



T D H

Texas Department of Health

<http://www.tdh.state.tx.us>



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Executive Deputy Commissioner

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August 10, 2001

Dear Building Permit Official:

If your city issues permits prior to the demolition'or renovation of public or commercial buildings, the following new state law applies to you. On May 3,2001, Governor Rick Perry signed Senate Bill 509, which requires municipalities to verify that an asbestos survey has been conducted prior to issuing renovation or demolition permits for public or commercial buildings. The survey detentiines the presence of asbestos and will alert the building owner about whether various asbestos laws apply. The permit applicant must provide evidence of the survey acceptable to the municipality. A copy of Senate Bill 509 has been included for your review.

This law goes into effect on September 1, 2001, and affects renovation and demolition permits for public or commercial buildings issued by municipalities on or after January 1, 2002.

The Texas Department of Health, Asbestos Programs Branch, would like to work with your municipality on the implementation of this law by providing outreach information and guidance for the verification of survey information. Attached is a list offrequently Asked Questions concerning this law as it pertains to municipalities.

Please contact the Asbestos Programs Branch's Outreach/Inforinatim Section at either 1-800-572-5548 or 512-834-6610 or the Asbestos Program at the nearest Texas Department of Health regional office for assistance with implementing this new law.

Sincerely,
Todd F. Wingler, Chief
Asbestos Programs Branch
Toxic Substances Control Division

Enclosures

Frequently Asked Questions Concerning Verification of Asbestos Surveys Before Issuing Building Permits

1. Why do we need Senate Bill 509?

Each year, many asbestos removal jobs in Texas are done in violation of state and federal safety laws that require protection of construction workers and the public from exposure to dangerous levels of asbestos fibers.

Verifying that an asbestos survey was done prior to a renovation or demolition will educate building owners who are unaware of the requirements and make it harder for building owners and contractors to claim ignorance of the asbestos laws.

The Austin – American Statesman published a special report on widespread illegal asbestos removal projects on January 7, 2001, entitled "Death in the Air." Copies of this article are available from the Austin Texas Department of Health Asbestos Programs Branch (1-800-572-5548 or 512-834-6610) or on-line at <http://www.austin360.com/local/partners/aas/>.

2. What kind of "permit" triggers the duty to check for an asbestos survey?

"Permit" means a license, certificate, approval, registration, consent, permit, or other form of authorization issued by a municipality for renovation or demolition of a public or commercial building, that a person is required by law, rule, regulation, order, or ordinance to obtain to perform an action, or to initiate, continue, or complete a project, for which the authorization is sought.

3. What is a public or commercial building?

There are many different types of public and commercial buildings. A general rule of thumb is that non-residential buildings and apartment complexes larger than four-plexes, are either public or commercial. The demolition or renovation of a single residence (four-plex or smaller) does not require an asbestos survey if the property continues to be used as a single residence after the demolition or renovation.

4. After what year can a building be built when no asbestos survey is required?

Asbestos surveys are required on all buildings regardless of the year of construction. For newer buildings, there is an alternative to a survey. See Question 5

5. Can people submit information other than an asbestos survey?

Yes. Instead of an asbestos survey, the owner/operator can submit a certification from a licensed engineer or architect or a statement from an asbestos inspector licensed by the Texas Department of Health, stating that:

The material safety data sheets (MSDS) 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 have been reviewed,- and

In the engineer or architect or licensed asbestos inspector's professional opinion, all parts of the building affected by the planned renovation or demolition do not contain asbestos.

This exclusion statement, together with copies of the MSDS, can be used instead of an asbestos survey. This certification may also be supplemented with an asbestos inspection where bulk sampling is performed.

6. How extensive does this survey verification have to be?

There needs to be "evidence acceptable to the municipality" that an asbestos survey, as required by state and federal laws, of all parts of the building affected by the planned renovation or demolition has been completed by a person that is appropriately licensed, accredited, or trained to perform a survey.

This evidence could be as basic as checking a box on the permit form indicating that the owner/operator acknowledges that a survey has been done that meets the regulatory requirements. Alternatively, the city could require a sworn affidavit from the applicant, or review the survey and verify if it meets these requirements.

7. How much time does it take to do this verification?

The City of San Antonio by city ordinance has required verification of surveys prior to issuing renovation and/or demolition permits since August 1999. San Antonio estimates that it adds approximately 10 minutes to the process of getting a permit. *

In Austin, where approximately 2,000 permits are issued annually, it is estimated that verification will require approximately 333 hours, about 42 eight-hour workdays. *

8. Do we need special training to verify these surveys?

No. The purpose of verifying these surveys is so the owner/operator of a public or commercial building is aware that a survey is needed and is done prior to receiving a permit.

9. Do the asbestos surveys need to be turned into the Texas Department of Health?

No. The asbestos surveys need to be kept at the project site and available to the Texas Department of Health upon request.

10. How do building owners or operators get these surveys?

The asbestos surveys need to be conducted by an individual licensed by the Texas Department of Health if the work is done in a public building, and an EPA-accredited person if the work is done in a commercial building. The Texas Department of Health can provide you with a list of licensees in your area that conduct asbestos surveys, or you can direct the owner/operator to contact the Texas Department of Health regional or main office.

11. How much do asbestos surveys cost?

The average survey costs from \$250 to \$500 for small projects, and up to \$5,000 to \$10,000 for a 100,000-square-foot building.

12. Our city does not issue building permits. Does this law still apply to us?

No; however, the Texas Department of Health Asbestos Program wants the citizens of your city to know they need to have a survey conducted before renovating or demolishing a public or commercial building, whether or not they need a permit. This information can be provided by posting posters/brochures in city offices concerning the need for surveys, and referring people to the Texas Department of Health Asbestos Outreach Officer for more information.

13. Who do I call if I have any questions?

You may contact your Texas Department of Health regional office or telephone the Texas Department of Health's Asbestos Program in Austin, Texas at 1-800-572-5548 or 512-834-6610.

You may also visit our website at:

www.tdh.state.tx.us/beh/asbestos

14. Is asbestos still manufactured?

Yes. In 1989 the Environmental Protection Agency imposed a ban to phase out asbestos products; however, the United States Supreme Court overturned this ban in October 1991. Asbestos products such as floor tiles, adhesives (mastic), and roofing materials can still be purchased.

15. If asbestos is still manufactured, is it alright to install it in a public building?

No. House Bill 1927 signed by Governor Perry on May 28, 2001 prohibits the installation of asbestos-containing material in public buildings unless there is no other alternative building material. To verify if a building material contains asbestos, you must obtain a Material Safety Data Sheet (MSDS) and make sure that if there is asbestos in the material, that it is less than 1%.

*Austin-American Statesman articles by Kevin Carmody
Special Report: Asbestos Exposure, January 7, 2001 and January 8, 2001