Contractor Liable for Asbestos Violations?



An asbestos removal contractor was hired to remove wall panels full of asbestos from multiple levels of a ship in North Carolina. The panels were in such bad shape that they fell apart at the touch. Before work even began, the place was covered with asbestos dust. A field technician monitored the air quality and told the contractor to shut down the project. But the project's supervisor said that the monitoring results were wrong and went ahead with the work anyway, without conducting additional monitoring. Worse, he covered the area with plastic sheets that were full of "tears, holes, and gaps." One area wasn't covered at all. After an anonymous complaint, the state's Department of Health and Human Services told the contractor to shut the job down. OSHA fined the contractor $108,500 for multiple asbestos removal violations. The contractor appealed the fine, arguing that there was no proof that asbestos fibers migrated to other areas of the ship. But the federal appeals court disagreed, explaining that the contractor had a duty to cover all open areas, regardless of whether there was proof that asbestos migrated to other areas.

[*Arcon, Inc. v. OSHRC*, U.S. App. LEXIS 12249, 4th Cir.].