

Chapter ILHR 32

ASBESTOS STANDARDS FOR PUBLIC EMPLOYES

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Note: Section Ind 1910.93a as it existed on March 31, 1988 was repealed and a new chapter ILHR 32 was created effective April 1, 1988.

Subchapter I — Scope, Application, and Definitions

ILHR 32.001 Purpose. This chapter establishes minimum occupational asbestos safety and health standards for public employes.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88.

ILHR 32.002 Scope. The provisions of this chapter apply to all places of employment and public buildings of a public employer.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88.

ILHR 32.003 Application. (1) **RETROACTIVITY.** The provisions of this chapter shall apply to all places of employment and public buildings of a public employer whether existing prior to April 1, 1988 or subsequently established or built, unless otherwise specified in the rule.

(2) **CODE CONFLICTS.** If requirements of this chapter or other Wisconsin Administrative Code chapters specify varying requirements, the most restrictive requirement shall govern.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88.

ILHR 32.01 Definitions. In this chapter:

(1) "Agency", as defined in s. 101.055 (2) (a), Stats., means an office, department, independent agency, authority, institution, association, society or other body in state government created or authorized to be created by the constitution or any law, and includes the legislature and the courts.

(2) "Approved" means acceptable to the department.

(3) "Department" means the department of industry, labor and human relations unless otherwise specified.

(4) "Place of employment" means any place as defined in s. 101.01 (2) (a), Stats., and includes farms of a public employer where research or education takes place.

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(5) "Public employe" or "employe", as defined in s. 101.055 (2) (b), Stats., means any employe of the state, of any state agency or of any political subdivision of the state.

(6) "Public employe representative" or "employe representative", as defined in s. 101.055 (2) (c), Stats., means an authorized collective bargaining agent, an employe who is a member of a workplace safety committee or any person chosen by one or more public employes to represent those employes.

(7) "Public employer" or "employer", as defined in s. 101.055 (2) (d), Stats., means the state, any state agency or any political subdivision of the state.

(8) "Secretary" means the secretary of the department of industry, labor and human relations or appointed representative, unless otherwise specified. For the purpose of this chapter, the term secretary shall be substituted for the following titles referenced in the adopted OSHA standards of s. ILHR 32.50:

- (a) Secretary of labor;
- (b) Assistant secretary of labor;
- (c) Director of the national institute for occupational safety and health, U.S. department of H.H.S;
- (d) Assistant secretary of labor for occupational safety and health, U.S. department of labor;
- (e) Director of the office of standards development, OSHA, U.S. department of labor; and
- (f) Area director, occupational safety and health administration.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88.

Subchapter II — Administration and Enforcement

ILHR 32.05 Inspections. (1) **RIGHT OF ENTRY TO INVESTIGATE OR INSPECT.** The authorized representatives of the department, upon presentation of the appropriate credentials to an employer, may:

- (a) Enter without delay and at reasonable times any building, place of employment or workplace of a public employer, or an environment where work is performed by an employe of an employer; and
- (b) Inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials, and to question privately any employer or employe.

(2) **PARTICIPATION IN INSPECTIONS.** Pursuant to s. 101.055 (5), Stats., a representative of the employer, an employe, and an employe representative shall be provided an opportunity to accompany a department inspector on any inspection conducted under this chapter.

(3) **REQUESTS FOR INSPECTIONS.** Any person who believes a safety or health standard or variance is being violated, or that a situation exists

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which poses a recognized hazard likely to cause death or serious physical harm, may request the department to conduct an inspection.

(a) If an employe or employe representative requesting an inspection so designates, that person's name may not be disclosed to the employer or any other person, including any state agency except the department.

(b) When deemed necessary by the department, a request for an inspection shall be made on a form provided by the department.

Note: Copies of the request for inspection form (SBD-5907) may be obtained from the Safety and Buildings Division, P.O. Box 7969, Madison, Wisconsin 53707.

(4) **ORDERS.** The department shall issue orders for violation of this chapter in accordance with s. 101.055 (6), Stats.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88.

ILHR 32.06 Posting department order. Upon issuance of an order of noncompliance, the employer shall post a copy of the order at or near the site of the violation.

(1) An order issued shall be posted for a period of 3 days, or until the violation is abated, whichever is longer.

(2) The employer shall ensure that the order is not altered, defaced or covered by other materials.

(3) An order issued shall be posted regardless of whether there has been a petition for variance or hearing.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88.

ILHR 32.09 Penalties. Penalties for violations of this chapter may be assessed in accordance with s. 101.02, Stats.

Note 1: Section 101.02 (13) (a), Stats., indicates penalties will be assessed against any employer, employe, owner or other person who fails or refuses to perform any duty lawfully enjoined, within the time prescribed by the department, for which no penalty has been specifically provided, or who fails, neglects or refuses to comply with any lawful order made by the department, or any judgment or decree made by any court in connection with ss. 101.01 to 101.25, Stats. For each such violation, failure or refusal, such employe, owner or other person must forfeit and pay into the state treasury a sum not less than \$10 nor more than \$100 for each violation.

Note 2: Section 101.02 (12), Stats., indicates that every day during which any person, persons, corporation or any officer, agent or employe thereof, fails to observe and comply with an order of the department will constitute a separate and distinct violation of such order.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88.

Subchapter III — General Requirements

ILHR 32.15 OSHA safety and health standards. (1) OSHA 1910. All places of employment and public buildings of an employer shall comply with the OSHA safety and health standards 1910.19 and 1910.1001 and Appendices A and C to E, relating to occupational exposure to asbestos, tremolite, anthophyllite, and actinolite; federal register, vol. 51, No. 119, Friday, June 20, 1986.

(2) OSHA 1926. All places of employment and public buildings of an employer shall comply with the OSHA safety and health standards 1926.55 and 1926.58 and Appendices A and C to E, relating to occupational exposure to asbestos, tremolite, anthophyllite, and actinolite; federal register, vol. 51, no. 119, Friday, June 20, 1986.

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(3) **CORRECTIONS.** All places of employment and public buildings of an employer shall comply with the OSHA safety and health standards 29 CFR parts 1910 and 1926, relating to occupational exposure to asbestos, tremolite, anthophyllite, and actinolite; corrections and information collection requirements; federal register, Vol. 52, No. 91, Tuesday, May 12, 1987.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88.

Subchapter V — Incorporation of Standards by Reference

ILHR 32.50 Incorporation of standards by reference. (1) **AUTHORITY.** Section 101.055 (3) (a), Stats., permits the department to incorporate by reference the standards adopted in sub. (4).

(2) **COPIES.** Copies of the adopted standards are on file in the offices of the department, the secretary of state and the revisor of statutes bureau. Copies also may be purchased through the respective organizations.

(3) **INTERIM AMENDMENTS.** Interim amendments of the adopted standards shall have no effect in the state until the time that this subsection is correspondingly revised to reflect the changes.

(4) **STANDARDS.** The following standards are hereby incorporated by reference into this chapter.

Table 32.50-1

OSHA	Occupational Safety and Health Administration Superintendent of Documents U.S. Government Printing Office Washington, D.C. 20402
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1. Occupational Exposure to Asbestos, Tremolite, Anthophyllite, and Actinolite, 29 CFR Parts 1910 and 1926, Federal Register, Vol. 51, No. 119, Friday, June 20, 1986.

2. Occupational Exposure to Asbestos, Tremolite, Anthophyllite, and Actinolite; Corrections and Information Collection Requirements, 29 CFR Parts 1910 and 1926, Federal Register, Vol. 52, No. 91, Tuesday, May 12, 1987.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88.