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4/18/11

TEXAS DEPARTMENT OF STATE HEALTH SERVICES

DAVID L. LAKEY, M.D.
COMMISSIONER

FILE COPY

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April 18, 2011

Drew Garner, Jr., President
Garner & Associates, Inc.
13027 Stiles Lane
Sugar Land, TX 77478

RE: Request for clarification on containment requirements

Dear Mr. Garner:

The Texas Department of State Health Services (DSHS) has received your March 29, 2011, letter regarding full containment requirements as required by the Texas Asbestos Health Protection Rules (TAHPR). Your specific questions regarding inverted prep will be addressed in the order listed in your letter.

1. Is full ceiling prep ("inverted prep") now required for all asbestos abatement projects in public buildings (yes or no)?
2. Is full ceiling prep ("inverted prep") now required for all asbestos abatement projects in public buildings with drywall or plaster ceilings (yes or no)?
3. Is full ceiling prep ("inverted prep") now required for all asbestos abatement projects in public buildings with suspended acoustical ceiling systems (yes or no)?

DSHS response to Questions 1-3:

No, ceiling prep ("inverted prep") is an industry term not addressed in the TAHPR and is not terminology used by DSHS. Any solid ceiling that is not open to adjacent areas (sealed) is not required by the TAHPR to be covered (prepped) with plastic sheeting. However, a suspended ceiling with ceiling tiles is not a sealed surface, and if it is open to other parts of the building (such as an open air plenum), then the suspended ceiling should be covered with a critical barrier. TAHPR §295.60(b) states, "Regulated areas within which asbestos abatement is to be conducted shall be separated from adjacent areas by impermeable barriers such as plastic sheeting attached securely in place. All openings between containment areas and adjacent areas, including but not limited to windows, doorways, elevator openings, corridor entrances, ventilation openings, drains, ducts, grills, grates, diffusers, and skylights, shall be sealed. All penetrations that could permit air infiltration or air leaks through the barrier shall be sealed, with exceptions of the make-up air provisions and the means of entry and exit." Critical barriers should be determined by the consultant for each project. Any individual asbestos consultant may determine that a ceiling is porous or cannot be cleaned and must be covered due to contamination concerns.

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4. Are "critical barriers" with "splash guards" still allowed (as previously specified in a DSHS memorandum) for floor tile and mastic abatement projects (yes or no)?

DSHS response to Question 4:

Yes, the TAHPR, §295.60 (a)(2) states, "the individual asbestos consultant may specify work practices that vary from the requirements of this section as long as the work practices specified are at least as protective of public health and are clearly described in the project notification submitted to the Texas Department of Health (department). The burden of proof for establishing equivalent protection rests with the asbestos consultant."

In addition, the 1999 TDH memorandum reiterates the above citation and states splash guards may be used when:

- The use of splash guards is specified by a licensed consultant;
- The consultant can defend that the practice is equally protective of public health;
- The area abated is under negative pressure with critical barriers, and all other work practice requirements enumerated under §295.60 are met; and
- The splash guard shall be at least four (4) feet high and consists of a least one layer of six (6) mil poly sheeting (or equivalent, as specified in §295.60(d)).

5. Will a written clarification be made by the DSHS addressing this issue (yes or no)?

DSHS response to Question 4:

No, a written clarification is not required because the regulations clearly address your concerns. However, your questions and these responses will be posted on the asbestos website.

DSHS appreciates your interest in complying with the TAHPR regulations. If you have any questions, please contact Mr. Terry Collins, TAHPR/NESHAP Specialist, at (512) 834-6787 extension 2454 or Ms. Roxanna Guerrero, Asbestos Programs Coordinator, at (512) 834-6787 extension 2198.

Sincerely,



Annabelle Dillard, Manager
Environmental Hazards Group
Policy, Standards, and Quality Assurance Unit
Division for Regulatory Services

GARNER & ASSOCIATES, INC.

March 29, 2011

VIA: e-mail (1 Page)

Mr. Alan Morris
Asbestos Branch Manager
Texas Department of State Health Services
1100 W. 49th Street
Austin, Texas 78756

Dear Mr. Morris

This letter is in reference to a rumor in the Texas Asbestos Consulting and Abatement Industry that the Texas Department State Health Services is considering enforcement of full containment ("inverted prep") of ceilings on interior asbestos abatement projects. It is understood that DSHS Inspectors have recently informed Consultants and Contractors that they would report (as a violation) the Consultant and Contractor if they did not specify the construction of full containment ("inverted prep") of ceilings in any type of abatement project to include floor tile abatement projects.

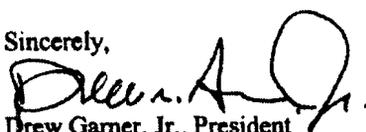
As you are aware, the TAHPR addresses prep of floors and walls in TAHPR 295.60 (d) and does not specifically reference ceiling prep. However, Consultants usually specify "critical barriers" (one layer of plastic sheeting) over lights, vents, diffusers, other openings, etc. in ceilings. TAHPR 295.60 (b) defines a "critical barrier" as a "... plastic sheeting attached securely in place". The TAHPR also indicates that "All openings between containment areas and adjacent areas, including but not limited to windows, doorways, elevator openings, corridor entrances, ventilation openings, drains, ducts, grills, grates, diffusers, and skylights, shall be sealed. All penetrations that could permit air infiltration or air leaks through the barrier shall be sealed,"

As a DSHS Licensed Asbestos Consultant and an Approved Asbestos Training Instructor, I need immediate clarification and yes or no answers to the following questions;

1. Is full ceiling prep ("inverted prep") now required for all asbestos abatement projects in public buildings (yes or no)?
2. Is full ceiling prep ("inverted prep") now required for all asbestos abatement projects in public buildings with drywall or plaster ceilings (yes or no)?
3. Is full ceiling prep ("inverted prep") now required for all asbestos abatement projects in public buildings with suspended acoustical ceiling systems (yes or no)?
4. Are "critical barriers" with "splash guards" still allowed (as previously specified in a DSHS Memorandum) for floor tile & mastic abatement projects (yes or no)?
5. Will a written clarification be made by the DSHS addressing this issue (yes or no)?

Thank you for your cooperation and assistance with this issue. Please respond at your earliest convenience in an effort for us to continue to conduct asbestos consulting and training services in compliance with regulatory requirements.

Sincerely,


Drew Garner, Jr., President
Texas DSHS Asbestos Consultant
License No. 10-5001