



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, DC 20460

10722
Conflicts of Interest

MAY 24 1989

OFFICE OF
PESTICIDES AND
TOXIC SUBSTANCES

Ms. Sylvia Lozano
Asbestos Program Control Manager
Office of Risk Management
Department for Budget and Fiscal Planning
Corpus Christi Independent School District
P.O. Drawer 110
801 Leopard
Corpus Christi, Texas, 78403-0110

Dear Ms. Lozano:

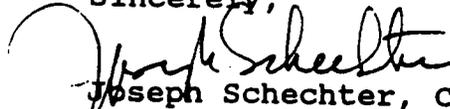
This is in further response to your letter in which you requested clarification of the Asbestos Hazard Emergency Response Act (AHERA) regulations regarding avoidance of potential conflicts of interest. Specifically, you wish to know whether AHERA-accredited employees of the Corpus Christi Independent School District may perform both asbestos abatement and air monitoring tasks, i.e., personal and clearance air monitoring, and laboratory analysis of the air samples. I regret the delay in our written response.

Your question stems from language in the AHERA regulations which, under Appendix A, at the Sampling section of the Mandatory Transmission Electron Microscopy (TEM) Method on page 41858 of the Federal Register notice of October 30, 1988, (copy enclosed) states in part, "Sampling operations must be performed by qualified individuals completely independent of the abatement contractor to avoid possible conflicts of interest...." In addition, the Sample Preparation section of the TEM mandatory method on page 41864, states, in part, "All sample preparation and analysis shall be performed by a laboratory independent of the abatement contractor."

In the "100 Commonly Asked Questions About the New AHERA Asbestos-in-Schools Rule" guidance document (copy enclosed) question number 28 addresses the issue of conflict of interest in the case where an LEA intends to use its own AHERA-accredited staff to carry out all the tasks involved, including inspection, development of the management plan, project design, abatement, and all air monitoring. The answer concludes that LEAs have the option to use their own employees to carry out all tasks.

If I can be of further assistance to you, please call me or Brian Duncan of my staff at (202) 382-3949.

Sincerely,



Joseph Schechter, Chief
State and Local Assistance Section
Hazard Abatement Assistance Branch

Enclosures

cc: Sally Sasnett
John West
Alan Carpien
Bob Jordan
Jon Silberman
AHERA Interpretation File



CORPUS CHRISTI INDEPENDENT SCHOOL DISTRICT

P.O. Drawer 110 • 801 Leopard
Corpus Christi, Texas 78403-0110

(512) 886-9044

DEPARTMENT FOR BUDGET
AND FISCAL PLANNING

Office of Risk Management

January 6, 1989

U. S. Environmental Protection Agency
401 M Street SW
Washington, D.C. 20460

Dear Sir or Madam:

Re: Interpretation of the Asbestos Hazard Emergency Response Act
(AHERA), 40 CFR 763

In our continuing efforts to comply with the Asbestos Hazard Emergency Response Act, the Corpus Christi Independent School District is presently considering the feasibility of performing some asbestos abatement projects in-house by creating and staffing our own asbestos abatement team. We believe this would result in substantial savings for our school district while, at the same time, providing greater flexibility in completing response actions and maintenance projects as they arise.

Our attempts to determine the exact scope of work that can be performed in-house have resulted in several unanswered questions with regard to the interpretation of "conflicts of interest" under AHERA. Specifically, these include:

CAN BOTH THE ABATEMENT TEAM AND AIR MONITORING PERSONNEL BE EMPLOYED BY THE LEA? (In other words, if our team performs the abatement project, can our industrial hygienist conduct the personal and area air monitoring required to comply with the applicable portions of AHERA?)

CAN BOTH THE ABATEMENT AND THE CLEARANCE AIR SAMPLING AFTER ABATEMENT BE CONDUCTED BY EMPLOYEES OF THE LEA? (Upon completion of an abatement project by our team, can our industrial hygienist conduct clearance air sampling to clear the areas for re-entry?)

CAN EMPLOYEES OF THE LEA CONDUCT THE ABATEMENT, AIR MONITORING, AND ANALYSES OF AIR SAMPLES? (If both asbestos abatement work and air monitoring can be conducted by our employees, can our accredited laboratory conduct analyses of the air samples collected?)

DISCUSS w/ Dan
recalls Dan
Betsy saying ok
if schools no
contract
call John West, R.6

copy

U. S. Environmental Protection Agency
January 6, 1989
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A timely response would enable us to proceed with pending maintenance and renovation projects.

If you have any questions regarding this matter, please do not hesitate to contact me at (512) 886-9108.

Sincerely,



Sylvia Lozano
Asbestos Program Control Manager

SL:keh

cc: Dr. L. K. Norman, Director
for Risk Management
Mrs. Laurel S. Ferri, Administrative Officer
for Risk Management