

records. Subpart—Cutting Off Supplies or Service: § 13.655 Threatening disciplinary action or otherwise.

List of Subjects in 19 CFR Part 111

Hospital privileges, Priority, Trade practices.

(Sec. 6, 38 Stat. 721; 19 U.S.C. 48; Interpret or applies sec. 5, 38 Stat. 718, as amended; 15 U.S.C. 45).

Emily H. Rock,

Secretary.

[FR Doc. 86-23534 Filed 10-16-86; 8:45 am]

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DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 111

[T.D. 86-192]

Notice of Due Date of Customs Brokers Lists of Employees

AGENCY: Customs Service, Treasury.

ACTION: Clarification of final rule and compliance date.

SUMMARY: This notice is to advise customs brokers when they must submit to each district director of Customs where the broker has a permit to transact customs business, the list of its employees. This notice also clarifies that brokers' employees who do not work directly in the brokerage portion of the business must be included on the list and that employees employed in several districts must be reported on the list of each district.

EFFECTIVE DATE: October 17, 1986.

FOR FURTHER INFORMATION CONTACT: Fred Burns O'Brien, Entry, Licensing and Restricted Merchandise Branch, (202-566-5765).

SUPPLEMENTARY INFORMATION:

Background

In T.D. 86-181, published in the Federal Register on August 28, 1986 (51 FR 30336), Parts 111, 171 and 178, Customs Regulations (19 CFR Parts 111, 171 and 178), were extensively revised to implement the statutory changes made by the Trade and Tariff Act of 1984 (Pub. L. 98-573), relating to the regulation of customs brokers. Section 111.28(b), Customs Regulations (19 CFR 111.28(b)), was amended to state that each broker shall submit, in writing, to each district director where the broker has a permit to transact customs business, a list of names of persons currently employed in that district by the broker. For each such employee, the broker shall also provide the current

home address, last prior home address, social security number, date and place of birth, and if the employee has been employed by the broker for less than 3 years, the name and address of each former employer and dates of employment for the 3-year period preceding current employment with the broker.

Section 111.28(b) further provides that after an initial submission is made, the list shall be updated and submitted with the status report required by § 111.30(d), Customs Regulations (19 CFR 111.30(d)). However, no date was indicated in § 111.28(b) as the deadline for the initial submission. To give brokers ample time to prepare the list, Customs has now determined that initial submissions will not be required until January 31, 1987.

Regarding the employee lists, it is to be noted that the lists must include all employees who are employed by a broker in each district. This means that even those employees who do not work in the brokerage portion of the business must be listed. Also, employees who are employed in several districts must be reported on the list of each district in which they work.

Dated: October 10, 1986.

John P. Simpson,

Director, Office of Regulations and Rulings.

[FR Doc. 23531 Filed 10-16-86; 8:45 am]

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910 and 1926

[Docket No. H-033D]

Occupational Exposure to Asbestos, Tremolite, Anthophyllite, and Actinolite

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Partial administrative stay of final rules; redesignation and amendment of final rule.

SUMMARY: OSHA's revised final standards for occupational exposure to asbestos, tremolite, anthophyllite and actinolite for general industry (§ 1910.1001) and construction (§ 1926.58) promulgated on June 17, 1986, were published in the Federal Register on June 20, 1986, and became effective on July 21, 1986 (51 FR 22812). This document gives notice of a 9-month administrative stay of the revised standards insofar as they apply to occupational exposure to non-

asbestiform actinolite. This stay is granted for the purpose of reopening the record, reviewing new submissions, and conducting supplemental rulemaking limited to the issue of whether non-asbestiform tremolite, anthophyllite and actinolite should continue to be regulated in the same standards and to the same extent as asbestos, or should be treated in some other way.

This stay applies only to the application of the revised standards to non-asbestiform tremolite, anthophyllite and actinolite. In all other respects, the revised standards will take effect as previously scheduled. In addition, during the period of the stay, the provisions of the 1972 standard governing occupational exposure to asbestos will remain in effect with respect to regulation of non-asbestiform tremolite, anthophyllite and actinolite.

To provide notice of the application of the 1972 standard to non-asbestiform tremolite, anthophyllite and actinolite, OSHA is republishing and redesignating the 1972 standard as 29 CFR 1910.1101 and is making several technical changes to that standard.

The 1972 standard is redesignated as 29 CFR 1910.1101 to distinguish it from the revised standard for general industry which is designated as 29 CFR 1910.1001. The provisions in the prior standard which constituted the Emergency Temporary Standard for Asbestos issued in November 1983, are being deleted. Also a note is added to clarify the scope and application of the redesignated § 1910.1101.

DATE: The partial stay of 1910.1001 and 1926.58 was effective July 21, 1986 and will expire April 21, 1987. Revisions to the 1972 standard republished as 1910.1101 and all other amendments in this rule are effective October 17, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, Director, Office of Information and Consumer Affairs, OSHA, U.S. Department of Labor, Room N 3637, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone (202) 523-8151.

SUPPLEMENTARY INFORMATION: On June 17, 1986, OSHA issued revised standards governing occupational exposure to asbestos, tremolite, anthophyllite and actinolite for general industry and construction. They were published in the Federal Register on June 20, 1986 (51 FR 22612) and will be codified at 29 CFR 1910.1001 and 1926.58. Their effective date is July 21, 1986. The revised standards amend OSHA's previous asbestos standard

issued in 1972 and codified at 29 CFR 1910.1001 and 29 CFR 1928.55(c).

OSHA's 1972 asbestos standard defined "asbestos" as including "chrysotile, amosite, crocidolite, tremolite, anthophyllite and actinolite." In recognition of the fact that tremolite, anthophyllite, and actinolite appear as both asbestiform and non-asbestiform minerals, the revised standards redefined the term "asbestos" to include only the asbestiform varieties of these substances (as well as chrysotile, amosite and crocidolite). The title of the standards were changed, however, to apply not only to "asbestos" as redefined, but also to non-asbestiform tremolite, actinolite and anthophyllite, 29 CFR 1910.1001 (b) and 1928.58(b) (1986). OSHA made these changes to conform to mineralogical terminology, as reflected by the evidence in its rulemaking record. Thus while a change in nomenclature was made, the Agency noted that the 1972 standard and the revised standards regulate precisely the same substances (51 FR 22612, 22679).

Since the issuance of the revised standards on June 17, 1986, OSHA has received letters and petitions from rulemaking participants and non-participants which contain additional comments, assertions, and information which the rulemaking record may not fully reflect. These letters and petitions concern the appropriateness of regulating non-asbestiform tremolite, anthophyllite and actinolite as presenting the same health risk as asbestos.

For the reasons indicated below, a temporary stay of 9 months of the effective date of the revised standards has been granted insofar as the standards apply to occupational exposure to non-asbestiform tremolite, anthophyllite and actinolite.

OSHA granted this temporary stay in part to enable the Agency to review a July 17, 1986 letter from the Director of the National Institute for Occupational Safety and Health (NIOSH) and certain related NIOSH staff memoranda which have recently been brought to OSHA's attention, as well as submissions by the R.T. Vanderbilt Co. and various trade associations concerning the appropriateness of regulating non-asbestiform tremolite, anthophyllite and actinolite in the revised asbestos standards. These documents, and, in particular, the documents generated by NIOSH, raise serious questions about the nature and extent of the hazards posed by these non-asbestiform minerals. This temporary stay was granted also to allow sufficient time for OSHA to reopen the rulemaking record and conduct supplemental rulemaking

proceedings on the issue of whether and how to regulate occupational exposure to non-asbestiform tremolite, anthophyllite and actinolite.

OSHA's decision to reopen the record is consistent with the Agency's determination that it provided adequate notice to the public that the recent asbestos rulemaking would address whether the Agency should amend the 1972 definition of asbestos, and whether the revised standards should apply to the three non-asbestiform minerals. Nevertheless, OSHA acknowledges that letters and petitions which contain additional comments, as described above, have been received since the issuance of the revised standards. These letters and petitions contain information which the rulemaking record may not fully reflect, and request an opportunity to submit further information. To assure that these submissions are fully considered by OSHA, to allow public comment on these additional submissions, and to invite additional comment and evidence on all issues relevant to regulation of non-asbestiform tremolite, anthophyllite and actinolite, OSHA will shortly reopen the rulemaking record, by notice in the Federal Register, to consider the limited issue of whether non-asbestiform tremolite, anthophyllite and actinolite should continue to be regulated as presenting the same health risk as asbestos, or whether they should be treated in some other way.

When that notice is published, all submissions to OSHA concerning the regulation of these minerals which have been received since the rulemaking record was closed on September 26, 1985, will be placed in the record and made available for public review and comment.

It should be noted that during the period of the stay, the provisions of the 1972 standard governing occupational exposure to asbestos (now redesignated 29 CFR 1910.1101) will remain in effect with respect to regulation of non-asbestiform tremolite, anthophyllite and actinolite.

The continued applicability of the 1972 standard was provided in the preamble to the revised standard in order not to leave "gaps in coverage and so that the existing provisions not terminate unless the new provisions are in effect." 51 FR 22704, 22732. Therefore, OSHA stated that if the amended provisions (of the revised standards) are not in effect because of stays or judicial action, then the unamended provisions (of the 1972 standard) will remain in effect" *Ibid*.

To provide notice of the continued applicability of the 1972 standard,

OSHA believes it is appropriate to republish the 1972 standard to ensure continued protection for employees exposed to non-asbestiform tremolite, anthophyllite and actinolite as well as in the event that other administrative stays or judicial actions render provisions of the revised standards unenforceable.

In such case the parallel provisions of the 1972 standard would come into effect and would be immediately enforceable by OSHA. Without this automatic reversion to the older standard, employees would be denied the protection which they have long been assured. Given the very serious nature of the asbestos hazard, OSHA regards such denial as inconsistent with the Agency's mandate under the Occupational Safety and Health Act of 1970.

Several technical revisions to the 1972 standard are being made to facilitate this "back-up" function. First, the 1972 standard is being redesignated as 29 CFR 1910.1101 to distinguish it from the revised general industry standard which is codified as 29 CFR 1910.1001. OSHA is also adding a "note" to the 1972 standard to describe the intended application of the standard.

In addition, OSHA is deleting paragraph (k) of the 1972 standard, because that paragraph constituted the requirements of the emergency temporary standard issued by OSHA in November 1983 and was invalidated by the 5th Circuit Court of Appeal's decision in *Asbestos Information Ass'n v. OSHA*, 727 F.2d 415. Finally, OSHA is deleting an outdated provision which set the permissible exposure limit from July 7, 1972 to July 1, 1976.

OSHA is also amending the references to the 1972 asbestos standard which are found in the revised standards to reflect the redesignation of the 1972 standard as 29 CFR 1910.1101.

With respect to the temporary stay which has been granted, OSHA finds that advance notice and opportunity for comment are impracticable and unnecessary within the meaning of 5 U.S.C. 553, in view of (a) the limited duration of the stay; (b) the need to provide the relief requested before the standard went into effect; and (c) the continued applicability of the 1972 standard to non-asbestiform tremolite, anthophyllite and actinolite during the period of the stay.

Similarly, OSHA is making the technical amendments to 1910.1101 without advance notice and opportunity for comment pursuant to the authority of 5 U.S.C. 553(b). OSHA finds such process unnecessary and impractical due to the fact that these revisions (1)

implement a policy already determined after full rulemaking to continue to enforce parallel provisions of the 1972 standard where a stay or judicial action renders provisions of the 1972 standard unenforceable (see 51 FR 22704, 22732) and (2) delete provisions which are no longer effective. In neither case is an evidentiary issue involved.

List of Subjects

29 CFR Part 1910

Asbestos, Cancer, Health, Labeling, Occupational safety and health, Protective equipment, Respiratory protection, Signs and symbols.

29 CFR Part 1926

Asbestos, Cancer, Construction industry, Hazardous materials, Health, Labeling, Occupational safety and health, Protective equipment, Respiratory protection, Signs and symbols.

Authority and Signature

This document was prepared under the direction of John A. Pendergrass, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC, 20210.

It is issued pursuant to sections 4, 6(b), 8(c) and 8(g) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), section 107 of the Contract Work Hours and Safety Standards Act (Construction Safety Act) (40 U.S.C. 333), the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 941), 29 CFR Part 1911 and Secretary of Labor's Order No. 9-83 (48 FR 35736), and 5 U.S.C. 551 et seq.

Signed at Washington, D.C., this 10th day of October, 1988.

John A. Pendergrass,
Assistant Secretary for Occupational Safety and Health.

Amended Standards

PART 1910—[AMENDED]

PART 1926—[AMENDED]

Part 1910 of Title 29 of the Code of Federal Regulations is hereby amended as follows:

1. The authority citation for Subpart B of Part 1910 continues to read as follows:

Authority: Secs. 4, 6, and 8 of the Occupational Safety and Health Act, 29 U.S.C. 653, 655, 657; Walsh-Health Act, 41 U.S.C. 35 et seq.; Service Contract Act of 1963, 41 U.S.C. 351 et seq.; Pub. L. 91-54, 40 U.S.C. 333; Pub. L. 85-742, 33 U.S.C. 941; National Foundation on Arts and Humanities Act, 20 U.S.C. 951 et seq.; Secretary of Labor's

Orders 12-71 (38 FR 8545, 8-46 (41 FR 23009) or 9-83 (48 FR 35736) and 29 CFR Part 1911.

2. Paragraph (a) of § 1910.19 is hereby revised to read as follows:

§ 1910.19 Special provisions for air contaminants.

(a) Asbestos, tremolite, anthophyllite, and actinolite dust. Section 1910.1001 or 1910.1101 shall apply to the exposure of every employee to asbestos, tremolite, anthophyllite, and actinolite dust in every employment and place of employment covered by §§ 1919.13, 1910.14, 1910.15 or 1910.16, in lieu of any different standard on exposure to asbestos, tremolite, anthophyllite, and actinolite dust which would otherwise be applicable by virtue of any of those sections.

Subpart Z—[Amended]

3. The authority citation for Subpart Z of Part 1910 continues to read as follows:

Authority: Sec. 6 and 8, Occupational Safety and Health Act, 29 U.S.C. 655, 657; Secretary of Labor's Orders Nos. 12-71 (38 FR 8754), 8-76 (41 FR 25059), or 9-83 (48 FR 35736), as applicable; and 29 CFR Part 1911.

Section 1910.1000 Tables Z-1, Z-2, Z-3 also issued under 5 U.S.C. 553.

Section 1910.1000 not issued under 29 CFR Part 1911, except for "Arsenic" and "Cotton Dust" listings in Table Z-1.

Section 1910.1002 not issued under 29 U.S.C. 655 or 29 CFR Part 1911; also issued under 5 U.S.C. 553.

Section 1910.1003 through 1910.1018 also issued under 29 U.S.C. 653.

Section 1910.1025 also issued under 29 U.S.C. 653 and 5 U.S.C. 554.

Section 1910.1043 also issued under 5 U.S.C. 551 et seq.

Sections 1910.1045 and 1910.1047 also issued under 29 U.S.C. 653.

Section 1910.1499 and 1910.1500 also issued under 5 U.S.C. 553.

§ 1910.1001 [Amended]

§ 1926.58 [Amended]

4. Sections 1910.1001 and 1926.58 are hereby amended by adding the following note after Appendix H to § 1910.1001 and Appendix I to 1926.58.

Note.—Pursuant to a 9-month administrative stay effective July 21, 1988 (Insert citation from this Federal Register document), enforcement of this section is stayed as it applies to non-asbestiform tremolite, anthophyllite and actinolite. During the period of this stay the provisions of the 1972 standard governing occupational exposure to asbestos (redesignated as 29 CFR 1910.1101) will remain in effect with respect to regulation of non-asbestiform tremolite, anthophyllite and actinolite.

5. Paragraph (o)(1) of § 1910.1001 is hereby revised to read as follows:

§ 1910.1001 Asbestos.

(o) Dates—Effective date.

This standard shall become effective July 21, 1988. The requirements of the asbestos standard issued in June 1972 (37 FR 11318), as amended, and published in 29 CFR 1910.1101 remain in effect until compliance is achieved with the parallel provisions of this standard.

6. Paragraph (o)(1) § 1926.58 is hereby revised to read as follows:

§ 1926.58 Asbestos, tremolite, anthophyllite, and actinolite.

(o) Dates—Effective date.

This section shall become effective July 21, 1988. The requirements of the asbestos standard issued in June 1972 (37 FR 11318), as amended, and published in 29 CFR 1910.1101 remain in effect until compliance is achieved with the parallel provisions of this standard.

7. Section 1910.1101 is hereby added to read as follows:

§ 1910.1101 Asbestos.

Note.—This section applies to occupational exposure to non-asbestiform tremolite, anthophyllite and actinolite during the pendency of the stay of the revised standards (29 CFR 1910.1001; 29 CFR 1926.58).

(See [Insert citation from this Federal Register document] for a description of the stay).

This section also applies whenever all or part of the revised standards are rendered unenforceable because of a stay or judicial action. In such a case, to preclude a gap in coverage, parallel provisions of this section will take effect. OSHA will publish an appropriate notice in the Federal Register announcing each such application of this section. This section also applies pursuant to the requirements of 29 CFR 1910.1001(O) and 29 CFR 1926.58(O).

(a) Definitions. For the purpose of this section, (1) "Asbestos" includes chrysotile, amosite, crocidolite, tremolite, anthophyllite, and actinolite. (2) "Asbestos fibers" means asbestos fibers longer than 5 micrometers.

(b) Permissible exposure to airborne concentrations of asbestos fibers.

(1) The 8-hour time-weighted average airborne concentrations of asbestos fibers to which any employment may be exposed shall not exceed two fibers, longer than 5 micrometers, per cubic centimeter of air, as determined by the

method prescribed in paragraph (e) of this section.

(2) *Ceiling concentration.* No employee shall be exposed at any time to airborne concentration of asbestos fibers in excess of 10 fibers, longer than 5 micrometers, per cubic centimeter of air, as determined by the method prescribed in paragraph (e) of this section.

(c) *Methods of compliance—(1) Engineering methods.* (i) *Engineering controls.* Engineering controls, such as, but not limited to, isolation, enclosure, exhaust ventilation, and dust collection, shall be used to meet exposure limits prescribed in paragraph (b) of this section.

(ii) *Local exhaust ventilation.* (A) local exhaust ventilation and dust collection systems shall be designed, constructed, installed, and maintained in accordance with the American National Standards Fundamentals Governing the Design and Operation of Local Exhaust Systems, ANSI Z9.2-1971, which is incorporated by reference herein. (B) See § 1910.6 concerning the availability of ANSI Z90.2-1971, and the maintenance of a historic file in connection therewith. The address of the American National Standards Institute is given in § 1910.100.

(iii) *Particular tools.* All hand-operated and power-operated tools which may produce or release asbestos fibers in excess of the exposure limits prescribed in paragraph (b) of this section, such as, but not limited to, saws, scorers, abrasive wheels, and drills, shall be provided with local exhaust ventilation systems in accordance with paragraph (c)(1)(ii) of this section.

(2) *Work practices—(i) Wet methods.* Insofar as practicable, asbestos shall be handled, mixed, applied, removed, cut, scored, or otherwise worked in a wet state sufficient to prevent the emission of airborne fibers in excess of the exposure limits prescribed in paragraph (b) of this section, unless the usefulness of the product would be diminished thereby.

(ii) *Particular products and operations.* No asbestos cement, mortar, coating, grout, plaster, or similar material containing asbestos shall be removed from bags, cartons, or other containers in which they are shipped without being either wetted, or enclosed, or ventilated so as to prevent effectively the release of airborne asbestos fibers in excess of the limits prescribed in paragraph (b) of this section.

(iii) *Spraying, demolition, or removal.* Employees engaged in the spraying of asbestos, the removal, or demolition of pipes, structures, or equipment covered or insulated with asbestos, and in the

removal of demolition of asbestos insulation or coverings shall be provided with respiratory equipment in accordance with paragraph (d)(2)(iii) of this section and with special clothing in accordance with paragraph (d)(3) of this section.

(d) *Personal protective equipment—(1)* Compliance with the exposure limits prescribed by paragraph (b) of this section may not be achieved by the use of respirators of shift rotation of employees, except:

(i) During the time period necessary to install the engineering controls and to institute the work practices required by paragraph (c) of this section;

(ii) In work situations in which the methods prescribed in paragraph (c) of this section are either technically not feasible or feasible to an extent insufficient to reduce the airborne concentrations of asbestos fibers below the limits prescribed by paragraph (b) of this section; or

(iii) In emergencies.

(iv) Where both respirators and personnel rotation are allowed by paragraphs (d)(1) (i), (ii) or (iii) of this section, and both are practicable, personnel rotation shall be preferred and used.

(2) Where a respirator is permitted by paragraph (d)(1) of this section, it shall be selected from among those approved by the Bureau of Mines, Department of the Interior, or the National Institute for Occupational Safety and Health, Department of Health, Education, and Welfare, under the provisions of 30 CFR Part 11 (37 FR 6244, Mar. 25, 1972), and shall be used in accordance with paragraph (d)(1) (i), (ii), (iii), and (iv) of this section.

(i) *Air purifying respirators.* A reusable or single use air purifying respirator, or a respirator described in paragraph (d)(2) (ii) or (iii) of this section, shall be used to reduce the concentrations of airborne asbestos fibers in the respirator below the exposure limits prescribed in paragraph (b) of this section, when the ceiling or the 8-hour time-weighted average concentrations of asbestos fibers are reasonably expected to exceed no more than 10 times those limits.

(ii) *Powered air purifying respirators.* A full facepiece powered air purifying respirator, or a powered air purifying respirator, or a respirator described in paragraph (d)(2)(iii) of this section, shall be used to reduce the concentrations of airborne asbestos fibers in the respirator below the exposure limits prescribed in paragraph (b) of this section, when the ceiling or the 8-hour time-weighted average concentrations of asbestos fibers are reasonably expected to

exceed 10 times, but not 100 times, those limits.

(iii) Type "C" supplied-air respirators, continuous flow or pressure-demand class. A type "C" continuous flow or pressure-demand, supplied-air respirator shall be used to reduce the concentrations of airborne asbestos fibers in the respirator below the exposure limits prescribed in paragraph (b) of this section, when the ceiling or the 8-hour time-weighted average airborne concentrations of asbestos fibers are reasonably expected to exceed 100 times those limits.

(iv) *Establishment of a respirator program.* (A) The employer shall establish a respirator program in accordance with the requirements of the American National Standards Practices for Respiratory Protection, ANSI Z88.2-1969, which is incorporated by reference herein.

(B) See § 1910.6 concerning the availability of ANSI Z88.2-1969 and the maintenance of a historic file in connection therewith. The address of the American National Standards Institute is given in § 1910.100.

(C) No employee shall be assigned to tasks requiring the use of respirators if, based upon his most recent examination, an examining physician determines that the employee will be unable to function normally wearing a respirator, or that the safety or health of the employee or other employee will be impaired by his use of a respirator. Such employee shall be rotated to another job or given the opportunity to transfer to a different position whose duties he is able to perform with the same employer, in the same geographical area and with the same seniority, status, and rate of pay he had just prior to such transfer, if such different position is available.

(3) *Special clothing.* The employer shall provide, and require the use of, special clothing, such as coveralls or similar whole body clothing, head coverings, gloves, and foot coverings for any employee exposed to airborne concentrations of asbestos fibers, which exceed the ceiling level prescribed in paragraph (b) of this section.

(4) *Change rooms:* (i) At any fixed place of employment exposed to airborne concentrations of asbestos fibers in excess of the exposure limits prescribed in paragraph (b) of this section, the employer shall provide change rooms for employees working regularly at the place.

(ii) *Clothes lockers:* The employer shall provide two separate lockers or containers for each employee, so separated or isolated as to prevent

contamination of the employee's street clothes from his work clothes.

(iii) **Laundering.** (A) Laundering of asbestos contaminated clothing shall be done so as to prevent the release of airborne asbestos fibers in excess of the exposure limits prescribed in paragraph (b) of this section.

(B) Any employer who gives asbestos-contaminated clothing to another person for laundering shall inform such person of the requirement in paragraph (d)(4)(iii)(A) of this section to effectively prevent the release of airborne asbestos fibers in excess of the exposure limits prescribed in paragraph (b) of this section.

(C) Contaminated clothing shall be transported in sealed impermeable bags, or other closed, impermeable containers, and labeled in accordance with paragraph (g) of this section.

(e) **Method of measurement.** All determinations of airborne concentration of asbestos fibers shall be made by the membrane filter method at 400-450 X (magnification) (4 millimeter objective) with phase contrast illumination.

(f) **Monitoring.**—(1) **Initial determinations.** Within 6 months of the publication of this section, every employer shall cause every place of employment where asbestos fibers are released to be monitored in such a way as to determine whether every employee's exposure to asbestos fibers is below the limits prescribed in paragraph (b) of this section. If the limits are exceeded, the employer shall immediately undertake a compliance program in accordance with paragraph (c) of this section.

(2) **Personal monitoring.**—(i) Samples shall be collected from within the breathing zone of the employees, on membrane filters of 0.8 micrometer porosity mounted in an open-face filter holder. Samples shall be taken for the determination of the 8-hour time-weighted average airborne concentrations and of the ceiling concentrations of asbestos fibers.

(ii) **Sampling frequency and patterns.** After the initial determinations required by paragraph (f)(1) of this section, samples shall be of such frequency and pattern as to represent with reasonable accuracy the levels of exposure of employees. In no case shall the sampling be done at intervals greater than 6 months for employees whose exposure to asbestos may reasonably be foreseen to exceed the limits prescribed by paragraph (b) of this section.

(3) **Environmental monitoring.** (i) Samples shall be collected from areas of a work environment which are representative of the airborne

concentrations of asbestos fibers which may reach the breathing zone of employees. Samples shall be collected on a membrane filter of 0.8 micrometer porosity mounted in an open-face filter holder. Samples shall be taken for the determination of the 8-hour time-weighted average airborne concentrations and of the ceiling concentrations of asbestos fibers.

(ii) **Sampling frequency and patterns.** After the initial determinations required by paragraph (f)(1) of this section, samples shall be of such frequency and pattern as to represent with reasonable accuracy the levels of exposure of the employees. In no case shall sampling be at intervals greater than 6 months for employees whose exposures to asbestos may reasonably be foreseen to exceed the exposure limits prescribed in paragraph (b) of this section.

(4) **Employee observation of monitoring.** Affected employees, or their representatives, shall be given a reasonable opportunity to observe any monitoring required by this paragraph and shall have access to the records thereof.

(g) **Caution signs and labels.**—(1) **Caution signs.**—(i) **Posting.** Caution signs shall be provided and displayed at each location where airborne concentrations of asbestos fibers may be in excess of the exposure limits prescribed in paragraph (b) of this section. Signs shall be posted at such a distance from such a location so that an employee may read the signs and take necessary protective steps before entering the area marked by the signs. Signs shall be posted at all approaches to areas containing excessive concentrations of airborne asbestos fibers.

(ii) **Sign specifications.** The warning signs required by paragraph (g)(1)(i) of this section shall conform to the requirements of 20"x14" vertical format signs specified in § 1910.145(d)(4), and to this subdivision. The signs shall display the following legend in the lower panel, with letter sizes and styles of a visibility at least equal to that specified in this subdivision.

Legend	Notation
Asbestos.....	1" Sans Serif, Gothic or Block
Dust Hazard.....	¾" Sans Serif, Gothic or Block
Avoid Breathing Dust.....	¾" Gothic
Wear Assigned Protective Equipment.....	¾" Gothic
Do Not Remain in Area Unless Your Work Requires It.....	¾" Gothic
Breathing Asbestos Dust May Be Hazardous To Your Health.....	14 point Gothic

Spacing between lines shall be at least equal to the height of the upper of any two lines.

(2) **Caution labels.**—(i) **Labeling.** Caution labels shall be affixed to all raw materials, mixtures, scrap, waste, debris, and other products containing asbestos fibers, or to their containers, except that no label is required where asbestos fibers have modified by a bonding agent, coating, binder, or other material so that during any reasonably foreseeable use, handling, storage, disposal, processing, or transportation, no airborne concentrations of asbestos fibers in excess of the exposure limits prescribed in paragraph (b) of this section will be released.

(ii) **Label specifications.** The caution labels required by paragraph (g)(2)(i) of this section shall be printed in letters of sufficient size and contrast as to be readily visible and legible. The label shall state:

Caution—Contains Asbestos Fibers, Avoid Creating Dust, Breathing Asbestos Dust May Cause Serious Bodily Harm

(h) **Housekeeping.**—(1) **Cleaning.** All external surfaces in any place of employment shall be maintained free of accumulations of asbestos fibers if, with their dispersion, there would be an excessive concentration.

(2) **Waste disposal.** Asbestos waste, scrap, debris, bags, containers, equipment, and asbestos-contaminated clothing, consigned for disposal, which may produce in any reasonably foreseeable use, handling, storage, processing, disposal, or transportation airborne concentrations of asbestos fibers in excess of the exposure limits prescribed in paragraph (b) of this section shall be collected and disposed of in sealed impermeable bags, or other closed, impermeable containers.

(i) **Recordkeeping.**—(1) **Exposure records.** Every employer shall maintain records of any personal or environmental monitoring required by this section. Records shall be maintained for a period of at least 20 years and shall be made available upon request to the Assistant Secretary of Labor for Occupational Safety and Health, the Director of the National Institute for Occupational Safety and Health, and to authorized representatives of either.

(2) **Access.** Employee exposure records required by this paragraph shall be provided upon request to employees, designated representatives, and the Assistant Secretary in accordance with 29 CFR 1910.20 (a)-(e) and (g)-(i).

(3) **Employee notification.** Any employee found to have been exposed at any time to airborne concentration of asbestos fibers in excess of the limits

prescribed in paragraph (b) of this section shall be notified in writing of the exposure as soon as practicable but not later than 5 days of the finding. The employee shall also be timely notified of the corrective action being taken.

(j) *Medical examinations*—(1)

General. The employer shall provide or make available at his cost, medical examinations relative to exposure to asbestos required by this paragraph.

(2) *Preplacement.* The employer shall provide or make available to each of his employees, within 30 calendar days following his first employment in an occupation exposed to airborne concentrations of asbestos fiber, a comprehensive medical examination, which shall include, as a minimum a chest roentgenogram (posterior-anterior 14x17 inches), a history to elicit symptomatology of respiratory disease, and pulmonary function tests to include forced vital capacity (FVC) and forced expiratory volume at 1 second (FEV_{1.0}).

(3) *Annual examinations.* On or before January 31, 1973, and at least annually thereafter, every employer shall provide, or make available, comprehensive medical examinations to each of his employees engaged in occupations exposed to airborne concentrations of asbestos fibers. Such annual examination shall include, as minimum, a chest roentgenogram (posterior-anterior 14x17 inches), a history to elicit symptomatology of respiratory disease, and pulmonary function tests to include forced vital capacity (FVC) and forced expiratory volume at 1 second (FEV_{1.0}).

(4) *Termination of employment.* The employer shall provide or make available, within 30 calendar days before or after the termination of employment of any employee engaged in an occupation exposed to airborne concentration of asbestos fibers, a comprehensive medical examination which shall include, as a minimum, a chest roentgenogram (posterior-anterior 14x17 inches), a history to elicit symptomatology of respiratory disease, and pulmonary function tests to include forced vital capacity (FVC) and forced expiratory volume at 1 second (FEV_{1.0}).

(5) *Recent examinations.* No medical examination is required of any employee, if adequate records show that the employee has been examined in accordance with this paragraph within the past 1-year period.

(6) *Medical records*—(i) *Maintenance.* Employers of employees examined pursuant to this paragraph shall cause to be maintained complete and accurate records of all such medical

examinations. Records shall be retained by employers for at least 20 years.

(ii) *Access.* Records of the medical examinations required by this paragraph shall provide upon request to employees, designated representatives, and the Assistant Secretary in accordance with 29 CFR 1910.20 (a)–(e) and (g)–(l). These records shall also be provided upon the request to the Director of NIOSH. Any physician who conducts a medical examination required by this paragraph shall furnish to the employer of the examined employee all the information specifically required by this paragraph, and any other medical information related to occupational exposure to asbestos fibers.

TABLE 1.—RESPIRATOR PROTECTION FOR AIRBORNE CONCENTRATIONS OF ASBESTOS

Airborne concentration of asbestos (TWA)	Required respirator ¹
Not in excess of 5 f/cc (10 x PEL)	Reusable or single use air purifying respirator.
Not in excess of 50 f/cc (100 x PEL)	Full facepiece air purifying respirator, or a powered air purifying respirator.
Greater than 50 f/cc	A type "C" continuous flow or pressure demand, supplied air respirator.

¹ Respirators specified for high concentrations may be used at lower concentrations of asbestos.

(Approved by the Office of Management and Budget under control number 12180010)

8. The authority citation for Subpart D of Part 1926, continues to read as follows:

Authority: Secs. 4, 5, 6, 8 Occupational Safety and Health Act of 1970, 29 U.S.C. 653, 655, 657; Sec. 107, Contract Work Hours and Safety Standards Act (Construction Safety Act), 40 U.S.C. 333, and Secretary of Labor's Orders 12-71 (36 FR 8754), 8-76 (41 FR 25059), or 9-83 (48 FR 35736), as applicable. Sections 1926.55(c) and 1926.58 also issued under 29 CFR Part 1911.

9. Paragraph (c) of § 1926.55 is hereby revised to read as follows:

§ 1926.55 Gases, vapors, fumes, dusts, and mists

(c) Paragraphs (a) and (b) of this section do not apply to the exposure of employees to airborne asbestos, tremolite, anthophyllite, or actinolite dust. Whenever any employee is exposed to airborne asbestos, tremolite, anthophyllite, or actinolite dust, the requirements of § 1910.1101 or § 1926.58 of this title shall apply.

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Mine Safety and Health Administration
30 CFR Parts 16 and 17

Stemming and Blasting Devices;
Revocation of Regulations Concerning
Approval

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: This final rule revokes obsolete the Mine Safety and Health Administration's (MSHA) regulations concerning approval of stemming devices and blasting devices under the authority of section 508 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 957).

EFFECTIVE DATE: October 17, 1986.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, MSHA, phone (703) 235-1910.

SUPPLEMENTARY INFORMATION: MSHA originally published these final rules in the Federal Register on June 20, 1986 (51 FR 22519 and 22520); however, the Agency withdrew them on June 30, 1986 (51 FR 23536) to avoid paying republishing costs for Title 30. The Code of Federal Regulations is published on an annual basis and MSHA's volume (Title 30) is revised on July 1 of each year.

The requirements in Part 16 apply to stemming devices that incorporate asbestos, the manufacture of which has been discontinued because of health hazards associated with asbestos. Asbestos stemming devices have not been used in underground coal mines for approximately 30 years, and no MSHA approvals have been issued under Part 16 since August 1957. The requirements in Part 17 apply to devices that use high gas pressure to blast coal, a method of blasting that has not been used for at least 20 years in underground coal mines. No approvals for blasting devices have been issued under Part 17 since June 1960. The regulations in 30 CFR Parts 16 and 17 are therefore obsolete and are removed.

Executive Order 12291 and the
Regulatory Flexibility Act

MSHA certifies that this rulemaking action will not have a significant economic impact on a substantial number of small entities.

Publication as a Final Rule

This rule eliminates obsolete regulations and does not affect the rights or obligations of any person currently holding an approval. In