

Q&A on Asbestos Abatement Related to Hurricane Harvey 9/26/17

The following is a Q&A developed to provide responses to common questions concerning the Department of State Health Services (Department) Asbestos Program which the Environmental Hazards Group has received from members of the public concerning Hurricane Harvey and the Governor's Disaster Proclamations for certain counties affected by the Hurricane.

The full text and status of the Governor's Proclamations are available at: <http://gov.texas.gov/news/proclamation>. Nothing in this document in any way limits, modifies, or otherwise affects the scope or effect of the Proclamations.

Questions & Answers

Answers to common questions are provided below as a courtesy, but should not be substituted for a review of the Texas Asbestos Health Protection Rules (TAHPR), 25 Texas Administrative Code (TAC), Chapter 295, Subchapter C, available online at:

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=25&pt=1&ch=295](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=25&pt=1&ch=295)

- 1) Do the Governor's disaster proclamations suspend asbestos law and rule requirements in the counties listed in the proclamations?

No. The Proclamations state, in part, "...Pursuant to Section 418.016 of the [Texas Government] code, "any regulatory statute prescribing the procedures for conduct of state business or any order or rule of a state agency that would in any way prevent, hinder or delay necessary action in coping with this disaster shall be suspended upon written approval of the Office of the Governor....""

Please see the following posting for certain emergency guidance provisions now in effect for the duration of the Governor's Disaster Declaration, except as otherwise noted: "[Emergency Guidance Regarding Asbestos Abatement Under the Governor's Disaster Declaration.](#)"

- 2) I currently have a licensed or registered company that performs asbestos activities in another state. What do I need to do to become licensed or registered in Texas?

Out-of-state asbestos abatement companies interested in performing asbestos-related work may submit an application for a Texas asbestos license

under §295.39 of the TAHPR. Application requirements for obtaining a license include:

- Submit documentation from the Texas Secretary of State authorizing the company to conduct business in Texas;
- Submit a sales tax account number obtained from the Texas Comptroller of Public Accounts;
- Submit a certificate of liability insurance;
- Submit proof of workers' compensation insurance coverage;
- Submit payment of the non-refundable fee required for the applicable license type, as follows:
 - asbestos contractor company-- \$1,102
 - asbestos O&M contractor company-- \$268
 - asbestos consultant agency-- \$443
 - asbestos management planner agency-- \$443
 - asbestos waste transporter-- \$443

3) Is there any way to obtain a license more quickly for out-of-state asbestos professionals?

Yes, for some license types. A person may obtain a **provisional license** for the asbestos inspector, individual asbestos management planner, asbestos abatement supervisor, or a provisional registration for an asbestos worker. A provisional license or registration is valid until a regular license or registration is approved or denied, or for 180 days, whichever comes first. For issuance of a provisional license during the period of the Governor's declared disaster, there is no requirement for passing the applicable Texas licensing exam, if any, or for completing a Texas Laws and Rules Course. The qualifications and license types for a provisional license are as follows:

- (A) the person requests a provisional license or registration, as applicable, for an asbestos inspector, individual asbestos management planner, asbestos abatement supervisor, or asbestos abatement worker, in accordance with §295.39(g) of the TAHPR;
- (B) the person has been licensed or registered in good standing in that discipline for the last two years in another state, including a foreign country, that has licensing or registration requirements substantially equivalent to the requirements of the TAHPR;
- (C) the person is currently licensed or registered in that jurisdiction;
- (D) the person has passed a national or other examination recognized by the department relating to the relevant asbestos-related activity. This may include passing a test for the relevant asbestos-related activity, administered by a training provider licensed or accredited in that discipline

in the state where the course was taken, and resulting in accreditation recognized by the Environmental Protection Agency for the asbestos-related activity for which the test was administered; and

(E) the person is sponsored by a company licensed under TAHPR that meets the insurance requirements of §295.40, with whom the provisional license or registration holder will practice during the time the person holds a provisional license or registration. In the case of a sole proprietor asbestos inspector and management planner practicing with the sponsor for hire, proof of professional liability insurance otherwise required for those licenses is required.

(F) the person pays a non-refundable provisional license or registration fee as follows:

- asbestos abatement worker--\$30;
- asbestos inspector--\$60;
- individual asbestos management planner--\$120; and
- asbestos abatement supervisor--\$300.

A holder of a provisional license issued under 25 TAC §295.39(g) may apply for a full license or registration under 25 TAC §295.38(k), which includes a requirement for completion of a minimum three-hour training from a DSHS-licensed training provider covering Texas law and regulations.

4) I am currently licensed in Texas. Will there be any license extension for licenses scheduled to expire during the period of disaster declaration?

Yes. Texas licensees who are unable to renew their licenses in a timely manner during the period of declared disaster will have their licenses extended for up to 90 days, without associated late renewal fees for the extended period.

5) I was licensed in Texas previously. What do I have to do to get a new license?

A person that was formerly licensed in Texas can reapply without taking the applicable Texas licensing exam if the person is currently licensed in another state, has been in practice in the other state for the two years preceding the date of application, otherwise qualifies for the applicable license in Texas, and pays twice the filing fee for his or her license.

6) What is the department doing to speed up the licensing process?

To assist persons who wish to obtain a regular, 2-year license or registration under TAHPR in response to the disaster, the department will increase its offering of state exams, wherever feasible, within the state, and will work to

decrease the application processing time for the issuance of licenses and registrations.

7) Will asbestos notification requirements be suspended in the affected counties?

No. Notification is required but notification fees have been suspended for the duration of the Governor's disaster declaration. The TAHPR also provides for emergency notifications in Section 295.61(h) as follows:

*(h) **Provision for emergency.** In the event of emergency renovations made necessary by an unexpected or unplanned asbestos incident, notification will be made as soon as practicable, but not later than the following work day after the occurrence of the incident. Initial notification can be made by telephone, followed by formal notification on the department's notification form. Emergencies shall be documented to the extent that the need for the emergency is evident. An emergency renovation operation means a renovation operation that was not planned, but results from a sudden, unexpected event. This event, if not immediately attended to, presents a public health or safety hazard, and is necessary to protect equipment from damage, or is necessary to avoid imposing an unreasonable financial burden. This term includes operations necessitated by non-routine failures of equipment. This term does not include immediate renovations resulting solely from a lack of adequate planning for foreseeable asbestos abatement activity.*

8) I am currently individually licensed or registered to perform asbestos activities in another state. What do I need to do to become fully licensed or registered in Texas?

The Governor's disaster declaration does not waive any requirements for licensure of out of state applicants. Reciprocity relating to training requirements for individuals exists under current rule.

An individual currently licensed or registered in another state may, if otherwise qualified to do so, apply for a 2-year license or registration under the reciprocity provisions of TAHPR.

Requirements for out-of-state applicants, including those who received asbestos training in other states and wish to apply for a 2-year Texas license or registration, are addressed in §295.39 of the TAHPR. Section 295.39(c) allows out-of-state education, experience, and training to be accepted for the purpose of qualifying for a Texas license or registration, provided that the applicant can demonstrate, and the department can verify, that the training is valid. Applicants must comply with all other requirements for the applicable license or registration type, as specified in 25 TAC §295.35 – 295.56, including the following partial list of requirements:

(A) Each applicant for an individual license who received the required training from an out-of-state training provider must take and pass a state examination administered by the department in the category for which the individual wishes to be licensed, as provided under 295.41. Applicants must also complete the 3-hour Texas Laws and Rules Course prior to applying for the state examination for the applicable license as required under 295.41(a) and (b).

(B) Each applicant for an individual license or registration must submit to the department an application with required documentation, and pay the fee, which includes applicable subscription and convenience fees, as follows:

- asbestos abatement worker-- \$69;
- asbestos abatement supervisor-- \$655;
- asbestos consultant-- \$655;
- asbestos project manager-- \$328;
- asbestos inspector-- \$134;
- asbestos management planner-- \$268;
- asbestos air monitoring technician-- \$114.

9) Who can I contact for answers to other questions?

For more information on asbestos licensing requirements, see the Asbestos program website at <https://www.dshs.texas.gov/asbestos/>, or contact the Environmental and Sanitation Licensing Group by telephone at 512-834-6600, by fax at 512-834-6614, or via email at asbestos.reg@dshs.state.tx.us.

Information regarding notification forms and requirements is available at <http://dshs.texas.gov/asbestos/notification.shtm>, and questions regarding notification submissions may be directed to the Environmental Health Notifications Group by telephone at 512-834-6747, by fax at 512-834-4524, or via email at EHNG.Help@dshs.state.tx.us.

Additional TAHPR questions or concerns directly related to Hurricane Harvey may be directed to the Environmental Hazards Group – PSQA Unit, at (512) 834-6787, Fax (512) 834-6726, or by email at asbestoshelp@dshs.texas.gov.