

090343

PLAINTIFF'S EXHIBIT

CEL-1114

090342



Interoffice Memorandum

(Name and Location)	DATE
See Below	May 13, 1987
M (Name and Location)	REFERENCE NO.
T. W. Scott - Charlotte	TWS-87-27

E. F. Bazen	- Palmetto	D. V. Perry	- Salisbury
N. A. Culbertson	- Celriver	D. B. Smith	- Salisbury
K. E. Hart	- Celco	R. S. Smith	- Charlotte
J. J. Henley	- Fayetteville	R. D. Tankersley	- Celco
D. A. James	- Palmetto	C. W. Whaley	- Charlotte
J. R. Kelley	- Greenville	R. V. Williams	- Celriver

SUBJECT: Extension of Partial Stay for Non-asbestiforms

For your information, OSHA has extended its partial stay for non-asbestiform tremolite, anthrophyllite and actinolite until July 21, 1988. Attached is a copy of the Federal Register notice that Mr. Pullen so kindly brought to our attention.

Please note that the 1972 standard governing occupational exposure to asbestos, redesignated 29 CFR 1910.1101, will remain in effect to cover these non-asbestiforms during the extent of this stay.

T. W. Scott

T. W. Scott

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Attachment

cc: J. C. Pullen
B. T. Bowyer

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standard to cover the gaps in coverage created by the partial stay.

The minor amendments to the notes are similarly made without advance notice and opportunity for comment. OSHA finds such process unnecessary and impracticable in that the changes merely incorporate references to the extension and restate applicability of the stay and of the 1972 standard.

No evidentiary issues are involved.

List of Subjects

29 CFR Part 1910

Asbestos, Occupational safety and health.

29 CFR Part 1926

Asbestos, Occupational safety and health.

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), 6(c) and 6(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 Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941), 29 CFR Part 1911 and Secretary of Labor's Order No. 8-83 (48 FR 35736), and 5 U.S.C. 551 *et seq.*

Signed at Washington, DC, this 23rd day of April, 1987.

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

Amended Standards

PART 1910—[AMENDED]

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

Subpart Z—[Amended]

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

Authority: Secs. 6 and 8, Occupational Safety and Health Act, 29 U.S.C. 655, 657; Secretary of Labor's Orders Nos. 12-71 (36 FR 8754), 8-78 (41 FR 25059), or 8-83 (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. 653 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. 553.

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 1910.1409 and 1910.1500 also issued under 5 U.S.C. 553.

§ 1910.1001 [Amended]

2. Section 1910.1001 is hereby amended by revising the note after Appendix H to § 1910.1001 to read as follows:

Note—Pursuant to an administrative stay effective July 21, 1986, published on October 17, 1986 (51 FR 37002), and extended to July 21, 1988 (at 52 FR 15722, Apr. 30, 1987) enforcement of this section is stayed as it applies to non-asbestiform tremolite, anthophyllite and actinolite. During the period and to the extent of this stay, the 1972 standard governing occupational exposure to asbestos (redesignated as 29 CFR 1910.1101) will remain in effect.

3. Section 1910.1101 is hereby amended by revising the note preceding § 1910.1101(a) to read as follows:

§ 1910.1101 Asbestos.

Note—This section applies in lieu of the revised standards governing occupational exposure to asbestos, tremolite, anthophyllite, and actinolite (29 CFR 1910.1001; 29 CFR 1926.56), during the period and to the extent that the revised standards have been partially stayed. (See 51 FR 37002, Oct. 17, 1986 and 52 FR 15722, Apr. 30, 1987, 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 1926.56(o).

PART 1926—[AMENDED]

Part 1926 of the Code of Federal Regulations is hereby amended as follows:

Subpart D—[Amended]

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

Authority: Secs. 4, 6, and 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), 8-78 (41 FR 25059), or 8-83 (48 FR 35736), as applicable. Sections 1926.55(c) and 1926.56 also issued under 29 CFR Part 1911.

§ 1926.56 [Amended]

5. Section 1926.56 is hereby amended by revising the note after Appendix I to § 1926.56 to read as follows:

Note—Pursuant to an administrative stay effective July 21, 1986, published October 17, 1986 (51 FR 37002), and extended to July 21, 1988 (at 52 FR 15722, Apr. 30, 1987) enforcement of this section is stayed as it applies to non-asbestiform tremolite, anthophyllite and actinolite. During the period and to the extent of this stay, the 1972 standard governing occupational exposure to asbestos (redesignated as 29 CFR 1910.1101) will remain in effect.

[FR Doc. 87-9637 Filed 4-29-87; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Wilmington, NC Regulation 87-02]

Safety Zone Regulations; Cape Fear River From Military Ocean Terminal, Sunny Point, NC to State Ports Authority, Wilmington, NC

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone which encompasses a water area 100 yards around the SS PFC Eugene A. Obregon during a port call to Wilmington, North Carolina. This zone is needed to safeguard the vessel and public from any accidents during Military Preposition Ship (MPS) operations. Entry into this zone by other than assist tugs is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation becomes effective on May 10, 1987. It terminates on May 15, 1987, or when the SS PFC Eugene A. Obregon departs the Port of Wilmington, NC, whichever first occurs.

FOR FURTHER INFORMATION CONTACT: LTJG A. D. Wiest, Assistant Chief, Operations Department, U.S. Coast Guard Marine Safety Office, Suite 500, 272 N. Front Street, Wilmington, North