

UNITED STATES
DEPARTMENT OF LABOR

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- **Standard Number:** 1926.1101
- **Status:** Archived

OSHA ARCHIVE

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April 25, 1997

Mr. James Prarat
Assistant Director of Environmental Department
Karl R. Rohrer Associates, Inc.
3810 Ridgewood Road
Akron, Ohio 44321-1698

Dear Mr. Prarat:

This is in response to your letter dated December 9, 1996, where you have asked for a clarification of the Occupational Safety and Health Administration's (OSHA) Exposure to Asbestos standard for the construction industry, 29 CFR 1926.1101. The specific questions concern asbestos-containing paint and how the standard regulates activities that involve "thin-layered" asbestos-containing paint.

Your questions will be answered in the order they were asked. However, to begin with statements made in the first paragraph of your letter should be discussed to clear up any misunderstanding of the materials covered by the presumptive rule. The standard requires building owners to locate the presence and quantity of presumed asbestos-containing materials (PACM) in buildings built before 1981. The definition of PACM is thermal system insulation (TSI) such as, pipe-wrap or duct insulation and sprayed on and troweled on surfacing material such as, fireproofing material or acoustical material. Asbestos-containing paint is not included in the lists of products required by a building owner to locate and identify under OSHA's presumptive rule. In addition, the terms "intact" and "non-intact" refer to the condition of the asbestos-containing materials not only upon inspection prior to removal, but also throughout the entire removal operation. Intact means that asbestos-containing material (ACM) has not crumbled, been pulverized, or otherwise deteriorated to the point that the fibers are no longer bound to their matrix.

The four questions on "thin layered" asbestos-containing paint (ACP) include the following:

1.

Does OSHA require that intact ACM paint be removed from surfaces prior to those surfaces being damaged in interior demolition work?

No, the OSHA Asbestos standard does not require asbestos paint to be removed prior to interior demolition work. It is assumed that the "demolition" work you refer to is the removal of the wallboards that are covered with asbestos containing paint. The removal (demolition) of ACM that is not thermal system insulation, and therefore is a Class II operation. It appears that the method of removal that you are referring to, i.e. demolition, suggests that the ACM is not removed in a substantially intact state. The standard contains work practices for non-intact Class II removal in paragraphs (g)(7) and (g)(8). Employers shall ensure that a competent person conduct an initial exposure assessment immediately before or at the initiation of the operation to determine the exposures to employees performing the work. The results of the assessment will determine how an employer shall proceed in this work operation, including, but not limited to, monitoring, methods of compliance, respiratory equipment, and personal protective equipment.

2.

Does OSHA require that non-intact ACM paint be removed from surfaces prior to those surfaces being damaged in interior demolition work?

No. The standard does not require non-intact asbestos containing paint be removed prior to work operations but does require the employer to comply with the standard as described in question #1.

It is our understanding from your letter that questions #1 and #2 are referring to interior and exterior work being performed on a building that is not scheduled for total demolition. Questions #3 and #4 pose the same questions concerning prior removal of intact and non-intact asbestos containing paint. However, our understanding is that the building itself is being demolished. OSHA regulations do not require removal of intact or non-intact ACM prior to the total demolition of a building. Total demolition of a building is an "unclassified" asbestos activity. The competent person is required to assess the exposure to employees (for instance,

to crane operators and oilers) in the area and ensure there is compliance with the Permissible Exposure Limit (PEL) and the Excursion Limit (EL). Paragraphs (g) (1), (2), and (3) titled Methods of Compliance, contain additional requirements for all asbestos operations, to include the preference for wet removal if feasible, HEPA filtered equipment, and proper disposal methods. OSHA does not require removal of asbestos-containing products prior to the total demolition of a building. However, it would be advisable to check other state or local authorities for regulations that may affect this operation.

The standard does not contain definitions of "textured paint" or "thin-layered paint." The standard defines surfacing material and surfacing ACM, which would include ACP that contains one percent asbestos. The classification of asbestos work is determined not only by the material being removed, but the work being performed. For example, if a small amount of asbestos-containing paint was disturbed during a maintenance job such as changing a light switch on the wall, this would be a Class III operation.

We hope this response is helpful in assisting you and your clients when making decisions on compliance with the asbestos standard. If you have further questions, please feel free to contact Wanda Bissell of the Office of Health Compliance Assistance on (202) 219-8036 ext. 36.

Sincerely,

Stephen Mallinger, Acting Director
Office of Health Compliance Assistance

December 9, 1996

Ms. Ruth McCully
Office of Health Compliance Assistance
U.S. Dept. Of Labor- OSHA
200 Constitution Ave., NW
Room N3468
Washington, D.C. 20210

Dear Ms. McCully:

I am requesting that OSHA issue a written response to this request for a regulatory interpretation. We are aware that paint, both the textured and thin-layered varieties, can contain over 1% asbestos and would therefore have to be treated as a presumed asbestos-containing material (ACM). We are also aware that OSHA considers thin-layered ACM paint removal to be Class II asbestos work, in accordance with the OSHA Asbestos Construction Standard. OSHA continues to treat textured paint as a surfacing material, which means that textured ACM paint removal is considered to be Class I asbestos work. My use of "intact" refers to paint that remains in its stable, original condition with no evidence of dust or deterioration. My use of "non-intact" refers to paint that is obviously damaged, deteriorated and/or peeling, and paint dust is evident or would be created by crumbling the paint with hand or finger pressure.

My questions deal with a building that is going to be demolished, which can be broken down into 2 different types: (Type 1) selective interior demolition for renovation purposes, and (Type 2) complete building demolition. My questions deal only with thin-layered ACM paint, and are as follows:

1.

Does OSHA require that intact ACM paint be removed from surfaces prior to those surfaces being damaged in interior demolition work?

2.

Does OSHA require that non-intact ACM paint be removed from surfaces prior to those surfaces being damaged in interior demolition work?

3.

Does OSHA require that intact ACM paint be removed from surfaces prior to those surfaces being damaged during building demolition?

4.

Does OSHA require that non-intact ACM paint be removed from surfaces prior to those surfaces being damaged during building demolition?

I recall having a verbal communication with an OSHA representative in which the information I received was as follows:

- If interior demolition work is planned, then any ACM paint (intact or non-intact) would have to be removed from the painted surfaces prior to those surfaces being demolished. ACM-painted items, such doors, windows, radiators, etc. could be removed whole without having to remove the ACM paint from those surfaces.

-If building demolition is planned, then any ACM paint (intact or non-intact) would not have to be removed from the painted surfaces prior to those surfaces being demolished.

That communication was verbal, as I stated, so I consider it critical to get a clear written interpretation so that we and our clients can proceed in our efforts to achieve regulatory compliance.

In my communications with different OSHA offices, I have also determined that there is no clear, precise definition of either "textured paint" or "thin-layered paint". I know that we can all distinguish between the two in our minds, but one high-ranking OSHA representative told me point blank that he has no precise definitions of the two materials, so he would generally tend to treat all paint under the textured paint guidelines, which are definitely stricter and more difficult and costly to attain (i.e. Class I work). Therefore, I would also request that you provide in your reply a clear and precise definition of "textured" paint" and "normal thin-layered paint".

The answers to these questions are very important, as you can imagine, due to the vast amount of renovation and demolition work that takes place daily in this country, and due to the fact that most people, to this point, have little or no awareness of paint as a suspect ACM. I look forward to receiving your written response, and I greatly appreciate your prompt attention to this matter.

Sincerely,

James Prarat
Asst. Dir. Of Env. Dept.

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