



Vol XXXXIX, Issue 3
March 2021

Asbestos and the Law

Asbestos has been nicknamed the miracle fiber because of its indestructibility. Asbestos minerals have been used in building materials for fire proofing and strengthening for almost 100 years and can still be found in buildings today. As a rule of thumb, buildings that were built prior to 1978 may contain asbestos. Areas most common include floor tile, plaster, pipe insulation, and boiler insulation. That rule is not always a hard-fact because traces of asbestos can be found in newer materials such as joint compound, caulking, mastics and tar materials to name a few.

Asbestos is a very serious issue, because of the potential health and liability issues. If you are not a licensed asbestos contractor and you disturb and/or remove asbestos containing materials, you may have some serious consequences to deal with. Just like lead based paint and mold, if you disturb them you run the risk of cross-contaminating a building and exposing it to people.

The regulatory agencies involved with asbestos include USEPA, OSHA, DOT, and local and city authorities. The U.S. Environmental Protection Agency (EPA) regulates the asbestos in schools with the AHERA laws and the NESHA laws under the clean air act. The Occupational Safety and Health Association (OSHA) regulates employer responsibilities for protecting and training employees who may come in contact with asbestos contain materials. As a restoration contractor, insurance adjuster, and as the building owner/manager, it is important to comply with all the regulations to avoid or prevent fines, jail time, or law suits. The fundamental mechanism is education, learn more about what is required, be proactive, and have materials tested before demolition, and follow the rules when it comes to disturbance, removal, employee exposure, transportation and disposal.

Below are a few rules taken directly from the Texas Administrative Code in regards to asbestos management in facilities in public buildings: Title 25, Part 1, Chapter 295, Subchapter C, Rule 295.34

(a) “General. Building owners are required to inform all persons in writing, or document oral communication between the owner (or their authorized representative) and those who perform any type of maintenance, custodial, renovation, or demolition work, of the presence and location of asbestos containing building materials (ACBM) prior to the start of any asbestos-related activity.”

(1) “Demolition and/or renovation of a facility or commercial building. Before performing any demolition or renovation activity in a facility or commercial building, building owners or operators shall ensure that all friable asbestos-containing materials (ACM) or asbestos-containing materials which may become friable (i.e. Category II nonfriable ACM) are inspected and abated in accordance with 40 CFR Part 61, Subpart M.”

(2) “Demolition and/or renovation of a public building. Before performing any demolition in a public building, building owners shall ensure that all friable asbestos-containing material (ACM) or ACM which may become friable (i.e. Category II nonfriable ACM) are surveyed and abated in accordance with 40 CFR Part 61, Subpart M. Before performing any renovation in a public building, building owners are required to survey and perform asbestos abatement for all asbestos-containing building material (ACBM) that could foreseeably be disturbed in the area to be renovated in accordance with these rules. The asbestos survey and abatement for the demolition and/or renovation shall be conducted by persons licensed in accordance with these rules, and according to the standards for removal specified in 295.58 – 295.60 of this title.”

(3) “Statement of Responsibility. The building owner retains the primary responsibility for compliance with these rules for the presence, condition, disturbance, renovation, demolition, and disposal of any asbestos encountered in the construction, operations, maintenance, or furnishing of that building or facility.”

(4) “Conditions requiring a mandatory asbestos survey for ACBM. Prior to any renovations or dismantling within a public building, commercial building, or facility, including preparations for partial or complete demolition, as required by 40 CFR, 61.145, owners must have a through survey performed. The work area and all immediately surrounding areas which could foreseeably be disturbed by the actions necessary to perform the project must be inspected and sampled as applicable prior to renovations or demolition. A copy of the survey report must be produced upon request by the Texas Department of Health (department). If a survey cannot be performed before demolition or renovation is started due to the building being structural unsound and unsafe to enter, all materials must be presumed to contain asbestos and must be treated as ACBM.”

To find more information on Asbestos go to the website:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=25&pt=1&ch=295&sch=C&rl=Y](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=25&pt=1&ch=295&sch=C&rl=Y)

Until next time my friends, be prepared and stay safe.

March 2021

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2	3 IFMA Luncheon	4	5	6
7	8	9	10	11	12	13
14	15	16	17 IIASA Luncheon SABOMA Luncheon	18 CAMO SAABE Luncheon IREM Luncheon	19	20
21	22	23	24	25 IWSA Luncheon	26	27
28	29	30	31			

Events

March 3: IFMA Luncheon
 March 17: SABOMA Luncheon
 March 17: IIASA Luncheon
 March 18: IREM Luncheon
 March 18: SAABE Luncheon
 March 18: CAMO
 March 25: IWSA Luncheon

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