From: "Sepulveda,Jaime (DSHS)" <Jaime.Sepulveda@dshs.texas.gov>
Subject: FW: Case No. 1499252131 Follow-Up Concerns - Ongoing Uncontained Roof Construction and Public Exposure at Walmart #131
Date: Tue, 15 Jul 2025 21:26:33 +0000
To: John Ankrum <jankrum@mpcity.org>

CAUTION: [EXTERNAL EMAIL]

Good afternoon,

The Texas DSHS Retail Food Safety Operations received some concerns regarding an establishment in Mount Pleasant, Texas. Please see the email below. **A response that this referral has been received will be greatly appreciated.** Let us know if you have any questions.

Thank you,

Jaime Sepulveda, MPH, RS

Compliance Officer

Retail Food Safety Operations

Texas Department of State Health Services

PO Box 149347 MC 1987 Austin, TX 78714-9347

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From: [redacted] <[redacted]>
Sent: Sunday, July 13, 2025 10:10 AM
To: DSHS Asbestos Help <AsbestosHelp@dshs.texas.gov>
Cc: DSHS Food Establishments <FoodEstablishments@dshs.texas.gov>
Subject: Case No. 1499252131 Follow-Up Concerns - Ongoing Uncontained Roof Construction and Public Exposure at Walmart #131

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Attachments available until Aug 12, 2025

Good morning,

I am submitting a follow-up complaint concerning ongoing unsafe roof construction and associated public health risks at Walmart Supercenter #131, located at 2311 S. Jefferson Avenue in Mount Pleasant, Texas. This matter is related to my previous complaint filed under DSHS Case No. 1499252131, which involved roof work being conducted without proper permitting or inspection. I have since been informed that the store conducted an asbestos survey, which confirmed that the original roof membrane did not contain asbestos. However, despite this clearance, Walmart has resumed active roofing operations without implementing visible safety measures or contamination controls. As a result, debris continues to fall during business hours into occupied store areas, exposing customers, employees, and merchandise to construction particles and associated risks.

Please note that I am also a complainant in an active OSHA whistleblower investigation (Case No. [redacted] under both Section 11(c) of the Occupational Safety and Health Act and the Food Safety Modernization Act (FSMA). This DSHS submission is directly related to the protected activities and disclosures encompassed in that case.

Timeline of Observed Unsafe Conditions (June 25 July 12, 2025):

- **June 25:** I observed roofing materials being staged on the store s roof. That same day, I submitted a formal public records request to Mount Pleasant City Secretary Candias Webster, requesting all construction permits and inspection records related to the store dating back to 2019.
- **June 26**: A Mount Pleasant code compliance vehicle was observed parked near the Tire & Lube Express (TLE) entrance at the store. Roof activity appeared to be ongoing at that time, despite no permit being issued.
- **June 27**: Permit records were released. The roof permit (ROOF35226) had been processed after work had already begun, and notably contained no inspector notes, no issue date, and no asbestos documentation. An employee reported that water was leaking down the produce wet wall as roof work continued. Management s only response was to place buckets to catch the water; no signage, food shielding, or sanitation protocols were implemented.
- **June 28 29**: I observed active roof construction while customers shopped directly below. Several employees and customers confirmed that roof debris including fine particles and shavings was falling onto merchandise, includingfood displays. On June 29, particles were visibly present on produce in the Grocery department. Again, no personal protective equipment (PPE), signage, or containment measures were visible throughout the store.
- **June 30**: I received additional documentation from Ms. Webster in response to my open records request. However, none of the files provided include current inspection records or proof of code compliance with respect to the ongoing roof work.
- **July 2 10**: No observable roofing work was conducted at the store during this period.

- **July 11**: I noted that the emergency lighting fixture located above the Electronics Department was showing a red battery indicator. This typically signals that the emergency backup battery is extremely low or inoperative, meaning the fixture may fail to function during a power outage a violation of fire safety standards and a life-safety concern within an already compromised environment.
- **July 12-13**:
    - **Falling Metal Debris:** On July 12 and 13, 2025, I personally observed metal shavings and other roofing debris falling from the active construction areas into publicly accessible sections of the store. These falling fragments were seen landing on merchandise shelves and even near store associates who were assisting customers. Notably, roof-cutting activities directly above the sales floor caused a shower of metal slivers and dust.
    - **Contaminated Merchandise and Food Areas:** The debris infiltrated multiple departments. For example, sharp metal shavings were found on apparel racks among clothing items, and fine particulate dust settled over products in the seasonal/general merchandise aisles (including the Back to School section). Most alarming, debris was also observed in the grab-and-go food area, where ready-to-eat snacks and packaged foods are displayed. Photo and video evidence show metal particles on top of food display cases and scattered across clothing and food items.
    - **Lack of Containment or Warnings:** At no point were any visible precautions in place to protect the public from this debris. There were no plastic drop cloths or sheeting hung to catch falling materials, no ceiling tiles or vents covered, and no sections of the store roped off or closed to customers beneath the work area. Additionally, the store failed to post any signage or warnings to alert customers and employees about the overhead construction hazard. Shoppers, including families with children, continued to browse in these areas unaware that potentially harmful debris was raining down.

These conditions were documented during normal store hours when customers and employees were present. The lack of basic safety measures is causing an immediate risk of contamination and injury. Metal shavings and construction dust can not only cause physical harm (e.g. getting into eyes or causing cuts) but also pose a contamination risk to food and consumer products.

Public Health and Regulatory Concerns: I believe the situation violates several health and safety regulations designed to protect the public in retail establishments:

25 TAC 228.69 Preventing Contamination from the Premises: Under Texas s food safety rules, food must be protected from exposure to dust and other contaminants at all times. Allowing construction debris to fall onto food displays or food-contact surfaces creates an unsanitary condition. Even if packaged, the food items have been held under unsanitary conditions whereby [they] may have become contaminated with filth , meeting the definition of adulterated food under Texas Health & Safety Code 431.081. Customers could inadvertently consume contaminated products, or the store may continue selling them, which is a serious food safety violation.

25 TAC 228.42 Food Contamination Prevention: The Texas Food Establishment Rules broadly require retail facilities to prevent contamination of food and clean equipment during any operations. Failing to isolate construction areas from active food sections conflicts with the

sanitary maintenance practices expected in retail food establishments. (In essence, construction dust and metal debris should never be allowed to contact food or food-contact surfaces in an open store.)

Asbestos Survey Compliance (25 TAC 296.191): While the asbestos survey came back negative (meaning the roof materials did not contain asbestos), this rule s intent is to ensure hazardous materials are identified and handled prior to renovation. In this case, **DSHS s involvement was crucial to rule out asbestos, but no follow-up seems to have addressed the general dust and debris hazards**. The store appears to have interpreted the negative asbestos result as a green light to proceed without any precautions, which was not the purpose of the survey requirement.

Adulterated Food (Texas Health & Safety Code 431.081): As noted above, food products exposed to construction debris are considered adulterated if they have been held under unsanitary conditions that could contaminate them. Metal particles or fiberglass insulation dust (if any from roof materials) falling onto food packages can render those foods unsafe or unwholesome. This creates a public health hazard and legal liability if such products are sold. Additionally, the presence of debris in areas like the deli or grab-and-go cooler could necessitate discarding of food to prevent consumer harm.

In summary, Walmart #131 s failure to implement containment during roof work is endangering both environmental sanitation and food safety on the premises. The conditions observed are not only unsanitary but also violate the spirit and letter of state health regulations intended to keep retail food environments safe and clean.

Request for Immediate DSHS Action: I respectfully request that DSHS re-engage with this matter and take prompt action to protect the public, even though asbestos was found to be absent. Specifically, I urge DSHS to:

1. **Conduct an urgent follow-up inspection** at Walmart #131 focusing on the roof construction activities and their impact on food safety and sanitation. DSHS inspectors should observe the lack of barriers/containment and document the contamination of merchandise and food areas.

2. **Require immediate corrective measures** by the store and the roofing contractors. This may include halting the roofing work during store hours until proper safety controls are in place, or at minimum mandating adequate barriers (e.g. protective plastic sheeting, enclosed work areas, or after-hours work only) to prevent any debris from reaching shoppers and food/products below.

3. **Ensure contaminated products are handled appropriately.** Any food items or merchandise that were exposed to falling debris should be removed from sale and either thoroughly sanitized or discarded, in accordance with health regulations. DSHS guidance or orders may be needed to ensure the store does not continue selling potentially adulterated food.

4. **Enforce compliance and consider penalties if warranted.** The blatant disregard for basic public health safeguards during construction may merit enforcement action. At a minimum, a formal notice or citation to the store for violating sanitary standards would emphasize the seriousness of these conditions and help prevent recurrence.

5. **Communicate outcomes and guidance:** I would appreciate being informed of the outcome of any inspection or enforcement actions resulting from this complaint. Additionally, it may be

beneficial for DSHS to provide Walmart #131 with written guidance on safe renovation practices within occupied food retail environments to help prevent future violations.

I have included photographic and video documentation supporting this complaint. I have included photographic and video documentation supporting this complaint, including video footage captured on July 12, 2025. Due to file size limitations, I am prepared to provide additional video documentation upon request. In addition, I possess further evidence dating back to November 2022 that illustrates the same recurring safety and food safety concerns, which I am prepared to provide upon request.

Photographs (July 12, 2025): Images of metal shavings on clothing in the apparel department and metal debris scattered on the floor and merchandise in general sales areas.

Photographs (July 13, 2025): Images showing construction debris on top of a grab-and-go food cooler and on products in the seasonal/back-to-school aisle.

Video: One short video clip from July 12, 2025, capturing roof metal particles actively raining down near employees and customers on the sales floor. These visuals demonstrate the extent of the hazard and the complete lack of protective barriers at the time.

Thank you for your prompt attention to this urgent public health issue. The community s health and safety are at risk so long as roof construction proceeds without proper precautions. I appreciate DSHS s previous intervention regarding the asbestos survey, and I trust that you will treat this follow-up complaint with equal seriousness despite the different hazard. Please confirm receipt of this complaint and let me know if any additional information is required. I am available to discuss the matter further or assist inspectors with locating the problem areas in the store, if needed.

With gratitude,

Kyle Douglas Moring

Former Asset Protection Investigator Walmart Store #131

Complainant OSHA Whistleblower Case [redacted]

[redacted]

[redacted]

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2025-07-12 - Store 131 - Roof Shavings (Apparel).pdf

31.5 MB

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2025-07-13 - Roof Debris (Grab N Go).pdf

163.7 MB

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2025-07-12 - Store 131 - Roof Activity (Shavings Falling On Customers).MOV

63.9 MB