

OCCUPATIONAL HEALTH INTERPRETATIONS

February 2, 1998

Cynthia J. Morey
Safety/Environmental Manager
Arcon, Inc.
2506 Colley Ave.
Norfolk, VA 23517

Dear Ms. Morey:

I am writing in response to your request for interpretation of notification requirements for asbestos abatement projects on military vessels. As we discussed on the phone, the Department of Labor and Industry has been delegated the authority for enforcement of the asbestos NESHAPS notification requirements in Virginia. Therefore, all asbestos abatement projects and demolitions that meet NESHAPS reporting requirements must be reported to this office. At the present time, USEPA maintains concurrent enforcement authority and requires that notifications are also sent to them. We are currently working on a computer system that would enable a single reporting system to this department.

The second area of your request for interpretation concerned the issue of emergency projects and the short time constraints imposed by the U.S. Navy on non-emergency projects. If the project is truly an emergency, i.e., ruptured pipes, fallen asbestos insulation etc., I would recommend reporting as soon as possible and explaining the nature of the emergency in the appropriate block on the form. In the case of notifications that do not meet the NESHAPS 10-day notice requirements, I suggest that the U. S. Navy provide you with a written request explaining the urgency of the project and that this request simply be attached to the notification. You may also wish to contact Racine Leonard(USEPA, Philadelphia, PA), to determine whether USEPA is in agreement with this process.

If you need additional information or have further questions, please give me a call at 804-786-0574.
Sincerely,

Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director

June 4, 2001

Lil Felix
Megaco Incorporated
8433 C Backlick Road
Lorton, VA 22079

Re: Lead Removal Notification for VDOT Bridges

Dear Ms. Felix,

The Virginia Department of Labor and Industry regulation 16 VAC 25-35-10 requires that all contractors notify the Department of Labor and Industry for each lead activity that requires contractors to be licensed or certified by the Department of Professional and Occupational Regulation. Under this regulation, each structure that is scheduled to be deleaded would constitute a separate project and therefore require a notification.

Recently, the Department has received lead notifications that include numerous bridges under one contract price without adequate information regarding location or starting and finishing dates.

In an effort to make the above regulation easier to comply with on large projects, the Department of Labor and Industry will allow a single notification for multiple bridges, located on the same highway within a distance of 25 miles from the starting bridge to the final bridge. Bridges not on the same highway or outside of the 25 mile limit would constitute a separate project and require a separate notification.

If larger projects require multiple notifications, the contract price can be prorated based on the individual bridges within that project. In all cases, each notification must include a list of the individual bridges with their location and start/finish dates. If the start/finish dates change for each individual bridge, the department must be notified by submitting an amended notification.

In the case of rain, amended notifications do not need to be sent unless the delay would cause that bridge to go beyond the original finish date. Also be advised that once a project goes beyond the established finish date, the project cannot be amended and a new notification would need to be submitted.

If you have further questions or need additional information, please feel free to contact me at 804-786-0574.

Very truly yours,
Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director

From: Clarence Wheeling
To: purchasing
Date: Tue, Mar 11, 2003 8:52 AM
Subject: Re: Do we need to comply?

Yes, the Virginia Safety and Health Codes Board has adopted the Federal OSHA identical standard 1904.0 through 1904.46. This standard had an effective date of January 1, 2002 except for paragraphs 1904.10 (Hearing Loss and 1904.12 (Musculoskeletal Disorders) which had an effective date of January 1, 2003.

In response to your question, there should not be any difference in the posting requirements or the forms which can be downloaded from the OSHA website www.osha.gov . Also on the website, you may wish to review the Federal OSHA compliance directive CPL 2-0.131 which the Virginia Occupational Safety and Health (VOSH) program has adopted.

I hope this information is helpful and if you have further questions, please feel free to contact this office.

Clarence Wheeling

Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director
Virginia Department of Labor & Industry
13 S. Thirteenth St.
Richmond, VA 23219
Tel: 804-786-0574
Fax: 804-371-7634
email: chw@doli.state.va.us

>>> "purchasing" <hiwduke@earthlink.net> 03/11/03 07:47AM >>>

As the Safety Officer for our steel fabrication company I am responsible for seeing that we are compliant with all regulations. I keep getting notices regarding the posting of OSHA Form 300A. Do we have to get this form and post it along with the VIOSH form we currently post in our plant? Or do we ignore the posting of the OSHA Form 300A in favor of the VIOSH form? I will be looking forward to hearing from you on this matter.

Respectfully;
Duke Whiteside

CC: Glenn Cox; Nancy Jakubec

February 24, 1998

Rachel Riley, CET
ManTech Environmental Corporation
1901 Research Blvd., Suite 240
Rockville, MD 20850

Dear Ms. Riley:

This letter is in response to your request for interpretation of the Asbestos Standard for Construction (1926.1101) and the USEPA NESHAPS requirements as they pertain to asbestos containing wallboard materials in buildings. I have enclosed the EPA clarification regarding the analysis of multi-layered systems and Federal OSHA's interpretation of the asbestos standard as it pertains to composite sampling. These two documents will generally answer most of your questions related to the area of wallboard and joint compound inspection and bulk sampling.

Your specific questions were as follows:

Question 1:

A) What methodology should building owners use for evaluating the content of wallboard systems?

Answer: Building owners should use the NESHAP guidelines for all buildings, except schools which would be covered under the AHERA regulations.

B) What is the basis for an inspector responding to an OSHA complaint about wallboard and joint compound using a different sampling methodology than the employer or building owner would be required to use?

Answer: An OSHA inspector responding to a complaint would be evaluating a worker's personal exposure and this would involve taking personal air samples in the employee's breathing zone.

Question 2:

A) In Virginia, will DLI field inspectors separately sample joint compound which has previously only been tested as part of a composite sample of a wall system?

Answer: Only in conjunction with the previous question, to determine the source of exposure.

B) The scenarios presented are difficult to answer since compliance would depend on the individual facts of each investigation. The enclosed interpretations should provide adequate guidance for the responsibilities of the individual entities. To insure compliance with the OSHA regulations, employers that have employees disturbing this type of asbestos containing material, should conduct representative sampling for the different job duties. This information could then be utilized, depending on the results, in conducting a Negative Exposure Assessment.

I apologize for the delay in responding to your request. If you need additional information or have further questions, please give me a call at 804-786-0574.

Sincerely,
Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director

June 22, 2001

Kelly Pseftelis
K.V.K. Contracting, Inc.
727 Wesley Ave.
Tarpon Springs, FL 34689

Re: Lead Removal Notification for VDOT Bridges

Dear Ms. Pseftelis:

The Virginia Department of Labor and Industry regulation 16 VAC 25-35-10 requires that all contractors notify the Department of Labor and Industry for each lead activity that requires contractors to be licensed or certified by the Department of Professional and Occupational Regulation. Under this regulation, each structure that is scheduled to be deleaded would constitute a separate project and therefore require a notification.

Recently, the Department has received lead notifications that include numerous bridges under one contract price without adequate information regarding location or starting and finishing dates.

In an effort to make the above regulation easier to comply with on large projects, the Department of Labor and Industry will allow a single notification for multiple bridges, located on the same highway within a distance of 25 miles from the starting bridge to the final bridge. Bridges not on the same highway or outside of the 25 mile limit would constitute a separate project and require a separate notification.

If larger projects require multiple notifications, the contract price can be prorated based on the individual bridges within that project. In all cases, each notification must include a list of the individual bridges with their location and start/finish dates. If the start/finish dates change for each individual bridge, the department must be notified by submitting an amended notification.

In the case of rain, amended notifications do not need to be sent unless the delay would cause that bridge to go beyond the original finish date. Also be advised that once a project goes beyond the established finish date, the project cannot be amended and a new notification would need to be submitted.

If you have further questions or need additional information, please feel free to contact me at 804-786-0574.

Very truly yours,
Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director

October 15, 1998

Sanat N. Bhavsar, Director of Environment, Safety and Health
Yokohama Tire Corporation
1500 Indiana Street
Salem, VA 24153-0648

Subject: Application for Variance from 1910.106(e)(9)(iii) and 1910.107(g)(3)

Dear Mr. Bhavsar:

I apologize for the delay in providing a written response to your variance request and the Department's visit to your facility. Your time and efforts in providing Mr. Judson and myself access to the area in question and the opportunity to discuss this issue with the workers are greatly appreciated.

It is the Department of Labor and Industry's opinion that based on the nature of the waste materials being stored in the drums at the cement spray booths and the safety precautions in these areas, storage of one 55-gallon drum, while constituting a technical violation of the above standards, would be considered a De Minimis violation.

De Minimis violations are violations of standards which have no direct or immediate relationship to safety or health. When de minimis conditions are found during an inspection they will be documented in the same way as any other violation but will not be included in any citation.

As we discussed during the visit, this interpretation is based strictly on Yokohama's practice of promptly removing the drums when they are filled and replacing them with an empty. Storage of more than one waste drum at these work stations will be considered to be a violation of the standards in question.

Again, I appreciate your patience and assistance in bringing this matter to an amicable conclusion. Since I do not have the names and addresses of the union officials and workers we talked with, I would appreciate it very much if you would provide a copy of this letter to the affected personnel.

If you need additional information or have further questions, please give me a call at 804-786-0574.

Sincerely,
Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director

March 19, 2001

Joni P. Greene
924 Professional Place
Chesapeake, Virginia 23320

Dear Ms. Greene:

First, let me apologize for the failure to respond to your previous letter. I have tried to combine and paraphrase the issues in both your letters and hope that this information is helpful to you. If the following responses do not answer your questions, please let me know.

Question: What are the notification requirements for abatement projects that occur on Federal reservations or other facilities such as the maritime industry, where Federal OSHA has jurisdiction over workplace safety and health?

Response: The Virginia asbestos notification requirements as outlined in Section 40.1-51.20 of the Labor Laws of Virginia, requires licensed asbestos contractors to notify the Department of Labor and Industry for each asbestos project in accordance with our regulations. Under the provisions of ' 54.1-501.1 of the Code of Virginia, the Virginia Asbestos and Lead Licensing regulations administered by the Department of Professional and Occupational Regulation are not applicable to employers regulated by the Federal Occupational Safety and Health Act (OSHA). Under the Virginia State Occupational Safety and Health plan, the department has not chosen to enforce workplace regulations on Federal reservations or the maritime industry. Therefore, notification under the above regulations are not required, where Federal OSHA has assumed jurisdiction. The Virginia Department of Labor and Industry has been delegated enforcement authority for the NESHAP requirements in Virginia. This department has adopted and continues to enforce the United States Environmental Protection Agency's NESHAP requirement (40 CFR Part 61.140-157). While you are not required to notify this agency for projects occurring on federal facilities under Virginia's notification regulations, you are required to notify the Department of Labor and Industry for all projects in the Commonwealth of Virginia that requires notification under NESHAPs. Presently, you are also required to jointly notify EPA for any renovation or demolition project that is triggered by the NESHAP requirements.

Question: What are the notification requirements for multiple structure projects, such as target housing, apartment complexes, military housing, industrial complexes?

Response: Under the Department of Labor and Industry regulations, the definition of "Site" means a specific geographically contiguous area with defined limits owned by a single entity on which asbestos removal will occur. Likewise under the NESHAP regulations, "Installation" means any building or structure or any group of buildings or structures at a single site that are under the control of the same owner or operator. Attached you will find a copy of interpretative information that was issued in 1994. Projects that meet the above criteria could certainly be included on a single notification, as long as the notification contained the appropriate information regarding the individual locations within the site. Phased Projects as described in the attachment are restricted to projects performed in a single building.

Question: Is any transite material, as long as it is in good condition, removed intact and kept wet during removal, exempt from notification?

Response: The Department of Labor and Industry regulation, requiring notification for asbestos projects, includes the following language, "An asbestos project or asbestos abatement project shall not include nonfriable asbestos-containing material roofing, flooring and siding materials which when installed, encapsulated or removed do not become friable." According to our department attorneys, the sentence structure is inferred to have a comma between the word material and the word roofing.

Based on the above language, it is the department's opinion that transite material in good physical shape, removed intact with minimal breakage and kept wet during removal is exempt from notification. The above interpretation is also in agreement with the language and intent of the United States Environmental Protection Agency's NESHAP regulation, specifically, the definition of "Regulated Asbestos Containing Material" (RACM).

Your letter specifically mentioned the notification requirements for removal of transite pipe. It is this department's opinion that if the pipe is in good shape, i.e., not crumbling, and is kept wet and removed by lifting the pipe out intact or with minimal breakage at the joints, the project would not require notification.

However, if the pipes are removed in sections by mechanically sawing the pipes and the total length of the cuts exceeds the 10 linear feet requirement of the Virginia regulation, then this action would constitute a project, requiring notification.

If you need additional information or have further questions, please give me a call at 804-786-0574.

Sincerely,
Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director

From: Clarence Wheeling
To: R. Leonard Vance
Date: Tue, Nov 12, 2002 6:36 AM
Subject: Re: DLI Lead Permit; de minimis levels??

Leonard,

Yes. 16 VAC 25-35-30 states that written notification shall be made when the contract price is \$2000 or more. If you have further questions, give me a call.

Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director
Virginia Department of Labor & Industry
13 S. Thirteenth St.
Richmond, VA 23219
Tel: 804-786-0574
Fax: 804-371-7634
email: chw@doli.state.va.us

>>> "R. Leonard Vance" <vance@hsc.vcu.edu> 11/08/02 03:52PM >>>

Dr. Wheeling:

Is there any de minimis level below which a person doing lead paint, dust, or soil abatement subject to the DPOR Lead Regulations does not have to have a DLI permit? Thank you.

R. Leonard Vance, Ph.D., PE, CIH
Associate Professor
Department of Preventive Medicine & Community Health
Medical College of Virginia/VCU
P.O. Box 980212
Richmond, VA 23298-0212
(804) 628-2513; fax (804) 828-9773; e-mail: vance@hsc.vcu.edu
<http://www.vcu.edu>

From: Clarence Wheeling
To: Heidi Baughman
Date: Fri, Jan 24, 2003 8:44 AM
Subject: Re: 40-Hour Training Questions

Heidi,

Attached is an interpretation from the Federal OSHA website related to your question. The Virginia Occupational Safety and Health program has adopted the identical Federal OSHA standard 1910.120 and follows any interpretations issued by OSHA.

This interpretation explains that there is no set time limit and that it is a case by case decision based on the experience and knowledge retained by the individual employee.

Hopefully, this interpretation can be reached at the following website. If this site is not correct, you can visit the OSHA website and look for the interpretation addressed to Mr. Jim Heringer on March 12, 1993. If you have any further questions or need additional assistance, please feel free to contact this office.

http://osha.gov/pls/oshaweb/owadisp.show_document?p_table=INTERPRETATIONS&p_id=21062&p_text_version=FALSE

Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director
Virginia Department of Labor & Industry
13 S. Thirteenth St.
Richmond, VA 23219
Tel: 804-786-0574
Fax: 804-371-7634
email: chw@doli.state.va.us

>>> Heidi Baughman <HBaughman@schnabel-eng.com> 01/21/03 04:58PM >>>

Clarence:

I have a question regarding renewal of my 40-hour Hazardous Waste Training Certification. I worked in the environmental field (engineering) for several years, took a brief leave to teach, and have now rejoined the engineering field. Could you please guide me as to what I need to do in order to renew my certification. I read through some frequently asked questions on OSHA website and it looks as though the time-frame of around 2 years may indeed allow me to take a refresher course in lieu of re-doing the entire course, whereas a time frame of 7 years may require re-taking the course.

I would appreciate thoughts or leads on whom I should contact to learn more about this.

Thank you,
Heidi B.

This e-mail including attached files is confidential. Its transmission is solely as an accommodation for the benefit of the recipient. The recipient bears the responsibility for checking its accuracy against corresponding originally signed documents provided by Schnabel Engineering. If you received this e-mail in error, its use is prohibited. Please destroy it and immediately notify postmaster@schnabel-eng.com.

July 19, 2002

Bill George, CIH
National Industrial Hygiene Manager
Target Corporation
TPN-725
1000 Nicollet Mall
Minneapolis, MN 55403

Dear Mr. George:

Thank you for your letter requesting consideration to exempt Post-1989 construction from asbestos inspections. The delegation of NESHAPS authority in Virginia was transferred from the Department of Environmental

Quality to the Department of Labor and Industry in 1993 as a result of legislation passed by the Virginia General Assembly.

The Virginia Asbestos NESHAP Act passed by the Virginia General Assembly required the Virginia Safety and Health Codes Board, which is the body responsible for promulgating this department's regulations, to promulgate standards that are as stringent as the asbestos regulations passed pursuant to the Clean Air Act. Therefore, the Safety and Health Codes Board adopted the identical portions of the regulations contained in 40CFR Part 61 under the Clean Air Act, which deal with the Demolition and Renovation of asbestos facilities.

We have been in contact with the United States Environmental Protection Agency (USEPA) concerning your request and understand they will be responding to your request. Since the Virginia regulations are required to be as stringent as the Federal regulations and the USEPA has concurrent enforcement authority in Virginia, the Virginia Department of Labor and Industry does not believe that changes to these regulations are appropriate at this time. Should the USEPA enact changes to the NESHAP regulations, to ensure consistency, this agency would review these changes and present them to the Safety and Health Codes Board for adoption.

I hope this information is useful and if you have further questions or need additional information please feel free to contact me at 804-786-0574.

Very truly yours,
Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director

June 4, 2001

Danielle Damalos
S & D Industrial Painting Inc.
1602 Mexico Ave.
Tarpon Springs, FL 34689

Re: Lead Removal Notification for VDOT Bridges

Dear Ms. Damalos,

The Virginia Department of Labor and Industry regulation 16 VAC 25-35-10 requires that all contractors notify the Department of Labor and Industry for each lead activity that requires contractors to be licensed or certified by the Department of Professional and Occupational Regulation. Under this regulation, each structure that is scheduled to be deleaded would constitute a separate project and therefore require a notification.

Recently, the Department has received lead notifications that include numerous bridges under one contract price without adequate information regarding location or starting and finishing dates.

In an effort to make the above regulation easier to comply with on large projects, the Department of Labor and Industry will allow a single notification for multiple bridges, located on the same highway within a distance of 25 miles from the starting bridge to the final bridge. Bridges not on the same highway or outside of the 25 mile limit would constitute a separate project and require a separate notification.

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In the case of rain, amended notifications do not need to be sent unless the delay would cause that bridge to go beyond the original finish date. Also be advised that once a project goes beyond the established finish date, the project cannot be amended and a new notification would need to be submitted.

If you have further questions or need additional information, please feel free to contact me at 804-786-0574.

Very truly yours,
Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director

April 30, 1998

Mr. Marc Russell
1861 Pratt Drive
Blacksburg, VA 24060

Dear Mr. Russell:

This letter is in response to your letter of April 16, 1998 concerning training requirements of Hazardous Waste Operations and Emergency Response regulation (**1910.120**).

Your questions concern the clarification of training requirements for field technicians who routinely sample industrial wastewater, groundwater at active and closed landfills and hazardous waste drums at local industrial facilities. In addition, some laboratory technicians are involved in disposal of hazardous waste chemicals on-site.

Personnel who are on-site occasionally and engaged in inspection and sampling activities that are unlikely to expose them over the PEL may be considered workers on-site occasionally for a specific limited task. These workers would need 24-hours of training and one day of actual field experience in accordance with Paragraph (e), if these landfills fall under the scope of **1910.120(a)(I)-(iii)**. The scope of **1910.120(a)(1)-(iii)** would include hazardous waste sites listed by EPA, state priority lists or initial investigations of government identified sites. The scope also includes any clean-up sites covered by RCRA and clean-up operations at sites recognized by federal, state, local or other governmental bodies as uncontrolled hazardous waste sites.

Field technicians involved in sampling waste drums at local industrial facilities or laboratory technicians involved in disposal of hazardous waste chemicals on-site at TSD facilities would also need 24-hours of training.

Field or laboratory technicians that are expected to respond to releases of hazardous chemicals during transport, handling or sampling of chemicals, would require training under **1910.120(q)**. The amount of training under **1910.120(q)** varies depending on the duties and function to be performed by each responder.

If these activities are not covered under the scope of **1910.120**, training would still need to be conducted as required by the hazard communication standard, personal protective equipment standard and if respirators are used, the respiratory protection standard.

Your letter concludes with the question concerning "what possible violations and/or consequences may be incurred". If an inspection was conducted, citations may be issued for violation of applicable training requirements previously mentioned.

I hope this information is helpful. If you have further questions feel free to contact me at 540-562-3580.

Sincerely,
Dr. Clarence H. Wheeling
Director, Occupational Health Compliance

October 15, 1998

Chad Smith, Senior Environmental Engineer
Apex Environmental, Inc.
468 Southlake Boulevard
Richmond, VA 23236

Dear Mr. Smith:

This letter is in response to your request for interpretation of the USEPA NESHAPS requirements as they pertain to asbestos containing wallboard materials in buildings. I have enclosed the EPA clarification regarding the analysis of multi-layered systems. This document will generally answer most of your questions related to the area of wallboard and joint compound inspection and bulk sampling.

Your specific questions were as follows:

A) Is the building owner required to file a NESHAPS notification for the removal of the drywall material?

Answer: Based on the information provided in your letter, a NESHAPS notification would not be required.

B) Is the building owner required to have the drywall and floor tile materials removed by a Virginia licensed asbestos abatement contractor?

Answer: No.

C) If no to above, can the building owner himself remove the drywall and floor tile materials from the area?

Answer: Yes

I apologize for the delay in responding to your request. If you need additional information or have further questions, please give me a call at 804-786-0574.

Sincerely,
Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director

From: Clarence Wheeling
To: Ken Pracht
Date: Thu, Mar 13, 2003 2:19 PM
Subject: Re: Confined Spaces in Construction

Mr. Pracht,

Based on a strict reading of the Virginia Confined Space Standard for the Construction Industry CNSP.146, Paragraph 9A., it would be my recommendation that a retrieval device be made available. The standard specifically states that where a hazardous atmosphere "has been demonstrated" by the qualified person, the retrieval equipment shall be used.

While I understand your scenario regarding the ventilation and elimination of the hazardous atmosphere, I

would refer you to Appendix E in the General Industry's Confined Space Entry Standard (1910.146). This appendix while not mandatory for the Virginia standard does outline the hazards associated with entry into a sewer system. Additionally, if the work being done on the sewer is considered "maintenance", then the General Industry Confined Space Standard 1910.146 would apply.

For further guidance on the Construction vs. Maintenance issue, I would refer you to the Virginia Administrative Regulations Manual which can be found on the Department of Labor and Industry website www.doli.state.va.us . Federal OSHA has also issued some guidance on their website www.osha.gov related to the construction vs. maintenance work.

I hope this information is helpful. If you have further questions or need additional information, please feel free to contact this office.

Clarence Wheeling

Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director
Virginia Department of Labor & Industry
13 S. Thirteenth St.
Richmond, VA 23219
Tel: 804-786-0574
Fax: 804-371-7634
email: chw@doli.state.va.us

>>> Ken Pracht <KPRACHT@perryeng.com> 03/04/03 08:35AM >>>

With regards to the VA Confined Space Standard for the Construction Industry, is a retrieval device necessary when entering a sanitary sewer manhole with a hazardous atmosphere if the hazardous atmosphere has been eliminated by forced ventilation? To put it another way; if the hazardous atmosphere is eliminated by forced ventilation prior to entry, there is no engulfment hazard, the entrant wears a continuous air monitoring device while in the manhole, and an attendant monitors the forced ventilation so that in the event of failure the entrant can be notified and instructed to evacuate the confined space, would it be acceptable to eliminate the retrieval device?

This question is not related to any VOSH enforcement activity. I simply want to determine whether we need to take additional steps to ensure compliance.

Your response would be appreciated.

Ken Pracht, CSP
Safety Director
Perry Engineering Co., Inc.
(540) 667-4310

CC: Glenn Cox; Jay W. Withrow

From: Clarence Wheeling
To: Elizabeth Sheriff
Date: 4/7/03 9:53AM
Subject: Re: compliance of standards

Ms. Sheriff,

While the issue you raise is clearly a safety issue, jurisdiction under the Virginia Occupational Safety and Health regulations does not extend to non-employees, such as students and volunteers. In your situation, the

school is required to provide appropriate personal protective equipment for all employees, which includes teachers and any assistants that would be classified as employees. If employees are not being adequately protected, they would need to contact the Virginia Department of Labor and Industry office located in Norfolk.

Below is the address and phone number for the Norfolk Regional Office:

Tidewater Region
Interstate Corporate Center, Building 6
6363 Center Drive, Suite 101
Norfolk, Virginia 23502
Phone: (757) 455-0891
Fax: (757) 455-0899

My recommendation would be to contact the Virginia Beach School Board or work through the PTA organization. I hope this information is helpful and if you have further questions, please feel free to contact this office.

Clarence H. Wheeling

Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director
Virginia Department of Labor & Industry
13 S. Thirteenth St.
Richmond, VA 23219
Tel: 804-786-0574
Fax: 804-371-7634
email: chw@doli.state.va.us

>>> "Elizabeth Sheriff" <e.sheriff@worldnet.att.net> 04/04/03 03:53PM >>>

I have an inquiry regarding a high school in Virginia Beach. The high school in question is Princess Anne High School. The school expects students to purchase safety goggles for the science experiments. It would seem to me that if a school requires that the experiments be completed for graduation requirements, that it is the school's responsibility to provide acceptable safety equipment for the students to conduct those labs. I do know that in the high school in which I am employed, OSHA funds pay for most if not all of the required safety equipment in the school. It would seem to me that those funds would be provided to all schools to comply with safety standards. So why is it that Princess Anne High School in Virginia Beach requires students to provide their own goggles which may or may not be acceptable under safety standards, and in addition, why would they not be provided with the funds to purchase needed safety equipment for their school as other schools are? On top of that, if the students do not provide their own goggles, they have their grades lowered by one letter grade, so they are being punished for the school not providing required safety equipment.

Please respond and let me know that I am correct in the fact that they are not in compliance if the students are not wearing acceptable goggles because they are not provided by the school. Thank you.

From: Clarence Wheeling
To: anne.shields@att.net
Date: 4/14/03 3:25PM
Subject: Re: latex allergy in hospital work setting

Ms. Shields,

At the present time, there are no regulations covering the delayed hypersensitivity to latex. I have spoken with

Federal OSHA and there are currently no requirements that would require the employer to replace the gloves in a specified area or in the hospital in general.

I am sorry we cannot be of more assistance. If you have further questions or need additional information, please feel free to contact this office.

Clarence Wheeling

Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director
Virginia Department of Labor & Industry
13 S. Thirteenth St.
Richmond, VA 23219
Tel: 804-786-0574
Fax: 804-371-7634
email: chw@doli.state.va.us

>>> <anne.shields@att.net> 04/12/03 04:57AM >>>

My name is Anne Shields. I am an RN at Winchester Medical Center in Winchester, VA. I am a RAST immediate positive and ELISA/ACT test delayed sensitivity for latex.

I am supplied nitrile gloves. This is what the center states is the only thing I am entitled. However, every night that I work, I have hives and bronchospasm from being near the latex gloves.

I have asked my manager to switch to all non latex in our unit. She states that this is a \$1200 per year expense that she does not have to comply.

Is this a true statement? I was under the belief that I have a right to a safe environment to work. If I am having allergic reactions at the work place to a substance in the work place, am I provided a safe workplace?

Thank you for any help you can give me.

Anne Shields, RN
237 Nightingale Ave
Stephens City, VA 22655
540-868-1268

May 20, 1999

Mark V. Wiggins, CIH
Liberty Mutual Group
100 Center Point Circle
Columbia, SC 29202-5860

Dear Mr. Wiggins:

This letter is in response to your request for interpretation of the Virginia Occupational Safety and Health program's respiratory protection standard 1910.134.

Question: Has the State of Virginia adopted the revised final rule for respiratory protection as published in the Federal Register, Thursday, January 8, 1998?

Answer: Yes.

Question: Was the standard adopted verbatim, or were there any modifications made to the standard when it was codified into State law?

Answer: Adopted verbatim.

Question: If the standard was modified for adoption in the State of Virginia, could you point out the changes and provide a copy of the portions of text that were changed?

Answer: No changes were made.

Question: Has Virginia OSHA published any enforcement directives, memorandums, or guidelines for the enforcement of the revised rule? If so, could you provide a copy?

Answer: The Virginia OSHA program has adopted the Federal OSHA compliance directive CPL 2.120 verbatim. This document can be obtained from the OSHA Internet site WWW.OSHA.GOV

Question: If the standard was not modified when was it codified? How is Virginia OSHA interpreting section 1910.134(c)(2)(ii)?

Answer: This standard was adopted by the Virginia Safety and Health Codes Board on February 9, 1998. If an employee is wearing an elastomeric or supplied air respirator, even when voluntary on the part of the employee, will require the employer to include all elements in a written program that will ensure use of these respirators does not create a hazard. Employers are not required to include in a written program those employees whose only use of respirators involves the use of filtering facepieces (dust masks).

Question: Can the employer permit the voluntary use of approved filtering facepiece respirators (dust masks) without including such employees in a written respirator protection program provided that the following conditions are met:

- * The use of the respirator does not in of itself under the conditions of use create a hazard in of itself;
- *Employee exposures to dusts are below applicable permissible exposure limits;
- *The employer has provided such employees with the information contained in Appendix-D of 1910.134

Answer: Yes.

Question: How does Virginia OSHA interpret the phrase “does not create a hazard in and of itself” with regard to the selection and use of respirators?

Answer: This would include things that impact an employee’s health such as a cardiac or pulmonary disorders, dirty respirators that can cause dermatitis, or sharing of respirators that can lead to transmittal of diseases.

Question: Are “comfort masks” [example, 3M 3500] considered to be respirators even though these devices are not NIOSH-approved respiratory protection devices? Can employers be subject to violations related to section 1910.134 even if these devices are not approved respiratory protection devices?

Answer: The Federal OSHA compliance guideline, CPL 2.120, uses the term respirator when referring to filtering facepieces (dust masks) that are used voluntarily. NIOSH approved respirators are strongly recommended but are not required for voluntary use. The voluntary use of dust masks does not require a written program and the employer needs only ensure that dust masks are not dirty or contaminated and that their use does not interfere with the employee’s ability to work safely. The employer is required to provide the employee with a copy of Appendix D in the respiratory protection standard.

If you need additional information or have further questions, please give me a call at 804-786-0574.

Sincerely,
Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director

June 13, 2001

Dana Larkin
Storm Surge Communications
513 White Oak Drive
Virginia Beach, VA 23462-4220

Dear Mr. Larkin:

Thank you for your June 6, 2001 letter requesting clarification of the OSHA first aid requirements. There are several OSHA standards, including 1910.151(b), that in the absence of an infirmary, clinic or hospital in near proximity to the workplace, require a person to be adequately trained to render first aid.

Federal OSHA has issued guidance and recommendations that you have alluded to in your letter concerning the frequency of CPR training. The intent of the OSHA standard is to have someone present to administer first aid until such time as a medical response unit could arrive. The specific guidance issued by federal OSHA, on which training facility and the frequency of the training is advisory in nature.

If you need additional information or have further questions, please give me a call at 804-786-0574. Further information on this subject can be obtained from the Federal OSHA website www.osha.gov.

Sincerely,
Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director

Mar 29, 2002

C.W. Hammer
P.O. Box 454
Monterey, VA 24465

Dear Mr. Hammer,

This letter is in response to an enquiry from the Highland County Health Department regarding the requirements for apparel or personal protective equipment during installation and repair of septic systems.

When working in the above environment, the employer should provide personal protective equipment that is appropriate for the type of work being performed. This would depend on the specific nature of the work and the degree of exposure to the employee.

Additionally, the employer would be required to comply with the Virginia Construction Industry Standard for Sanitation, 1926.51. This standard, depending on conditions, requires that drinking water, hand washing and toilet facilities be available. Copies of the Sanitation Standard can be downloaded from the Department of Labor and Industry website www.doli.state.va.us, under Virginia Unique Standards.

If you feel that your workplace is unsafe, you should contact our Regional Office located in Verona, Virginia.

Virginia Department of Labor and Industry
201 Lee Highway
Verona, Virginia 24482
540-248-9280

I hope this information is useful and if you have further questions or need additional information please feel free to contact me at 804-786-0574.

Very truly yours,

Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director

June 12, 1998

Betty H. Wine, Dir.
Occupational Testing Services, Inc.
Suite A-1
401 North Coalter Street
Staunton, VA 24401

Dear Ms. Wine:

I am writing in response to your request for interpretation of the requirements of the new Respiratory Protection Standard (1910.134). Specifically your questions regarding the fit-testing and medical evaluation questionnaires were as follows:

1) Does this mean that the employer would not have access to these records?

Response: Yes, this regulation and other substance-specific health standards (e.g., the Cadmium standard 1910.1027, the Lead standard 1910.1025, and the Benzene standard 1910.1043) require that medical questionnaires and examinations be administered in a confidential manner.

2) Who would be responsible for maintaining these records, the Company or the sub-contractor doing the testing?

Response: The company is responsible for ensuring that these records are maintained. They may contract with the PLHCP to maintain these records or in the case of employers who have on-site medical facilities, keep the records in the medical facility, provided they are kept confidentially.

3) How will this affect companies doing in-house testing using their own personnel?

Response: See the above answer.

4) Do Pulmonary Function Tests need to have a Physician's signature on each report?

Response: This standard does not require the Pulmonary Function Test to have a PLHCP signature on the report.

5) How would the employer know if the employee qualified to wear a respirator if reports did not come back to the Company and how would they know the reason, or would they even know why?

Response: This standard requires the employer obtain a written recommendation regarding the employee's ability to use the respirator from the PLHCP. The written determination shall provide only the following information: 1) Any limitations on respirator use related to the medical condition of the employee, or relating to

the workplace conditions in which the respirator will be used, including whether or not the employee is medically able to use the respirator, 2) The need, if any, for follow-up medical evaluations, and 3) A statement that the PLHCP has provided the employee with a copy of the PLHCP's written recommendation.

6) As for Companies like ourselves it would be quite unreasonable to maintain these records, due to the volume of clients being tested.

Response: As we discussed, the issue of record maintenance is a business decision that needs to be decided, between you and your client.

7) Please define the standards for a Licensed Health Care Professional. I realize a Physician reviews and signs off, but for instance my employees who give the Respiratory Program are all certified in Spirometry for Industrial Pulmonary Function Technicians.

Response: The Physician or other licensed healthcare professional (PLHCP), means an individual whose legally permitted scope of practice allows him or her to provide health care services required by this standard. In Virginia, this certification is made by the Board of Medicine. It is my understanding that medical doctors and nurse practitioners are permitted to provide these services in Virginia.

8) What about Companies who do not have a plant physician?

Response: The employer is required by this standard to make the appropriate medical services available. It is the employer's decision whether to contract these services out or hire their own corporate physician.

9) In reference to respirator fit annual verses semi-annual fit testing, which should it be?

Response: Paragraph 1910.134(f)(2) requires fit testing prior to initial use, whenever a different respirator facepiece is used, and at least annually thereafter. Additional fit tests are required whenever the employee reports, or the employer, PLHCP, supervisor, or program administrator makes visual observations of, changes in the employee's physical condition that could affect respirator fit. Such conditions include, but are not limited to, facial scarring, dental changes, cosmetic surgery, or an obvious change in body weight.

10) How do you fit SCBA or positive pressure respirators?

Response: Paragraph 1910.134(f)(8) states that fit testing of tight fitting atmosphere-supplying respirators and tight fitting powered air-purifying respirators shall be accomplished by performing quantitative or qualitative fit testing in the negative pressure mode.

If you need additional information or have further questions, please give me a call at 804-786-0574.

Sincerely,
Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director

From: Clarence Wheeling
To: Ryan Evans
Date: Thu, Apr 10, 2003 7:41 AM
Subject: Re: Clarification on Mercury Regulations

Mr. Evans,

In response to your request for clarification of the PEL for Mercury, the OSHA PEL is applied equally to males and females. The only clarification to the mercury PEL is that it is a time weighted average (TWA) and not a ceiling level. See:

http://osha.gov/pls/oshaweb/owadisp.show_document?p_table=INTERPRETATIONS&p_id=23866&p_text_version=FALSE

If there is any indication that an employee is exposed to any chemical, the employer should evaluate the exposure. However, unless there are specific requirements such as those included in the vertical standards, e.g., Asbestos, Lead, Cadmium, the employer is not specifically required to monitor exposure levels.

Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director
Virginia Department of Labor & Industry
13 S. Thirteenth St.
Richmond, VA 23219
Tel: 804-786-0574
Fax: 804-371-7634
email: chw@doli.state.va.us

>>> "Ryan Evans" <ryan@aircycle.com> 04/09/03 11:37AM >>>

Dr. Clarence Wheeling
Health Compliance Director
Virginia Department of Labor and Industry
CHW@doli.state.va.us

Greetings Dr. Wheeling,

My name is Ryan Evans, and as you may or may not recall, we spoke on the phone this past Friday afternoon, April 4th. As I mentioned in that conversation, I am in need of clarification regarding certain provisions of the regulations governing mercury exposure. You had mentioned that if I sent an e-mail delineating my inquiries, that you would be so kind as to offer a written reply. I am thus including in this e-mail the specific points which I would like to have clarified.

My questions are as follows:

- 1) With respect to the Personal Exposure Limit for mercury of .1 mg/m³ as an eight hour time weighted average (See: 29 CFR 1910.1000); does this P.E.L. apply equally to both male and female workers? I am particularly looking for clarification that the .1 P.E.L. is intended to apply to all workers, regardless of gender. In the event that there are different P.E.L. standards for men and women, I would greatly appreciate an explanation with reference to the applicable regulations where that distinction can be found.
- 2) I am also interested in receiving clarification on under what circumstances, if any, there must be monitoring of employee exposure to mercury to ensure the P.E.L. is not exceeded.

Many thanks in advance for your clarification of these two issues.

Please forward a reply to my attention, using the contact information below.

Sincerely,
Ryan L. Evans
AirCycle
2000 S. 25th Avenue
Suite C
Broadview, IL 60155
ryan@AirCycle.com

From: Clarence Wheeling
To: Edwin_Rodriguez@amr-ems.com
Date: 1/29/03 2:39PM
Subject: Re: Fwd: Medical Evaluation - Respiratory 1910.134

The only exemptions from medical evaluations in the Respirator Standard (1910.134) are the voluntary use of filtering facepiece respirators and the use of escape only respirators.

If you have further questions or need additional information, please feel free to contact this office.

Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director
Virginia Department of Labor & Industry
13 S. Thirteenth St.
Richmond, VA 23219
Tel: 804-786-0574
Fax: 804-371-7634
email: chw@doli.state.va.us

>>> Glenn Cox 01/29/03 02:28PM >>>

For you

>>> "Rodriguez, Edwin" <Edwin_Rodriguez@amr-ems.com> 01/29/03 12:00PM >>>

PAPR are we required to have individuals to have a medical examination for this type of respirator (Hooded).
Thxs for the help.

CC: Glenn Cox

From: Clarence Wheeling
To: Borowiec@aol.com
Date: Wed, Apr 2, 2003 7:05 AM
Subject: Re: Compliance

John,

Below you will find a copy of the Sanitation standard 1910.141 that applies to the required number of restroom facilities. This standard has been adopted in Virginia and is identical to the Federal standard. If you have further questions or need additional information, please feel free to contact this office. Additionally, you may visit the Federal OSHA website www.osha.gov.

Clarence Wheeling

1910.141(c)(1)(i) - Except as otherwise indicated in this paragraph (c)(1)(i), toilet facilities, in toilet rooms separate for each sex, shall be provided in all places of employment in accordance with table J-1 of this section. The number of facilities to be provided for each sex shall be based on the number of employees of that sex for whom the facilities are furnished. Where toilet rooms will be occupied by no more than one person at a time, can be locked from the inside, and contain at least one water closet, separate toilet rooms for each sex need not be provided. Where such single-occupancy rooms have more than one toilet facility, only one such facility in each toilet room shall be counted for the purpose of table J-1.

TABLE J-1

Number of employees	Minimum number of water closets (1)
1 to 15	1
16 to 35	2
36 to 55	3
56 to 80	4
81 to 110	5
111 to 150	6
Over 150	(2)

Footnote (1) Where toilet facilities will not be used by women, urinals may be provided instead of water closets, except that the number of water closets in such cases shall not be reduced to less than 2/3 of the minimum specified.

Footnote (2) 1 additional fixture for each additional 40 employees.

Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director
Virginia Department of Labor & Industry
13 S. Thirteenth St.
Richmond, VA 23219
Tel: 804-786-0574
Fax: 804-371-7634
email: chw@doli.state.va.us

>>> <Borowiec@aol.com> 04/01/03 06:25PM >>>

Hello,

I tried contacting the Fed Osha about this matter, but they forwarded me to you. I am wondering if there is a minimum number of restroom facilities for a given number of employees? If it matters, this is a facility that houses a federal (State Dept.) contract but is not federally-owned. It resides in Loudon County.

Any help would be appreciated, thanks.

-John

From: Clarence Wheeling
To: Susan Hollander
Date: Wed, Jan 22, 2003 9:26 AM
Subject: Re: Biohazardous Waste

The Virginia Department of Labor and Industry operates the Virginia Occupational Safety and Health (VOSH) program in Virginia. The Safety and Health Codes Board has adopted the identical Federal OSHA Bloodborne Pathogen standard 1910.1030. We also use any interpretations that OSHA issues on this standard. You may access this information on OSHA's website www.osha.gov

In Virginia, the Department of Environmental Quality (DEQ) is the agency responsible for the environmental regulations which include the disposal of waste. Attached is the DEQ website which contains regulations regarding the disposal of biological waste. <http://www.deq.state.va.us/waste/wastereg120.html> .

If you have any questions regarding waste disposal, you should contact DEQ. If you have any questions on the Bloodborne Pathogen Standard, please feel free to contact this office.

Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director
Virginia Department of Labor & Industry
13 S. Thirteenth St.
Richmond, VA 23219
Tel: 804-786-0574
Fax: 804-371-7634
email: chw@doli.state.va.us

>>> "Susan Hollander" <shollander@triad.rr.com> 01/19/03 10:43AM >>>

Does the state of Virginia define "biohazardous waste" more specifically or differently than OSHA? For example, some states consider IV bags without any contact with the patient biohazardous waste, yet other states do not consider any special disposal for it than general trash. If you could refer me to anything specific on a website, I would appreciate it. Thank you.

Susan R. Hollander
Senior Vice President, Operations
Aspen Healthcare, Inc.
303-249-2388 (mobile)
336-449-5021 (office/fax)
shollander@aspenhc.com

September 4, 2002

Scott B. Cormier
John Randolph Medical Center
P.O. Box 971
Hopewell, VA 23860

Dear Mr. Cormier:

This letter is in response to your request for interpretation of the OSHA standards 1910.134 and 1910.120. Your questions regarding respirator use are as follows:

Question 1: Is every employee required to have a pulmonary function test? Our employees would be wearing either an N-95 respirator or a loose fitting PAPR.

Answer: The respirator standard 1910.134(e) requires medical evaluations when respirators are worn that may place a physiological burden on the employee. This evaluation must be completed before fit-testing of the respirator. Medical evaluation procedures are given in paragraphs 1910.134(e)(2) through 1910.134(e)(7). The employer is required to identify a physician or other licensed health care professional (PLHCP) to perform medical evaluations using a medical questionnaire or an initial examination that obtains the same information as the questionnaire. Under these procedures, it is the PLHCP's responsibility to include any tests necessary to make a final determination on the employee's ability to wear a respirator.

Question 2: Is the employee health physician(or designate) responsible for completing 1910.134(App C) in its entirety if the employee is only wearing an N-95 respirator or a loose fitting PAPR.

Answer: Paragraph 1901.134(e)(4) discusses the Administration of the questionnaire and examinations. The requirements are that the questionnaire and examination be administered confidentially and during business hours and at a time and place, convenient to the employee. As discussed above, if the employer determines that they will provide examinations in lieu of questionnaires, the PLHCP shall obtain the same information as the questionnaire.

Your questions regarding the Hazardous Waste Operations and Emergency Response standards (1910.120) are as follows:

Question 1: OSHA standard 1910.120(q)(6)(i) describes competencies for first responders awareness training, but does not mention a minimum hour requirement. Is there a minimum hour requirement for awareness training?

Answer: First responder awareness level has no minimum time attached to the training. They must have sufficient training or have had sufficient experience to objectively demonstrate competency in specific topics listed in 1910.120(q)(6)(i).

Question 2: OSHA Standard 1910.120(q)(6)(ii) describes competencies for first responder operations training, with a minimum requirement of 8 hours. Is a training course that combines the first responder awareness and first responder operations competencies in 8 hours acceptable?

Answer: Training at the first responder operations level would qualify that individual to perform the duties of the awareness level, which is primarily limited to notifying the authorities of an emergency response incident.

Question 3: Is there a minimum competency or hour requirement for refresher training?

Answer: Paragraph 1910.120(q)(8) does not have a specified hourly requirement. It does state that refresher training shall be of sufficient content and duration to maintain their competencies, or shall demonstrate competency in those areas at least yearly.

I hope this information is useful and if you have further questions or need additional information please feel free to contact me at 804-786-0574.

Very truly yours,
Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director

From: Clarence Wheeling
To: rwerner@equinix.com
Date: Fri, Jan 24, 2003 9:36 AM
Subject: Fwd: RE: First Aid Kit Locations

Mr. Werner,

I have reviewed the First Aid Standard and discussed your question with Federal OSHA. Based on this information, I do not believe there is a violation of the Virginia Occupational Safety and Health standards for simply keeping the First Aid kit in the kitchen area.

My main area of concern would be the site where first aid is administered and if people eating in that area could be exposed to blood. An employee eating in near proximity to an area where blood is present would not be an acceptable condition.

I hope this information is helpful and if you have further questions, please feel free to contact this office.

Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director
Virginia Department of Labor & Industry
13 S. Thirteenth St.
Richmond, VA 23219
Tel: 804-786-0574
Fax: 804-371-7634
email: chw@doli.state.va.us

>>> Nancy Jakubec 01/16/03 02:43PM >>>

Heard anything about this?

>>> Rich Werner <rwerner@equinix.com> 01/16/03 10:56AM >>>

Ms. Jakubec

Good Morning.

Equinix is located in Ashburn, VA. We are Internet data centers across the US and Pacific Rim. We have a very active Health and Safety program across our centers and recently came across an article in the Supervisors Safety Bulletin published by Progressive Business Publications of Malvern, PA that caused a great deal of discussion during our Safety Meeting. In the November 14, 2002 issue, an article stated that a company was fined by OSHA for having their First Aid kit located in a kitchen area where people occasionally ate their lunch. The contention was that there is a risk of food contamination from bodily fluids by having the First Aid station located in the kitchen. In Equinix-Ashburn, as well as most of our sites, we have kitchen areas that have a refrigerator, microwave and toaster oven where food is prepared but is not eaten in the room as there are not any tables and chairs. We have located our First Aid kits in these kitchen areas.

Are we compliant? or do we need to move the First Aid station?

My concern is that I could move the First Aid station, but I can't control where people eat their food. We are a 7 x 24 company. Seeking guidance on this. I did consult our First Aid Station supplier, Zee Medical, and the 29CFR OSHA 1910 General Industry regulations.

Thank you.

Rich Werner
Director
Equinix Campus
Ashburn, VA IBX
(703)726-2601

February 11, 1998

Lynn Sauebrunn
994D John Rolfe Drive
Smithfield, VA 23430

Dear Ms. Sauebrunn;

I am writing in response to your request for an interpretation regarding the use of a Self Contained Breathing Apparatus (SCBA) respirator. Your question was whether one person using this device could be left by themselves, without other support.

These devices are generally worn in Immediately Dangerous to Life and Health (IDLH) atmospheres and under these conditions do require that rescue personnel be available in case of an emergency. If you would like to provide me with the specific details regarding the use of these respirators, I would certainly try to give you a more exact answer to your question.

Additionally, the Virginia Safety and Health Codes Board recently adopted a new Respirator Standard (1910.134), which goes into much greater detail regarding the use of SCBAs and IDLH atmospheres. The proposed effective date of this standard is June 1, 1998. If you would like a copy of this standard, please let me know or you can obtain a copy from Federal OSHA's Internet site (www.osha.gov). If you need additional information or have further questions, please give me a call at 804-786-0574 or e-mail me at clarencwheeling@doli.state.va.us.

Sincerely,
Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director

From: Clarence Wheeling
To: Sparkledoggie@aol.com
Date: Fri, Feb 28, 2003 8:24 AM
Subject: Re: first aid

Paragraph 1910.151(b) simply states that "Adequate first aid supplies shall be readily available". There is some guidance information in the 1910.151 Appendix A regarding the contents of first aid kit etc. The general guidance would be to consult with a healthcare provider or local emergency response unit and determine the types and severity of possible accidents in your facility and then follow their recommendations.

Below you will find a Federal OSHA interpretation from their website related to the requirements of first aid.

http://osha.gov/pls/oshaweb/owadisp.show_document?p_table=INTERPRETATIONS&p_id=24118&p_text_version=FALSE

I hope this information is helpful. If you have further questions, please feel free to contact this office.

Clarence Wheeling

Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director
Virginia Department of Labor & Industry
13 S. Thirteenth St.
Richmond, VA 23219
Tel: 804-786-0574
Fax: 804-371-7634
email: chw@doli.state.va.us

>>> <Sparkledoggie@aol.com> 02/23/03 11:40AM >>>

What type of first aid kits, equipment or provisions are required by Virginia law for businesses?

June 18, 1998

Bryan D. Hill
Public Health Corps, Inc.
Post Office Box 39253
Greensboro, North Carolina 27438-9253

Dear Mr. Hill:

I am writing in regard to your request for interpretation on the use of tagging guns in the apparel industry and the hazards associated with the use of these devices. Specifically, your questions were as follows:

1) Can OSHA impose fines on companies who use tagging guns but do not decontaminate the hollow bore needles? (In addition to listing the four protection measures please also note in your response the fact that the inside/outside and the metal rod that move back and forth within the hollow bore of the needle must be addressed and that wipes and sprays will not effectively accomplish this.)

Response: Failure to decontaminate or dispose of sharps that have been exposed to infectious materials covered by the Bloodborne Pathogen Standard (1910.1030) could result in a citation for failure to comply with this standard. Citations of this nature would probably be classified as serious which requires a monetary penalty. Whenever it is reasonably anticipated that employees may be exposed to bloodborne pathogens, the employer must establish a complete bloodborne pathogen program as required by 1910.1030. Methods of eliminating employee exposure could include either, issuing each employee their own tagging gun or establishing a decontamination program if the guns are shared by employees. As you noted in your question, all contaminated parts of the tagging gun would need to be decontaminated, to eliminate employee exposure.

2) Can alcohol be used to decontaminate these needles?

Response: In accordance with guidance from the Centers for Disease Control and Prevention (CDC), whenever reusable sharps have penetrated the skin or have otherwise had contact with blood, they must be disinfected with a disinfectant capable of killing the hepatitis B virus, i.e., a tuberculocidal disinfectant. Although alcohol may be sufficient to kill the human immunodeficiency virus (HIV), it is not effective against the more virulent hepatitis B virus.

If you need additional information or have further questions, please give me a call at 804-786-0574.

Sincerely,
Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director

From: Clarence Wheeling
To: Patricia.Ackiss@absfirst.com
Date: Wed, Oct 23, 2002 1:25 PM
Subject: Red bags

Ms. Ackiss,

There is no specific list of items that would be considered regulated waste under the Bloodborne Pathogen Standard (1910.1030). I would refer you back to the regulation and the definition of regulated waste. There are also several interpretations on the OSHA website www.osha.gov that provide information on the subject of regulated waste.

You may also wish to visit the Department of Environmental Quality website <http://www.deq.state.va.us/>, since that Department has regulations covering the disposal of biological waste.

I hope this information is of assistance. If you have further questions, or need additional information, please feel free to contact this office.

Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director
Virginia Department of Labor & Industry
13 S. Thirteenth St.
Richmond, VA 23219
Tel: 804-786-0574
Fax: 804-371-7634
email: chw@doli.state.va.us

>>> "Ackiss, Patricia" <Patricia.Ackiss@absfirst.com> 10/16/02 04:08PM >>>

Our facility is residential. I have a question from Housekeeping: Is there a list of items that are contaminated that must be placed in red bags? I am referring to sheets, clothes, etc... that may have blood, urine, or other bodily fluids on them. I have searched the website and the OSHA website but cannot find a specific list.

Patsy Ackiss, Administrative Assistant
QMS Department
The Pines * Crawford Campus
825 Crawford Parkway * Portsmouth, VA 23704
Phone (757) 391-6744 * Fax (757) 391-6738

From: Clarence Wheeling
To: Hakan.Dagli@Mjh.org
Date: Wed, Nov 13, 2002 11:12 AM
Subject: Re: Fwd: Compliance

Dr. Dagli:

In your letter you did not say whether your company is a partnership or a corporation. In either case, both you and the other physician would be considered employees for OSHA purposes. While your medical training would probably meet most training requirements under the Bloodborne Pathogen Standard, your business is required to have all programs that are related to your business. Depending on the activities in your practice, Pantops Family Medicine would at least be required to have a Hazard Communication program and a Bloodborne Pathogen Exposure Control plan.

Even though you state that your employees are leased from a local hospital, generally you will be considered as their employer. This means that while the hospital may provide some training, you would be held responsible for any training related to your company, e.g. location of programs, records required by any of these standards. Additionally, the Bloodborne Pathogen standard now contains requirements from the Needlestick Safety and Prevention Act. This means that you must review and implement safer needle devices. It also requires that employees have input into this review process. For additional information on these and other OSHA related matters, I would recommend visiting the OSHA website www.osha.gov.

I hope this information is helpful and if you have further questions, please feel free to contact this office.

Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director
Virginia Department of Labor & Industry
13 S. Thirteenth St.
Richmond, VA 23219
Tel: 804-786-0574
Fax: 804-371-7634
email: chw@doli.state.va.us

>>> Glenn Cox 11/12/02 09:06AM >>>

>>> <Hakan.Dagli@Mjh.org> 11/12/02 08:54AM >>>

Dear Mr. Cox:

I am one of two family physicians who has recently opened a family medicine clinic in Virginia. All our employees (2 receptionists and 2 nurses) are leased through a local hospital and they have appropriate OSHA training prior to starting through the hospital. My question is: Do I and my partner have to have training as well to be in compliance with regulations? I am having a difficult time finding the answers to this question considering we are the owners of the company and not employees.

I am also interested in finding out about any and all other compliance issues such as worksite safety, self inspections and record keeping.

Thank you for your time,

Hakan A. Dagli, M.D.

Pantops Family Medicine
215 Wayles Lane, Suite 150
Charlottesville, Va. 22911
(434) 979-4440

CC: Glenn Cox

From: Clarence Wheeling
To: Bill McKeldin
Date: Mon, Jan 6, 2003 1:39 PM
Subject: Re: VOSH REPORTING REQUIREMENTS

Mr. McKeldin,

The Virginia Department of Labor and Industry administers the occupational safety and health regulations in Virginia through the Virginia Occupational Safety and Health(VOSH) program. VOSH has adopted a Federal OSHA identical Hazard Communication Standard(1910.1200). For copies of this regulation and enforcement guidance you can visit the OSHA website www.osha.gov For a copy of any required posters in Virginia, please this department's website www.doli.state.va.us .

For environmental requirements in Virginia, I recommend that you contact the Virginia Department of Environmental Quality's website www.deq.state.va.us .

I hope this information is of assistance and if you have further questions, please feel free to contact this office.

Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director
Virginia Department of Labor & Industry
13 S. Thirteenth St.
Richmond, VA 23219
Tel: 804-786-0574
Fax: 804-371-7634
email: chw@doli.state.va.us

>>> "Bill McKeldin" <wmckeld@mileone.com> 12/30/02 12:14PM >>>

Sir:

I am the Loss Control Manager for a large Maryland based auto sales and service corporation. We also have one store presently in Virginia. I am writing a corporate policy for my company on "Employee Right To Know" which covers the posting of specific Federal and State informational posters and chemicals in the work place. In Maryland there is law requiring that we must MSDS manuals for all of our auto service locations and, in addition, the Maryland Department of Environment (MDE) requires that a Chemical Information List (CIL) be completed to mirror the chemicals in the MSDS manual. MDE also requires that the CIL be updated every two years and that a copy be provided to the MDE.

Is there a similar reporting requirement for CIL in the Commonwealth of Virginia?

I would appreciate your assistance in this matter.

Thank you,

William McKeldin
Loss Control Manager
Atlantic Automotive
Baltimore, Maryland
410-602-6177 ext. 3104

From: Clarence Wheeling
To: hollandd@southsideccjb.com
Date: Thu, Nov 7, 2002 8:57 AM
Subject: Re: Fwd: Red Hazardous Waste Bags

Mr. Holland,

Urine is not generally covered under the Bloodborne Pathogen Standard(1901.1030) unless there is visible blood present. You may refer to the definition of "Other Potentially Infectious Materials" in the standard. For additional material on the above standard, I recommend visiting the OSHA website www.osha.gov .

Additionally, the Virginia Department of Environmental Quality(DEQ) regulates the disposal of medical waste. Regarding your question, disposal of used urine testing containers is not covered by the medical waste regulations. I recommend that you visit the DEQ website <http://www.deq.state.va.us/waste/wastereg120.html> for more information on the disposal of medical waste in Virginia.

I hope this information is helpful and if you have further questions, please feel free to contact this office.

Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director
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>>> "Southside CCB" <hollandd@southsideccjb.com> 11/05/02 01:40PM >>>

Mr. Cox:

This office does urine samples for drug/alcohol purposes of defendants. What are the Virginia state guidelines for disposal of urine testing containers? Are red hazardous waste bags necessary?

We have read the United States guidelines regarding disposal of such containers and understand we have to follow the state guidelines.

Please inform at your earliest convenience. You can either e-mail at this address or telephone myself or Susan Conwell at (434) 348-1035. Thank you.

Dave Holland

CC: Glenn Cox

From: Clarence Wheeling
To: Hakan.Dagli@Mjh.org
Date: Mon, Jan 6, 2003 1:55 PM
Subject: Re: MSDS requirements

Dr. Dagli,

The Virginia Occupational Safety and Health(VOSH) program has adopted the federal identical OSHA Hazard Communication Standard(1910.1200). VOSH follows all guidance and interpretations issued by Federal OSHA. For specific guidance, I recommend visiting the OSHA website www.osha.gov .

For specific guidance and interpretations of the HAZCOM standard and medicines, I recommend you visit the following site
http://osha.gov/pls/oshaweb/owasrch.search_form?p_doc_type=INTERPRETATIONS&p_toc_level=0&p_key_value . Then type in "medicine and MSDS" in the search block.

As you will see in the interpretations, 1910.1200(b)(6)(vii) pertains to solid drugs in their final form and for direct administration to patients. Also the interpretations place the responsibility for hazard determination on the manufacturer.

I hope this information is of assistance to you and if you have further questions, please feel free to contact this office.

Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director
Virginia Department of Labor & Industry
13 S. Thirteenth St.
Richmond, VA 23219
Tel: 804-786-0574
Fax: 804-371-7634
email: chw@doli.state.va.us

>>> <Hakan.Dagli@Mjh.org> 12/30/02 09:28AM >>>

Dr. Wheeling:

Sorry to email you about this (please forward to the correct person if needed).

Under section 1910.1200 (B)(6) (Vii), would my family medicine clinic need MSDS sheets on single dose intended for patient use of liquid injectable medication bottled by manufacturer (such as Promethazine, Rocephen (antibiotic), Hep B vaccine, epinepharine, depo Medrol (IM injection birth control)? Normal Saline?

what about multidose vials such as Lidocaine anesthetic?

what about liquid wound cleansers such as Betadine and phisoHex?

what about Eye wash solution?

Again, I am sorry to bother you. If there is someone else I should contact with a future question could you please pass their contact info to me.

Happy Holidays,

Hakan A. Dagli, M.D.

Pantops Family Medicine
215 Wayles Lane, Suite 150
Charlottesville, Va. 22911
(434) 979-4440

July 9, 2002

Robert J. Gribben
Safety Consulting Services, Inc.
P.O. Box 13968
Roanoke, VA 24038

Dear Mr. Gribben:

I am writing in response to your request for clarification of the General Industry standard, "Occupational Exposure to Hazardous Chemicals in Laboratories - 1910.1450".

Specifically your questions were:

1. Are laboratories in colleges and universities which are used by the professors to teach students and/or for research purposes considered laboratories under the above referenced standard?

Answer: Academic laboratories, both for teaching purposes and research, are within the scope of the Laboratory Standard. Federal OSHA has determined that operations that meet the definition of "laboratory scale" and "laboratory use" are covered by the standard. The main laboratories exempt from this standard are QC/QA laboratories in manufacturing establishments.

2. If the above is true, are students covered even though they are not "employees" by definition?

Answer: The Virginia Occupational Safety and Health regulations are only applicable to situations involving an employer-employee relationship, therefore, students that are not employed by the institution would not be covered by this standard.

3. Likewise are graduate students who utilize the laboratory for thesis research, but who are not "paid" as "employees" covered?

Answer: Graduate students that are not paid would not be covered by the standard.

I hope this information is useful and if you have further questions or need additional information please feel free to contact me at 804-786-0574.

Very truly yours,

Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director

From: Clarence Wheeling
To: BARBARARUDICH@aol.com
Date: Tue, Nov 19, 2002 8:24 AM
Subject: Re: Fwd: Internet Inquiry

Thank you for your inquiry. The Virginia Occupational Safety and Health program is responsible for administering the OSHA program in Virginia. One of these regulations is the Bloodborne Pathogen Standard (1910.1030). This standard requires containing "regulated waste materials", as defined in the standard, in a labeled container depending on the nature of the waste. Where these materials are actually disposed of is the responsibility of the Department of Environmental Quality (DEQ). Information of DEQ's medical waste regulations can be found on their website: <http://www.deq.state.va.us/waste/wastereg120.html> .

I hope this information is helpful. If you have further questions or need additional information, please feel free to contact this office.

Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director
Virginia Department of Labor & Industry
13 S. Thirteenth St.
Richmond, VA 23219
Tel: 804-786-0574
Fax: 804-371-7634
email: chw@doli.state.va.us

>>> <BARBARARUDICH@aol.com> 11/18/02 03:30PM >>>

I AM CURRENTLY TAKING A CPR/ FIRST AID THROUGH STAFFORD COUNTY SCHOOLS WOULD LIKE SOME UNFORMATION WHERE YOU DISPOSE OF WASTE AND SOME OF THE QUICK GLANCE CARDS. THANK YOU IN ADVANCE

SINCERELY

From: Clarence Wheeling
To: KOtero@saraleecoffee.com
Date: Thu, Jan 16, 2003 2:28 PM
Subject: Re: Fwd: MSDS sheets

Ms. Otero,

Question 1) Do we have to, or should we file "articles" that are exempted from HazCom standard (ex. lamps)

Answer: If an item meets the definition of an "article" it is exempt from the requirements of the Hazard Communication Standard (1910.1200).

Question2) If there is a chemical that is slightly different due to dyes, do we have to label each one?

Answer: This question depends on several factors such as, whether the product is used in-house and the generic properties of the chemicals. I would need more information before I could answer the specific question. Guidance on labeling and other Hazard Communication issues can be found in the OSHA Compliance Directive CPL 2-2.328D. This document can be found on the Federal OSHA website www.osha.gov.

If you have further questions or need additional information, please feel free to contact this office,

Clarence H. Wheeling, Ph.D.
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email: chw@doli.state.va.us

>>> Glenn Cox 01/15/03 09:22AM >>>

>>> "Otero, Karen" <KOtero@saraleecoffee.com> 01/14/03 04:31PM >>>

Hello,

I have a question in regards to M.S.D.S. sheets. We are reorganizing ours, and would like to know the following:

- 1) Do we have to, or should we file "articles" that are exempted from HazCom standard (ex. lamps)
- 2) If there is a chemical that is slightly different due to dyes, do we have to label each one?

Thank you
Karen A. Otero

From: Clarence Wheeling
To: Hickey, Barry
Date: 3/10/03 10:48 AM
Subject: Re: Protective clothing in construction industry

I have attached a copy of an interpretation from the Federal OSHA website www.osha.gov pertaining to this issue. The practice of wearing short pants depends upon the nature of the work and whether this practice would create a safety hazard.

I hope this is helpful. If you have further questions, please feel free to contact this office.

Clarence Wheeling

April 17, 1997

MEMORANDUM FOR: REGIONAL ADMINISTRATORS STATE DESIGNEES

FROM: FRANK STRASHEIM
Acting Deputy Assistant Secretary

SUBJECT: Citations for the wearing of short pants by employees engaged in hot tar and asphalt construction work

In response to concerns raised by the Senate Appropriations Committee, OSHA has reviewed its enforcement policy regarding the standard on personal protective equipment (PPE) in the construction industry and the hazards arising from employees wearing short pants during hot tar and asphalt construction activities. The committee has expressed concern that the agency may apply the standard without taking into account the risk that may be imposed by literal compliance with the standard. The standard that has sometimes been cited for violations relating to the use of PPE, including protective clothing, is 29 CFR 1926.28(a). Federal citation policy issued some time ago, however, is that the use of appropriate PPE be governed by 29 CFR 1926.95(a) rather than 1926.28(a).

As you know, 1926.95(a) requires protective equipment to be worn "whenever it is necessary by reason of hazards...." Thus, where employees are exposed to the hazard of hot tar or asphalt getting on their skin and burning them while doing work on a road surface, it is appropriate that proper skin covering be worn to provide protection. While the standard does not specify any particular kind of protection, such as long pants, employers do have the responsibility to decide which workers are exposed to the hazard and thus require protective clothing and which methods should be used to comply with the standard.

Other factors may exist, however, which would pose a greater safety or health hazard than that of being burned by hot tar or asphalt. In such cases a citation of the PPE standard for lack of skin protection may not be appropriate. Naturally, workers at the site who are not exposed to the hazard of hot tar or asphalt coming into contact with their skin would not be required by the regulation to wear any kind of PPE intended to provide protection against that danger.

To ensure consistency in the future application of 1926.95(a), compliance officers shall be instructed to carefully balance the need for personal protective clothing, such as long pants, during hot tar and asphalt operations against the need for clothing that is appropriate for severe environmental conditions such as extremely warm weather.

Clarence H. Wheeling, Ph.D.
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>>> "Hickey, Barry" <Barry.Hickey@FairfaxCounty.gov> 03/10/03 10:37AM >>>

I am looking for information regarding protective clothing required in the construction industry, particularly the wearing of shorts (short pants).

Can you direct me to the appropriate regulations?

Thanks in advance.

Barry J. Hickey
Planning Support Branch
Planning and Design Division
Department of Public Works and Environmental Services
County of Fairfax VA
(703) 324-5804
e-mail Barry.Hickey@co.fairfax.va.us

CC: Glenn Cox

From: Clarence Wheeling
To: MICHAEL SHARP
Date: 3/27/03 6:37AM
Subject: Re: Decapping and Recapping of Blood collection Tubes

Mr. Sharp,

After reviewing the Bloodborne Pathogen Standard and the Federal OSHA online interpretations (www.osha.gov), I was unable to find a specific reference to your question. During discussions with several occupational health specialists and a Federal OSHA representative, the consensus was that while there is no explicit prohibition of recapping the tubes in the Bloodborne Standard (1910.1030), the practice of recapping blood tubes with the original cap would certainly not be recommended. This practice would certainly introduce additional opportunities for employees to come in contact with potentially infectious material.

I would recommend looking into alternative methods of recapping that are in accordance with professional clinical laboratory guidelines.

I hope this information is helpful. If you have further questions, please feel free to contact this office.

Clarence Wheeling

Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director
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email: chw@doli.state.va.us

>>> MICHAEL SHARP <MSHARP@RHCC.com> 03/25/03 04:14PM >>>

Mr. Wheeling,

I am currently working as a department supervisor at Rockingham Memorial Hospital and would like to know if VOSH has a standard addressing the Decapping and recapping of blood tubes. I have had staff members question

whether we should discard the original cap once it is removed and replace it with a new one once the tube has come off the instruments. We provide shields to Decap the specimens under and it is my feeling that these contaminated caps should be discarded once removed. I would like to Thank You in advance for any help you may be able to provide concerning this.

Sincerely,
Michael L. Sharp, MT (ASCP)

From: Clarence Wheeling
To: KMiller890@aol.com
Date: Wed, Mar 5, 2003 7:35 AM
Subject: Re: Fwd: OSHA/HIPAA?'s

Regarding the OSHA Bloodborne Pathogen Standard (1910.1030) requirements, the Virginia Occupational Safety and Health program has adopted the identical standard and follows the identical enforcement guidelines and interpretations. Information on this standard can be found on the OSHA website www.osha.gov. On the right-hand side of the homepage you will see standards, interpretations and directives. The Bloodborne Pathogen compliance directive is CPL 2-2.69.

Paragraph (1910.1030(f)(3) deals with post-exposure evaluation, including the consent issue.

Attached is the website for the Virginia Code Commission which contains all of the laws and regulations in Virginia <http://leg1.state.va.us/000/src.htm>. You can do any search you wish under this site such as blood, HIV, consent etc. There are a couple references under 32.1-45.1, which cover the issue of deemed consent for health care providers and 32-1-45.2 which covers protections for public emergency response personnel. These references are not under the jurisdiction of the Department of Labor and Industry.

If you have further questions or need additional information, please feel free to contact this office.

Clarence Wheeling

Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director
Virginia Department of Labor & Industry
13 S. Thirteenth St.
Richmond, VA 23219
Tel: 804-786-0574
Fax: 804-371-7634
email: chw@doli.state.va.us

>>> Nenette Alfonte 03/04/03 09:40AM >>>

Can any of you answer the following questions for me? I appreciate it.

Thanks,
Nenette

>>> <KMiller890@aol.com> 03/04/03 09:02AM >>>

We have done our yearly OSHA compliance training seminar and a question about consent came up. How are the VA privacy and consent regulations different from Federal? Is there a document of VA requirements for OSHA/HIPAA?

Where do I locate overall VA rules for consent, privacy, OSHA etc.? DO they differ from Federal?

A specific question was in the case of an exposure incident with a needle stick are you required to get consent from the patient to test their blood for HIV and HBV? If so does consent need to be in writing? Is there a VA document that explains this?

Also, along the lines of privacy falling under HIPAA where are VA's rules?

Thanks
K. Miller

CC: Glenn Cox; Nancy Jakubec; Nenette Alfonte

November 21, 2001

Glenn Smith
Glenn Smith Associates, Inc
3310 Nuttree Woods Place
Midlothian, VA 23112

Dear Mr. Smith:

I am writing in response to your letter to Mr. Warren Rice requesting an interpretation of the Hazard Communication Standard and its application to steel shot manufactured from recycled scrap steel. Generally, the only requirement that the Hazard Communication Standard (1910.1200) places on the non-manufacturing scrap dealers is that they send their downstream users those labels and MSDSs received from employers who have scrapped the materials. For additional information on this topic, I would recommend that you visit the Federal OSHA website www.osha.gov. The OSHA compliance directive CPL 2-2.38D contains more information about the MSDS requirements of scrap dealers in Appendix A. Additionally, OSHA has issued several letters of interpretation regarding the above subject.

I hope this information is helpful and if you have further questions or need additional information, please feel free to contact this office.

Sincerely,
Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director

Cc: Warren Rice

February 11, 1998

W.E. Stader
Safety Consulting Services, Inc.
25 Franklin RD.
Roanoke, Virginia 24011

Dear Mr. Stader;

I apologize for the delay in responding to your request for interpretation of the asbestos and lead standards. As we discussed on the phone, both EPA and Local Building regulations require an inspection for asbestos

containing material prior to any renovation work and OSHA regulations require the owner to provide this information to the contractor. While this information does not have to be in writing, I would recommend obtaining it in writing whenever possible. Based on this information, the contractor could accept these results and not be required to conduct additional testing, assuming the results are negative. If during the construction, the contractor discovers questionable material that has not been tested, then additional testing should be done immediately.

The regulatory requirements for lead are quite different from asbestos. First, there are no requirements that building owners must have the building inspected for lead containing material prior to renovation. Second, all requirements for testing and evaluating the workplace for lead hazards are the responsibility of the employer and not the building owner.

If you need additional information or have further questions, please give me a call at 804-786-0574.

Sincerely,

Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director

From: Clarence Wheeling
To: Crocker.Charles
Date: Tue, Dec 17, 2002 10:27 AM
Subject: Re: Asbestos

Mr. Crocker,

The highlighted Virginia Administrative Codes in your e-mail are regulations adopted by the Virginia Department of Professional and Occupational Regulation (DPOR). DPOR is the state agency assigned the responsibility for licensing all professions in Virginia. Any questions regarding licensure should be directed to <http://www.state.va.us/dpor/indexie.html>.

Since Virginia is an OSHA state plan state, the Virginia Occupational Safety and Health program is responsible for regulating safety and health in the workplace. The Virginia Safety and Health Codes Board has adopted the Federal identical OSHA Asbestos standard for Construction(1926.1101).

All training requirements for Class III activity as well as the Competent Person training requirements are included in the OSHA standard 1926.1101(k)(9)(v) and 1926.1101(o)(1-4).

I would recommend that you visit the Federal OSHA website www.osha.gov for additional information on this and other standards. Specifically, I would direct you to <http://osha.gov/comp-links.html> for information on interpretations and compliance directives. If you need further information on this issue please feel free to contact this office.

Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director
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13 S. Thirteenth St.
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email: chw@doli.state.va.us

>>> "Crocker.Charles" <Crocker.Charles@burlington.com> 12/16/02 05:07PM >>>

I would like some guidance concerning asbestos compliance training for a General Industry employer (a manufacturer that has ACM in the facility on pipe insulation, floor tiles, surfacing materials, etc.) who wishes to develop an Asbestos Operations and Maintenance Plan within the following broad guidelines:

1. All Class I and II asbestos work will be contracted to licensed asbestos abatement contractors.
2. The employer's employees will perform Class III and IV asbestos work, but in no case will an employee perform more than 30 days of class III work during a year.

Considering both the OSHA requirements and the Virginia Administrative Code requirements found at the following website: <http://leg1.state.va.us/cgi-bin/legp504.exe?000+reg+18VAC15-20-10>, I think it is clear that employees performing asbestos work for their employer would not be required to be licensed. But, the final statement in the VAC which reads as follows is what I would like guidance on:

Employees who conduct asbestos response actions, inspections, prepare management plans or project designs for their employer, on property owned or leased by the employer, are exempt from Virginia asbestos licensure; however, they are required to meet all OSHA and EPA training requirements.

Specifically, my questions are:

1. What would be the training requirements for the individual who develops and manages the asbestos Operations and Maintenance plan? Would it be the training as outlined in another Virginia Administrative Code found at <http://leg1.state.va.us/cgi-bin/legp504.exe?000+reg+18VAC15-20-800> or would it be only the 16 hour course as required by 40CFR763.92(a)(1 and 2)?
2. What would be the training requirements of supervisors of such employees? Would it be what is laid out in the VAC <http://leg1.state.va.us/cgi-bin/legp504.exe?000+reg+18VAC15-20-800> or would it again be the 16 hour course described in the 40 CFR mentioned above?

Any guidance you can provide would be appreciated.

From: Clarence Wheeling
To: Peggy Lopipero
Date: Tue, Mar 11, 2003 9:15 AM
Subject: Re: state level ergonomics standard

Ms. Lopipero,

The Virginia Occupational Safety and Health program(VOSH) almost universally adopts the Federal OSHA identical standards and this process does not require legislative involvement. Regarding the ergonomics standard, the Virginia Safety and Health Codes Board adopted the Federal OSHA Ergonomic Standard and in turn rescinded it after Congress took their action. Generally, the VOSH program maintains the "as effective as" status of Federal OSHA. I am not aware of any state efforts to establish an ergonomics standard.

The VOSH program does have a few state specific standards, which can be found on our website: <http://www.doli.state.va.us/>. I hope this information is helpful and if you have further questions, please feel free to contact this office.

Clarence H. Wheeling, Ph.D.
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Virginia Department of Labor & Industry
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email: chw@doli.state.va.us

>>> Peggy Lopipero <lopiper@itsa.ucsf.edu> 03/10/03 05:46PM >>>

I am a researcher at the University of California, San Francisco interested in state regulatory measures pertaining to worker health and safety. My group plans to examine the use of research evidence and other factors in the regulatory process. We are hoping to use ergonomic workplace standards as a comparative case in a study that also examines the factors influencing the regulatory process in the development of workplace smoking restrictions (e.g., Maryland and Washington). We would like to know if there have been attempts at the state level to establish an ergonomics standard in Virginia? We are also interested in any failed attempts to adopt a standard. Assuming that either a successful or failed attempt exists, how might we obtain information pertaining to the legislative/regulatory history? Any information provided would be greatly appreciated.

Thank you in advance for your time and help.
Sincerely,
Peggy Lopipero

Peggy Lopipero, M.P.H.
Associate Specialist
Department of Clinical Pharmacy
School of Pharmacy
3333 California Street, Suite 420
Box 0613
San Francisco, CA 94143-0613
FOR EXPRESS MAIL ZIPCODE IS 94118
phone: (415) 502-1994
FAX: (415) 502-0792
pager: (415) 841-8534
email: lopiper@itsa.ucsf.edu AND plopipero@earthlink.net
website at: <http://www/ucsf.edu/clpharm/>

CC: Glenn Cox; Nancy Jakubec

From: Clarence Wheeling
To: K Shields
Date: Wed, Oct 23, 2002 2:16 PM
Subject: Re: Indoor Air Regulation

I am not aware of any Federal OSHA or Virginia Occupational Safety and Health regulations in this area. I would recommend contacting the local building officials, because there are probably some recommend levels under the Uniform Statewide Building Code. You may also want to visit the United States Environmental Protection Agency's website www.epa.gov since have done some work in the area of indoor air pollution. Another site to visit would be the National Institute of Occupational Safety and Health (NIOSH) www.cdc.gov/niosh

Hope this is helpful.

Clarence H. Wheeling, Ph.D.
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email: chw@doli.state.va.us

>>> "K Shields" <a311maniac@hotmail.com> 10/22/02 11:25AM >>>

To whom it may concern,

I was hoping to find out whether or not there have been any regulations passed for Virginia stating that office buildings have to have outdoor air introduced.

Thank you for your time,

Kevin Shields
Pulaski County

Protect your PC - get McAfee.com VirusScan Online
<http://clinic.mcafee.com/clinic/ibuy/campaign.asp?cid=3963>

January 21, 1999

James G. Browder, Jr. P.E.
Chief Engineer
Department of Transportation
1401 East Broad Street
Richmond, VA 23219
Dear Mr. Browder:

This letter is in response to your request for interpretation of asbestos sampling and specifications in buildings which will be demolished. Your letter states that there appears to be conflicts between the EPA (NESHAPS) and OSHA regulations, regarding asbestos containing wallboard/joint compound. The differences in these regulations are based on their intended purpose. EPA regulations are promulgated to protect the environment while OSHA regulations are designed to protect the workers.

Your specific questions are based on a demolition project performed under the following conditions:

- 1) a NESHAP-compliant inspection is performed on the wallboard system (i.e., composite samples of wallboard and joint compound) and the material is found to contain less than 1% asbestos;
- 2) all category I and II friable and non-friable ACM is removed except for the composite joint compound/wallboard system;
- 3) following the removal activities described in step 2 above, no demolition activities are performed within the building that would disturb the drywall system;
- 4) demolition is performed with heavy equipment by caving the structure and disposing of the pieces without mechanical compaction; and
- 5) during the demolition, the structure is sprayed with water to reduce dust.

The specific questions are:

1. Do DLI/VOSH standards require an OSHA-compliant analysis for the wallboard and joint compound prior to demolition?

Answer: Based on the conditions described in the scenario above, it is my opinion that an OSHA compliant analysis would not be required. Some of the confusion appears to lie in the definition of demolition. It is this department's opinion, that if the asbestos containing wallboard were being disturbed or removed as part of a renovation project, or being removed prior to actually tearing the building down, then the project would be considered a Class II activity under the asbestos standard 1926.1101 and all applicable paragraphs would be

required. If the asbestos containing wallboard is left in the building as described in your scenario, it is my opinion that the project would not be covered under the asbestos standard, 1926.1101.

2. Do DLI/VOSH standards require training beyond HAZCOM (1910.1200) for the demolition crew performing the demolition activities as described above?

Answer: No

3) Is the operation described in paragraphs 1-5 above considered "Class I or Class II asbestos work" under OSHA?

Answer: The Department of Labor and Industry would not consider the above scenario an asbestos abatement project.

4. Would DLI require a twenty (20) day asbestos contractor notification pursuant to Section 40.1-51.20 of the Virginia Code to be filed for this job? We recognize that a NESHAP 10-day notice must be filed for all demolitions, irrespective of the presence or absence of asbestos in the building.

Answer: No

If you need additional information or have further questions, please give me a call at 804-786-0574.

Sincerely,

Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director

From: Clarence Wheeling
To: George Tyler
Date: Tue, Jan 7, 2003 7:30 AM
Subject: Re: Smoking in the workplace...

Mr. Tyler,

There are currently no OSHA related regulations concerning smoking in the workplace, except for those instances where a fire or explosion could result from their improper use, e.g. use of flammable solvents.

There are some state laws regulating smoking under some conditions. For information on these rules, you may visit the following website : <http://leg1.state.va.us/000/lst/LS701351.HTM> .

I hope this information is helpful and if you have further questions, please feel free to contact this office. You may also contact the Department of Labor and Industry, Regional Office located in Manassas at 703-392-0900.

Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director
Virginia Department of Labor & Industry
13 S. Thirteenth St.
Richmond, VA 23219
Tel: 804-786-0574
Fax: 804-371-7634
email: chw@doli.state.va.us

>>> "George Tyler" <gtyler@trgcomp.com> 01/06/03 04:30PM >>>

Dear sir or madam:

Kindly advise current applicable Virginia regulations regarding smoking and tobacco use in the workplace.

Ours is a privately-held business, under 50 employees, located in Arlington.

Many thanks in advance,

George Tyler
Vice President
The Republic Group
5801 Lee Highway
Arlington, VA 22207
(p) 703-533-8555 x-241
(f) 703-533-2079
e-mail: gtyler@trgcomp.com

From: Clarence Wheeling
To: Mschop68@aol.com
Date: 3/18/03 8:14 AM
Subject: Re: Work Environment Complaint

Currently, neither the Virginia Occupational Safety and Health program or Federal OSHA have standards that regulate mold in the workplace. For information on this subject , I would recommend that you visit the Federal OSHA website www.osha.gov . Once you are on their homepage you can simply type in "mold" in the search block.

I am sorry we cannot be of more assistance.

Clarence Wheeling

Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director
Virginia Department of Labor & Industry
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Richmond, VA 23219
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>>> <Mschop68@aol.com> 03/14/03 10:14AM >>>

I am not sure if this is the correct place to start but here goes. I work in a building where the office is located in the basement. There is an extreme amount of mold and mildew in that space causing everyone to have headaches, sore throats, and sinus problems. This has been a problem for over 1 year and when we complained the answer was to paint over the mold and place wall paper over the mold. They did not clean the area so the problem is still there.

The building is located at 659 Hospital Rd. Building A Suite 203 Tappahannock Va 22560.

I hope someone will do something about this because it has created great problems.

I wish to remain anonymous due to my job security.

July 20, 1999

E. Glenn Hargrove
P.O. Box 660
Blacksburg, VA 24063-0660

Dear Mr. Hargrove;

This is in reply to your letter dated July 6, 1999, requesting clarification of the OSHA Asbestos regulation regarding asbestos containing paint and joint compound. Since you pointed out several discrepancies in the OSHA interpretations and did not ask specific questions except for the class of work for asbestos paint and joint compound, I will try to clarify the Department of Labor and Industry's general position on these issues.

Generally, removal of asbestos containing paint and joint compound is a Class II activity. One of the discrepancies noted in your correspondence, concerned thick film, textured asbestos containing paint that resembles troweled or sprayed on surfacing material. Unless during the required inspection, the inspector found the material to be easily crumbled by hand pressure, I would not consider the material to be surfacing material.

This is in agreement with the April 21, 1998 letter signed by John B. Miles which you included in your request for interpretation. I spoke with the Department's inspectors and they were not familiar with the use of asbestos paint being applied in a manner that resembles troweled or sprayed on surfacing material. My recommendation would be that if your consultants or students run into this type of material and have any questions about how to treat this material that they contact this office on a case by case basis.

While not mentioned in your letter, there has been some confusion regarding OSHA and EPA requirements as they relate to asbestos containing joint compound. As stated above, the internal disturbance of asbestos containing joint compound, such as internal demolition or renovation, is considered a Class II activity and requires compliance with the OSHA Asbestos standard 1926.1101. However, if the whole structure is demolished from the outside and the only asbestos present is asbestos joint compound, then OSHA considers this unclassified activity. Under these conditions, the competent person would evaluate the existing conditions and take appropriate action to protect any exposed employees. The EPA interpretations of the National Emission Standards for Hazardous Air Pollutants (NESHAPS), state that if asbestos containing joint compound is only utilized in sealing wall board joints or nail holes, the samples can be composited and therefore, are not normally considered to be asbestos containing material (ACM).

If you need additional information or have further questions, please give me a call at 804-786-0574 or e-mail me at clarencewheeling@doli.state.va.us.

Sincerely,
Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director

From: Clarence Wheeling
To: joey domm
Date: Thu, Dec 26, 2002 8:49 AM
Subject: Re: i was wondering if you could send me information current laws concerning smoking in the workplace

Mr. Domm,

The Virginia Department of Labor and Industry does not have any enforceable regulations concerning "Smoking in the workplace", except where smoking may cause a fire or explosion hazard.

The General Assembly did pass a law limiting smoking in public areas, but this agency has no enforcement authority for this law. If you would like more information on this law you may visit the following website:

<http://legis.state.va.us/Laws/CodeofVa.htm> . After you have reached this site, type "Smoking" in the search box and you will find the above mentioned law 15.2-2800-15.2-2810.

I hope this information is of assistance to you.

Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director
Virginia Department of Labor & Industry
13 S. Thirteenth St.
Richmond, VA 23219
Tel: 804-786-0574
Fax: 804-371-7634
email: chw@doli.state.va.us

>>> joey domm <j_domm@yahoo.com> 12/20/02 09:09PM >>>

well i have another question. if it is company policy that smoking is forbidden indoors at work then should the company provide designated areas. if so, are there any rules governing these areas? the reason i am asking is that my new boss (who is not a smoker) won't let people smoke in the workshop anymore but there is nowhere else to smoke.

From: Clarence Wheeling
To: Ken Pracht
Date: Thu, Mar 13, 2003 2:19 PM
Subject: Re: Confined Spaces in Construction

Mr. Pracht,

Based on a strict reading of the Virginia Confined Space Standard for the Construction Industry CNSP.146, Paragraph 9A., it would be my recommendation that a retrieval device be made available. The standard specifically states that where a hazardous atmosphere "has been demonstrated" by the qualified person, the retrieval equipment shall be used.

While I understand your scenario regarding the ventilation and elimination of the hazardous atmosphere, I would refer you to Appendix E in the General Industry's Confined Space Entry Standard (1910.146). This appendix while not mandatory for the Virginia standard does outline the hazards associated with entry into a sewer system. Additionally, if the work being done on the sewer is considered "maintenance", then the General Industry Confined Space Standard 1910.146 would apply.

For further guidance on the Construction vs. Maintenance issue, I would refer you to the Virginia Administrative Regulations Manual which can be found on the Department of Labor and Industry website www.doli.state.va.us . Federal OSHA has also issued some guidance on their website www.osha.gov related to the construction vs maintenance work.

I hope this information is helpful. If you have further questions or need additional information, please feel free to contact this office.

Clarence Wheeling

Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director
Virginia Department of Labor & Industry
13 S. Thirteenth St.
Richmond, VA 23219
Tel: 804-786-0574
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email: chw@doli.state.va.us

>>> Ken Pracht <KPRACHT@perryeng.com> 03/04/03 08:35AM >>>

With regards to the VA Confined Space Standard for the Construction Industry, is a retrieval device necessary when entering a sanitary sewer manhole with a hazardous atmosphere if the hazardous atmosphere has been eliminated by forced ventilation? To put it another way; if the hazardous atmosphere is eliminated by forced ventilation prior to entry, there is no engulfment hazard, the entrant wears a continuous air monitoring device while in the manhole, and an attendant monitors the forced ventilation so that in the event of failure the entrant can be notified and instructed to evacuate the confined space, would it be acceptable to eliminate the retrieval device?

This question is not related to any VOSH enforcement activity. I simply want to determine whether we need to take additional steps to ensure compliance.

Your response would be appreciated.

Ken Pracht, CSP
Safety Director
Perry Engineering Co., Inc.
(540) 667-4310

CC: Glenn Cox; Jay W. Withrow

June 19, 1998

Rod Kunkel
102 Windway Drive
Orange, Virginia 22960

Dear Mr. Kunkel:

I am writing in regard to your request for information concerning smoking in the workplace. At the present time, there are no regulations regarding smoking in the workplace in Virginia. Federal OSHA is currently working on an Indoor Air Quality standard that affects workplaces, but it appears this regulation will not be out for some time. The United States Environmental Protection Agency (EPA) has a clearinghouse on Indoor Air Quality information, which can be reached at 800-438-4318.

If you need additional information or have further questions, please give me a call at 804-786-0574.

Sincerely,
Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director

From: Clarence Wheeling
To: MnMzMama@aol.com
Date: Fri, Jan 24, 2003 10:47 AM
Subject: Re: OSHA Question

The Virginia Occupational Safety and Health program does not have regulations covering this issue at this time. As you are probably aware Federal OSHA has been working on an Ergonomic Standard which might apply to your situation, but these regulations have not been finalized.

I am forwarding your e-mail to the Labor and Employment Law Division to address the issue of charging for the headset. You should be receiving a response from them shortly.

Sorry I cannot be of more assistance, but if you have further questions, please feel free to contact this office.

Clarence H. Wheeling, Ph.D.
Occupational Health Compliance Director
Virginia Department of Labor & Industry
13 S. Thirteenth St.
Richmond, VA 23219
Tel: 804-786-0574
Fax: 804-371-7634
email: chw@doli.state.va.us

>>> <MnMzMama@aol.com> 01/17/03 04:06PM >>>

Dear Mr. Wheeling:

I'm not sure if you are the person who can answer this question but if you are not, would you please route this to the appropriate person.

If a person's job has a job which is only on the phone is the only employer obligated to provide telephone headsets to alleviate neck stiffness. Also, if headsets are provided, is it lawful for the employer to charge the employee for the headset?

The job entails answering the phone and taking orders on the phone for shifts which range from 4-8 hours.

Thank you for your assistance,

Regards,

Wendy Welch

July 22, 2003

Dear Ms. Hudson:

I am writing in response to your e-mail addressed to Governor Warner concerning allergies and asthma triggered by scents in public places. The Governor appreciates your taking the time to share your concerns with him.

The Virginia Department of Labor and Industry administers the occupational safety and health regulations in Virginia through the Virginia Occupational Safety and Health (VOSH) program. The VOSH program operates under an Occupational Safety and Health Administration (OSHA)-approved state plan, which covers all occupational safety and health concerns for Virginia. As a state with an approved plan, Virginia must provide employee protection that is "at least as effective" as Federal OSHA's but may be more stringent.

The VOSH standards cover a variety of workplace conditions. The agency has no standards, however, that specifically address allergies or asthma triggered by scents in the workplace and other indoor air quality related conditions. The Federal OSHA indoor air quality regulation proposed in 1994 has been withdrawn and Federal OSHA is not initiating such rule making at this time. Since there are no Federal OSHA standards

regulating indoor air quality, under the state plan agreement with Federal OSHA, the agency is not obligated to adopt an indoor air quality standard.

The Virginia Department of Labor and Industry's VOSH program enforces laws concerning occupational safety and health issues. However, there are limitations to our authority. One of these limitations involves the applicability of VOSH's jurisdiction. VOSH's jurisdiction is limited to employment performed in a workplace. As such, VOSH can regulate employers and employees but has no authority over merchant/customer relationships. If you have concerns regarding workplace conditions that you believe impact employee safety and health, I recommend you contact the nearest department office. Locations and phone numbers can be obtained from the department Web site: www.doli.state.va.us.

Lastly, the Virginia Safety and Health Codes Board is the designated state agency authorized to make rules and regulations governing safety operations. However, such authority can only be exercised under instruction from the Virginia General Assembly. At present, the Virginia General Assembly has not passed any bills regulating the use of scented products such as colognes and perfume in the workplace. If you feel that such policy is necessary I would encourage you to correspond with your legislators in an effort to promote change by utilizing the democratic process. For your convenience, I have attached a pamphlet entitled *How a Bill Becomes A Law In Virginia* which summarizes the procedures whereby a bill becomes a law in the Commonwealth of Virginia.

I hope this information is helpful to you in addressing the concerns raised by your letter.

Best personal regards,

Ronald L. Graham
Occupational Health Compliance Director

cc: The Honorable Michael J. Schewel,
Secretary of Commerce and Trade
