MEMORANDUM

May 22, 1990

TO: Larry Lloyd
FROM: Adrian Howe
SUBJECT: EPA Approval of the Montana Asbestos Contractor Accreditation Plan

I am pleased to inform you that the Environmental Protection Agency has granted full approval of the Montana Asbestos Contractor Accreditation Plan as per the attached letter. Please contact me if I may provide further information.

cc: Director's Office
    Legal Unit
    John Wardell - EPA
    AQB
    SHWB.
Ref: 8ART-RTI

Mr. Adrian Howe  
Occupational and Radiological Health Bureau  
Department of Health and Environmental Sciences  
Cogswell Building  
PO Box 200901  
Helena, MT 59620-0901

Dear Mr. Howe:

The Asbestos School Hazard Abatement Reauthorization Act (ASHARA) of 1990 mandated that the U.S. Environmental Protection Agency (EPA) revise its existing Model Accreditation Plan (MAP) regulation (40 CFR Part 763, Appendix C to Subpart E) to accomplish the following purpose: (1) to extend accreditation coverage to include certain workers performing asbestos-related tasks in public and commercial buildings, (2) to increase the minimum number of training hours required for accreditation, and (3) to effect any other changes needed to implement the mandate. A revised asbestos MAP rule was promulgated as an interim final rule on February 3, 1994, and became effective on April 4, 1994.

Based on a detailed review of your State regulations, we are pleased to inform you that the EPA has determined that effective May 9, 1995, the Montana Asbestos Accreditation Program is in full compliance with the requirements of the revised MAP rule. The State of Montana now has the authority to do the following:

a) Conduct training pursuant to the MAP;
b) Approve training course providers to conduct training and to issue accreditation that satisfies the requirements for accreditation under the MAP; and
c) Issue accreditation that satisfies the requirements for accreditation under the MAP.
Ref: 8AT-TS

Adrian Howe
Occupational Health Bureau
Montana Department of Health and Environmental Sciences
Cogswell Building
Helena, Montana 59620

Dear Adrian:

This is in response to your letter to Dave Combs requesting comments on the proposed asbestos regulations being developed by the Department of Health and Environmental Sciences. The draft regulations were reviewed by the Regional Toxic Substances Branch, Air Branch, and Regional Counsel. The review was based upon the Asbestos Hazard Emergency Response Act (AHERA), EPA's Worker Protection Rule, and the National Emission Standards for Hazardous Air Pollutants (NESHAPs). I have attached for your consideration our comments on the proposed asbestos control regulations.

Thank you for the opportunity to comment. If you have any questions or need any further information, please give Dave Combs a call at (303) 293-1442.

Sincerely,

Irwin L. Dickstein, Director
Air and Toxics Division

Attachment
Mr. Adrian C. Howe, Chief
Occupational Health Bureau
Department of Health and Environmental Sciences
Cogswell Building
Helena, Montana 59620

Dear Mr. Howe:

Having reviewed the provisions of the Montana Asbestos Control Act (Chapter No. 581, Montana Session Laws 1989), which authorizes the establishment of Montana's asbestos accreditation program, Montana's accreditation regulations (ARM Chapter 42, 16.42.301 through 16.42.405), and your letter dated March 5, 1990, I am pleased to inform you that the Environmental Protection Agency (EPA) approves the Montana Asbestos Contractor Accreditation Plan for the following asbestos disciplines: Inspector, Management Planner, Project Designer, Contractor/Supervisor and Worker.

Please forward a listing of all course providers approved by the State of Montana to Mr. Phil King of my staff, at the Environmental Protection Agency, 401 M Street, S.W., Mail Drop TS-799, Washington, D.C. 20460 by July 13, 1990. This listing should include the following information:

a) the course provider's name, address, telephone number, and the name of a contact person if different from the provider;

b) approved courses;

c) date of certification (for each approved course)

We will plan to include notice of the Montana approval and the courses approved by the State in our August 1990 Federal Register notice of AHERA-related courses and State program approvals.

Please be advised that the Agency may subsequently conduct a follow-up review of a State program to ensure that the requirements of the EPA Model Accreditation Plan (40 CFR Part 763) are being met. If a follow-up review indicates the State program no longer meets the Model, EPA may withdraw its approval.
If you have any questions about the State program approval process, please phone Phil King at (202) 382-7849.

Sincerely,

Michael M. Stahl, Director
Environmental Assistance Division
Office of Toxic Substances

cc: Irwin Dickstein
    David Combs
    Robert McNally
    Joseph Schechter
    Philip King
OFFICE MEMORANDUM

TO:       Steve Pilcher          DATE:      July 15, 1991
FROM:     Jeff Chaffee & Adrian Howe
SUBJECT:  Transfer of NESHAPs Asbestos Program

As we discussed in our meeting of July 10, 1991, the Air Quality Bureau (AQB) and the Occupational Health Bureau (OHB) are proposing to combine the National Emission Standards for Hazardous Air Pollutants (NESHAPs) Asbestos Program with the State Asbestos Program. The NESHAPs Asbestos Program, which is currently administered by the AQB, is a set of federal regulations requiring appropriate removal and disposal techniques for asbestos materials. The OHB runs the State Asbestos Program which also addresses appropriate asbestos handling procedures, but it goes beyond the federal requirements to cover contractor certification and training as well as other related activities. Up to this point, AQB and OHB have been coordinating with each other to limit duplication of effort in our respective programs. Due to the growth in both the NESHAPs and state asbestos programs, as well as the press of other priorities in AQB, we feel now is an appropriate time to combine the NESHAPs responsibilities with the state asbestos program.

AQB had committed 0.4 FTE to NESHAPs asbestos activities in the FY91 State-EPA Agreement (SEA) and we have proposed a similar level of support for the FY92 SEA (see attached pages from FY91 and FY92 SEAs). EPA had proposed an expanded list of asbestos activities in FY92 (see attached FY92 proposal), but AQB feels that with no accompanying increase in federal funding for asbestos, we will not increase our level of support. A calculation of the funding committed to NESHAPs asbestos (personnel services and operating) results in an estimate of $20,500. As part of the transfer of NESHAPs asbestos responsibilities to OHB, AQB is proposing to set aside the $20,500 in a separate responsibility center (under AQB legislative authority) for use by OHB to cover travel, training, legal support and other appropriate costs related to the NESHAPs asbestos program.

Based on our discussions, AQB and OHB propose the following scenario for FY92:

* AQB would retain overall responsibility for the NESHAPs asbestos program in the SEA and through updates to the Montana regulations (ARM 16.8.1424) which incorporate federal NESHAPs by reference.

Note: EPA is pushing for the revised asbestos NESHAP (published, November 20, 1990) to be added to Montana's regulations in FY92.
Memo to Steve Pilcher
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* OHB would assume responsibility for the asbestos NESHAPs duties listed in the SEA, including inspections of qualifying demolition and renovation projects, reporting of the required information into EPA’s computerized database (AQB will provide training) and taking appropriate enforcement action for the department against violators.

   Note: AQB will coordinate with OHB during the FY92 SEA negotiations with EPA to assure that OHB knows the level of activity being required.

* AQB will manage the federal air pollution grant including meeting state matching requirements for the federal dollars. As mentioned above, a separate responsibility center will be established.

We recommend that the success of the combined program be evaluated at the end of FY92. At that point, changes can be addressed and a decision on the future roles of the two bureaus can be made. Assuming a successful combined program, AQB would prefer to move out of the "middleman" role for regulating and financial management in future years. As we discussed on the 10th, you will explore the acceptability of this proposal with the EPA Regional Office. If you have any questions, please contact us.

JTC:tl

Attachments
JUSTIFICATION

1. The Montana Department of Health and Environmental Sciences (DHES) is responsible for the implementation and operation of an asbestos control program in Montana. The program has been in operation since January 1, 1990. Responsibilities of this program are: A) accredits individuals performing in asbestos-related occupations who have completed a required amount of training and passed an approved examination, B) approves and audits training courses conducted by private course providers, C) issues asbestos abatement project permits, and D) conducts compliance inspections of asbestos abatement projects. In the first six months, the workload has exceeded what the DHES anticipated for an annual workload. Following is a table which compares the workload as originally projected and the annualized workload based on the first six months of program operation:

<table>
<thead>
<tr>
<th>Original Workload Projections (per annum)</th>
<th>Annualized Workload</th>
</tr>
</thead>
<tbody>
<tr>
<td>Course Approvals</td>
<td>10</td>
</tr>
<tr>
<td>Accreditations</td>
<td>25</td>
</tr>
<tr>
<td>Asbestos Abatement Permits</td>
<td>150</td>
</tr>
<tr>
<td>Site Inspections</td>
<td>50</td>
</tr>
<tr>
<td>Course Audits</td>
<td>5</td>
</tr>
<tr>
<td>Compliance Actions</td>
<td>5</td>
</tr>
<tr>
<td>Assistance Responses</td>
<td>300</td>
</tr>
</tbody>
</table>

2. During the 1989 legislative session when the statute and funding for the program were established, the necessary resources to adequately operate this program were unknown. It was not known how many people were performing in asbestos-related occupations or how many asbestos abatement projects might be performed in the state. Therefore, the DHES requested minimal resources for the implementation of the program. The program started full operation on January 1, 1990. At least six months of workload history encompassing a portion of the asbestos abatement industry's busy season was required to make a reasonable evaluation of the program needs. Therefore, additional resources could not be projected for consideration during the Executive Planning Process or for the earlier request to the Governor's office for additional FTE's. The current level budget for FY 91 is $54,542. The current projection of income from fees, $160,000, based on $83,000+ collected since the implementation of the program is sufficient to provide for this budget amendment request of $86,299.

This is a fee based program which is to be self-supporting. The program is funded by the Resource Indemnity Trust fund (RIT) and the fees collected are deposited back into the RIT.
3. Additional services to be provided by this budget amendment are:
   a. Accreditation of individuals performing in asbestos-related occupations
   b. Approve and audit training courses conducted by private course providers
   c. Issue asbestos abatement project permits
   d. Conduct compliance inspections of asbestos abatement projects
   e. Investigations into illegal asbestos abatement projects
   f. Enforcement activities as needed through contracted legal services.

4. The activities of the Asbestos Control Program are necessary to assure the protection of the public health and welfare. The program was mandated by Public Law 99-519. It has received full U.S. Environmental Protection Agency (EPA) approval. The program is subject to periodic EPA audit and must demonstrate an adequate program to retain such approval.

5. There is no reasonable alternative to providing services for the increased workload other than increased funding authorization for the program.

6. This amendment does not request General Fund Support.

7. DHES requests spending authority in the State Special Revenue Fund. DHES originally requested funding of a minimal program because no workload history existed. With six months of workload history established it is evident that the current program resources cannot deal with the workload in an efficient and timely manner. This unanticipated circumstance makes it imperative that an additional FTE and the corresponding operating expenses be authorized to address the workload that has resulted from Senate Bill 270 that was passed during the 1989 Legislature. Without the approval of this amendment the program will not be able to fulfill the commitments made to industry and the legislature regarding the administration of the program.

**Evaluation Criteria**

1. DHES will review an additional 500 accreditation applications.
2. DHES will review an additional 70 asbestos abatement project permits.
3. DHES will review an additional 10 course approval applications.
4. DHES will provide an additional 75 site inspections based on issued permits.
5. DHES will perform an additional 10 investigations of illegal asbestos abatement activities which are reported to the program.
THE INFORMATION FOLLOWING IS TO SUPPORT THE ATTACHED OPERATIONAL PLAN/BUDGET AMENDMENT REQUEST

6. DHES will perform an additional 10 audits of approved training courses in accordance with requirements to perform audits on courses at least once every two years.

7. DHES will contract for legal services to seek compliance and penalties on an additional 20 violations.

8. DHES will provide a written evaluation report to the LFA by August 15, 1991.

JH/war-75xt