

Standard Interpretations

/ Computer-based training (CBT) for asbestos awareness with improved designs for learning effectiveness but shorter than ...

▪ **Standard Number:** 1926.1101(k)(9)(vi)

OSHA requirements are set by statute, standards and regulations. Our interpretation letters explain these requirements and how they apply to particular circumstances, but they cannot create additional employer obligations. This letter constitutes OSHA's interpretation of the requirements discussed. Note that our enforcement guidance may be affected by changes to OSHA rules. Also, from time to time we update our guidance in response to new information. To keep apprised of such developments, you can consult OSHA's website at <http://www.osha.gov>.

May 26, 2017

Mr. Stephen A. Newell
ORCHSE Strategies, LLC
2100 M Street, NW Suite 170-357
Washington DC 20037

Dear Mr. Newell:

Thank you for your March 21, 2017, letter to the Occupational Safety and Health Administration's (OSHA) Directorate of Enforcement Programs concerning the requirements of OSHA's Asbestos Standard for Construction, 29 CFR 1926.1101. Your letter concerns the minimum training duration of two hours required for employees performing Class IV asbestos operations, as specified at paragraph 29 CFR 1926.1101(k)(9)(vi). This reply letter constitutes OSHA's interpretation only of the requirements discussed and may not be applicable to any question not detailed in your original correspondence. We've summarized your background information, below, and paraphrased your question. Our response follows.

Background: Employees performing Class IV asbestos operations must receive at least two hours of training. See 29 CFR 1910.1101(k)(9)(vi). You claim that advancements in computer-based training (CBT) now enable employers to deliver mandatory training content to employees effectively in less than two hours. You cited research on adult learning (providing a list of five journal articles) in support of the notion that increased instructional time can be detrimental to learning effectiveness. You also assert that arbitrary training time requirements are not related to learning optimization and efficiency.

You state that some companies and training centers are using CBT that covers all required training elements and allows trainees to complete the training at their own pace. As you describe the training, trainees do not receive credit for completing the course until they can demonstrate competency. You indicate that embedded review questions ensure that trainees comprehend the content of the training before moving forward, and that contact information is provided for safety and health professionals who are available to answer trainee questions.

Question: In the circumstances described, would OSHA allow the use of CBT for less than two hours, as long as it covers all required training elements in compliance with 29 CFR 1926.1101(k)(9)(vi)? Would this be considered a de minimis violation of the training duration requirement?

Reply: OSHA's Asbestos Standard for Construction, 29 CFR 1926.1101, has the following requirements for training employees performing Class IV operations:

The employer shall train each employee who is likely to be exposed in excess of a PEL [permissible exposure limit], and each employee who performs Class I through IV asbestos operations, in accordance with the requirements of this section. Such training shall be conducted at no cost to the employee. The employer shall institute a training program and ensure employee participation in the program. [29 CFR 1926.1101(k)(9)(i)]

Training shall be provided prior to or at the time of initial assignment and at least annually thereafter. [29 CFR 1926.1101(k)(9)(ii)]

Training for employees performing Class IV operations shall be consistent with EPA [U.S. Environmental Protection Agency] requirements for training of local education agency maintenance and custodial staff as set forth at 40 CFR 763.92(a)(1). Such a course shall include available information concerning the locations of thermal system insulation and surfacing ACM [asbestos-containing material]/PACM [presumed asbestos-containing material], and asbestos-containing flooring material, or flooring material where the absence of asbestos has not yet been certified; and instruction in recognition of damage, deterioration, and delamination of asbestos containing building materials. *Such course shall take at least 2 hours.* (Italics added for emphasis.) [29 CFR 1926.1101(k)(9)(vi)]

OSHA's Class IV asbestos training is commonly called "asbestos awareness training." In adopting the requirement for Class IV asbestos workers to have two hours of training, OSHA explained:

[Workers] who have performed work now designated Class ...IV have developed asbestos-related disease... [T]raining is one of the most powerful instruments to protect workers ...Imposing time criteria for courses will help insure that sufficient time for instruction is provided. 59 Fed. Reg. 40964, 41020 (Aug. 10, 1994).

As the standard requires a minimum of two hours of training, a violation exists whenever a covered employee does not receive that amount of training.

OSHA's policy on de minimis conditions is explained in its Field Operations Manual (FOM), CPL 02-00-160 (Aug. 2, 2016). De minimis conditions are those where an employer has implemented a measure different from one specified in a standard, but that difference has no direct or immediate relationship to safety or health. Whenever de minimis conditions are found during an inspection, OSHA documents them in the same manner as other violations, but OSHA does not propose a penalty or require abatement. See CPL 02-00-160, Chapter 4, Section VIII. Whether a particular training course for employees performing Class IV asbestos operations that lasts less than two hours constitutes a de minimis condition under 29 CFR 1926.1101(k)(9)(vi) will be determined on a case-by-case basis. For a deficiency in the length of a training course to be considered a de minimis condition, the training would need to ensure employee competency in all required training elements. Factors OSHA may consider in specific cases include the duration, content, and quality of the training, as well as the availability of trainers to answer trainee questions and the trainee's prior training, experience, and abilities.

The research you provided with your letter, while not specific to OSHA asbestos awareness training, contains useful guidance for training providers that can help them improve the effectiveness of their training materials, no matter the length of a particular course.

Thank you for your interest in occupational safety and health. We hope you find this information helpful. OSHA's requirements are set by statute, standards, and regulations. Our letters of interpretation do not create new or additional requirements but rather explain these requirements and how they apply to particular circumstances. This letter constitutes OSHA's interpretation of the requirements discussed. From time to time, letters are affected when the Agency updates a standard, a legal decision impacts a standard, or changes in technology affect the interpretation. To assure that you are using the correct information and guidance, please consult OSHA's website at www.osha.gov. If you have further questions, please feel free to contact the Office of Health Enforcement at (202) 693-2190.

Sincerely,

Thomas Galassi, Director
Directorate of Enforcement Programs

UNITED STATES DEPARTMENT OF LABOR

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Questions