

# TEXAS DEPARTMENT OF HEALTH DIVISION OF OCCUPATIONAL HEALTH

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## ABESTOS PROGRAMS BRANCH UPDATE

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### INTRODUCTION

This bulletin is the first in a series which will be published by the Asbestos Programs Branch tri-annually (April, August, December). We will include general information of interest (licensing, training, notifications, enforcement, management plans), reference to any policy or information letters which have been published, and completed enforcement actions. Your comments and recommendations will be most welcome, and we hope that this bulletin be a service to the regulated asbestos community and the general public. Please refer any comments to Ms. Carole Williams, the editor, who will ensure your comments are forwarded to the correct person for consideration.

NESHAP. Enforcement authority for NESHAP was transferred from TNRCC to TDH. This authority became effective on February 23, 1994 following the publication of §295.71 of the Rules in the Texas Register. The complete revision of the Rules is expected to be published in the Texas Register in mid May. Public hearings will be held in Austin, Dallas, and Houston, in addition we will accept written comments for a period of thirty (30) days. Comments will be accepted only on the parts of the rules which are being changed. New regulations are being proposed for a state accreditation examination, a new license category for a Management Planner Agency, notification requirements, air clearance for abatement work, higher administrative penalties, and other changes throughout the Rules. Specifics will be listed in the Texas Register. We expect that the final rules will be published in the register in the first part of August with an effective date in September.

### REVISED ASBESTOS RULES

The rules which implement the Act are in the process of being revised to establish procedures to enforce



### ASBESTOS PROGRAMS BRANCH CONTACT DIRECTORY

Jerry Lauderdale, Director  
Division Of Occupational Health  
(512)834-6600, Ext. 2448

Athan Ogoh, Coordinator  
Training Section  
(512)834-6600, Ext. 2452

Todd F. Wingler, Chief  
Asbestos Programs Branch  
(512)834-6600, Ext. 2462

Kathy Reeves, Coordinator  
Licensing Section  
(512)834-6600, Ext. 2463

Donald Willhouse, Administrator  
Enforcement Program  
(512)834-6600, Ext. 2453

Deborah Marlow, Coordinator  
Notification and Information Section  
(512)834-6600, Ext. 2455

Horace Edison, R.S., Coordinator  
Inspection Section  
(512)834-6600, Ext. 2454

Carole Williams,  
Public Information Officer  
Notification and Information Section  
(512)834-6600, Ext. 2479

## LICENSING PROGRAM

### FREQUENTLY ASKED ASBESTOS LICENSING QUESTIONS

The Asbestos Licensing Section receives numerous inquiries regarding the asbestos licensing process. Because the Licensing Technicians quite often receive the same questions time and again, they have compiled these questions along with the answers for your quick reference. In an effort to better inform our current and potential applicants, we will present several of these questions/answers in future newsletters.

**Q.** Why is it taking so long to get my license? How long does it take to issue a license?

**A.** The Asbestos Licensing Section receives 500 to 700 licensing/registration applications per month. On average, from the time your application is received, the licensing staff requires at least two weeks to process your application and issue the license/registration certificate. The licensing staff is constantly working to reduce licensing time, and is always available to answer questions about specific applications.

**Q.** How long does it take to process an application and can I work as long as I have submitted an application?

**A.** To process an application, to issue a license/registration certificate and to mail it takes approximately three weeks (possibly a shorter amount of time if an application is complete and doesn't require a "Deficiency Notification" letter). No one can participate in any asbestos-related activity until a license/registration certificate is received, so you may not work during the time your application is being processed. You must wait until you receive your license/registration to work in any asbestos-related field that requires licensing.

When you have any questions regarding your license or registration, please don't hesitate to contact your assigned licensing technician. The licensing technician's category assignments are as follows:

George Montemayor: Worker Registrations

Sonja Moya: Air Monitoring Technicians (Basic and Upgraded), Project Managers, Management Planner Agencies, Operations & Maintenance (O&M) Supervisors (Restricted)

Debby Baker: Individual Consultants, Consultant Agencies, Contractors, Project Supervisors

Kathy Reeves: Transporters, Laboratories, O&M Contractors (Restricted), Inspectors, Individual Management Planners

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### ASBESTOS TRAINER LICENSING SECTION

The Training Section was started on January 1, 1994, and to date, it has approximately 40 approved training providers in the State plus seven (7) applications pending approval. Its objective is to thoroughly review all applications for training provider licenses to ensure they have all the components necessary to obtain licensure. If all requested information is accurate, they are issued a contingent license. The second phase is auditing of training courses and their facilities. The primary concern in conducting an audit is to ensure that complete and accurate information is being presented by a training provider in a way that learn-

ing will occur. The effectiveness of a training course depends upon the decisions instructors make about what is to be taught and how it will be taught.

The Training Section is comprised of four (4) staff members. Athan U. Ogoh, the Training Section Coordinator, ensures that daily activities in planning and administration of the Training Section are met. Mr. Ogoh also conducts site audits on training providers and their facilities. Michelle D. Sanders is the section's Compliance and Audit Specialist. Ms. Sanders' responsibilities include assisting with training provider audits, assisting in planning section activities and answering general questions dealing with asbestos training. Roc2o Pe:a-Brow is the section's Training Tech-

nician (Examiner). Ms. Pe:a-Brow will administer the new proposed State Accreditation Examination, review new applications for licenses, and interpret the Federal and State regulations concerning asbestos training and the accreditation examination. Starlite Folley, the Training Secretary, performs advanced secretarial work for the asbestos Trainer Licensing Section and also carries out routine phases of administrative work which involves preparing correspondence, distributing mail, screening visitors, and other secretarial work.

### **I. EPA Model Accreditation Plan Summary of Changes**

The EPA MAP Interim Final Rule Amendment, is effective April 4, 1994. The Department will eventually adopt these changes in our rule. The timeframe that this will happen is currently uncertain. The following are excerpts from the Federal Register, February 3, 1994.

#### **A. Distinct Training Disciplines**

The MAP revisions reaffirm the principle that each of the five accredited training disciplines in the MAP is distinct from the others:

- 1) each initial and refresher training course offered for accreditation must be specific to a single discipline, and not combined with training for any other discipline;
- 2) workers are no longer permitted to "upgrade" their worker accreditation to that of contractor/supervisor by completing only one additional day of training; **AND**
- 3) persons completing initial training for accreditation as contractor/supervisors are no longer permitted to work as accredited project designers during their initial 1-year term of accreditation, as this dual-accreditation provision has been entirely deleted from the revised MAP (i.e., persons seeking accreditation as contractor/supervisors must now complete the new 5-day initial training for contractor/supervisors, and persons seeking accreditation as project designers must now complete the new 3-day initial training for project designers).

#### **B. Increased Training Requirements**

**Worker course** - 14 hours of hands-on training which

must permit actual experience performing tasks associated with asbestos abatement; **AND** extends course length to four days. **Contractor/Supervisor course** - 14 hours of hands-on training which must permit actual experience performing tasks associated with asbestos abatement; **AND** extends course length to five days.

#### **C. Expanded Project Designer Curriculum**

(six new topics):

- 1) the need for and methods of preparing a written project design;
- 2) techniques for completing an initial cleaning of the work area;
- 3) increased emphasis on the rationale behind the establishment of functional spaces;
- 4) the need for written diagrams and methods of diagramming all containment barriers;
- 5) the need for a written sampling rationale for air clearance; **AND**
- 6) clarification of what constitutes a complete visual inspection.

#### **D. Deaccreditation of Persons**

EPA may take independent actions against either training entities or upon State enforcement authority or initiative. Four minimum criteria are established for triggering deaccreditation actions by EPA or the State (i.e., suspending or revoking accreditation; suspending or withdrawing the approval of training courses):

- 1) performing work requiring accreditation at a job site without being in physical possession of initial and current accreditation certificates;
- 2) permitting the duplication or use of one's own accreditation certificate by another;
- 3) performing work for which accreditation has not been received; **OR**
- 4) obtaining accreditation from a training provider that does not have approval to offer training for the particular discipline from either EPA or from a State that has a contractor accreditation plan at least as stringent as the EPA MAP.

In addition, EPA cites the following examples as situations which could result in civil penalties under TSCA:

- 1) obtaining accreditation through fraudulent means;
- 2) obtaining training documentation through fraudulent means;

3) gaining admission to and completing refresher training through fraudulent representation of initial or previous refresher training documentation; **OR**

4) obtaining accreditation through fraudulent representation of accreditation requirements such as education, training, professional registration, or experience.

## **II. Proposed State Accreditation Examination**

**If currently proposed Rules are adopted, the following procedures for examination will be required:**

### **A. General**

Beginning September 1, 1994, each applicant for an individual license will be required to pass an accreditation examination administered by the Department in the category for which an individual wished to be licensed and a retest will be required every three years thereafter. Persons receiving their training from training providers outside of Texas must complete the approved three (3) hour Texas law course prior to applying for the accreditation examination.

The application for the examination and the required fee shall be included with the license application form. The applicant will be required to take the examination within 60 days of applying for that license. If they fail either the initial examination or re-examination, they shall be required to take another examination within 30 days. The examination will cover the topics included in the training course for that license category.

### **B. Misconduct or Dishonesty**

Misconduct or dishonesty during the examination, or an individual taking the examination other than the person scheduled, will constitute grounds for the issuance of a failing grade and revocation or denial of license. Failure to pass the accreditation examination prior to license renewal shall constitute grounds for revoking or denying a license.

### **C. Fees**

There will be an examination fee of \$25.00 for the initial examination or for any re-examination administered by the Department. A fee of \$50.00 shall be paid for examinations to be administered by the De-

partment at locations and times other than those on the published schedule. A request to the Department must be submitted in sufficient time to permit scheduling and administration of the examination. Fees must be paid to the Department prior to the taking of the examination. The required fee will not be paid at the examination location, but must be mailed to the Department.

### **D. Scheduling and Registration**

An annual schedule of examination dates and locations will be published by the Department, listing the schedule for the twice monthly testing in Austin, Dallas, Houston, Midland and other cities, as a system to administer the examination is developed. Each month, re-examinations will be available in Austin, Texas, at a location and time specified in the published schedule. Registration must be received by the Department no later than 5 days prior to the desired examination date. Entrance into the test site will be allowed only upon presentation of a valid photo ID card. Schedules will be provided by the training providers as a part of their instruction. Training providers should ensure that special requirements for examinations are annotated on the application form. For example, if an applicant has any special requirements they must be listed in order to provide the applicant the greatest opportunity. Additional assistance will be available by calling the Department's Asbestos Training Section. Companies with 30 or more persons to be tested will be able to call the Department to arrange an additional examination date.

### **E. Grading and Reporting of Examination Scores**

A grade of 70% must be achieved in order to pass the examination. Scores will be reported only by mail; the notification will, if appropriate, contain information regarding re-examination.

### **F. Re-Examination**

An individual may take only two re-examinations after failing the initial examination. Following the third failure, the applicant must repeat the initial training course required for the license for which he/she is applying, submit a new application for the Department examination, and provide a copy of the training certificate for the additional training. Re-examination questions will be different from the initial examination.

## ENFORCEMENT PROGRAM

### ASBESTOS COMPLIANCE AND ENFORCEMENT

The Asbestos Compliance and Enforcement Program is a new section created in the Division of Occupational Health, Asbestos Programs Branch in January, 1994. Since the delegation of this section, the outreach to the public for proper handling of asbestos has become more effective. Statistically, over 30 notice of violation (NOV) letters have been written and more than \$150,000 in administrative penalties have been proposed. The staff involved in this program are as follows:

Horace Edison, R.S. the Section Coordinator, supervises the section activities. Tom Ellerbee, R.S., is the

Enforcement Support Specialist. He is involved in all aspects of enforcement, including answering phone inquiries, investigating complaints, and assisting regional investigators in their inspections. Aloysius Okorie, the Local Program Coordinator, oversees the Asbestos Programs of the Local Health Departments and assists in preparing NOV letters. The Local Programs in Houston, El Paso, Dallas, Fort Worth, and Galveston will be under contract with TDH by September, 1994. Keith Alexander, the Technical Support Specialist, has the responsibility of reviewing and preparing all correspondence sent in from all regions for violations. He ensures that all the materials, photos, sample results, field notes, etc. are of legal approval before they are sent to the Office of General Counsel.

## ENFORCEMENT ACTIONS

**Individual:** Richard T. Pruet  
**Location:** Pasadena  
**Violation:** Operating Without a License  
**Fine/Action:** \$1,000 and Consultant License Revocation for three (3) years.

**Company:** Little-Tex Insulation Co., Inc.  
**Location:** San Antonio  
**Violation:** Work Practices  
**Fine:** \$250.00.

**Company:** F.M.S.A., Inc.  
**Location:** Marble Falls  
**Violation:** No Notification, Unlicensed Individuals, and Work Practices  
**Fine:** \$2,000.

**Company:** Environmental Training & Certification (Training Provider)  
**Location:** Houston  
**Violation:** Training without a License  
**Fine/Action:** Denial of Training License for Period of Three (3) Years.  
**REFERRED TO OTHER AGENCIES FOR POSSIBLE PENALTIES.**

**Company:** Anderson Group  
**Location:** Austin  
**Violation:** No Notification and Improper Removal  
**Fine:** \$1,800.

**Individual:** Fred W. Dalton  
**Location:** Austin  
**Violation:** Failure to Employ a Licensed Contractor  
**Fine:** \$200.00.

## NOTIFICATIONS & INSPECTIONS

TDH and TNRCC are currently sharing responsibilities for administration of the NESHAP program. Direct delegation of the program rests with TNRCC. TDH is under contract to TNRCC. Fees for notifications should still be submitted to TNRCC after receiving an invoice. Notifications are to be sent directly to TDH for both NESHAP purposes and for state law as discussed in the next paragraph. Call TDH for proper forms. The Texas Asbestos Health Protection Act (TAHPA) was amended in the Spring of '93 to allow TDH the authority to seek delegation for NESHAP directly from EPA. The Texas Asbestos Health Protection Rules (Rules) will be rewritten to establish procedures to enforce NESHAP. Local programs in Houston, El Paso, Fort Worth, Dallas and Galveston are under contract to TNRCC to handle compliance inspections in those areas. TDH conducts compliance inspections throughout the remainder of the state. Transition of the NESHAP Asbestos program to TDH, including fee assessment should be complete later this year. Inquiries related to Subpart M notifications or other requirements should be directed to TDH, Occupational Health, Asbestos Programs Branch, (512)834-6600 or 1-800-572-5548. Inquiries related to fees should be directed to Carole Ransom or Al Langlely, at TNRCC at (512)239-1535. TDH also enforces state regulations in the asbestos industry through TAHPA and the Rules. TDH must be notified per the Rules of the intent to perform ANY asbestos abatement, demolition, or operations and maintenance (O&M) activity affecting asbestos-containing materials (ACM) in public buildings, regardless of quantities.

## COMBINED NOTIFICATION FORM

Beginning April 1, 1994 all notifications for any asbestos abatement, demolition, or O&M activity affecting ACM will only be submitted to TDH. In an effort to simplify the process of notification, we have created a form that combines the requirements of the NESHAP regulations and the TAHPA regulations. This form will be used whether a notification is being submitted in accordance with NESHAP, TAHPA, or both. Neither the old TAHPA form nor the TNRCC (Air Control Board - ACB-99B&C) NESHAP form will be accepted after June 1, 1994.

The Notification and Information Section is responsible for creating the new form, as well as the daily activities of processing all submitted notifications and providing information to the regulated asbestos community. The staff consists of Kim Johnson, Patsy Jones, Sabrina Abernathy and Carole Williams. Deborah Marlow is the Section Coordinator. This knowledgeable group is available to answer any questions regarding notifications or other aspects of the regulations.

The new form will be available at any of the TDH Regional offices or by calling the Asbestos Programs Branch office at 512-834-6600 or 800-572-5548. We plan to compile an instruction guide to aide in completing the new form. This guide should be available soon.

## NEW POLICY LETTERS

The rules implementing TAHPA became effective on October 26, 1992. While attempting to enforce these rules for the last year and half, it has become apparent that there is still much confusion over them. Part of the confusion stems from the fact that this is not the only set of regulations that pertains to the control and abatement of asbestos. Persons involved in asbestos work may fall under the jurisdiction of TAHPA, NESHAP, the Asbestos Hazard Emergency Response Act (AHERA) or more than one of these regulations. In order to dispel some of the confusion regarding the regulations, the Asbestos Programs Branch of TDH is in the process of creating a series of policy letters. Each policy letter will be a set of guidelines that combines and interprets the pertinent sections of all applicable regulations. Each policy letter will address a single topic that has proven to be confusing and has resulted in unintentional non-compliance by many people involved in the renovation and demolition of facilities. The first policy letter addresses the removal of asbestos-containing resilient floor covering materials. A copy of this policy letter can be obtained by calling the Asbestos Programs Branch at (512)834-6600 or 1-800-572-5548 and requesting Policy Letter 295.36-1. Our plans are to write policy letters, in the near future, that address the removal of wallboard and joint compounds, demolitions and other topics which have proven to be confusing.

## DIVISION OF OCCUPATIONAL HEALTH REGIONAL OFFICES

**REGION 1**

1109 Kemper  
Lubbock, Texas 79403  
Telephone: 806-744-3577  
Tex An: 806-842-5234  
Fax: 806-741-1366

**REGION 2 AND 3**

2561 Matlock Road  
Arlington, Texas 76015-1621  
Telephone: 817-460-3032  
Tex An: 817-833-9011  
Fax: 817-9011  
Tex-An Fax: 817-833-9245

1290 S. Willis, Suite 100  
Abilene, Texas 79605  
Telephone: 915-695-7170  
Tex-An: 915-847-7011  
Tex-An Fax: 915-847-7271

**REGION 4 AND 5**

1517 W. Front Street  
Tyler, Texas 75702-7854  
Telephone: 903-595-3585  
Tex-An: 903-830-6011  
Fax: 903-595-3585  
Tex-An Fax: 903-830-6257

**REGION 6**

10500 Forum Place Drive, Suite 200  
Houston, Texas 77036-8599  
Telephone: 713-414-6125  
Tex-An: 713-851-3302  
Fax: 713-414-6304

**REGION 7**

2408 South 37th Street  
Temple, Texas 76504  
Telephone: 817-778-6744  
Tex-An: 817-851-2201  
Fax: 817-778-4066

**REGION 8**

1015 Jackson Keller Road #222  
San Antonio, Texas 78213-3745  
Telephone: 210-342-3300  
Tex-An: 210-254-3300  
Fax: 210-349-5946

1021 Garner Field Road  
Uvalde, Texas 78801  
Telephone: 210-278-7173  
Tex-An: 210-820-1532  
Fax: 210-278-7170

**REGION 9 AND 10**

P.O. Box 9428  
El Paso, Texas 79984-0428

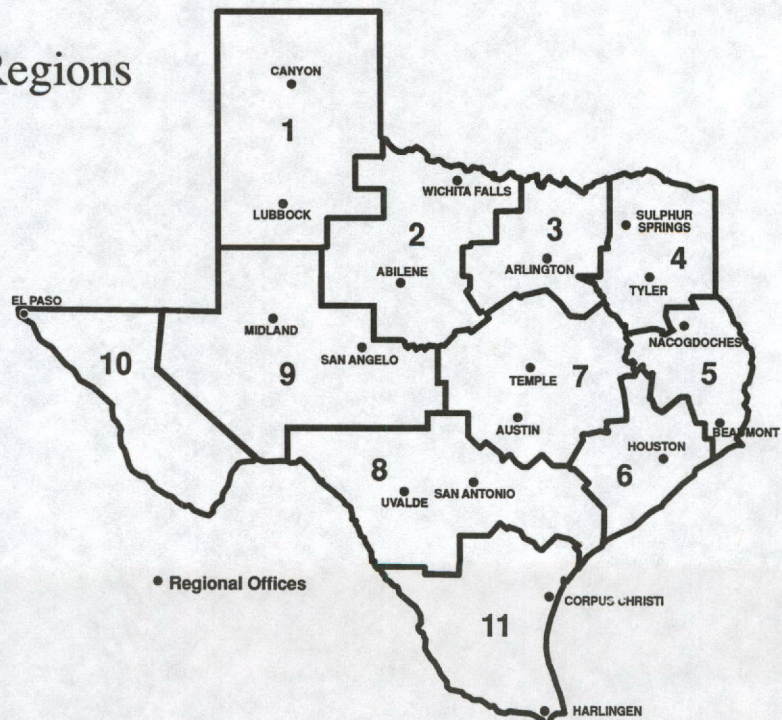
6070 Gateway East, Suite 401  
El Paso, Texas 79905-2060  
Telephone: 915-774-6200  
Tex-An: 915-423-8100  
Fax: 915-774-6280

2301 N. Big Spring, Suite 300  
Midland, Texas 79705  
Telephone: 915-683-9492  
Tex-An: 915-840-1009  
Fax: 915-684-3932

**REGION 11**

601 W. Sesame Drive  
Harlingen, Texas 78550-7996  
Telephone: 210-423-0130  
Tex-An: 210-820-4501  
Fax: 210-423-0130 Ext. 505  
Tex-An Fax: 820-4505

### Texas Department of Health Regions



**ASBESTOS ADVISORY COMMITTEE**

**Names and Addresses of Members**

Mr. Luis M. Acuna  
Sun City Analytical  
6028 Surety Dr., Ste. 204  
El Paso, Texas 79905

Richard S. Kronenberg, M.D.  
The University of Texas Health  
Center at Tyler  
P.O. Box 2003  
Tyler, Texas 75710

Mr. James Homminga  
Specialized Abatement Systems, Inc.  
15602 Australia  
Houston, Texas 77040

Mr. Robert N. Crossman, Jr., P.E.  
The University of Texas Health  
Center at Tyler  
P.O. Box 2003  
Tyler, Texas 75710

Mr. Noble J. Atkins, Jr.  
Tri-Pro Services, Inc.  
P.O. Box 271  
Kaufman, Texas 75142

Mr. Frank M. Parker, III  
Environmental Technologies, Inc.  
1010 S. Magnolia Blvd.  
Magnolia, Texas 77355-1721

Asbestos Advisory Board nominee names are submitted to the Board of Health, by the Division of Occupational Health, from which members are appointed for either 2, 4, or 6 year terms. Following are the names of the current advisory committee members, the slot they are filling, and the year their term expires:

Frank M. Parker	Consultant	95
Noble J. Atkins, Jr.	Contractor	99
Robert N. Crossman, Jr., P.E.	Instructor	95
James R. Homminga	Waste Facility	97
Luis M. Acuna	Laboratory Manager	97
Richard Kronenberg, M.D.	Physician	99

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