

Building Solutions Facility Management Briefing

Asbestos Regulations Affecting Texas K-12 Schools

Summary: The purpose of this bulletin is to clarify the intent and relationships among some of the key asbestos regulations affecting commercial and institutional property, and particularly schools (including private schools) in the state of Texas. There are a myriad of federal regulations promulgated by the Environmental Protection Agency, and enforced through the Texas Department of State Health Services (TDSHS) at this time. This is not a comprehensive report but is intended to cover highlights that may answer frequently asked questions. For more information, check the website for TDSHS <http://www.dshs.state.tx.us/asbestos/default.shtm>

Regulations

AHERA (Asbestos Hazard Emergency Response Act) is the regulation that requires schools (local education agencies) to identify and manage asbestos-containing building materials (ACBM) in school buildings. This is a federal regulation promulgated by the Environmental Protection Agency (EPA). In Texas, the AHERA regulations are enforced by the Texas Department of Health (TDH).

TAHPR (Texas Asbestos Health Protection Rules) is the regulation that requires proper management of asbestos-containing materials (ACM) in all buildings which are subject to public occupancy, or two which the general public has access (including schools). This is a State regulation that is enforced by the Texas Department of Health.

NESHAP (National Emission Standard Hazardous Air Pollutants) is the standard that governs demolition and renovation activities in buildings (including schools). This is a federal regulation promulgated by the Environmental Protection Agency (EPA). In Texas, the AHERA regulations are enforced by the Texas Department of Health (TDH).

Letters in lieu of surveys

AHERA:

Under Section 763.99(7) of the AHERA regulation, an architect or project engineer responsible for the construction of a new school building or renovation of a school building after 10/12/88, or an accredited inspector can sign a statement that no ACBM was specified as a building material in any construction document for the building, or, to the best of his or her knowledge, no ACBM was used as a building material in the building.

TAHPR:

Senate Bill 509, which has been adopted into the TAHPR regulations and is enforced by the Texas Department of Health, requires that a municipality that requires a person to obtain a permit before renovating or demolishing a public or commercial building may not issue the permit unless the applicant provides:

- 1) Evidence acceptable to the municipality that an asbestos survey, as required by the TAHPR, of all parts of the building affected by the planned renovation or demolition has been completed by a person licensed under TAHPR to perform a survey; or
- 2) A certification from a licensed engineer or architect, stating that the engineer or architect has reviewed the material safety data sheets for the materials used in the original construction, the subsequent renovations or alterations of all parts of the building affected by the planned renovation or demolition, and any asbestos surveys of the building previously conducted in accordance with TAHPR; and in the engineer's or architect's professional opinion, all parts of the building affected by the planned renovation or demolition do not contain asbestos.

It should be noted that the NESHAP regulations do not require proof of an asbestos survey or certification from an architect or engineer to the municipality prior to getting a permit; However, the NESHAP standard does require that the Owner thoroughly inspect the affected facility or part of the facility where the demolition or renovation operations will occur for the presence of asbestos.

It was the lack of building owners and construction companies performing the inspection under NESHAP that the State of Texas made their pre-renovation pre-demolition survey requirements under Senate Bill 509.

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