



**Commonwealth of Massachusetts
Division of Professional Licensure
Office of Public Safety and Inspections**

1000 Washington Street, Suite 710
Boston, Massachusetts 02118

MASSACHUSETTS STATE BUILDING CODE - CODE CHANGE PROPOSAL FORM

Impacted code:	<input checked="" type="checkbox"/> Base Code <input checked="" type="checkbox"/> Residential Code	State Use Only	
Date Submitted:	10/30/2019	Date Received:	04/30/2021
Code Section:	780 CMR 105.3.1	Code Change Number:	05-04-2021
Name of proponent:	Gregg Levins, Asbestos Program Section Chief		
Company / Organization represented, if any:	MassDEP - Bureau of Air & Waste, Central Regional		Check <input type="checkbox"/> if representing self
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PLEASE CHECK ☒ THE TYPE OF AMENDMENT PROPOSED

- ☐ Change existing section language ☐ Add new section ☐ Delete existing section and substitute
☐ Delete existing section, no substitute ☒ Other, Explain: Add item to existing bullet list

PLEASE TYPE THE PROPOSED AMENDMENT BELOW. If you propose to change a section, please copy the original text from either the relevant model code and/or MA amendment and indicate the code edition. Indicate, with a ~~strike through~~, the text that you propose to delete. Please also indicate any new text in both *italic* and **red** font. Finally, for each proposal submitted, please provide the justification items requested below. Completed code amendment forms may be emailed to Dan Walsh, Director of Code Development and Manufactured Buildings at Dan.P.Walsh@mass.gov. Please attach additional pages as necessary.

Existing language:	No change
Proposed changes:	Add a bullet point "8. Asbestos Survey: in accordance with asbestos survey require
Background and rationale:	See attachment.
Pros of the proposed change:	See attachment
Cons of the proposed change:	See attachment
Estimated impact on life safety:	See attachment.
Estimated impact on cost:	See attachment.

Proposed Change: Add a bullet point "*8. Asbestos Survey: in accordance with asbestos survey requirements at 310 CMR 7.15(4)*" to the list of requirements that must be satisfied before issuing a building permit as specified at 780 CMR 105.3.1.

Background and rationale: Asbestos is a known human carcinogen; lung cancer, asbestosis and mesothelioma are diseases caused by exposure to asbestos (see ATSDR ToxFAQs at <https://www.atsdr.cdc.gov/toxfaq/tfacts61.pdf>). Disturbance of asbestos-containing materials (ACM) during demolition or renovation activities is one of the primary pathways of exposure for people working on the project and to the general public. The failure to conduct an asbestos survey prior to demolition or renovation activities often results in disturbance of ACM which increases the risk of exposure and adds cost and delays to the project. In those situations, all affected areas of the building must be cleaned and decontaminated by a licensed asbestos contractor in accordance with a Non-Traditional Asbestos Abatement Work Plan that has been submitted to and approved by MassDEP. Further adding to the project cost, all C&D debris that becomes comingled with disturbed ACM must be managed and disposed as Asbestos Containing Waste Material (ACWM).

Any building (residential, commercial, institutional, or industrial) of any age may contain some ACM. While a few specific uses were banned in the 1970s, asbestos can still be found in over 3000 different materials, many used in built structures. Performing an asbestos survey prior to demolition/renovation activities ensures identification of ACM, thus enabling proper management in compliance with asbestos requirements at 310 CMR 7.15, which is adopted by reference in Chapter 1 of the State Building Code (780 CMR) at Section 101.4.8. Pursuant to 310 CMR 7.15(4), the asbestos survey is conducted by a certified asbestos inspector engaged by the building owner/operator to identify any ACM and prepare a written report.

Pros of the proposed change: The most important benefit of requiring an asbestos survey before issuing a building permit for a demolition or renovation activity is that it will raise awareness of MassDEP's asbestos survey requirements, thereby minimizing the possibility that any ACM is inadvertently disturbed and that anyone is exposed to a known human carcinogen. Additionally, the completion of a survey before beginning a demolition or renovation allows any ACM that might be present to be addressed cost-effectively. MassDEP often hears from contractors facing enforcement for asbestos violations that they were unaware of the asbestos survey requirement and would have benefitted if it had been listed as a requirement for a building permit. Some local jurisdictions already inquire as to whether an applicant has completed the MassDEP asbestos survey requirement and have seen first-hand its effectiveness in preventing the mishandling of asbestos-containing materials and exposure to workers and residents of their communities.

It is also important to note that the requirement does not mandate that local building officials review or evaluate the asbestos survey but merely ensure that it has been completed before issuing the local building/demolition permit. MassDEP is always available to work with local officials, answer any questions about a given survey or project, and will respond to all complaints and referrals from building officials.

Cons of the proposed change: MassDEP does not perceive any downsides associated with adding this requirement. MassDEP does not expect a building inspector to review the contents of the written asbestos survey report but simply to record whether a survey report has been prepared. In the event a building inspector had any questions about an asbestos survey or any other asbestos-related issue that might arise during a demolition/renovation project, MassDEP staff would be available to assist. MassDEP inspectors routinely go to work-sites upon receipt of complaints.

We have learned that the BBRs Board members may be concerned that local building officials may lack sufficient expertise should a building permit approval or stop-work order be challenged/appealed on the basis of the asbestos survey requirement. Anytime this type of situation arises, the local building official, or the BBRs Board (if the case rises to that level), could reach out to MassDEP for assistance. MassDEP responds to all complaints and referrals from building officials and the public.

Estimated impact on life safety: As explained above, requiring an asbestos survey before issuance of a building permit for a demolition or renovation activity, would reduce the risk of exposure to a known human carcinogen for both anyone working on the project as well as members of the public.

Estimated impact on cost: The cost of mismanaging ACM far outweighs the cost of the survey. Additionally, the owner and/or general contractor may be subject to enforcement and civil administrative penalties that could have been avoided by being informed of the need for conducting a pre demolition/renovation asbestos survey. All the potential costs of mismanagement can be avoided by performing an asbestos survey prior to starting the demolition or renovation activities.

