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ASBESTOS

Programs Branch

UPDATE

Volume 2, No. 2 May - August 1995

MESSAGE FROM THE DIRECTOR

It is with a mixture of pleasure and regrets that I announce that I will be leaving my position as Director of the Division of Occupational Health with the Texas Department of Health at the end of August. I look forward with pleasure to new challenges in the future, but I will miss the many rewarding associations which I have had with the asbestos industry and others with whom I have worked with over my 25 years of public service. I have seen the development of what I know is a much needed program in this Division to protect the public from health hazards of asbestos, and I am very pleased to know that Todd Wingler and his staff will continue to develop and improve the program in the future.

Best Wishes to Everyone.

Jerry F. Lauderdale

LICENSING PROGRAM

ASBESTOS PROFESSIONAL LICENSING SECTION

Recently there have been a few personnel changes within the licensing section. As of June 1, 1995, George Montemayor is the Licensing Coordinator. Two new employees to the licensing section are Rene Becerra and Jackie Hernandez. With the addition of these two employees, changes have been made in the distribution of licensing categories. Following is the current list:

Rene Becerra - Ext. 2479
Workers

Rhonda Raymond - Ext. 2478
Individual Management Planner
Individual Consultant
Management Planner Agencies
Consultant Agencies
Inspectors

Cheryl Thompson - Ext. 2425
Air Monitoring Technicians
Project Managers
Laboratories

Jackie Hernandez - Ext. 2460
Contractors
Transporters
Supervisors

George Montemayor - Ext 2463
Operations & Maintenance Contractors
(Restricted)
Operations & Maintenance Supervisors
(Restricted)

ASBESTOS TRAINER LICENSING SECTION

The "Third Annual Asbestos Training Provider Seminar" was held in Austin on May 30, 1995 at the Texas Department of Health main complex auditorium. Thank you to all the dedicated training providers that attended and gave us their support.

Ms. Michelle Sanders is no longer with the Asbestos Programs Branch. Her position in the Training Provider Section as compliance and audit Specialist has been filled by Ms. Janie Dykes, who will begin on September 5, 1995. Ms. Dykes' background has included licensing and investigations and will be of great benefit to the training provider section.

THE FOLLOWING TRAINING PROVIDERS ARE NO LONGER LICENSED TO PRACTICE IN THE STATE OF TEXAS:

**BCM ENGINEERS, INC.,
CAM ENVIRONMENTAL SERVICES,
DIVERSIFIED TRAINING GROUP,
EL PASO COMMUNITY COLLEGE,
LAW ENVIRONMENTAL, INC.,**

**LEE AND SIMS ENVIRONMENTAL
SERVICES,
OCCUPATIONAL SAFETY TRAINING
INSTITUTE,
POLLUTION CONTROL MANAGEMENT
CORPORATION.**

Please contact the Asbestos Trainer Licensing Section for an up-dated list of approved asbestos training providers in Texas.

The new calendar with the dates and locations the Asbestos Accreditation Examinations will be given from September 1995 to August 1996 has been completed and is now available to be mailed or faxed upon request. Please note that due to a number of people failing to show up to take the asbestos accreditation exam, we are being forced to only accept registrations that include the fee. No more registrations will be taken over the phone at the last minute. Please contact the Trainer Licensing Section for a copy of this calendar and/or exam registration information.



ENFORCEMENT PROGRAM

Enforcement Administrator

New OSHA Regulations:

The new OSHA regulation 29 CFR 1926.1101 (formerly 1926.58) will be fully implemented on October 10, 1995. This regulation is not enforced by the Texas Department of Health (TDH). However, it is a reference for the Texas Asbestos Health Protection Rules (TAHPR) which have parallel implementation. Using a combination of policy and rules changes, any differences between what is in the Texas rules and the OSHA will be changed to reflect the new OSHA requirements. As an example, the Permissible Exposure Limit (PEL) in the rules is .2f/cc and the new OSHA is .1f/cc. We will enforce the PEL of .1f/cc since it is a parallel requirement and the OSHA regulation a reference.

Asbestos Licensee Duties:

Persons and organizations holding an asbestos license, by accepting the license, agree to follow all the provisions of the TAHPR that apply to them. One major part of this responsibility is listed in the responsibility section of the individual license categories. If those provisions are not followed, then the licensee is in violation and may have a Notice of Violation (NOV) processed against them. Any penalties would be charged to the individual and the license might be withdrawn or not renewed.

The greater responsibility rests with the licensed consultants. They have the responsibility to produce a set of plans and specifications for each project, to include the air monitoring requirements for the project, the project management, and provide the clearance. The

consultant may delegate the clearance to a project manager, but this must be in writing for each project. The consultant shall also place an original signature on each set of plans and specifications for a project. Consultants are the only ones who may interpret or modify the plans and specifications they have prepared.

The department is currently reviewing various laws and regulations to determine the impact on our licensed consultants. As an example, under the OSHA regulations only a Registered Professional Engineer or Certified Industrial Hygienist may design the work to be performed under the OSHA Class I defined work. Under the Texas law for registration of Professional Engineers, any work in a building which exceeds \$8,000 or requires the design of structural or utility systems, shall be designed by a Professional Engineer. This means that there may need to be different levels of the consulting license since not all consultants perform design work where a professional engineer or certified industrial hygienist is required. Further information will be published in a policy letter as soon as a determination can be made regarding changes for licensing.

Asbestos State Accreditation Examination Calendar September 1, 1995 - August 31, 1996

FACILITY LOCATIONS	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug
Texas Department of Health 1100 West 49th Street Moreton Building, Room M653 Austin, Texas *Contact: Athan Ogoh	18	16	13	11	16	12	11	15	13	10	15	12
Arlington Community Center 2800 South Center Street Music Room Arlington, Texas *Contact: Athan Ogoh	6	4	1	6	3	7	6	3	1	5	18	22
Public Health Region 4 1517 West Front Street Tyler, Texas Contact: Joel Sprouls 903-595-3585	5	3	7	5	2	6	5	2	7	4	2	6
Crowne Plaza Hotel • Galleria Area Second Floor Meeting Room (See Hotel Posting) 2222 West Loop South Houston, Texas *Contact: Athan Ogoh	25	23	20	15	22	26	25	22	20	24	29	26
Public Health Region 10 6070 Gateway East, Suite 401 El Paso, Texas *Contact: Athan Ogoh	28			20			20			18		29
Public Health Region 11 601 West Sesame Drive Harlingen, Texas Contact: Jesus Muñoz 210-423-0130		19			25			25			25	

Registrations must be received by mail or phone 5 days prior to the examination (see registration manual for more information). The above facilities can only accommodate a limited number of persons, therefore it is recommended that you submit your registration early or else you may find that your first and second choices are already full.

* Athan Ogoh: 800-572-5548 or 512-834-6600

Prior to the day of your examination, you will be given the time in which you will need to report to the facility. The location of a facility within a specified city is subject to change, when necessary. If such a change in location occurs, all registrants for that examination will be notified.

Revised July 1995

NOTIFICATION AND INFORMATION SECTION

NOTIFICATION FEE COUPONS

In September, 1995 the notification section will be changing the methods by which we collect and credit the remittances for the notification fees. After a notification has been processed, a fee will be assessed and an invoice printed. The invoice will be sent to the building owner, just as in the past, but included with the invoice will be a coupon and a return envelope.

Return of the invoice with the remittance will no longer be required, but the coupon must be returned. The remittances will be processed by The State of Texas Treasury banking system, which will electronically scan the coupons. **If a coupon is not returned with the remittance, the payment cannot be processed and will be returned.** The remitted amount must match the amount on the coupon; do not combine invoices and attempt to pay with one remittance and one coupon. The coupons must also be returned in the color-coded envelopes that are provided.

The coupons will contain all of the numbers and information that is needed to properly credit the remittance. The notification section has continued to have problems with remittances that are being paid without a copy of the invoice. As a result, the notification account is not credited with the payment and after 60 days the account is being listed as delinquent. The coupon system should simplify the remittance process for the building owners and should reduce the number of problem invoices for the notification section and the customers.

10-DAY NOTIFICATION

The last Asbestos Programs Branch Update (Volume 2, No. 1) contained an article in the Enforcement Program section that addressed the time frame of the 10-day notification for asbestos renovations or demolitions. The article stated that the project could start on the

10th working day after the postmarked day. This was the Department's policy that had been in effect for an indefinite period of time.

The article generated a number of calls from people that were confused about the policy. Most of the people were familiar with NESHAP and dealing with the Environmental Protection Agency's (EPA) policies. A consultation was made with a representative from the Enforcement Section of EPA, who gave the official interpretation of the NESHAP 10-day requirement. EPA allows for the postmarked date to count as Day 1, but requires for 10 full working days to pass before a project could start. This means that a project cannot start until Day 11.

The Department has determined that it would be less confusing to follow EPA's interpretation and require that a project not start until the 11th day after a notification has been postmarked. In actuality, this policy conforms to the language in TAHPA. Section 295.34(f)(2) states that a notification must be submitted "at least 10 working days (not calendar days) prior to the start date..." Section 295.61(c) states "Written notifications of asbestos abatement activity or demolition must be hand delivered, express mailed, or postmarked at least 10 working days (not calendar days) before the start of activities which may disturb asbestos."

The new policy will be of great benefit to the asbestos inspectors, who have been unable to schedule an inspection for many projects because they are receiving the notifications after the projects have already started and often are completed. The one additional day will help this situation. One of the main purposes of the notification is to provide information to allow for an inspection. This goal can not be met if the inspectors receive the notifications after the project is completed.

ENFORCEMENT SECTION

To date, the Asbestos Enforcement Program has total proposed penalties of more than \$787,000. Those agreed orders signed since the April Update are:

COMPANY: Hiser Abatement Company
(FIRST BAPTIST CHURCH)
LOCATION: DALLAS
VIOLATION: FAILURE TO ADEQUATELY WET
ACM.
FINE: \$400.

COMPANY: YOGESH KARSAN
LOCATION: CHANNELVIEW
VIOLATION: FAILURE TO PROVIDE NOTIFI-
CATION OF ASBESTOS
RELATED ACTIVITIES.
FINE: \$1,000.

COMPANY: C.S. MEGAS (LUCKY LIQUOR)
LOCATION: NEDERLAND
VIOLATION: FAILURE TO PROVIDE NOTIFI-
CATION OF ASBESTOS
RELATED ACTIVITIES.
FINE: \$2,500.

COMPANY: HISER ABATEMENT COMPANY
(CHILD STUDY CENTER)
LOCATION: DALLAS
VIOLATION: FAILURE TO PROVIDE AN
AMENDED NOTIFICATION
FINE: \$2,000.

COMPANY: ELBERT ASDRICH, INC.
LOCATION: TEMPLE
VIOLATION: FAILURE TO CONDUCT AN
ASBESTOS SURVEY
FINE: \$1,000.

COMPANY: ALTECH ABATEMENT SERVICES
LOCATION: TEXARKANA
VIOLATION: FAILURE TO LABEL ASBESTOS
WASTE CONTAINERS WITH
GENERATOR NAME AND
LOCATION.
FINE: \$200.

COMPANY: APPLEBEES INTERNATIONAL,
INC.
LOCATION: OVERLAND PARK, KANSAS
(VIOLATION OCCURRED IN
WACO)
VIOLATION: FAILURE TO PROVIDE NOTIFI-
CATION OF ASBESTOS
RELATED ACTIVITIES.
FINE: \$1,000.

COMPANY: EVETTS OIL COMPANY, INC.
LOCATION: PITTSBURG, TEXAS
VIOLATIONS: FAILURE TO CONDUCT AN
ASBESTOS SURVEY
FAILURE TO PROVIDE NOTIFI-
CATION OF ASBESTOS
RELATED ACTIVITIES
FINE: \$2,000.

COMPANY: FOODMAKER
LOCATION: HOUSTON
VIOLATIONS: FAILURE TO OBTAIN A VALID
ASBESTOS SURVEY
FAILURE TO PROVIDE NOTIFI-
CATION OF ASBESTOS
RELATED ACTIVITIES
FAILURE TO CONTRACT WITH
OR EMPLOY A LICENSED
ASBESTOS INSPECTOR
FINE: \$3,000.

COMPANY: ROOSTH AND GENECOV
LOCATION: TYLER
VIOLATION: FAILURE TO CONDUCT AN
ASBESTOS SURVEY
FINE: \$2,000.

Just a Reminder

According to the Texas Asbestos Health Protection Rules, §295.31 (e) **License Possession requirements.** "...All licensed individuals must have the Identification Card issued by the department on the work site at all times while engaged in any asbestos-related activity. For individuals, this is the only proof of a valid license."

**Division of Occupational Health
Asbestos Programs Branch Update
1100 West 49th Street
Austin, Texas 78756-3189
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ASBESTOS PROGRAMS BRANCH UPDATE

A bulletin published in Austin, Texas, by the Texas Department of Health, Division of Occupational Health for the asbestos industry licensees and the general public.

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