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# Environmental Quality Commission

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MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item N, April 29, 1988, EQC Meeting

Proposed Adoption of Rules Relating to Asbestos Control (OAR 340-33) and Amendments to the Hazardous Air Contaminant Rules for Asbestos (OAR 340-25-450 through -465)

## BACKGROUND AND PROBLEM STATEMENT

The Department is proposing the adoption of new asbestos abatement rules and the adoption of amendments to existing asbestos control rules. The new and revised rules are included as Attachment A. These rules were developed in cooperation with the Oregon Asbestos Advisory Board and the Department of Insurance and Finance, Accident Prevention Division (APD).

The proposed rules are intended to establish contractor licensing and worker certification programs for people who work with asbestos. These programs are required by ORS 468.875 to 468.899 which is included for reference as Attachment B (1987 House Bill 2367). The rules would establish programs for the accreditation of training providers, the licensing of small-scale asbestos abatement contractors and full-scale asbestos abatement contractors, and the certification of small-scale workers, full-scale workers, and supervisors for full-scale asbestos abatement. These categories were designed to be compatible with existing occupational and environmental regulations for asbestos. Fees would be charged for licensing, certification, and accreditation.

The proposed rules are also intended to satisfy federal regulations pertaining to asbestos abatement in schools. Regulations developed by the U.S. Environmental Protection Agency (EPA) to implement the Asbestos Hazard Emergency Reduction Act of 1986 (AHERA) require each state to adopt regulations for the training and certification of asbestos abatement contractors and workers. About thirty states have the required programs in place or are preparing the required programs. Programs are already in place in the state of Washington.

The proposed rules would revise the existing regulations on asbestos as a hazardous air contaminant. Work practices, notification procedures, and disposal requirements would be revised. These changes are necessary to reduce the releases of airborne asbestos from abatement projects and to incorporate the current federal requirements on asbestos which are included

in the National Emission Standards for Hazardous Air Pollutants (NESHAPs). Fees for filing of notifications would be added to support the asbestos control program.

Minor updates in the existing rules for hazardous air contaminants sources are included in the proposed rules. These revisions, which were added after the public comment period, are necessary for consistency with the Air Contaminant Discharge Permit requirements.

The Commission authorized hearings on the proposed rules on January 22, 1988. The staff report for the hearing authorization request is included as Attachment C. The public notice was published on February 1, 1988. Five hearings were held around the state on March 2 through 15, 1988. The Hearings Officer's report is included as Attachment D. Attachment E is the Department's response to the comments received.

A Statement of Need for Rulemaking is included as Attachment F.

ALTERNATIVES AND EVALUATION

Overall, the Commission may choose to adopt the rules required by ORS 468.893 at this meeting or to delay rule adoption. Rule adoption is required by law by July 1, 1988. If the Commission chooses to postpone adoption, it could adopt regulations at the meeting scheduled for June 6, 1988 or at a specially-scheduled meeting. Any delays in adopting the rules will reduce the amount of time before January 1, 1989, when the certification and licensing requirements become mandatory. That deadline can be extended by the Commission if inadequate training is available.

During the public comment period and meetings of the Oregon Asbestos Advisory Committee, options were discussed for many sections and subsections of the rules. These areas are discussed in the Hearings Officer's Report (Attachment D) and in the Response to Comments (Attachment E). In some cases, state law, federal regulations, or other considerations make the options unworkable. Alternatives based on the remaining options follow. These alternatives are identified by the rule number to which they apply. In each case, the Department's preferred alternative is listed first (Alternative #.0).

DIVISION 25 SECTION 465

The Department has been delegated authority by the EPA for implementation of NESHAPs. Many of the requirements of proposed OAR 340-25-465(4) through (7) are necessary to implement the federal program. An implementation date of June 1, 1988 is recommended for these changes. This would allow sufficient time for the regulated community to receive Department notice of the changes and to prepare for them.

Testimony was received about the exemptions in the proposed rules for certain nonfriable materials. Additional testimony was received on a possible minimum cutoff for application of the asbestos requirements. These issues can be combined into a single exemption category. As proposed in Attachment A, any activity exempted under OAR 340-25-465(4), would also be exempted from the licensing and certification requirements of OAR 340-33.

ALTERNATIVE 465(4).0 Adopt the exemptions in the proposed rules. These exemptions have been expanded from the exemptions proposed for public comment to include any nonfriable asbestos materials which are handled without causing the release of asbestos fibers. An exemption is also added for very small quantities of friable materials, when asbestos abatement is not the primary intent of the activity. The exemption for nonfriable materials will reduce the regulatory burden for materials which are not expected to cause a hazard and will allow Department resources to be used more effectively. The very small quantity exemption recognizes that it may not be feasible to require licensing and certification for this class of activity, although health hazards could still be created.

ALTERNATIVE 465(4).1 Remove the exemption for very small quantities of asbestos. Licensing, certification, and the specified work practices and engineering controls would be required for asbestos abatement projects of any size. This could significantly increase the number of workers subject to the requirements and encourage intentional noncompliance. It would reduce the probability of homes and other buildings becoming contaminated with asbestos if all affected persons complied with the rule. Department resources would have to be focused on the very small quantity abatement projects to insure compliance.

The rules would add a timetable for submittal of notifications and would introduce a notification fee. Several alternatives have been identified.

ALTERNATIVE 465(5).0 Adopt the notification procedure and fee structure proposed in Attachment A. The fees would fund improved compliance, enforcement, and assistance activities. This alternative would meet the current federal requirements for ten day advance notification on NESHAPs projects, with exceptions for emergencies and small jobs.

ALTERNATIVE 465(5).1 Require that a separate notification be filed for each three months of an on-going project. This requirement was included in the rules proposed for public comment to offset the increased cost of inspecting very large jobs and of extra inspections which might need to be done on a very large job. Testimony was received indicating that assessing additional project notification fees on this basis could be inequitable. The Department removed this requirement from the proposed rules but expects to maintain adequate records to determine more precisely a basis for a request for additional notification fees. Adoption of this alternative would restore the original wording on projects extending beyond three months.

ALTERNATIVE 465(5).2 Adopt different fees from those shown. Higher or lower fees could be established. As requested by the Oregon Legislature, the proposed fees were presented to the Legislative

Emergency Board on March 17, 1988. The Board found the proposed fees to be acceptable. With regard to notification fees, the Department considered and rejected as unacceptable several other fee bases, including job duration, job cost, and actual cost of inspections. The proposed fees are based on projections of the number of notifications received in each category and staffing levels to accomplish compliance assurance goals. The Lane Regional Air Pollution Authority has already considered adopting fees, but tabled adoption pending Commission action. With regard to the certification, licensing, and accreditation fees, the proposed fees in Division 33 were structured to support those program requirements. Revising any of the proposed fees would directly impact the Department's program execution capabilities.

Notification fees established under these rules would increase by 50% for any project started without submittal of the notification and specified fee. The increased fee would offset higher costs incurred by the Department for such projects. As proposed, the fee for each notification category is proportional to the number of project inspections anticipated and amount of resources needed for an inspection in that category. Projects for which notifications are not submitted prior to commencement will require additional Department resources. These projects will have a greater need for inspection, particularly if the removal was started without knowledge of the presence of asbestos or use of proper work practices, and a higher probability of enforcement action as a result. The costs to the Department will also increase due to disruption of the schedule for project inspections and other activities.

The proposed rules contain revisions to the existing work practice and engineering control requirements. In Attachment A, Subsections 465(6)(a) through (e) update the existing regulations to match the current federal requirements. Subsection 465(6)(f), which was added following the public comment period, would impose new requirements on the use of exhaust ventilation and vacuuming equipment. The current regulations allow, under different circumstances, for either no visible emissions or have no specified emission limit. As pointed out in public testimony, this is inadequate protection of the environment. The equipment referred to in the rule is the industry standard for asbestos abatement and, when under their jurisdiction, is required by the APD, so the impact of the change would be minor.

ALTERNATIVE 465(6).0 Adopt subsection 465(6)(f) as proposed. High efficiency particulate air (HEPA) filters would be required on any air cleaning or vacuuming equipment. Inferior filters are not adequate to capture asbestos fibers and result in the dispersion of asbestos into the air, either in the work space or into the building or exterior environment. Since HEPA filtration equipment is already the industry standard, the economic impact on safely conducted asbestos abatement projects is minimal.

ALTERNATIVE 465(6).1 Delete subsection 465(6)(f) and continue existing requirements. This would allow projects which are not under APD jurisdiction to be done without industry-standard air cleaning. More

asbestos emissions would be allowed than under the previous alternative.

The proposed rules include changes to the existing waste disposal requirements. The Department's intent is to insure that all asbestos waste is disposed of without the release of asbestos fibers to the air. As proposed for public comment, the rule would have required that all asbestos waste, including friable and nonfriable materials, be subject to the same disposal requirements. Waste which could not be traced to a regulated source or project was included; disposal of these wastes is currently unregulated. Testimony suggested that the requirements for disposal of nonfriable waste was too stringent. Additional testimony suggested that record-keeping be required as a means of verifying that waste was disposed of properly. This would also provide an indication of the actual size of a removal project. Both of these recommendations were incorporated in the proposed rules.

ALTERNATIVE 465(13).0 Adopt this section as proposed. Record-keeping would be required. Nonfriable asbestos waste would, at a minimum, have to be disposed of safely. This would reduce the potential for environmental contamination from mishandling of these materials.

ALTERNATIVE 465(13).1 Delete the record-keeping requirement. More improper disposal might occur under this alternative. Some reduction in record-keeping might occur, although these records are probably retained already for tax purposes.

ALTERNATIVE 465(13).2 Delete subsection 465(14) requiring safe disposal of nonfriable asbestos waste which is not already regulated. The current requirements would remain in force. Public uncertainty over the requirements for disposal of these materials would continue.

DIVISION 33 SECTIONS 010 TO 110

Worker certification levels, training, and experience requirements were developed based on recognized needs, existing environmental and worker protection requirements, federal requirements for persons working in schools, statutory requirements to consider different classes of workers, and model curricula available from the EPA and other state programs. The identified alternatives to the rules presented in Attachment A relate to refresher training and examinations. The specific curriculum requirements are located in the DEQ Asbestos Training Guidance Document, which is included as Attachment G.

The proposed rules require refresher training on an annual basis for all certified workers. This training would be needed to maintain a valid worker certification card and to obtain biennial renewal. This requirement is based on ORS 468.887(3) which states that, "if the commission determines there is a need for a category of workers to update the workers' training in order to meet new or changed conditions, the commission may require the

worker, as a condition of certificate renewal, to successfully complete an accredited asbestos abatement review course."

In developing the regulations proposed in Attachment B, the Department considered the extent of new or changed conditions in two categories: new or changed regulatory conditions and new or changed abatement practices and procedures. The Department believes that there is a need to require refresher training based on changes in these areas.

Since the authorizing legislation was filed on July 20, 1987, changes have been made in state and federal regulations. The most significant of these are the EPA regulations implementing the Asbestos Hazard Emergency Reduction Act (AHERA). Promulgated on October 30, 1987, these regulations contain extensive asbestos requirements for all kindergarten through twelfth grade schools. AHERA requires one day of annual refresher training for all full-scale abatement supervisors and workers who do abatement work in schools. These requirements apply to school employees and to contractors employed by the schools. Under AHERA, each state is required to develop contractor certification programs at least as stringent as the EPA model plan.

The regulations of the Accident Prevention Division have also changed since House Bill 2367 was adopted. On September 17, 1988 the APD regulations were revised to make certain work practices mandatory for regulated "small scale, short duration" asbestos abatement work and to make several other changes in the asbestos construction code. These changes are the latest in a number of significant changes the APD has made in the last two years in their asbestos requirements for worker protection. Other changes have included a reduction in the allowable exposure levels; the initiation of negative-pressure enclosure requirements, supervisor ("competent person") requirements, and other changes in full-scale requirements; medical monitoring and record keeping requirements; and other changes in the requirements for small scale, short duration jobs. The entire APD asbestos code was reformatted into separate codes for general industry and for construction. It is likely that APD requirements will continue to be responsive to developments in worker protection for asbestos abatement.

Asbestos abatement is a developing industry. Procedures and practices for effectively abating asbestos while minimizing worker exposure and asbestos release have changed rapidly throughout the 1980s and are expected to continue to change. New solutions to common abatement problems are developed frequently. One major area of change has been the development of "negative-air" enclosures which pull contaminated air out of the work space through HEPA filters and which have airlock chambers with clean-up facilities for ingress and egress from the work area. These enclosure techniques have been the subject of a federal patent and subsequent legal actions to have the patent overturned which are not yet finally resolved. Optimum designs for these enclosures are still being developed to suit the wide array of abatement situations. Improved methods or designs are being developed for the airlock chambers, for ensuring that contaminated air

leaves the work area only through the HEPA filters, and for removing waste from the work area without contamination. New chemicals for improved wetting of asbestos materials (surfactants) prior to handling and for binding asbestos materials together (encapsulants) are being developed. These chemicals reduce the amount of asbestos fibers which are released. With the increasing demand for asbestos abatement, new hardware and mechanical equipment is also being developed to suit particular applications. These tools can be combined with new procedures for improved abatement.

Changes in worker protection methods have also occurred. The procedure for exposure monitoring has been revised. Increasingly, a more refined method of asbestos analysis, transmission electron microscopy, is being used on jobs to provide more accurate assessment of the kind of fibers present and the amount of extremely small fibers present. Other changes in work practices have reduced the potential for individual injury due to electric shock, heat stress, and other physical causes.

New developments have also occurred in the procedures used specifically for small-scale asbestos abatement. New glovebags with design improvements for certain applications come on the market frequently. These glovebags are the mainstay of small-scale abatement work, since they allow the worker to remain isolated from the asbestos, when used properly.

For the abatement supervisors, the changes occurring in the insurance market have had and will continue to have significant impacts on asbestos abatement operations.

The eastern United States has generally led the country in asbestos concerns and abatement practices. Judging by the impact of asbestos on real estate markets in that part of the country, much of the impact of asbestos in buildings has yet to be felt in Oregon. As the impact increases, the pace of new developments in abatement is also expected to increase. New techniques being developed in the eastern United States will also need to be brought to the attention of Oregon-certified workers.

Based on these factors, several alternatives for refresher training have been identified.

ALTERNATIVE 050.0 The Commission can find that there is a need for workers to update their training in order to meet new and changed conditions which exist and can be expected to exist for the foreseeable future. Refresher training would be required as specified in the proposed rules. The Department will monitor conditions in the asbestos abatement industry. When conditions stabilize for one or more of the categories of certified workers, the Department will report that information to the Commission. Such a finding can be supported by the descriptions of new and changed conditions given above. The rapid pace of developments in asbestos abatement, which has occurred throughout

the 1980s and is expected to continue, produces a need to have workers who have current training.

ALTERNATIVE 050.1 The Commission can find that there is a need for refresher training based on new and changed conditions for all workers who may do work in schools. Refresher training is required as proposed for all workers employed by kindergarten through twelfth grade schools and for all workers employed by contractors or not employed at a fixed facility other than a school. This alternative would be difficult to administer, would restrict the mobility of workers, and could result in the use of techniques which are less protective of worker health and the environment than current industry standards by those workers who are not subject to the refresher training requirements. For any level at which refresher training is not required, deterioration in worker skills and skill application can be expected.

ALTERNATIVE 050.2 The Commission can find that there is no need for refresher training based on insufficient new or changed conditions. All reference to mandatory refresher training would be deleted from the proposed rule. This alternative would not provide for a mechanism to ensure that all workers continue to be aware of and trained to use the most appropriate techniques for safe abatement of asbestos. Increased emissions of asbestos and increased worker and public exposure could result. The economic impact of this alternative on the regulated community would be lessened by the extent to which workers are not otherwise provided refresher training. The Oregon program might not be acceptable to EPA as equivalent to the model program for full-scale workers and supervisors. If EPA failed to approve the Oregon program, anyone doing asbestos work in schools would have to receive training from an EPA-approved or EPA-sponsored training facility. Additional travel and training expenses could be incurred by those working in schools. Local training providers could be economically disadvantaged.

The means of examination of students prior to certification has been a significant topic of discussion. The proposed rules allow the training providers to draw up, validate, and administer their own examinations, subject to Department approval. This procedure is currently used in the state of Washington for worker certification and is allowed under the AHERA regulations and EPA model contractor accreditation plan. The Oregon Asbestos Advisory Board and several persons who submitted testimony recommended that this procedure be changed. They recommended that the Department develop or develop and administer the examinations.

ALTERNATIVE 060.0 The Department approves those examinations submitted by training providers which meet the requirements. The Department review would focus on the content of the examination and ensuring that test questions had been appropriately validated by the provider. As proposed in the rules, the Department could require a provider to add specified questions or substitute a Department-provided examination for their classes. These provisions could help ensure that training quality is maintained by all providers.

ALTERNATIVE 060.1 The Department would develop examinations for use by

accredited training providers. These examinations would be provided to the training provider for each class and could be changed by the Department without notice. This alternative was recommended by the advisory board. It would reduce the potential conflict of interest for training providers who would want to ensure that a high percentage of students successfully completed the examination. Additional Department resources would be required for examination development and validation and for distribution of examinations.

ALTERNATIVE 060.2 The Department develops and administers all examinations. This alternative would add an additional burden on either the Department or the workers. The Department could give the examinations at regulated intervals and in certain locations. Workers could have to travel to the location at which the training is being given and would have a delay between the completion of training and the issuance of certification cards. Another option would be for the Department to send a representative to each training course offering to administer the examination. This would allow for prompt certification of eligible workers but would require additional Department resources. Since the asbestos program will be supported almost entirely by fees, either the fees would have to be raised or resources would have to be taken away from the inspection, assistance, and enforcement components of the program.

SUMMATION

1. The 1987 Legislature created asbestos abatement contractor licensing, worker training, and training provider accreditation requirements. The Commission is required to adopt regulations to implement these programs by July 1, 1988.

2. Authorization for public hearings on the proposed rules relating to asbestos control (OAR 340-33) and proposed amendments to the hazardous air contaminant rules for asbestos (OAR 340, Divisions 25, Section 450-465) was granted by the Commission on January 22, 1988.

3. The proposed rules were published in the Secretary of State's bulletin on February 1, 1988. Five public hearings were held between March 2 and March 15, 1988. Additional written testimony was received by the Department.

4. The Oregon Asbestos Advisory Board created by the 1987 Legislature assisted the Department in the development of the proposed regulations. The Accident Prevention Division of the Department of Insurance and Finance was represented on the Board and was consulted throughout the rule development process.

5. In addition to establishing the worker certification, contractor licensing, and training provider accreditation programs, the proposed rules would revise the existing asbestos control requirements. Revisions include more stringent requirements for notification, fees for filing notifications, revised work practice and engineering control requirements, and revised disposal requirements.

6. Alternatives have been identified for project notification procedures, the fee structure, work practices and engineering controls, waste disposal, refresher training, student examinations, and exemptions.

7. The revisions to the existing regulations in OAR 340-25 would be effective on June 1, 1988. The new regulations in OAR 340-33 would be mandatory on January 1, 1989.

8. Refresher training of a class of workers can be required by the Commission as a condition of recertification if the Commission finds there is a need for retraining based on new or changed conditions. New and changed conditions exist in the regulatory requirements and work practices and procedures for asbestos abatement. These conditions are expected to persist for the foreseeable future.

DIRECTOR'S RECOMMENDATION

Based upon the Summation, it is recommended that the Commission adopt the revisions to OAR 340-25-450 through 340-25-465 in the proposed rules, effective June 1, 1988.

Based upon the findings in the Summation, it is also recommended that the Commission adopt OAR 340-33-010 through 340-33-110 as proposed, including requirements for refresher training of certified workers, effective immediately.

Lydia Taylor for
Fred Hansen

Attachments

A Proposed rules
B ORS 468.875 to 468.899: Asbestos Abatement Projects
C Agenda Item H, January 22, 1988 EQC Meeting: Request for Hearing Authorization
D Hearings Officer's Report
E Response to Comments
F Statement of Need for Rulemaking
G DEQ Asbestos Training Guidance Document

Wendy L. Sims:k
AK419
229-6414
April 13, 1988

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION 25 - DEPARTMENT OF ENVIRONMENTAL QUALITY

# Emission Standards and Procedural Requirements for Hazardous Air Contaminants

## Policy

340-25-450 The Commission finds and declares that certain air contaminants for which there is no ambient air standard may cause or contribute to an identifiable and significant increase in mortality or to an increase in serious irreversible or incapacitating reversible illness, and are therefore considered to be hazardous air contaminants. Air contaminants currently considered to be in this category are asbestos, beryllium, and mercury. Additional air contaminants may be added to this category provided that no ambient air standard exists for the contaminant, and evidence is presented which demonstrates that the particular contaminant may be considered as hazardous. It is hereby declared the policy of the Department that the standards contained herein and applicable to operators are to be minimum standards, and as technology advances, conditions warrant, and Department or regional authority rules require or permit, more stringent standards shall be applied.

Stat. Auth.: ORS CH.
Hist: DEQ 96.f.9-2-75,ef.9-25-75

## Definitions

340-25-455 As used in this rules, and unless otherwise required by context:

(1) "Asbestos" means [actinolite, amosite, anthophyllite, crysotile, crocidolite, or tremolite.] ...the asbestiform varieties of serpentine (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite (amosite), anthophyllite, actinolite and tremolite."

(2) "Asbestos-containing waste material" means any waste which contains commercial asbestos and is generated by a source subject to the provisions of this subpart, or friable asbestos material including, but not limited to, asbestos mill tailings, control device asbestos waste, friable asbestos waste material, asbestos abatement project waste, and bags or containers that previously contained commercial asbestos.

(3) "Asbestos abatement project" means any demolition, renovation, repair, construction or maintenance activity of any public or private facility that involves the repair, enclosure, encapsulation, removal, salvage, handling or disposal of any material with the potential of releasing asbestos fibers from asbestos-containing material into the air."

NOTE: an asbestos abatement project is not considered to be a source under OAR 340-25-460(2) through (6). Emergency fire fighting is not an asbestos abatement project.

[3](4) "Asbestos manufacturing operation" means the combining of commercial asbestos, or in the case of woven friction products, the combining of textiles containing commercial asbestos with any other material(s) including commercial asbestos, and the processing of this combination into a product as specified in rule 340-25-465.

[4](5) "Asbestos-containing material" means asbestos or any material containing at least 1% asbestos by weight, including particulate asbestos material.

[5[(6) "Asbestos mill" means any facility engaged in the conversion or any intermediate step in the conversion of asbestos ore into commercial asbestos.

[6](7) "Asbestos tailings" means any solid waste product of asbestos mining or milling operations which contains asbestos.

[7](8) "Beryllium" means the element beryllium. Where weight or concentrations are specified in these rules, such weights or concentrations apply to beryllium only, excluding any associated elements.

[8](9) "Beryllium alloy" means any metal to which beryllium has been added in order to increase its beryllium content, and which contains more than 0.1 percent beryllium by weight.

[9](10) "Beryllium containing waste" means any material contaminated with beryllium and/or beryllium compounds used or generated during any process or operation performed by a source subject to these rules.

[10](11) "Beryllium ore" means any naturally occurring material mined or gathered for its beryllium content.

[11](12) "Commercial asbestos" means any variety of asbestos which is produced by extracting asbestos from asbestos ore.

[12](13) "Commission" means the Environmental Quality Commission.

[13](14) "Demolition" means the wrecking or removal of any [boiler, duct, pipe, or structural member insulated or fireproofed with asbestos material or of any other thing made of friable asbestos such as decorative panels.] structural member of a facility together with related handling operations.

[14](15) "Department" means the Department of Environmental Quality.

[15](16) "Director" means the Director of the Department or regional authority and authorized deputies or officers.

(17) "Facility" means all or part of any public or private building, structure, installation, equipment, or vehicle or vessel, including but not limited to ships.

[16](18) "Friable asbestos material" means any [asbestos material easily crumbled or pulverized by hand, resulting in the release of particulate asbestos material. This definition shall include any friable asbestos debris.] asbestos-containing material that hand pressure can crumble, pulverize or reduce to powder when dry."

(19) "HEPA filter" means a high efficiency particulate air filter capable of filtering 0.3 micron particles with 99.97 percent efficiency.

[17](20) "Hazardous air contaminant" means any air contaminant considered by the Department or Commission to cause or contribute to an identifiable and significant increase in mortality or to an increase in serious irreversible or incapacitating reversible illness and for which no ambient air standard exists.

[18](21) "Mercury" means the element mercury, excluding any associated elements and includes mercury in particulates, vapors, aerosols, and compounds.

[19](22) "Mercury ore" means any mineral mined specifically for its mercury content.

[20](23) "Mercury ore processing facility" means a facility processing mercury ore to obtain mercury.

[21](24) "Mercury chlor-alkali cell" means a device which is basically composed of an electrolyzer section and a denuder (decomposer) section, and utilizes mercury to produce chlorine gas, hydrogen gas, and alkali metal hydroxide.

[22](25) "Particulate asbestos material" means any finely divided particles of asbestos material.

[23](26) "Person" means any individual, corporation, association, firm, partnership, joint stock company, public and municipal corporation, political sub-division, the state and agency thereof, and the federal government and any agency thereof.

[24](27) "Propellant" means a fuel and oxidizer physically or chemically combined, containing beryllium or beryllium compounds, which undergoes combustion to provide rocket propulsion.

[25](28) "Propellant plant" means any facility engaged in the mixing, casting, or machining of propellant.

[26](29) "Regional authority" means any regional air quality control authority established under the provisions of ORS 468.505.

[27](30) "Renovation" means [the removing or stripping of friable asbestos material used to insulate or fireproof any pipe, duct, boiler, tank, reactor, turbine, furnace, decorative panel, surface or structural member.] altering in any way one or more facility components. Operations in which load-supporting structural members are wrecked or removed are excluded.

(31) "Small-scale asbestos abatement project" means any asbestos abatement project which meets the definition given in OAR 340-33-020(17).

[28](32) "Startup" means commencement of operation of a new or modified source resulting in release of contaminants to the ambient air.

[29](33) "Structural member" means any load-supporting member of a facility, such as beams and load-supporting walls; or any non-supporting member, such as ceilings and non-load-supporting walls.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 96, f.9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82

General Provisions

340-25-460(1) Applicability. The provisions of these rules shall apply to any source which emits air contaminants for which a hazardous air contaminant standard is prescribed. Compliance with the provisions of these rules shall not relieve the source from compliance with other applicable rules of the Oregon Administrative Rules, Chapter 340, or with applicable provisions of the Oregon Clean Air Implementation Plan.

(2) Prohibited activities:

(a) No person shall construct, install, establish, develop or operate any source of emissions subject to these rules without first [registering such source with the Department following procedures established by ORS 468.320 and OAR 340-20-005 through 340-20-015. Such registration shall be accomplished within ninety (90) days following the effective date of these rules.] obtaining an Air Contaminant Discharge Permit in accordance with OAR 340-20-140 through 340-20-185.

(b) After the effective date of these rules, no person shall [construct a new source or] modify any existing source [so as to cause or increase] such that emissions of contaminants subject to these rules are significantly increased

without first [obtaining written approval from the Department.] applying for and obtaining a modified permit.

(c) No person subject to the provisions of these emission standards shall fail to provide reports or report revisions as required in these rules.

(3) Application for approval of construction or modification. All applications for construction or modification shall comply with the requirements of rules [340-20-020 through 340-20-030] 340-20-140 through 340-20-185 and the requirements of the standards set forth in these rules.

(4) Notification of startup. Notwithstanding the requirements of rules [340-20-020 through 340-20-030] 340-20-140 through 340-20-185, any person owning or operating a new source of emissions subject to these emission standards shall furnish the Department written notification as follows:

(a) Notification of the anticipated date of startup of the source not more than sixty (60) days nor less than thirty (30) days prior to the anticipated date.

(b) Notification of the actual startup date of the source within fifteen (15) days after the actual date.

(5) Source reporting and approval request. Any person operating any existing source, or any new source for which a standard is prescribed in these rules which had an initial startup which preceded the effective date of these rules shall provide the following information to the Department within ninety (90) days of the effective date of these rules:

(a) Name and address of the owner or operator.
(b) Location of the source.

(c) A brief description of the source, including nature, size, design, method of operations, design capacity, and identification of emission points of hazardous contaminants.

(d) The average weight per month of materials being processed by the source and percentage by weight of hazardous contaminants contained in the processed materials, including yearly information as available.

(e) A description of existing control equipment for each emission point, including primary and secondary control devices and estimated control efficiency of each control device.

(6) Source emission tests and ambient air monitoring:

(a) Emission tests and monitoring shall be conducted using methods set forth in 40 CFR, Part 61, Appendix B, as published in the Code of Federal

Regulations last amended by the Federal Register, [June 8, 1982, pages 24703 to 24716.] June 1, 1987, at 52 FR 20398. The methods described in 40 CFR, Part 61, Appendix B, are adopted by reference and made a part of these rules. Copies of these methods are on file at the Department of Environmental Quality.

(b) At the request of the Department, any source subject to standards set forth in these rules may be required to provide emission testing facilities as follows:

(A) Sampling ports, safe sampling platforms, and access to sampling platforms adequate for test methods applicable to such source.

(B) Utilities for sampling and testing equipment.

(c) Emission tests may be deferred if the Department determines that the source is meeting the standard as proposed in these rules. If such a deferral of emission tests is requested, information supporting the request shall be submitted with the request for written approval of operation. Approval of a deferral of emission tests shall not in any way prohibit the Department from canceling the deferral if further information indicates that such testing may be necessary to insure compliance with these rules.

(7) Delegation of authority. The Commission may, when any regional authority requests and provides evidence demonstrating its capability to carry out the provisions of these rules relating to hazardous contaminants, authorize and confer jurisdiction within its boundary until such authority and jurisdiction shall be withdrawn for cause by the Commission.

Publications: The publication(s) referred to or incorporated by reference in this rule are available from the office of the Department of Environmental Quality in Portland.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 96, f. 9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82

Emission Standards and Procedural Requirements for Asbestos

340-25-465(1) Emission standard for asbestos mills. No person shall cause to be discharged into the atmosphere any visible emissions from any asbestos milling operation except as provided under section (10) of this rule. For purposes of these rules, the presence of uncombined water in the emission plume shall not be cause for failure to meet the visible emission requirement. Outside storage of asbestos materials is not considered a part of an asbestos mill.

(2) Roadways and Parking Lots. The surfacing of roadways, parking lots or any other surface covering on which vehicle traffic might reasonably be expected to occur, with asbestos tailings or asbestos material is prohibited, except for

temporary roadways on an area of asbestos ore deposits. For purposes of these rules, the deposition of asbestos tailings on roadways covered by snow or ice is considered surfacing.

(3) Manufacturing. No person shall cause to be discharged into the atmosphere any visible emissions, except as provided in section (10) of this rule, from any building or structure in which manufacturing operations utilizing commercial asbestos are conducted, or directly from any such manufacturing operations if they are conducted outside buildings or structures. Visible emissions from boilers or other points not producing emissions directly from the manufacturing operation ;and having no possible asbestos material in the exhaust gases shall not be considered for purposes of this rule. The presence of uncombined water in the exhaust plume shall not be cause for failure to meet the visible emission requirements. Manufacturing operations considered for purposes of these rules are as follows:

(a) The manufacture of cloth, cord, wicks, tubing, tape, twine, rope, thread, yarn, roving, lap, or other textile materials.

(b) The manufacture of cement products.

(c) The manufacture of fireproofing and insulating materials.

(d) The manufacture of friction products.

(e) The manufacture of paper, millboard, and felt.

(f) The manufacture of floor tile.

(g) The manufacture of paints, coatings, caulks, adhesives, or sealants.

(h) The manufacture of plastics and rubber materials.

(i) The manufacture of chlorine.

(j) The manufacture of shotgun shells.

(k) The manufacture of asphalt concrete.

(l) Any other manufacturing operation which results or may result in the release of asbestos material to the ambient air.

[(4) Demolition and renovation. All persons, both the contractor and the owner, intending to demolish any institutional, commercial, or industrial building, including apartment buildings having four or more dwelling units, structure, facility, installation, or any vehicle or vessel including, but not limited to, ships; or any portion thereof which contains any boiler, pipe, duct, tank, reactor, turbine, furnace, or structural member that is insulated or

fireproofed with friable asbestos material shall comply with the requirements set forth in this rule:

(a) Notice of intention to demolish and/or renovate shall be provided to the Department prior to commencement of such demolition and/or renovation. Such notice shall include the following information:

(A) Name and address of person intending to engage in demolition.

(B) Description of building, structure, facility, installation, vehicle, or vessel to be demolished or renovated, including address or location where the demolition is to be accomplished.

(C) Schedule starting and completion dates of demolition.

(D) Method of demolition and/or renovation to be employed.

(E) Procedures to be employed to insure compliance with provisions of this section.

(F) Name and address or location of the waste disposal site where the friable asbestos waste will be deposited.

(G) Name and address of owner of facility to be demolished or renovated.

(b) The following procedures shall be employed to prevent emissions of particulate asbestos material into the ambient air:

(A) Friable asbestos materials used to insulate or fireproof any boiler, pipe, duct, or structural member shall be wetted and removed from any building, structure, facility, installation, or vehicle or vessel before demolition of structural members is commenced. Boilers, pipe, duct, or structural members that are insulated or fireproofed with friable asbestos materials may be removed as units or in sections without stripping or wetting, except that where the boiler, pipe, dust, or structural member is cut or disjointed the exposed friable asbestos material shall be wetted. Friable asbestos debris shall be wetted adequately to insure that such debris remains wet during all stages of demolition and related handling operations.

(B) No pipe, duct, or structural member that is covered with asbestos material shall be dropped or thrown to the ground from any building structure, facility, installation, vehicle, or vessel subject to this section, but shall be carefully lowered or taken to ground level in such a manner as to insure that no particulate asbestos material is released to the ambient air.

(C) No friable asbestos debris shall be dropped or thrown to the ground from any building structure, facility, installation, vehicle, or vessel subject to this section, or from any floor to any floor below. Any debris generated as a result of demolition occurring fifty (50) feet (15.24 meters) or greater above ground level shall be transported to the ground via dust-tight chutes or containers.

(D) For renovation operations, local exhaust ventilation and collection systems may be used, instead of wetting; these systems shall comply with section (7) of this rule.

(c) Any person intending to demolish a building, structure, facility, or installation subject to the provisions of this section, but which has been declared by proper state or local authorities to be structurally unsound and which is in danger of imminent collapse is exempt from the requirements of this section, other than the reporting requirements specified in subsection (4)(a) of

this rule, and the wetting of friable asbestos debris as specified in paragraph (4)(b)(A) of this rule.

(d) Sources located in cities or other areas of local jurisdiction having demolition regulations or ordinances no less restrictive than those of this rule may be exempted from the provisions of this section. Such local ordinance or regulation must be filed with and approved by the Department before an exemption from these rules may be issued. Any authority having such local jurisdiction shall annually submit to the Department a list of all sources subject to this section operating within the local jurisdictional area and a list of those sources observed by the local authority during demolition operations.]

(4) Asbestos abatement projects. All persons intending to conduct or provide for the conduct of an asbestos abatement project shall comply with the requirements set forth in OAR 340-25-465(5), (6), and (7). The following asbestos abatement projects are exempt from these requirements:

(a) Asbestos abatement conducted in a private residence which is occupied by the owner and the owner-occupant performs the asbestos abatement.

(b) Removal of vinyl asbestos floor tile that is not attached by asbestos-containing cement, exterior asbestos roofing shingles, exterior asbestos siding, asbestos-containing cement pipes and sheets, and other materials approved by the Department provided that the materials are not caused to become friable or to release asbestos fibers. Precautions taken to ensure that this exemption is maintained may include but are not limited to:

(A) Asbestos-containing materials are not sanded, or power sawn or drilled;

(B) Asbestos-containing materials are removed in the largest sections practicable and carefully lowered to the ground;

(C) Asbestos-containing materials are handled carefully to minimize breakage throughout removal, handling, and transport to an authorized disposal site.

(D) Asbestos-containing materials are wetted prior to removal and during subsequent handling, to the extent practicable.

(c) Removal of less than 0.5 square feet of friable asbestos-containing material provided that the removal of asbestos is not the primary objective and the following conditions are met:

(A) The generation of particulate asbestos material is minimized.

(B) No vacuuming or local exhaust ventilation and collection is conducted with equipment having a collection efficiency lower than that of a HEPA filter.

(C) All asbestos-containing waste materials shall be cleaned up using HEPA filters or wet methods.

(D) Asbestos-containing materials is wetted prior to removal and during subsequent handling, to the extent practicable.

(E) An asbestos abatement project shall not be subdivided into smaller sized units in order to qualify for this exemption.

(d) Removal of asbestos-containing materials which are sealed from the atmosphere by a rigid casing, provided that the casing is not broken or otherwise altered such that asbestos fibers could be released during removal, handling, and transport to an authorized disposal site.

Note: The requirements and jurisdiction of the Department of Insurance and Finance, Accident Prevention Division and any other state agency are not affected by these rules.

(5) Notification Requirements. Written notification of any asbestos abatement project shall be provided to the Department on a Department form. The notification must be submitted by the facility owner or operator or by the contractor in accordance with one of the procedures specified in subsection (a), (b), or (c) below except as provided in subsections (e), (f), and (g) below.

(a) Submit the notifications as specified in subsection (d) below and the project notification fee to the Department at least ten days before beginning any asbestos abatement project.

(A) The project notification fee shall be:

(i) Twenty-five dollars ($25) for each small-scale asbestos abatement project.

(ii) Fifty dollars ($50) for each project greater than a small-scale asbestos abatement project and less than 260 linear feet or 160 square feet.

(iii) Two-hundred dollars ($200) for each project greater than 260 linear feet or 160 square feet, and less than 2600 linear feet or 1600 square feet.

(iv) Five hundred dollars ($500) for each project greater than 2600 linear feet or 1600 square feet.

(B) Project notification fees shall be payable with the completed project notification form. No notification will be considered to have occurred until the notification fee is submitted.

(C) Notification of less than ten days is permitted in case of an emergency involving protection of life, health or property. Notification shall include the information contained in subsection (d) below, and the date of the contract if applicable. If original notification is provided by phone, written notification and the project notification fee shall be submitted within three (3) days after the start of the emergency abatement.

(D) The Department must be notified prior to any changes in the scheduled starting or completion dates or other substantial changes or the notification will be void.

(b) For small-scale asbestos abatement projects conducted at one facility, the notification may be submitted as follows:

(A) Establish eligibility for use of this notification procedure with the Department prior to use;

(B) Maintain on file with the Department a general asbestos abatement plan. The plan shall contain the information specified in subsections (d)(A) through (d)(I) below, to the extent possible;

(C) Provide to the Department a summary report of all small-scale asbestos abatement projects conducted at the facility in the previous three months by the 15th day of the month following the end of the calendar quarter. The summary report shall include the information specified in subsections (d)(J) through (d)(M) below for each project, a description of any significant variations from the general asbestos abatement plan; and a description of asbestos abatement projects anticipated for the next quarter;

(D) Submit a project notification fee of two-hundred dollars per year ($200/year) prior to use of this notification procedure and annually thereafter while this procedure is in use.

(E) Failure to provide payment for use of this notification procedure shall void the general asbestos abatement plan and each subsequent abatement project shall be individually assessed a project notification fee.

(c) For small-scale asbestos abatement projects conducted by a contractor at one or more facilities, the notification may be submitted as follows:

(A) Establish eligibility for use of this procedure with the Department prior to use;

(B) Maintain on file with the Department a general asbestos abatement plan containing the information specified in subsections (d)(A) through (d)(G), to the extent possible;

(C) Provide to the Department a monthly summary of all small-scale projects performed by the 15th day of the following month including the information specified in subsections (d)(H) through (d)(M) below and a description of any significant variations from the general asbestos abatement plan for each project;

(D) Provide to the Department, upon request, a list of asbestos abatement projects which are scheduled or are being conducted at the time of the request; and

(E) Submit a notification fee of $25 per monthly summary prior to the use of this notification procedure.

(F) Failure to provide payment for use of this notification procedure shall void the general asbestos abatement plan and each subsequent abatement project shall be individually assessed a project notification fee.

(d) The following information shall be provided for each notification:

(A) Name and address of person intending to engage in asbestos abatement.

(B) Contractor's Oregon asbestos abatement license number, if applicable, and certification number of the supervisor for full-scale asbestos abatement or certification number of the trained worker for a project which does not have a certified supervisor.

(C) Method of asbestos abatement to be employed.

(D) Procedures to be employed to insure compliance with OAR 340-25-465.

(E) Names, addresses, and phone numbers of waste transporters.

(F) Name and address or location of the waste disposal site where the asbestos-containing waste material will be deposited.

(G) Description of asbestos disposal procedure.

(H) Description of building, structure, facility, installation, vehicle, or vessel to be demolished or renovated, including address or location where the asbestos abatement project is to be accomplished.

(I) Facility owner's or operator's name, address and phone number.

(J) Scheduled starting and completion dates of asbestos abatement work.

(K) Description of the asbestos type, approximate asbestos content (percent), and location of the asbestos-containing material.

(L) Amount of asbestos to be abated: linear feet, square feet, thickness.

(M) Any other information requested on the Department form.

(e) No project notification fee shall be assessed for asbestos abatement projects conducted in the following residential buildings: site-built homes, modular homes constructed off site, condominium units, mobile homes, and duplexes or other multi-unit residential buildings consisting of four units or less. Project notification for a full-scale asbestos abatement project, as defined in OAR 340-33-020(14), in any of these residential buildings shall otherwise be in accordance with subsection (5)(a) of this section. Project notification for a small-scale asbestos abatement project, as defined in OAR 340-33-020(17), in any of these residential buildings is not required.

(f) The project notification fees specified in this section shall be

increased by 50% when an asbestos abatement project is commenced without filing of a project notification and/or submittal of a notification fee.

(g) The Director may waive part or all of a project notification fee. Requests for waiver of fees shall be made in writing to the Director, on a case-by-case basis, and be based upon financial hardship. Applicants for waivers must describe the reason for the request and certify financial hardship.

(h) Pursuant to ORS 468.535, a regional authority may adopt project notification fees for asbestos abatement projects in different amounts than are set forth in this rule. The fees shall be based upon the costs of the regional authority in carrying out the delegated asbestos program. The regional authority may collect, retain, and expend such project notification fees for asbestos abatement projects within its jurisdiction.

(6) Work practices and procedures. The following procedures shall be employed during an asbestos abatement project to prevent emissions of particulate asbestos material into the ambient air:

(a) Remove friable asbestos materials before any wrecking or dismantling that would break up the materials or preclude access to the materials for subsequent removal. However, friable asbestos materials need not be removed before demolition if:

(A) They are on a facility component that is encased in concrete or other similar material; and

(B) These materials are adequately wetted whenever exposed during demolition.

(b) Adequately wet friable asbestos materials when they are being removed. In renovation, maintenance, repair, and construction operations, wetting that would unavoidably damage equipment is not required if the owner or operator:

(A) Demonstrates to the Department that wetting would unavoidably damage equipment, and

(B) Uses a local exhaust ventilation and collection system designed and operated to capture the particulate asbestos material produced by the asbestos abatement project.

(c) When a facility component covered or coated with friable asbestos materials is being taken out of the facility as units or in sections:

(A) Adequately wet any friable asbestos materials exposed during cutting or disjointing operation; and

(B) Carefully lower the units or sections to ground level, not dropping them or throwing them.

(d) For friable asbestos materials being removed or stripped:

(A) Adequately wet the materials to ensure that they remain wet until they are disposed of in accordance with OAR 340-25-465(13); and

(B) Carefully lower the materials to the floor, not dropping or throwing them; and

(C) Transport the materials to the ground via dust-tight chutes or containers if they have been removed or stripped above ground level and were not removed as units or in sections.

(e) If a facility is being demolished under an order of the State or a local governmental agency, issued because the facility is structurally unsound and in danger of imminent collapse, the requirements of subsections (a), (b), (c), (d), and (f) of this section shall not apply, provided that the portion of the facility that contains friable asbestos materials is adequately wetted during the wrecking operation.

(f) None of the operations in subsections (a) through (d) of this section shall cause any visible emissions. Any local exhaust ventilation and collection system or other vacuuming equipment used during an asbestos abatement project, shall be equipped with a HEPA filter or other filter of equal or greater collection efficiency.

(g) Contractors licensed and workers certified to conduct only small-scale asbestos abatement projects under OAR 340-33 may use only those work practices and engineering controls specified by OAR 437 Appendix 83-G (Asbestos) (9/17/87) unless the Department authorizes other methods on a case-by-case basis.

(h) The Director may approve, on a case-by-case basis, requests to use an alternative to a specific worker or public health protection requirement as provided by these rules for an asbestos abatement project. The contractor or facility owner or operator must submit in advance a written description of the alternative procedure which demonstrates to the Director's satisfaction that the proposed alternative procedure provides worker and public health protection equivalent to the protection that would be provided by the specific provision, or that such level of protection cannot be obtained for the asbestos abatement project.

(7) Related Work Practices and Controls
Work practices and engineering controls employed for asbestos abatement projects by contractors and/or workers who are not otherwise subject to the requirements of the Oregon Department of Insurance and Finance, Accident Prevention Division shall comply with the subsections of OAR Chapter 437 Division 83 which limit the release of asbestos-containing material or exposure of other persons. As used in this subsection the term employer shall mean the operator of the asbestos abatement project and the term employee shall mean any other person.

[(5)](8) Spraying:

(a) No person shall cause to be discharged into the atmosphere any visible emissions from any spray-on application of materials containing more than one (1) percent asbestos on a dry weight basis used to insulate or fireproof equipment or machinery, except as provided in section (10) of this rule. Spray-on materials used to insulate or fireproof buildings, structures, pipes, and conduits shall

contain less than one (1) percent asbestos on a dry weight basis. In the case of any city or area of local jurisdiction having ordinances or regulations for spray application materials more stringent than those in this section, the provisions of such ordinances or regulations shall apply.

(b) Any person intending to spray asbestos materials to insulate or fireproof buildings, structures, pipes, conduits, equipment, or machinery shall report such intention to the Department prior to the commencement of the spraying operation. Such report shall contain the following information:

(A) Name and address of person intending to conduct the spraying operation.

(B) Address or location of the spraying operation.

(C) The name and address of the owner of the facility being sprayed.

(c) The spray-on application of materials in which the asbestos fibers are encapsulated with a bituminous or resinous binder during spraying and which are not friable after drying is exempted from the requirements of subsections (8)(a) and (b) of this rule.

[(6)](9) Options for air cleaning. Rather than meet the no visible emissions requirements of sections (1) and (3) of this rule, owners and operators may elect to use methods specified in section (10) of this rule.

[(7)](10) Air cleaning. All persons electing to use air cleaning methods rather than comply with the no visible emission requirements must meet all provisions of this section:

(a) Fabric filter collection devices must be used, except as provided in subsections (b) and (c) of this section. Such devices must be operated at a pressure drop of no more than four (4) inches (10.16 cm) water gauge as measured across the filter fabric. The air flow permeability, as determined by ASTM Method D737-69, must not exceed 30 $ft.^3/min./ft.^2$ (9.144 $m^3/min./m^2$) for woven fabrics or 35 $ft.^3/min.ft.^2$ (10.67 $m^3/min./m^2$) for felted fabrics with the exception that airflow permeability for 40 $ft.^3/min./ft.^2$ (12.19 $m^3/min./m^2$) for woven and 45 $ft.^3/min./ft.^2$ (13.72 $m^3/min./m^2$) for felted fabrics shall be allowed for filtering air emissions from asbestos ore dryers. Each square yard (square meter) of felted fabric must weigh at least 14 ounces (396.9 grams) and be at least one-sixteenth (1/16) inch (1.50 mm) thick throughout. Any synthetic fabrics used must not contain fill yarn other than that which is spun.

(b) If the use of fabric filters creates a fire or explosion hazard, the Department may authorize the use of wet collectors designed to operate with a unit contacting energy of at least forty (40) inches (101.6 cm) of water gauge pressure.

(c) The Department may authorize the use of filtering equipment other than that described in subsections (10)(a) and (b) of this rule if such filtering equipment is satisfactorily demonstrated to provide filtering of asbestos material equivalent to that of the described equipment.

(d) All air cleaning devices authorized by this section must be properly installed, operated, and maintained. Devices to bypass the air cleaning equipment may be used only during upset and emergency conditions, and then only for such time as is necessary to shut down the operation generating the particulate asbestos material.

(e) All persons operating any existing source using air cleaning devices shall, within ninety (90) days of the effective date of these rules, provide the following information to the Department:

(A) A description of the emission control equipment used for each process.

(B) If a fabric is utilized, the following information shall be reported:

(i) The pressure drop across the fabric filter in inches water gauge and the airflow permeability in $ft.^3/min./ft.^2$ ($m^3/min./m^2$).

(ii) For woven fabrics, indicate whether the fill yarn is spun or not spun.

(iii) For felted fabrics, the density in $ounces/yard^3$ ($gms/m^3$) and the minimum thickness in inches (centimeters).

(C) If a wet collector is used the unit contact energy shall be reported in inches of pressure, water gauge.

(D) All reported information shall accompany the information required in paragraph 340-25-460(8)(a)(E).

[(8)]<u>(11)</u> Fabricating: No person shall cause to be discharged into the atmosphere any visible emissions except as provided in section (10) of this rule, from any fabricating operations including the following, if they use commercial asbestos or, from any building or structure in which such operations are conducted.

(a) The fabrication of cement building products.

(b) The fabrication of friction products, except those operations that primarily install asbestos friction materials on motor vehicles.

(c) The fabrication of cement or silicate board for ventilation hoods; ovens; electrical panels; laboratory furniture; bulkheads, partitions and

ceilings for marine construction; and flow control devices for the molten metal industry.

[(9)](12) Insulation: Molded insulating materials which are friable and wet-applied insulating materials which are friable after drying, installed after the effective date of these regulations, shall contain no commercial asbestos. The provisions of this section do not apply to insulating materials which are spray applied: such materials are regulated under section (3) of this rule.

[(10)](13) [Waste disposal for manufacturing, fabricating, demolition, renovation and spraying operations:] Disposal of asbestos-containing waste material: The owner or operator of any source covered under the provisions of sections (3), (4), [(5)], (8) or [(8)] (11) of this rule or any other source of friable asbestos-containing waste material shall meet the following standards

(a) There shall be no visible emissions to the outside air, except as provided in subsection [(10)] (13)(c) of this section, during the collection; processing, including incineration; packaging; transporting; or deposition of any asbestos-containing waste material which is generated by such source.

(b) All asbestos-containing waste material shall be disposed of at a disposal site authorized by the Department. Records of disposal at an authorized landfill shall be maintained by the source for a minimum of three years and shall be made available upon request to the Department. For an asbestos abatement project conducted by a contractor licensed under OAR 340-33-040, the records shall be retained by the licensed contractor. For any other asbestos abatement project, the records shall be retained by the facility owner.

(A) Persons intending to dispose of [waste-containing] asbestos-containing waste material shall notify the landfill operator of the type and volume of the waste material and obtain the approval of the landfill operator prior to bringing the waste to the disposal site.

(B) All [waste-containing] asbestos-containing waste material shall be wetted and stored and transported to the authorized disposal site in leak-tight containers such as two plastic bags each with a minimum of a thickness of 6 mil., or fiber or metal drums.

(C) The waste transporter shall immediately notify the landfill operator upon arrival of the waste at the disposal site. Off-loading of [waste-containing] asbestos-containing waste material shall be done under the direction and supervision of the landfill operator.

(D) Off-loading of [waste-containing] asbestos-containing waste material shall occur at the immediate location where the waste is to be buried. The waste burial site shall be selected in an area of minimal work activity that is not subject to future excavation.

(E) Off-loading of [waste-containing] asbestos-containing waste material shall be accomplished in a manner that prevents the leak-tight transfer containers from rupturing and prevents visible emissions to the air.

(F) [Immediately after waste-containing a]Asbestos-containing waste material [is] deposited at a disposal site [, it] shall be covered with at least 2 feet of soil or 1 foot of soil plus 1 foot of other waste before compacting equipment runs over it but not later than the end of the operating day. [If other waste is used to cover the asbestos-containing material prior to compaction, the disposal area shall be covered with 1 foot of soil before the end of the operating day.]

(c) Rather than meet the requirements of this section, an owner or operator may elect to use an alternative disposal method which has received prior approval by the Department in writing.

(d)(A) All asbestos-containing waste material shall be sealed into containers labeled with a warning label that states:

**[Caution**

**Contains Asbestos**
**Avoid Opening or Breaking Container**
**Breathing Asbestos is Hazardous to Your Health]**

DANGER

Contains Asbestos Fibers
Avoid Creating Dust
Cancer and Lung Disease Hazard
Avoid Breathing Airborne
Asbestos Fibers

(B) Alternatively, warning labels specified by [Occupational Safety and Health Standards of the Department of Labor, Occupational Safety and Health Administration (OSHA) under 29 CFR 1910-93a(g)(2)(ii) may be used, or its Oregon State equivalent OAR 437-115-040(2)(b).] the U.S. Environmental Protection Agency under 40 CFR 61.152(b)(1)(iv) (3/10/86) may be used.

(14) Any waste which contains nonfriable asbestos-containing material and which is not subject to subsection (13) of this rule shall be handled and disposed of using methods that will prevent the release of airborne asbestos-containing material.

[(e)](15) Open storage or accumulation of friable asbestos material or asbestos-containing waste material is prohibited.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the office of the Department of Environmental Quality in Portland.]

Stat. Auth.: ORS Ch. 468
Hist: DEQ 96, f. 9-2-75; DEQ 22-1982, f. & Ef. 10-21-82

(February, 1983)

OREGON ADMINISTRATIVE RULES
LICENSING AND CERTIFICATION REQUIREMENTS

ASBESTOS REQUIREMENTS

AUTHORITY, PURPOSE, & SCOPE

340-33-010 (1) Authority. These rules are promulgated in accordance with and under the authority of ORS 468.893.

(2) Purpose. The purpose of these rules is to provide reasonable standards for:

(a) training and licensing of asbestos abatement project contractors,

(b) training and certification of asbestos abatement project supervisors and workers,

(c) accreditation of providers of training of asbestos contractors, supervisors, and workers,

(d) administration and enforcement of these rules by the Department.

(3) Scope

(a) OAR 340-33-000 through -100 is applicable to all work, including demolition, renovation, repair, construction, or maintenance activity of any public or private facility that involves the repair, enclosure, encapsulation, removal, salvage, handling, or disposal of any material which could potentially release asbestos fibers into the air; except as provided in (b) and (c) below.

(b) OAR 340-33-000 through -100 do not apply to an asbestos abatement project which is exempt from OAR 340-25-465(4).

(c) OAR 340-33-010 through -100 do not apply to persons performing vehicle brake and clutch maintenance or repair.

(d) Full-scale asbestos abatement projects are differentiated from smaller projects. Small-scale asbestos abatement projects as defined by OAR 340-33-020(17) are limited by job size and include projects,

(A) where the primary intent is to disturb the asbestos-containing material and prescribed work practices are used, and

(B) where the primary intent is not to disturb the asbestos-containing material.

(e) OAR 340-33-000 through -100 provide training, licensing, and certification standards for implementation of OAR 340-25-465, Emission Standards and Procedural Requirements for Asbestos.

DEFINITIONS

340-33-020 As used in these rules,

(1) "Accredited" means a provider of asbestos abatement training courses is authorized by the Department to offer training courses that satisfy requirements for contractor licensing and worker training.

(2) "Agent" means an individual who works on an asbestos abatement project for a contractor but is not an employe of the contractor.

(3) "Asbestos" means the asbestiform varieties of serpentine (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite (amosite), anthophyllite, actinolite and tremolite.

(4) "Asbestos abatement project" means any demolition, renovation, repair, construction or maintenance activity of any public or private facility that involves the repair, enclosure, encapsulation, removal, salvage, handling or

disposal of any asbestos-containing material with the potential of releasing asbestos fibers from asbestos containing material into the air.

Note: Emergency fire fighting is not an asbestos abatement project.

(5) "Asbestos-containing material" means any material containing more than one percent asbestos by weight, including particulate asbestos material.

(6) "Certified" means a worker has met the Department's training, experience, and/or quality control requirements and has a current certification card.

(7) "Contractor" means a person that undertakes for compensation an asbestos abatement project for another person. As used in this subsection, "compensation" means wages, salaries, commissions and any other form of remuneration paid to a person for personal services.

(8) "Commission" means the Environmental Quality Commission.

(9) "Department" means the Department of Environmental Quality.

(10) "Director" means the Director of the Department of Environmental Quality.

(11) "EPA" means the United States Environmental Protection Agency.

(12) "Facility" means all or part of any public or private building, structure, installation, equipment, or vehicle or vessel, including but not limited
to ships.

(13) "Friable asbestos material" means any asbestos-containing material that hand pressure can crumble, pulverize or reduce to powder when dry.

(14) "Full-scale asbestos abatement project" means any removal, renovation, encapsulation, repair or maintenance of any asbestos-containing material which could potentially release asbestos fibers into the air, and which is not classified as a small-scale project as defined by (17) below.

(15) "Licensed" means a contracting entity has met the Department's training, experience, and/or quality control requirements to offer and perform asbestos abatement projects and has a current asbestos abatement contractor license.

(16) "Persons" means an individual, public or private corporation, nonprofit corporation, association, firm, partnership, joint venture, business trust, joint stock company, municipal corporation, political subdivision, the state and any agency of the state or any other entity, public or private, however organized.

(17) "Small-scale asbestos abatement project" means small-scale, short-duration projects as defined by (18) below, and/or removal, renovation, encapsulation, repair, or maintenance procedures intended to prevent asbestos containing material from releasing fibers into the air and which:

(a) Remove, encapsulate, repair or maintain less than 40 linear feet or 80 square feet of asbestos-containing material;

(b) Do not subdivide an otherwise full-scale asbestos abatement project into smaller sized units in order to avoid the requirements of these rules;

(c) Utilize all practical worker isolation techniques and other control measures; and

(d) Do not result in worker exposure to an airborne concentration of asbestos in excess of 0.1 fibers per cubic centimeter of air calculated as an eight (8) hour time weighted average.

(18) "Small-scale, short-duration renovating and maintenance activity"

means a task for which the removal of asbestos is not the primary objective of the job, including, but not limited to:

(a) Removal of quantities of asbestos-containing insulation on pipes;

(b) Removal of small quantities of asbestos-containing insulation on beams or above ceilings;

(c) Replacement of an asbestos-containing gasket on a valve;

(d) Installation or removal of a small section of drywall; or

(e) Installation of electrical conduits through or proximate to asbestos -containing materials.

Small-scale, short duration activities shall be limited to no more than 40 linear feet or 80 square feet of asbestos containing material. An asbestos abatement activity that would otherwise qualify as a full-scale abatement project shall not be subdivided into smaller units in order to avoid the requirements of these rules.

(19) "Trained worker" means a person who has successfully completed specified training and can demonstrate knowledge of the health and safety aspects of working with asbestos.

(20) "Worker" means an employe or agent of a contractor or facility owner or operator.

GENERAL PROVISIONS

340-33-030 (1) Persons engaged in the removal, encapsulation, repair, or enclosure of any asbestos-containing material which has the potential of releasing asbestos fibers into the air must be licensed or certified, unless exempted by OAR 340-33-010(3).

(2) An owner or operator of a facility shall not allow any persons other than those employees of the facility owner or operator who are appropriately certified or a licensed asbestos abatement contractor to perform an asbestos abatement project in or on that facility. Facility owners and operators are not required to be licensed to perform asbestos abatement projects in or on their own facilities.

(3) Any contractor engaged in a full-scale asbestos abatement project must be licensed by the Department under the provisions of OAR 340-33-040.

(4) Any person acting as the supervisor of any full-scale asbestos abatement project must be certified by the Department as a Supervisor for Full-Scale Asbestos Abatement under the provisions of OAR 340-33-050.

(5) Any worker engaged in or working on any full-scale asbestos abatement project must be certified by the Department as a Worker for Full-Scale Asbestos Abatement under the provisions of OAR 340-33-050, or as a Supervisor for Full-Scale Asbestos Abatement.

(6) Any contractor or worker engaged in any small-scale asbestos abatement project but not licensed or certified to perform full-scale asbestos abatement projects, must be licensed or certified by the Department as a Small-Scale Asbestos Abatement Contractor or a Worker for Small-Scale Asbestos Abatement, respectively under the provisions of OAR 340-33-040 and -050.

(7) Any provider of training which is intended to satisfy the licensing and certification training requirements of these rules must be accredited by the Department under the provisions of OAR 340-33-060.

(8) Any person licensed, certified, or accredited by the Department under the provisions of these rules shall comply with the appropriate provisions of OAR 340-25-465 and OAR 340-33-000 through -100, or be subject to suspension or revocation of license, or certification, or accreditation.

(9) Asbestos abatement contractors and workers may perform asbestos abatement projects without a license or certificate until January 1, 1989. Thereafter, any contractor or worker engaged in an asbestos abatement project must be licensed or certified by the Department.

(10) The Department may accept evidence of violations of these rules from representatives of other federal, state, or local agencies.

(11) A regional air pollution authority which has been delegated authority under OAR 340-25-460(7) may inspect for and enforce against violations of licensing and certification regulations. A regional air pollution authority may not approve, deny, suspend or revoke a training provider accreditation, contractor license, or worker certification, but may refer violations to the Department and recommend denials, suspensions, or revocations.

(12) An extension of time beyond January 1, 1989, for mandatory contractor licensing, supervisor certification or worker certification may be approved by the Commission if:

(a) Adequate accredited training as required for any of the categories of licensing or certification is not available in the State, and

(b) There is a public health or worker danger created due to inadequate numbers of appropriately licensed or certified persons to properly perform asbestos abatement activities.

(13) Variances from these rules may be granted by the Commission under ORS 468.345.

CONTRACTOR LICENSING

340-33-040 (1) Contractors may be licensed to perform either of the following categories of asbestos abatement projects:

(a) Full-Scale Asbestos Abatement Contractors: All asbestos abatement projects, regardless of project size or duration, or

(b) Small-Scale Asbestos Abatement Contractor: Small-scale asbestos abatement projects.

(2) Application for licenses shall be submitted on forms prescribed by the Department and shall be accompanied by:

(a) Documentation that the contractor, or contractor's employee representative, is certified at the appropriate level by the Department:

(A) Full-scale Asbestos Abatement Contractor license: Certified Supervisor for Full-Scale Asbestos Abatement.

(B) Small-Scale Asbestos Abatement Contractor: Certified Worker for Small-Scale Asbestos Abatement.

(b) Certification that the contractor has read and understands the applicable Oregon and federal rules and regulations on asbestos abatement and agrees to comply with the rules and regulations.

(c) A list of all certificates or licenses, issued to the contractor by any other jurisdiction, that have been suspended or revoked during the past one (1) year, and a list of any asbestos-related enforcement actions taken against the contractor during the past one (1) year.

(d) List any additional project supervisors for full-scale projects and their certification numbers as Supervisors for Full-Scale Asbestos Abatement.

(e) Summary of asbestos abatement projects conducted by the contractor during the past 12 months.

(f) A license application fee.

(3) The Department will review the application for completeness. If the

application is incomplete, the Department shall notify the applicant in writing of the deficiencies.

(4) The Department shall deny, in writing, a license to a contractor who has not satisfied the license application requirements.

(5) The Department shall issue a license to the applicant after the license is approved.

(6) The Department shall grant a license for a period of 12 months. Licenses may be extended during Department review of a renewal application.

(7) Renewals:

(a) License renewals must be applied for in the same manner as is required for an initial license.

(b) For renewal, the contractor or employee representative must have completed at least the appropriate annual refresher course.

(c) The complete renewal application shall be submitted no later than 60 days prior to the expiration date.

(8) The Department may suspend or revoke a license if the licensee:

(a) Fraudulently obtains or attempts to obtain a license.

(b) Fails at any time to satisfy the qualifications for a license or comply with the rules adopted by the Commission.

(c) Fails to meet any applicable state or federal standard relating to asbestos abatement.

(d) Permits an untrained or uncertified worker to work on an asbestos abatement project.

(e) Employs a worker who fails to comply with applicable state or federal rules or regulations relating to asbestos abatement.

(9) A contractor who has a license revoked may reapply for a license after demonstrating to the Department that the cause of the revocation has been resolved.

WORKER CERTIFICATION

340-33-050 (1) Workers on asbestos abatement projects shall be certified at one or more of the following levels:

(a) Certified Supervisor for Full-Scale Asbestos Abatement.

(b) Certified Worker for Full-Scale Asbestos Abatement.

(c) Certified Worker for Small-Scale Asbestos Abatement.

(2) Application for Certification-General Requirements

(a) Applications shall be submitted to the provider of the accredited training course within thirty (30) days of completion of the course.

(b) Applications shall be submitted on forms prescribed by the Department and shall be accompanied by the certification fee.

(3) Application to be a Certified Supervisor for Full-Scale Asbestos Abatement shall include:

(a) Documentation that the applicant has successfully completed the Supervisor for Full-Scale Asbestos Abatement level training and examination as specified in OAR 340-33-070 and the Department guidance document, and

(b) Documentation that the applicant has been certified as a Worker for Full-Scale Asbestos Abatement and has at least 3 months of full-scale asbestos abatement experience, including time on powered air purifying respirators and experience on at least five separate asbestos abatement projects. The Department shall have the authority to determine if any applicant's experience satisfies those requirements. Applications for licenses submitted prior to January 1, 1989 shall not be required to include documentation of certification as a worker.

(4) Application to be a Certified Worker for Asbestos Abatement shall include:

(a) Documentation that the applicant to be a Certified Worker for Full-Scale Asbestos Abatement has successfully completed the Worker for Full-Scale Asbestos Abatement level training and examination as specified in OAR 340-33-070 and the Department guidance document.

(b) Documentation that the applicant to be a Certified Worker for Small-Scale Asbestos Abatement has successfully completed the Worker for Small-Scale Asbestos Abatement level training and examination as specified in OAR 340-33-070 and the Department guidance document.

(5) Training course providers shall issue certification to an applicant who has fulfilled the requirements of certification.

(6) Certification at all levels is valid for a period of twenty-four (24) months after the date of issue.

(7) Renewals

(a) Certification renewals must be applied for in the same manner as application for original certification.

(b) To gain renewal of certification, the worker must complete the appropriate annual refresher course no sooner than nine (9) months and no later than twelve (12) months after the issuance date of the certificate, and again no sooner than three (3) months prior to the expiration date of the certificate.

(8) The Department may suspend or revoke a worker's certificate for failure to comply with any state or federal asbestos abatement rule or regulation.

(9) If a certification is revoked, the worker may reapply for another initial certification only after twelve (12) months from the revocation date.

(10) A current worker certification card shall be available for inspection at each asbestos abatement project site for each worker conducting asbestos abatement activities on the site.

TRAINING PROVIDER ACCREDITATION

340-33-060 (1) General

(a) Asbestos training courses required for licensing or certification under these rules may be provided by any person.

(b) Any training provider offering training in Oregon to satisfy these certification and licensing requirements must be accredited by the Department.

(c) Each of the different training courses which are to be used to fulfill training requirements shall be individually accredited by the Department.

(d) The training provider must satisfactorily demonstrate through application and submission of course agenda, faculty resumes, training manuals, examination materials, equipment inventory, and performance during on-site course audits by Department representatives that the provider meets the minimum requirements established by the Department.

(e) The training course sponsor shall limit each class to a maximum of thirty participants unless granted an exception in writing by the Department. The student to instructor ratio for hands-on training shall be equal to or less than ten to one (10:1). To apply for an exception allowing class size to exceed thirty, the course sponsor must submit the following information in writing to the Department for evaluation and approval prior to expanding the class size.

(A) The new class size limit,

(B) The teaching methods and techniques for training the proposed

larger class,

(C) The protocol for conducting the written examination, and

(D) Justification for a larger class size.

(f) Course instructors must have academic credentials, demonstrated knowledge, prior training, or field experience in their respective training roles.

(g) The Department may require any accredited training provider to use examinations developed by the Department in lieu of the examinations offered by the training provider.

(h) Training providers seeking accreditation for courses conducted since January 1, 1987, may apply for accreditation of those course offerings as though they were applying for initial accreditation. Contractors and workers trained by these providers since January 1, 1987 may be eligible to use this prior training as satisfaction of the initial training required by these licensing and certification rules.

(i) The Department may require accredited training providers to pay a fee equivalent to reasonable travel expenses for one Department representative to audit any accredited course which is not offered in the State of Oregon for compliance with these regulations. This condition shall be an addition to the standard accreditation application fee.

(2) Application for Accreditation.

(a) Application for accreditation shall be submitted to the Department in writing on forms provided by the Department and attachments. Such applications shall, as a minimum, contain the following information:

A. Name, address, telephone number of the firm, individual(s), or sponsors conducting the course, including the name under which the training provider intends to conduct the training.

B. The type of course(s) for which approval is requested.

C. A detailed course outline showing topics covered and the amount of time given to each topic, including the hands-on skill training.

D. A copy of the course manual, including all printed material to be distributed in the course.

E. A description of teaching methods to be employed, including description of audio-visual materials to be used. The Department may, at its discretion, request that copies of the materials be provided for review. Any audio-visual materials provided to the Department will be returned to the applicant.

F. A description of the hands-on facility to be utilized including protocol for instruction, number of students to be accommodated, the number of instructors, and the amount of time for hands-on skill training.

G. A description of the equipment that will be used during both classroom lectures and hands-on training.

H. A list of all personnel involved in course preparation and presentation and a description of the background, special training and qualification of each, as well as the subject matter covered by each.

I. A copy of each written examination to be given including the scoring methodology to be used in grading the examination; and a detailed statement about the development and validation of the examination.

J. A list of the tuition or other fees required.

K. A sample of the certificate of completion and certification card label.

L. A description of the procedures and policies for re-examination of students who do not successfully complete the training course examination.

M. A list of any states or accrediting systems that approve the

training course.

N. A description of student evaluation methods (other than written examination to be used) associated with the hands-on skill training, as applicable.

O. A description of course evaluation methods used by students.

P. Any restriction on attendance such as class size, language, affiliation, and/or target audience of class.

Q. A description of the procedure for issuing replacement certification cards to workers who were issued a certification card or certification card label by the training provider within the previous 12 months and whose cards have been lost or destroyed.

R. Any additional information or documentation as may be required by the Department to evaluate the adequacy of the application.

S. Accreditation application fee.

(b) Application for initial training course accreditation and course materials shall be submitted to the Department at least 45 days prior to the requested approval date.

(c) Upon approval of an initial or refresher asbestos training course, the Department will issue a certificate of accreditation. The certificate is valid for one year from the date of issuance.

(d) Application for renewal of accreditation must follow the procedures described for the initial accreditation. In addition, course instructors must demonstrate that they have maintained proficiency in their instructional specialty and adult training methods during the twelve (12) months prior to renewal.

(3) Denial, Suspension or Revocation of Certificate of Accreditation. The Director may deny, revoke or suspend an application or current accreditation upon finding of sufficient cause. Applicants and certificate holders shall also be advised of the duration of suspension or revocation and any conditions that must be met before certificate reinstatement. Applicants shall have the right to appeal the Director's determination through an administrative hearing in accordance with the provisions of OAR Chapter 340 Division 11. The following may be considered grounds for denial, revocation or suspension:

(a) False statements in the application, omission of required documentation or the omission of information.

(b) Failure to provide or maintain the standards of training required by these regulations.

(c) Failure to provide minimum instruction required by these regulations.

(d) Failure to report to the Department any change in staff or program which substantially deviates from the information contained in the application.

(e) Failure to comply with the administrative tasks and any other requirement of these regulations.

(4) Training Provider Administrative Tasks. Accredited training providers shall perform the following as a condition of accreditation:

(a) Administer the training course examination only to those students who successfully complete the training course.

(b) Issue a numbered certificate to each students who successfully passes the training course examination. Each certificate shall include the name of the student, name of the course completed, the dates of the course and the examination, name of the training provider, a unique certificate number, and a statement that the student passed the examination.

(c) Issue a photo identification card to each student seeking initial or

renewal certification who successfully completes the training course examination and meets all other requirements for certification. The photo identification card shall meet the Department specifications.

(d) Place a label on the back of the photo identification card of each student who successfully completes a refresher training course and examination as required to maintain certification. The label shall meet Department specifications.

(e) Provide to the Department within ten (10) calendar days of the conclusion of each course offering the name, address, telephone number, Social Security Number, course title and dates given, attendance record, exam scores, and course evaluation form of each student attending the course and the certification number, certification fee, and a photograph for each student certified. Record of the information shall be retained by the training provider for a period of three (3) years.

(f) Obtain advance approval from the Department for any changes in the course instructional staff, content, training aids used, facility utilized or other matters which would alter the instruction from that described in the approval application.

(e) Utilize and distribute as part of the course information or training aides furnished by the Department.

(f) Notify the Department in writing at least one week before a training course is scheduled to begin. The notification must include the date, time and address where the training will be conducted.

(g) Establish and maintain course records and documents relating to course accreditation application. Accredited training providers shall make records and documents available to the Department upon request. Training providers whose principle place of business is outside of the State of Oregon shall provide a copy of such records or documents within ten (10) business days of receipt of such a written request from the Department.

(h) Notify the Department prior to issuing a replacement certification card.

(i) Accredited training providers must have their current accreditation certificates at the location where they are conducting training.

GENERAL TRAINING STANDARDS

340-33-070 (1) Courses of instruction required for certification shall be specific for each of the certificate categories and shall be in accordance with Department guidelines. The topics or subjects of instruction which a person must receive to meet the training requirements must be presented through a combination of lectures, demonstrations, and hands-on practice.

(2) Courses requiring hands-on training must be presented in an environment suitable to permit participants to have actual experience performing tasks associated with asbestos abatement. Demonstrations not involving individual participation shall not substitute for hands-on training.

(3) Persons seeking certification as a Supervisor for Full-Scale Asbestos Abatement shall successfully complete an accredited training course of at least four days as outlined in the DEQ Asbestos Training Guidance Document. The training course shall include lectures, demonstrations, at least six hours of hands-on training, individual respirator fit testing, course review, and a written examination consisting of multiple choice questions. Successful completion of the training shall be demonstrated by achieving a passing score

on the examination, course attendance, and full participation in the hands-on training.

(4) Any person seeking certification as a Worker for Full-Scale Asbestos Abatement shall successfully complete an accredited training course of at least three days duration as outlined in the DEQ Asbestos Training Guidance Document. The training course shall include lectures, demonstrations, at least six hours of actual hands-on training, individual respirator fit testing, course review, and an examination of multiple choice questions. Successful completion of the course shall be demonstrated by achieving a passing score on the examination, course attendance, and full participation in the hands-on training. The course shall adequately address the following topics:

(5) Any person seeking certification as a Worker for Small-Scale Asbestos Abatement shall complete at least a two day approved training course as outlined in the DEQ Asbestos Training Guidance Document. The small-scale asbestos abatement worker course shall include lectures, demonstrations, at least six hours of hands-on training, individual respirator fit testing, course review, and an examination of multiple choice questions. Successful completion of the course shall be demonstrated by achieving a passing score on the examination, course attendance, and full participation in the hands-on training.

(6) Refresher training shall be at least one day duration for Certified Supervisors and Workers for Full-Scale Asbestos Abatement and at least three hours duration for Certified Workers for Small-Scale Asbestos Abatement. The refresher courses shall include a review of key areas of initial training, updates, and an examination of multiple choice questions as outlined in the DEQ Asbestos Training Guidance Document. Successful completion of the course shall be demonstrated by achieving a passing score on the examination, course attendance, and full participation in any hands-on training.

(7) One training day shall consist of at least seven hours, of actual classroom instruction and hands-on practice.

PRIOR TRAINING

340-33-080 Successful completion of an initial training course not accredited by the Department may be used to satisfy the training and examination requirements of OAR 340-33-050 and OAR 340-33-060 provided that all of the following conditions are met.

(1) The Department determines that the course and examination requirements are equivalent to or exceed the requirements of OAR 340-33-050 and 340-33-060 and the asbestos training guidance document, for the level of certification sought. State and local requirements may vary.

(2) If the training was completed prior to January 1, 1987, the applicant must demonstrate to the Department that additional experience sufficient to maintain knowledge and skills in asbestos abatement has been obtained in the interim.

(3) The applicant who has received recognition from the Department for alternate initial training successfully completes an Oregon accredited refresher course and refresher course examination for the level of certification sought.

RECIPROCITY

340-33-090 The Department may develop agreements with other jurisdictions for the purposes of establishing reciprocity in training, licensing, and/or certification if the Department finds that the training, licensing and/or

certification standards of the other jurisdiction are at least as stringent as those required by these rules.

FEES

340-33-100 (1) Fees shall be assessed to provide revenues to operate the asbestos control program. Fees are assessed for the following:

(a) Contractor Licenses

(b) Worker Certifications

(c) Training Provider Accreditation

(d) Asbestos Abatement Project Notifications

(2) Contractors shall pay a non-refundable license application fee of:

(a) Three hundred dollars ($300) for a one year Full-Scale Asbestos Abatement Contractor license.

(b) Two hundred dollars ($200) for a one year Small-Scale Asbestos Abatement Contractor license.

(3) Workers shall pay a non-refundable certification fee of:

(a) One hundred dollars ($100) for a two year certification as a certified Supervisor for Full-Scale Asbestos Abatement.

(b) Eighty dollars ($80) for a two year certification as a Certified Worker for Full-Scale Asbestos Abatement.

(c) Fifty dollars ($50) for a two year certification as a Certified Worker for Small-Scale Asbestos Abatement.

(4) Training Providers shall pay a non-refundable accreditation application fee of:

(a) One thousand dollars ($1000) for a one year accreditation to provide a course for training supervisors on Full-Scale projects.

(b) Eight hundred dollars ($800) for a one year accreditation to provide a course for training workers on Full-Scale projects.

(c) Five hundred dollars ($500) for a one year accreditation to provide a course for training workers on Small-Scale projects.

(d) Two hundred and fifty dollars ($250) for a one year accreditation to provide a course for refresher training for any level of certification.

(5) Requests for waiver of fees shall be made in writing to the Director, on a case-by-case basis, and be based upon financial hardship. Applicants for waivers must describe the reason for the request and certify financial hardship. The Director may waive part or all of a fee.

Note: The requirements and jurisdiction of the Department of Insurance and Finance, Accident Prevention Division and any other state agency are not affected by these rules.

## ASBESTOS ABATEMENT PROJECTS

**468.875 Definitions for ORS 468.875 to 468.899.** As used in ORS 468.875 to 468.899:

(1) "Accredited" means a provider of asbestos abatement training courses is authorized by the department to offer training courses that satisfy department requirements for contractor licensing and worker training.

(2) "Agent" means an individual who works on an asbestos abatement project for a contractor but is not an employe of the contractor.

(3) "Asbestos" means the asbestiform varieties of serpentine (chrysotile), riebeckite (crocidolite), cummungtonite-grunerite (amosite), anthophyllite, actinolite and tremolite.

(4) "Asbestos abatement project" means any demolition, renovation, repair, construction or maintenance activity of any public or private facility that involves the repair, inclosure, encapsulation, removal, salvage, handling or disposal of any material with the potential of releasing asbestos fibers from asbestos-containing material into the air.

(5) "Asbestos-containing material" means any material containing more than one percent asbestos by weight.

(6) "Contractor" means a person that undertakes for compensation an asbestos abatement project for another person. As used in this subsection, "compensation" means wages, salaries, commissions and any other form of remuneration paid to a person for personal services.

(7) "Facility" means all or part of any public or private building, structure, installation, equipment, vehicle or vessel, including but not limited to ships.

(8) "Friable asbestos material" means any asbestos-containing material that hand pressure can crumble, pulverize or reduce to powder when dry.

(9) "Person" means an individual, public or private corporation, nonprofit corporation, association, firm, partnership, joint venture, business trust, joint stock company, municipal corporation, political subdivision, the state and any agency of the state or any other entity, public or private, however organized.

(10) "Trained worker" means a person who has successfully completed specified training in and can demonstrate knowledge of the health and safety aspects of working with asbestos.

(11) "Worker" means an employe or agent of a contractor or facility owner or operator. [1987 c.741 §2]

**468.877 Findings.** The Legislative Assembly finds and declares that:

(1) Asbestos-containing material in a friable condition, or when physically or chemically altered, can release asbestos fibers into the air. Asbestos fibers are respiratory hazards proven to cause lung cancer, mesothelioma and asbestosis and as such, are a danger to the public health.

(2) There is no known minimal level of exposure to asbestos fibers that guarantees the full protection of the public health.

(3) Asbestos-containing material found in or on facilities or used for other purposes within the state is a potential health hazard.

(4) The increasing number of asbestos abatement projects increases the exposure of contractors, workers and the public to the hazards of asbestos.

(5) If improperly performed, an asbestos abatement project creates unnecessary health and safety hazards that are detrimental to citizens and to the state in terms of health, family life, preservation of human resources, wage loss, insurance, medical expenses and disability compensation payments.

(6) It is in the public interest to reduce exposure to asbestos caused by improperly performed asbestos abatement projects through the upgrading of contractor and worker knowledge, skill and competence. [1987 c.741 §3]

**468.879 License required for asbestos abatement project.** (1) Except as provided in paragraph (c) of subsection (1) and subsection (3) of section 4, chapter 741, Oregon Laws 1987, after the commission adopts rules under ORS 468.893 and section 4, chapter 741, Oregon Laws 1987, no contractor shall work on an asbestos abatement project unless the contractor holds a license issued by the department under ORS 468.883.

(2) A contractor carrying out an asbestos abatement project shall be responsible for the safe and proper handling and delivery of waste that includes asbestos-containing material to a landfill authorized to receive such waste. [1987 c.741 §5]

**468.881 Licensed contractor required; exception.** (1) Except as provided in subsection (2) of this section, an owner or operator of a facility containing asbestos shall require only licensed contractors to perform asbestos abatement projects.

(2) A facility owner or operator whose own employes maintain, repair, renovate or demolish the facility may allow the employes to work on asbestos abatement projects only if the employes comply with the training and certification requirements established under ORS 468.887. [1987 c.741 §6]

**468.883 Qualifications for license; application.** (1) The department shall issue an asbestos abatement license to a contractor who:

(a) Successfully completes an accredited training course for contractors.

(b) Requires each employe or agent of the contractor who works on or is directly responsible for an asbestos abatement project to be certified under ORS 468.887.

(c) Certifies that the contractor has read and understands the applicable state and federal rules and regulations on asbestos abatement and agrees to comply with the rules and regulations.

(2) A contractor shall apply for a license or renewal of a license according to the procedures established by rule by the Environmental Quality Commission. [1987 c.741 §7]

**468.885 Grounds for license suspension or revocation.** (1) The department may suspend or revoke an asbestos abatement license issued to a contractor under ORS 468.883 if the licensee:

(a) Fraudulently obtains or attempts to obtain a license.

(b) Fails at any time to satisfy the qualifications for a license or to comply with rules adopted by the commission under ORS 468.875 to 468.899.

(c) Fails to meet any applicable state or federal standard relating to asbestos abatement.

(d) Permits an untrained worker to work on an asbestos abatement project.

(e) Employs a worker who fails to comply with applicable state or federal rules or regulations relating to asbestos abatement.

(2) In addition to any penalty provided by ORS 468.140, the department may suspend or revoke the license or certification of any person who violates the conditions of ORS 468.875 to 468.897 or rules adopted under ORS 468.875 to 468.897. [1987 c.741 §§8, 17]

**468.887 Worker certificate required; qualifications; renewal application; suspension or revocation.** (1) Except as provided in paragraph (c) of subsection (1) and subsection (3) of section 4, chapter 741, Oregon Laws 1987, after the commission adopts rules under ORS 468.893, no worker shall work on an asbestos abatement project unless the person holds a certificate issued by the Department of Environmental Quality or the department's authorized representative under subsection (2) of this section.

(2) The department or an authorized representative of the department shall issue an asbestos abatement certificate to a worker who successfully completes an accredited asbestos abatement training course approved by the department.

(3) If the commission determines there is a need for a category of workers to update the workers' training in order to meet new or changed conditions, the commission may require the worker, as a condition of certificate renewal, to successfully complete an accredited asbestos abatement review course.

(4) A worker or the facility owner or operator shall submit an application for an asbestos abatement certificate and renewal of a certificate according to procedures established by rule by the Environmental Quality Commission.

(5) The department may suspend or revoke a certificate if a worker fails to comply with applicable health and safety rules or standards. [1987 c.741 §9]

**468.889 Alternatives to protection requirements; approval.** Subject to the direction of the Environmental Quality Commission, the director may approve, on a case-by-case basis, an alternative to a specific worker and public health protection requirement for an asbestos abatement project if the contractor or facility owner or operator submits a written description of the alternative procedure and demonstrates to the director's satisfaction that the proposed alternative procedure provides worker and public health protection equivalent to the protection that would be provided by the waived provisions. [1987 c.741 §10]

**468.891 Accreditation requirements.** (1) The commission by rule shall provide for accreditation of courses that satisfy training requirements contractors must comply with to qualify for an asbestos abatement license under ORS 468.883 and courses that workers must successfully complete to become certified under ORS 468.887.

(2) The accreditation requirements established by the commission under subsection (1) of this section shall reflect the level of training that a course provider must offer to satisfy the licensing requirements under ORS 468.883 and the certification requirements under ORS 468.887.

(3) In order to be accredited under subsection (1) of this section, a training course shall include at a minimum material relating to:

(a) The characteristics and uses of asbestos and the associated health hazards;

(b) Local, state and federal standards relating to asbestos abatement work practices;

(c) Methods to protect personal and public health from asbestos hazards;

(d) Air monitoring;

(e) Safe and proper asbestos abatement techniques; and

(f) Proper disposal of waste containing asbestos.

(4) In addition to the requirements under subsection (3) of this section, the person providing a training course for which accreditation is sought shall demonstrate to the department's satisfaction the ability and proficiency to conduct the training.

(5) Any person providing accredited asbestos abatement training shall make available to the department for audit purposes, at no cost to the department, all course materials, records and access to training sessions.

(6) Applications for accreditation and renewals of accreditation shall be submitted according to procedures established by rule by the commission.

(7) The department may suspend or revoke training course accreditation if the provider fails to meet and maintain any standard established by the commission.

(8) The commission by rule shall establish provisions to allow a worker or contractor trained in another state to use training in other states to satisfy Oregon licensing and certification requirements, if the commission finds that the training received in the other state would meet the requirements of this section. [1987 c.741 §11]

**468.893 Rules; variances; training; standards; procedures.** The Environmental Quality Commission shall adopt rules to carry out its duties under ORS 279.025, 468.125, 468.535 and 468.875 to 468.899. In addition, the commission may:

(1) Allow variances from the provisions of ORS 468.875 to 468.897 in the same manner variances are granted under ORS 468.345.

(2) Establish training requirements for contractors applying for an asbestos abatement license.

(3) Establish training requirements for workers applying for a certificate to work on asbestos abatement projects.

(4) Establish standards and procedures to accredit asbestos abatement training courses for contractors and workers.

(5) Establish standards and procedures for licensing contractors and certifying workers.

(6) Issue, renew, suspend and revoke licenses, certificates and accreditations.

(7) Determine those classes of asbestos abatement projects for which the person undertaking the project must notify the department before beginning the project.

(8) Establish work practice standards, compatible with standards of the Accident Prevention Division of the Department of Insurance and Finance, for the abatement of asbestos hazards and the handling and disposal of waste materials containing asbestos.

(9) Provide for asbestos abatement training courses that satisfy the requirements for contractor licensing under ORS 468.883 or worker certification under ORS 468.887. [1987 c.741 §12]

**Note:** Section 4, chapter 741, Oregon Laws 1987, provides:

**Sec. 4.** (1) Not later than July 1, 1988, the Environmental Quality Commission by rule shall:

(a) Establish an asbestos abatement program that assures the proper and safe abatement of asbestos hazards through contractor licensing and worker training.

(b) Establish the date after which a contractor must be licensed under section 7 of this 1987 Act [ORS 468.883] and a worker must hold a certificate under section 9 of this 1987 Act [ORS 468.887]. Such date shall be not later than December 31, 1988.

(c) Establish criteria and provisions for granting an extension of time beyond December 31, 1988, for contractor licensing and worker certification, which may consider the number of workers and the availability of accredited training courses.

(2) The program established under subsection (1) of this section shall include at least:

(a) Criteria for contractor licensing and training;

(b) Criteria for worker certification and training;

(c) Standardized training courses; and

(d) A procedure for inspecting asbestos abatement projects.

(3) In establishing the training requirements under subsections (1) and (2) of this section, the commission shall adopt different training requirements that reflect the different levels of responsibility of the contractor or worker, so that within the category of contractor, sublevels shall be separately licensed or exempted and within the category of worker, sublevels shall be separately certified or exempted. The commission shall specifically address as a separate class, those contractors and workers who perform small scale, short duration renovating and maintenance activity. As used in this subsection, "small scale, short duration renovating and maintenance activity" means a task for which the removal of asbestos is not the primary objective of the job, including but not limited to:

(a) Removal of asbestos-containing insulation on pipes;

(b) Removal of small quantities of asbestos-containing insulation on beams or above ceilings;

(c) Replacement of an asbestos-containing gasket on a valve;

(d) Installation or removal of a small section of drywall; or

(e) Installation of electrical conduits through or proximate to asbestos-containing materials.

(4) The department, on behalf of the commission, shall consult with the Accident Prevention Division of the Department of Insurance and Finance and the Health Division about proposed rules for the asbestos abatement program to assure that the rules are compatible with all other state and federal statutes and regulations related to asbestos abatement.

(5) The department shall cooperate with the Accident Prevention Division of the Department of Insurance and Finance and the Health Division to promote proper and safe asbestos abatement work practices and compliance with the provisions of this 1987 Act [ORS 279.025, 468.125, 468.535 and 468.875 to 468.899]. [1987 c.741 §4]

**468.895 Fee schedule; waiver; disposition.** (1) By rule and after hearing, the Environmental Quality Commission shall establish a schedule of fees for:

(a) Licenses issued under ORS 468.883;

(b) Worker certification under ORS 468.887;

(c) Training course accreditation under ORS 468.891; and

(d) Notices of intent to perform an asbestos abatement project under ORS 468.893 (8).

(2) The fees established under subsection (1) of this section shall be based upon the costs of the Department of Environmental Quality in carrying out the asbestos abatement program established under section 4, chapter 741, Oregon Laws 1987.

(3) In adopting the schedule of fees under this section the commission shall include provisions and procedures for granting a waiver of a fee.

(4) The fees collected under this section shall be paid into the State Treasury and deposited in the General Fund to the credit of the Department of Environmental Quality. Such moneys are continuously appropriated to the Department of Environmental Quality to pay the department's expenses in administering and enforcing the asbestos abatement program. [1987 c.741 §13]

**468.897 Exemptions.** (1) Except as provided in subsection (2) of this section, ORS 468.875 to 468.895 do not apply to an asbestos abatement project in a private residence if:

(a) The residence is occupied by the owner; and

(b) The owner occupant is performing the asbestos abatement work.

(2) Any person exempt from ORS 468.875 to 468.895 under subsection (1) of this section shall handle and dispose of asbestos-containing material in compliance with standards established by the commission under ORS 468.893. [1987 c.741 §14]

**468.899 Content of bid advertisement.** Any public agency requesting bids for a proposed project shall first make a determination of whether or not the project requires a contractor licensed under ORS 468.883. The public agency shall include such requirement in the bid advertisement under ORS 279.025. [1987 c.741 §16]

**Note:** Sections 15, 21 and 22, chapter 741, Oregon Laws 1987, provide:

**Sec. 15.** (1) There is established an Asbestos Advisory Board to:

(a) Review and advise the commission on proposed rules related to the asbestos abatement program, including but not

limited to criteria for training, certification, licensing and accreditation, fees and waivers.

(b) Make recommendations to provide for and facilitate interagency coordination and cooperation in asbestos abatement.

(c) Prepare recommendations on methods of providing for reciprocity with other states in the training, licensing and certification of asbestos contractors and workers.

(2) The Asbestos Advisory Board shall consist of 11 members as follows:

(a) The director or designee of the Director of the Department of Environmental Quality;

(b) The administrator or a designee of the Administrator of the Accident Prevention Division of the Workers' Compensation Department;

(c) The Assistant Director for Health, or designee;

(d) The Superintendent of Public Instruction, or designee;

(e) The Chair of the Builders Board, or designee;

(f) The State Director of Apprenticeship and Training of the Bureau of Labor and Industries, or designee;

(g) Two representatives of business appointed by the director one of whom is a representative of small business as defined in ORS 183.310;

(h) One representative of organized labor, appointed by the director; and

(i) Two members of the public, appointed by the director.

(3) Each member of the board appointed by the director shall serve a two-year term, commencing on July 1 of the year of appointment, and until a successor is appointed and qualified.

(4) The board shall elect its own presiding officer, adopt rules for its procedure and meet on call of the presiding officer or a majority of the members. A majority of the members shall constitute a quorum to do business. The director shall provide administrative facilities and services for the board.

(5) Members of the Asbestos Advisory Board appointed by the director shall be entitled to expenses as provided in ORS 292.495. [1987 c.741 §15]

**Sec. 21.** The Department of Environmental Quality shall present to the Sixty-fifth Legislative Assembly a report on the implementation of the asbestos abatement program developed under this Act [ORS 279.025, 468.125, 468.535, 468.875 to 468.899]. [1987 c.741 §21]

**Sec. 22.** Section 15 of this Act is repealed July 1, 1991. [1987 c.741 §22]

**468.800** [1977 c.867 §23; 1983 c.740 §183; renumbered 468.505]

**468.901** [1985 c.737 §2; repealed by 1987 c.539 §1 (466.705 enacted in lieu of 468.901)]

**468.902** [1985 c.737 §3; repealed by 1987 c.539 §3 (466.715 enacted in lieu of 468.902)]

**468.903** [1977 c.867 §24; renumbered 466.510]

**468.904** [1985 c.737 §4; repealed by 1987 c.539 §7 (466.725 enacted in lieu of 468.904)]

**468.905** [1985 c.737 §5; repealed by 1987 c.539 §19 (466.765 enacted in lieu of 468.905)]

**468.906** [1977 c.867 §25; renumbered 466.515]

**468.907** [1985 c.737 §6; repealed by 1987 c.539 §29 (466.805 enacted in lieu of 468.907)]

**468.908** [1985 c.737 §7; repealed by 1987 c.539 §12 (466.745 enacted in lieu of 468.908)]

**468.909** [1977 c.867 §26; renumbered 466.520]

**468.910** [1985 c.737 §8; 1987 c. 539 §31; renumbered 466.800 in 1987]

**468.911** [1985 c.737 §9; 1987 c.539 §18; renumbered 466.710 in 1987]

**468.912** [1977 c.867 §27; renumbered 466.525]

**468.913** [1985 c.737 §10; 1987 c.539 §40; renumbered 466.720 (2) in 1987]

**468.914** [1985 c.737 §11; repealed by 1987 c.539 §33; 466.820 enacted in lieu of 468.914]

**468.915** [1977 c.867 §28; repealed by 1979 c.32 §1]

**468.916** [1985 c.737 §12; repealed by 1987 c.539 §45]

**468.917** [1985 c.737 §13; repealed by 1987 c.539 §45]

**468.918** [1977 c.867 §29; repealed by 1979 c.32 §1]

**468.921** [1977 c.867 §30; renumbered 466.530]

NEIL GOLDSCHMIDT
GOVERNOR

# Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item H, January 22, 1988, EQC Meeting

Request for Authorization to Conduct Public Hearings Concerning Proposed Rules Relating to Asbestos Control and Proposed Amendments to the Hazardous Air Contaminant Rules for Asbestos, OAR Chapter 340, Division 25, Section 465.

Background and Problem Statement

The Department is proposing the adoption of new asbestos abatement rules, and the adoption of amendments to existing asbestos control rules.

Asbestos is a naturally occurring mineral that separates into strong, very fine fibers. The fibers are heat resistant and extremely durable. These qualities have made asbestos very useful for strengthening materials, thermal and acoustical insulation, and fire protection. Asbestos has been widely used in the U.S. in over 2,000 commercial products, and can be found in industrial, commercial, institutional, and residential facilities built between the 1920's and mid-1970's.

There is no known safe level of exposure to asbestos, therefore, all asbestos exposure should be avoided, if possible. Even a single low-concentration exposure can trigger mesothelioma, an incurable form of cancer. In order for asbestos to be a health hazard, it must be released from a product or material into the air people breathe. Once inhaled, fibers can be transported throughout the body via the respiratory and circulatory systems, and can become permanently lodged in body tissues, especially the lungs. Symptoms of asbestos-related diseases generally do not appear for 15 years or longer after the first exposure, and may include lung cancer, mesothelioma, asbestosis, and other cancers of the esophagus, colon, and gastrointestinal system.

There is still no consensus among health officials on the health effects of eating or drinking asbestos-contaminated food or liquid, and no specific standards have yet been set by government agencies to limit the levels of contamination. Likewise, asbestos contact with the skin has not been proven to cause debilitating health effects. However, asbestos fibers may be carried on workers' clothing from a work site to other clean work areas, public areas, or to the workers' homes. These fibers may then be released from the clothes to the local atmosphere, thereby unnecessarily subjecting other workers, the public, and family members to airborne asbestos fibers.

In Oregon, the primary cause of high concentration asbestos releases to the environment has been determined to be the improper removal of asbestos-containing materials during building renovation and demolition activities, and improper waste handling methods. DEQ field inspections have determined that many contractors, and their workers, do not know how to identify asbestos-containing materials, and do not have the skills to properly work with and handle the material. Proper training of these workers and a strong compliance assurance program should provide the knowledge, skills, and incentive to protect the workers and their families, and also protect facility occupants, neighbors, and the public from inadvertent exposure to asbestos fibers. The proposed rules are intended to minimize asbestos releases from these sources.

ORS Chapter 741, Oregon Laws 1987, the enabling legislation for this program, focused on training workers to use proper work practices as a way to minimize asbestos fiber releases. Workers using the proper worker protection, work practices and engineering controls when disturbing asbestos-containing materials, would also protect the public from exposure to the fibers.

On October 22, 1986, the President signed into law the Asbestos Hazard Emergency Response Act (AHERA) of 1986 that requires, among other things, states to adopt rules requiring contractors and workers conducting asbestos abatement projects in any public or private K-12 school in the U.S. to be trained and accredited to USEPA and/or state standards prior to performing abatement work. These proposed rules would satisfy part of the state requirements under AHERA.

In addition, under AHERA, schools must inspect their facilities for asbestos-containing material, develop an asbestos management plan, and submit the plan to the state for approval by October 12, 1988. The state (in Oregon, the Department of Education) is required to approve or disapprove the plans within 60 days of receipt. Schools must then begin implementation of their plans by July 1989. Federal legislation (SB 981) is pending that would require many of the AHERA requirements for all publicly accessed buildings.

The 1987 Oregon Legislature adopted ORS Chapter 741 requiring the Commission to adopt rules relating to asbestos control by July 1, 1988. The Commission is required to:

1. Establish an asbestos abatement control program through contractor training and licensing, and worker training and certification, to include:

    a. Criteria for contractor training and licensing
    b. Criteria for worker training and certification
    c. Standardized training courses
    d. Procedure for inspecting asbestos abatement projects

The Commission must specifically address as a separate class, those contractors and workers who perform small scale, short duration renovating and maintenance tasks.

2. Establish the date, not later than December 31, 1988, after which a contractor or worker must be licensed or certified.

3. Establish criteria for granting extensions beyond December 31, 1988, for mandatory licensing and certification.

4. Establish a schedule for fees to support the asbestos control program.

The proposed rules are intended to establish an asbestos abatement control program that is compatible with other related federal and state asbestos regulations. To gain federal approval under AHERA of the Oregon contractor and worker training, licensing and certification program, the Department proposes to use the minimum training and licensing requirements established by USEPA under AHERA. To maintain compatibility with Oregon Accident Prevention Division (APD) rules, the Department proposes to update asbestos project work practice and engineering control standards to include contractors not presently regulated by APD. Additional program elements are being developed in consultation with the Oregon Asbestos Advisory Board (OAAB).

The OAAB was created by ORS Chapter 741, Oregon State Laws 1987, to:

1. Review and advise the Commission on proposed rules relating to the training, licensing and certification program,

2. Recommend methods of reciprocity with other states' programs,

3. Recommend methods to facilitate interagency coordination in asbestos-related manners.

The Board consists of 11 members: six from state agencies, two representing business, two from the public, and one from organized labor. The Board has met six times since October to advise the Department on the practicality of the program design.

To date, the Board has specifically addressed and made recommendations to the Department on the following topics: affected projects, affected persons, and training requirements. The Board has generally addressed but has not made formal recommendations to the Department on the following topics: training provider accreditation, grandfathering of prior training and reciprocity with other states, work practices and engineering controls, project inspections, and fees. The Board has not yet held discussions or provided recommendations to the Department on the following topics: effective dates and extensions, amendments to the Oregon NESHAPS rules, or the role of Regional Air Pollution Authorities.

The Board is expected to review the draft rules at a meeting on January 12, 1988.

The Department is requesting authorization to conduct public hearings even though the Draft Administrative Rules are still being reviewed by the Advisory Board. The Department will submit a copy of the draft rules to the Commission members at the time the draft rules are made available to the public as part of the public hearing notice.

By statute, the Commission has until July 1, 1988, to adopt the proposed rules. The Department would like to move toward an April 29, 1988, adoption. This would provide as much time as possible for affected parties to become trained and licensed or certified by the December 31, 1988, mandatory date.

The proposed rule adoption schedule would then be as follows:

- Request Authorization for Public Hearings on January 22.
- Hold Public Hearings on Proposed Rules during first week of March 1988.
- Request Legislative Emergency Board approval of additional asbestos staffing on March 24, 1988.
- Request Rule Adoption by Commission on April 29, 1988.

The Department plans to go to the Legislative Emergency Board for two purposes:

(1) Provide information on the possible program fee schedule, and

(2) Request authorization to expand asbestos program by adding more field inspectors to the staff.

The Department is, therefore, requesting authorization to conduct public hearings concerning the proposed adoption of new asbestos control rules and the proposed adoption of amendments to the existing Hazardous Air Contaminant Rules for Asbestos. A Statement of Need and Statement of Land Use consistency are attached.

The Commission is authorized to adopt asbestos abatement control rules by ORS Chapter 741, Oregon State Laws 1987 (House Bill 2367, 1987 Oregon Legislature).

A brief summary of the proposed new rules and amendments follows:

Summary of Proposed Rules and Alternatives

A. Affected Projects

The proposed rules would apply to all work, including demolition, renovation, repair, construction, or maintenance activity of any public or private facility that involves the removal, encapsulation, repair, enclosure, salvage, handling, or disposal of any asbestos-containing material which could potentially release asbestos fibers into the air.

The statute exempts projects performed in private residences if the project is performed by the owner/occupant. The rule will propose to exempt vehicle brake and clutch repair projects because the Accident Prevention Division already has a specific program that addresses these sources of asbestos fiber releases.

Asbestos abatement projects would be categorized into full-scale projects and small-scale projects. Small-scale projects would be those asbestos removal, renovation, encapsulation, repair, or maintenance procedures that disturb small amounts (for example: less than 10 linear feet or 11 square feet) of asbestos-containing material, and that are not large projects subdivided into smaller units in order to avoid the more rigorous work practices associated with large-scale projects. Examples of small scale projects are removal of small quantities of asbestos-containing insulation on pipes prior to a pipe valve repair task, and the removal of a small quantity of dry wall that contains asbestos. Persons performing small-scale projects may use less costly and less complex work practices.

The Commission, by statute, must address separately the training and licensing requirements placed on those persons performing small-scale projects. The OAAB is addressing this issue and will make recommendations to the Commission concerning the cut-off between large and small-scale projects and the training and licensing requirements linked to each category.

Establishing the cutoff between large and small-scale projects is an important issue. The issue is important because it will drive the decision that sets the level of training required for persons performing small-scale projects.

There are potentially over 1,000 persons who might choose to work on small-scale projects as a part of their trade and, therefore, will require training. The length, type and availability of training for these people will be an issue in terms of cost and practicality.

The Board, at this point, is in favor of requiring two days of formal training and licensing/certification for anyone conducting these small-scale projects. Two days' training is required under federal AHERA standards, for persons working in schools, however, the training providers need not be formally accredited by EPA or the states, nor do the trainees need formal certification.

The Department is exploring, with the Board, other ways of minimizing fiber releases from these small-scale projects that do not necessarily rely upon formally approved training certification.

B. Affected Persons

The rules would require contractors performing asbestos abatement projects to be licensed. Separate licenses may be required for contractors performing only small-scale projects. Supervisors and workers involved in large-scale projects would be certified. Workers on small-scale projects could also be certified. Facility owners intending to perform an asbestos abatement project would be required to either hire a licensed contractor or use appropriately trained and certified employees to conduct an abatement project.

The Department projects the following number of persons would be licensed or certified by 1988-89:

| Large Projects | | Small-Scale Projects | |
|---|---|---|---|
| Contractors | 40 | Contractors | 30 |
| Supervisors | 100 | Workers | 1000 |
| Workers | 500 | | |

To gain a license or certificate, a person would have to successfully complete a training course approved by the Department.

The Department and OAAB agree upon the proposed method (training, licensing, and certifying) of regulating those contractors, supervisor, and workers performing large-scale abatement projects. However, as described in A above, the method of regulating those persons performing small-scale projects has not yet been settled.

In Oregon alone, there are approximately 100,000 trades people who in the course of their normal work might disturb asbestos-containing material. If they choose to work with asbestos-containing material, they must first be able to identify the material. If they decide to proceed with a small-scale asbestos abatement project, would they fall into the regulated group that would need to be trained and licensed or certified.

Liability issues, regulatory compliance, and health considerations may keep most of the tradespeople from choosing to perform these projects. They would then call in a trained and licensed abatement contractor to handle the asbestos-containing material prior to beginning their own work.

C. Effective Dates and Extensions

The Commission must establish the date, no later than December 31, 1988, after which a contractor must be licensed and a worker must hold a certificate prior to performing an asbestos abatement task. The proposed rules would establish December 31, 1988, as that date, which would provide six to eight months for training courses to be approved, and persons to be trained, certified and licensed.

The Commission must establish criteria for granting extensions beyond December 31, 1988, for mandatory licensing and certification. The proposed rules would allow the Commission to grant a time extension if:

(a) Accredited training required for any of the categories of licensing or certification is not available in the State, and

(b) There is a public health or worker danger created due to the lack of appropriately licensed or certified persons to properly perform asbestos abatement activities.

D. Training Requirements

Training requirements would be specified for each category of contractor or worker. The training standards the Department is proposing are the minimum standards required by EPA under AHERA for asbestos abatement activities in schools. These requirements are becoming the national training standards. The Department proposes to adopt these standards as guidelines, so that as the national AHERA standards change, adjustment of training curriculum may proceed quickly without formal amendments to the rules. The standards would be compatible with the training required by the Oregon Accident Prevention Division (APD) regulations (OAR Chapter 437).

Training would range from two days for small-scale project workers to a minimum of four days for contractors and supervisors on large projects. Each training course would be required to provide hands-on skill training and an examination. Upon successful completion of the training, a worker would be certified by the course provider, and a contractor would be eligible to apply to the Department for a license.

Under AHERA, annual refresher training is required for large-scale project contractors, supervisors, and workers. The Department would adopt this requirement. Licenses and certifications would expire every year or every two years, respectively.

The OAAB and the Department have addressed the training requirements and have agreed upon the requirements for contractors, supervisors, and workers on large-scale projects. The primary unresolved issue related to training requirements is the amount of training that should be required for contractors and workers performing the small-scale projects.

Presently, the OAAB has recommended a formal two-day minimum training course that would be generally patterned after the federal AHERA standards. At least one of the two days would be devoted to hands-on skill training. The primary factors guiding the training requirements are practicality, cost, and availability of the training for the people who may choose to be licensed/certified at the small-scale level.

The Department recognizes a need for a strong awareness and education effort for the thousands of tradespeople who may encounter asbestos, but is not yet convinced that a full two-day training session is necessary for all tradespeople who will encounter asbestos-containing material.

E. Training Provider Accreditation

Training could be provided by any person, consulting firm, union or trade association, educational institution, public health organization or other entity accredited by the Department. The provider must satisfactorily demonstrate through application and submission of course agenda, faculty resumes, training manuals, examinations, equipment inventory, and performance during on-site audits by the Department that the minimum training provider requirements are met. Upon approval of a training course, the provider would be granted accreditation by the Department. Only those persons attending an accredited course would be eligible for licensing or certification.

F. Grandfathering of Prior Training, and Reciprocity with Other States

The 1987 Legislature suggested that training received prior to the adoption of these rules, if the training was adequate, should be recognized by the Department for licensing and certification purposes in order to avoid duplicate training and to minimize training costs to affected parties. Therefore, the proposed rules would allow a contractor or worker who successfully completed training between January 1, 1987, and rule adoption to seek approval of the prior training to satisfy licensing and certification requirements. The Department must first determine that the training received would meet the minimum initial training requirements set for Oregon under these proposed rules. The person would then be required to complete the appropriate refresher course in order to gain knowledge of Oregon laws and regulations relating to asbestos.

These rules, if adopted, would also allow the Department to establish reciprocity with other states for purposes of training, licensing, or certification. The Department would first have to determine that the standards of the other states were at least as stringent as those required in Oregon.

G. Work Practices and Engineering Controls

The Department is proposing to update the asbestos abatement project work practices and engineering controls to be consistent with the Oregon Accident Prevention Division (APD) regulations in OAR Chapter 437, Divisions 83 (Construction) and 115 (Asbestos). These work practices are national Occupational Safety and Health Administration regulations adopted by Oregon. APD regulations affect only those situations where there is an employer-employee relationship. Self-employed contractors and partnerships without employees are, therefore, unregulated by APD and, thus, are exempt from complying with these work practices. This group includes many of the small HVAC, electrical, and home remodeling contractors that frequently disturb asbestos-containing material in the course of their work.

Many of the asbestos abatement projects are conducted by people not subject to the APD regulations, therefore, they are not required to use the state-of-the-art asbestos project work practices and engineering controls that were developed to protect workers, their families, and the public health from asbestos exposure.

EPA adopted the same standards for government employees performing asbestos abatement. The Department proposes to adopt these same standards so that anyone performing this work would be required to employ at least the minimum work practices and engineering controls that are required to protect public health.

H. Amendments to Hazardous Air Contaminant Rules for Asbestos (OAR 340-25-465, National Emission Standards for Hazardous Air Pollutants, NESHAPS)

The Department proposes to amend the existing regulations (NESHAPS) that were delegated by the USEPA to the Department in 1975. The proposed amendments would update the rules to meet EPA requirements and provide consistency with the proposed asbestos rules for contractor licensing and worker training.

The definitions of "asbestos," "asbestos material," and "friable asbestos material" would be amended to reflect the most current EPA definitions of these terms.

The existing regulations require advance notification to the Department of intended demolition or renovation activities so that related asbestos abatement activities are known to the Department. The proposed amendments would specify a 10-day minimum advance notice where no time requirement is now specified. This notice requirement is consistent with federal

guidelines. Facility owners that now must report each time they intend to perform even a small-scale project would be allowed to report past quarter activities and upcoming quarter plans for performing these projects.

The proposed amendments would also reduce the number of facilities in which asbestos abatement is exempt from compliance with existing regulations. Presently, residences with three units and fewer are exempt. Proposed amendments would exclude only those projects conducted by owner occupants in their own residence.

I. Project Inspections

The proposed rules would allow the Department to conduct compliance inspections by entering training course classrooms, and abatement project work areas as needed. In addition, the Department would be able to accept evidence of violations of the rules from representatives of other agencies, specifically the APD and Regional Air Pollution Authorities. Inspections could include a request for proof that a training provider, contractor or worker is properly accredited, licensed or certified, as required.

Violators may be penalized by revocation or suspension of accreditation, licenses or certificates, and/or by civil penalty fines.

J. Fees

The Commission is authorized to establish a fee system to support administrative and compliance assurance activities by the Department. The Commission may set fees for training course accreditation, licensing and certification, and project notices. The fee structure contained in the proposed rules is based upon the revenues required to operate the program.

Fees have not yet been determined. The actual dollar values will depend upon the extent of regulation of the small-scale, short-duration contractors and workers. However, the Department informed the Legislature that accreditation fees would not exceed $1000/yr; license fees would not exceed $300/yr; and certification fees would not exceed $50/yr. Project notification fees were not specified but would probably not exceed $1000/project, depending upon the size and scope of the project. Projects in single family residences would not be assessed a fee.

Total fee revenues required (in addition to available EPA grant money) to operate the asbestos program would be approximately $465,000 for the 1988-1990 biennium.

K. Regional Air Pollution Authority

Regional Air Pollution Authorities may be delegated specific functions of this program. The proposed rules would allow Lane Regional Air Pollution Authority (LRAPA) (the only regional air pollution authority in Oregon) to establish, collect, retain, and expend project notification fees generated

in their jurisdiction. Regional Authorities would inspect for compliance and enforce the rules concerning project work practices and engineering controls, amended NESHAPS standards, and licensing and certification regulations. Regional Authorities would not have authority to approve, deny, suspend or revoke training accreditation, licenses, or certificates.

Summation

1. The 1987 Legislature created an asbestos abatement contractor and worker training, licensing and certification program that would be compatible with existing federal and Oregon regulations. This health protection-oriented program would satisfy part of the federal requirement for Oregon to adopt an asbestos abatement contractor and worker training and licensing program. The legislation requires the Commission to adopt the program rules by July 1, 1988.

2. The Oregon Asbestos Advisory Board (OAAB) created by the 1987 legislature is assisting the Department in developing rules to implement the program.

3. The Department is proposing new asbestos rules regarding: contractor and worker training, licensing and certification; training provider accreditation; training standards; asbestos abatement work practice standards; and fees. The Department is proposing to use the USEPA required minimum training standards, and Oregon APD work practice standards where applicable. The Department proposes that existing asbestos regulations be amended to update the rules and to maintain compatibility with the proposed contractor licensing and worker training requirements.

4. The effective date for mandatory licensing and certification would be January 1, 1989.

5. The Department requests authorization to conduct public hearings on these matters. Proposed rules will be available to the Commission and the public at least 30 days prior to public hearings. The public hearings would be held in early March 1988.

6. The Commission is authorized to adopt asbestos abatement control rules by Chapter 741, Oregon Laws 1987 (House Bill 2367, 1987 Oregon Legislature).

Director's Recommendation

Based upon the summation, it is recommended that the Commission authorize the Department to conduct public hearings to take testimony on proposed asbestos control rules concerning contractor licensing and worker training, and proposed amendments to the Hazardous Air Contaminant Rules, OAR Chapter 340, Division 25, Section 465.

Lydia Taylor for
Fred Hansen

Attachments: I. Statement of Need for Rulemaking
II. Statement of Land Use Consistency

Phil Ralston:
229-5517
January 7, 1988

PR:k
AK178 (1/88)

Attachment I
Agenda Item H
1/22/88 EQC Meeting

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

| | | |
|---|---|---|
| IN THE MATTER OF ADOPTING NEW RULES, AND AMENDING OAR CHAPTER 340; DIVISION 25 | ) ) ) | STATEMENT OF NEED FOR RULEMAKING |

STATUTORY AUTHORITY:

Chapter 741, Oregon Laws 1987 requires the Commission to adopt rules to:

(1) Establish an asbestos abatement program that assures the proper and safe abatement of asbestos hazards through contractor licensing and worker training.

(2) Establish the date, no later than December 31, 1988, after which a contractor must be licensed and a worker must hold a certificate prior to performing asbestos abatement tasks.

(3) Establish criteria and provisions for granting an extension of time beyond December 31, 1988, for contractor licensing and worker certification.

(4) Establish a schedule for fees to support the asbestos control program.

NEED FOR THE RULES

Improper disturbance of asbestos-containing materials during facility renovation and demolition is a primary cause of high concentration asbestos fiber releases to the atmosphere. There is no known safe level of exposure to asbestos, therefore, all asbestos exposure should be avoided if possible. Many contractors and workers do not know how to identify asbestos-containing materials, and do not have the skills to properly work with and handle the material.

The 1987 Oregon Legislature recognized that proper training of people working with asbestos should provide the knowledge, skills, and incentive to protect the health of workers, their families, facility occupants, neighbors, and the public from inadvertent exposure to asbestos fibers.

The federal Asbestos Hazard Emergency Response Act (AHERA) of 1986 requires states to adopt, among other things, rules requiring training and accreditation for asbestos abatement contractors and workers in all public

and private K-12 schools. These proposed rules satisfy part of the state requirements under AHERA. The proposed rules would also provide work practice standards for asbestos abatement contractors and workers who are not presently regulated.

PRINCIPAL DOCUMENTS RELIED UPON

- ORS Chapter 741, Oregon Laws 1987.
- Federal Asbestos Hazard Emergency Response Act (AHERA) of 1986.
- AHERA implementation rules, specifically the "Model Accreditation Plan" published in the Federal Register of April 30, 1987 (40 CFR, Part 763).
- Existing Oregon Administrative Rules:

  *Hazardous Air Contaminant Rules for Asbestos: OAR Chapter 340, Division 25, Section 465.

  *Oregon Occupational Safety and Health Standards for Construction: OAR Chapter 437, Division 83.

  *Oregon Occupational Safety and Health Standards for Asbestos: OAR Chapter 437, Division 115.

The proposed rules and principal documents are available to interested parties at any of the Department of Environmental Quality offices in the state.

FISCAL AND ECONOMIC IMPACT

The new, more stringent regulations will increase the costs of asbestos abatement in this state for both public and private entities. Therefore, the public will experience an increase in the cost of building renovation. However, costs associated with basic training, and work practice standards and engineering controls for persons conducting asbestos abatement in schools will occur regardless of the proposed rules because they are required by federal AHERA standards. Likewise, training and specific work practice standards are presently required of persons regulated by APD rules.

Training costs may range up to $750, depending on the training course provider and level of training. Contractor licenses may range up to $300/yr, depending upon the level of license sought. Worker certification may range up to $50/yr, depending upon the level of certification sought. Project notification fees may range up to $1,000/project, depending upon the type of facility and/or the size of the project. Training course accreditation may range up to $1,000, depending upon the level of training offered. Laboratory analysis of materials suspected to contain asbestos

Attachment I
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cost up to $50 per sample. Asbestos abatement project work practice and engineering control costs are not affected by these rules since they are dependent upon the rules adopted by the Oregon Accident Prevention Division.

The Department encourages interested parties to comment on the Fiscal and Economic Impact Statement, as well as the proposed rules.

PR:k
AK178.1 (1/88)

Attachment II
Agenda Item H
1/22/88 EQC Meeting

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

| | | |
|---|---|---|
| IN THE MATTER OF ADOPTING NEW RULES, AND AMENDING OAR CHAPTER 340; DIVISION 25 | ) ) ) | LAND USE CONSISTENCY |

The Department has concluded that the proposal conforms with Statewide Planning Goals and Guidelines. Specifically, the proposed rules comply with Goal 6 because the proposal ensures the proper and safe management of asbestos abatement projects and thereby provides protection for air, water, and land resource quality.

Goal 11 (public facilities and services) is deemed unaffected by the proposed rules. The proposed rules do not appear to conflict with other goals.

Public comment on any land use issue involved is welcome and may be submitted in the manner described in the accompanying public notice of Rules Adoption.

It is requested that local, state, and federal agencies review the proposed action and comment on possible conflicts with their programs affecting land use and with Statewide Planning Goals within their expertise and jurisdiction. The Department of Environmental Quality intends to ask the Department of Land Conservation and Development to mediate any apparent conflicts thereby brought to its attention.

PR:k
AK178.2 (12/87)

NEIL GOLDSCHMIDT
GOVERNOR

# Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

Agenda Item N
April 29, 1988
EQC Meeting
Attachment D

MEMORANDUM

TO: Environmental Quality Commission

FROM: Wendy L. Sims

DATE: April 6, 1988

Subject: Hearings Officer's Report on Testimony Concerning the Proposed Rules Relating to Asbestos Control and Proposed Amendments to the Hazardous Air Contaminant Rules for Asbestos

After due notice, hearings on proposed asbestos rules were conducted in Portland, Springfield, Medford, Pendleton, and Bend on March 2, 3, 7, 14, and 15, 1988 respectively. Hearings were held in the afternoon in Medford and Pendleton and in the evening in other locations. Wendy L. Sims of the Air Quality Division was the hearings officer. Summaries of all testimony given at those hearings and of all written testimony received by the Department follow.

The written material submitted at the hearings and received by the Department is being sent to the Commission under separate cover. The public may review this material at the DEQ Air Quality Division, 811 SW 6th, in Portland.

## SUMMARY OF ORAL TESTIMONY

Oral testimony was presented by 13 persons involved in asbestos abatement in diverse ways. These persons were:

Stan Danielson representing the Asbestos Workers Union, Local #36 and also a member of the Oregon Asbestos Advisory Board,
Tom Donaca representing Associated Oregon Industries,
Glenn Havener for the Oregon State Homebuilders Association,
Randy Hall representing Envirocon,
Bill Duke, SW Washington Laborers Training School,
Ralph Johnston, Lane Regional Air Pollution Authority,
Jim Chartier, Weyerhaeuser Paper Company,
Dan Solitz representing himself,
Ken Cerotsky, Springfield Utility Board,
Roger Sinclair, consulting engineer,
Richard Carlin, Environmental Consulting Services,
Gene Rahencamp, Rahencamp Demolition,
Carroll Towler, Madras Seventh Day Adventist Church.

Testimony was generally supportive of the proposed regulations. Most of the people who testified had one or more specific requirements for which they sought clarification or recommended changes. Extensive question and answer sessions were held between the hearing attendees and the Department staff at each hearing.

The comments which were received addressed a range of topics. Most of the commenters complimented the Department for proposing the regulations. Several people were concerned that the definition of small-scale asbestos abatement job was too complex or too stringent. Several people testified that the rules could induce intentional avoidance if the small-scale definition or pre-notification period requirements are too stringent. Two people recommended that the exemption for properly handled nonfriable asbestos pipe be broadened to include pipe in water supply service which is hand sawn or drilled. Two people questioned the proposed fees; one requesting justification of the worker certification fee and one noting that the small-scale contractor fee was high relative to the full-scale fee.

One person supported limiting the number of certified workers; others opposed any such restriction.

Each of the remaining comments was submitted by only one person. Comments which were not also included in the written testimony raised the following points:

- the cutoff date for prior training accepted for grandfathering should be earlier.
- the quarterly procedure for notifying of small-scale jobs at a fixed facility should be extended to contractors.
- people doing removal should be required to notify others in the area.
- the number of regulations on asbestos is already excessive for the severity of the problem; increasing the cost of abatement won't help.

During the question and answer sessions conducted after each hearing, several topics were raised repeatedly. These included the intended use of the revenue, interpretation of the exemption provisions, explanation of the notification options, content and length of the training required for small-scale abatement, and provisions for "grandfathering" abatement workers who are already trained.

## SUMMARY OF WRITTEN TESTIMONY

The Department received written testimony on the proposed rules from 15 persons. Two letters received after the close of the public comment period are included.

The written comments generally addressed specific subsections of the proposed rules. While few commenters raised the same points, comments on the revisions to the existing asbestos regulations in OAR 340 Division 25 were directed primarily at clarifying the definitions of some terms,

streamlining the notification procedures for asbestos abatement, altering or clarifying the proposed fees, and clarifying the authority to be delegated to regional authorities. With regard to the fees, two commenters recommended that the additional fees for projects exceeding three months in duration be eliminated or required at the time of initial notification. Other comments concerned distinguishing between facility owner requirements and contractor requirements, and strengthening the existing requirement prohibiting visible emissions from regulated sources. Several comments on disposal requirements were received; one requesting a reduction in the disposal requirements for nonfriable asbestos-containing materials, one encouraging flexibility in the determination of alternative disposal procedures, and one advocating requiring retention of disposal records. Comments on the proposed accreditation, licensing, and certification in OAR 340 Division 33 were also diverse yet specific. Some commenters recommended broadening the limitations of the exemptions for specific materials, to include TV cable installation through asbestos-containing materials and certain asbestos pipe operation, and simplifying the definition of small-scale asbestos abatement.

Several people had comments on the training requirements. Two commenters noted that annual refresher training can be required only upon a finding of need by the EQC. For small-scale workers, some people felt that two days of training is excessive, that an annual refresher class is not needed, or that certain topics were inappropriate and should be eliminated. Some commenters recommended that the exams be prepared or prepared and administered by the Department. One person requested that the Department certify any worker who has received training through the National Asbestos Council. One commenter asked if the refresher training could be conducted over more than one day.

Other comments on Division 33 included difficulty with the wording on eligible training providers, inconsistencies in some definitions, and need for specific DEQ notification forms. One person felt that adequate supervisor-level training may not be available to meet the January 1, 1989 implementation date; another felt that no extensions would be needed. One person questioned whether there would be any checking on disclosures made in contractor license applications. One person suggested that all certification fees be set at $10.

Two people commented that the Economic and Fiscal Impact Statement was inadequate.

NEIL GOLDSCHMIDT
GOVERNOR

# Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

Agenda Item N
April 29, 1988
EQC Meeting
Attachment E

MEMORANDUM

To: Environmental Quality Commission

From: Wendy L. Sims

Date: April 6, 1988

Subject: Response to Comment Summary
Proposed Asbestos Rules

COMMENT
DEFINITIONS. The definition of "small-scale asbestos abatement" is too complex and should be shortened. Terms used in the definition of "asbestos abatement project" should be defined. Inconsistent definitions are given for "asbestos abatement project" and "asbestos-containing material." The use of the term "source" is confusing.
RESPONSE
Definitions are derived from the authorizing legislation, the existing asbestos control regulations, and recommendations from the advisory board. Inconsistencies have been removed.

The definition of "asbestos abatement project" is the same as the statutory definition. This term is not dependent on project size and does cover almost all asbestos activity in regulated facilities. Renovation and demolition are individually defined in the statute and proposed regulations to clarify which operations are subject to the special regulations (carried over from existing regulations) on demolition.

The definition of "small-scale asbestos abatement" was developed in concert with the advisory board. It is necessarily complex. One category of the definition is the "small-scale short-duration renovating and maintenance activity" definition established by statute. This term applies to activities for which asbestos abatement is an incidental part of another operation. The other category applies to jobs for which asbestos abatement is the primary intent but which utilize appropriate work practices and do not generate high concentrations of airborne asbestos. In both cases, the maximum quantity of asbestos which can be abated is limited. The Board and the Department determined that both categories required similar training, work practices, and regulatory oversight. A single definition was developed to prevent further duplication of the two categories throughout the rules.

The application of the term "source" is unchanged from existing rules. A clarification that an asbestos abatement project is not regulated as an industrial source or other point sources has been added to the rules.

COMMENT
REGIONAL AUTHORITY. What authority may be delegated to a regional authority?
RESPONSE
A regional authority should retain existing authority and be able to take enforcement action against a contractor for operating without a license or a worker for working without a certification. The regional authority will not be able to suspend or revoke a license, certificate, or accreditation; the Department will administer these programs. The Department intends to clarify this in the proposed rules.

COMMENT
NOTIFICATION REQUIREMENTS. 1. The option to provide quarterly reporting of small-scale asbestos abatement done at a single facility by certified workers employed at the facility should be extended to work done at a facility by a contractor.
2. Residential projects should not be exempt from notification.
3. Overly stringent notification requirements could lead to rule avoidance.

RESPONSE
1. The Department agrees and will recommend appropriate changes.
2. Residential projects would be exempt only when done by the owner-occupant.
3. Federal regulations require 10 day notification for asbestos removal projects which are subject to the National Emission Standards for Hazardous Air Pollutants (NESHAPs). Most full-scale projects are in this category. Changing the required notification period from the current "advance" to 10 days would make our notification period more consistent with the federal regulations. For small-scale jobs, which are not subject to NESHAPs, procedures were proposed for providing notification on a periodic basis, rather than prior to each job. The Department considers these requirements to be reasonable and necessary for minimizing the release of asbestos from regulated projects. The Department will prepare appropriate forms for filing notifications.

The Department recognizes that this requirement imposes responsibility on facility owners for determining, prior to the start of various activities, whether asbestos is present in the facility. It is appropriate for facility owners to have asbestos surveys performed in areas where asbestos may be disturbed. This can help in eliminating inadvertent exposures to asbestos. The proposed rules would allow waivers in emergency situations.

COMMENT
WORK PRACTICES. DEQ should require that people in the area of an asbestos abatement project be notified.
RESPONSE
APD requires that signs be posted at asbestos abatement jobs. The proposed rules would extend that requirement to work done by persons not subject to APD regulations.

COMMENT
DISPOSAL. 1. Extending the disposal requirements to nonfriable asbestos is too stringent.
2. Records of proper disposal should be kept for three years.
3. A Regional Authority should have flexibility in interpreting alternative disposal procedures, such as variations in the cover requirements.
RESPONSE
1. The Department considers that nonfriable asbestos can pose a hazard if handled improperly during transportation and disposal, yet agrees that the proposed rule may regulate the nonfriable materials too stringently. A revision will be proposed which would reflect the potential hazards of nonfriable asbestos. Nonfriable materials would have to be handled, transported, and covered in a landfill without creating friable asbestos. Any nonfriable material which would not be handled and disposed of without asbestos release would have to be handled as friable asbestos, including containing and labelling.
2. The Department agrees with this comment and will recommend appropriate changes. These records would enable the Department to confirm that the company which removed the asbestos had disposed of it properly. It is expected that companies already maintain landfill receipts for tax purposes, so the economic impact of this requirement would be minimal and would come primarily from having the records accessible to the Department. This is less burdensome than the manifesting process which is required for asbestos in some states and nationally for hazardous wastes.
3. The Department expects that alternative disposal practices would only be approved after a demonstration that the level of environmental protection was equivalent.

COMMENT
LICENSING. Would the disclosures made by contractors in license applications be checked?
RESPONSE
The Department intends to verify this information as necessary with other regulatory agencies. Failure to provide accurate information in the application would be grounds for license suspension or revocation.

COMMENT
FEES. What is the justification for the worker certification fees? All worker fees should be set at $10. The fee for a small-scale contractor license is high relative to the fee for a full-scale license.
RESPONSE
The fees are structured to support the asbestos control program. This program does not receive any funding from the state general fund. All fees will be retained in the program and used to support additional enforcement activity and administration of the certification and licensing program. Significant support was expressed by the advisory board and by contractors, workers, and others at the public hearings for using the fees to provide additional enforcement.

The fee structure is proportional to the expected amount of work for the Department in administering and enforcing the regulations. The worker fees

must be adequate to cover reviewing work experience for supervisor certification, for reviewing prior training for acceptance, for recordkeeping and other administrative needs, and for providing other services.

COMMENT
EXAMINATIONS. DEQ should develop the certification exams; DEQ should develop the exams and administer the examination process.
RESPONSE
The proposed regulations would require that training providers prepare and administer the examinations. The training providers would be responsible for validating test questions. The Department would review the examinations in advance to ensure that the content of the questions is appropriate. However, the Department could require the inclusion of specific questions or the use of a Department exam. Auditing of training classes by Department staff would be done to verify that the requisite course material is being effectively taught.

COMMENT
REFRESHER TRAINING. 1. The annual refresher training is unnecessary, is not the legislative intent, and is unauthorized unless EQC determines that there are new or changed conditions.
2. Can the refresher training be distributed over more than one day?
RESPONSE
1. The Department recognizes that section 887(3) of Oregon Revised Statute 468 specifies that refresher training can be required if the EQC makes a determination that training is needed in order to meet new or changed conditions. The Department expects to document that such conditions exist so that EQC can make such a determination for the near future.
2. Yes, as long as it meets the total time requirements and all other requirements.

COMMENT
PRIOR TRAINING. 1. In "grandfathering in" workers who have already been trained through a program in another state, the Department should accept comparable training which was taken earlier than the proposed cutoff date of January 1, 1987 .
2. Any worker who was been trained in a course provided through a National Asbestos Council program should be certified.
RESPONSE
1. The Department is willing to accept earlier training provided that the worker can demonstrate suitable work experience in the intervening years. In any case, certification would be granted only after completion of an accredited refresher class, covering current work practices, Oregon regulations, and other topics as specified in the training guidance document.
2. The Department intends to allow "grandfathering" of workers who have completed training in courses which meet, except for state regulations, the basic requirements of the Oregon program. This includes classes accredited in Washington, other courses which meet the EPA model curriculum, and other courses approved by the Department.

COMMENT
OTHER TRAINING REQUIREMENTS. The requirements for small-scale workers are excessive.
RESPONSE
The 14 hour training class meets the federal training time and curriculum requirements for persons doing operations and maintenance work involving asbestos in schools. The Department believes that other small-scale work requires at least as much training. In comparison, the State of Washington requires completion of a four day training class by any worker, regardless of job size.

COMMENT
CERTIFICATION. 1. The Department should limit the number of certified workers; the Department should not impose any limits.
2. Adequate numbers of certified supervisors will not be available by January 1, 1989.
3. Workers employed at specific facilities should be regulated as a separate class from workers employed by contractors.
RESPONSE
1. Limiting the number of certified workers could make it more difficult for a building owner to abate asbestos properly and is not recommended.
2. Accredited courses should be available by July 1, 1988. The Department believes that this will be adequate time for training and certification of all classes of workers. The EQC may extend the date if the program does not proceed as rapidly as anticipated.
3. Development of separate certification categories for workers based upon employment would be a disadvantage to workers. Either worker mobility would decrease or the cost of achieving certification in the needed categories would increase. Furthermore, the techniques used to perform specific abatement activities would be common.

COMMENT
EXEMPTIONS. The exemptions are too stringent.
1. Water utility procedures which use drilling and sawing on asbestos pipe but do not release asbestos dust should be exempt. Hand sawing and drilling should be exempt.
2. Installation of wires through walls or other surfaces which contain asbestos, such as TV cable installation, should be exempt.
RESPONSE
1. The Department will propose revisions to the exemption section. The intent is to exempt any nonfriable asbestos material so long as the material is handled in a way which will not release asbestos fibers to the air.
2. Regulation of the removal or other abatement of very small quantities of asbestos has been a major topic during development of the rules. On one hand, a small quantity of material handled improperly can release more airborne asbestos than could a larger quantity which was handled properly. Some of the small quantity activities, such as cable TV installation, occur in homes. Release of asbestos in the home environment could expose small children, a high risk group, to asbestos which could remain in the air in the home for a minimum for several days. On the other hand, regulation of very small quantities could be burdensome for both the affected community and the Department.

The advisory board considered and decided against recommending a recommend a lower cutoff, below which asbestos abatement would be exempt from regulation. In releasing the proposed rules, the Department specifically requested input on cutoffs on notification for the removal of small quantities of material and possible changes in the worker categories included in the certification requirements. No comments were received which suggested a cutoff amount.

The Department has considered several options with respect to these comments. The options are discussed in the EQC staff report, with a recommendation to allow an exemption for limited quantities of friable asbestos-containing materials provided that some basic precautions are taken to prevent contamination.

COMMENT
OVER-REGULATION. The number of regulations on asbestos is already excessive; increasing the cost of abatement won't help.
RESPONSE
These regulations were proscribed by the Oregon Legislature in recognition of the serious problems often created by improper asbestos abatement. They are similar to requirements in many other states. The regulations should not significantly affect the cost of a properly done abatement job.

COMMENT
FISCAL AND ECONOMIC IMPACT STATEMENT. Two commenters felt that the statement did not reflect all costs and impacts associated with the proposed rules.
RESPONSE
More explanation of the expected impacts was added to the statement.

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April 29, 1988
EQC Meeting
Attachment F

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

| | | |
|---|---|---|
| IN THE MATTER OF ADOPTING NEW RULES IN OAR 340 DIVISION 33 AND AMENDING EXISTING RULES IN OAR CHAPTER 340 DIVISION 25 | ) ) ) ) | STATEMENT OF NEED FOR RULEMAKING, FISCAL IMPACTS, AND LAND USE |

STATUTORY AUTHORITY:

Oregon Revised Statute 468.893 requires the Commission to adopt rules to:

(1) Establish an asbestos abatement program that assures the proper and safe abatement of asbestos hazards through contractor licensing and worker training.

(2) Establish the date, no later than December 31, 1988, after which a contractor must be licensed and a worker must hold a certificate prior to performing asbestos abatement tasks.

(3) Establish criteria and provisions for granting an extension of time beyond December 31, 1988, for contractor licensing and worker certification.

(4) Establish a schedule for fees to support the asbestos control program.

NEED FOR THE RULES

Improper disturbance of asbestos-containing materials during facility renovation and demolition is a primary cause of high concentration asbestos fiber releases to the atmosphere. There is no known safe level of exposure to asbestos, therefore, all asbestos exposure should be avoided if possible. Many contractors and workers do not know how to identify asbestos-containing materials, and do not have the skills to properly work with and handle the material.

The 1987 Oregon Legislature recognized that proper training of people working with asbestos should provide the knowledge, skills, and incentive to protect the health of workers, their families, facility occupants, neighbors, and the public from inadvertent exposure to asbestos fibers.

The federal Asbestos Hazard Emergency Response Act (AHERA) of 1986 and Asbestos-Containing Materials in Schools rules of 1987 require states to adopt, among other things, rules requiring training and accreditation for

asbestos abatement contractors and workers in all public and private K-12 schools. These proposed rules satisfy part of the state requirements under AHERA.

The proposed rules would also provide revised work practice standards for all asbestos abatement contractors and workers to ensure safe abatement, handling, and disposal of asbestos materials.

PRINCIPAL DOCUMENTS RELIED UPON

- ORS 468.875 to 468.899.
- Federal Asbestos Hazard Emergency Response Act (AHERA) of 1986.
- AHERA implementation rules, specifically the "Model Accreditation Plan" published in the Federal Register of April 30, 1987, and the final rules on Asbestos-Containing Materials in Schools of October 30, 1987, (40 CFR, Part 763).
- Existing Oregon Administrative Rules:

  *Hazardous Air Contaminant Rules for Asbestos: OAR Chapter 340, Division 25, Section 465.

  *Oregon Occupational Safety and Health Standards for Construction: OAR Chapter 437, Division 83.

  *Oregon Occupational Safety and Health Standards for Asbestos: OAR Chapter 437, Division 115.

The proposed rules and principal documents are available to interested parties at the Department of Environmental Quality offices in Portland.

FISCAL AND ECONOMIC IMPACT

These rules will increase the costs of asbestos abatement in this state for both public and private entities. Therefore, the public will experience an increase in the cost of building renovation. The amount of cost increase to other state agencies, municipalities, small business, and other business will depend on the amount and type of asbestos abatement conducted in their facilities and on whether the work is done in-house or by a contractor.

The revisions to OAR 340-25 will increase asbestos abatement costs because of the notification fees and the more stringent work practice requirements. The impact of project notifications fees on project costs will be low. The fees will be a small percentage of total project costs in almost all cases.

Since notification is already required for all asbestos removal projects, the revisions to the notification procedure are not expected to increase costs unless job delays are caused by the ten-day notification period. These delays can be avoided by surveying a facility prior to job commencement. While not required, such surveys are important for minimizing inadvertent release of asbestos fibers and avoiding the high cost of contamination clean-up.

The work practice requirements are based on industry-standard procedures, such as the use of glovebags for small-scale projects and HEPA filters for vacuuming and filtration. These practices are recognized as essential for protecting workers and preventing the release of airborne asbestos to building interiors or exteriors. They are also required by the Department of Insurance and Finance in some cases. Consequently, there will not be any significant cost increase for safe abatement. For the many small operators who may not currently be using safe practices, cost increases will be incurred for equipment procurement. The largest cost would be purchase of HEPA vacuum equipment, which starts at approximately $1,000.

The certification program will have costs associated with training and application. Typical training cost for programs in other states are $125 to $150 per day of training, depending on the training course provider. This does not include the cost to the employer or worker of lost work time. For a full-scale worker certification, total costs may be around $1,000. The application fees will range from $25 to $50 per year depending on certification level. The impact of the new program costs is offset by existing Department of Insurance and Finance requirements for worker training, the AHERA training and certification requirements for those working in schools, and the extent of prior training. Many full-scale workers in Oregon have already been trained and certified through the program in the state of Washington and will be able to obtain Oregon certification by completing a one-day refresher class.

The licensing program will impose application costs of $200 to $300 per year and associated preparation costs on contractors. Facility owners, such as school districts and industrial facilities, will not be required to obtain licenses for work on their own facilities.

Training providers will pay accreditation fees of $250 to $1,000 per year per course. The regulations will create a market for the courses offered by the accredited provider, so accreditation costs are not significant. The costs are expected to be equivalent to approximately two student registrations per year.

For small businesses engaged in asbestos abatement as a primary business, the rules should have a positive impact. For other small businesses which require asbestos abatement work or would be regulated as asbestos abatement

contractors, the rules would increase costs. The small business impact of the rules would not be a significant adverse impact.

The revenues from the certification, licensing, accreditation, and notification fees will be credited to the Department. Projected revenue for fiscal year 1989 is $232,000, including $158,000 from project notifications. This revenue will be used to support the Department's asbestos control program.

LAND USE CONSISTENCY

The Department has concluded that the proposal conforms with Statewide Planning Goals and Guidelines. Specifically, the proposed rules comply with Goal 6 because the proposal ensures the proper and safe management of asbestos abatement projects and thereby provides protection for air, water, and land resource quality.

Goal 11 (public facilities and services) is deemed unaffected by the proposed rules. The proposed rules do not appear to conflict with other goals.

WS:k
AK178.1 (4/88)

Agenda Item N
April 29, 1988
EQC Meeting
Attachment G

# DEQ ASBESTOS TRAINING GUIDANCE DOCUMENT

## TRAINING LEVELS: SPECIFIC CURRICULUM

A. Supervisors for Full-Scale Asbestos Abatement.

Persons seeking certification as a Supervisor for Full-Scale Asbestos Abatement shall successfully complete an accredited training course of at least 4 days as outlined below. The training course shall include lectures, demonstrations, at least six hours of hands-on training, individual respirator fit testing, course review, and a written examination consisting of at least 100 multiple choice questions. Successful completion of the training shall be demonstrated by achieving a score of at least 70% on the examination and full participation in the hands-on training.

The course shall adequately address the following topics:

(1) The physical characteristics of asbestos, and asbestos -containing materials.

Identification of asbestos, aerodynamic characteristics, typical uses physical appearance, a review of hazard assessment considerations, and a summary of abatement control options.

(2) Potential health effects related to asbestos exposure.

The nature of asbestos-related diseases; routes of exposure; dose-response relationships and the lack of a safe exposure level; synergism between cigarette smoking and asbestos exposure; latency period for disease.

(3) Employee personal protective equipment.

Classes and characteristics of respirator types; limitations of respirators and their proper selection, inspection, donning, use, maintenance, and storage procedures; methods for field testing of the facepiece-to-face seal (positive and negative pressure fitting tests); qualitative and quantitative fit testing procedures; variability between field and laboratory protection factors; factors that alter respirator fit (e.g., facial hair); the components of a proper respiratory protection program; selection and use of personal protective clothing; use, storage, and handling on non-disposable clothing; and regulations covering personal protective equipment.

(4) State-of-the-art work practices.

Proper work practices for asbestos abatement activities including descriptions of proper construction and maintenance of barriers and decontamination enclosure systems; positioning of warning signs; electrical and ventilation system lockout; proper working techniques for minimizing fiber release; use of wet methods; use of negative pressure ventilation

equipment; use of high efficiency particulate air (HEPA) vacuums; proper clean-up and disposal procedures. Work practices for removal, encapsulation, enclosures, and repair; emergency procedures for sudden releases; potential exposure situations; transport and disposal procedures, and recommended and prohibited work practices. Discussion of new abatement-related techniques and methodologies may be included.

(5) Personal hygiene.
Entry and exit procedures for the work area; use of showers; and avoidance of eating, drinking, smoking, and chewing (gum or tobacco) in the work area. Potential exposures, such as family exposure, shall also be included.

(6) Additional safety hazards.
Hazards encountered during abatement activities and how to deal with them, including electrical hazards, heat stress, air contaminants other than asbestos, fire and explosion hazards, scaffold and ladder hazards, slips, trips and falls, and confined spaces.

(7) Medical monitoring.
APD/OSHA requirements for a pulmonary function test, chest X-rays and a medical history for each employee.

(8) Air monitoring.
Procedures and strategies to determine airborne concentrations of asbestos fibers, including a description of aggressive sampling, sampling equipment and methods, reasons for air monitoring, types of samples, and interpretation of results, specifically from analyses performed by polarized light, phase-contrast, and electron microscopy analyses.

(9) Relevant Federal, State and Local regulatory requirements.
Procedures and standards, including:

a. DEQ requirements on licensing and certification, OAR 340, Division 33.

b. DEQ requirements for asbestos abatement projects, OAR 340-25-450 through -465.

c. APD asbestos construction standard in OAR 437 Division 83.

d. National Emission Standards for Hazardous Air Pollutants, 40 CFR 61 Subparts A (General Provisions) and M (National Emission Standard for Asbestos).

e. OSHA standards for permissible exposure to airborne concentrations of asbestos fibers and for respiratory protection (29 CFR 1910.134).

f. OSHA Asbestos Construction Standard (29 CFR 1926.58).

g. Requirements of TSCA Title II.

h. Other applicable state and local rules and regulations.

i. Other applicable federal rules and regulations.

(10) Respiratory protection programs and medical surveillance programs.
Special training in supplied-air systems.

(11) Insurance and liability issues.
Contractor issues; worker's compensation coverage and exclusions; third

-party liabilities and defenses; insurance coverages and exclusions.

(12) Recordkeeping for asbestos abatement projects.
Records required by Federal, State, and Local regulations; records recommended for legal and insurance purposes.

(13) Supervisory techniques for asbestos abatement activities.
Supervisory practices to enforce and reinforce the required work practices and discourage unsafe work practices.

(14) Contract specifications.
Discussion of key elements that are included in contract specifications.

(15) Course review.
Review of key aspects of the training course.

B. Worker for Full-Scale Asbestos Abatement.
Any person seeking certification as a Worker for Full-Scale Asbestos Abatement shall successfully complete an accredited training course of at least three days duration as outlined below. The training course shall include lectures, demonstrations, at least six hours of actual hands-on training, individual respirator fit testing, course review, and an examination of at least 100 multiple choice questions. Successful completion of the course shall be demonstrated by achieving a score of at least 70% on the examination. The course shall adequately address the following topics:

(1) Physical characteristics of asbestos.
Identification of asbestos, aerodynamic characteristics, typical uses, and physical appearance, and a summary of abatement control options.

(2) Potential health effects related to asbestos exposure.
The nature of asbestos-related diseases, routes of exposure, dose-response relationships and the lack of a safe exposure level, synergism between cigarette smoking and asbestos exposure, and latency period for disease.

(3) Employee personal protective equipment.
Classes and characteristics of respirator types; limitations of respirators and their proper selection, inspection, donning, use, maintenance, and storage procedures; methods for field testing of the facepiece-to-face seal (positive and negative pressure fitting tests); qualitative and quantitative fit testing procedures; variability between field and laboratory protection factors; factors that alter respirator fit (e.g., facial hair); the components of a proper respiratory protection program; selection and use of personal protective clothing; use, storage, and handling on non-disposable clothing; and regulations covering personal protective equipment.

(4) State-of-the-art work practices.
Proper work practices for asbestos abatement activities including descriptions of proper construction and maintenance of barriers and decontamination enclosure systems; positioning of warning signs; electrical and ventilation system lockout; proper working techniques for minimizing fiber release; use of wet methods; use of negative pressure ventilation

equipment; use of high efficiency particulate air (HEPA) vacuums; proper clean-up and disposal procedures. Work practices for removal, encapsulation, enclosures, and repair; emergency procedures for sudden releases; potential exposure situations; transport and disposal procedures, and recommended and prohibited work practices.

(5) Personal hygiene.
Entry and exit procedures for the work area; use of showers; and avoidance of eating, drinking, smoking, and chewing (gum or tobacco) in the work area; and potential exposures, such as family exposure.

(6) Additional safety hazards.
Hazards encountered during abatement activities and how to deal with them, including electrical hazards, heat stress, air contaminants other than asbestos, fire and explosion hazards, scaffold and ladder hazards, slips, trips and falls, and confined spaces.

(7) Medical monitoring.
APD/OSHA requirements for a pulmonary function test, chest x-rays and a medical history for each employee.

(8) Air monitoring.
Procedures and practical considerations for determining airborne concentrations of asbestos fibers, focusing on how personal air sampling is performed and the reasons for it.

(9) Relevant Federal, State and Local regulatory requirements.
Procedures and standards, with particular attention directed at relevant DEQ, APD, and federal regulations concerning asbestos abatement workers.

(10) Establishment of respiratory protection programs.

(11) Course Review
A review of key aspects of the training course.

C. Worker for Small-Scale Asbestos Abatement.

Any person seeking certification as a Worker for Small-Scale Asbestos Abatement shall complete at least a 2-day approved training course as outlined below. The small-scale asbestos abatement worker course shall include lectures, demonstrations, at least 6 hours of hands-on training, individual respirator fit testing, course review, and an examination of at least 50 multiple choice questions. This course shall emphasize the practices for and limits to small-scale short-duration activities as described in OAR Chapter 437, Div. 83 with emphasis on Appendix G. Successful completion of the course shall be demonstrated by achieving a score of at least 70% on the examination. The course shall adequately address at least the following topics:

1. Physical characteristics of asbestos.
Identification of asbestos, aerodynamic characteristics, typical uses, and physical appearance, and a summary of abatement control options.

2. Potential health effects related to asbestos exposure.
The nature of asbestos-related diseases, routes of exposure, dose-response relationships and the lack of a safe exposure level, synergism between cigarette smoking and asbestos exposure, and latency period for disease.

3. Employee personal protective equipment.
Information on the use of respiratory protection and other personal protection measures, including classes and characteristics of respirator types; limitations; selection, inspection, donning, use maintenance, and storage procedures; fit testing procedures and field testing procedures; factors that alter respirator fit; selection, use, storage, and handling of personal protective equipment; and regulations covering personal protective equipment.

4. State-of-the-art work practices.
Proper asbestos abatement work practices and activities specifically addressing the difference between those used in large-scale projects and those allowed for use on small-scale, short duration projects as described in OAR 437-83 Appendix G. Emphasis shall be on the most appropriate work practices for small scale short duration projects.

5. Personal hygiene.
Personal hygiene practices appropriate for small-scale abatement projects.

6. Additional Safety hazards.
Hazards encountered during small-scale abatement projects and how to deal with them.

7. Medical monitoring.
Description of requirements for medical monitoring and exposure levels which trigger the requirements.

8. Air monitoring.
Methods available to determine airborne concentrations of asbestos fibers, focusing on how personal air sampling is performed and the reasons for it.

9. Relevant Federal, State & Local regulatory requirements, procedures & standards.
With particular emphasis directed at relevant DEQ, APD, EPA, OSHA, and other state and local regulations concerning small-scale asbestos abatement activities including waste disposal.

10. Hands-on training.
Individual hands-on training shall include at least construction and use of glove bags and mini-enclosures; removal and removal and repair of sprayed-on material, troweled on material and pipe lagging; suit up in protective clothing consisting of coveralls, foot coverings and head coverings, and don respirators including half-face and full-face air purifying respirators.

11. Course review.
A review of key aspects of the training course.

D. Refresher Training:

Supervisors and workers certified to conduct full-scale asbestos abatement projects, and workers certified to conduct small-scale asbestos abatement projects shall receive refresher training annually as specified by the Environmental Quality Commission. Satisfactory completion of such training shall be a condition of license and certification renewal.

(a) Refresher training shall be at least one day duration for Certified Supervisors and Workers for Full-Scale Asbestos Abatement; refresher training shall be of at least three hours duration for Certified Workers for Small-Scale Asbestos Abatement.

(b) Refresher training shall include review and discussion of changes in and interpretation of applicable State and Federal laws, regulations, policies and guidelines; developments or changes in state-of-the-art procedures and equipment; and review of key areas of initial training specific to each discipline.

(c) Training providers shall determine successful completion of a refresher course by conducting a written examination at the conclusion of the course consisting of at least fifty (50) questions. A score of 70% or higher shall be considered passing.

NEIL GOLDSCHMIDT
GOVERNOR

# Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

FK

**MEMORANDUM**

To: Environmental Quality Commission

From: Fred Hansen

Subject: Written Testimony Concerning Proposed Asbestos Rules
Agenda Item N
April 29, 1988, EQC Meeting

Agenda Item N, April 29, 1988, EQC meeting will consider adoption of rules relating to asbestos control. The Hearings Officer's report for the five public hearings is included as Attachment D of that agenda item. Due to the volume of the written comments, the written testimony is summarized in the report. Complete copies of the written public testimony are attached to this memorandum.

Wendy L. Sims:kp
Attachment: Written Public Testimony
229-6414

March 3, 1988

The Environmental Quality Commission
811 S.W. 6th Avenue
Portland, Oregon 97204

Gentlemen:

I would like to comment on your proposed rules relating to asbestos control and proposed amendments to the hazardous air containment rules for asbestos, OAR Chapter 340, Division 25, Section 465.

The Springfield Utility Board is a publicly owned utility supplying water and electric services to the city of Springfield. The water system has thousands of feet of asbestos concrete pipe in place. This pipe was placed in the 70s, and we have not used the AC pipe material in our waterline construction for many years. The fact remains that we have much of this pipe in the ground, so we will be working around this pipe for quite some time. In order to perform maintenance (due to leaks for example), it may be necessary to remove a small section of the existing pipeline. In addition, we will be installing new water services from the existing AC pipe. This will require us to drill (tap) the pipe.

All of the future activities involving AC pipe are of a very small nature and of extremely short duration. The exposure for our workers is also limited. We recognize our responsibilities to protect our workers and follow the rules adopted by the federal government and administered by the Accident Prevention Division. We are concerned, however, by some of the language that you propose and suggest some slight changes.

Under 340-33-010 (3)(C) we suggest that, "AC pipe material not exceeding three feet in length," be added to that language dealing with vehicle brake and clutch maintenance and repair. Under the employee safety rules, we utilize nonpower equipment to reduce or eliminate the generation of dust. In addition, all of our future work will be on pipe that is already in the ground which will be in a saturated condition. The walls of the pipe and the surrounding area will be extremely wet, which will reduce hazard potential and eliminate the generation of dust. We feel the conditions that exist in the field for this maintenance activity and new service work is very similar to the hazards presented by vehicle brake and clutch maintenance or repair work. Anything over the three feet would fall under

**SPRINGFIELD UTILITY BOARD**
*250 NORTH A STREET, P.O. BOX 300, SPRINGFIELD, OREGON 97477 (503) 746-8451*

the small scale short duration renovating and maintenance activities. The type of work we perform is of a much shorter duration and much smaller scale than even that defined in Section 18 under 340-33-010.

We would also suggest changing some language in the section dealing with exemptions for specific materials. Section 340-33-100 exempts certain asbestos containing materials that are "not sanded, sawn, or drilled;...." Under a very strict definition, anytime that we would be handling AC pipe for the purpose of making repairs or installing new service connections, we would be performing "sawing and drilling" operations and could not qualify for an exemption. However, under the field conditions that I have described to you (very wet environment, nonpower equipment) we would be performing drilling or sawing operations (separating the pipe into pieces) that would not expose our workers or the environment to risks outside the specified standards. We suggest that you modify the language to read, "asbestos containing materials are not sanded, sawn, or drilled using power equipment;...."

We hope that you will give favorable consideration to these small proposed changes. If you have any questions, please contact me.

Sincerely,

Ken Cerotsky
Director - Water Department

KC:mkm

w.asbestos.ken

**Weyerhaeuser Paper Company**

Containerboard Division
P.O. Box 275
Springfield, Oregon 97477
(503) 746-2511

February 29, 1988

DEQ Air Quality Division
811 SW 6th Avenue
Portland, OR 97204

Weyerhaeuser Paper Company
Springfield, Oregon
Comments on Proposed
Oregon Administrative Rules
Emission Standards and Procedural
Requirements for Hazardous Air Contaminants

Emission Standards and Procedural Requirements for Asbestos

To allow for facility owners who do all asbestos work by contractors on a routine basis 340-25-465 (4) (B) should be changed to read: Facility owners or operators employing workers or contractors as required.....

340-25-465 (A) (iii) should read: Two hundred dollars per year ($200/yr) for small-scale projects conducted by contractors or certified employees of facility owners or operators

Submitted by Jim Chartier

# T E S T I M O N Y

To: Department of Environmental Quality
Date: March 3, 1988
Place: Springfield City Hall

Regarding: Proposed Rules Relating to Asbestos Control and Proposed Amendments to the Hazardous Air Contaminant Rules for Asbestos, OAR Chapter 340, Division 25, Section 465

* * * * * * * * * * *

On behalf of the Lane Regional Air Pollution Authority, I wish to convey our appreciation for the opportunity to submit these brief comments regarding proposed state asbestos regulations.

As you may know, LRAPA staff assisted DEQ staff in developing these rules and, in general, are supportive of the proposal to ensure high levels of competence among contractors and workers performing asbestos-related work. We are generally pleased with the proposal to make the language of the rule more consistent with federal rules governing national emission standards for hazardous air pollutants (NESHAP).

We support the provision in the proposed OAR 340-25-460(7) which allows the Commission to delegate to regional authorities the responsibility for regulatory hazardous air contaminants and to establish, collect and retain fees for asbestos abatement projects. LRAPA already has received delegation from the state for NESHAP and has been handling NESHAP regulation in Lane County for several years under that delegation, this part of the proposed rule has already been implemented, and LRAPA need not return to the Commission with a new request for delegation. In addition to the delegation of federal NESHAP, we have agreed with DEQ to accept responsibility to enforce the certification and training requirements by referring violations we observe to DEQ.

We also support the new authority conferred by these rules to establish a separate fee schedule for asbestos demolition and renovation projects under

LRAPA's jurisdiction. If these interpretations do not express the intent of these rule proposals, it is recommended that they be so established in the record so that LRAPA can avoid possible challenge to its authority to regulate, in case of future litigation.

We have some concern about the effects of the mandatory daily two-foot cover on solid waste sites which are now receiving asbestos material. The purpose, of course, is to prevent asbestos fibers from becoming airborne due to wind action or disturbances from compaction equipment at permitted landfill sites. Our concern is twofold: first, two feet of cover each day at an active landfill can appreciably shorten the life expectancy of some landfills, and it is not clear that better dust control is achieved than if the federal requirements of six inches are applied; and second, we should be mindful of disposal costs. Two feet of cover each day, particularly at smaller municipal landfills, could lead to higher incidence of illegal dumping due to high cost or refusal by permitted landfills to receive asbestos. We would hope that acceptable alternative disposal practices which have equivalent effectiveness in preventing airborne asbestos fibers would receive favorable consideration.

In summary, we generally support the intent of the rules to protect public health against airborne asbestos fibers. We are hopeful that some flexibility to use cost-effective alternatives would be considered. LRAPA intends to continue to implement NESHAP rules in Lane County, covering demolition, renovation, transportation and disposal, and will assist in assuring compliance with certification and training requirements.

Again, we appreciate the opportunity to comment.

Ralph E. Johnston
LRAPA
03/03/88

STOEL RIVES BOLEY
JONES & GREY

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294-9259



February 26, 1988

Department of Environmental Quality
811 SW Sixth Avenue
Portland, OR 97204

Attention Asbestos Control Supervisor

Ladies and Gentlemen:

Re: Proposed Rules and Amendments
Relating to Asbestos Abatement Projects

Thank you for this opportunity to comment upon the Department's proposed rules relating to asbestos abatement projects. Generally, I believe the policies underlying the proposed rules are well developed and that the proposed rules are carefully drafted. In this light, I respectfully offer the following comments:

1. Definition of Asbestos Abatement Project. The definition of "asbestos abatement project" set forth in the proposed amendment to OAR 340-25-455(3) is so broad that it would include activities involving materials containing extremely low concentrations of asbestos if there were any possibility of the asbestos being released into the air even in minute amounts. This same problem arose in early drafts of House Bill 2367. However, in the final version of House Bill 2367 this problem was resolved by limiting the definition to activities involving "any material with the potential of releasing asbestos fibers from asbestos-containing material into the air." I have noted that the definition of asbestos abatement project in Section 340-33-020 of the proposed rule includes this qualification by reference to asbestos-containing material. Given the limitations of the definition as set forth in House Bill 2367 and the qualified language of proposed rule 340-33-020(4), I suspect that the omission of the limitation to asbestos-containing material in the proposed amendment to OAR 340-25-455(3) is an oversight.

Because the definition of asbestos abatement project defines the scope of the proposed rules, correction of this oversight is crucial. Asbestos has become somewhat ubiquitous in our environment and is found in small concentrations in many productions still on the market. Thus, in order for the proposed rules to have a reasonable scope, they must be limited in application to those materials containing quantities of asbestos that reasonably may be suspected to pose a threat to human health or the environment. This threshold concentration has been established by federal law and by House Bill 2367 at 1 percent asbestos by weight. Accordingly, I recommend that the proposed amendment to OAR 340-25-455(3) be revised by the addition of the words "asbestos-containing" between the words "any" and "material" on the fourth line.

2. Definition of Small-Scale Asbestos Abatement Project. The definitions in proposed OAR 340-33-020(17) and (18) appear unnecessarily complex and somewhat contradictory. The definition of "small scale asbestos abatement project" includes both (a) "small-scale short duration projects" and (b) "removal, renovation, encapsulation, repair or maintenance procedures involving less than 40 linear feet or 80 square feet of asbestos-containing material." The term "small-scale, short duration projects" is not specifically defined in the proposed rules, however, the similar term "small-scale, short duration renovating and maintenance activities" is defined to include tasks for which the removal of asbestos is not the primary objective. This latter definition also is limited to activities involving no more than 40 linear feet or 80 square feet of asbestos-containing material. Because both prongs of the definition of small-scale asbestos abatement projects are limited by an identical quantity of asbestos-containing material, the two prong definition adds nothing.

In addition to this redundancy, the latter definition for "small-scale, short duration renovating and maintenance activity" is contradictory. First, it states that it involves activities for which the removal of asbestos is not the primary objective. However, examples (a) and (b) to the definition specifically refer to projects involving only removal of asbestos-containing material.

Accordingly, I suggest that the opening paragraph of proposed OAR 340-33-020(17) should be revised as follows:

> "'Small-scale asbestos abatement project' means removal, renovation, encapsulation, repair or maintenance projects satisfying the following criteria:"

With this revision to subparagraph (17), subparagraph (18) should be deleted in its entirety.

I have noted that the definition of "small-scale asbestos abatement project" includes criteria for worker exposure levels and control measures and that similar criteria are not referenced in the definition of "small-scale, short-duration renovating and maintenance activities." The implied distinction here appears appropriate. However, because the latter definition is a subset of the former, the distinction really is not achieved in the actual wording. If DEQ desires to impose such requirements on only some small-scale projects, the requirements could be stated in a separate paragraph applicable to small-scale projects with an exception for those for which removal is not the primary purpose. By thus simplifying the definitions and expressly stating certain requirements, the apparent contradictions in the proposed definitions will be eliminated and the requirements will be easier to identify and understand.

3. Fee Schedule. I found the provisions relating to fees for small-scale projects as described in the proposed amendments to OAR 340-25-465(4)(a) and (b) to be confusing. More specifically, I could not determine whether or not a facility owner operating under a general asbestos abatement plan would be required to pay a fee of $200 a year only or an annual fee of $200 plus $25 for each small-scale asbestos abatement project the facility owner conducts during the year. I am similarly confused with respect to whether or not a small-scale asbestos abatement contractor must pay a project-by-project fee in addition to the monthly fee. To alleviate this confusion, I recommend that the proposed amendment to OAR 340-25-465(4)(b)(A) be revised by the addition of the following underscored language at the end of the first clause:

"Facility owners or operators or contractors shall pay the Department a project notification fee [of] equal to one of the following, as appropriate: ***."

4. Source Registration. As drafted, the proposed rules would subject asbestos-abatement projects to the registration and notice requirements of Section 340-25-465(4) and also the registration and other requirements of Section 340-25-460(2), (3), (4), (5) and (6). The requirements of Section 340-25-460(2), (3), (4), (5) and (6) are either redundant of Section 340-25-465(4) or simply are not appropriate for asbestos-abatement projects. For example, Sections 340-25-460(2) and (3) refer to existing sources and construction or modification of new sources. However, asbestos-abatement projects are short duration sources and are not constructed or modified in the physical sense. The start-up 30-day notification requirements of Section 340-25-460(4) contradict the 10-day notice requirements of Section 340-25-465(4)(a). Additionally, the activities to be exempted by Section 340-33-100 from Section 340-25-465(4) are not exempted from the general source registration and notice requirements of Section 340-25-460. Similarly, the exemption in Section 340-25-465(4) for private residences does not include an exemption from the general requirements of Section 340-25-460. Lastly, the emissions test and monitoring requirements of Section 340-25-460(6) are not appropriate for asbestos-abatement projects. Such projects are subject to the monitoring requirements of the accident prevention division's regulations and to specified work practice requirements. Accordingly, emissions testing is inappropriate, especially for the otherwise exempt activities. These numerous problems with Section 340-25-460 can be avoided by simply adding to the end of Section 340-25-460(1) the following: "Subsections (2), (3), (4), (5) and (6) of OAR 340-25-460 shall not apply to asbestos-abatement projects."

I hope these suggestions are helpful to you in refining the proposed rules. If you have any questions regarding these comments, please call.

Very truly yours,

J. Mark Morford

JMM14.27:pm
cc: Mr. Richard D. Bach

COMMENTS ON NEW ASBESTOS STANDARDS

DEQ Air Quality Division;

The new proposed asbestos regulations appear to be a vast improvement over the present regulations in both content and clarlity. I would however, like to see the state take a stance and establish a quantitative clearance level for buildings, such as the EPA recommendations of .01 f/cc . Discharge requirements from a building, project or manufacturer needs to be more clearly defined as well. To simply state that no person shall cause to be discharged into the atmosphere any visible emissions of asbestos fibers is too subjective and does little to protect the health of individuals in the vicinity or the environment. Everyone knows that you can greatly exceed the personal exposure limits and not see any visible asbestos fibers in the air. It has been documented (see NIOSH criteria document on asbestos) that in some incidents residents downwind of shipyards and asbestos mills have had an increase in lung cancer and particularly mesothelioma. If the state DEQ does not address this issue then it is my opinion they are grossly negligent in their primary mission-to establish and enforce environmental laws and to protect the environment and the residents residing in this state from a contaminated environment which could pose a threat to their health and well being. Since no definitive environmental emission standard for asbestos has been established or appropriately defined, the state could most likely have to defend itself against a tort or liability claim someday. Lowering emissions below visible contamination is offering no protection to the people of this state from ASBESTOS activities.. Establishing a standard equal to the personal exposure limit action level of 0.01 f/cc is a feasible level which could be achieved by industry and contractors.

I would also like to see a modification to the reporting times for small scale operations. Monthly reporting of activity seems to be a little to frequent and I don't feel it would give employers an adequate time period to properly prepare their reports. Bimonthly reporting dates may be more to everyones agreement and still satisfy the state that projects are being carried out properly.

Michael B. Remington

Michael B. Remington R.S.
Industrial Hygienist
V.A. Medical Center, Roseburg

PORTLAND
BOMA
Portland Metropolitan Association of Building Managers

March 14, 1988



Mr. Fred Hanson
Director, Dept. of Environmental Quality
811 SW Sixth Avenue
Portland, OR 97204

Dear Fred:

In reviewing the proposed administrative rules relating to Asbestos Control, we are pleased to see the committee has completed it's work and we are well on our way to seeing the certification of asbestos removal contractors. As you know, we followed the legislation and were in support of the concept from the beginning. Despite the fact that contractor bids may be higher to reflect the additional burden of being certified, we believe it is truly a way of ensuring that knowledgeable people will be doing quality work in such an important area.

I am concerned about the notification fee schedule included within the proposed rules. Actually, not so much with the schedule as I understand programs have to pay their way. My concern is with the requirement that each three month period of an on-going abatement project, constitutes another notification fee assessment. I assume that the thought process surrounding that requirement suggests that any asbestos abatement an/or removal job will be completed within 90 days. Otherwise, it would appear some additional problems requiring numerous inspections and notifications, are the contributors to the delay. That all makes sense, I suppose, when you are talking about and industrial project where you can shut down the plant and come in to do the work without staging or phasing the job. However, please look at that requirement from the standpoint of an office building in which tenants must be relocated for the work to proceed. You can imagine what a cumbersome and time consuming process that relocation can be.

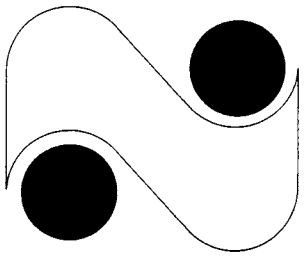
We are both familiar with the Executive Building's abatement project. That, in itself, took over a month, and the building was totally empty.

As you can understand, office buildings are people intensive. Moving people can be very costly and cumbersome, at best, and more costly and more cumbersome at worst. In looking at a large abatement project with notification fee of $500, a reassessment those fees every three months can add up quickly.

As the office space industry, we obviously want to address the asbestos issue in a responsible and safe manner, even if it increases our costs to do so. However, we feel a reassessment of the fee every 3 months is a bit overbearing and unrealistic, and we urge that this provision be deleted from the rules or amended to give some relief.

Sincerely,

Robin Lindquist
Executive Vice President



NORTHWEST PULP&PAPER



March 18, 1988

Wendy Sims
Air Quality Division
Department of Environmental Quality
811 SW Sixth
Portland, OR 97204

Dear Wendy:

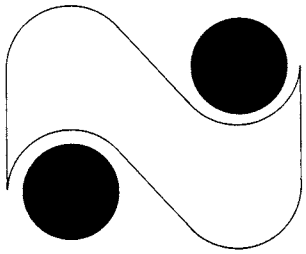
Enclosed are the comments of the Northwest Pulp and Paper Association on the proposed Asbestos Training and Certification Rules. Thank you for the opportunity to comment and your careful consideration.

If you have any need for clarification or you would like additional comments, please call me at the number below.

Sincerely,

Douglas Morrison
Legislative/Public Affairs Analyst

Enclosure



NORTHWEST
PULP&PAPER

Northwest Pulp and Paper Association
Comments on Proposed
Oregon Administrative Rules
Asbestos Control: Training and Certification

**340-25-465(4) Notification and Notification Fees**

The proposed rule provides for a $25 per small scale project fee or $200 per year fee for small scale projects conducted by certified employees of facility owners and operators. The proposed rule should be expanded to allow payment of the $200 annual fee by contractors conducting small scale projects at a single facility. Some large industrial facilities may at times hire contractors to perform a series of small scale, short duration projects. There should be no difference in the cost to the department to accept and administer the program when performed by either employees or contractors because the reporting requirements are identical under 465(4)(a)(B) and (C).

Insert at the end of 465(4)(b)(A)(iii) the following:

"or for small-scale projects conducted by contractors under 340-25-465(4)(a)(C) at a single facility."

**340-33-060 Training Provider Accreditation**

The list of entities in 340-33-060(1)(a) should either be deleted or be amended to state clearly that corporations or other employers of asbestos workers may provide in-house training programs once accredited. Although the list includes "any person" and any"other entity" which would include corporations and employers by reference to the definitions in 340-33-020, specifically naming some entities which are also included within the definition of "person" could give rise to arguments that the list is exclusive.

We see two alternatives: (1) delete 340-33-060(1)(a) entirely; or (2) place a period after "any person" and delete the remainder of the paragraph. Any necessary changes could be made to the definition of "person."

**Training Guidance Document**

**C. Worker for Small-Scale Asbestos Abatement: Training Level T3**

The proposed guidance for certification as a worker on small-scale, short duration projects requires a training course of at least two days. The proposed guidance also sets out the course content. In our opinion, the course content required for this category entails material and information irrelevant and unnecessary to protect the health and safety of workers engaged in small scale, short duration asbestos projects. Moreover, the the proposal is not in accord with the legislative direction to "adopt different

training requirements that reflect the different levels of responsibility." 1987 Ore. Laws Ch. 741 § 4(3). The mandatory minimum course length of two days is also contrary to legislative intent by the same reasoning.

Section C of the Training Guidance Document sets out the curriculum for Training Level T3, for workers on small scale asbestos projects. The topics listed as mandatory subjects in this course cross reference the same discussions necessary for training Full Scale asbestos project workers, training level T2. For example, Topic 3 (Employee personal protective equipment) requires a discussion of respirators and respirator types, their limitations and use, and the selection and use of protective clothing. We contend that these discussions are irrelevant to the health and safety of small scale project workers.

Under Oregon law, OAR 437-83-7020(6)(c) and Appendix 83-G, the small scale asbestos worker is required to wear a HEPA equipped cartridge respirator when using a glove bag to remove asbestos. A worker who follows the work practices and engineering controls required for small scale work is not required to use the full range of respirator types required to be discussed under the proposed T3. The small scale project worker need only know about the limitations and uses of the cartridge respirators used in this type of work.

The state of the art work practices required to be discussed under T2 go far beyond the needs of the small scale project worker. Indeed, the small scale exemption depends in large part upon the specific work practices used in small scale projects as described in Appendix 83-G. Training level T3 should concentrate and be limited to those work practices. Again, HB 2367 requires "different training requirements that reflect the different levels of responsibility." In no other instance is this distinction so clear as to the legislative intent.

The following topics for training level T3 should concentrate and be limited to the work practices and engineering controls as described in Appendix 83-G:

3. Employee personal protective equipment.
5. Personal hygiene.
6. Additional safety hazards.
7. Medical monitoring.
8 . Air monitoring.

The course content for each of these topics should not refer to level T2 requirements and should set out independently the different requirements for small scale projects.

If a course provider adequately and fully presents the required content in less than two days, the remaining time will be spent with "filler" or the provider will slow the course down to stretch the running time. The use of "filler" is unproductive and unnecessary. A slow pace of presentation can have adverse effects on attentiveness. We recommend deleting the two day minimum course length with six hours of hands-on training and substituting a one day course length and 3 hours of hands-on training. Course accreditation and worker testing are adequate to ensure that workers attain a degree of knowledge sufficient to safely undertake small-scale, short duration projects.

A shorter, more focused training program will allow more persons to be available for training, including those that ordinarily may not be involved with asbestos but might be exposed in the course of their jobs such as electricians, plumbers and other maintenance workers.

## D. Refresher Training: Training Level T4

The requirement for mandatory annual refresher courses is directly in contradiction to statutory language and should be removed in favor of a requirement based on a finding of the Environmental Quality Commission that there are new or changed conditions for a category of worker such that a refresher course is necessary. The EQC should limit its determination to a single category of worker. Section 9(3) of the statute does not permit any other reading. As proposed, the Training Guidance Document provisions on refresher courses go much farther than the legislature intended and could be invalidated on those grounds.

## Training Test Administration and Scoring

The proposed rules indicate that providers of training will develop, administer and score certification tests. The proposed rules require a certain number of questions on an examination, depending on the classification of training, and a certain percentage of correct answers for a passing score. We recognize a number of inherent problems with this system and recommend that the Department standardize, administer and score tests separate from providers of training. Foremost of these problems is the legal issue of whether a government agency can delegate to a private party an essentially governmental function.

The examination score is the sole judge of whether a supervisor, contractor or worker has been adequately trained. Several considerations must be addressed when using a testing program to limit entry into a workplace: Do the various examinations test on an equal footing so that students of one program are not subject to discrimination nor are students allowed to seek out the "easiest" program? To what extent is cheating possible and what measures can be implemented to reduce the possibility of cheating?

Possible solutions to these problems include:

1. Departmental development of several examinations which can be rotated both within a single test group and among different test groups.

2. Departmental administration and scoring of tests.

The first solution is the more important. To minimize department involvement and continue reliance on the expertise of the training providers, the department could require each provider to submit a proposed test and to use or modify those to form the battery of tests to be used. A national pool of test questions could also be used.

The proposed rules do not address what happens if a student fails to correctly answer the required percentage of questions. Must the student retake an entire training session or may they simply retake an exam? This is a fundamental question which must be addressed by the rule or guidance.

## Constraints on Entry into the Workplace

A commenter at the Portland public hearing advocated that the Department use the certification process to limit or constrain the number of workers who become certified

to perform asbestos work. This commenter admitted that this was solely to improve the economic postion of the people that he represents. NWPPA strongly disagrees with the principle of limitation or constraints on entry into the workplace. No person who applies for certification may be denied by the Department for any reason other than as established by rule. The Department has no authority to otherwise limit certifications and must maintain its programs to fully support the number of applications which are submitted.

**Economic Analysis**

The fiscal and economic analysis of the proposed rule as presented in Attachment I of Agenda Item H presented at the EQC meeting of January 22, 1988 is inadequate. Although the per worker costs may be reasonable, the aggregate costs to the state are not at all presented. NWPPA feels that these costs will be extremely high given the degree to which this proposal will affect workers in a large number and variety of occupations. Almost every maintenance or construction activity from simple electrical work and plumbing to large construction and demolition will be affected. The EQC should be apprised of the magnitude of these costs.

The analysis makes the statement that "training and specific work practice standards are presently required of persons regulated by APD rules" in order to lessen the appearance of costs. To what degree do the present and proposed requirements overlap? What are the present costs of compliance with APD rules and by what order will those costs increase under the proposal?

HAZCON INC.
HEALTH HAZARD CONTROL SERVICES



March 17, 1988

Wendy Symms
Department of Environmental Quality
811 S.W. Sixth Avenue
Portland, Oregon 97204

Dear Wendy:

The following information is submitted as our comments on the proposed asbestos control rules.

We are a full service Industrial Hygiene Consulting Firm specializing in asbestos related work, with offices in Seattle and Portland. We are also an approved training provider for the State of Washington Asbestos Worker Certification Courses. In the past two years, our firm has trained approximately 2,000 workers. Approximately half of this number were trained through our Portland office. We believe this history gives our testimony the added weight of practical experience in dealing with certification programs.

We believe that Worker and Supervisor Certification is an excellent method for ensuring that the individuals involved in abatement had at least an understanding of the issues at some point in time. The will to act in a responsible manner can not be taught. Only regular, thorough and consistent enforcement of the regulations can help prevent improper abatement from occurring.

We also believe the intent of the Certification Process should be to impart knowledge of the hazards, the regulations and safe work practices. Instructional time should not be spent on making workers more productive. This is training that should be learned on the job through supervision.

It is also not necessary for a worker to be highly educated, or pass a difficult examination. It is important that they understand and retain the information presented.

OAR 340-33-020.

Definition 5. Asbestos containing material is defined slightly differently than in 340-25-455 (5). We believe these definitions should be consistent and agree with NESHAPS.

Definitions 17 and 18. We believe the small scale definition in #17 should be eliminated and only #18 remain. Firms specializing in asbestos abatement should meet the requirements for all abatement contractors. Definition 18 allows a generous exception for firms that deal with asbestos as a secondary consequence of other work.

340-33-030 (12)

We believe adequate numbers of training providers, trained workers, and supervisors are currently available in the state to not warrant an extension of time.

340-33-040 (8) (C)

Suspension or revocation of a license would prove devastating to a contractor. We believe a more concise guideline for revocation should be included. Revocation should be limited to rule infractions that could directly result in asbestos exposure to individuals or the release of asbestos to the environment. Consideration should be given to contractor supervision policies and past activities when dealing with what could be isolated employee actions.

340-33-050 (3)

We agree that it takes more than attending a training course to make an effective supervisor. However, the implementation of this rule as written would effectively eliminate firms from conducting in house, full scale abatement projects. It would be nearly impossible to qualify supervisors from within the firm with these requirements and may not be necessary, if only a single type of abatement activity was being done.

Hiring temporary supervisors from outside the company would create many personnel problems. There currently is a shortage of unemployed supervisors available. Thus it may be impossible for a firm to hire one for the short period nescessary to complete an abatement project in house.

We would suggest these experience requirements be limited to supervisors hired by contractors. Supervisors should be judged by their ability to supervise and run a job. Management should be held responsible to select effective people in this role.

340-33-060 (1) (g)

We would recommend that state provided exams be limited to the supervisory level. Exams at other levels should be submitted and accepted through the course accreditation process. State administered exams add expense to the process, and delays for the paperwork to be processed. Many individuals who take the worker course are looking to begin work as soon as possible after completion. Reputable training providers can properly administer exams. Other providers should be weeded out by your department.

340-33-080

We would urge that grandfathering of training be extended back to July 1985, for those with current Washington Certification. Those individuals who have been active in the industry since then and prior to January 1987 are least in need of another full course.

340-33-110

The fees for supervisor and both worker levels are excessive. These fees are usually paid by the individuals. While the inclusion of the waiver is thoughtful, we believe the cost of processing a flood of waiver requests will more than offset any gain from higher certification fees.

We recommend a straight fee of $10.00 for all types of certification with no waivers allowed. Any short fall in revenue could be made up by adjusting the notification fees, this would place the cost of abatement squarely on the owners of the problem, not the worker performing abatement.

Thank you for your consideration of our comments.

Sincerely,

Richard H. Krause, CIH
HEALTH HAZARD CONTROL SERVICES

RHK/mlaj

PENNWALT CORPORATION

P.O. BOX 4102, PORTLAND, OREGON 97208 · (503) 228-7655



March 16, 1988

Wendy Sims
Dept. of Environmental Quality
Air Quality Division
811 S.W. Sixth Avenue
Portland, OR 97204

Dear Wendy:

This is in response to the proposed new regulations concerning asbestos abatement projects.

Pennwalt's Portland plant site has a large quantity of pipe insulation which contains asbestos materials. Whenever a pipe or valve develops problems, the insulation is immediately removed by our contractor. Usually the work is unscheduled and must be completed expeditiously to prevent any further damage. Pennwalt currently sends the Department a monthly summary of our small-scale asbestos abatement projects. Pennwalt employees are not involved in any asbestos removal.

OAR 340-25-465 (4)(a)(C) proposes that contractors can comply with the notification requirement by 1) maintaining on file with DEQ a general asbestos abatement plan, and 2) providing DEQ a monthly summary of the small-scale projects. The proposed wording appears acceptable except that the abatement plan is to contain, to the extent possible, the following information:

a. Description of structure where the abatement project is to be accomplished;
b. Scheduled starting and completion dates;
c. Location of the material; and
d. Amount of asbestos to be abated.

A general abatement plan could be submitted for our maintenance removal projects. However, due to the unscheduled emergency nature of our work, the above noted items would not be known in advance to include in the plan. Paragraph (E) allows for emergency telephone notification coupled with the submittal of a written notification within (3) days. Since we may have several unscheduled projects in one week, this could mean the DEQ would actually receive numerous letters during any one month. It would appear that a monthly summary should be sufficient.

We also suggest a wording change under the section (b) Notification Fees. Subparagraph (iii) calls for the submittal of $200/year for small scale projects conducted by certified employees of facility owners or operators. It is suggested that subparagraph (iii) be changed to include work conducted by contractors.

Thank you for the opportunity to comment on the proposed rules.

Sincerely,

PENNWALT CORPORATION

Larry D. Patterson

LARRY D. PATTERSON
Environmental Control Director

LDP/pac

SCHWABE, WILLIAMSON, WYATT, MOORE & ROBERTS
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DONALD A. HAAGENSEN

CABLE ADDRESS "ROBCAL"
TELEX 4937535 SWK UI
TELECOPIER (503) 796-2900

TO: DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION

FROM: DONALD A. HAAGENSEN
For CHEMICAL WASTE MANAGEMENT, INC.

RE: **PROPOSED RULES RELATING TO ASBESTOS CONTROL AND PROPOSED AMENDMENTS TO THE HAZARDOUS AIR CONTAMINANT RULES FOR ASBESTOS, OAR CHAPTER 340, DIVISION 25, SECTION 465**

DATE: MARCH 21, 1988

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Chemical Waste Management, Inc. submits the following comments on the proposed rules issued January 22 by the Department of Environmental Quality regarding persons conducting asbestos abatement projects and State hazardous air contaminant rules for asbestos. In these comments, the part of the proposed rule at issue is first quoted in full and then followed by a discussion of the proposed and suggested changes to the proposed rule. Language recommended to be added to the proposed rule is underlined.

**Proposed Rule 340-33-060(1)**

"(c) Each of the different training courses which are to be used to fulfill training requirements shall be individually accredited by the Department."

**COMMENT**

This proposed rule requires that any asbestos training course required for licensing or certification under the proposed rules has to be accredited individually by the Department before it may be used to fulfill training requirements. Such a requirement is overly strict and unnecessary. It fails to recognize that there is a national organization, the National Asbestos Council (NAC), that reviews in detail and approves or disapproves courses. Other states have examined the NAC review

and approval process and determined that NAC approved courses are acceptable.

To require that courses that have already been approved by the NAC must be approved individually by the DEQ is also costly and time-consuming. It could cause delay in the licensing and certification process when licensed contractors and certified workers are critically needed to perform asbestos abatement projects.

The proposed rule should be amended to recognize that individual training courses that have been reviewed and approved by the NAC need not be reviewed and accredited by the DEQ.

**Suggested Change to Proposed Rule 340-33-060(1)**

"(c) Each of the different training courses which are to be used to fulfill training requirements shall be individually accredited by the Department except that training courses which have been reviewed and approved by the National Asbestos Council need not be individually accredited by the Department."

DAH:dmm

# Oregon Cable Communications Association

**250 14th Street N.E.**
**Salem, Oregon 97301**
**(503) 362-8838**

March 17, 1988





Mr. Fred Hansen
Director
Environmental Quality Commission
811 SW 6th
Portland, OR 97204

Dear Mr. Hansen;

The Oregon Cable Communications Association is comprised of cable television companies operating in the state of Oregon. These companies have a franchise with local units of government to provide cable service to residents in the franchise area. There are approximately 130 cable systems in Oregon, providing cable service to 345 communities. We estimate there are 550,000 cable subscribers in Oregon.

To receive cable television it is necessary for the local cable company to connect the subscriber to the service. The "drop", how the connection is made, is either from a utility pole or underground pedestal. A serviceable connection is possible when a house is pre-wired for cable television service, or by drilling a 5/16 inch hole through a wall or floor where there has not been a cable connection before.

In reviewing the proposed administrative rules for "Emission Standards and Procedural Requirements for Hazardous Air Contaminants" for asbestos abatement, it appears likely unless the rules are modified, Oregon cable companies will be required to obtain a "Contractor" license and worker certification and training will be required of cable installers to drill a 5/16 inch hole in a residence.

If our interpretation is correct, the net result is an increased burden to the cable industry without a commensurate benefit to the public at large. In fact, I can not believe the Oregon legislature intended for cable installers drilling 5/16 inch holes to be covered under this new law.

The statutory definition of "asbestos abatement project" is "any demolition, renovation repair, construction or maintenance activity of any public or private facility that involves the repair, inclosure, encapsulation, removal, salvage, handling or disposal of any material with the potential of releasing asbestos fibers from asbestos-containing material into the air". Based on this definition, the cable industry should not be subject to the proposed administrative rules.

Cable companies do not demolish, renovate, repair, construct, or maintain public or private facilities. Essentially, all that is done is the drilling of a small hole. If a cable employee were to be involved in the above activities, where a significant exposure occurs, then we can understand the rational for worker training and certification.

When a cable connection is made to the residence, the drilling usually occurs from the inside out. According to the Plant Manager for Viacom (Salem), 50% to 55% of all cable connections are made through the floor, from the inside of the residence to the crawl space below the house. A wall plate is installed on the inside and a rubber plug attached on the outside.

Under Chapter 741, the Department has the authority to exempt certain categories of workers.

We believe it makes sense to exempt cable installers from the requirements of the proposed administrative rules, since they do not work on "asbestos abatement projects", and there is virtually no risk to these individuals or others. It is hard for us to imagine the Oregon legislature intended for cable television installers to be covered under this new law.

Oregon government has slowly implemented programs to unravel the unnecessary regulations placed on Oregon business. To adopt the proposed burdensome administrative rule sends a signal that Oregon is not yet open for business.

Thank you for your consideration.

Sincerely,

Mike Dewey
Executive Director

MD/sj

STANDARD INSURANCE COMPANY

*home office:* Portland, Oregon 97207
P. O. Box 711
(503) 248-2700

March 9, 1988



Mr. Fred Hansen
DEPARTMENT OF ENVIRONMENTAL QUALITY
Air Quality Division
811 S.W. Sixth Avenue
Portland, OR 97204

Dear Fred:

In response to the proposed rules relating to asbestos control and proposed amendments to the hazardous air contaminant rules for asbestos, Standard Insurance Company is concerned with the following:

1. The project notification fee structure for large-scale projects greater than 16,000 square feet or 2,600 lineal feet has a notification fee of $500. As part of the proposed notification assessment, it is our understanding that each three-month period of an ongoing abatement project will be assessed another project notification fee of $500. This proposed system seems inequitable in respect to reassessment. It is our opinion when DEQ receives an abatement project submittal, which includes the project start and completion date, a one-time notification fee should be developed based on the submitted schedule. Perhaps a better breakdown of what this notification fee is used for, such as if the intent is to cover on-site inspection costs by DEQ, a system should be developed to determine the number of inspections required per project and assess the project accordingly.

2. It is our opinion DEQ should be required to provide examinations of the training providers to assure consistency in the worker's level of knowledge. Also, clarification on the ratio of supervision to workers for the large-scale jobs is needed.

3. 340-25-465(5)(a)(B)(ii): "To the extent possible" should be further defined.

4. 340-25-465(5)(a)(B)(iii): The proposed quarterly summary reports should be submitted on a DEQ standard department form so there is no confusion about what is to be included.

5. 340-33-030(2): This section states that a facility owner or operator does not need to be licensed but must use certified workers for small-scale maintenance projects. Do small-scale certified maintenance workers have to work under a certified abatement supervisor?

6. 340-33-040(2)(c): Is there any provision for checking the background of contractors to ensure they have made full disclosure under this section?

7. 340-33-050(3)(b): There may be some problem initially getting supervisor applicants who can meet these requirement by January, 1989.

We appreciate the opportunity to express our concerns and look forward to your response.

Yours very truly,

WAYNE ATTEBERRY
Vice President
Real Estate Finance

WA:SH:sa
cc: Rod Walker
Robin Lindquist, BOMA

TESTIMONY
Of
ASSOCIATED OREGON INDUSTRIES
On The
PROPOSED RULES RELATING TO ASBESTOS CONTROL
AND
PROPOSED AMENDMENTS TO THE HAZARDOUS AIR CONTAMINATE RULES FOR ASBESTOS

Submitted
March 18, 1988
by
Thomas C. Donaca
General Counsel

We will first address the questions raised in the supplement to Agenda Item H:

(1) We believe that modifications need to be made in the range of workers and activities included in "small-scale asbestos abatement projects" in the following areas:

(a) For incidental maintenance or installation activities, the training requirements are unrealistic in relation to the exposure.

(b) The annual refresher requirements are unnecessary, and

(c) while OAR 340-33-100 attempts to exempt certain asbestos-containing materials, the requirements for "wetting" in all cases and the prohibition on drilling significantly narrow the intended exemption.

(2) As to a cutoff on the notification requirements, we believe the cutoff is too low in the proposed rules. For instance, it appears that if new wire is to be run through walls where asbestos-containing materials may or may not be apparent and the drilling of holes is required, that the activity is an "asbestos abatement project", because such an activity falls within the definition of "renovation" and is not exempt under OAR 340-33-100. Such an activity generally requires written notice at least ten days in advance by contractors. We believe this type of activity should have been exempted or that a requirement for use of a face mask be put in place. If the latter were the rule, there would be an exemption from the training requirements.

(3) Regarding exam preparation, we believe that the greatest consistency of testing will be achieved when the department both prepares and administers the examination. We recognize the difficulty of the DEQ administering exams, but strongly urge the DEQ to maintain control of the examination question. We will watch with interest how certification by the training providers works in practice.

The following are our specific comments on the proposed rules:

(1) The definition of "asbestos abatement project" covers almost all asbestos activity in commercial, industrial, publicly owned and larger dwelling units because of the words contained in that section. As defined, "renovation" appears to cover "maintenance" and "repairs" further constrained by the exemptions on asbestos-containing materials of OAR 340-33-040. Some additional definitions of the words contained in the definition of "asbestos abatement project" appear necessary to meet what we thought was the legislative intent as well as to square with representations made by DEQ to the Legislature to provide relief to some types of small-quantity generators. (2) OAR 340-25-460 (3) What is a modification? It is not defined and seems to overlap the terms "renovation" and "construction" wording contained in the "asbestos abatement project" definition.

(3) OAR 340-25-460 has become ambiguous as to its application. Under the existing rules, only sources for which emission standards have been set were subject. Now, with no definition of "source", it appears that an asbestos abatement project is a source. This could have been taken care of by leaving the existing rules and adding new sections to OAR 340-25 to cover asbestos abatement projects.

(4) OAR 340-25-460 (7) What authority may you delegate to the regional authorities under this subsection? Placing the delegation in (7) further adds to the ambiguity of the entire section.

(5) OAR 340-25-465 (4) Should probably be a new section, as suggested above.

Under 4(a)(b) we suggest you have a major information problem. How do you intend to get information to all potential facility owners and operators that they are required to pre-establish the possibility that they may have an "asbestos abatement project", so that they can be qualified to keep the file and make the summary report? We suggest that no one knows, statewide, the number of buildings and facilities that may contain asbestos. To approach the matter as these rules are proposed, assumes that all such persons are knowledgeable about the potential for asbestos. We know of no entity, governmental or otherwise, that has that information. To proceed as proposed, we believe, will lead to widespread, if unintended, violation of these rules.

This section would be more understandable if it had been clearly divided between contractors and their responsibilities and those of facility owners and operators. The intermingling makes the rules difficult to read and clearly understood by each affected group. One last thought, for small-scale projects, the reporting requirements are more difficult and more specific than are required for major demolition and renovation projects. Again, the requirements for facility owners, small-scale contractors and other contractors should be set out in separate sections rather than as subsections. It is difficult to read and understand.

OAR 340-25-465 (4)(b)(B) We question the notification exemption in this subsection. What is the authority for such an exemption in residential buildings and not in other types of buildings? This whole area of exemption deserves further consideration to insure consistency of application of the rules to sites and personnel, where health hazards have a reasonable probability of occurring.

OAR 340-25-465(4)(a)(E) Provides only for emergencies to protect life, health, or property. Questions arise such as when if you begin a project where "asbestos" was not apparent, could you use the emergency notification if asbestos was discovered. Also, does this presume that all our firefighters are subject to these rules, because they are always on emergencies and do a lot of demolition.

OAR 340-25-465 (4)(c)(B) requires "wetting" unless there would be unavoidable damage to equipment. Does this include building damage? How would you get DEQ approval to proceed? Again, when drilling holes, does one have to get approval from the DEQ in each instance to deviate from the subsection? This subsection appears more suitable for major projects than the average small-scale project.

OAR 340-33-020(4) Why does the definition of "asbestos abatement project" vary slightly from OAR 340-25-455(3)?

OAR 340-33-020(5) Why does the definition of "asbestos-containing material" vary from OAR 340-25-455(5)?

OAR 340-33050(7)(b) This subsection requiring annual refresher courses to gain renewal of a certificate follows HB 2367, section 9(3), as contained in the original House bill and the House amendments of April 14. The final version, A-Engrossed HB 2367, was rewritten to eliminate the mandate for all certificate holders to take an annual refresher. Instead, the final bill provides that the Commission must find a need to "update the workers' training in order to meet new or changed conditions" before requiring a review course. The proposed rules remove the funding of the Commission and revert to the mandate. We believe that there is little evidence to suggest there will be new or changed conditions on most small-quantity projects. We further believe the rule departs from the legislative intent of this subsection. This subsection should be rewritten to conform to the final version of HB 2367.

OAR 340-33-070(3) Will this subsection allow several meetings to achieve the seven hours of training and not require a continuous seven hour session in one day?

DEQ Asbestos Training Guidance Document: Is this a rule? If only a guidance document, what is its status?

We believe that two days of training for all small-scale workers is excessive, particularly for persons doing maintenance, minor repair, and installations only. Either a further subset of small-quantity, short -duration work should be established in the applicable rules or a further short-term training program be established, concentrating on identification, and worker protection related to the actual exposure, and appropriate disposal.

For the same reasons as stated earlier, an annual one-day refresher for all certificate holders is not called for.

The fiscal impact statement is incomplete. We believe it should contain a realistic estimate of the number and types of certificate holders and contractors; the estimated cost for training for each type of certificate holder, including estimates of either wage loss or increased employer costs over the cost of training; estimated number of training providers and their locations; the estimated annualized cost of refresher training; and some estimate of income to the DEQ and expense of administration to the DEQ. Such information would provide information on which to understand the overall program costs.

STATE OF OREGON

INTEROFFICE MEMO

TO: Wendy Sims
AQ Division

DATE: March 22, 1988

FROM: Larry Jack
SW Region

SUBJECT: Proposed Asbestos Rules



Recommend that asbestos contractors or individuals disposing of asbestos be required to retain landfill receipts for three years. Receipts should be available for inspection by DEQ during that time.

i.e.
Landfill disposal receipts shall be retained by the contractor or individual disposing of asbestos for a minimum of three years. This period of retention shall be extended during the course of any unresolved litigation regarding the disposal of asbestos material by the contractor or individual or when requested by the Director.

LJ:fs