

Standard Interpretations / Numerous questions on the removal of asbestos containing gaskets

▪ **Standard Number:** 1926.1101

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>.

November 10, 2011

Drew M. Garner, Jr.
President, Garner & Associates, Inc.
13027 Stiles Lane
Sugar Land, Texas 77478

Dear Mr. Garner:

Thank you for your September 1, 2011, letter to the Occupational Safety and Health Administration (OSHA). Your letter has been referred to the Directorate of Enforcement Programs for an answer to your specific questions regarding removal of asbestos gaskets under OSHA's Asbestos Construction Standard, 29 CFR 1926.1101. This letter constitutes OSHA's interpretation only of the requirements discussed, and may not be applicable to any questions not delineated within your original correspondence. Your paraphrased questions and our responses are below.

Question 1: Is the removal of an asbestos-containing gasket that "splits" or breaks apart during a Class III operation on exterior industrial equipment required to be conducted within a "glove bag" after a negative exposure assessment (NEA) has been obtained?

Response: For removal of an asbestos-containing gasket during a Class III asbestos operation with a NEA, in accordance with 29 CFR 1926.1101(f)(2)(iii)(B), a glove bag would not be necessary (29 CFR 1926.1101(g)(9)(iv)). However, your scenario of gasket removal may involve widely varying conditions, which would make it difficult to have a representative NEA. As stated in 29 CFR 1926.1101(f)(2)(iii)(B), a NEA must closely resemble the current job, including the type of material, the condition of the material, and variable environmental conditions (e.g., wind direction, speed, etc.), among others. When applying NEA data to gasket removal, an employer must consider all of the variables outlined in 29 CFR 1926.1101(f)(2)(iii)(B) and the operation must be conducted conservatively to protect the worker.

We would also like to bring to your attention OSHA's April 5, 2007, letter to you concerning the classification of gasket work: "An employer's competent person must evaluate the work and classify the asbestos activity in accordance with 29 CFR 1926.1101 for construction" The competent person must evaluate the job to make the

appropriate determination of the classification of asbestos work and to make an initial exposure assessment, per 1926.1101(f)(2). If an OSHA compliance safety and health officer (CSHO) were to perform an inspection, the employer's classification of the job would be evaluated, as would the data used to support the initial exposure assessment and NEA. In addition, the CSHO would most likely perform sampling. If the sampling showed results over the permissible exposure limit or excursion limit, or indicated that the negative exposure assessment was not adequate, citations may be issued.

Question 2: Is an asbestos-containing gasket that "splits" or breaks apart during a Class III activity still considered to be "intact" by OSHA?

Response: Paragraph 1926.1101(b), defines "intact" as meaning "that the [Asbestos Containing Material] has not crumbled, been pulverized, or otherwise deteriorated so that the asbestos is no longer likely to be bound with its matrix." In general, this would mean that if a gasket splits or breaks apart it would not be considered intact. The competent person must evaluate the gasket to make the decision as to whether the gasket is intact or not.

Question 3: Does the removal of gaskets utilizing "a sharp instrument" mean that the material is removed in an "intact" condition?

Response: OSHA's Asbestos Standard does not discuss the use of sharp instruments in any of its provisions concerning gaskets. The standard does discuss cutting of roofing and flooring materials. However, gaskets are not treated in the same fashion as roofing and flooring materials because the materials are not similar. The intact state must be determined as outlined in our response to question 2.

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,

Thomas Galassi, Director
Directorate of Enforcement Programs

UNITED STATES DEPARTMENT OF LABOR

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