

OCT 25 '94 08:03AM EXCON STOP TH



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1203
DALLAS, TX 75202-2733

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MAY 13 1994

MAY 10 1994

Jerry Lauderdale
Director
Division of Occupational Health
Texas Department of Health
1100 West 49th Street
Austin, Texas 78756-3199

RECEIVED
JUN 16 1994
BUREAU OF ENVIRONMENTAL HEALTH

Dear Mr. Lauderdale:

In 1990, Congress enacted the Asbestos School Hazard Abatement Reauthorization Act (ASHARA). This law amended the Asbestos Hazard Emergency Response Act (AHERA) to extend training and accreditation requirements to certain persons performing work in public and commercial buildings. ASHARA also directed the Environmental Protection Agency (EPA) to revise its Model Accreditation Plan. In response to that mandate, on February 3, 1994, the Asbestos Model Accreditation Plan (MAP); Interim Final Rule was published in the Federal Register. This revised MAP replaces the original MAP found at 40 CFR part 763, Subpart E, Appendix C.

The revised MAP requires that each State "shall adopt an accreditation program that is at least as stringent as this MAP within 180 days after the commencement of the first regular session of the legislature of the State that is convened on or after April 4, 1994." It is my understanding that the Texas legislature will next meet on January 10, 1995. Within 180 days of that date, an accreditation plan at least as stringent as the revised MAP must be adopted.

Should the 180 day deadline not be met, Texas will no longer have authority to train persons or issue accreditation that satisfies the requirements of the Toxic Substances Control Act (TSCA) section 206(a), or to approve training course providers to conduct TSCA training or issue TSCA accreditation. A training provider approved by Texas would automatically lose State approval. Training providers losing State approval in this manner will become EPA approved if the provider has self-certified and is otherwise in compliance with the revised MAP.

We urge you to initiate the process by which the Texas Department of Health could adopt an asbestos accreditation program as stringent as the revised MAP. An essential part of the revised MAP is the extension of accreditation requirements to certain asbestos professionals and workers in public and commercial buildings.

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We look forward to working with you to continue a strong Texas asbestos accreditation program. Your existing program has helped insure that asbestos professionals in Texas receive the training needed to identify, manage, and abate asbestos. The changes prescribed by the revised MAP should strengthen your program and ensure that asbestos activities are carried out with appropriate concern for human health and the environment.

Should you have questions, or seek further clarification, you may contact Steve Varco, of my staff, at 214-618 7581.

Sincerely yours,

A. Stanley Meiburg
Director
Air, Pesticides and
Toxics Division (6T)

PLAINTIFF'S
EXHIBIT
AL-1334

ARD 040991

Steve Vargo EPA
Reg. Aff. Coord
215-665 7581

AN ACT

relating to the regulation of persons engaged in removing asbestos from public and commercial buildings or disturbing, encapsulating, enclosing, performing asbestos surveys, developing management plans or response actions, designing projects, collecting or analyzing asbestos samples, monitoring for airborne asbestos, transporting, or training.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2 (11), Texas Asbestos Health Protection Act (Article 4477-3a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2 (11) "PUBLIC BUILDING" means the interior space of any [a] building used or to be used for purposes that provide for public access or occupancy or for commercial purposes. The term includes the building during a period of vacancy, including during preparations prior to and through actual demolition. The term includes but is not limited to industrial and office buildings, residential apartment buildings and condominiums of 5 or more dwelling units, government-owned buildings, colleges, schools, pre-schools, museums, airports, jails, prisons, hospitals, churches, stores, warehouses, and factories. Interior space includes exterior hallways connecting buildings, porches, and mechanical systems used to condition interior space. The term does not include a detached single family residence.

[The term does not include:

- (A) an industrial facility to which access is limited principally to employees of the facility because of processes or functions that are hazardous to human safety or health;
- (B) a federal building or installation;
- (C) a private residence;
- (D) an apartment building with no more than four dwelling units; or
- (E) a manufacturing facility or building that is part of a facility that is limited to workers and invited guests under controlled conditions.]

Sec. 2(6.5) "DEMOLITION" means the razing process of the building or facility to include the foundation processing, grading, revegetation, grubbing, transportation and disposal of all demolition waste material. "Actual demolition" begins when any of the activities of the demolition begin with the intent to destroy and remove (some or) all parts of the building or facility.

Texas Asbestos Health Protection Act

TO: TCC Environmental Health Steering Committee

FROM: John T. Solook

10/25/94

As you know the subject Act became effective Sep 1, 1991 and contained a definition of "Public Building" that permitted an exemption for a manufacturing facility or building that is part of a facility that is limited to workers and invited guests under controlled conditions. Well, in order for the state to come into compliance with the EPA Asbestos Model Accreditation Plan, Interim Final Rule, February 3, 1994 in the federal register some changes have to be made in the definition. I believe the current thinking is to modify the definition in the Act and possibly go to the BOARD in December or possibly to the legislature in Jan as TDH has 180 days from the opening of the session to get the change in.

WHAT DOES ALL THIS MEAN? WELL, IT LOOKS AS THOUGH THE DEFINITION WILL BE CHANGED. HOW, I AM NOT SURE AT THIS TIME BUT I HAVE BEEN ASKED BY TDH TO TAKE PART IN A SUBCOMMITTEE TO HELP REDEFINE A PUBLIC BUILDING.

What I need is some input as the meeting will be either this Friday 10/28 or Monday 10/31 and as best I can get now is that Jerry Lauderdale thinks we should go for some sort of compromise in that we define a commercial building similar or put wording in to the effect that a third party will be involved with design and monitoring the job while another party will do the work. What the state is concerned with is that the fox is not watching the chicken. They are real uncomfortable with a "turn-key" operation where one contractor does it all. So with that option eliminated our position should be one of accepting a third party overview. How we propose this is important. It looks as though member companies will have to have a few licensed designers or inspectors on hand for project design and then use a third party for inspection and clearance as well as compliance with TDH as well as OSHA.

For you information I have enclosed copies of the appropriate documents. Please let me know your opinions. Tel. 713-425-1141 or FAX 713-425-5757

I AM SENDING PACKAGE VIA FEDEX BUT
FAXING A FEW PAGES

OCT 25 '94

713 435 50 97

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Jim Richten

Asbestos info.

TCC ENVIRONMENTAL HEALTH STEERING COMMITTEE

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Perry Yalcinkaya
Mark Shilling

Shell Oil Company
Du Pont - Beaumont Works
ARCO Chemical
Dow Chemical Co.
Texas Eastman Co.
Aluminum Company of America
Union Carbide
Texas Chemical Council

From: J. T. Solook

Exxon Chemical Americas

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7/15/94

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