



Australian Government

**Seafarers Safety, Rehabilitation
and Compensation Authority**

Guidance on the Prohibition on the Use of Asbestos in Australian Maritime Industry Workplaces

Version 4

29 September 2004

Version 4 - Explanation

The main change from Version 3 to Version 4 is that Version 4 incorporates guidance on the use of asbestos in light of the changes to the Occupational Health and Safety (Maritime Industry) (National Standards) Regulations 2003 made by the Occupational Health and Safety (Maritime Industry) (National Standards) Amendment Regulations 2004 (No. 1) of 28 July 2004.

The effect of the amendments is to clarify that the NS regulations regulate the use of non chrysotile forms of asbestos (i.e. all asbestos), that is in situ, in the same way as in situ chrysotile asbestos was regulated in the period 31 December 2003 until 27 July 2004. This is achieved by:

- amending the definition of 'in situ' in the NS regulations ; and
- amending Schedules 1 and 2 to the NS regulations.

In summary, the use of all forms of asbestos that is in situ is permitted (it was uncertain whether all non chrysotile forms of asbestos were prohibited from 31 December 2004 until 27 July 2004), subject to the use of the in situ asbestos not constituting a risk to users.

Version 4 also includes a definitions section and a section on asbestos management plans.

Guidance on the Prohibition on the Use of Asbestos in Australian Maritime Industry Workplaces

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Definitions of terms used in this Guide

'asbestos' means any of the following fibrous forms of mineral silicates belonging to the serpentine and amphibole groups of rock-forming minerals:

- (a) actinolite asbestos;
- (b) amosite (brown asbestos);
- (c) anthophyllite asbestos;
- (d) chrysotile (white asbestos);
- (e) crocidolite (blue asbestos);
- (f) tremolite asbestos.

'atmospheric monitoring' means the sampling of workplace atmospheres to derive a quantitative measure of exposure to a hazardous substance through inhalation.

'disturbance' has the meaning given in the explanation in the section headed management of 'in situ' asbestos.

'exposure standard' in relation to exposure to a substance, means an airborne concentration of the substance in a person's breathing zone identified in accordance with the Exposure Standards for Atmospheric Contaminants in the Occupational Environment [NOHSC:1003 (1995)].

'health surveillance' means the monitoring of an employee or a contractor, including the use of biological monitoring, to identify changes (if any) in the employee's or contractor's health due to exposure to a hazardous substance, but does not include atmospheric monitoring.

in situ, in relation to a product that contains asbestos, means that, at the time the use of the form of asbestos that is in the product is prohibited under regulation 2.08 of the NS regulations, the product is fixed or installed:

- (a) in:
 - (i) a ship or any other structure that forms a workplace;
 - or
 - (ii) a plant or any other thing that is for use at a workplace; and
- (b) in a way that does not constitute a risk to users until the asbestos contained in the product is disturbed.

Examples

The following are examples of asbestos in products that are in situ:

- (a) amosite and chrysotile used between lamina in laminated panelling;
- (b) chrysotile used as a fire retardant in wall cladding in engine rooms.

'NS regulations' means the Occupational Health and Safety (Maritime Industry) (National Standards) Regulations 2003 as amended.

'risk to health' means the likelihood that a substance will cause harm to health in the circumstances of its use.

'the Act' means the *Occupational Health and Safety (Maritime Industry) Act 1993*

'use' in relation to a substance at a workplace, means produce, handle, store, transport or dispose of the substance at the workplace.

Note: In addition to these definitions, a number of expressions that are used in the NS regulations are defined in section 4 of the Act, including **contractor, employee, operator** and **workplace**.

Guidance on the prohibition on the use of asbestos in Australian maritime industry workplaces

Overview

On 31 December 2003 regulations to prohibit the use of asbestos in Australian maritime industry workplaces, made under the *Occupational Health and Safety (Maritime Industry) Act 1993* (OHS(MI) Act) commenced. The regulations are titled the Occupational Health and Safety (Maritime Industry) (National Standard) Regulations 2003 (NS regulations). These are the first regulations adopting a national standard declared by the National Occupational Health and Safety Commission (NOHSC) to be introduced by the Seafarers Safety, Rehabilitation and Compensation Authority (Seacare Authority) pursuant to s109 of the OHS(MI) Act.

The object of the NS regulations is to minimise the risk to the health of persons due to exposure to asbestos by:

- a. ensuring that asbestos used at work is supplied with:
 - i. Labels; and
 - ii. Material Safety Data Sheets;
- b. providing for:
 - i. The assessment of the risk of exposure to asbestos; and
 - ii. The control of exposure to asbestos; and
 - iii. The training of employees and contractors who could be exposed to asbestos at work on the nature of the hazard and the level of risk posed by the asbestos, and the means of assessing and controlling exposure;
- c. limiting the circumstances under which the use of chrysotile may be permitted through exemptions to the prohibition;
- d. encouraging research into, and development of, alternatives to the use of chrysotile; and
- e. ensuring that relevant information included in the NICNAS (National Industrial Chemicals Notification and Assessment Scheme) summary reports is given to operators.

The NS regulations were amended by the Occupational Health and Safety (Maritime Industry) (National Standards) Amendment Regulations 2004 (No. 1) – Statutory Rules 2004 No. 228, with effect from 28 July 2004.

What is asbestos?

Asbestos means any of the following fibrous forms of mineral silicates:

- a. Actinolite asbestos
- b. Amosite asbestos (brown asbestos)
- c. Anthophyllite asbestos
- d. Chrysotile (white asbestos)
- e. Crocidolite (blue asbestos)
- f. Tremolite asbestos

Exposure to asbestos is known to cause asbestosis, lung cancer, mesothelioma and pleural plaques.

Asbestos prohibition

The Workplace Relations Ministers' Council (WRMC), comprising the Commonwealth and State/Territory Ministers with responsibility for workplace relations, including OHS, has decided that the threat to the health of workers from exposure to asbestos is not acceptable and has therefore agreed to prohibit the importation and use of all forms of asbestos commencing from 31 December 2003. As a consequence regulations made under the *Occupational Health and Safety (Maritime Industry) Act 1993* commenced on 31 December 2003 to give effect to the prohibition of asbestos in the Australian maritime industry.

In brief, from 31 December 2003 it is illegal to import, store, supply, sell, install or re-use any products containing asbestos (except in limited circumstances) in maritime workplaces.

Exclusions

Excluded from the prohibition are the following permitted circumstances:

- a. bona fide research;
- b. handling for storage prior to removal or disposal;
- c. storage prior to removal or disposal;
- d. removal or disposal of asbestos;
- e. disturbance of naturally occurring asbestos; and
- f. use (without disturbance) of asbestos in products that are **in situ***

* In situ means that at the time of the prohibition, the asbestos product is fixed or installed in:

- a. a ship or any other structure that forms a workplace or a plant or any other thing that is for use at a maritime workplace; and
- b. a way that does not constitute a risk to users until the asbestos is disturbed.

Example 1: Chrysotile or amosite used in laminated wall panelling

Chrysotile or amosite used between the laminate in laminated panelling would be considered 'in situ' if the following tests are met. The asbestos:

- a) does not constitute a risk (following atmospheric testing); and
- b) has not been disturbed.

See Pages 5 and 6 of this Guidance for an explanation of disturbance.

Management of 'in situ' asbestos¹

While the ultimate goal is the removal of asbestos, in some maintenance and service situations, control measures other than removal may be justified, but only if a risk assessment has been undertaken and the risk of generating airborne asbestos fibres is minimised.

¹ This section is based on the draft NOHSC 'Code of Practice for the Management and Control of Asbestos in Workplaces' and may be subject to change.

The risk assessment for asbestos should include consideration of:

- the location and condition of the asbestos;
- the type (eg cement sheet, vinyl tiles);
- if it is friable or non-friable;
- if the asbestos is liable to further damage or deterioration;
- if there are any inaccessible areas that are likely to contain asbestos;
- the likelihood of possible exposure; and
- if the nature or location of any work to be carried out is likely to disturb the asbestos.

The control measures required for asbestos are determined from the risk assessment and the following principles:

- notwithstanding the ultimate goal of a workplace being free of asbestos containing material, priorities should be set for the short term.
- asbestos, which is friable and not in a stable condition, where there is a risk of exposure, should be removed by a competent person or by a licensed removalist (in States where a licence is required) as soon as practicable.
- asbestos that is friable, but in a stable condition and accessible, should be given serious consideration for removal.
- any remaining asbestos should be clearly labelled where practicable and regularly inspected to ensure that it is not deteriorating or contributing to an unacceptable health risk.
- asbestos, if stable and inaccessible, may be left *in situ* until demolition, partial demolition, or re-fit. However, asbestos needs to be removed before demolition, partial demolition or re-fit.

The following is a list of some typical maintenance and service tasks that are likely to disturb asbestos and may only be performed after a risk assessment and implementation of control measures to minimise exposure to airborne asbestos fibres:

- drilling or grinding of asbestos cement products;
- sealing, painting, coating and cleaning of asbestos cement products;
- replacing cabling in asbestos cement conduit or boxes;
- inspection of *in situ* asbestos friction materials or seals.

Other situations not in the above list, but determined by a competent person to be a similar task and constitute a similar level of risk may be performed after the risk has been assessed and appropriate control measures implemented. If, following a risk assessment, the maintenance or service task proceeds, the asbestos product must be returned to an *in situ* state and not constitute a risk to the user –if this situation cannot be achieved, replacement may be the only safe option.

Any such work should only occur with full consultation and training of people performing the work and should be documented and supervised. The work area needs to be isolated and access restricted to essential workers only. Barriers and warning signs may be required.

Personal protective equipment needs to be selected to minimise contamination of clothing and provide an adequate level of respiratory protection. The level of respiratory protection will depend on the risk assessment. Part of the risk assessment and control measures should include a procedure for controlling asbestos-containing

material that is dislodged or disturbed. Thorough decontamination of the work area should occur at the end of the maintenance or service work. The use of disposable protective coverings should be strongly considered.

Once maintenance and service work has been carried out the operator must ensure that the asbestos product continues to be *in situ* and does not constitute a risk to the user.

Asbestos management plan

Operators to whom the NS regulations (as amended) apply are encouraged to develop an asbestos management plan and to ensure all relevant employees are familiar with the plan. The asbestos management plan might include as a minimum, the following elements:

- training of employees in relation to asbestos – in particular raising awareness of the Register of hazardous substances including awareness of the location of asbestos in the workplace i.e. on the vessel, particularly where it is enclosed and could be accidentally exposed, and on how to read a Material Safety Data Sheet;
- the risk assessment and risk control process and its periodic review;
- operator policy on atmospheric monitoring and health surveillance; and
- what to do in the event of an exposure or potential exposure to asbestos – immediate control measures while at sea, reporting, and control measures on arrival in port.

Exemptions from the asbestos prohibition

Where an asbestos product (**other than chrysotile**) is subject to the prohibition an operator² may apply to the Seacare Authority for an exemption from the prohibition where:

- a. the use of the asbestos component/product is essential to the operation of the operator's business; **and**
- b. there is no reasonable alternative substance for the asbestos.

In relation to **chrysotile**, an exemption may only be granted for the specified use of chrysotile in the *List of Exemptions* specified in Schedule 3 of the NS regulations as follows:

Item	Uses for which exemption may be granted	Date exemption ceases
1	Use of chrysotile in a compressed asbestos fibre gasket that is:	
	(a) for use with: <ol style="list-style-type: none"> (i) saturated steam; or (ii) superheated steam; or (iii) substances that are classified as dangerous goods (as defined in the ADG Code); or 	31 Dec 2004
	(b) for use with chlorine in a plant used in liquid chlorine	31 Dec 2006

² Operator is defined by the OHS(MI) Act as the person who has the management or control of the prescribed ship or prescribed unit.

	service with design process conditions of -45°C and 1500 kPa	
2	Use of chrysotile in a product that consists of a mixture of asbestos with a phenol formaldehyde resin or with a cresylic formaldehyde resin used in: (a) a vane for rotary vacuum pumps; or (b) a vane for rotary compressors; or (c) a split face seal of at least 150mm in diameter used to prevent leakage of water from cooling water pumps in fossil fuel electricity generating stations	31 Dec 2007
3	Use of chrysotile in a diaphragm for use in an electrolytic cell in an existing electrolysis plant for chlor-alkali manufacture	31 Dec 2006

Note The List of Exemptions reflects the exemptions listed in the *National List of Exemptions to the Prohibition of the Workplace Use of Chrysotile Asbestos* set out in Schedule 2 to the *National Model Regulations for the Control of Workplace Hazardous Substances* [NOHSC: 1005 (1994)] which includes notes about the exemptions.

The granting of an exemption for chrysotile may include conditions. For example, that those benefiting from the exemption undertake or contribute to research and development designed to identify replacements or alternatives to the exempt chrysotile component/product or controls to maximise the safe use of the chrysotile component/product – see the objects of Part of the NS regulations.

Applications for exemption from the asbestos prohibition

Exemptions are not automatic and an operator must apply to the Seacare Authority for an exemption.

All applications for exemptions from the asbestos prohibition should be:

- a. in writing;
- b. in accordance with:
 - i. Seacare Form 12 - Application for exemption from the prohibition of asbestos (other than chrysotile); or
 - ii. Seacare Form 13 - Application for exemption from prohibition on uses of chrysotile;
- c. accompanied by evidence to support the application;
- d. submitted to the Seacare Authority within a minimum of 28 days prior to the proposed date of commencement of the exemption.

The application forms are attached and are also available on Seacare's website at www.seacare.gov.au. Further information on completing the form is available at **Attachment A**.

The form may be:

Sent via mail to:
Seacare Authority
GPO Box 9905
CANBERRA ACT 2601

Or faxed to:
Attn: Seacare Authority
02-6275 0067

All information relevant to the application for an exemption, whether or not it has been supplied to the Seacare Authority, must be retained for the period for which the exemption is granted and must be accessible to the Seacare Authority or the Australian Maritime Safety Authority (AMSA) on request.

Consideration by the Seacare Authority of an application for exemption

The Seacare Authority will assess the information provided in the application against the requirements of the NS regulations. These requirements are set out as headings in the application forms.

The Seacare Authority may ask the applicant for further information in order to assist it in its consideration of the application.

Granting an exemption

Following assessment of the application, the Seacare Authority will advise the applicant in writing of its decision and the reasons for that decision. A Seacare Authority decision to grant an exemption will be subject to it being satisfied that the criteria for the granting of an exemption set out in the NS regulations have been met and all relevant information has been provided.

Notice of the granting of an exemption will be in the form of a 'Certificate of Exemption', which will set out any conditions that will apply to the exemption, the commencement of the exemption and the date on which the exemption ceases.

Review of decision

A review of the Seacare Authority's decision on an application for an exemption may be made to the Administrative Appeals Tribunal under the *Administrative Appeals Tribunal Act 1975*.

Cancellation of an exemption

The Seacare Authority must cancel an exemption if continuation of the exemption would be inconsistent with the objects of the NS regulations or if asked to do so by the applicant. The Seacare Authority is not required to consult with the operator that holds the exemption before cancelling an exemption, but would normally advise the operator as soon as practicable upon making a decision to cancel. The Seacare Authority must give written advice setting out the date of and reasons for the exemption being cancelled.

Asbestos not subject to the prohibition

The NS regulations place obligations on manufacturers, suppliers, operators, employees and contractors to minimise exposure to asbestos that is not subject to the prohibition. These obligations are set out below.

Manufacturers and suppliers

Manufacturers and suppliers must provide the operator with Material Safety Data Sheets (MSDS) for any product or component that contains asbestos.

Operators

Under the NS regulations operators must:

- a. ensure that the MSDS is readily available to employees or contractors;
- b. ensure that a register is kept and maintained for asbestos products that are used at the workplace;
- c. ensure that a risk assessment is made in relation to any asbestos at the workplace;
- d. ensure that no employee or contractor is exposed to airborne concentrations of asbestos, in the breathing zone, at a level that exceeds the exposure standard³;
- e. undertake atmospheric monitoring if there is a potential risk of exposure to asbestos;
- f. provide health surveillance of an employee or a contractor who has been identified as being exposed to asbestos;
- g. ensure that employees and contractors have suitable training if there is potential that they could be exposed to asbestos;
- h. notify an employee or contractor of exposure to asbestos if it is likely that the employee or contractor has been exposed; and
- i. keep records or assessment reports for at least 30 years if atmospheric monitoring or health surveillance has been undertaken or five years if there was no need for atmospheric monitoring or health surveillance.

Employees and contractors

Employees and contractors must report any matter that may affect the operator in meeting its obligations under the NS regulations.

Removal & Disposal of asbestos

Removal or disposal of asbestos should be done in accordance with a law of a State or Territory relating to the removal of asbestos. Operators will need to contact the following State and Territory OHS Authorities to determine what existing laws relate to the removal of asbestos:

NSW	WorkCover NSW	13 10 50
Vic	Victorian Workcover Authority	1800 136 089
SA	Workcover Corporation of South Australia	13 18 55
Qld	Workplace Health and Safety	1300 369 915

³ [Adopted National Exposure Standards for Atmospheric Contaminants in the Occupational Environment \[NOHSC:1003\(1995\)\]](#)

Tas	Workplace Standards Authority	(03) 6233 7657
WA	Worksafe WA	(08) 9327 8777
NT	NT Worksafe	1800 019 115

If a law relating to the removal of asbestos does not exist in the State or Territory then the Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (1988)] applies. The Code of Practice for the Safe Removal of Asbestos is available from the NOHSC website at www.nohsc.gov.au.

Disposal of asbestos must be in accordance with the law of the jurisdiction in which the asbestos is being disposed.

Importation prohibition

To support the prohibition on the use of asbestos, the Australian Customs regulations will prohibit the import and/or export of asbestos, unless:

- an appropriate exemption for import or export has been granted;
- the chrysotile being imported is in situ; or
- the asbestos (all forms) being exported is in situ.

More information on the Customs regulations is available from the Australian Customs Service. The contact is Mr Everett Hornick, Community Protection Policy 02-6245 5484.

Example 3: Importation of a ship containing asbestos, other than chrysotile

If an operator seeks to import a vessel that contains actinolite, amosite, anthophyllite, crocidolite or tremolite forms of asbestos, the operator must obtain from the Seacare Authority an exemption from the prohibition for the use of the asbestos under the NS , as well as a permission from the Minister for Employment and Workplace Relations to import the asbestos under the Customs (Prohibited Import) 1956. The Australian Customs Service will require a copy of the confirmation from the Minister permitting the importation before the import of the vessel will be authorised.

Example 4: Importation of a ship containing chrysotile

If an operator seeks to import a vessel that contains chrysotile, the operator must obtain from the Seacare Authority an exemption from the prohibition for the use of the chrysotile. The Australian Customs Service will require evidence that the exemption has been granted before authorising the import of the vessel.

Example 5: Export of a ship containing asbestos (all forms)

If an operator seeks to export a vessel that contains asbestos, the operator must obtain from the Seacare Authority an exemption from the prohibition for the use of the asbestos. The Australian Customs Service will require evidence that the exemption has been granted before authorising the export of the vessel.

Further information

Further information relating to the NS regulations is available from:

Seacare Authority
GPO Box 9905
CANBERRA ACT 2601
02-6275 0070
email: seacare@comcare.gov.au
website: www.seacare.gov.au

National Occupational Health and Safety Commission (NOHSC)
www.nohsc.gov.au
02-6279 1000

Australian Customs Service
www.customs.gov.au
1300 363 263

Further guidance

Other sources of information are available to assist operators meet their obligations under the NS regulations. Some of these sources are listed below.

Occupational Health and Safety (Maritime Industry) Act 1993

National Model Regulations for the Control of Workplace Hazardous Substances [NOHSC:1005(1994)]

Schedule 2 - Substances prohibited for specific uses

Schedule 3 - Hazardous Substances for which health surveillance is required

Adopted National Exposure Standards for Atmospheric Contaminants in the Occupational Environment [NOHSC:1003(1995)]

National Code of Practice for the Control of Workplace Hazardous Substances [NOHSC:2007(1994)]

Code of Practice for the Safe Removal of Asbestos [NOHSC:2002(1988)]

Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC:3002(1988)]

Guidance Note on the Membrane Filter Method for Estimating Airborne Asbestos Dust [NOHSC:3003(1989)]

Guidance Note for the Assessment of Health Risks Arising from Hazardous Substances in the Workplace [NOHSC:3017(1994)]

Guidance Note on the Interpretation of Exposure Standards for Atmospheric Contaminants in the Occupational Environment [NOHSC:3008(1995)]



Australian Government
Seafarers Safety, Rehabilitation
and Compensation Authority

Application form for exemption from the prohibition on uses of asbestos (other than chrysotile)

This application form should be completed having regard to the *Occupational Health and Safety (Maritime Industry) Act 1993*, the *Occupational Health and Safety (Maritime Industry)(National Standards) Regulations 2003* and the Guidance on the Prohibition on the Use of Asbestos in Australian Maritime Industry Workplaces.

When completing this form please attach all necessary evidence to support your application.

1. Please provide details of the operator and the person applying for the exemption.

Operator: _____
Operator address: _____
Contact person: _____
Position in company: _____
Postal Address: _____
Telephone: _____ Fax: _____
Email: _____

2. Please provide details of the type of asbestos for which the exemption is sought.

Type of asbestos: _____
Details (such as purpose, location, quantity, period the exemption is requested)

3. Please provide a business case which states why the use of asbestos is essential to the operation of the operator's business.

4. Please provide information on any alternatives to the asbestos product/component.

5. Please provide details of control measures put in place to minimise exposure to asbestos.

Signature: _____

Date: _____



Australian Government
**Seafarers Safety, Rehabilitation
and Compensation Authority**

Application form for exemption from prohibition on uses of chrysotile

This application form should be completed having regard to the *Occupational Health and Safety (Maritime Industry) Act 1993*, the *Occupational Health and Safety (Maritime Industry)(National Standards) Regulations 2003* and the Guidance on the Prohibition on the Use of Asbestos in Australian Maritime Industry Workplaces.

When completing this form please attach all necessary evidence to support your application.

1. Please provide details of the operator and the person applying for the exemption

Operator: _____
Operator address: _____
Contact person: _____
Position in company: _____
Postal Address: _____
Telephone: _____ Fax: _____
Email: _____

2. Please state the use for which the exemption is sought.

3. Please attach the following to support your application:

- a) Evidence that the use is essential to the operation of the operator’s business.
- b) Evidence that there is no reasonable alternative to the use of chrysotile.
- c) A statement of the measures that the operator will take, if the exemption is granted, to deal with any risk that might arise from the use of chrysotile.
- d) A statement of the actions that the operator will take, if the exemption is granted, to take reasonable steps to find alternatives to the use of chrysotile covered by the exemption, if necessary, undertaking, or contributing to the undertaking of, research and development of alternatives to the use of chrysotile covered by the exemption.

Signature: _____

Date: _____

Attachment A: Information to assist operators complete the application form for exemption from the prohibition of asbestos.

Section of form	Form 12 – asbestos other than chrysotile	Form 13 - chrysotile
Details of operator and person applying for exemption	Operator is defined in s4 of the OHS(MI) Act. Details of the person applying for the exemption must be provided.	Operator is defined in s4 of the OHS(MI) Act. Details of the person applying for the exemption must be provided.
Provide details of the substance	Provide information on: <ul style="list-style-type: none"> • the type of asbestos • purpose • location • quantity • period of time the exemption is requested. 	State the use for which the exemption from the prohibition is sought (Exemptions may only be sought from the uses stated in the List of Exemptions).
Provide a business case which states why the use of asbestos is essential	The Seacare Authority requires evidence that the use of the asbestos for which the exemption is sought is essential to the operation of the operator’s business.	The Seacare Authority requires evidence that the use of the chrysotile for which the exemption is sought is essential to the operation of the operator’s business.
Is there an alternative?	The Seacare Authority requires evidence that there is no reasonable alternative to the use of asbestos.	The Seacare Authority requires evidence that there is no reasonable alternative to the use of chrysotile.
Provide details of control measures.	The Seacare Authority requires a statement of the measures that the operator will take to deal with any risk that might arise from the use of asbestos, if the exemption is granted.	The Seacare Authority requires a statement of the measures that the operator will take to deal with any risk that might arise from the use of chrysotile, if the exemption is granted.
Actions taken to find alternatives.	Not required.	The Seacare Authority requires a statement of the operator’s actions to take reasonable steps to find alternatives to the use of chrysotile, if necessary, undertaking, or contributing to the undertaking of, research and development of alternatives to the use of chrysotile covered by the exemption.