

Standard Interpretations (Archived) / Training requirements for class II roofing work.

- **Standard Number:** 1926.1101

OSHA ARCHIVE

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February 29, 1996

William A. Good, CAE
Executive Vice President
National Roofing Contractors
Association
O'Hare International Center
Suite 600
10255 West Higgins Road
Rosemont, IL 60018-5607

Dear Mr. Good:

Thank you for your letter of August 21, 1995, regarding the training requirements of the competent person for class II roofing work as addressed in the Occupational Safety and Health Administration's (OSHA's) asbestos standard for the construction industry (29 CFR 1926.1101). We regret the delay in this response.

Your concerns appear to be that neither the clarifications (*Federal Register* June 29, 1995) to the asbestos standard, nor the roofing settlement agreement of March 15, 1995, addressed specific training requirements for the competent person related to the roofing trade. Also you indicate that the current 5-day training requirement for class II work is not specific to the roofing trade; therefore, the information is generally not useful to that person receiving the training.

The standard, as well as the settlement agreement, provides an exception to the 5-day training requirement when the roofing material being removed is intact (section (g)(11) of the standard). All other roofing work would require the competent person to have the 5-day training course. The training is to be provided by an EPA or a state approved training provider.

We hope this information has been helpful in answering your question.

Sincerely,

John B. Miles, Jr., Director
Directorate of Compliance Programs

August 21, 1995

BY HAND

John Miles, Director
Directorate of Compliance Programs
Occupational Safety and Health
Administration
200 Constitution Avenue, NW.
Room 3487 North
Washington, DC 20212

**Re: Training Requirements for Class II
Competent Persons Under OSHA's
Revised Asbestos Standard for Construction**

Dear Mr. Miles:

I am writing to request your assistance in resolving some confusion created by the June 29, 1995, corrections to OSHA's Asbestos Standard for Construction. The issue of concern to NRCA's members involves the corrected language of paragraph (o)(4)(i) of the Standard, which was published as amendment number 457 in the June 29 notice, 60 Fed. Reg. at 34001, column 2.

As originally worded in the August 10, 1994, version of the Standard, paragraph (o)(4)(i) required competent persons for class II operations, which include many roofing operations, to complete "a comprehensive course for supervisors, **such as a course conducted by an EPA or state-approved training provider certified by the EPA or a State**, or a course equivalent in stringency, content, and length." 29 CFR 1926.1101(o)(4)(i), as published at 59 Fed. Reg. at 41144, col. 1. Amendment 457 deletes the underscored words and substitutes the phrase "that meets the criteria of EPA's Model Accredited [sic: Accreditation] Plan (40 CFR part 763)." It is our understanding that this correction was not intended to change the meaning of paragraph (o)(4)(i) but instead was designed merely to make the wording of that paragraph consistent with corresponding language in the definition of "competent person" in paragraph (b) of the Standard.

As you know, supervisor training under the EPA Model Accreditation Plan (MAP) is a comprehensive, 5-day course covering all aspects of asbestos abatement and regulatory compliance. The problem for our industry is that the MAP supervisor training program does not specifically address roofing operations and, worse still, is directed largely to exposure control measures and other topics that have no conceivable application to roofing.

This was not an insuperable problem under the previous version of paragraph (o)(4)(i). NRCA and other representatives of the roofing industry had a number of discussions with OSHA about this provision. These included informal discussions with your office, as well as separate discussions with staff from the Office of the

Solicitor of Labor and from the Directorate of Health Standards, in connection with the settlement of NRCA's legal challenge to the Standard.

Based on these discussions, it was our understanding that state-approved or state-provided courses developed specifically for supervisors working in individual trades, such as roofing, are acceptable to OSHA under paragraph (o)(4)(i). We were told, moreover, that such trade-specific training programs are consistent with the Standard even if such courses exclude some of the content prescribed by the MAP (i.e., those elements having nothing to do with the trade in question), and even though, due to their narrower focus, these trade-specific courses do not have the same 5-day duration the MAP requires.

In fact, in response to a request by NRCA's Wisconsin affiliate, your office in March of this year specifically approved the Wisconsin Asbestos Roofing Supervisor Course, a 2-day course that focuses on roofing and therefore does not cover much of the territory specified in the MAP. (See attached correspondence.) We also understand that OSHA has agreed to accept less-than-5-day supervisor courses for flooring operations based on a Virginia program developed for that trade.

As I hope you can appreciate, the "correction" made by Amendment 457 might be read to disqualify such trade-specific training programs. Amendment 457 not only deletes the previous reference to state-accredited training programs but also can be construed to require supervisor training that covers all of the subjects contained in, and that has the same duration as, the comprehensive 5-day course prescribed in the MAP. Indeed, NRCA has been contacted by several states which were planning to develop roofing-supervisor programs similar to those of Wisconsin and Virginia but are now concerned that they will not pass muster under the corrected version of paragraph (o)(4)(i).

Because it appears that OSHA did not intend such a substantive change, I hope that the Agency will agree to take appropriate action to set the matter straight. We are told that the OSHA may issue additional corrections to the Standard. In our view, the simplest and best way to solve the problem is to revise the wording of paragraph (o)(4)(i) to conform to the Agency's intent. Accordingly, we offer the following correction for OSHA's consideration:

1. Withdraw Amendment 457 as published on June 29, 1995, 60 Fed. Reg. at 34001, column 2; and
2. Publish a new correction to 1926.1101 (o)(4)(i), as published on August 10, 1994, 59 Fed. Reg. at 41144, column 1, deleting lines 12 through 16 thereof and substituting the following:

"that meets the criteria of EPA's Model Accreditation Plan (40 CFR part 763, subpart E, Appendix C), such as a course conducted by an EPA-approved or State-approved training provider, certified by EPA or a State, or a course equivalent in stringency, content and length. Competent persons who supervise only Class II asbestos work involving a single trade or a single category of asbestos-containing materials may comply with the training requirement of this paragraph (o)(4)(i) by completing a course limited to such trade or category of materials; such course may be restricted in content and length to those elements of the Model Accreditation Plan pertinent to such trade or category of materials."

With the October 1, 1995, implementation date for the competent person provisions of the Standard rapidly approaching, I hope that this matter can be resolved quickly. If there are any questions about the above, please do not hesitate to contact me.

Sincerely,

William A. Good, CAE
Executive Vice President

Attachment

March 27, 1995

Mr. John Miles
Directorate of Compliance Programs
Occupational Safety & Health Agency
200 Constitutional Avenue, NW.
Room 3487 North
Washington, DC 20210

Dear Mr. Miles:

This letter is to confirm my phone conversation with Ms. Wanda Bissell on March 7 and March 27, 1995, relating to the state of Wisconsin's Asbestos Roofing Supervisor Course as training for the competent person, as defined in Asbestos 1926.1101(o)(4).

In my phone conversations with Ms. Bissell, she indicated that under 1926.1101(o)(4), if such comprehensive course is conducted by an EPA- or state-approved training provider, certified by the EPA or a state, then such training would be acceptable training for the competent person under this section.

Please confirm your agreement to this understanding by signing below where indicated and returning an original copy back to me.

Thank you very much.

In agreement:

John Miles

Date

Sincerely,

WISCONSIN ROOFING
CONTRACTORS ASSOCIATION, INC.

Donald J. Croysdale
Executive Secretary