

Asbestos Surveys in
School Buildings:
A Comprehensive Approach

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All public and private elementary and secondary schools are required to identify any friable materials containing asbestos used in their buildings under a new Environmental Protection Agency (EPA) regulation, effective June 28, 1982. By this rule, school officials must undertake a process of building inspection, material sampling and analysis, hazard evaluation, provision of warnings and notifications, and also recordkeeping. This process is often referred to as an "asbestos survey."

Frequently, school officials are not aware of the complexities involved in a survey. In addition to the risks of an inadequate survey, those who remain less knowledgeable may well be victimized through service contracts that might sometimes be described as fraudulent. A lot of funds can easily be misspent with asbestos-related work; funds which may not be legally recovered.

Asbestos problems in buildings need to be addressed in a dispassionate and professional manner, considering the medical, legal and engineering aspects of exposure to asbestos. One might call this interdisciplinary process "a comprehensive approach."

Asbestos is a known human carcinogen. Materials containing asbestos have been widely used for fireproofing, thermal and acoustical insulation and decoration in buildings. The workers initially placing these materials in buildings, thereby becoming exposed to the asbestos fibers, are now known to have a 48% premature death rate. The very low dose levels responsible for the carcinogenic effects of some asbestos-diseases suggests that prudent measures be taken to protect our school children who may even be potentially exposed to this material.

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The potential for release of asbestos fibers depends upon the characteristics of the material containing the asbestos fibers. The new regulation applies to friable materials, which are defined as materials that when dry, may be crumbled, pulverized or reduced to powder by hand pressure. The new rule makes it mandatory for school officials to maintain records of their findings, to notify employees, provide employees with instructions on reducing exposure to asbestos and to notify parents or the school's parent-teacher association if friable asbestos is found.

EPA does not presently regulate the remedial measures some schools might find it necessary to undertake. A building owner's duty under common law, however, clearly calls for deliberate remedial measures for any hazardous circumstances found during a building survey. A duty exists to adequately test, warn, notify, provide remedial measures and not to oppress, intimidate or incur actual malice among those persons exposed to the hazard.

Compliance with presently promulgated regulations may not be a sufficient defense in the event of tort claims being presented in court. A building owner is well advised to consult legal counsel regarding the adequacy of steps taken in an asbestos-related project.

The primary device available to best protect a building owner is a contract document. Specifications should be developed by professional persons skilled in the legalities of contract administration as well as asbestos exposure problems. The basic goal of the specification process might be to select qualified advisors to protect one's property and its value, and to protect those persons who may be potentially exposed to the asbestos abatement work at costs that are legally recoverable and to minimize opportunity for future tort claims to be made against the owner.