos standard.
 3. OSHA has decided to increase its compliance presence in industries where the greatest exposure to asbestos has been found in the past, and, therefore, are most likely to have continued employee exposure to asbestos. For that reason an NEP which will concentrate available resources on those industries is appropriate.
 4. The industries which have been identified as having a history of past asbestos citations do not appear at all on the SIC list generated for the Health Inspection Plan currently used for scheduling General Industry health inspections or, if they do appear, are so far down the list as to make an actual inspection unlikely. (See Field Operations Manual, Chapter II, E.1.b.(1).) For that reason a list of industries with a history of asbestos violations has been created for use in a Special Emphasis Program.
 5. By targeting for inspection those establishments under SIC codes where violations of the asbestos standard have been found to occur most often in the past, the agency intends to ensure that health hazards which may exist at these worksites are addressed and abated, thereby calling attention to the serious matter of exposure to asbestos and at the same time providing a safer and more healthful place of employment for workers.

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- F. Procedures. Each Area/District Office will receive from the National Office a list of establishments within its jurisdiction containing work locations which fall under SIC codes for which past OSHA inspection data indicate that violations of 29 CFR 1910.1001 have occurred.
1. Asbestos SIC List. An Asbestos SIC List has been generated which contains a statewide listing of industries with a previous history of OSHA violations of the asbestos standard. Because of limited resources, this SIC list is limited to the 10 industries most frequently cited for asbestos violations.
 - a. The industries on the Asbestos SIC List are ranked according to the total number of cited violations within that industry during the period of October 1978 to April 1983.
 - b. A list of all known establishments by industry with high potential employee exposures to asbestos located within the Area/District Office jurisdiction for each SIC on the Asbestos SIC List will be provided to each Area/District Office.
 - c. The Asbestos Establishment List will be prepared in the same manner as is the Health Establishment List described in the FOM, Chapter II, E.2.b.(1)(b) 3.
 2. Scheduling Inspections. Area Directors shall ensure that the guidelines given in the FOM, Chapter II, E.2.b.(4), are followed in scheduling inspections at these establishments.
 - a. Prior to the use of the Asbestos Establishment List provided by the National Office for scheduling purposes, the Area Director shall make appropriate adjustments as outlined in the FOM, Chapter II, E.2.b.(1)(b) 4. Establishments which are known to have no current asbestos exposures shall also be deleted from the list.
 - b. After the establishment list has been prepared and adjusted, as necessary, establishments on the list shall be numbered consecutively beginning with the number 1, skipping deletions.

DUP 0508018

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- c. The Area Director shall schedule for each Area/District Office a total of 10 asbestos NEP inspections. The establishments shall be selected as follows:
 - (1) Apply a random number table to the establishment list prepared according to G.2.b. (Instructions for using a random number table are provided in OSHA Instruction CPL 2.25D, Appendix E.)
 - (2) Select establishments in the order prescribed by the random numbers until a total of 10 establishments has been selected.
- d. If there are 10 or less establishments on the Area/District Office Establishment List, the random number table is not used and all listed establishments shall be scheduled for inspection.
- e. Establishments selected for inspection may be scheduled in any order that makes efficient use of available resources.
- f. All inspections scheduled under the procedures given in this instruction shall be conducted even if they must be carried over into the next fiscal year.
- g. Except as noted in the following paragraph, if an inspection cannot be conducted for any legitimate reason, the Area Director shall select the next establishment prescribed by the random number table for inspection. This process shall be repeated as often as necessary until the required number of inspections has been completed or until the fiscal year ends.
- h. When an inspection is not conducted because the employer has refused entry, a warrant shall be sought in accordance with the current procedure for handling such refusals. Only if the court refuses to grant a warrant or if the Regional Solicitor declines to apply for a warrant, is such an establishment to be replaced as indicated in G.2.g.

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- i. Inspections conducted under this NEP shall be limited to areas within the establishment where asbestos is or may be used, stored, or found, and where there is a potential for overexposure.
 - j. If an establishment selected for inspection under the NEP also appears on the General Industry Health Inspection Register, it shall be replaced on the list of establishments scheduled for inspection under the NEP according to the procedures in G.2.g.
- G. Inspections of Construction Sites. OSHA experience has shown that certain construction activities typically involve potential exposure to asbestos fibers. Whenever these activities are found and the Area Director has reason to believe that there may be employee overexposure to asbestos, an inspection shall be scheduled.
1. A ranked list of the top ten (10) construction SICs for which the highest number of violations of 29 CFR 1910.1001 were found in past OSHA inspection data appears in Appendix A.
 2. The construction SICs in Appendix A are listed in order of frequency of past asbestos citations. CSHOs shall pay particular attention to the possibility of asbestos exposures whenever worksites with construction activities within the listed SIC codes are inspected. Any presence of asbestos shall be evaluated by the inspecting CSHO and referred to the supervisor for a health inspection, when appropriate.
 3. Unprogrammed construction health inspections shall be limited to those areas at the site where asbestos is or may be used, stored, or found.
- H. Inspections of Maritime Sites. Past experience has indicated that ship breaking operations frequently involve employee exposure to asbestos. Whenever a ship breaking operation (SIC 4469) is found and the Area Director has reason to believe employee exposure to asbestos may be involved, an inspection of the establishment performing the operation shall be scheduled.
1. The Area Director shall use any appropriate means within his/her disposal to determine when such shipbreaking operations are taking place.

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2. A reasonable effort shall be made to determine if any asbestos exposure may result from the scraping (salvage) operation.
3. Any such operation discovered shall be treated as a CSHO referral, evaluated, assigned the proper inspection priority, and scheduled for inspection in accordance with the FOM, Chapter IX, B.3. and Chapter II, E.1.a.(3).



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DUP 0508021