



OSHA REGIONAL NOTICE

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: 18-06 (CPL 04-05) | **EFFECTIVE DATE:** October 1, 2017

SUBJECT: Local Emphasis Program for the Asbestos Abatement Industry

REGIONAL IDENTIFIER: Region VIII

ABSTRACT

Purpose: The purpose of this notice is to renew a Local Emphasis Program (LEP) to identify and reduce or eliminate the workplace hazards in asbestos abatement projects which are likely to cause serious illnesses such as asbestosis, mesothelioma and cancer.

Scope: This notice applies to the jurisdiction of the Englewood Area Office.

References: OSHA Instruction CPL 04-00-001, Procedures for Approval of Local Emphasis Programs (LEPs), November 10, 1999.

State Impact: None

Action Offices: Englewood Area Office

Originating Office: Englewood Area Office

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By and Under the Authority of:

Gregory J. Baxter
Regional Administrator, VIII

Executive Summary

Workers employed in the asbestos abatement industry face many hazards that can lead to serious illness and death. Exposure to asbestos fibers is known to cause asbestosis (scarring of the lungs), cancer, and mesothelioma (cancer of the chest cavity lining specifically linked to asbestos exposure).

The intent of this renewed Local Emphasis Program is to encourage employers to take steps to address hazards, ensure facilities are evaluated to determine if the employer is in compliance with all relevant OSHA requirements, and to help employers correct hazards, thereby reducing potential injuries, illnesses, and death for their workers.

The Englewood Area Office proposes to accomplish this through outreach and enforcement activities. Outreach activities have and will continue to include training sessions and speeches with stakeholders and electronic information sharing through newsletters. Enforcement activities will include, but not be limited to, the inspection and review of asbestos abatement operations, including reviewing air monitoring and exposure assessments, regulated areas, use of engineering controls and personal protective equipment, and training.

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- I. **Purpose:** The purpose of this notice is to renew a local emphasis program (LEP) for asbestos abatement industry operations, NAICS 562910.
- II. **Scope:** This Notice applies to asbestos abatement project sites within the Englewood Area Office's jurisdiction of Region VIII in NAICS code 562910.
- III. **References:**
 - A. OSHA Instruction CPL 02-00-160, Field Operations Manual (FOM), August 2, 2016, or the most recent version at the time of the inspection opening conference.
 - B. OSHA Instruction CPL 04-00-001, Procedures for Approval of Local Emphasis Program (LEPs), November 10, 1999.
 - C. OSHA Instruction CPL 02-00-025, Scheduling System for Programmed Inspections, January 4, 1995.
 - D. OSHA Instruction CSP 03-02-003, OSHA Strategic Partnership Program for Worker Safety and Health, November 6, 2013.
 - E. October 18, 2002, OSHA Memorandum: Annual Evaluation of Local Emphasis Programs.
 - F. November 12, 2014, OSHA Memorandum: Establishments – Targeting Lists for Emphasis Programs.
 - G. Title 29 Code of Federal Regulations, Part 1910.
 - H. December 3, 2014, OSHA Memorandum: Procedures for Local and Regional Emphasis Programs.
 - I. OSHA Instruction CPL 02-00-051, Enforcement Exemptions and Limitations under the Appropriations Act, May 28, 1998; Appendix A, January 10, 2017, or the most recent version at date of inspection opening conference.
 - J. NIOSH Work-Related Lung Disease Surveillance Report, 2007: Section 1 (Asbestosis), Section 7 (Malignant Mesothelioma) and Section 13 (Lung Cancer).
 - K. CDPHE Asbestos Abatement Projects by Contractor for 2011 through 2016. CDPHE Asbestos Enforcement Cases (Going Back 5 Years).
- IV. **Expiration:** This LEP expires on September 30, 2018, but may be renewed on an annual basis.
- V. **Action Office:** Englewood Area Office

VI. Background: Asbestos is a general commercial name given to a group of long, thin, fibrous minerals which are resistant to heat and chemicals. Commonly used forms of asbestos in construction include chrysotile, amosite and crocidolite. Asbestos has been used in materials for thousands of years to add strength and fire resistance. Though use of asbestos has decreased in the past few decades, it is still found in existing residential and commercial structures and disturbance of these materials during renovation or demolition can create risk of exposure for workers, as well as occupants of buildings, if the work is not properly conducted by highly specialized contractors.

Asbestos abatement and demolition projects involve the disturbance of asbestos containing materials (ACM). In asbestos abatement (which often precedes renovation), ACM is removed or stabilized in a manner which often involves the release of asbestos fibers. Asbestos demolition projects involve the controlled removal of all ACM or friable ACM from structures before they are demolished in order to minimize the generation of asbestos fibers during the demolition phase. Each year thousands of these projects occur in the State of Colorado.

Exposure to asbestos fibers is known to cause serious illnesses such as asbestosis (scarring of the lungs), cancer, and mesothelioma (cancer of the chest cavity lining specifically linked to asbestos exposure). The onset of these illnesses can be 20-40 years after exposure. Evidence suggests that these illnesses continue to increase. The most recent Work Related Lung Disease Surveillance Report (2007) from NIOSH indicates that asbestosis rates continue to rise and have increased six fold since 1970. NIOSH also reports that construction is the most frequently recorded industry on death certificates related to asbestosis and mesothelioma. In fact, 25% of all asbestosis deaths and 14% of all mesothelioma deaths come from former construction workers.

Asbestos work has been divided into four classifications by OSHA (Class I-IV). Class I asbestos materials have the greatest potential for fiber generation as they are friable (easily crushed or pulverized by hand pressure). Class I asbestos work includes the removal of thermal system insulation (TSI) such as water pipe and boiler wrap and sprayed on surfacing materials such as acoustical ceiling coverings. The OSHA required engineering controls, personal protective equipment, decontamination and training requirements triggered by the removal of these materials are very complicated and the failure to comply with these requirements can lead to overexposures.

Class II asbestos work can also create overexposures when inappropriate removal methods (cutting, grinding, excessive breaking of dry materials) are used. Class III and IV asbestos work involves exposure to Class I materials on a much smaller scale where materials are disturbed rather than removed. Class III and IV typically covers maintenance activities.

Information obtained from the Colorado Department of Public Health (CDPHE) showed evidence of non-compliance with the asbestos standards enforced by their department. Non-compliance with these closely related environmental regulations which pertain to the

handling of asbestos indicates a likelihood of non-compliance with OSHA standards. From approximately 2011 through 2016, 123 asbestos enforcement cases have been pursued by CDPHE.

VII. Inspection Scheduling:

A. Selection of Sites: The area office will use the Colorado Department of Public Health and Environment's (CDPHE) asbestos abatement and demolition project database as the main resource for the generation of a cycle of establishments. The list is available on the CDPHE website; however, it may be necessary to visit the office to obtain the most current project data.

CDPHE data over the previous five years indicates that a large majority of violations stemming from CDPHE Regulation 8, Part B, occurred within the EAO's jurisdiction; specifically within Arapahoe, Douglass, Jefferson, El Paso, and Pueblo counties. The list of sites will therefore be reduced to these five counties.

From the CDPHE asbestos demolition and abatement project database (which may contain over 1000 quarterly entries), the following method will be used to select projects for inspection:

1. The database will be reduced to all projects that meet all of the following criteria:
 - a. Projects within Arapahoe, Douglass, Jefferson, El Paso, and Pueblo counties;
 - b. Projects conducted by an employer (some projects may be home owners with no employees);
 - c. Projects with at least 100 linear feet or 1000 square feet of asbestos;
 - d. Projects that contain thermal system insulation or surfacing material ACM work ; and
 - e. Projects with a duration of at least 30 days.
2. The database will then be reduced to the desired inspection cycle size in accordance with the November 12, 2014 Memorandum: Establishments-Targeting Lists for Emphasis Programs. Note that if an employer has multiple projects on-going at the same time, the largest and/or most active project site will be chosen from the list. All projects selected for the cycle will be inspected, unless the deletion criteria apply or a project is found not to be covered under the criteria set forth above.

One primary cycle can be generated as needed. Most projects have a duration of 30 days, so small inspection cycles will need to be generated and completed quickly. When all inspections on a list have been completed, a new cycle can be generated from the current CDPHE database.

When all inspections on a list have been completed, a new cycle can be generated from the current CDPHE database, as defined by paragraph VII.D, below.

B. Additions: None.

C. Deletions: The Area Office may delete an establishment if they have received a comprehensive health inspection in the previous year and no citation or other written notice of hazard related to the construction standards for asbestos or respiratory protection was issued.

The Area Office may delete an establishment if it is determined that:

1. The establishment is a residence.
2. The establishment is not in the scope of the LEP (e.g., the establishment is clearly conducting business other than that covered by the LEP).
3. There is no evidence that the facility exists (e.g., no phone or internet listing; no registration with the Secretary of State; Google Earth or Street View shows conclusively that the business is non-existent).
4. Upon arrival at a project site, work at that site has been completed.

The criteria used to delete any establishment must be fully documented by the Area Office.

D. In the event a cycle is not completed on or before expiration of this Notice, the cycle will be extended into the new fiscal year, provided this Notice is renewed. The outstanding cycle will be completed by each Area Office before establishments are selected from the new master list. If the Notice is not renewed, the outstanding cycle is effectively cancelled and the Area Office is not obligated to complete inspections on the remaining establishments within the cycle.

VIII. Inspection Procedures: Inspection procedures outlined in the FOM will be followed on all asbestos inspections. Based on the class of ACM, inspections should focus on the relevant sections of the asbestos standard but any other obvious, plain view health hazards (i.e. lead exposure) or safety hazards shall be addressed by the CSHO. Safety hazards pertaining to ladders, fall protection, scaffolds, electrical exposure and aerial lifts are common on these types of projects and should be addressed through citation or referral.

Ten or fewer employees on programmed activity

Since North American Industry Classification System number 562910 (Remediation Services) is included on the Exemptions and Limitations list in CPL 02-00-051 of January 10, 2017, apparent safety violations noted during the inspection will be cited or referred for later inspection only if OSHA has verified that the employer had more than 10 employees at some point during the previous 12 months. If the list is updated during the period of this LEP, the new list will be used.

- IX. Outreach:** Each Area Office has conducted and continues to provide outreach on hazards in the asbestos abatement industry. Outreach has been in the form of speeches, training seminars, and newsletters to groups identified by the Compliance Assistance Specialist (CAS) and CSHOs.
- X. Partnerships:** Partnerships may be developed with the covered employers in accordance with OSHA Instruction CSP 03-02-003, November 6, 2013, OSHA Strategic Partnerships Program for Worker Safety and Health.
- XI. OIS Coding:** Inspections conducted under this LEP will be identified in the OSHA Information System (OIS) as follows:
- A. Current instructions for inspections classification on the OIS Inspection Form will be followed.
 - B. Inspections which are targeted as a result of this LEP, will be coded as “ASBESTOS” in the *Local Emphasis Program* block and as “Programmed Planned” in the *Initiating Type* block.
 - C. Inspections involving the asbestos abatement industry, which are initiated by a complaint, referral by another agency, or fatality/catastrophe, will be coded as “ASBESTOS” in the *Local Emphasis Program* block..
 - D. For any programmed or unprogrammed activity involving the asbestos abatement industry, the *Local Emphasis Program* block shall be chosen and the code “ASBESTOS” will be selected.
- XII. Program Evaluation:** No later than October 31, 2018, the Area Office will provide an evaluation of this LEP to the Regional Office. The Regional Office will provide the National Office with one evaluation of this LEP. At a minimum, the evaluation should respond to the requirements of CPL-04-00-001, Section D, Appendix A and Directorate of Enforcement Programs memorandum dated October 18, 2002 for Annual Evaluations of Local Emphasis Programs (LEPs).

DISTRIBUTION: Directorate of Enforcement Programs
Directorate of Construction
Regional Office of the Solicitor