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Public Policy Comment for OSHA Asbestos Standard in General Industry
Docket ID #OSHA-2010-0018-0003

My name is Elizabeth O'Donnell and I have been in the Environmental, Health and Safety industry for the past seven years as a consultant for a small firm in Birmingham, AL. I am currently pursuing my Masters in Advanced Safety Engineering and Management at the University of Alabama at Birmingham. Our firm services all types of sectors of industry from transportation, recycling/reclamation, food handling and processing and education. We advise clients on all aspects of environmental, health and safety including agency compliance with Environmental Protection Agency (EPA), Occupational, Health and Safety Administration (OSHA), the Department of Transportation (DOT) and state environmental management. I am writing this opinion in regard to the Open Docket for the OSHA standard on Asbestos in General Industry (29 CFR 1910.1001) Docket ID #OSHA-2010-0018-0003. Our firm has advised multiple business and universities on asbestos hazards and handling. We have also offered training to maintenance and sanitation workers as well as consulted on the information collection activities related to this standard.

The OSHA Standard for Asbestos in General Industry is a very important one due to the many factors that can affect the health of workers affected by it. "Breathing asbestos fibers can cause a buildup of scar-like tissue in the lungs called asbestosis and result in loss of lung function that often progresses to disability and death. Asbestos also causes cancer of the lung and other diseases such as mesothelioma of the pleura which is a fatal malignant tumor of the membrane lining the cavity of the lung or stomach." (OSHA 1) The latency period for diseases caused by asbestos exposure typically "occur 15 or more years after initial exposure to asbestos." (Agency for Toxic Substances and Disease Registry 1) This extensive latency period is why OSHA's recordkeeping requirements for this substance are necessary. While this may be a burden on the employer it is vital that workers are protected and any exposure is documented in strict compliance with the OSHA standard.

Training requirements under this standard specifically state that “employers must develop a training program for all employees who are exposed to airborne concentrations of asbestos at or above the PEL and/or EL. Training must be provided prior to or at the thereafter the time of initial assignment and at least yearly thereafter. The training program must inform employees about ways in which they can safeguard their health.” (OSHA 1) Training is also required for housekeeping personnel on the health hazards associated with asbestos exposure, how to recognize asbestos and proper procedures on exposure event responses. All training related to this standard, much like many OSHA standards, is prior to exposure and annually thereafter. The docket that is open for comment in relation to this standard on www.regulations.gov was specifically asking for input in relation to the record keeping requirements of the standard. The length of retention of the documents required is sufficient due to the nature of the health hazards associated with the substance. Many other aspects can be considered when looking at the requirements and the burden on the employer to comply with the standard.

The training element of the standard is a very important one and one that can have the most effect on the health of the workers. If the employer cannot eliminate the risk of exposure to the employee then they must train them on the health hazards related to exposure and also the proper ways to handle the material to mitigate the risk. Workers must be trained on the importance of medical surveillance, the respiratory protection program as well as ways to minimize exposure to asbestos for themselves and their families with ways to decontaminate after working around the substance. Communicating all of this information is time consuming but a necessary burden on the employer in that the protection of the employees is of the utmost importance.

From my experience, a large part of training, when conducted and documented correctly, is record keeping of the training. When we conduct training for our clients or conduct “train the trainer” type classes there is time spent with preparation for the class including handouts, rosters and attendee information. During training quizzes, worksheets and other training activities are administered along with classroom instruction, power point presentations and videos. After training all of these activities are documented and recorded. The proposal that is open for comment in regard to this standard is that training activities should be exempt from the hours considered as record keeping under the standard. It is my opinion that these activities should remain as hours towards the

record keeping requirement. While training itself is not considered record keeping there is a great deal of time allotted to record keeping and records retention in relation to training for the asbestos in general industry standard.

Another element of the standard that could be improved upon is that of tobacco use at the workplace. It is proven that workers who smoke tobacco products and have workplace exposure to asbestos greatly increase their risk of disease associated with asbestos exposure. Signage must be posted stating that "No smoking, eating, drinking, chewing tobacco or gum, or applying cosmetics is permitted in regulated areas." (OSHA 6) Training must also be provided with information in regard to the health hazards associated with smoking and asbestos exposure. This standard was revised in 1995, almost twenty years ago, and great strides have been made in public opinion in regard to smoking. Many communities are smoke free communities not allowing smoking inside or within ten feet of an entrance to a public building. Even communities where smoking is allowed a trend is taking place within the workplace to reduce or eliminate smoking for workers. One of my clients allowed its employees to smoke on breaks and at lunch inside their building on the manufacturing floor. This practice always bothered me for many reasons, including those of health risk to the employees but also dangers of open flames in a manufacturing setting. This company recently made a full turnaround with this practice, however, and required that its entire property be smoke and tobacco free. The health benefits to any worker who quits smoking are great but even more pronounced when the worker has the opportunity for exposure to asbestos products. For this reason I believe that a smoke and tobacco free workplace should be a requirement for any employer who has the ability for asbestos exposure in the workplace.

While it is impossible to ensure that all workers are smoke and tobacco free at all times the employer can do everything within its power to provide assistance to the employees so that they can improve their health and reduce their risk of disease related to smoking and asbestos exposure. Employers should be required to implement a smoke and tobacco free workplace requiring that no smoking can occur on the property. Employers must also provide access to a Smoking Cessation program within the workplace free to the employees. These types of programs are provided through the American Cancer Society and other organizations and are usually free of charge. Training in regard to the hazards associated with smoking and tobacco use and asbestos exposure should

occur prior to exposure and annually thereafter for all workers. This training along with the tobacco free workplace and support program should be documented and the records should be maintained in accordance to other record retention requirements of this standard.

While OSHA has attempted to make this standard as straightforward as possible it can still be very overwhelming for employers to decipher and attempt to comply with. All of the regulatory requirements associated with this standard are necessary and OSHA has done a great deal in attempting to assist employers with compliance with the standard. Many employers must still seek out assistance from an outside source whether it is someone like our firm where we consult with businesses on compliance with these standards or if they seek the agency's assistance from a state run program or from the regional office. There are definitely certain elements that could benefit from a type of E-tool that could make the record keeping requirements more straightforward. While there is a Self Inspection Checklist to assist employers with their compliance measures there is still a lot of information that must be kept up with that can be confusing. If there were a type of logic tree or matrix that would allow the employer to enter in the information and an E-tool that would generate the requirements using the parameters selected then that would be helpful to the employer. For example, the requirements for the frequency of medical surveillance can get very confusing especially when you have hundreds of employees to maintain records for. There is table for reference for frequency based on age of the employee and time elapsed since exposure. There is not a variable for consideration for smoking or tobacco use either in regard to increased frequency for medical surveillance and there should be since this greatly increases the risk of disease. There is also the requirement that medical surveillance should occur within thirty days after employment is terminated unless a medical examination has occurred within the past year and that a preemployment "medical examination may not be used unless the employer pays for it." (OSHA 4)

An E-tool that would be helpful in regard to medical surveillance is one that would have drop-down boxes with choices for the demographic of the employee. These demographics would include the age of the employee, duration of time since the first exposure to asbestos and whether or not the employee uses tobacco products. This drop down box questionnaire could also include questions in regard to preemployment or preexposure asking if an employee received a medical exam and was it at the expense of the employer or employee. Post employment

questions could include when the date of the last medical examination and the date of employment termination. All of this information would yield the answer as to when this particular employee would be required to have his or her next medical examination.

Furthering the assistance to employers with an E-Tool as described above would be if the tool could also be saved to an Excel file or saved into a database on the OSHA website. Then the employer could enter in the employee's information once and look back at that data for reference or update the data with more recent medical evaluations and history. An upload tool could allow employers to upload the medical examiner's opinion and other record keeping requirement documentation. Similar tools could be developed for exposure control and mitigation of employee exposure risk. A drop down box menu could also be helpful to employers to quickly assess if respiratory protection is needed or if their work practice controls are sufficient. The self inspection checklist already developed on www.osha.gov is a helpful step in the right direction for assistance to employers for compliance measures in regard to this hazard but other tools that help with the logical aspect to assist with decision making for these measures could greatly reduce the burden on employers by streamlining the process.

OSHA, along with the EPA, has made great strides in worker health and safety in relation to asbestos exposure. Many elements are required as part of these standards because the risk of disease is so great to so many workers that must work with this substance every day. These requirements are necessary to protect workers but can be confusing and a burden to employers if not familiar with the standards and the requirements associated with the standard. Technology can assist us a great deal when used properly and a tool that would assist with the requirements of the asbestos standard would be very helpful to employers. If this tool could also store the information gathered this would assist with the stringent record keeping requirements of the standard and further decrease the burden to the employers.

Much more is known today about asbestos exposure and the horrific outcomes for workers should they be exposed to this substance. Great strides have been made in worker education and in protecting our workers but even more can be done. Requiring that employers with asbestos exposure potential maintain a smoke and tobacco free workplace will benefit everyone involved even after the exposure potential is eliminated. While this may be an additional burden on the employer at first the benefits will greatly outweigh this because of the positive health

effects that will be seen among its workforce. Continuing to allow the record keeping requirements involved with training is necessary due to the extensive amount of time that is involved with training that is consumed with record keeping. In my experience record keeping is necessary due to the fact that it provides a checks and balance for the system. If the requirement did not exist then employers would be much more inclined to disregard the requirements and workers would not be trained properly or protected from the exposure. Overall, much has been done to protect workers today from asbestos exposure; however, more can be done to assist employers in maintaining the records and continuing a program that will protect their workers going forward.

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