9

UNION CARBIDE

INTERNAL CORRESPONDENCE

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DATE: September 23, 1986

FROM: T. P. Raby

ORIG. DEPT: POD - SHARE

CC:

SUBJECT: Asbestos Rule Update - ORC

I have attached for your information a summary of the ORC Asbestos Task Force meeting with OSHA representatives and a draft copy of an OSHA CPL governing the "Inspection Procedures for 29 CFR 1910.1001 - Asbestos, Tremolite, Anthophyllite, and Actinolite Standard."

As noted in the cover letter, the OSHA responses included are not yet official OSHA policy and subject to change. Even with this disclaimer I felt that you could get a good idea of what OSHA is "thinking" and hence the reason for sending you the entire package.

If you have any questions, please give me a call.

Regards,

Tom

T. P. Raby

TPR/ae,7406B
Attachments

P.S. Also attached is an article describing the court battles that are underway challenging the new asbestos standard.

T.P.R.



RECEIVED

SEP 23 1986

T. P. RABY

National Place, Suite 911
1331 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
202-737-6330

Organization Resources Counselors, Inc.

Memorandum

September 4, 1986

To: ORC Occupational Safety and Health Group
Asbestos Task Force

From: W. William Ament and Darrell K. Mattheis

Subject: Review of the Comments Made at the August 27, 1986 Task Force Meeting on Asbestos

The August 27, 1986 ORC Task Force meeting on Asbestos was instructive for a variety of reasons. First it indicated to all those present, including the OSHA Representatives, Leo Carey, the Deputy Director of the Directorate of Field Operations, and Dave Smith, the Chief of the Office of Health Compliance Assistance, that there were many unresolved issues concerning the Asbestos Standard. These issues involve both substantive matters, such as problems concerning showers for workers who work on telephone lines, and procedures, such as whether an employee is covered by the general industry, or the Exposure to Asbestos Construction Standard.

The following is a summary of the Task Force meeting which includes a number of questions that were raised by participants at the meeting, and others that were given to us after the meeting. We are going to discuss the issues raised in the paper with OSHA next week. There is still time for you to send us additional questions or comments that you would like to have us include in the discussion with OSHA.

The following OSHA responses were made during give and take discussions and are <u>not</u> necessarily OSHA policy and should not be stated as such. They are included here for the purpose of obtaining your views on the issues under discussion. The final OSHA positions maybe somewhat different, and these comments should not be used to show discrepancies in the Agency's views!

Questions Discussed Prior to The Meeting

- What is the dividing line between big and small jobs?

- Change rooms and showers are a problem for the telephone company phone installers who may work in or around asbestos insulation in buildings where they install phone equipment. Usually the phone company has no prior knowledge of the existence of asbestos in the buildings that they work in. For these people it would be very hard to shower after being exposed.

- How does the phone company do bulk sampling of insulating material in buildings that it does not own, where its employees are only installing communications equipment.

- What does one do when the airborne asbestos levels are between .1 and .15? Do you do initial monitoring? Do you start the medical surveillance?

- What is the rationale for requiring a lunchroom to be both positive pressure and to have filtered air? Is this regardless of the kind of operation in which asbestos is being removed?

- The construction standard requires daily monitoring for the whole life of the job. On a short job (several days to a week) this is not too bad, but on a job that may last six months, this becomes a significant expense without any safety and health benefit. Why is this requirement in the standard?

- When one puts up an enclosure to do asbestos removal within a building, the requirements are that one first vacuum, and then shower each and every time that an employee leaves the enclosure. Down south in Louisiana, temperatures in these enclosures can reach 100-110 degrees F, and the workers must be given heat stress breaks. Since they must leave the enclosure for these breaks, they must also vacuum and shower each time. This winds up costing around 15-20 minutes each time not counting the actual break time. Is it necessary to shower each time? In this case wouldn't vacuuming be sufficient?

- The construction asbestos standard requires that asbestos containing insulation material be so labeled. Does this mean that each and every piece of insulation in a chemical plant, refinery, or production facility must be sampled and labeled? Could the employer post a sign at the entrance to the section in doubt (plant, building, floor)? What does one do when the asbestos is insulation on the beams and ceiling of an office building? Where should the sign posted and what should it say?

- Under the construction standard, if an employee demands the use of a PAPR in place of a negative pressure respirator, can the company legitimately give him an SCBA or an airline

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respirator in place of a PAPR? This is particularly important in light of the recent revelations regarding the effectiveness of PAPRs.

- What is meant by "best fit" for respirators - qualitative or quantitative fit testing?

- OSHA prohibits the spraying of any asbestos, including tremolite, anthophyllite and actinolite. Many talcs are contaminated with these three. Most paints contain a fair amount of talc as fillers, and the talc contains small amounts of tremolite as a contaminant. Can we still spray paints? (Some say that the Pfizer talcs have no asbestos, and that they can be used as a substitute very easily!)

- Is there any exemption from the requirement to monitor on every small job? For instance, can an employer collect monitoring data on a procedure he is using, if the procedure is standardized, and the employees are trained in its use, and then only monitor every 4 months (assuming that the employees are using PPE)?

- The construction standard requires that bulk samples be taken of all insulation that may contain asbestos, and that, unless the percent of asbestos is less than 0.1 percent, it be labeled as asbestos. The polarized light optical microscopy method, however, is no good below 1 percent. To get to 0.1 percent, (and you must or label it asbestos) you must go to a scanning electron microscope (SEM) or a transmission electron microscope (TEM). This is very expensive, running $400.00 per sample or more. Additionally, there are not enough SEMs or TEMs around to meet the demand for such analysis.

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Questions and Answers for OSHA

Some have questioned the need for two different asbestos standards, but OSHA chose this approach based upon the comments in the hearing record. OSHA has detailed its reasoning in the preamble to the asbestos standard.

Question: How does one make the selection of which standard to apply - the construction or the general industry standard?

Answer: OSHA is looking at the process and the operation, not the SIC that the industry is in. In other words, the selection of which standard to follow should be process specific.

For instance, an individual working in construction who was exposed to a source of asbestos from a general industry manufacturing operation, would come under the requirements of the general industry standard, not the construction. The key thing to look for here is the process that generates the asbestos.

At the extreme fringes, we expect to have some problems, but with time this problem will narrow down. The process is still the key.

OSHA intends that the whole process remain flexible, but you must remember that with 1200 compliance officers out doing inspections, there will be some variations in interpretation. One of OSHA's big problems is to maintain a consistent interpretation of standards among its many area offices.

Draft Compliance Guidelines To the Field

The draft field guide (enclosed) has gone to the Regions for comment, but the comments have not yet come back. OSHA will use the comments that they receive at this meeting to assist them in developing the final version of the field guide. As OSHA gains more experience it will inevitably narrow the middle ground of interpretation. Until the guidelines are out, the field will, of necessity, be making their own interpretation of the requirements of the standard.

Those of you who have comments should send them to Mr. Dave Smith, U.S. Department of Labor, OSHA, room N-3603, Washington, D.C. 20210 (also please send a cc to W. William Ament or Darrell K. Mattheis at ORC).

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Question: Does the standard require use of International Labor Organization (ILO) record keeping system?

Answer: The standard does not specifically require the use of ILO record keeping or B-readers, but rather gives a variety of options in the requirements.

OSHA Comment - Stayed Compliance Dates:
These will probably go into effect within thirty days of OMB's decision on their approval. OMB is not believed to have any serious problems with any of the record keeping provisions stayed temporarily.

Question: What is a small job or a big job?

Answer: If it can be done in a glove bag in one day, it is a small job. It is not always necessary to have a regulated area for these jobs. In another sense if you can do the job from outside the enclosure it is small, if you must go inside the enclosure it is a big job. OSHA wants to be sure that employers do not do big jobs a little bit at a time, treating them like small jobs.

Question: What about potential exposure of a person who has changed out of PPE in a regulated, area and is walking back to a shower facility?

Answer: OSHA would monitor the person, the area, but would retest if they found above .2f/cc. OSHA would be very cautious about issuing a citation in this case.

Question: Has the EPA pamphlet on brake repair and asbestos caused OSHA any problems?

Answer: Overall the EPA brake mechanics voluntary guidelines have not caused a problem. OSHA will try to sit down with EPA and coordinate.

Question: How do phone installers find out about the presence of asbestos in a building they are working in.

Answer: Phone installers and the employers they are installing equipment for must communicate regarding presence or absence of asbestos. Unfortunately employers or businesses leasing room in a building usually do not know about the presence or absence of asbestos. In this case OSHA will have to make a judgement on the culpability of the employer.

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Question: What about doing the initial monitoring required or daily monitoring when in a building with asbestos insulation?

Answers: If the employers knows that asbestos is in the building but not disturbed, OSHA would require monitoring in the building because the employer knows of the presence of asbestos. The employer would need to do some trial monitoring to determine the levels, but further monitoring would depend on whether the trial work showed a basis or need to do more. Most concerned employers who have any reason to suspect the presence of asbestos would do some monitoring to determine how much.

Question: What does one do when the airborne concentration of asbestos is between 0.1 and 0.2?

Answer: The construction standard is not clear on this issue. The general industry standard, however, is quite clear; monitoring is required at levels above 0.1.

Question: What about showers for mobile telephone installers?

Answer: Showers are not usually available for installers. Each case must be considered separately. In many cases it is not possible to go back to a central location since they are working out of trucks. You must make a decision on how you will address the problem, and you must also convince the local OSHA CSHO, because you need to address the problem of bringing home asbestos with contaminated clothing. Probably the best approach here is to go to OSHA for a variance, and could get an interim variance to allow them to operate.

Question: What about the requirement for lunchrooms in workplaces that do not manufacture asbestos products, and where, except for some occasional maintenance work, no airborne asbestos fibers are generated? If the employer provides an area free of asbestos does this meet the requirements?

Answer: OSHA may be able to address this question in the field guide, but for the present, the CSHO may actually hit the employer in general industry on the lunch room requirements!

Question: Regarding medical surveillance, once a person has been exposed above .1 fibers/cc how long must medical surveillance continue?

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Answer: Once an individual is exposed above .1, medical surveillance must continue for the working life of the employee. If the employer has an examination program underway in a satisfactory manner, but not yet complete, he probably would not be cited.

Question: Must all insulation containing asbestos be labeled?

Answer: OSHA says you must label but not every foot or even 6-10 feet, but there must be some labels that can be seen. Labeling implies that some training has been done with employees about the problems of asbestos and how to deal with it. Employees who have not had the training should not be allowed to work with asbestos.

Question: Where a building has sprayed on asbestos above a dropped ceiling, where would you put the labels?

Answer: The answer would depend on the feasibility of the particular situation. There must be some labeling however, sign, label, banding, etc.

Question: When is a contractor going to fall under the construction standard?

Answer: A contractor may fall under the construction standard when doing rip-out or removal operations. (P--705). In a chemical plant if the piping is associated with a process in place and operating, it is maintenance not removal, it would fall under general industry standard. Even if it is a long run of piping, if it is maintenance, it is general industry. Maintenance of a structure is general industry. If the work is being done to replace something with a new or modified operation or structure, it then becomes construction.

In the eyes of the average compliance officer, the general industry standard covers routine maintenance operations.

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ADDITIONAL QUESTIONS RAISED BY THE ORC ASBESTOS TASK FORCE

1. The general industry standard does not address removal of asbestos by the glove bag technique. If this method is used, is air monitoring required? If so, why?

2. Is a HEP vacuum required for the glove bag and a regular vacuum cleaner used for evacuating the bag via the filter?

3. Is air monitoring required for minor repairs (i.e. drilling several holes in "transite" to re-attach the material to a metal fixture)?

4. Do employees have to be subjected to face fit testing every six months if they will only be removing asbestos via glove bag?

5. Are physical examinations and training necessary for maintenance employees who periodically remove asbestos via glove bag?

6. Do all hand tools have to be equipped with local exhaust ventilation or can the employees be provided respiratory protection for small jobs?

7. Does the construction standard apply to employees, at a fixed location of employment (e.g. factory employees), involved in construction activities (e.g. removing asbestos insulation)?

8. What does feasible and small job mean under section (e)(b) of the construction standard?

9. Does General Industry ever apply to employees working at their normal worksite (e.g. factory) for their employer doing asbestos removal?

10. In terms of enforcement policy, what guidelines exist as to the type of the citation?

11. How much time will be given for abatement if the violating employer has a reasonable program for coming into compliance.

12. Which standard (GI or Construction) applies for routine plant maintenance which involves removal of asbestos insulation? Note! The title to Appendix G of the Construction Standard indicates it applies to maintenance activities.

13. Section (k) of the Construction Standard "Communication of Hazards to Employees" Part 2 "Labels" requires a visible label, where feasible, to installed asbestos. Does this mean the new warning label must be applied to all materials, pipe lagg, building siding (transite)? What is deemed feasible and what is considered adequate labeling?

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14. Once an employee is included in the medical surveillance program as per the conditions in the standard, how long must he/she be included in the annual program? Is there any criteria for removing him/her from the medical surveillance program; e.g. exclusion from any further asbestos exposure?

15. The labeling provision of the Construction Standard Part (K) (2) (vi) (B) is not required if asbestos concentration is less than 0.1%. However, according to the U.S. EPA NESHAPS Asbestos Regulations (40 CFR 61, Subpart M) the limit for asbestos labeling is 1.0%. If labeling of <u>installed asbestos</u> is required, and the limit is 0.1%, then a transmission electron microscope must be used to analyze bulk samples which has a limit of detection of at least 0.1%. This will increase the cost of bulk sample analysis to about $300.00 per sample, whereas the phase contrast microscope analysis, with a detection limit of 1.0%, is $30.00 per analysis.

16. Request that OSHA address the mandatory Appendices in its compliance directives.

17. How will a compliance officer be instructed to define "feasible" under 6(e). Since the majority of the operations will be conducted outside at E&P, negative pressure enclosures would be infeasible and unnecessary.

18. Must the "competent person" under 6(e) be present continuously during the defined operations? The section states that this person must "control entry and exit form the enclosure." Must the competent person stand guard at the entrance?

19. How will a compliance officer be instructed to define "small scale" and "short duration" under 6(e)(iv)? The section provides an exemption for the requirement of negative-pressure enclosures.

20. How can an employer remove an employee from the medical surveillance program when exposure ceases or the use of negative-pressure respirators is discontinued?

21. What is company's obligation to employees who were on the medical surveillance program when they retire?

22. For asbestos in good condition labelling of ACM <u>in-place</u>, it should be sufficient to label in anyway decided upon by the company with proper training, of course, e.g. label "Asbestos" or use color-coding.

23. Will OMB delay cause effective dates to change?

24. Are engineering and work practice controls required for <u>outdoor</u> removals?

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25. Is exposure monitoring required for short term removals, e.g. with use of glove bags?

26. Labelling ACM products with greater than 0.1% asbestos is required. PLM bulk sample analysis techniques can detect the (?equivalent of?) 1% asbestos by weight. How will this be resolved?

27. In OSHA Bulletins 3096 and 3095 there is a statement that asbestos exposure has caused a number of disabling and fatal diseases including "gastro intestinal cancer which is caused by ingesting" asbestos-containing food. If G.I. cancer is caused by asbestos exposures, isn't it presumably caused by swallowing large amounts of asbestos fiber which has been inhaled by ...."

28. Are all maintenance, small gage removals, valve repairs, etc. in an industrial workplace, covered under the Construction Standard? It seem clear that these operations are included under construction not general industry.

29. PLM bulk sample identification techniques are generally sensitive to 1% asbestos. Labels are required for asbestos content greater than 0.1%. How will this difference be resolved?

WWA/1

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U.S. Department of Labor

Occupational Safety and Health Administration
Washington, D.C. 20210

Reply to the Attention of:

DRAFT

6/21/85

OSHA Instruction CPL

Office of Health Compliance Assistance

Subject: Inspection Procedures for 29 CFR 1910.1001--Asbestos, Tremolite, Anthophyllite, and Actinolite Standard

A. Purpose. This instruction establishes policies and provides clarification to ensure uniform enforcement of 29 CFR 1910.1001--Asbestos, tremolite, anthophyllite, and actinolite.

B. Scope. This instruction applies OSHA-wide.

C. References. 29 CFR 1910.1200--Hazard Communication Standard

D. Cancellation. This instruction cancels OSHA Instructions CPL 2-2.2 and CPL 2-2.21A.

E. Action. OSHA Regional Administrators and Area Directors shall ensure that the guidelines presented in this instruction are followed. The Directorate of Field Operations shall provide whatever support is necessary to assist the Regional Administrators and Area Directors to enforce the asbestos, tremolite, anthophyllite, and actinolite standard.

F. Federal Program Change. This instruction describes a Federal program change which affects State programs. Each Regional Administrator shall:

1. Ensure that this change is forwarded to each State designee.

2. Provide a copy of the Federal Register notice to the State designee upon request.

3. Explain the technical content of the Federal Register notice to the State designee upon request.

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4. Ensure that State designees acknowledge receipt of this Federal program change in writing, within 30 days of notification, to the Regional Administrator. This acknowledgement should include the State's intention to follow the enforcement policies described in this instruction, or a description of the State's alternative policy which is "at least as effective" as the Federal policy.

5. Review policies, instructions and guidelines issued by the State to determine that this change has been communicated to State personnel. Routine monitoring activities shall also be used to determine if this change has been implemented by actual performance.

G. Background. The organization of the new Asbestos standard is similar to many other OSHA expanded health standards. Published on (insert date) this standard replaces the existing standard at 29 CFR 1910.1001.

1. The new asbestos incorporates a much improved set of criteria against which employers can be evaluated on compliance inspections. Every attempt has been made to develop a clear standard that will result in uniform application. The purpose of this directive is to supplement the guidance that is already present in the standard.

2. Compliance Safety and Health Officers (CSHOs) must look to the standard for much of the guidance necessary for the implementation of this standard. The standard is generally written in specification language providing clear goals.

H. Organization of this Instruction. Compliance guidelines and policy considerations are addressed following a brief summary of each major section of the standard. Appendices including major interpretations and specific industry inspection guidelines will be added as enforcement experience, with this new standard builds.

I. Regional Input. Regional Administrators and Area Directors shall communicate all related difficulties to the Office of Health Compliance Assistance, Directorate of Field Operations.

J. Inspection Guidelines. The following guidance provides a general framework that is designed to assist the CSHO with inspections.

1. CSHO Protective Equipment. CSHOs shall determine during the opening conference the types of personal protection needed in the workplace. A review of employer air monitoring may be necessary during the opening conference to assist in determining the types of protection necessary before the walkaround begins.

2. Definitions--1910.1001(b). Specifically noteworthy is the definition for the term "Asbestos". The definition broadens the meaning to include all known forms of asbestos regardless of whether or not they have been chemically treated.

3. Exposure Monitoring. This section requires employers to complete initial monitoring within 120-days from the publication of the standard. Personal monitoring is to be performed within the breathing zone of employees. Samples taken must be representative of all potentially exposed job classifications on all shifts.

a. All job classifications with exposures above the action level must be remonitored at least every six-months. Such monitoring may be discontinued where the results of monitoring support a statistically reliable reduction to a level below the action level.

b. Objective Data. No air monitoring is required where the employer has reliable information supporting a technical claim that a product will not expose employees above the action level. Such supportive data might be

based on documentation demonstrating that the asbestos product is encapsulated or bonded in a matrix or the like.

c. Sampling Methods. Employers may use the OSHA Reference Method (ORM) or any other equivalent method. Paragraph (d)(6) of the standard provides equivalency criteria that are used to validate alternative sampling techniques.

d. Termination of Monitoring-1910.1001(d)(4). Monitoring may be terminated whenever the results of statistically reliable sampling indicate that an employees' exposure is below the action level.

e. Evaluating Employer Monitoring Data. Paragraph 1910.1001(d)(4) indicates that employer monitoring may be terminated whenever air sampling statistically indicates that an employee's exposure is below the action level. OSHA Compliance Officers (CSHO's) shall use the following criteria to evaluate the employers monitoring determinations.

(1) Examination of Monitoring Protocol. CSHO's shall closely examine the employers sampling methodology paying special attention to the technical reliability of the method. Assurance that proper calibration, both pre and post, proper sampling pattern and frequency and, documentation concerning the representativeness of samples must be available before samples can be relied upon.

(2) Statistical Indications. Employer data will be considered unreliable unless the examination indicated under paragraph J. 2.e.(1) of this directive reveals that sampling has been adequately conducted. In general, more than two consecutive

samples taken more than 7 days apart are necessary to serve as an indication of employee exposures.

f. Additional Monitoring. As in all OSHA expanded health standards additional monitoring must be performed whenever a personnel, work practice, process or other change such as environmental factors that may influence ambient conditions or any other relevant condition is encountered.

g. Operational Variability. Many factors effect airborne contaminant levels. Significant variations in ambient concentrations can result for reasons ranging from production changes to process upset. CSHO's shall speak to employees to document the frequency and existence of conditions that may result in varying exposure levels. These factors must be considered during the evaluation of the employers monitoring program.

4. Regulated Areas. Paragraph (e)(1) requires employers to establish regulated areas as soon as possible after the results of the initial monitoring, but no later than 150 days from the date of publication in the Federal Register.

a. The CSHO shall review and evaluate the employers initial monitoring data (i.e., area and personal sampling results) to determine if a valid method was used in establishing regulated areas. CSHOs may determine valid methods by examining the following:

(1) If qualified personnel conducted the sampling,

(2) The calibration and sampling equipment utilized,

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(3) If proper calibration and sampling procedures were used and,

(4) The laboratory services used (accredited or certified

b. When examining the monitoring data, if the CSHO finds that an employer has not established a regulated area or has underestimated the boundaries, a serious citation shall be issued requiring additional monitoring.

c. If the CSHO finds that regulated areas are not properly identified with the appropriate warning signs, a serious citation shall be issued for violation of 29 CFR 1910.1001-(j)(1)(i).

d. Paragraph (e)(5) prohibits employees from eating, drinking, smoking, chewing tobacco or gum, or applying cosmetics in regulated areas.

5. Methods of Compliance.

a. Engineering and Work Practice Controls. This section requires that employers implement feasible engineering and work practice controls to reach the PEL or the lowest level achievable, which ever is higher, as soon as possible but no later than 25 months from the date of publication of this standard. The most significant changes to the engineering control provisions are as follows:

(1) For the operations specified in Paragraph (f)(1)(iii), when all feasible engineering and work practice controls have been installed but are not capable of reducing employee exposure below the PEL, the controls shall be used to reduce employee exposure to or below 0.5 fibers per cubic centimeter in conjunc-

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tion with respiratory protection capable of further reducing employee exposures to or below the PEL.

(2) Paragraph (f)(1)(vii) prohibits the spraying of materials containing asbestos, tremolite, anthophyllite, or actinolite.

(3) Paragraph (f)(1)(ix) prohibits the use of compressed air to remove asbestos tremolite, anthophyllite, or actinolite or materials containing them unless used in conjunction with a ventilation system capable of capturing the dust cloud.

(4) Assessing engineering and work practice controls. All engineering and work practice controls are required to be installed as soon as possible but no later than 25 months from the date of publication of the standard in the Federal Register or 12 months after the compliance plan must be completed.

(a) Documentation of violations of (f)(1) prior to the expiration of the 25 months period. In order to demonstrate that the employer did not install a particular engineering or work practice control as soon as possible the CSHO must document that:

1 feasible controls are available

2 the controls are capable of reducing employee exposure

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3 that the controls could in fact have been installed in the time frame that had passed since the publication of the standard

4 changes in operations or new production units should be in compliance with the new levels upon start-up

5 citations alleging that engineering controls were not installed as soon as possible must be approved by the Director of Field Operations prior to issuance

(b) Interim compliance level for engineering and work practice controls. During the time period between the effective date of the new asbestos standard and the expiration of the 25 month deadline for the installation of engineering and work practice controls, the requirement of the asbestos standard issued in June 1972 as amended and published in 29 CFR 1910.1001(1985) remain in effect. Therefore, during this interim period engineering and work practice controls capable of achieving the 2 fiber per cubic centimeter PEL of the June 1972 standard must remain in place, until the new control measures can be implemented.

b. Compliance Program. This section requires employers to establish and implement a written compliance program as soon as possible but no later than 13 months from the date of publication of this standard, for all areas where the PEL is exceeded.

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NOTE: All testing including point source studies where necessary, must be completed within the 13 month period alloted by the standard for completion of the compliance plans.

(1) Assessing Compliance Programs.

(a) The compliance program should contain at least the following:

1 a description of the process which exceeds the PEL, and an indication of the factor(s) which apparently are causing the overexposure(s)

2 a description of the engineering and/or work practice controls that are to be implemented to reduce employee exposure to or below the PEL

3 a time table for the implementation of the engineering/work practice controls.

4 Where permitted by the standard, a description of the combination of engineering controls, work practice controls, and respiratory protection that will be used to achieve the PEL.

(b) Administrative controls. Paragraph (f)(2)(iv) prohibits the use of employee rotation to achieve compliance with the PEL.

(2) Citations. There are no parallel provisions in the asbestos standard issued in June, 1972 as amended and published in 29 CFR 1910.1001 (1935) requiring the establishment and implementation of compliance plans. There-

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fore, the employer is not required to have a written compliance plan until 13 months from the date of publication of the standard, unless it can be shown that the employer did not develop and implement the program as soon as possible.

(a) Documentation to prove that the employer did not establish a written compliance program as soon as possible must consider the following:

1 the complexity of the measures required to achieve compliance

2 employer knowledge that control measures are available and required to be implemented

3 all citations alleging that the compliance plan was not established or implemented as soon as possible must be approved by the Directorate of Field Operations prior to issuance.

(b) Update of Compliance Program. Paragraph (f)(2)(ii) requires the review and update of the compliance program as necessary to reflect significant changes in the employers' compliance status. CSHO's should consider the following in determining if an employer's plan must be updated:

1 changes of equipment, processes, or work practices subsequent to the last revision of the plan

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2 changes in employee exposure levels subsequent to the last revision of the compliance program

6. Respiratory Protection. Paragraph (g) of the standard requires employers to provide and ensure the use of respirators where employees are exposed in excess of the PEL. Some of the significant changes from the requirements of the asbestos standard issued in June 1972 as amended and published in 29 CFR 1910.1001(1985) are as follows:

a. Respirator selection. The respirator selection table is presented in the standard as Table I. In addition, paragraph (g)(2)(i) requires employers to furnish employees with powered air purifying respirators whenever:

(1) The employee chooses to use this type of respirator.

(2) The powered air purifying respirator will provide adequate protection to the employee.

b. Respirator program. Paragraph (g)(3) requires the employer to establish a respirator program. The respirator program must:

(1) Be in accordance with 29 CFR 1910.134(b),(d),(e) and (f).

(2) Allow employees to leave the regulated area to wash their faces and respirator facepieces

(3) Provide for the removal of employees from the regulated area if an examining physician determines that the employee will be unable to function normally wearing a respirator. The employer will

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retain the same seniority, status, and rate of pay as before the removal from the regulated area.

c. Respirator fit testing. Paragraph (g)(4) requires employers to conduct either quantitative fit test for all employees wearing negative pressure respirators. The test must be performed upon initial fitting and at least every six months thereafter. Qualitative fit test may only be used for half-mask respirator.

d. Start-up dates. Respiratory protection must be provided as soon as possible but no later than :

(1) Where full facepiece air-purifying respirators equipped with high-efficiency filters or a more protective respirator is required; 30 days from the date of publication in the Federal Register.

(2) Where half-mask air-purifying respirators equipped with high-efficiency filters are permitted; 150 days from the date of publication of the standard in the Federal Register.

(3) Where employees request the use of powered air-purifying respirators under paragraph (g)(2)(ii); 210 days from the date of publication of the standard in the Federal Register.

7. Protective work clothing and equipment. Paragraph (h)(1) requires employers to provide at no cost, appropriate protective work clothing and equipment when the employee is exposed to asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals above the PEL, or where the possibility of eye irritation exist.

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a. Appropriate protective work clothing include, but is not limited to the following:

(1) Coveralls or similar full-body work clothing

(2) Gloves, head coverings, and foot coverings

(3) Face shields, vented goggles, or other appropriate protective equipment which complies with 29 CFR 1910.133

b. Removal and storage. Paragraph (h)(2)(i) requires employers to ensure that employees remove all contaminated working clothing in change rooms provided in accordance with paragraph (i)(1) of the standard.

(1) All contaminated work clothing shall be placed and stored in containers which prevent the dispersion of asbestos, tremolite, anthophyllite, and actinolite outside the container.

(2) Paragraph (h)(2)(iv) requires employers to label containers containing contaminated protective devices or work clothing which are to be taken out of change rooms or the workplace for cleaning, maintenance or disposal. Containers not properly labeled will result in a violation of 29 CFR 1910.1001 (j)(2).

c. Cleaning and Replacement. Paragraph (n)(3)(i) requires the employer to clean, launder, repair, or replace protective clothing and equipment to maintain their effectiveness. Clean clothing and equipment shall be provided at least weekly.

(1) The removal of asbestos, tremolite, anthophyllite, and actinolite by blowing or shaking is prohibited by paragraph (n)(3)(ii).

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(2) Any person who launders or cleans contaminated protective clothing or equipment shall be informed of the potential harmful effects of asbestos, tremolite, anthophyllite, or actinolite.

8. Hygiene Facilities and Practices. The standard includes requirements for change rooms, showers and lunchrooms that are triggered when airborne levels of asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals are above the permissible exposure limit.

a. Construction plans must be completed by 210 days from the date of publication in the Federal Register. Construction of these facilities must be completed no later than 13 months from publication of the standard.

b. Lunchrooms must have a positive pressure filtered air supply and be readily accessible to employees. Facilities located remotely that are not subject to potential asbestos contamination do not need special control equipment.

9. Communication of hazard to employees. Some of the requirements of the asbestos standard differ from the hazard communication standard (HCS). Minimal specific requirements for label warnings and modified requirements for transmission of hazard information are included.

a. Labels. Paragraph (j)(2) of this standard establishes uniform "appropriate hazard warnings" for asbestos containing products. The phrase "appropriate hazard warnings" is a requirement for labels from the HCS, reference 29 CFR 1910.1200(f). In addition to the specific warnings provided under (j)(2) of this standard the following is required:

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(1) Identity of the product, reference 29 CFR 1910.1200(f)(i)(i) and

(2) The name and address of the chemical manufacturer or importer, reference 29 CFR 1910.1200 (f)(1)(iii). (Note: For shipped products only).

b. Material Safety Data Sheets (MSDS). MSDS must comply with the HCS requirements. The MSDS must also reflect all other hazardous components.

c. Transmission of MSDS and Labels. Paragraph (j)(4) of the standard establishes a different criteria than the HCS for the creation of labels and MSDS's for the asbestos constituent of a product. Essentially the asbestos constituent of a product does not have to be communicated by labels or on the MSDS unless:

(1) Exposure above the action level can occur during any forseeable use or,

(2) A combination of these minerals are present in the product at 0.1 percent or above.

d. Employee Information and Training. Employee information and training, section 1910.1001-(j)(5) supersedes the information and training provision of the HCS.

(1) The employer needs to institute a training program only when employees are exposed to asbestos at or above the action level. Training may be in a language other than english.

(2) The effectiveness of the training program must be evaluated through a review of the program and discussion

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with employees. The following questions provide a general outline for CSHO's to use when evaluating the program:

(a) Has a training and information program been established for employees exposed at or above the action level?

(b) Is training provided prior to or at the time of initial assignment and at least annually thereafter?

(c) Has the training program been conducted in a manner which the employee is able to understand:

1 In a language the employee readily understands,

2 At a level the employee can comprehend

(3) Employee information. Have employees been informed of:

(a) The health effects associated with asbestos, tremolite, anthophyllite, and actinolite exposure

(b) The relationship between smoking and exposure to asbestos, tremolite, anthophyllite, and actinolite in producing lung cancer

(c) The quantity, location, manner of use, release and storage of asbestos, tremolite, anthophyllite, or actinolite, and the specific nature of operations which could result in exposure to asbestos, tremolite, anthophyllite, or actinolite

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(d) The engineering controls and work practices associated with the employee's job assignment

(e) The specific procedures implemented to protect employees from exposure to asbestos, tremolite, anthophyllite, or actinolite, such as appropriate work practices, emergency and clean-up procedures, and personal protective equipment to be used

(f) The purpose, proper use, and limitations of respirators and protective clothing

(g) The purpose and a description of the medical surveillance program required by paragraph (l) of this standard

(h) A review of this standard, including appendices

e. Access to information and training requirements. Paragraph (j)(5)(iv) requires he employer to make available without cost, a copy of the standard and its appendices to all employees exposed at or above the action level.

10. Housekeeping.

a. CSHO shall determine and observe clean-up methods where feasible to evaluate whether proper techniques are being utilized. Poor housekeeping work practices are well documented sources of significant exposure.

b. Exposure resulting from clean-up shall be included as part of an employees exposure when clean-up is a normal part of the duties attached to the occupation being evaluated.

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11. Medical Surveillance. Paragraph (l) requires employers to implement a medical surveillance program and to provide medical examinations as soon as possible but no later than 150 days from the date of publication of the standard in the Federal Register. Some of the significant changes regarding medical surveillance are:

a. All employees that are exposed to asbestos, tremolite, anthophyllite, actinolite or a combination of these minerals at or above the action level must be provided with medical surveillance.

b. The examinations must be performed by or under the supervision of a licensed physician. The employer must obtain a signed written opinion from the examining physician. The employer shall provide a copy of the physician's written opinion to the affected employee within 30 days of receipt.

c. The employer must provide a preplacement examination before the prospective employee is assigned to an area in which he/she will be exposed to any airborne concentration of asbestos.

d. The employer must provide annual medical examinations, except the frequency of chest roetgenograms shown in Table 2 of the standard shall be followed.

e. Termination of employment examinations must be provided to employee's that were exposed above the action level. The termination of employment examinations must be conducted within 30 callender days before or after the date of termination of employment.

f. Paragraph (l)(6) requires the employer to supply information concerning the affected employee's duties and exposures to the examining physician.

12. Recordkeeping. Paragraph (m) of the standard requires the employer to maintain records of employee exposure measurements, of objective data on which an exemption from the standard is based under paragraph (d)(2)(iii), of employee medical surveillance, and of employee training. CSHO's shall examine the employer's record to determine, if they are being maintained accurately, completely and in accordance with this standard.

a. Exposure records. The CSHO shall examine employer exposure data as well as OSHA air sampling results to determine if the employer is in compliance with all of the provisions of the standard that are triggered by the action level and the PEL.

b. Medical Records Examination. The CSHO shall examine a representative number of employee medical surveillance records to ensure that the medical records are complete, are accurate, and are up to date. Paragraph (m)(5)(i) requires the employer to furnish the records to OSHA. When the requested medical records are employee identifiable, the records shall be obtained in accordance with the requirements of 29 CFR 1910.20(e)(3)(ii), and the Field Operations Manual (FOM).

c. Effective Date. The effective date for the recordkeeping requirements of the standard is 30 days from the date of publication of the standard in the Federal Register. However, many of the provisions of the standard which require that data be obtained do not go into effect for several months following the effective date of the standard. The effective dates of these provisions are as follows:

(1) Initial exposure monitoring - 120 days from publication

(2) Medical surveillance - 150 days from publication

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(3) Training - 120 days from publication

(4) Objective data - 120 days (Since this is tied into initial monitoring)

However, records still have to be developed and maintained pursuant to 29 CFR 1910.1001 (1985) and 29 CFR 1910.20 prior to the start-up dates of this standard.

13. Observation of Monitoring.

a. The standard requires employees to afford employees or their designated representatives an opportunity to observe any monitoring which is required under paragraph (d) of the standard.

b. The observer must be provided with all required protective clothing and/or equipment. The observer may need to be trained in the use of such protective equipment and where exposure levels will be at or above the action level to receive training in accordance with paragraph (j)(5) of the standard.

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OSHA Instruction CPL

Office of Health Compliance Assistance

Subject: Inspection Procedures for 29 CFR 1926.58--Asbestos, Tremolite, Anthophyllite, and Actinolite Standard

A. Purpose. This instruction establishes policies and provides clarification to ensure uniform enforcement of 29 CFR 1926.58--Asbestos, tremolite, anthophyllite, and actinolite.

B. Scope. This instruction applies OSHA-wide.

C. References.

D. Cancellation.

E. Action. OSHA Regional Administrators and Area Directors shall ensure that the guidelines presented in this instruction are followed. The Directorate of Field Operations shall provide whatever support is necessary to assist the Regional Administrators and Area Directors to enforce the asbestos, tremolite, anthophyllite, and actinolite standard.

F. Federal Program Change. This instruction describes a Federal program change which affects State programs. Each Regional Administrator shall:

1. Ensure that this change is forwarded to each State designee.

2. Provide a copy of the Federal Register notice to the State designee upon request.

3. Explain the technical content of the Federal Register notice to the State designee upon request.

4. Ensure that State designees acknowledge receipt of this Federal program change in writing, within 30 days of notification, to the Regional Administrator. This acknowledgement should include the State's intention to follow the enforcement policies described in this instruction, or a description of the State's alternative policy which is "at least as effective" as the Federal policy.

5. Review policies, instructions and guidelines issued by the State to determine that this change has been communicated to State personnel. Routine monitoring activities shall also be used to determine if this change has been implemented by actual performance.

G. Background. The organization of the new Asbestos standard is similar to many other OSHA expanded health standards. Published on June 20, 1986, this standard replaces the existing standard at 29 CFR 1910.1001.

1. The new asbestos incorporates a much improved set of criteria against which employers can be evaluated on compliance inspections. Every attempt has been made to develop a clear standard that will result in uniform application. The purpose of this directive is to supplement the guidance that is already present in the standard.

2. Compliance Safety and Health Officers (CSHOs) must look to the standard for much of the guidance necessary for the implementation of this standard. The standard is generally written in specification language providing clear goals.

H. Organization of this Instruction. Compliance guidelines and policy considerations are addressed following a brief summary of each major section of the standard. Appendices including major interpretations and specific industry inspection guidelines will be added as enforcement experience, with this new standard builds.

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I. Regional Input. Regional Administrators and Area Directors shall communicate all related difficulties to the Office of Health Compliance Assistance, Directorate of Field Operations.

J. Inspection Guidelines. The following guidance provides a general framework that is designed to assist the CSHO with inspections.

1. CSHO Protective Equipment. CSHOs shall determine during the opening conference the types of personal protection needed in the workplace. A review of employer air monitoring may be necessary during the opening conference to assist in determining the types of protection necessary before the walkaround begins.

2. Definitions--1926.58(b). Specifically noteworthy is the definition for the term "Asbestos". The definition broadens the meaning to include all known forms of asbestos regardless of whether or not they have been chemically treated.

3. Communication Among Employers. 29 CFR 1926.58(d) requires employers engaged in asbestos work to notify other employers on the worksite of the nature of the asbestos work and the requirements regarding regulated areas, no later than January 16, 1987.

4. Regulated Areas. Paragraph (e) requires employers to establish regulated areas by January 16, 1987 where airborne concentration of asbestos, tremolite, anthophyllite, actinolite or a combination of these minerals exceed or can be expected to exceed the PEL.

   a. Paragraph (e)(5) prohibits employees from eating, drinking, smoking, chewing tobacco or gum, or applying cosmetics in the regulated area.

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b. Paragraph (e)(6) requires employers performing asbestos removal, demolition, and renovation operations to establish negative pressure enclosures before starting their work, wherever feasible. The enclosure must be established and managed by a competent person as defined in 29 CFR 1926.58(b) and (e)((6)(iii).

c. Paragraph (e)(6)(iv) grants exceptions from the requirements of establishing negative-pressure enclosures if the operation is small-scale and of short duration.

d. The CSHO shall evaluate the employer's program for establishing the requisite regulated areas by examining the following:

(1) If the employer has designated a competent person to set-up and manage the regulated areas in accordance with °¶e)(6)(ii)(A-H)

(2) If the employer's initial monitoring data, or objective data was obtained in accordance with the prescribed sampling and analytical methods.

(3) If monitoring data from similar work situation is used in lieu of monitoring the current worksite, the CSHO must ensure that the conditions of exposure are in fact equivalent.

(4) If the employer has failed to establish a negative-pressure enclosure, the CSHO must document that such an enclosure is in fact feasible, and that the project is not a small-scale, short-duration operation.

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(a) For the purposes of this standard a "small-scale" operation shall be taken to mean a single procedure involving one of the following: valve replacement, pipe repair, electrical conduit installation, drywall removal or installation, roofing

(b) For the purposes of this standard "short-duration" shall be defined as an operation that can be completed in one 8-hour work shift.

e. If the CSHO finds that the employer has not established the regulated areas or negative-pressure enclosure, a serious citation shall be issued for violation of 29 CFR 1926.58(e)(1) or 29 CFR 1926.58(e)(6) as appropriate.

5. Exposure Monitoring. This section requires employers to perform employee exposure monitoring by January 16, 1987. Personal monitoring is to be performed within the breathing zone of the employee. Samples taken must be representative of all potentially exposed employees in each work area.

a. Limited monitoring. Each employer whose workplace or work operation falls under the scope of this standard is required to perform initial monitoring upon the inception of the asbestos work operation in order to access the concentrations of asbestos, tremolite anthophyllite, or actinolite to which employees may be exposed. The standard contains the following exceptions to the initial monitoring provisions:

(1) objective data which shows that the asbestos containing materials cannot release airborne fibers in concentrations exceeding the action level

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(2) monitoring data from similar asbestos jobs may be used in lieu of the initial monitoring requirements.

b. Periodic monitoring. The employer must conduct daily monitoring which is representative of the exposure of each employee assigned to work in the regulated area except when all of the employees in the regulated area are equipped with supplied-air respirators operated in the positive pressure mode.

c. Termination of Monitoring-1926.58(f)(4). Monitoring may be terminated whenever the results of statistically reliable sampling indicate that an employees' exposure is below the action level.

d. Sampling Methods. Employers may use the OSHA Reference Method (ORM) or any other equivalent method. Paragraph (f)(5) of the standard provides equivalency criteria that are used to validate alternative sampling techniques.

e. Evaluating Employer Monitoring Data. Paragraph 1926.58(f)(4) indicates that employer monitoring may be terminated whenever air sampling statistically indicates that an employee's exposure is below the action level. OSHA Compliance Officers (CSHO's) shall use the following criteria to evaluate the employers monitoring determinations.

(1) Examination of Monitoring Protocol. CSHO's shall closely examine the employers sampling methodology paying special attention to the technical reliability of the method. Assurance that proper calibration, both pre and post, proper sampling pattern and

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frequency and, documentation concerning the representativeness of samples must be available before samples can be relied upon.

(2) Statistical Indications. Employer data will be considered unreliable unless the examination indicated under paragraph J. 5.e.(1) of this directive reveals that sampling has been adequately conducted. In general, more than two consecutive samples taken more than 7 days apart are necessary to serve as an indication of employee exposures.

6. Methods of Compliance. This section requires employers to implement all feasible engineering and work practice controls to reach the PEL or the lowest feasible level, whichever is higher, by January 16, 1987. The most significant changes from 29 CFR 1910.1001(1985) regarding the engineering control provisions are as follows:

a. Paragraph 29 CFR 1926.58(g)(1)(i) lists the controls that employers are to use in order to reach the PEL.

b. Where all feasible engineering and work practice controls have been implemented but are still not capable of reaching the PEL, the controls shall be used, and supplemented with respiratory protection in accordance with 29 CFR 1926.58(h).

c. Paragraph 29 CFR 1926.58(g)(2) prohibits:

(1) the use of high-speed abrasive disc saws unless equipped with proper exhaust ventilation

(2) the use of compressed air to remove asbestos unless used in conjunction with an enclosed ventilation system.

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(3) the spraying of materials containing asbestos, tremolite, anthophyllite or actinolite.

d. Paragraph 29 CFR 1926.58(g)(3) prohibits the use of administrative controls to meet the PEL.

7. Respiratory Protection. Paragraph (h) of the standard requires employers to provide and ensure the use of respirators where employees are exposed in excess of the PEL by January 16, 1987. Some of the significant changes from the requirements of the asbestos standard issued in June 1972 as amended and published in 29 CFR 1910.1001(1985) are as follows:

a. Respirator selection. The respirator selection table is presented in the standard as Table D-4. In addition, paragraph (h)(2)(iii) requires employers to furnish employees with powered air purifying respirators whenever:

(1) The employee chooses to use this type of respirator.

(2) The powered air purifying respirator will provide adequate protection to the employee.

b. Respirator program. Paragraph (h)(3) requires the employer to establish a respirator program. The respirator program must:

(1) Be in accordance with 29 CFR 1910.134(b),(d),(e) and (f).

(2) Allow employees to leave the regulated area to wash their faces and respirator facepieces

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(3) Provide for the removal of employees from the regulated area if an examining physician determines that the employee will be unable to function normally, while wearing a respirator. The employer will retain the same seniority, status, and rate of pay as before the removal from the regulated area.

c. Respirator fit testing. Paragraph (h)(4) requires employers to conduct either quantitative fit test for all employees wearing negative pressure respirators. The test must be performed upon initial fitting and at least every six months thereafter. Qualitative fit test may only be used for half-mask respirators.

8. Protective work clothing and equipment. Paragraph (i)(1) requires employers to provide and require the use of protective clothing when the employee is exposed to asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals above the PEL.

a. Laundering. Paragraph (i)(2)(i) requires employers to ensure that laundering of contaminated clothing is done so as to prevent the release of asbestos, tremolite, anthophyllite, actinolite or a combination of these minerals in excess of the PEL.

b. Contaminated clothing. All contaminated clothing shall be transported in sealed impermeable bags, or other closed, impermeable containers. Containers not properly labeled will result in a violation of 29 CFR 1926.58 (k)(1)(i).

c. Protective clothing for removal, demolition,and renovation operation. Paragraphs (i)(4)(i) and (ii) requires a competent

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person to periodically examine worksuits worn by employees for rips or tears that may occur during performance of work. All rips or tears detected while an employee is working in a negative-pressure enclosure shall be mended or replaced immediately.

9. Hygiene Facilities and Practices.

a. Paragraph (j)(1)(i) requires the employer to provide clean change areas for employees who work in regulated areas or for employees who are required to wear protective clothing.

Exception: In lieu of change areas, employees engaged in small scale, short duration operations, as described in section (e)(6) of the standard, may clean their protective clothing with a portable HEPA-equipped vacuum before they leave the area where maintenance was performed.

(1) All change areas must be equipped with separate storage facilities for protective clothing and street clothing in accordance with 29 CFR 1910.141(e).

(2) Whenever food or beverages are consumed at the worksite and employees are exposed to asbestos, tremolite, anthophyllite, actinolite, or a combination of these minerals above the PEL, the employer shall provide lunch areas in which the airborne concentration is below the action level.

b. Requirements for removal, demolition, and renovation operations. All small scale, short duration operations, as described in section (e)(6)of the standard are exempted from this requirement.

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(1) Decontamination areas are to be established adjacent and connected to the regulated area, they shall consist of an equipment room, shower area, and clean room in series. All employees shall enter and exit the regulated area through the decontamination area.

(2) Clean rooms shall be equipped with a locker or appropriate storage containers for each employee's use.

(3) Shower facilities shall be provided and must comply with 29 CFR 1910.141(d)(3) where feasible.

(a) Where feasible, showers shall be contiguous both to the equipment room and the change room.

(b) Where this is not feasible, the employer shall ensure that employees:

1 Remove contamination from worksuits using a HEPA vacuum before going to a shower that is not contiguous to the work area; or

2 Remove their contaminated worksuits, don clean worksuits and proceed to a shower that is not contiguous to the work area.

(4) Paragraph (j)(2)(iv) requires equipment rooms to be supplied with impermeable, labeled bags and containers.

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(5) Paragraphs (g)(2)(v) and (vi) outline specific procedures to be followed by employees when entering and exiting decontaminated areas.

10. Communication of hazards to employees. The hazard communication standard (HCS) does not currently apply to the construction industry. The labelling requirements of 29 CFR 1926.58(k)(2)(iii), however, specify that the labels shall be used in accordance with 29 CFR 1910.1200(f) of the HCS. The start-up date for these requirements are January 16, 1987.

a. Labels. Paragraph (k)(2) of this standard establishes uniform "appropriate hazard warnings" for asbestos containing products. The phrase "appropriate hazard warnings" is a requirement for labels from the HCS, reference 29 CFR 1910.1200(f). In addition to the specific warnings provided under (k)(2) of this standard the following is required:

(1) Identity of the product, reference 29 CFR 1910.1200(f)(i)(i) and

(2) The name and address of the chemical manufacturer or importer, reference 29 CFR 1910.1200(f)(1)(iii). (Note: For shipped products only).

b. Transmission of MSDS and Labels. Paragraph (k)(2)(vi) of the standard establishes a different criteria than the HCS for the creation of labels for the asbestos constituent of a product. Essentially the asbestos constituent of a product does not have to be communicated by labels unless:

(1) Exposure above the action level can occur during any forseeable use or,

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(2) A combination of these minerals are present in the product at 0.1 percent or above, by weight.

c. Employee Information and Training. 29 CFR 1926.58(k)(B) requires employers to implement a training program by January 16, 1987.

(1) The employer needs to institute a training program only when employees are exposed to asbestos at or above the action level. Training may be in a language other than english.

(2) The effectiveness of the training program must be evaluated through a review of the program and discussion with employees. The following questions provide a general outline for CSHO's to use when evaluating the program:

(a) Has a training and information program been established for employees exposed at or above the action level?

(b) Is training provided prior to or at the time of initial assignment for those employees not receiving training in the previous 12 months and at least annually thereafter?

(c) Has the training program been conducted in a manner which the employee is able to understand:

1 In a language the employee readily understands,

2 At a level the employee can comprehend

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DRAFT

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(3) Employee information. Have employees been informed of:

(a) Methods of recognizing asbestos, tremolite, anthophyllite, and actinolite.

(b) The health effects associated with asbestos, tremolite, anthophyllite, and actinolite exposure.

(c) The relationship between smoking and exposure to asbestos, tremolite, anthophyllite, and actinolite in producing lung cancer.

(d) The nature of operations that could result in exposure to asbestos, tremolite, anthophyllite, and actinolite, the importance of necessary protective controls to minimize exposure including, as applicable, engineering controls, work practices, respirators, housekeeping procedures, hygiene facilities, protective clothing, decontamination procedures, emergency procedures, and waste disposal procedures, and any necessary instruction in the use of these controls and procedures.

(e) The appropriate work practices for performing the asbestos, tremolite anthophyllite, or actinolite job.

(f) The purpose, proper use, fitting instructions, and limitations of respirators

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(g) The medical surveillance program requirements

(h) A review of this standard, including appendices

d. Access to information and training requirements. Paragraph (k)(4)(i) requires the employer to make available without cost, a copy of the standard and its appendices to all employees exposed at or above the action level.

11. Housekeeping.

Paragraph 29 CFR 1926.58(1) specifies the housekeeping requirements of the standard.

a. Vacuum cleaners must be equipped with HEPA filters

b. all waste materials containing asbestos must be disposed of in sealed, labeled impermeable containers.

12. Medical Surveillance. Paragraph (m) requires employers to implement a medical surveillance program and to provide Medical examinations. Some of the significant changes regarding medical surveillance are:

a. All employees that are exposed to asbestos, tremolite, anthophyllite, actinolite or a combination of these minerals at or above the action level for 30 days or more per year, or who are required to wear negative pressure respirators must be provided medical surveillance.

b. Examinations must be performed by or under the supervision of a licensed physician and given on the following schedules:

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(1) Prior to assignment to an area where negative pressure respirators are worn;

(2) Where the exposure level may be at or above the action level for 30 or more days per year. In this case, medical examinations are to be given within 10 working days following the thirtieth day of exposure.

(3) And at least annually thereafter

(4) If the physician determines that any of the examinations should be provided more frequently than specified.

(5) Exception: No medical examination is required if adequate records show that the employee has been examined in accordance with paragraph (m)(2)(i)(A) thru (m)(2)(i)(C) of the standard within the past 1 year period.

c. The employer must obtain a written opinion from the examining physician. A copy of the physician's written opinion shall be provided to the affected employee within 30 days or receipt.

13. Recordkeeping. Paragraph (n) of the standard requires the employer to maintain records of employee exposure measurements, of objective data on which an exemption from the standard is based under paragraph (f)(2)(ii), of employee medical surveillance, and of employee training. CSHO's shall examine the employer's records to determine, if they are being maintained accurately, completely and in accordance with this standard.

a. Exposure records. The CSHO shall examine employer exposure data as well as OSHA air sampling results to determine if the employer

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is in compliance with all of the provisions of the standard that are triggered by the action level and the PEL.

b. Medical Records Examination. The CSHO shall examine a representative number of employee medical surveillance records to ensure that the medical records are complete, are accurate, and are up to date. Paragraph (n)(5)(iii) requires the employer to furnish the records to OSHA. When the requested medical records are employee identifiable, the records shall be obtained in accordance with the requirements of 29 CFR 1910.20(e)(3)(ii), and the Field Operations Manual (FOM).

c. Effective Date. The effective date for the recordkeeping requirements of the standard is January 16, 1987. However, records still have to be developed and maintained pursuant to 29 CFR 1910.1001 (1985) and 29 CFR 1910.20 prior to the start-up dates of this standard.

14. Observation of Monitoring.

a. The standard requires employers to afford employees or their designated representatives an opportunity to observe any monitoring which is required under paragraph (d) of the standard.

b. The observer must be provided with all required protective clothing and/or equipment. The observer may need to be trained in the use of such protective equipment and where exposure levels will be at or above the action level to receive training in accordance with paragraph (j)(5) of the standard.

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MEMORANDUM FOR: REGIONAL ADMINISTRATORS

FROM: JOHN B. MILES, JR., DIRECTOR
DIRECTORATE OF FIELD OPERATIONS

SUBJECT: Stay of Portions of the New Asbestos Standards Pending Review by OMB

The following provisions of the new asbestos standards which contain information collection requirements are stayed pending review by the Office of Management and Budget:

29 CFR 1910.1001, as amended June 20, 1986;

START-UP
6-10-86 (d)(2) initial monitoring
7-21-86 (d)(3) monitoring frequency (periodic monitoring) and patterns
7-21-86 (d)(5) additional monitoring
7-21-86 (d)(7) employee notification of monitoring results
7-20-87 (f)(2) compliance program
7-21-86 (g)(3)(i) respirator program
6-20-86 (j)(5) employee information and training
6-17-86 (l) medical surveillance
7-21-86 (m) recordkeeping

29 CFR 1926.58; **

1-16-87 (f)(2) initial monitoring
(f)(3) periodic monitoring within the regulated areas
**(g)(6) employee notification of monitoring results **
(h)(3)(i) respirator program
(k)(3) employee information and training
(k)(4) acess to training materials
(m) medical surveillance
(n) recordkeeping

It is anticipated that OMB will complete their review of the standards shortly. In the interim the parallel requirements of the asbestos standard issued in June 1972, as amended, and published in 29 CFR 1910.1001 will remain in effect. Please notify State Plan Designees and other program personnel of this issue.

** Employee notification of monitoring results is described in section (f)(6)

COURT BATTLES LOOM OVER OSHA's ASBESTOS STANDARDS

By Richard M. Kendall

OSHA will be in Federal court this fall trying to fight off challenges from labor and industry to its recently revised asbestos standard for general industry and its new asbestos standard for the construction industry.

Under the two final standards, which were announced in June and became effective July 21, the permissible exposure limit (PEL) for asbestos is 0.2 fiber per cubic centimeter over an eight-hour time-weighted average, a tenfold reduction from the 2.0 fiber/cc PEL which had been in effect since 1976. OSHA had proposed either a 0.2 or 0.5 fiber/cc PEL in 1984.

The standards also establish a 0.1 fiber/cc "action level" which triggers a series of medical monitoring, employee training, and other requirements. The standards do not include short-term exposure limits.

OSHA's old asbestos standard applied to all industries. The new general industry standard applies to all industries except construction. The new construction standard for asbestos, the first health standard issued strictly for the construction industry, covers new construction, general building renovation, asbestos abatement, demolition, and contracted maintenance operations.

Both standards generally require that employers use engineering controls, where feasible, and work practices to reach the PEL. In some sanding and grinding operations in general industry, respirators may be used if feasible engineering controls fail to reduce exposures to below 0.5 fiber/cc. Employers are no longer permitted to rotate workers in and out of asbestos-exposed areas as a means of achieving compliance with the PEL. Both standards require employers to provide respirators to employees where feasible engineering controls are insufficient to reduce exposure levels to the PEL, to maintenance workers, and in emergencies. Where respiratory protection is necessary, the level of exposure determines the type of respirator that must be provided.

Under the new asbestos standards, "regulated areas" must be established where exposures are above the PEL. Only authorized persons wearing respirators are permitted in regulated areas. Eating, smoking, drinking, chewing gum or tobacco, and applying cosmetics are prohibited in regulated areas. In general industry and construction, signs must be posted to demark regulated areas. If asbestos removal, demolition, or renovation is being performed in a regulated area in construction, enclosures with negative pressure must be employed to assure that asbestos cannot escape to unregulated areas. The construction standard also requires that a "competent person," one capable of identifying asbestos hazards and with authority to take prompt corrective action to abate such hazards, be named to monitor compliance with the regulated area requirements. The construction standard provides exemptions from the regulated area requirements for small-scale, short-duration operations.

Both the general industry and construction standards require employers to provide workers exposed above the PEL with protective clothing and ensure that it is used, replaced, stored, disposed, and laundered properly. Change rooms, showers, and lunchrooms must also be provided when exposures exceed the PEL.

In general industry, employers must perform initial monitoring of employees who are, or may be expected to be, exposed to asbestos above the action level; no initial monitoring is required if the employer, using objective data, has determined that there are no asbestos exposures at or above the action level. Subsequent monitoring must be done with a frequency tied to the exposure level, and in no case may monitoring intervals be longer that six months for employees whose exposure can be foreseen to be above the action level. In construction, monitoring of asbestos levels must be done daily when exposures are above the PEL, but monitoring can be dispensed with in regulated areas where workers wear supplied air, positive pressure respirators.

Annual medical surveillance is required in general industry where employees' exposure exceeds the action level. In construction, surveillance is required when workers are exposed above the action level for 30 or more days per



Nash: OSHA failed to establish a significant risk of injury from asbestos at 0.2 fiber/cc.

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AFL-CIO's Seminario said the union supports EPA's proposal to phase out asbestos use because OSHA's new standards leave workers at risk.

year, or if they wear negative-pressure respirators.

The new asbestos standards also require detailed annual training and education programs for workers exposed above the action level to warn them of asbestos hazards and inform them about safe work practices. Material safety data sheets, as prescribed in OSHA's hazard communication program, are to be used in the training and education programs under the asbestos standard. Warning signs are required in regulated areas, and warning labels must be affixed to raw materials, containers, scrap, debris, and products containing asbestos. Employers performing asbestos work on multi-employer construction sites are also required to inform other employers of the nature of the work, the existence of regulated areas, and work rules that pertain to them.

Legal challenges

OSHA's two new asbestos standards were immediately challenged in the Federal courts by organized labor groups, asbestos trade organizations, and two manufacturers affected by the standards.

The AFL-CIO's Industrial Union Department filed a petition for review of the general industry standard before the U.S. Court of Appeals for the District of Columbia Circuit, and the AFL-CIO Building and Construction Trades Department filed a petition for review of the construction standard before the same court.

The AFL-CIO said that after waiting for a decade for a revision of the asbestos standard, "asbestos-exposed workers deserve a stronger standard." The union pointed out that, even with the tenfold reduction in the PEL, seven of every 1,000 workers exposed to asbestos over a working lifetime will die of chronic exposure-related diseases (OSHA, in its preamble to the new standards, had stated that the 0.2 fiber/cc PEL left exposed workers at a significant risk of incurring asbestos-related disease, but the agency said that a lower PEL was infeasible.). The union had sought a 0.1 fiber/cc PEL during rulemaking.

The union also criticized OSHA's failure to include short-term exposure limits (STEL) in the standards. "This means workers who are involved with asbestos removal and maintenance operations can be exposed to high levels of asbestos in jobs of short duration with no protection required," the union complained. Sheldon Samuels, the Industrial Union Department's director, health, safety, and environment, in decrying the exclusion of a STEL, argued that peak asbestos exposures permitted under the standards can overwhelm the body's natural defense mechanisms, putting workers at extreme risk.

Samuels did, however, express gratitude to Secretary of Labor William Brock for moving the asbestos standards out of the Office of Management and Budget (OMB) where it had been lodged for some time. The budget office is accused by some critics of trying to delay release of the standards and to unduly influence their content in the course of its regulatory review. OMB has denied these allegations. Rep. John D. Dingell (D-MI), chairman of the House Subcommittee on Oversight and Investigations is investigating OMB involvement in asbestos rulemaking. (Dingell was also a party in a recently-decided case challenging OMB's authority in agency rulemaking; he is also trying to eliminate funding for OMB's regulatory review office. See "OSHA Communique" elsewhere in this issue.)

In another challenge to the OSHA standards, the Asbestos Information Association (AIA), a U.S. trade group, sought review of the standards before the U.S. Court of Appeals for the Fifth Circuit in New Orleans. Government Affairs Counsel Kenneth Nyquist said AIA believes accurate monitoring of asbestos exposures at the 0.2 fiber/cc level is not technically feasible and, therefore, will pose compliance difficulties.

The Asbestos Institute (AI), a Canadian nonprofit organization funded in part by Canada's asbestos mining industry, petitioned to intervene in the AIA case. AI President Gary Nash contends that in formulating the standards, OSHA did not meet its court mandate of establishing a significant risk of injury from asbestos at 0.2 fiber/cc. He also criticized OSHA's standards for failing to require different controls for different types of asbestos, depending on their varying health effects in humans, as he maintains asbestos standards in other countries do.

Another suit, filed in the U.S. Court of Appeals for the Second Circuit in New York by R.T. Vanderbilt Co., a maker of industrial talcs, sought a stay of the asbestos standards as they apply to

Secretary of Labor William Brock is credited with dislodging the asbestos standards from OMB.



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tremolite, anthophyllite, and actinolite, three minerals which are regulated as asbestos under the new standards. Allan Harvey, Vanderbilt's director of environmental affairs, said the OSHA standards fail to differentiate between the fibrous, asbestos forms and the non-asbestos forms of the minerals. Because the three minerals are so common in rocks mined in the U.S., many mining operations would fall under the standards and many rock products would have to be labeled as containing asbestos, even if the asbestos forms of the minerals were not present, Harvey said. OSHA, on July 24, issued a temporary administrative stay (effective until April 21, 1987) of the asbestos standards as they apply to the non-asbestos forms of the minerals; the old 2.0 fiber/cc standard will apply to these forms of the minerals while OSHA reviews comments by NIOSH, Vanderbilt, and others concerning their regulation.

All petitions for review of the asbestos standards, except for a challenge filed at presstime, have been transferred to the U.S. Court of Appeals for the D.C. Circuit. The most recent action, filed by 3M Co. in the U.S. Court of Appeals for the Eighth Circuit in St. Louis, seeks a stay of the portions of the standards which limit the selection of negative pressure, half mask respirators to those with high efficiency filters only. A 3M spokesman said the company believes that, in writing respiratory protection selection portions of the standards which prohibit the use of an entire class of NIOSH-approved disposable respirators of the type made by 3M, OSHA failed to consider research data that proves the efficacy of such respirators in protecting workers from asbestos. It's expected that the 3M Co. suit will also be transferred to the D.C. Circuit court.

EPA hearings

Meanwhile, at presstime, EPA was holding two weeks of administrative hearings on its January proposal to ban asbestos in certain products and to phase out other uses of asbestos over a 10-year period. At a hearing, AFL-CIO Associate Director of Occupational Safety, Health, and Social Security Margaret Seminario said OSHA's new standards will leave exposed workers at risk of disease, and that the AFL-CIO therefore generally supports the EPA proposal where feasible and where substitute materials that are known to be less harmful than asbestos are available; she also recommended testing and control of substitute products as part of an asbestos phase-out plan. Asbestos industry spokesmen from AIA and AI, on the other hand, said their organizations would testify that the ban is unnecessary because asbestos is primarily an occupational concern that is being adequately addressed by the OSHA standards.

In upcoming issues, we'll keep you posted on developments as the legal and regulatory maneuvering continues. ☐

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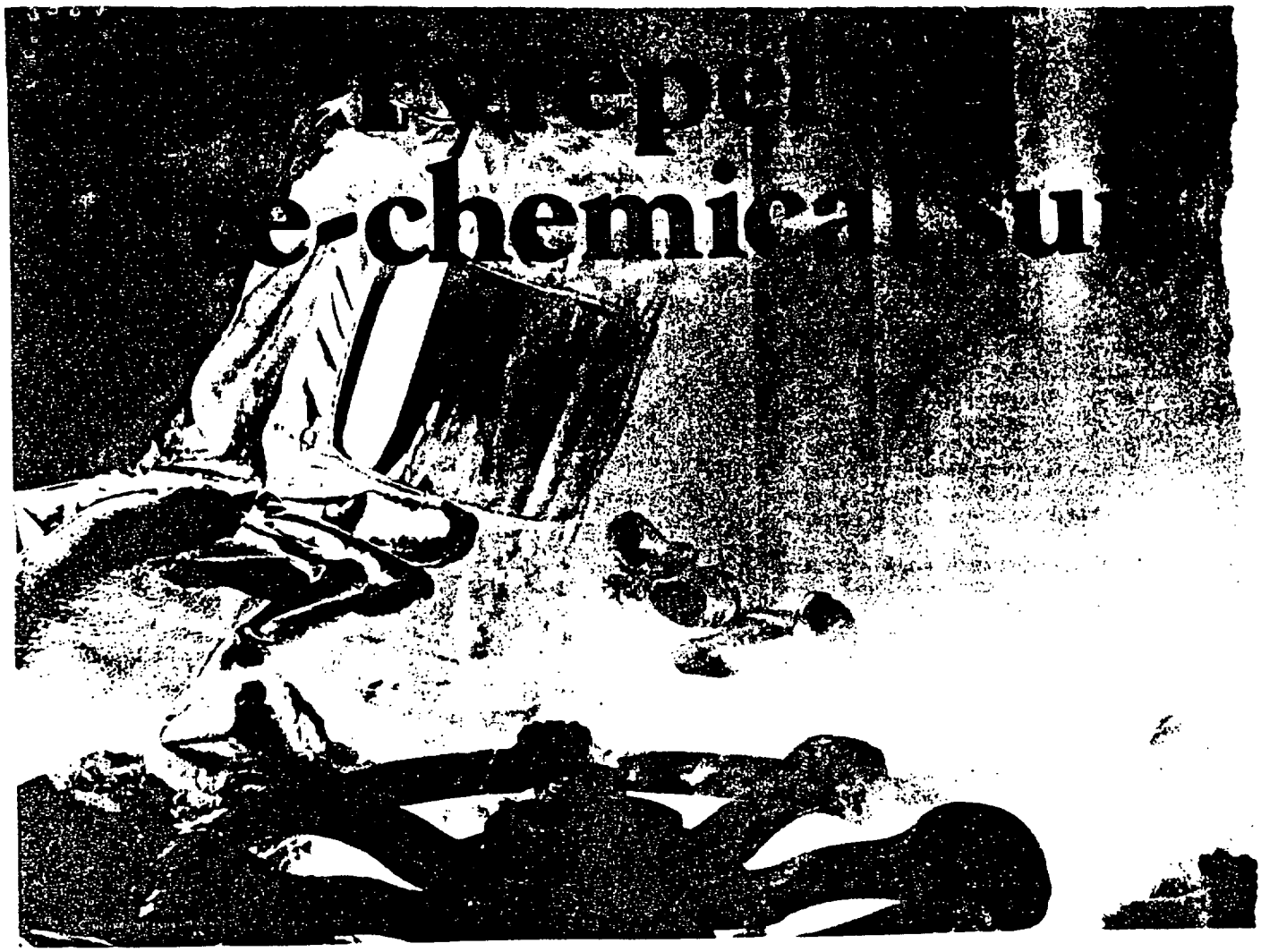
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