

NEW TAPHR 296

Powerpoint Slides

§296.21. Definitions

- (4) ACM--Asbestos-containing material. Materials or products, including any single material component of a structure or any layer of a material sample that, when analyzed for asbestos using the method specified in 40 CFR Part 763, Subpart E, Appendix E, Section 1 (relating to Polarized Light Microscopy), by a laboratory accredited by the NVLAP for polarized light microscopy, or by using the EPA-recommended method listed in EPA/600/R-93/116 for transmission electron microscopy, are found to contain:
 - (A) for purposes of complying with this chapter's provisions relating to a public building, 1.0% or more asbestos;
 - (B) for purposes of complying with AHERA provisions relating to a school building, greater than 1.0% asbestos;
 - (C) for purposes of complying with NESHAP provisions relating to commercial buildings and facilities, greater than 1.0% asbestos; or
 - (D) for purposes of complying with OSHA provisions relating to occupational asbestos exposure, greater than 1.0% asbestos.

§296.21. Definitions.

- (93) Survey report--A report that contains:
- (A) for a public building:
 - (i) a written description, diagram, or both that clearly and accurately identifies and reflects the location of each homogeneous area of suspected ACBM that is assumed to be ACM or was sampled for ACM, including the sampling location for each bulk sample and the dates that each sample was collected;

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(CONT.) SURVERY REPORT

- (ii) a written description of:
 - (I) the manner used to determine sampling locations;
 - (II) the estimated amount of ACBM in each homogeneous area in square feet or, for ACBM on piping, in linear feet;
 - (III) the type of material sampled; and
 - (IV) the condition and friability of the ACBM, and the assessment of ACBM must conform to generally accepted industry standards, such as the AHERA requirements specified in 40 CFR Part 763, Subpart E (relating to Asbestos-Containing Materials in Schools), §§763.85 - 763.88, which is the required method for schools;

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(CONT.) SURVEY REPORT

- (iii) the name, signature, and, as applicable, accreditation and state of accreditation or license number of the inspector performing each activity;
- (iv) the name, signature, and as applicable, accreditation and state of accreditation or license number of the licensed management planner or consultant employing the licensed asbestos inspector performing each activity; and
- (v) a copy of the analyses of any bulk samples, the dates of analyses, and a copy of any other laboratory reports pertaining to the analyses;

SUBCHAPTER C STANDARDS OF CONDUCT

§296.31. Conflict of Interest.

- (b) Licensee conflict of interest.
- (1) Without limiting the restrictions of §1954.254 and §1954.255 of the Act, for a project in a public building:
- (D) a licensed asbestos management planner, licensed asbestos management planner agency, or licensed asbestos inspector that is also a licensed asbestos abatement contractor must not act as the asbestos abatement contractor on a project for which the licensee also performed a survey or, if otherwise authorized by the person's license, developed the management plan.

§296.41. License and Registration Requirements.

- (a) License and registration requirements. A person must be licensed or registered in compliance with the Act and this chapter to perform any asbestos abatement or asbestos-related activity that requires a license or registration under the Act or this chapter.
- (c) Age requirement. An individual applying for a license or registration under this chapter must be at least 18 years old.
- (d) Term and expiration. The term of a new license or registration is two years and expires on the second anniversary of the issue date. The term of a renewal license or registration is two years after the date the previous license or registration expires.
- (e) License or registration card. A license or registration identification card issued by DSHS is valid for the person named on the card until the license or registration expires or is revoked.
- (f) Responsibility to report violations. A licensee who becomes aware of a violation of this chapter must report the violation to DSHS within 24 hours after becoming aware of the violation if the violation is not immediately corrected by the responsible party.

§296.42. Initial and Renewal Applications.

- (i) Physician's written statement. A copy of DSHS's Physician's Written Statement form must be submitted with all individual applications to document that the applicant has received a medical examination within the past 12 months, in accordance with 29 CFR §1926.1101(m) (relating to Asbestos) or 40 CFR §763.122 (relating to What does this subpart require me to do?), whichever is applicable. A current copy of the individual's Physician's Written Statement form must be on-site while performing asbestos-related activities.

§296.44. Out-of-State Applicants.

- (c) Texas Asbestos Law and Rules course. A person applying for an initial or renewal license or registration who did not receive any of the required training for that license or registration from a DSHS-licensed training provider must complete a three-hour Texas Asbestos Law and Rules course. The Texas Asbestos Law and Rules course must be completed within one year before DSHS receives the license or registration application. A training course taken from a DSHS-licensed training provider in an asbestos licensure or accreditation category other than the one for which license or registration is sought may substitute for the Texas Asbestos Law and Rules course.

§296.46. Initial and Renewal Licensing Requirements for an Individual.

- Physical
- Accreditation training initial and refreshers
- Copy of photo ID card
- 2" x 2" photograph of face, white background, photo quality paper or electronically submitted
- Proof of passing the State Examination
- Pay the fee

Supervisor qualifications

- (1) 90 days of work experience as a trained and registered worker performed in the last 24 months
 - Prep
 - Respirators, decon, interpret air samples, reduce fiber levels
 - Engineering controls, abatement work methods, final cleanup
 - Handling of waste
 - Removal, enclosure or encapsulation
 - Project manager on at least 5 projects
 - AMT (30 days) on at least 5 projects
- (2) certificate of training...
- (3) physician's statement...
- (4) photo-id card
- (5) photo 2"x 2" Photo quality paper or submitted electronically
- (6) proof of passing state exam for supervisor

§296.46. Initial and Renewal Licensing Requirements for an Individual.

- (6)(B) an asbestos inspector--participation in at least five asbestos surveys performed within immediate proximity and under the in-person and direct supervision of a licensed asbestos inspector, licensed management planner, or licensed asbestos consultant, and work experience must have been gained after completion of training required for licensure as an asbestos inspector under this chapter;

§296.46. Initial and Renewal Licensing Requirements for an Individual

- (b) (7)(B) an asbestos management planner--an associate's degree or successful completion of a minimum of 60 credit hours from an accredited college or university; or

§296.46. Initial and Renewal Licensing Requirements for an Individual.

- (E) an asbestos management planner:
- (i) participation in the development of at least five management plans as a licensed asbestos management planner (during previous Texas or out-of-state licensure), or a licensed asbestos consultant or within immediate proximity and under the in-person and direct supervision of a licensed asbestos management planner or a licensed asbestos consultant, and work experience must have been gained after completion of the Asbestos Management Planner course as described in §296.73 of this chapter;

§296.46. Initial and Renewal Licensing Requirements for an Individual. (MP Continued)

- (ii) participation in conducting five asbestos surveys, including development of asbestos survey reports, as a licensed inspector or licensed asbestos consultant or within the immediate proximity and under the in-person and direct supervision of a licensed inspector, licensed management planner, or licensed asbestos consultant, and work experience must have been gained after completion of the Asbestos Inspector course as described in §296.73 of this chapter; and
- (iii) to meet the work experience requirements under clauses (i) and (ii) of this subparagraph, work experience participating in an asbestos survey and then participating in the development of the management plan using that asbestos survey during the same project may be used to satisfy one management plan and one asbestos survey requirement;

§296.46. Initial and Renewal Licensing Requirements for an Individual.

(b) Initial requirements. An applicant for an initial license or registration must submit the following:

- (1) A copy of DSHS's Physician's Written Statement form that documents a medical examination performed within the past 12 months, as required in §296.42(i) of this chapter.
- (2) Copies of the initial training certificates and any refresher training courses to show current accreditation under §296.73 of this chapter (relating to Asbestos Training Courses) for the following licenses, as applicable:
 - (G) **an asbestos consultant**--the initial Asbestos Project Designer, Asbestos Inspector, Asbestos Management Planner, and Asbestos Air Monitoring Technician courses;

§296.46. Initial and Renewal Licensing
Requirements for an Individual. (Asbestos
Consultant)

(b) (6) Written documentation of qualifying work experience as described in §296.41(b)(2) of this chapter (relating to License and Registration Requirements) for the following licensees, including contact information for the person who supervised the applicant and can verify the work experience for:

- (F) an asbestos consultant--one of the following combinations of professional or educational achievement and work experience gained after completion of any training that is required to perform the applicable asbestos-related activity and performed while the training is current:
 - (i) current status as a **Texas-registered architect or a Texas-licensed professional engineer combined with at least 180 days of work experience performing asbestos-related activities in public buildings**

§296.46. Initial and Renewal Licensing Requirements for an Individual.

- (b) (6) (F) (ii) a **bachelor's degree in architecture, engineering, or a physical or natural science from an accredited college or university** combined with the following work experience:
 - (I) **two years of work experience in an environmental field or in occupational health**; and
 - (II) at least **180 days of work experience performing asbestos-related activities in public buildings**, in accordance with applicable law in effect at the time of the work experience and gained within the past four years

§296.46. Initial and Renewal Licensing Requirements for an Individual.

- (b) (6) (F) (iii) completion of **60 college credit hours from an accredited college or university, including 30 credit hours in engineering or natural or physical science and 9 credit hours in mathematics**, combined with the following work experience:
- (I) **three years of work experience in an environmental field or in occupational health**, and
- (II) at least **250 days of work experience performing asbestos-related activities in public buildings**, in accordance with applicable law in effect at the time of the work experience and gained within the past four years

§296.46. Initial and Renewal Licensing Requirements for an Individual.

(b) (6) (F) (I) (i) must include the following:

- (-a-) **developing at least six specifications and plans** within the immediate proximity and under the in-person and direct supervision of a licensed asbestos consultant;
- (-b-) **conducting at least three asbestos surveys that include collecting bulk samples** as a licensed asbestos inspector or licensed asbestos management planner or within the immediate proximity and under the in-person and direct supervision of a licensed asbestos inspector, licensed asbestos management planner, or licensed asbestos consultant;
- (-c-) **performing project monitoring for at least 10 days** within the immediate proximity and under the in-person and direct supervision of a licensed asbestos project manager, licensed AMT/PM, or consultant;
- (-d-) **performing air monitoring for at least 10 days** within the immediate proximity and under the in-person and direct supervision of a licensed air monitoring technician, licensed AMT/PM, or a licensed asbestos consultant;

§296.46. Initial and Renewal Licensing Requirements for an Individual.

- (7) Proof of the following education requirements for:
- (A) an asbestos inspector, asbestos air monitoring technician, AMT/PM, or asbestos project manager--a high school diploma or equivalent;

§296.46. Initial and Renewal Licensing Requirements for an Individual.

- (8) Proof of insurance coverage requirements for an asbestos inspector, asbestos management planner, and asbestos consultant--professional liability insurance coverage for errors and omissions individually or under the licensee's employer policy if performing work for hire, in accordance with §1954.105(c) of the Act and as required in §296.45 of this chapter (relating to Insurance Requirements).

§296.46. Initial and Renewal Licensing Requirements for an Individual.

- (d) Qualification renewal requirements. Licensees must not allow required qualifications (such as accreditation, DSHS's Physician's Written Statement form, or insurance requirements) to expire and continue to work as a licensee.

§296.47. Initial and Renewal License Requirements for a Company.

- ▶ (d) Qualification renewal requirements. Licensees must not allow required qualifications (such as accreditation, DSHS's Physician's Written Statement form for the responsible person, or insurance requirements) to expire and continue to work as a licensee.

§296.49. Asbestos Abatement Supervisor.

- (b) Licensee scope of practice.
- (1) Licensee practice and limitations.
- (A) An asbestos abatement supervisor must be employed by a licensed asbestos abatement contractor or asbestos operations and maintenance (O&M) contractor to supervise or perform asbestos abatement activities in a public building. An asbestos abatement supervisor employed by an O&M contractor is limited to supervising the work practices and procedures described in §296.213 of this chapter (relating to Asbestos Operations and Maintenance (O&M) Practices and Procedures for O&M Licensees in a Public Building) for SSSD O&M activities, as permitted under that section.
- (B) An asbestos abatement supervisor may perform the duties of a registered asbestos abatement worker on any project.

§296.49. Asbestos Abatement Supervisor.

- (C) An asbestos abatement supervisor must not supervise or perform asbestos abatement activities in a public building when the asbestos project manager or asbestos consultant is not on-site, except during activities performed in accordance with:
 - (i) §296.213 of this chapter; (*non TAHPR*)
 - (ii) §296.232 of this chapter (relating to Alternative Asbestos Abatement Practices and Procedures for Certain Nonfriable Asbestos-Containing Building Material (ACBM) in a Public Building);
 - (iii) §296.233 of this chapter (relating to Alternative Asbestos Practices and Procedures for Small Projects and Repetitive Tasks in a Public Building); and
 - (iv) §296.234 of this chapter (relating to Alternative Practices and Procedures for Removal of Whole Components of Intact Asbestos-Containing Material (ACM) in a Public Building).

§296.50. Asbestos Abatement Contractor

- (J) **at no cost to the employee**, comply with personal protective equipment (PPE) requirements in 29 CFR §1910.132(h) (relating to General requirements), §1926.1101(h) and (i), and 40 CFR §763.122 (relating to What does this subpart require me to do?), as applicable, for employees who perform asbestos-related activities. This includes:
 - (i) providing and maintaining PPE for employees;
 - (ii) training employees on the proper use, care, and inspection of PPE;
 - (iii) documenting training in the proper use, care, and inspection of PPE;
 - (iv) documenting respirator inspections; and
 - (v) ensuring compliance with the use of PPE;

§296.50. Asbestos Abatement Contractor

- (K) **provide at no cost to the employee**, an annual medical examination, as required in §296.42(i) of this chapter (relating to Initial and Renewal Applications) for each employee who performs an asbestos-related activity;
- (L) ensure that each employee who performs asbestos-related activities has **a current DSHS's Physician's Written Statement**, as required in §296.42(i) of this chapter;
- (M) ensure that each employee who performs asbestos-related activities is familiar with federal, state, and local standards for asbestos removal, encapsulation, and enclosure;
- (N) obtain and keep on-site a copy of the **current training certificate**, as required in §296.73 of this chapter (relating to Asbestos Training Courses) for each employee who performs an asbestos-related activity;

§296.50. Asbestos Abatement Contractor

- (S) provide for disposal of ACWM in accordance with 40 CFR §61.150 (relating to Standard for waste disposal for manufacturing, fabricating, demolition, renovation, and spraying operations):
 - (i) complete and provide a waste shipment record (manifest) for the asbestos transporter **before the transporter departs**...
 - (ii) **contact the waste site** if a copy of the manifest signed by the owner or operator of the designated waste disposal site **has not been received within 35 calendar days** after the date the waste was accepted by the transporter;
 - (iii) **report in writing to DSHS** in accordance with 40 CFR §61.150(d)(4) if a copy of the manifest signed by the owner or operator of the designated waste disposal site is **not received within 45 calendar days** after the date the waste was accepted by the transporter;
 - (iv) provide a copy of the manifest signed by the owner or operator of the designated waste disposal site to the building owner or the building owner's authorized representative;

§296.53. Asbestos Inspector.

- (2) An asbestos inspector **must be employed by a licensed asbestos consultant agency or a licensed asbestos management planner agency to perform an asbestos survey in a public building.**
- (c) Licensee responsibilities. An asbestos inspector must:
 - (1) comply with standards of operation and sampling schemes, as required in §296.191 of this chapter (relating to Asbestos Management in a Public Building, Commercial Building, or Facility);
 - (2) prepare an asbestos survey report ...
 - (3) sign, date, and print the inspector's name and license number on the cover page of each asbestos survey report;

§296.54. Asbestos Air Monitoring Technician

- ▶ (c) (3) if analyzing air samples in the field, demonstrate, upon request by a DSHS inspector, competency in phase contrast microscopy analysis using the NIOSH 7400 method, including:
 - ▶ (A) calibrating microscopes;
 - ▶ (B) reading test slides provided by the DSHS inspector;
 - ▶ (C) preparing sampling logs;
 - ▶ (D) preparing sample slides;
 - ▶ (E) performing calculations to determine sample time, flow rate, volume, sample count, fiber concentration, and time weighted average; and
 - ▶ (F) providing documentation of AMT's NIOSH 582 or NIOSH 582 Equivalent training certificate and documentation of current participation in the AIHA Proficiency Analytical Testing Program or current registration with the AIHA Asbestos Analyst Registry;

§296.54. Asbestos Air Monitoring Technician

- ▶ (c) (4) record in writing the results of area, baseline, clearance, and personal air samples that are analyzed, and document that area, baseline, and clearance air sample results are provided verbally, and personal air sample results are provided in writing, to the asbestos abatement contractor by the following time frames unless the consultant has designed a sampling strategy that deviates from these time frames:
 - ▶ (A) the next working day after the date of sampling for any air sample analyzed on-site; or
 - ▶ (B) the third working day after the date of initial sampling of friable ACBM for any air sample analyzed in an asbestos laboratory off-site;

§296.55. Asbestos Air Monitoring Technician/Project Monitor

- (c) Licensee responsibilities. An AMT/PM must, consistent with the scope of the AMT/PMs delegated authority in accordance with section (a) of this section and §296.58(b)(1)(J) and (K) of this chapter, as applicable;

§296.58 Asbestos Consultant (delegated authority to AMT/PM)

- (c) Licensee responsibilities.
- (11) provide project monitoring, either personally or through a project manager or AMT/PM to whom the consultant has specifically delegated authority and responsibility as required in subsection (b)(1)(J) of this section, as follows:
- (A) enter and inspect the regulated area, containment, or both, as necessary to monitor that asbestos abatement activities are conducted, as required by regulations adopted by reference in);
- §296.2 of this chapter (relating to Reference of Federal Standards), in Subchapter L of this chapter (relating to General Requirements, and Practices and Procedures for Asbestos Abatement in a Public Building), and Subchapter M of this chapter (relating to Alternative Asbestos Practices and Procedures in a Public Building), as applicable, for the duration of the project,

§296.58 Asbestos Consultant (delegated authority to AMT/PM)

- (cont.) every day of asbestos abatement activity, before the start of the asbestos abatement activity for the day, and routinely throughout the day, from the beginning of containment abatement preparation through completion of the removal of containment, final visual inspection of the project site, and loading of ACWM for transport, as applicable, to:
 - (i) monitor the asbestos abatement activity by observing, reporting, and documenting that the regulated area, containment, or both is in compliance with this chapter and with the specifications and plans, as applicable;
 - (ii) identify and document any issue of noncompliance and corrections needed;
 - (iii) document correction of any identified issue of noncompliance with asbestos abatement activity in a regulated area, containment, or both, as applicable, before work proceeds;
 - (iv) report any identified issue of noncompliance that was not corrected to DSHS, as required in §296.41(f) of this chapter (relating to License and Registration Requirements)

§296.58 Asbestos Consultant (delegated authority to AMT/PM)

- (C) remain on-site and in immediate proximity of the regulated area, or the regulated area and containment, as applicable, at all times when an asbestos abatement activity is being conducted and when ACWM is being loaded for transport into a dumpster or other transport container or vehicle;

§296.61. Asbestos Laboratory.

- (b) Licensee scope of practice.
- (1) Each branch office of a licensed asbestos laboratory must be separately licensed and accredited for each type of analysis it will perform.
- (4) An asbestos laboratory or a laboratory's individual analyst must not perform asbestos analysis if the laboratory or analyst loses accreditation or proficiency, as applicable.

§296.61. Asbestos Laboratory.

- (c) Licensee responsibilities. An asbestos laboratory may be held responsible for a violation under this chapter by its employees or the responsible person. An asbestos laboratory must:
 - (1) maintain the proficiency and accreditation requirements, as required for licensure in §296.47(b)(13) of this chapter for each analytical method performed; any change in accreditation or proficiency must be reported in writing to DSHS within 10 working days after the change;

§296.73. Asbestos Training Courses.

(a) General training requirements.

(4) A training certificate expires one year after the date upon which the person successfully completed the course. **A person whose training certificate has expired must not engage in an activity for which a current training certificate is required under the MAP or this chapter until the training certificate is renewed.** Training must be renewed annually by completing the appropriate refresher training course. The initial training course must be repeated **if the refresher training course is not completed within one year after the expiration date of the training certificate.**

§296.191. Asbestos Management in a Public
Building, Commercial Building, or Facility.

- (d) Mandatory survey for ACBM before renovation or demolition.
- (1) Before any renovation or dismantling outside of or within a public building, commercial building, or facility, including preparations for partial or complete demolition, the owner must have an asbestos survey performed.
- **(2) The work area and all immediately surrounding areas that could foreseeably be disturbed by the actions necessary to perform the project must be thoroughly surveyed and, as applicable, sampled before renovation or demolition.**
- (3) A copy of the asbestos survey report that includes the contents described in §296.21(93) of this chapter (relating to Definitions), as applicable, must be produced upon request by DSHS within 10 working days after the request.
- (4) A building may be demolished with RACM in place if a state or local government orders the demolition because the building is **structurally unsound and in danger of imminent collapse**, as determined by a professional engineer or a city, county, or state government official who is qualified to make that decision.

§296.191. Asbestos Management in a Public Building, Commercial Building, or Facility.

- (e) Asbestos survey.
- (1) A limited asbestos survey may be performed to address a specific area of a building, such as an area identified for renovation. A limited asbestos survey may not be substituted for a thorough asbestos survey of the entire building.
- (2) A comprehensive asbestos survey covering the entire building is required before demolition of a building.
- (3) An asbestos survey report remains acceptable if the asbestos survey is done in compliance with the applicable law, including the Texas Asbestos Health Protection rules in effect at the time the asbestos survey is completed and the asbestos survey addresses and accurately represents ACM and ACBM, as applicable, for the building affected by the planned renovation, demolition, or O&M activity, including its location, type, and condition.
- (4) An environmental assessment report may not be used as an asbestos survey report unless it is conducted by an appropriately accredited or licensed person and contains all of the required elements of an asbestos survey report, as applicable.

§296.191. Asbestos Management in a Public Building, Commercial Building, or Facility.

- (f) Sampling for asbestos in a public building. A licensed asbestos inspector must perform an asbestos survey in accordance with generally accepted standards, such as the methods described in 40 CFR §§763.85 - 763.88. The survey and survey report must identify, including its location, type, and condition, all ACBM that is found to be ACM. To assess the presence of ACBM and determine the need for any O&M activity or abatement, the licensed asbestos inspector must collect a minimum of three samples from each homogeneous area. The samples must be evaluated by a licensed asbestos laboratory. If one sample from a homogeneous area is found to be ACM, the remaining samples from that homogeneous area do not have to be analyzed. Building materials that have not been surveyed as required in this subsection and are suspected of containing asbestos must be treated as ACBM.
- (1) When conducting core sample analysis, each layer must be analyzed and reported separately. Core sample analysis in a public building must not be reported as an average or a composite result.
- (2) A result of visual estimation by polarized light microscopy (PLM) analysis of 0% asbestos or no asbestos detected does not require further analysis for the detection of asbestos in friable or nonfriable suspect materials.

§296.191. Asbestos Management in a Public Building, Commercial Building, or Facility.

- (f) (3) Point counting may be used to analyze either a friable or nonfriable material. **Nonfriable materials, such as mastics and floor tile where fibers are occluded by a binding matrix must be processed using a technique that renders the material friable, such as acid washing and ashing outlined in EPA/600/R-93/116.**
- (4) A result of visual estimation by PLM analysis of greater than 0% and less than 10% asbestos may be demonstrated to be material that is not ACBM only if the material is further analyzed using other analysis based upon the hierarchy and terms of the following:
 - (A) The result of point counting by PLM analysis of a sample supersedes and replaces the initial result of visual estimation by PLM.
 - (B) The result of gravimetric preparation, followed by point counting or transmission electron microscopy (TEM) visual estimation analysis of a sample, supersedes and replaces the result of visual estimation by PLM and the result of point counting by PLM.

§296.191. Asbestos Management in a Public Building, Commercial Building, or Facility.

(i) **Mandatory asbestos abatement project design** for friable ACBM in a public building. An asbestos abatement project design is required and must be conducted by a licensed asbestos consultant for a project that involves any of the following activities:

- (1) a response action other than an SSSD activity;
- (2) a maintenance activity that disturbs friable ACBM other than an SSSD activity or a small project or repetitive task described in §296.233 of this chapter (relating to Alternative Asbestos Practices and Procedures for Small Projects and Repetitive Tasks in a Public Building); or
- (3) a response action for a major fiber release episode.

§296.191. Asbestos Management in a Public Building, Commercial Building, or Facility.

(k) Mandatory asbestos abatement project design for **nonfriable ACBM** in a public building.

- (1) An asbestos abatement project design is required and must be conducted by a licensed asbestos consultant for an abatement project in a public building that has a combined amount of nonfriable ACBM to be removed in excess of 160 square feet of surface area, 260 linear feet of pipe length, or 35 cubic feet of material.
- (2) Only individual amounts of nonfriable ACBM to be removed that are in the same unit of measurement require combination for purposes of determining whether a project design is required.

§296.191. Asbestos Management in a Public Building,
Commercial Building, or Facility.

- (l) Asbestos control and abatement in a public building. The public building owner must manage the asbestos found in the owner's building in accordance with the following requirements.
- (1) The building owner must hire a licensed asbestos consultant, licensed asbestos consultant agency, licensed asbestos management planner, or licensed asbestos management planner agency to perform an asbestos survey that may be used for O&M activities, renovation, or demolition.

§296.191. Asbestos Management in a Public Building,
Commercial Building, or Facility.

- (n) Requirement for survey and management plan. A building owner or the building owner's authorized representative, if required by certified letter from DSHS, must immediately obtain an asbestos survey report and asbestos management plan completed by a licensed asbestos inspector, licensed asbestos management planner, or licensed asbestos consultant, if, in the opinion of DSHS following a site inspection of a public building, there appears to be a danger or potential danger from ACBM in poor condition to the workers or occupants of the building or to the general public. A copy of the management plan must be submitted for review and approval to DSHS within 90 days after receipt of the certified letter. A copy of the plan must be on file with the owner or management agency and in the possession of the supervisor in charge of building operations and maintenance.

§296.191. ASBESTOS MANAGEMENT IN A PUBLIC BUILDING, COMMERCIAL BUILDING, OR FACILITY

- (o) Installation of new materials in a public building. Texas Health and Safety Code, Chapter 161, Subchapter Q (relating to Installation of Asbestos), requires the following:
- (1) A person who installs a building material or replacement part designated in paragraph (2) of this subsection in a public building must obtain an MSDS or SDS before the installation. A person must not install a material or part designated in paragraph (2) of this subsection that requires an MSDS or SDS under this paragraph unless:
 - (A) the person obtains an MSDS or SDS for the material proposed to be installed showing that the material or replacement part is not ACM; or
 - (B) the material or replacement part, according to the MSDS or SDS, is ACM, but the building owner or contractor can demonstrate that there is no alternative material or part.

§296.191. Asbestos Management in a Public Building, Commercial Building, or Facility.

(q) Survey or certification required for municipal permit. A municipality that requires a person to obtain a permit before renovating or demolishing a public or commercial building must not issue the permit unless the applicant provides one of the following types of documentation:

- (1) written evidence acceptable to the municipality that an asbestos survey of all parts of the building affected by the planned renovation or demolition has been completed by a person licensed in accordance with the Act and this chapter (for a public building) or accredited under the MAP (for a nonpublic building) to perform a survey; or
- (2) written certification from a Texas-registered architect or Texas-licensed professional engineer that:
 - (A) identifies the name of the building, the street address, and the specific area of the building that applies to the certification;
 - (B) certifies that the Texas-registered architect or Texas-licensed professional engineer has compiled and reviewed the information from;
(list is very involved, not just a "letter").

§296.211. General Requirements for Asbestos
Abatement in a Public Building.
(b) Project supervision and monitoring.

(2) Except as otherwise provided under paragraph (1) of this subsection:

- (A) A licensed asbestos abatement supervisor and a licensed asbestos consultant or the consultant's designated licensed asbestos project manager or licensed AMT/PM **must remain on-site and in immediate proximity to the abatement activity during all periods of that activity.**
- (B) A licensed asbestos abatement supervisor must supervise the asbestos abatement activity from inside the containment area during at least 25% of each day on which asbestos abatement activity occurs in a containment.

§296.211. General Requirements for Asbestos
Abatement in a Public Building.

(b) Project supervision and monitoring.

(2) (C) A licensed asbestos consultant or the consultant's designated licensed asbestos project manager or licensed AMT/PM **must enter and inspect the containment and monitor asbestos abatement activities**, conducted as required in Subchapter L of this chapter and Subchapter M of this chapter, as applicable, every day of the asbestos abatement activity, before the start of asbestos abatement activity for the day, routinely throughout the day, for the duration of the project from the beginning of containment to the final visual inspection of the project site and loading of ACWM for transport, as applicable, to:

- (i) monitor the asbestos abatement activity by observing, reporting, and documenting that the regulated area, containment, or both is in compliance with this chapter and the specifications and plans, as applicable;
- (ii) identify and document any correction needed;
- (iii) document correction of any identified issue of noncompliance with asbestos abatement activity in a regulated area, containment, or both, as applicable, before work proceeds; and
- (iv) **report any identified issue of noncompliance that was not corrected to DSHS**, as required in §296.41(f) of this chapter (relating to License and Registration Requirements).

§296.211. General Requirements for Asbestos Abatement in a Public Building.

(f) Respiratory protection program.

(1) The **employer must provide for personal air monitoring to determine airborne concentrations of asbestos exposure to its employees** in compliance with 40 CFR Part 763, Subpart G (relating to Asbestos Worker Protection), or 29 CFR §1926.1101, whichever is applicable, unless the employer has obtained a negative exposure assessment in compliance with 29 CFR §1926.1101.

§296.211. General Requirements for Asbestos Abatement in a Public Building.

(h)(2) Personal air monitoring.

- (A) Unless a negative exposure assessment is made in compliance with 29 CFR §1926.1101(f)(2)(iii) (relating to Asbestos), **personal air samples must be collected, monitoring conducted, and employees informed of results,** in compliance with 40 CFR Part 763, Subpart G (related to Asbestos Worker Protection) or 29 CFR §1926.1101 (relating to Asbestos), as applicable, and subsection (f) of this section.

§296.211. General Requirements for Asbestos Abatement in a Public Building.

(h)(3) Other monitoring requirements.

- (A) **Initial visual inspection.** The **licensed asbestos abatement supervisor must perform an initial visual inspection of the abatement area to confirm that all specified ACM was removed, encapsulated, or enclosed.** The asbestos abatement supervisor must ensure that all abatement-related items are removed from the containment, excluding negative air machines and equipment essential to maintain the containment and to perform the visual inspection. Once the asbestos abatement supervisor confirms that all specified ACM is addressed, **a licensed asbestos consultant, or a licensed asbestos project manager or licensed AMT/PM whom the asbestos consultant has given written authorization to perform the visual inspection, must perform a visual inspection to determine that all specified ACM was removed, encapsulated, or enclosed.** The initial visual inspection must be performed to ensure compliance with this chapter, the site-specific specifications and plans, AHERA, and NESHAP.

§296.211. General Requirements for Asbestos Abatement in a Public Building.

(h)(3) Other monitoring requirements.

- (B) **Final visual inspection.** A final visual inspection must be performed after the removal of containment and the initial visual inspection to determine if any ACM escaped the containment or any ACWM remains. This visual inspection must be conducted by a licensed asbestos consultant or the consultant's designated licensed asbestos project manager or licensed AMT/PM and as required in subsection (b)(1) of this section. The licensed asbestos abatement contractor must abate all ACM and remove any ACWM discovered by the final visual inspection, as required in this chapter.

§296.212. Standard Asbestos Abatement Practices and Procedures in a Public Building.

- (b) Containment construction. **(3) Critical barriers.** A regulated area within which asbestos abatement is to be conducted must be separated from adjacent areas by a minimum of one impermeable barrier, such as plastic sheeting attached securely in place. Any opening between a containment and adjacent areas must be sealed, including a window, doorway, elevator opening, corridor entrance, ventilation opening, drain, duct, grill, grate, diffuser, skylight, ***and lay-in suspended ceiling grid system where the space above the grid is open to other rooms.*** The HVAC system must be isolated from the regulated area, as required in paragraph (9) of this subsection. A penetration of the sheeting that could permit air infiltration or an air leak through the barrier must be sealed, except the make-up air provision and the means of entry and exit. **When a critical barrier is placed over a large opening, such as a corridor entrance or when isolating a portion of a hallway or a room, the critical barrier becomes the containment wall and the plastic sheeting requirements in paragraphs (4) and (5) of this subsection apply in addition to the requirements of this paragraph.**

§296.212. Standard Asbestos Abatement Practices and Procedures in a Public Building.

- (b) Containment construction. (6) Bag-out area. A licensed asbestos consultant must specify when a bag-out area is required as part of containment. **At a minimum, a bag-out area is a two-stage area connected to the containment, separated by airlocks, with a rinse station separated from the bagging-room.** A bag-out area must not be used to decontaminate personnel.

§296.291. Recordkeeping

- (c) Asbestos management planners. A licensed asbestos management planner who undertakes and performs an activity independent of an agency, must maintain each of the licensee's asbestos survey reports, bulk sampling results, and management plans for that activity for 30 years after the date of project completion. These records and documents must be maintained at a central location.
- (d) Asbestos management planner agencies. A licensed asbestos management planner agency must maintain each of its asbestos survey reports, bulk sampling results, and management plans for 30 years from the date of project completion. These records and documents must be maintained at a central location.

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- (g) Asbestos air monitoring technicians and asbestos air monitoring technician project monitors. A licensed air monitoring technician (AMT) or asbestos air monitoring technician project monitors (AMT/PM) who performs phase contrast microscopy (PCM) analysis in the field as an employee of a licensed asbestos laboratory must maintain on-site for the duration of the project:
 - (1) all analyzed slides, each labeled so that the AMT or AMT/PM can provide the project name, date, and time of sample collection and analysis, and sample location;
 - (2) documentation of the AMT's or AMT/PM's relative standard of deviation, in accordance with the NIOSH 7400 method; and

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- (3) a copy of:
- (A) the AMT's or AMT/PM's NIOSH 582 or NIOSH 582 Equivalent training certificate and documentation of current participation in the American Industrial Hygiene Association (AIHA) Proficiency Analytical Testing Program; or
- (B) documentation of current registration with the AIHA Asbestos Analyst Registry (AAR).

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- (h) Asbestos laboratories. A licensed asbestos laboratory must maintain a copy of all analyses performed and all other records and documents required by this chapter for 30 years after the date of analysis, including the sample identification number and analytical results.
- (1) An analyzing laboratory must keep all samples from a public building received for analysis for 30 days following completion of the analysis. Sample grids must be maintained for one year after the date of the analysis.
- (2) An analyzing laboratory must maintain a copy of individual records for each analyst to document the individual analyst's relative standard of deviation in accordance with the NIOSH 7400 method for three years after the date the calculation was made. Records must be kept in the laboratory indicating which samples were used to meet the 10% quality-control analysis requirement.

§296.312. Action Against an Accreditation.

- (a) DSHS **must** revoke an accredited person or suspend or revoke an accreditation for: (1) performing work requiring accreditation on an asbestos project without being in physical possession of current accreditation certificates; (2) possessing another person's duplicate accreditation; (3) performing work without the required accreditation;