

PLAINTIFF'S EXHIBIT

ASA-1295

**ASARCO**

CC: G. PARNAM  
~~HA. JACKSON~~

April 20, 1993

STEVE GOSSE  
ART ROBLES

Technical Services Center  
R.A. Peterson Jr.  
Director  
D.E. Holt  
Engineering Manager  
D.A. Robbins  
Environmental Sciences Manager  
M.G. King  
Research Manager

To: Distribution List

From: D.A. Robbins *D.A.R.*

Because of recent allegations regarding improper removal and disposal of A/C pipe at one unit within Asarco, I thought that distribution of the attached advisory would provide a reminder of obligations that units have under Federal and State laws to notify in the event projects will include asbestos removal. When uncertainty exists regarding material friability or whether notification requirements apply, a preliminary assessment of regulatory jurisdiction is recommended.

If this department can assist in the assessment, please advise.

APR 20 1993

DISTRIBUTION LIST

SOUTHWESTERN COPPER

Amarillo

El Paso

C.F. Bates  
T.E. Martin  
M.D. Owsley  
P.A. Donovan  
J.R. Shaw  
R.M. Jackson

WESTERN SPECIALTY METALS DIVISION

East Helena

Globe

Omaha

M.O. Varner  
R.C. Marcus  
R.A. Little  
J.C. Nickel  
T. Li  
M. Staub  
W. Paul  
C. Coffey

MISSOURI LEAD

Glover

Hillsboro

T.E. Erskine  
V.L. Wildman  
S. Brown  
A. Miller  
D.M. Faust

RAY COMPLEX

Hayden

T.E. Scartaccini  
B.K. Malone  
N.A. Gambell  
D.C. Himmesoete  
E. Riege

CAPCO PIPE COMPANY

Van Buren

Litchfield

Evansville

J. Barber  
M. Bourne  
J. Ballard

SOUTHWEST MINING

J. Low  
P.J. Maley

NORTHWEST MINING

Coeur/Galena Units

Troy Unit

F.D. Owlsey  
J.E. Howard  
D.P. Miller

Federated - Houston

R.S. Ray

Tennessee Mines

D.H. Walter

American Limestone

W.H. Gill

Enthone-OMI

R.G. Fanelli  
B. Whalen

ENCYCLE/Texas

J.K. Likarish

TO: Mr. Donald A. Robbins, Technical Services Center  
FROM: Curtis E. Dungey, Senior Environmental Scientist  
RE: Revision of Asbestos NESHAP  
DATE: April 5, 1991

=====

On November 20, 1990, EPA promulgated a final rule which sets forth revisions to the asbestos National Emission Standard for Hazardous Air Pollutants (NESHAP) under Section 112 of the Clean Air Act. The final rule amends the previous asbestos NESHAP, and is the culmination of efforts spanning almost two years to finalize regulations originally proposed on January 10, 1989. The revised emission standard responds to comments received during that period, and incorporates changes as a result of those comments. The new revisions are effective immediately. Enclosed for your convenience, is a copy of revisions to the new standard. Below are highlights of key changes to the rule, which could impact demolition and renovation operations as well as manufacture of asbestos products.

#### Definitions

In the process of developing its rule, EPA has defined several new terms which it uses throughout the regulation. The most important of these are the definitions dealing with types of asbestos materials covered under this rule. The previous standard was concerned strictly with regulating "friable asbestos materials". The new rule broadens this coverage to include both friable and nonfriable asbestos under a category called Regulated Asbestos Containing Materials (RACM).

While friable asbestos is still regulated as before, RACM creates two subcategories of nonfriable asbestos called Category I and Category II. Category I materials are asbestos-containing gaskets, resilient floor coverings, and asphalt roofing products containing more than 1% asbestos. They are considered RACM only when they have been subjected to sanding, grinding, cutting, or abrading. Category II materials are all other nonfriable ACM, excluding Category I materials, containing more than 1% asbestos. They are considered RACM only when disturbed such that they have a high probability of becoming crumbled, pulverized, or reduced to powder, as during demolition or renovation operations.

It is expected the new definition of RACM will have particular significance during future demolition or renovation projects. For example, gaskets, floor tiles, and roofing materials may have to be removed separately before building demolition to prevent them from becoming RACM.

### Milling, Manufacturing, and Fabrication Operations

While the requirement for no discharge of visible emissions is still in effect, these facilities are also now required to monitor each potential source of asbestos emissions on a daily basis. Sources include process equipment, air cleaning devices, and buildings housing material processing and handling equipment. The monitoring shall be visual observation of at least 15 seconds duration per source.

Air cleaning devices must now be inspected on a weekly basis, to ensure proper operation and to detect changes that signal the potential for malfunction. This is to be done to the maximum extent without dismantling the equipment, other than opening the inspection doors to the device. Certain provisions are described for devices which cannot be inspected according to the regulation. The new rule requires facilities who install fabric filters after the effective date of this rule to provide for easy inspection of the bags.

The results of visible emission monitoring and air cleaning device inspections must be recorded in a format similar to that depicted in Figures 1 and 2 of the regulation. A copy of all monitoring and inspection records must be kept for at least 2 years. A copy of monitoring records must be submitted to the Administrator if visible emissions occurred during the reporting period.

### Demolition and Renovation

The revisions stipulate that a facility must now be inspected for the presence of asbestos, including Category I and Category II nonfriable ACM prior to the commencement of the demolition or renovation process. Also, more detailed and additional information is required in the notification procedure. For example, one is now required to estimate the amount of nonfriable ACM that will not be removed before demolition, and to describe procedures to be followed in the event that unexpected RACM is found or nonfriable ACM becomes crumbled in the demolition or renovation process.

Notifications are also required now for renovation operations, and all waiting periods are now 10 days, eliminating the previous 20 day waiting period for small jobs. Renotification must be made if the start date changes, but the waiting period is still 10 days, whether the new date is before or after the original start date. Under no circumstances, can the demolition or renovation operation begin on a date other than the date contained in the written notice of the new start date. The information required in the notice must be recorded on a form similar to that depicted on Figure 3 of the revisions.

Another important revision is the requirement that whenever RACM is stripped, removed or otherwise handled or disturbed at a facility, a person trained in the provisions of this regulation and means of complying with it must be onsite. The training requirement is in addition to that already required by OSHA, and is effective on November 20, 1991 (one year from the rule's effective date).

EPA is also requiring facilities suspending the use of wetting techniques due to cold temperature extremes record temperatures in the workplace at least 3 times daily. The temperature records must be kept for at least 2 years.

#### Waste Disposal

Asbestos waste must still be handled such that no visible emissions occur, which includes use of emission control techniques as appropriate. Asbestos waste containers must be labeled, using labels specified by OSHA. For asbestos waste being transported offsite, the containers must also carry the name of the generator and the location at which the waste was generated.

Vehicles used to transport asbestos-containing waste material must be marked with the legend specified in the regulation and must be displayed such that a person can easily read the legend. This provision applies regardless of whether the material is being transported to a landfill onsite or offsite the property.

For waste material being transported offsite, waste shipment records (WSR's) must be kept using a form similar to that shown in Figure 4, and include information specified in the regulation. The WSR must accompany the material as it is being transported to the waste disposal site. If a signed copy of the WSR is not received from the owner or operator of the designated disposal site within 35 days, the transporter and/or the disposal site must be contacted by the facility to determine the status of the waste shipment. If this still does not result in a signed copy of the WSR record, the facility generating the material must contact the local, state or EPA Regional office responsible for administering the program within 45 days after the original shipment. An exception report must also be submitted to the appropriate agency.

#### Inactive Waste Disposal Sites

The revisions require the owner/operator of an inactive waste disposal site to notify the EPA in writing at least 45 days before excavating or otherwise disturbing any asbestos-containing waste material that has been previously been disposed of pursuant to this section. Included in the notification must be the reason for disturbing the waste, and procedures to be used to control emissions during the excavation.

Within 60 days after a site becomes inactive, a notation must be made on the deed to the facility property and on any other instrument that would normally be examined during a title search that the land has been used for the disposal of asbestos-containing waste material. The notation must also indicate that the survey plot, record of the location and quantity of waste has been filed with the EPA.

#### Active Waste Disposal Sites

Owners and/or operators of active waste sites must maintain (WSR's), and return a copy of the WSR within 30 days after receipt of the waste. Discrepancies between the WSR and the actual shipment must be reconciled with the shipper. (This is similar to the Waste Manifest System under RCRA, although the document in this case is not called a manifest). The operator of an active waste site must also report in writing by the next working day regarding the receipt of a significant amount of improperly enclosed or uncovered waste. Copies of the above records are required to be kept for at least 2 years.

An active waste facility is also required to keep records of the location, depth, area, and quantity of asbestos-containing waste material within the disposal site on a map or diagram of the disposal area.

#### Asbestos Conversion Process

A new section is promulgated to clarify that operations which convert asbestos-containing waste material to non-asbestos material are covered by the NESHAP. Prior to conducting such an operation, one must obtain prior written approval from EPA. An application must be submitted describing handling and processing procedures, and one must meet certain requirements of an emissions test.