

## **RULE IMPACT STATEMENT**

Pursuant to the Administrative Procedures Act, Section 303(D) of Title 75 of the Oklahoma Statutes, the Oklahoma Department of Labor (“ODOL”) hereby submits the following Rule Impact Statement for **PERMANENT** rule proposals for OAC Title 380, Department of Labor, Chapter 50, Rules for Abatement of Friable Asbestos Materials.

### **Brief Description of the Purpose of the Proposed Rules:**

Several provisions of Chapter 50 will be amended. Some of the more important changes deal with air monitoring, decontamination units, and electrical requirements. Air monitoring technicians must follow sampling procedures and maintain an on-site daily activity log. Decontamination facilities must be attached to the work area for projects ten (10) square feet or twenty-five (25) linear feet and greater. A variance may be requested if these requirements cannot be met. The informal policy statement regarding situations where it is not possible to shut down all electrical power to the asbestos work area is added to these rules. Several other changes are made in these proposed amendments to the administrative rules. Copies of the proposed rules may be obtained to review all proposed amendments.

### **Description of the classes of persons who most likely will be affected by the proposed rule, including classes that will bear the cost of the proposed rule, and any information on cost impacts received by the agency from any private or public entities:**

All asbestos contractors, inspectors, supervisors, project designers, and workers will be affected by these proposed rule changes. These same classes of persons will bear the cost of the proposed rule changes. A few comments were received which claimed generally that costs would increase as a result of these proposed rule changes. These comments did not explain how the proposed rule changes would increase costs or provide an estimate of the projected cost increases.

Only one comment was received with an estimate of anticipated cost increases. This individual estimates a 1% increase in costs on large abatement projects and a slightly higher increase on SSSD projects, likely less than 10%. Under OAC 380:50-11-2, we currently require one (1) air sample for small scale projects and three (3) samples for larger projects but each sample must be run for six (6) hours. Under the proposed rules, five (5) samples will be required regardless of the size of the project but the samples only have to run for two (2) hours. While the increased number of samples may increase costs, the shorter run time could decrease costs, offsetting any increase. OAC 380:50-13-1 no longer allows personal air monitoring samples to be substituted for clearance tests. This amendment will change current procedures, which could have an economic impact. However, since the time required for clearance tests has been decreased, clearance tests may actually cost less than personal air monitoring which requires personnel to be in the containment area for six (6) hours.

### **Description of the classes of persons who will benefit from the proposed rule:**

All asbestos contractors, inspectors, supervisors, project designers, and workers may benefit from the proposed rule changes because these rules will clarify the requirements for asbestos abatement in Oklahoma. The Oklahoma Department of Labor and the public is expected to

benefit from these proposed rules because inspection procedures will be simplified which will ensure asbestos is removed in a safe and effective manner.

**Description of the probable economic impact of the proposed rule upon affected classes of persons or political subdivisions, including a listing for all fee changes and, whenever possible, separate justification for each fee change:**

No fees are created or changed by these proposed rules. However, a few changes in current procedure are proposed which may have an economic impact on some affected classes. OAC 380:50-11-5 is amended to clarify the procedures which must be followed by air technicians. Air technicians will now have to keep a log of air monitoring activity. This change may cause a minimal economic impact. Under OAC 380:50-11-2, we currently require one (1) air sample for small scale projects and three (3) samples for larger projects but each sample must be run for six (6) hours. Under the proposed rules, five (5) samples will be required regardless of the size of the project but the samples only have to run for two (2) hours. While the increased number of samples may increase costs, the shorter run time could decrease costs, offsetting any increase. OAC 380:50-13-1 no longer allows personal air monitoring samples to be substituted for clearance tests. This amendment will change current procedures, which could have an economic impact. However, since the time required for clearance tests has been decreased, clearance tests may actually cost less than personal air monitoring which requires personnel to be in the containment area for six (6) hours. All other proposed rule changes are not expected to have any economic impact.

**The probable costs and benefits to the agency and to any other agency of the implementation and enforcement of the proposed rule, the source of revenue to be used for implementation and enforcement of the proposed rule, and any anticipated effects on state revenues, including a projected net loss or gain in such revenues if it can be projected by the agency:**

There should be no additional costs imposed on the Oklahoma Department of Labor or any other agency for the implementation or enforcement of the proposed rule changes. All implementation and enforcement costs will be funded by existing revenue sources. No impact on state revenue is expected.

**A determination of whether implementation of the proposed rule will have an economic impact on any political subdivision or require their cooperation in implementing or enforcing the rule:**

No economic impact on any political subdivision is anticipated at this time, nor will they be required to cooperate in implementing or enforcing the rule.

**A determination of whether implementation of the proposed rule may have an adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act:**

Some businesses in the asbestos abatement industry may be small businesses. Although very little, if any, adverse economic effect is expected, any such effects may be felt by small businesses working as asbestos contractors.

**An explanation of the measures the agency has taken to minimize compliance costs and a determination of whether there are less costly or nonregulatory methods or less intrusive methods for achieving the purpose of the proposed rule:**

Compliance costs, as outlined above, are expected to be minimal. The proposed changes may actually decrease costs in some areas and offset any increase. There is no less costly non-regulatory method available.

**A determination of the effect of the proposed rule on the public health, safety and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk:**

The purpose of the Rules for Abatement of Friable Asbestos Materials is to protect asbestos abatement workers, the general public, and the environment from the dangerous effects of asbestos. The proposed rule changes will enhance the public health, safety, and environment by eliminating uncertainty and modifying current requirements.

**A determination of any detrimental effect on the public health, safety and environment if the proposed rules are not implemented:**

If the proposed rules are not implemented, there will be no increased risk to the public health, safety and environment but the rules will continue to be less effective than they could otherwise be under the proposed rules.

**Date the rule impact statement was prepared and the date modified:**

Prepared: January 13, 2010

Modified: March 26, 2010

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