

**VALERO
REFINING COMPANY**

Interoffice Memorandum

PLAINTIFF'S EXHIBIT

VRC-11

Date: October 7, 1991

To: Don Ruyle Department: Contract Administration

From: Norman L. Renfro Dept/Ext: Environmental Affairs/328

Subject: Asbestos Abatement Contractors

Asbestos Abatement Contractors need to be informed and required to provide documentation that their on-site representative has completed all the necessary NESHAP's training. (See attached.) Do our existing contracts cover new regulations or do we need to amend them?

NLR:sad

xc: J. Kersey
E. Loosemore
J. Kiggans

Norman

VALERO/MOAKE

allow additional interrogatories upon motion therefor showing good cause, or upon stipulation of the parties. A motion for leave to serve additional interrogatories must be filed and granted prior to the service of the proposed additional interrogatories; and must be accompanied by a copy of the interrogatories, if any, which have already been served by the moving party, and by a copy of the interrogatories proposed to be served. If a party upon which interrogatories have been served believes that the number of interrogatories served exceed the limitation specified in this paragraph, and is not willing to waive this basis for objection, the party shall, within the time for (and instead of) serving answers and specific objections to the interrogatories, serve a general objection on the ground of their excessive number. If the inquiring party, in turn, files a motion to compel discovery, the motion must be accompanied by a copy of the set(s) of interrogatories which together are said to exceed the limitation, and must otherwise comply with the requirements of paragraph (e) of this section.

Dated: September 5, 1991.

Harry F. Manbeck, Jr.,

*Assistant Secretary and Commissioner of
Patents and Trademarks.*

[FR Doc. 91-21984 Filed 9-11-91; 8:45 am]

BILLING CODE 3510-16-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 61

[FRL-3995-4]

Asbestos NESHAP Training Requirements for On-Site Representative

AGENCY: Environmental Protection
Agency.

ACTION: Notice of guidance.

SUMMARY: The purpose of this guidance is to explain how the new Asbestos NESHAP training requirements may be met. The Asbestos NESHAP was revised on November 20, 1990. One of the new requirements of the Asbestos NESHAP is that an on-site representative (such as a foreman or management level person), trained in the asbestos demolition and renovation provisions and the means of complying with them, be present when the regulated asbestos-containing material (RACM) is stripped, removed or otherwise handled or disturbed. Evidence that the required training has

been completed shall be posted at the demolition or renovation site and made available for inspection by EPA or the delegated Agency.

EFFECTIVE DATE: November 20, 1991.

FOR FURTHER INFORMATION CONTACT:
Ms. Omayra Salgado at (703) 305-8728.

SUPPLEMENTARY INFORMATION: The Asbestos School Hazard Abatement Reauthorization Act (ASHARA), signed into law on November 28, 1990, included an amendment to the Asbestos Hazard Emergency Response Act (AHERA) which requires that EPA revise the AHERA Model Accreditation Plan, originally intended only for schools, to extend accreditation requirements to include persons performing asbestos-related work in public and commercial buildings. These requirements would apply to the asbestos removal associated with the demolition and renovation of buildings that are subject to the NESHAP. These requirements may be in effect as early as 1992.

When the Asbestos NESHAP was last revised, these statutory changes had not been foreseen. As a consequence, the Asbestos NESHAP, contained a requirement for training and a refresher course. EPA wishes to avoid duplicative asbestos training requirements, therefore, the Agency has decided to recognize valid accreditation as an AHERA Asbestos Abatement Contractor/Supervisor as satisfying the Asbestos NESHAP training requirements.

The Asbestos Abatement Contractor/Supervisor curriculum is a training program under the current AHERA that meets the NESHAP requirements. Persons are presently required to complete four days of training and then pass an examination to become accredited under this program. Completion of the Asbestos Abatement Contractor/Supervisor training course to comply with the NESHAP training requirement is strongly recommended since all persons performing asbestos-related work will be required to take AHERA training when EPA revises the AHERA Model Accreditation Plan to include public and commercial buildings. In light of this requirement, it would appear to be ill-advised to develop a training course that does not qualify for AHERA accreditation.

Guidance

- Successful completion of the AHERA Model Accreditation Plan course titled Asbestos Abatement Contractor/Supervisor is strongly recommended to satisfy the Asbestos NESHAP training requirements.

- Completion of the Asbestos Abatement Contractor/Supervisor refresher training course every 2 years will comply with the Asbestos NESHAP training requirements. However, completion of the refresher course, every year, is required to maintain AHERA accreditation. For this reason an accredited person probably will need to complete the refresher course each year in order to continue working as an AHERA accredited Contractor/Supervisor, and also to qualify for refresher training.

- Those persons who are accredited as an AHERA Asbestos Abatement Contractor/Supervisor at the time the NESHAP training requirement takes effect (November 20, 1991), will be accredited as a NESHAP on-site representative until the certificate expiration date. Completion of the appropriate AHERA refresher training is required thereafter.

Dated: September 9, 1991.

John B. Rasnic,

*Director, Stationary Source Compliance
Division, Office of Air Quality Planning and
Standards.*

[FR Doc. 91-21974 Filed 9-11-91; 8:45 am]

BILLING CODE 6550-60-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 433

[MB-022-IFC]

RIN 0938-AD36

Medicaid Program; State Share of Financial Participation

AGENCY: Health Care Financing
Administration (HCFA), HHS.

ACTION: Interim final rule with comment.

SUMMARY: Under certain circumstances, States are currently permitted to use voluntary contributions (donated funds) from providers and all revenues from State-imposed taxes, as the State share of the costs of the Medicaid program. There is now widespread use of State donations or other voluntary provider payment programs that unfairly affect the Federal share of Federal Financial Participation (FFP). This practice circumvents the States' statutory obligation to expend funds for medical assistance. Therefore, effective January 1, 1992, this interim final rule requires that the amount of funds donated from Medicaid providers be offset from Medicaid expenditures incurred on or

VALERO/MOAKE

Northwest Envirocon, Inc.

P.O. Box 4638 • Vancouver, WA 98662 • 7410 Delaware Lane • Vancouver, WA 98664
(206) 699-4015 • FAX (206) 699-5223

Bulk Sample Analysis Report

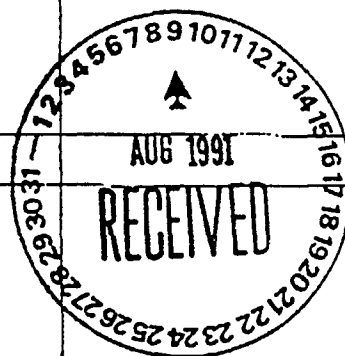
Client: Valero Refining
Attention:
Project: 48/53 Fueler CPC (12,500U)

NWE Job Number: 8004

Report Date: 7-26-91

Page: 1 of 1

Sample ID Number	<u>01</u>		
Laboratory Number	<u>100-901</u>		
Additional Information			
Sample Gross Appearance	<u>Frashable</u>		
Is the sample homogenous?	<u>yes</u>		
Does it contain obvious layers?	<u>no</u>		
Is the sample fibrous?	<u>yes</u>		
Color of sample & pleochroism	<u>White</u>		
Is Asbestos Detected?	<u>yes</u>		
ASBESTOS (Type and Percent)	<u>1) 15%</u>		
1. Chrysotile			
2. Amosite			
3. Crocidolite			
4. Other (specify)			
Total Percent Asbestos	<u>15%</u>		
Other Fibrous Materials (Type and Percent)	<u>6) 20% 7) 5%</u>		
5. Fiberglass			
6. Cellulose			
7. Synthetic			
8. Other (specify)			
Non-Fibrous Materials	<u>N/A</u>		



Notes of Analysis: EPA recommended PLM. Samples will be disposed of after 90 days unless prior arrangements have been made. The results reported are only to the samples received and tested. Sub-samples are analyzed separately and the combined results are reported in proportion to their abundance.

Analyzed by: P Marshall

VALERO/MOAKE

FAX COVER SHEET

FAX TO:

NAME: Norman Renfro

CITY: Valero Refining

STATE: TX

FAX #: 289-3242

OTHER: _____

FROM TACB REGION 5:

NAME: Dick Hinman

REMARKS: These can be copied as needed call if
you have any questions.

Total number of pages sent including this cover sheet

3

Operator Project #	Postmark	Date Received	Notification #
--------------------	----------	---------------	----------------

I. TYPE OF NOTIFICATION (O=Original R=Revised C=Cancelled):

II. FACILITY INFORMATION (Identify owner, removal contractor, and other operator)

OWNER NAME:

Address:

City:	State:	Zip:
Contact:		Tel:

REMOVAL CONTRACTOR:

Address:

TDH Lic. No:

City:	State:	Zip:
Contact:		Tel:

OTHER OPERATOR:

Address:

City:	State:	Zip:
Contact:		Tel:

III. TYPE OF OPERATION (D=Demo O=Ordered Demo R=Renovation E=EmerRenovation P=Planned):

IV. IS ASBESTOS PRESENT? (Yes/No)

V. FACILITY DESCRIPTION (Include building name, number and floor or room #)

Bldg Name:

TACB Account:

Address:

City:	State:	Zip:
Site Location:		Site Tel:
Building Size:	# of Floors:	Age in Years:
Present Use:		Prior Use:

VI. PROCEDURE, INCLUDING ANALYTICAL METHOD, IF APPROPRIATE, USED TO DETECT THE PRESENCE OF ASBESTOS MATERIAL:

VII. APPROXIMATE AMOUNT OF ASBESTOS, INCLUDING:	RACM To Be Removed	Nonfriable Asbestos Material Not To Be Removed		Indicate Unit of Measurement Below	
1. Regulated ACM to be Removed		Cat I	Cat II	UNIT	
2. Category I ACM Not Removed				Ln Ft:	Ln m:
3. Category II ACM Not Removed				Sq Ft:	Sq m:
Pipes				Cu Ft:	Cu m:
Surface Area					
Vol RACM Off Facility Component					

VIII. SCHEDULED DATES ASBESTOS REMOVAL (MM/DD/YY) Start: Complete:

IX. SCHEDULED DATES DEMO/RENOVATION (MM/DD/YY) Start: Complete:

X. DESCRIPTION OF PLANNED DEMOLITION OR RENOVATION WORK, AND METHOD(S) TO BE USED:

XI. DESCRIPTION OF WORK PRACTICES AND ENGINEERING CONTROLS TO BE USED TO PREVENT EMISSIONS OF ASBESTOS AT THE DEMOLITION AND RENOVATION SITE:

XII. WASTE TRANSPORTER #1

Name:

Address:

City:

State:

Zip:

Contact:

Tel:

WASTE TRANSPORTER #2

Name:

Address:

City:

State:

Zip:

Contact:

Tel:

XIII. WASTE DISPOSAL SITE

Name:

Address:

City:

State:

Zip:

Telephone:

TDH/TWC Permit No.:

XIV. IF DEMOLITION ORDERED BY GOVERNMENT AGENCY, PLEASE IDENTIFY AGENCY BELOW:

Name:

Title:

Authority:

Date of Order (MM/DD/YY):

Date Ordered to Begin (MM/DD/YY):

XV. FOR EMERGENCY RENOVATIONS

Date and Hour of Emergency (MM/DD/YY):

Description of the Sudden, Unexpected Event:

Explanation of how the event cause unsafe conditions or would cause equipment damage or an unreasonable financial burden:

XVI. DESCRIPTION OF PROCEDURES TO BE FOLLOWED IN THE EVENT THAT UNEXPECTED ASBESTOS IS FOUND OR PREVIOUSLY NONFRIABLE ASBESTOS MATERIAL BECOMES CRUMBLLED, PULVERIZED, OR REDUCED TO POWDER.

XVII. I CERTIFY THAT AN INDIVIDUAL TRAINED IN THE PROVISIONS OF THIS REGULATION (40 CFR PART 61, SUBPART M) WILL BE ON-SITE DURING THE DEMOLITION OR RENOVATION AND EVIDENCE THAT THE REQUIRED TRAINING HAS BEEN ACCOMPLISHED BY THIS PERSON WILL BE AVAILABLE FOR INSPECTION DURING NORMAL BUSINESS HOURS. (Required 1 year after promulgation)

Job Supervisor:

TDH Lic. No.:

(Signature of Owner/Operator)

(Date)

XVIII. I CERTIFY THAT THE ABOVE INFORMATION IS CORRECT.

(Signature of Owner/Operator)

(Date)

Operator Project #	Postmark	Date Received	Notification #		
I. TYPE OF NOTIFICATION (O=Original R=Revised C=Cancelled):					
II. FACILITY INFORMATION (Identify owner, removal contractor, and other operator)					
OWNER NAME:					
Address:					
City:	State:	Zip:			
Contact:		Tel:			
REMOVAL CONTRACTOR:					
Address:		TDH Lic. No:			
City:	State:	Zip:			
Contact:		Tel:			
OTHER OPERATOR:					
Address:					
City:	State:	Zip:			
Contact:		Tel:			
III. TYPE OF OPERATION (D=Demo C=Ordered Demo R=Renovation E=EmerRenovation P=Planned):					
IV. IS ASBESTOS PRESENT? (Yes/No)					
V. FACILITY DESCRIPTION (Include building name, number and floor or room #)					
Bldg Name:		TACB Account:			
Address:					
City:	State:	Zip:			
Site Location:		Site Tel:			
Building Size:	# of Floors:	Age in Years:			
Present Use:		Prior Use:			
VI. PROCEDURE, INCLUDING ANALYTICAL METHOD, IF APPROPRIATE, USED TO DETECT THE PRESENCE OF ASBESTOS MATERIAL:					
VII. APPROXIMATE AMOUNT OF ASBESTOS, INCLUDING:					
Regulated ACM to be Removed	ACM To Be Removed	Nonfriable Asbestos Material Not To Be Removed		Indicate Unit of Measurement Below	
Category I ACM Not Removed		Cat I	Cat II	UNIT	
Category II ACM Not Removed				LnFt:	Ln m:
Surface Area				SqFt:	Sq m:
ACM Off Facility Component				CuFt:	Cu m:
SCHEDULED DATES ASBESTOS REMOVAL (MM/DD/YY)				Start:	Complete:
SCHEDULED DATES DEMO/RENOVATION (MM/DD/YY)				Start:	Complete:

X. DESCRIPTION OF PLANNED DEMOLITION OR RENOVATION WORK, AND METHOD(S) TO BE USED:

XI. DESCRIPTION OF WORK PRACTICES AND ENGINEERING CONTROLS TO BE USED TO PREVENT EMISSIONS OF ASBESTOS AT THE DEMOLITION AND RENOVATION SITE:

XII. WASTE TRANSPORTER #1

Name:

Address:

City:

State:

Zip:

Contact:

Tel:

WASTE TRANSPORTER #2

Name:

Address:

City:

State:

Zip:

Contact:

Tel:

WASTE DISPOSAL SITE

Name:

Address:

City:

State:

Zip:

Telephone:

TDH/TWC Permit No.:

XIV. IF DEMOLITION ORDERED BY GOVERNMENT AGENCY, PLEASE IDENTIFY AGENCY BELOW:

Name:

Title:

Authority:

Date of Order (MM/DD/YY):

Date Ordered to Begin (MM/DD/YY):

XV. FOR EMERGENCY RENOVATIONS

Date and Hour of Emergency (MM/DD/YY):

Description of the Sudden, Unexpected Event:

Explanation of how the event cause unsafe conditions or would cause equipment damage or an unreasonable financial burden:

XVI. DESCRIPTION OF PROCEDURES TO BE FOLLOWED IN THE EVENT THAT UNEXPECTED ASBESTOS IS FOUND OR PREVIOUSLY NONFRIABLE ASBESTOS MATERIAL BECOMES CRUMBLED, PULVERIZED, OR REDUCED TO POWDER.

XVII. I CERTIFY THAT AN INDIVIDUAL TRAINED IN THE PROVISIONS OF THIS REGULATION (40 CFR PART 61, SUBPART M) WILL BE ON-SITE DURING THE DEMOLITION OR RENOVATION AND EVIDENCE THAT THE REQUIRED TRAINING HAS BEEN ACCOMPLISHED BY THIS PERSON WILL BE AVAILABLE FOR INSPECTION DURING NORMAL BUSINESS HOURS. (Required 1 year after promulgation)

Job Supervisor:

TDH Lic. No.:

(Signature of Owner/Operator)

(Date)

XVIII. I CERTIFY THAT THE ABOVE INFORMATION IS CORRECT.

(Signature of Owner/Operator)

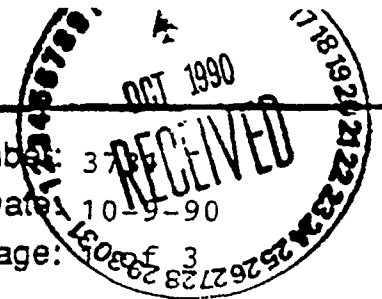
(Date)

Bulk Sample Analysis Report

Client: GILMAN INSULATION
Attention: CLIFTON LANGTON
Project: VALERO

Asbestos Abatement

NWE Job Number: 3785
Report Date: 10-9-90
Page: 3



Sample ID Number	44 - 01	19 - 7	19 - 14
Laboratory Number	100 - 127	100 - 128	100 - 129
Additional Information			
Sample Gross Appearance	Friable	Friable	Friable
Is the sample homogenous?	Yes	Yes	No
Does it contain obvious layers?	No	No	No
Is the sample fibrous?	Yes	Yes	Yes
Color of sample & pleochroism	White	White	White/Tan
Is Asbestos Detected?	No	No	No
ASBESTOS (Type and Percent)			
1. Chrysotile			
2. Amosite			
3. Crocidolite			
4. Other (specify)			
Total Percent Asbestos	None	None	None
Other Fibrous Materials (Type and Percent)			
5. Fiberglass			
6. Cellulose			
7. Synthetic			
8. Other (specify)			
Non-Fibrous Materials	NA	NA	NA

Method of Analysis: EPA recommended PLM. Samples will be disposed of after 90 days unless prior arrangements have been made. The results reported apply only to the samples received and tested. Sub-samples are analyzed separately and the combined results are reported in proportion to their abundance.

Analyzed by: Eric Connelly

Final copy checked by: Tommy White

Q.A. Supervisor Approval

VALERO/MOAKE

TOTAL P.01

Bulk Sample Analysis Report

Client: GILMAN INSULATION
Attention: CLIFTON LANGTON
Project: VALERO REFINING CO.

NWE Job Number: 3731
Report Date: 10-9-90
Page: 2 of 3

Sample ID Number	19 - 13	19 - 18	19 - 6
Laboratory Number	100 - 130	100 - 131	100 - 132
Additional Information		WET SAMPLE	WET SAMPLE
Sample Gross Appearance	Friable	Friable	Friable
Is the sample homogenous?	Yes	Yes	Yes
Does it contain obvious layers?	No	No	No
Is the sample fibrous?	Yes	Yes	Yes
Color of sample & pleochroism	White	White	White
Is Asbestos Detected?	No	No	No
ASBESTOS (Type and Percent)			
1. Chrysotile			
2. Amosite			
3. Crocidolite			
4. Other (specify)			
Total Percent Asbestos	None	None	None
Other Fibrous Materials (Type and Percent)			
5. Fiberglass	6) 40 %	6) 50 %	6) 50 %
6. Cellulose			
7. Synthetic			
8. Other (specify)			
Non-Fibrous Materials	NA	NA	NA

Method of Analysis: EPA recommended PLM. Samples will be disposed of after 90 days unless prior arrangements have been made. The results reported apply only to the samples received and tested. Sub-samples are analyzed separately and the combined results are reported in proportion to their abundance.

Analyzed by: Eric Connelly

Final copy checked by: Tommy White

Q.A. Supervisor Approval

VALERO/MOAKE

Bulk Sample Analysis Report

Client: GILMAN INSULATION
Attention: CLIFTON LANGTON
Project: VALERO

NWE Job Number: 3731
Report Date: 10-9-90
Page: 3 of 3

Sample ID Number	19 - 06 A		
Laboratory Number	100 - 133		
Additional Information	WET SAMPLE		
Sample Gross Appearance	Friable		
Is the sample homogenous?	Yes		
Does it contain obvious layers?	No		
Is the sample fibrous?	Yes		
Color of sample & pleochroism	White		
Is Asbestos Detected?	No		
ASBESTOS (Type and Percent) 1. Chrysotile 2. Amosite 3. Crocidolite 4. Other (specify)			
Total Percent Asbestos	None		
Other Fibrous Materials (Type and Percent) 5. Fiberglass 6. Cellulose 7. Synthetic 8. Other (specify)	6) 45 %		
Non-Fibrous Materials	NA		

Method of Analysis: EPA recommended PLM. Samples will be disposed of after 90 days unless prior arrangements have been made. The results reported apply only to the samples received and tested. Sub-samples are analyzed separately and the combined results are reported in proportion to their abundance.

Analyzed by: Eric Connelly

Final copy checked by: Tommy White

Q.A. Supervisor Approval

VALERO/MOAKE

TOTAL P. 01

HSM LABORATORIES

P. O. Box 816
Nederland, Texas 77627
(409) 842-5751
Fax: (409) 842-4099



11821 I-10 East, Suite 160
Houston, Texas 77029
(713) 455-7227
Fax: (713) 455-7263

June 31, 1990



Gilman Insulation Co., Inc.
P.O. Box 4074
Corpus Christi, TX 78408

ATTENTION: CLIFTON LANGTON

SUBJECT: LAB SERVICE NUMBER 0790.1339

On June 24, 1990, HSM Laboratories received five filter cassette samples for analysis. The analytical result of each sample was determined following NIOSH method 7400 (Rule A).

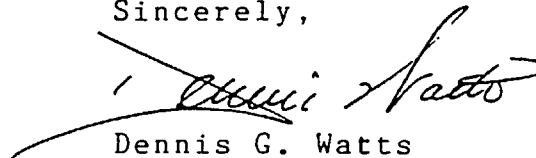
Wedges from each sample filter were examined under a phase contrast microscope at a magnification of 400x. All fibers and particulates longer than five microns with a length-to-width ratio of 3:1 or greater were counted as asbestos. The fiber concentration of each filter was then calculated based on the number of fibers per fields counted and the volume of air drawn through the sampling media.

HSM Laboratories participates in the NIOSH Proficiency Analytical Testing (PAT) program for phase contrast microscopy (NIOSH PAT #77029-001). Other methods of Quality Assurance/Quality Control include recounts, interlaboratory analysis and blanks. Analysts have completed the NIOSH 582 Equivalency course "Airborne Asbestos Sampling and Laboratory Analysis".

HSM Laboratories appreciates the opportunity to provide analytical services. If you have any questions, please contact our office.

Please see the following page(s) for analytical results.

Sincerely,


Dennis G. Watts
Laboratory Supervisor

DGW/em
Enclosure

VALERO/MOAKE

Client: Gilman Insulation Co., Inc
Project #: N/A
Site : Valero Refining
Report Date: July 31, 1990

Results of Analysis

<u>Lab Number</u>	<u>Sample ID Number</u>	<u>Fibers Counted</u>	<u>Fields Counted</u>	<u>Air Volume (liters)</u>	<u>Fiber Concentrations (fibers/cc)*</u>
0790.1339	101	38.0	100	660.0	0.027
0790.1340	102	26.0	100	1512.0	0.008
0790.1341	103	1.0	100	60.0	<0.083
0790.1342	104	46.5	100	1020.0	0.021
0790.1343	BLANK	3.0	100	-----	BLANK

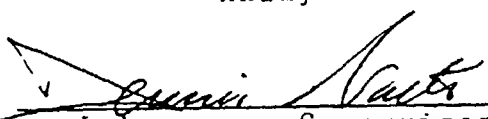
* Indicates measurements corrected for blanks.

** Indicates interlaboratory recount.

NA = Not Analyzed



Analyst



Laboratory Supervisor

LOCATION: Lab.

GIC JOB NO. 585

ALL SAMPLES ARE COLLECTED AT 2 L/MIN. UNLESS OTHERWISE NOTED

VALERO/MOAKE