

Asbestos and Understanding Your Responsibilities as a Building Owner
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If there is one thing that has caused more controversy in the past few years for apartment complex owners and property management companies in the Indianapolis area, it is the continued enforcement by the Marion County Health Department (MCHD) to comply with the Occupational Safety and Health Administration's (OSHA) *29CFR 1926.1101(K)*, Communication of Hazards. Section K of OSHA's Construction Industries Asbestos Standard outlines the duties of the building and facility owners to communicate information concerning asbestos hazards. The debate amongst the building owners and property management companies is whether or not the MCHD has the authority to enforce this standard. The focus of this article is to assist with understanding the reason for this enforcement and the responsibilities of building owners and property management companies.

The problem that occurred here in Indy was due to vandalism caused by the scrappers in a number of downed or abandoned apartment buildings. Due to the rise in unemployment and copper and scrap metal costs, scrapping has become a great source of additional income. During the scrapping process many of the vandals would impact, remove, and disturb various types of surfacing materials (popcorn ceiling, wall, and ceiling textures and sprayed on fireproofing) and thermal systems insulation (TSI, e.g. magnesium block or air cell pipe insulation and mudded pipe fittings), all of which according to OSHA are considered Presumed Asbestos-Containing Materials (PACMs). When the Health Department began to discover this was a reoccurring issue, the primary question that was asked to the maintenance staff and property owners was, "Have you ever had an asbestos inspection to determine if these materials contain asbestos?" and nine times out of ten the answer was, "No, why?" or "I didn't know we were supposed to." Now granted, nowhere in the standard does it state specifically that an inspection is required; however, with those two answers it is immediately evident that the owner or managers were not in compliance.

So you're probably asking yourself, "How does this apply to me since I don't own or manage an apartment complex in Indianapolis?" Well, not to be the bearer of bad news, but it applies to all building owners or property managers. Based on OSHA's standard employers and building owners are required to presume all TSI, sprayed on or troweled on surfacing materials, and pre-1980s installed asphalt and vinyl flooring materials as asbestos-containing, unless the owner has fulfilled the requirements identified in the standard to determine the materials non-asbestos-containing. In short, the standard states that the employer or owner can demonstrate that PACMs do not contain more than 1% (>1%) asbestos by having the materials sampled by a licensed asbestos building inspector. So take a second and think of all the different building materials you have in your building or facility; do any of the materials match the description above? It is likely that at least one of the above-presumed materials is present.

So how do you stay in compliance? According to the standard, the duties of the building and facility owners are to identify the presence of PACMs, as well as their location and quantity. You are also required to supply a written or verbal notification to all individuals who are expected to work in or adjacent to the areas containing these materials, as well as provide employee information and training to those individuals who may come in contact with or expected to perform work activities that would impact these materials.

When thinking about maintenance activities, you can see that the potential for asbestos exposure and owner liability can be greatly decreased by providing the proper information and training regarding PACMs or known asbestos-containing materials. Therefore, you can see that the Health Department's purpose was not to create conflict, but to prevent exposure to the general public and ensure worker protection.