

## Standard Interpretations

/ Refresher training requirements for Class III asbestos work and training for excavations disturbing soil with ACM.

- **Standard Number:** 1926.1101 ; 1926.1101(b) ; 1926.1101(g) ; 1926.1101(k)(9) ; 1926.1101(k)(9)(ii) ; 1926.1101(k)(9)(v) ; 1926.1101(k)(9)(viii)

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>.

July 10, 2008

Mr. Edward Kolodziej  
Mr. Brian Williams  
ATC Associates, Inc.  
73 William Franks Drive  
West Springfield, MA 01089

Dear Mr. Kolodziej and Mr. Williams:

Thank you for your letter, April 11, 2008, to the Occupational Safety and Health Administration (OSHA). Your letter asked several questions about certain training requirements of OSHA's construction asbestos standard, 29 CFR 1926.1101. We understand that your company provides consultation and training services in the environmental, health, and safety disciplines, so we will assume you are very familiar with OSHA's asbestos standards. 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. Your paraphrased questions and our replies are below.

**Background:** Your first three questions concern the standard's training requirements for employees performing Class III asbestos work, which is defined at 1926.1101(b) as repair and maintenance operations wherein asbestos-containing material (ACM) or presumed asbestos-containing material (PACM) is likely to be disturbed. Also, 1926.1101(b) defines "disturbance" as activities that disrupt the matrix of ACM or PACM, crumble or pulverize ACM or PACM, or generate visible debris from ACM or PACM, and further provides that in no event shall the amount of ACM or PACM so disturbed exceed that which can be contained in one glove bag or waste bag which shall not exceed 60 inches in length and width.

**Question 1:** What is the minimum time length for annual refresher training required by OSHA for employees performing Class III asbestos work?

**Reply 1:** OSHA's construction asbestos standard does not specify the minimum length for annual refresher training for employees performing Class III work, but OSHA expects that the annual refresher training would require a minimum of 2 hours and include a "hands-on" component. See 60 *FR* 33974, 33981 (June 29, 1995).

1926.1101(k)(9)(ii) requires employers to provide training prior to, or at the time of, an employee's initial assignment, and at least annually thereafter. 1926.1101(k)(9)(v) specifies that the [initial] training for employees performing Class III asbestos work shall take at least 16 hours, including "hands-on" training, and shall be consistent with the Environmental Protection Agency's (EPA's) requirements for asbestos training of school operations and maintenance (O&M) personnel as set forth at 40 CFR 763.92(a)(2). Commercial training providers of EPA-accredited asbestos training typically conduct refresher courses for O&M asbestos work that is four (4) hours in course length.

1926.1101(k)(9)(v) also provides an exception for Class III operations, whereby an employer's competent person may determine that the EPA curriculum does not adequately cover the training needed to perform the employer's asbestos activity. For these employers, 1926.1101(k)(9)(v) specifies that they may provide alternative training that (1) shall at least include the elements in paragraph (k)(9)(viii) of the standard, as well as those specific work practices and engineering controls set forth in paragraph (g) of the standard that specifically relate to the employer's activity, and (2) shall include "hands-on" training in the work practices applicable to each category of material that the employee disturbs.

**Question 2:** How long will OSHA allow an employee to perform Class III asbestos work if that employee has not received an annual refresher training?

**Reply 2:** OSHA's intent is that employees should complete their refresher training within twelve months of their initial training, although we do understand that scheduled training may be missed due to unavoidable circumstances. An employee who misses the scheduled refresher training should attend the next available training session. Without satisfactory evidence of annual training, OSHA may issue a citation. Note, OSHA previously explained a similar enforcement policy for lapsed refresher training under the Hazardous Waste Operations and Emergency Response standard, 29 CFR 1910.120, in a letter to Jim Heringer, March 12, 1993.

Be advised, however, that individual states may require refresher trainings to be completed by the exact anniversary of the previous training, and if not, a person or employer found performing asbestos work with lapsed training may be subject to a state citation and may be required to re-take the initial training. Other states may enforce this after specified grace periods.

**Question 3:** If an employee does not receive his refresher training for Class III asbestos work within a year's time, is there a specific time lapse after which OSHA requires this employee to re-take the initial training?

**Reply 3:** No. The time frame within which it would be necessary to repeat the initial training for an employee who has not performed nor received refresher training for Class III work should be determined by the employer on a case-by-case basis. Individual retention of information should be considered, which may be influenced by the employee's prior work experience. Employees with limited experience may not retain their skills to the same extent as a seasoned employee. Again, states may have stricter standards and/or enforcement policies on this subject.

**Question 4:** What type of training does OSHA require for an employee who operates an excavator when disturbing soil with debris that includes asbestos-containing thermal system insulation (TSI) or surfacing material during a demolition operation? What training is required for the excavator if the ACM debris in the soil does not include any TSI or surfacing material?

**Reply:** 1926.1101(b) defines "Class I asbestos work" as activities involving the removal of TSI and surfacing ACM or PACM, and "Class II asbestos work" as activities involving the removal of ACM which is not TSI or surfacing material. 1926.1101(b) defines "removal" as all operations where ACM and/or PACM is taken out or stripped from structures or substrates, and includes demolition operations. 1926.1101(b) defines "Class IV asbestos work" as maintenance and custodial activities during which employees contact but do not disturb ACM or PACM and activities to clean up dust, waste and debris resulting from Class I, II, and III activities.

The work of an excavator operator that you described would fall into one or more of the four classes of asbestos work described above, as determined by the employer's competent person. It is not likely that such excavation work would be Class III asbestos work, which is limited to the amount of waste ACM or PACM that can be contained within one standard-sized waste bag. You may find the corresponding training requirements for employees performing these different classes of asbestos work within the applicable subparagraphs of 1926.1101(k)(9). Note, that OSHA has also issued related interpretations regarding the training provisions of the construction asbestos standard as applied to demolition operations in letters to Brian Karlovich, August 26, 2002, and Walter Chun, August 13, 1999.

Thank you for your interest in occupational safety and health. We hope you find this information helpful. 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>. If you have any further questions, please feel free to contact the OSHA Office of Health Enforcement at (202) 693-2190.

Sincerely,

Richard E. Fairfax, Director  
Directorate of Enforcement Programs

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