

Standard Interpretations

/ Requirement for facility owners to notify tenants or employers of presence of ACM and PACM.

- **Standard Number:** 1910.1001 ; 1910.1001(j)(2)(iii); 1926.1101 ; 1926.1101(k)(2)(i) ; 1926.1101(k)(2)(ii)(D)

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>.

January 16, 2007

Ms. Maureen Roskoski
Facility Engineering Associates, P.C.
11001 Lee Highway, Suite D
Fairfax, VA 22030

Dear Ms. Roskoski:

Thank you for your January 22, 2003, letter to the Occupational Safety and Health Administration (OSHA). We apologize for the delay in our response. You sent some questions regarding OSHA's asbestos standards and the provisions for the communication of hazards by building owners to tenants. This reply letter constitutes OSHA's interpretation only of the requirements discussed and may not be applicable to any question not delineated within your original correspondence. Your paraphrased questions and our replies are below.

Questions: You would like clarification on a provision in the asbestos standard for construction, 29 CFR 1926.1101(k)(2)(ii)(D), which states that building and facility owners shall notify tenants who will occupy building areas containing asbestos-containing material (ACM) and presumed asbestos-containing material (PACM). You asked whether, under that provision, tenants are required to be notified *only* when there is a disturbance of ACM or PACM in their spaces? You also asked if there was any requirement under the general industry standard for asbestos (29 CFR 1910.1001) for building owners to notify tenants of the presence of ACM.

Replies: This provision in the construction asbestos standard, 1926.1101(k)(2)(ii)(D), requires building and facility owners to notify tenants who will occupy building areas of the presence, location, and quantity of ACM and PACM in their spaces. This provision is triggered when any construction work, as defined by 1926.1101, is planned, per paragraph 1926.1101(k)(2)(i). The notification requirement is not limited to situations in which a disturbance of ACM or PACM will be taking place in the presence of the tenant. Tenants must be informed in advance in order to protect themselves from asbestos hazards, and so they may, in turn, inform any subtenants, housekeeping services, or other maintenance or construction employers that may be contracted by the tenants to perform work in the leased space where there is the potential for contact with ACM or PACM.

Although there is not an identical provision in the general industry asbestos standard for building owners to notify *tenants* of the presence, location, and quantity of ACM and PACM, there is a similar provision for building and facility owners to notify *employers*, which would include most non-residential tenants, per paragraph 1910.1001(j)(2)(iii). The intent of the notification provisions in both of these asbestos standards is to ensure that building owners, who are often the only or best sources of information concerning the presence of previously installed asbestos-containing building materials, communicate these hazards. This same notification duty is assigned to all other employers of potentially exposed employees. No construction project is necessary to trigger the operation of this provision.

Since you are located in Virginia, we also refer you to the standards of the Virginia Department of Labor and Industry (DOLI), which administers an OSHA-approved occupational safety and health plan. Virginia's asbestos standards are the same as those of federal OSHA. However, Virginia may interpret its standards more stringently. The Virginia DOLI may be contacted at the following address:

Virginia Department of Labor and Industry
Powers-Taylor Building
13 South 13th Street
Richmond, VA 23219-4101
Phone: (804) 371-2327

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 Office of Health Enforcement at (202) 693-2190.

Sincerely,

Richard E. Fairfax, Director
Directorate of Enforcement Programs

UNITED STATES
DEPARTMENT OF LABOR