

Standard Interpretations

/ Duty of building owners to determine the presence, location, and quantity of ACM and PACM.

- **Standard Number:** 1910.1001(j)(2)(i); 1910.1001(j)(1) ; 1910.1001(b)

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 17, 1999

Mr. Stephen H. Wong
Law Clerk
Cox, Castle & Nicholson LLP
2049 Century Park East
Twenty-Eighth Floor
Los Angeles, California 90067-3284

Dear Mr. Wong:

Thank you for your June 7 letter regarding the duty of building owners to determine the presence, location, and quantity of asbestos-containing materials (ACMs) and presumed asbestos-containing materials (PACMs). You wish clarification of 29 CFR 1910.1001(j)(2)(i) in the Occupational Safety and Health Administration (OSHA) General Industry Asbestos Standard, which establishes this duty. Your questions and our answers are provided below. We apologize for our long delay in responding.

Question 1: In the case of a building constructed **prior** to 1980, is it sufficient for the owner to conduct operations and maintenance procedures and provide disclosure to appropriate parties based solely on a "survey" that does not involve sampling of suspect ACMs or must sampling surveys be conducted to determine the presence, location, and quantity of ACMs?

Answer: We assume that when you refer to "suspect ACMs" you are referring to materials that are not PACM as OSHA defines the term at 29 CFR 1910.1001(b). The owner may conduct operations and maintenance procedures and provide disclosure to appropriate parties based solely on a "survey" that does not involve sampling of suspect ACMs for their asbestos content if the owner treats the suspect ACMs as though they are ACMs. Given the fact that the owner knows that the materials are suspect ACMs, the owner must either determine whether the materials are ACMs and treat them accordingly or just simply treat the materials as ACMs. The owner who does not follow this course of action is not exercising due diligence.

Question 2: In the case of a building constructed prior to 1980, is it sufficient for the owner to conduct operations

and maintenance procedures and provide disclosure to appropriate parties based solely on a "survey" that does not involve sampling of suspect PACMs or must sampling surveys be conducted to determine the presence, location, and quantity of PACMs?

Answer: At 29 CFR 1910.1001(b), OSHA defines presumed asbestos-containing material (PACM) to be either thermal system insulation (TSI) or surfacing material found in buildings constructed no later than 1980. TSI and surfacing material are in turn defined at 29 CFR 1910.1001(b). Therefore, a material could not be "suspect PACM" to the owner, unless the owner believes the material might be, but the owner is not sure the material is, TSI or surfacing material as defined by OSHA. Therefore, we assume you are speaking of PACM not suspect PACM. So, in answer to your question, if a material is PACM, the owner is not required to take bulk samples of the material for analyzing the material for asbestos content. The owner may simply treat the material as ACM when conducting operations and maintenance procedures involving the material and identify the material as ACM when providing disclosure about the material to appropriate parties. Please note that buildings constructed before 1980 are not the only buildings that may contain PACM. Buildings constructed in 1980 may also contain PACM.

Question 3: In the case of a building constructed **after** 1980, is it sufficient for the owner to conduct operations and maintenance procedures and provide disclosure to appropriate parties based solely on a "survey" that does not involve sampling of suspect ACMs or must sampling surveys be conducted to determine the presence, location, and quantity of ACMs?

Answer: Our answer for this question is the same as our answer for **Question 1**.

Question 4: In the case of a building constructed **after** 1980, is it sufficient for the owner to conduct operations and maintenance procedures and provide disclosure to appropriate parties based solely on a "survey" that does not involve sampling of suspect PACMs or must sampling surveys be conducted to determine the presence, location, and quantity of PACMs?

Answer: TSI or surfacing material found in a building constructed after 1980 is not PACM. That is, some TSI or surfacing material found in buildings constructed after 1980 may be ACM, but the OSHA General Industry Asbestos Standard does not require that these materials be presumed to be ACM. Therefore, our answer for **Question 1** also applies for this question.

Question 5: Please clarify that the term "quantity," as used in 29 CFR 1910.1001(j)(2)(i), refers to square footage or other measurements indicating the amount of ACM present as opposed to the percentage of asbestos fibers present in any given ACM.

Answer: The disclosure and recording of the quantity of ACM present in terms of its surface area is sufficient if the percent of asbestos in the ACM is not known. However, if the percent of the asbestos in the ACM is known, this information in addition to the amount of the surface area must be provided. With regard to asbestos-containing TSI on pipes, the quantity of ACM should be disclosed and recorded in terms of the linear feet of TSI present for each pipe of different outside diameter. Here again, the percent of asbestos in the TSI must also be provided if this information is known.

As you may be aware, through the means of Section 18 of the Occupational Safety and Health Act of 1970, the State of California administers its own occupational safety and health program that must be at least as effective as the Federal OSHA program under a plan approved and monitored by Federal OSHA. Therefore, you may wish to contact the State regarding its regulation of occupational exposure to asbestos. The address and telephone number are:

[Division of Occupational and Health
455 Golden Gate Avenue, 10th Floor
San Francisco, CA 94102
Phone: (415) 703-5100
Fax: (415) 703-5135
Website: http://www.dir.ca.gov/occupational_safety.html]

Thank you for your interest in occupational safety and health. We hope you find this information helpful. Please be aware that OSHA's enforcement guidance is subject to periodic review and clarification, amplification, or correction. Such guidance could also be affected by subsequent rulemaking. In the future, should you wish to verify that the guidance provided herein remains current, you may consult OSHA's website at <http://www.osha.gov>. If you have any further questions, please feel free to contact OSHA's [Office of Health Enforcement at (202) 693-2190].

Sincerely,

Richard E. Fairfax, Director
[Directorate of Enforcement Programs]

[Corrected 6/2/2005]

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