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Region 10: the Pacific Northwest

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AHERA Frequently Asked Questions

Buildings Covered by AHERA

Q: A school leases space in a building from a non-school group (a church, YMCA, etc.). Who is responsible for complying with the AHERA rule?

A: Leased buildings are covered under AHERA. For public school districts, the school district is responsible for AHERA compliance since the school district controls access to these buildings, how these buildings are used by the occupants, the furnishings and the scheduling of school activities. For private, non-profit schools, the owner of the building is responsible.

Q: If there are no buildings within a school district with asbestos containing building materials (ACBM), then does the school district need to have an AHERA Designated Person, retain management plans or provide notifications to the parents, teachers, or workers on management plan availability?

A: Yes.

Q: Are the school administrative offices, maintenance or storage facilities covered by AHERA, even if students never attend classes in these buildings?

A: Yes. In addition to classrooms, the definition of a school building includes any other facility used for the administration of educational or research programs, and any maintenance, storage, or utility facility, including hallways, essential to the operation of classrooms, libraries, gymnasiums, and administrative offices. A facility is deemed essential if it is being used. Vacant facilities which are no longer used by the school are exempt.

Q: If a school uses a single room in a nonschool building on a regular basis as a classroom, is the entire building covered by AHERA?

A: No, just the single room used by the school as a classroom is covered by the rule.

Q: If a school district obtains a building, how soon must it be inspected for asbestos-containing materials?

A: Prior to its use as a school building.

Q: A school burns down. The school district wants to use a local community center for six months due to the emergency. Does this temporary building have to be inspected?

A: In the event that emergency use of an uninspected building as a school building is required, such buildings must be inspected within 30 days after the school has begun using that building.

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Q: Are private elementary and secondary schools required to comply with AHERA?

A: Only private, nonprofit elementary and secondary schools must comply with the AHERA requirements.

Q: Students take advanced placement classes at the State University, or put on a theater production at the local community center, or use the YMCA swimming pools for physical education. Must these buildings be inspected?

A: No

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Inspections

Q: When conducting an inspection, must the inspector undertake destructive steps, such as tearing down a wall, in an attempt to locate asbestos-containing building materials (ACBM)?

A: An AHERA-accredited inspector is expected to take reasonable steps to locate ACBM, including examining all concealed accessible areas (above drop ceilings, inside ventilation shafts, etc.), carefully reviewing building plans and using his or her knowledge to determine if ACBM was used in areas that are inaccessible. If the inspector has reason to suspect ACBM is present and believes that fibers could be released from ACBM and carried from the area, then the inaccessible area must be examined. If the inspector believes that ACBM is present but does not believe that fibers could be released from that area, then the material should be assumed ACBM and included in the inventory.

Q: Can an unaccredited person under the supervision of an accredited inspector collect samples and look in crawl spaces and other areas to locate ACBM?

A: No, an accredited inspector must conduct all necessary tasks in order to fulfill the inspection and reinspection requirements.

Q: If a school buys or leases a building, how soon must it be inspected? If a school must relocate temporarily, due to a flood or fire, must the temporary building be inspected?

A: Any building leased or acquired on or after October 12, 1988, that is to be used as a school building, must be inspected prior to its use as a school building. In the event that emergency use of an uninspected building must be used as a school, that building must be inspected within 30 days of use as a school.

Q: What asbestos containing building materials need to be assessed during an inspection?

A: The following must be assessed: friable miscellaneous and surfacing asbestos containing building materials, thermal system insulation which is friable or with no damage but has potential for damage or potential for significant damage.

Q: Do the underside and roof of a covered exterior hallway or walkway need to be included in the inspection?

A: Just the underside of the hallway or walkway must be included.

Q: Can a building inspector use his or her own laboratory to analyze bulk asbestos samples?

A: Yes, if the laboratory has up-to-date and valid accreditation from the National Voluntary Laboratory Accreditation Program.

Q: Can all suspect materials in a school building be assumed to contain asbestos rather than taking samples?

A: Yes

Q: What are some typical suspect asbestos containing building materials covered by AHERA?

A: Spray-applied or troweled-on materials on walls and ceilings, gypsum wallboard, transite wallboard, thermal system insulation, corrugated-like paper product used for thermal system insulation, gaskets in heating or air-conditioning equipment, floor tiles and its adhesives, ceiling tiles and panels, cement asbestos water pipe, fire doors, fire brick for boilers, cloth adjoining air ducts, and sheeting in fume hood.

Q: The regulatory definition of homogenous area is being uniform in color or texture. What is meant by "homogeneous area" with respect to thermal system insulation having pipe lagging that has either been discolored or applied differently to give the appearance of possessing a different texture?

A: The accredited inspector must make a judgement on whether pipe lagging is indeed uniform in color and texture. If the suspect material looks darker due to water damage, then it is appropriate for the inspector to consider this as part of the same homogeneous area. If the suspect material has been applied differently, however, it probably would not be uniform in color and texture since there would be a noticeable difference in the suspect material's appearance.

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Reinspections

Q: What are the necessary components of an AHERA reinspection?

A: An accredited inspector must visually reinspect and reassess the condition of all known or assumed friable asbestos containing building materials (ACBM), visually inspect previously considered nonfriable ACBM and touch it to determine if it has become friable, identify homogeneous areas of material that have become friable since the last inspection developed required records and submit the records to the AHERA Designated Person within 30 days of reinspection.

Q: How often must a reinspection be conducted at school buildings?

A: Every three years.

Q: What are the requirements for the persons involved in the reinspection?

A: The person conducting the reinspection must be an accredited AHERA inspector. The management planner responsible for the review of the reinspection results and recommendations for response actions must be an accredited management planner.

Q: Must encapsulated asbestos containing building materials be reassessed every three years during the reinspection?

A: Yes. In addition to checking friability, encapsulated ACBM must be closely examined to determine whether the response action has failed.

Q: *If the 6-month periodic surveillance inspection coincides with the reinspection, can the reinspection count as a periodic surveillance?*

A: Yes.

Q: *If the original inspection overlooked some asbestos-containing building materials or if some areas of the building were not accounted for during the first inspection, must the reinspection include the inspection, assessment and documentation of these overlooked areas?*

A: Although it is not required by regulation, EPA strongly recommends that these areas are included during the reinspection.

Q: *Is reinspection required for buildings where no ACBM known or assumed was found in the original inspection or where abatement actions removed all ACBM?*

A: No. However, EPA recommends that schools that have conducted asbestos abatement to remove all ACBM should conduct a reinspection in case some ACBM was missed.

Q: *Must the school district reinspect a building that is no longer in use as a school?*

A: No.

Q: *Does an accredited management planner need to review the results of the inspection and assessment and the reinspection and reassessment?*

A: Yes. AHERA requires that an accredited management planner review the results of each inspection, reinspection and assessment for the school building and to conduct any other necessary activities in order to recommend in writing appropriate response actions. The review and response action recommendations are especially important if assessments of known or assumed ACBM have changed from the previous reinspection or if previously identified ACBM has become friable.

Q: *What reinspection records must be included in the management plan?*

A: The following records must be included:

- The date of the reinspection, the name and signature of the person making the reinspection, and accreditation documentation;
- Any changes in the condition of known or assumed asbestos containing building materials;
- Exact location where samples were collected during the reinspection, a description of the manner used to determine sampling locations, the name and signature of each accredited inspector who collected the samples, and accreditation documentation;
- Any assessments or reassessments made of friable material, the name and signature of the accredited inspector and accreditation documentation; and
- Written recommendations of the management planner.

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Periodic Surveillance

Q: *How should the results of the six-month periodic surveillance be recorded? What is meant by "any change in condition" as it refers to the periodic (six-month) surveillance inspection?*

A: The following should be documented: the name of the person conducting the periodic surveillance, the date of the surveillance, and any changes in the condition of the asbestos-containing building materials (ACBM) (and if changes are noticed, then the comments must describe each change clearly). A maintenance person conducting the periodic surveillance would notice water damage, major delamination, a major fiber release, or even minor damage. For surfacing material, damage might include separation of asbestos-containing materials (ACM) from the substrate; flaking, blistering, or crumbling of ACM surface; and scrapes, gouges, mars, or other signs of physical injury. Asbestos debris may also indicate damage. For thermal system insulation, damage may include gouges, punctures, water damage, crushed areas and torn or missing coverings. The person conducting the periodic surveillance will have to be aware of the material's previous condition, documented in the management plan, in order to determine if any changes in the material's condition have occurred.

Q: *What is meant by "any change in condition" when it refers to the six-month periodic surveillance?*

A: First the person conducting the surveillance must be aware of the material's previous condition and then look for changes such as: water damage, major delamination, major fiber release, minor damage, separation of asbestos containing material (ACM) from the substrate, flaking, blistering, crumbling of the ACM surface, scrapes, gouges, mars and other signs of physical injury, asbestos debris, punctures, water damage, crushed areas, and torn or missing coverings.

Q: *If during a periodic surveillance inspection, a custodian finds damaged thermal system insulation, what must be done?*

A: It is the responsibility of the school district or building owner (for private schools) to maintain all thermal system insulation asbestos-containing materials and its covering in an intact state and undamaged condition. The school district or building owner should arrange to remove the damaged material. If removal is not feasible, due to technological factors, then the school or building owner must at least repair the damaged area.

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Asbestos Management Plans

Q: *Must a school develop a management plan for each school or can it have one large plan that covers all of its school buildings?*

A: A separate management plan must be developed for each school. The administrative office of each school must maintain a complete and updated copy of the management plan for that school.

Q: *If a school building is new and an architect or project engineer prepared a statement that no asbestos containing building materials were used in the design or construction of the building or an AHERA accredited inspector found no suspect materials, then must that school develop a management plan?*

A: Yes, however, the management plan would simply contain the architect, project engineer or AHERA accredited inspector's statement, the Designated Person information and the notification to the parents, teachers and employees on the availability of the plan.

Q: *If the buildings have been inspected by an accredited inspector, samples have been taken and analyzed, and no asbestos-containing building material (ACBM) has been found, must the school district still develop a management plan?*

A: Yes. In this case, the management plan would simply include the inspection report (including sampling results), the AHERA Designated Person information and the notification to parents, teachers, and employees regarding the availability of the plan.

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AHERA Training and Accreditation

Q: *If a person failed to take the annual refresher course before the expiration date, must he or she retake the basic course?*

A: The person cannot conduct asbestos work with an expired accreditation; however, if the person takes the refresher course within a year of the expiration date, then he or she does not need to retake the basic course (except in states where different rules may apply).

Q: *What are the requirements for the persons involved in the reinspection?*

A: The person conducting the reinspection must be an accredited AHERA inspector. The management planner responsible for the review of the reinspection results and recommendations for response actions must be an accredited management planner.

Q: *What are the qualifications or exact training needed by an individual who conducts the two-hour awareness training and the additional 14-hour training for the maintenance and/or custodial employees?*

A: The regulations do not require specific qualifications for instructors who conduct this training. However, instructors should be selected who have professional or educational background in the asbestos field.

Q: *When working on an asbestos job at a school building, public or commercial building, what is needed to show that I am accredited?*

A: Accredited persons must have their initial and current accreditation certificates at the location where they are conducting work.

Q: *Is an AHERA-accredited inspector required for the replacement of resilient floor covering?*

A: An AHERA-accredited inspector is not required if the person is conducting a visual or physical examination as part of replacing the existing floor where the material has not been sanded, ground, mechanically chipped, drilled, abraded or cut. If a person is conducting a visual or physical examination to determine its friability, then the person must have AHERA inspector credentials.

Q: *When is an AHERA-accredited Project Designer Needed?*

A: Persons who design response actions in schools and public and commercial buildings must have AHERA Project Designer accreditation. Response actions are defined as a method ---including removal, encapsulation, enclosure, repair, and operations and maintenance--that protects human health and the environment from friable asbestos-containing building material. Response actions do not include small scale, short duration maintenance activities or activities to address minor fiber episodes.

Q: *If a person is conducting an environmental assessment which includes noting the presence and condition of possible asbestos containing materials but does not collect samples in a public or commercial building, does that person need AHERA accreditation?*

A: Yes.

Q: *What constitutes adequate training for the AHERA "Designated Person" responsible for implementing the management plan? Does he or she need to be accredited?*

A: The AHERA Designated Person does not need to be accredited; however, he or she must have training which covers 1) health effects of asbestos; 2) detection, identification and assessment of asbestos-containing materials; 3) options for controlling asbestos containing building materials; asbestos management programs; and 4) relevant Federal and State regulations concerning asbestos. The management plan must include information on the course name, dates, and hours of training undertaken by the AHERA Designated Person.

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Asbestos Removal

Q: *Phase Contract Microscopy (PCM) air clearance can be used for projects greater than small scale, short duration activities and less than 160 square feet or 260 linear feet. Transmission Electron Microscopy (TEM) air clearance monitoring must be used for projects greater than 160 square feet or 260 linear feet. How are the calculations on size of a project determined?*

A: AHERA prohibits the artificial division of a large project or the removal of asbestos-containing building materials (ACBM) in stages over the course of a relatively short period of time from what normally would have been one large project in order to avoid the more costly TEM air clearance analysis. If the total area exceeds the 160/260 rule, then TEM must be used unless clear engineering reasons exist for dividing a project into smaller areas. If surfacing ACBM was removed in one area and then a few weeks later, adjacent surfacing ACBM was removed, EPA would consider both removals to be one project (since both removals occurred at approximately the same time) and require TEM if the amount exceeded 160 square feet or 260 linear feet.

Q: *Would surfacing ACBM on the ceilings of two classrooms on two separate floors be viewed as contiguous areas?*

A: No. Even if one classroom was directly beneath the other classroom, these would not be contiguous areas under the rule. Each floor would normally have its own containment barrier.

Q: *Can someone collect more than five samples inside the abatement site and pick the best of the results for the clearance test?*

A: No. An equal number of samples should be taken inside and outside the abatement site for clearance. The minimum number is five inside and five outside. The rule does not prohibit the collection of more than five samples inside and an equal number outside; however, collection of a higher number inside and then selecting only five of these values is not appropriate.

Q: *When removing vinyl asbestos floor tiles, do I need to use an AHERA accredited project designer and supervisor/workers?*

A: In July 1992, EPA published a policy clarification which described the circumstances under which the removal of vinyl asbestos tiles (VAT) would be considered a response action under AHERA therefore requiring accredited personnel for the removal. EPA has determined that removal of VAT (or other known or assumed asbestos-containing material flooring or its adhesive) which involves sanding, grinding, mechanical chipping, drilling, cutting or abrading the material has a high probability of rendering the material friable and capable of releasing asbestos fibers. Therefore, removal projects which employ any of these techniques (other than small-scale short duration) must be conducted as response actions. This would require use of a project design, accredited persons and air clearance.

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Operations and Maintenance (including Recordkeeping)

Q: *Which areas in school buildings must have warning labels?*

A: AHERA requires warning labels immediately adjacent to any friable and non-friable asbestos-containing building materials (ACBM) and suspected ACBM assumed to be asbestos-containing located in routine maintenance areas in each school building. Routine means that a maintenance or custodial person frequents an area on a regular basis to perform maintenance activities. Examples are boiler rooms, equipment rooms, pipe tunnels, fan rooms, and air handling rooms.

Q: *What are examples of routine maintenance areas that require warning labels? Do you have to label enclosed or encapsulated ACBM in routine maintenance areas?*

A: Routine maintenance areas are boiler rooms, equipment rooms, pipe tunnels, fan rooms, air handling rooms and other areas which are used on a regularly scheduled or predictable basis to perform maintenance activities. Yes, warning labels must be placed on areas which are enclosed or encapsulated in the maintenance areas.

Q: *If all asbestos-containing building materials (ACBM) have been removed from a school building, does the annual written notification requirement regarding the management plan availability and asbestos-related activities still apply?*

A: Yes, since the purpose of the notification is to enable the public to determine if the LEA has implemented the management plan satisfactorily.

Q: *What is meant by "... materials that are about to become friable ... ?"*

A: If a workman is about to sand nonfriable floor tiles, this material will shortly become friable.

Q: Must the AHERA Designated Person be an employee of the school district or need to be located on-site?

A: No and no.

Q: Who is the "local education agency" with respect to AHERA?

A: In a non-profit, private elementary or secondary school, the local education agency would be the owner of the school building. In a public elementary and secondary school, the local education agency would be the school district.

Q: What forms of written public notifications are acceptable?

A: A great deal of flexibility exists with respect to methods for notifying the parents, teachers, and employees. However, a copy of the notification must be kept in the management plan. This notification could be in the form of newspaper advertisement or article in the school district's newsletter. A description of the steps taken to notify the parents, teachers, and employees, along with a copy of the notification, must be kept in the management plan.

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Other Response Actions: Enclosures, Encapsulation, and Repair

Q: Is the installation of a carpet over damaged asbestos containing vinyl asbestos tiles an enclosure?

A: No. An enclosure is an airtight, impermeable, permanent barrier around asbestos containing building materials to prevent the release of asbestos fibers into the air. Carpeting is not impermeable, permanent or airtight.

Q: If during a periodic surveillance inspection, a custodian finds damaged thermal system insulation, what must be done?

A: It is the responsibility of the school district or building owner (for private schools) to maintain all thermal system insulation asbestos-containing materials and its covering in an intact state and undamaged condition. The school district or building owner should arrange to remove the damaged material. If removal is not feasible, due to technological factors, then the school or building owner must at least repair the damaged area so that it is in an intact state and undamaged condition.

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Facilities Planning

Annual AHERA Notifications to Employees and Parents

The Asbestos Hazard Emergency Response Act (AHERA) requires schools to "ensure that workers and building occupants, or their legal guardians, are informed at least once each school year about inspections, response actions, and post-response action activities, including periodic reinspection and surveillance activities that are planned or in progress (763.84(c)). Such notification must be done in writing and a copy placed in the management plan. Suggested notification methods may be through the publication of an article in a school district newsletter or through a separate written notice distributed to staff and sent home to a student's parent or legal guardian.

In addition, schools "shall make management plans available for inspection to representatives of EPA and the State, the public, including parents, teachers, and other school personnel within 5 working days after receiving a request for inspection" (763.93(g)(3)). Furthermore, "the local education agency shall notify in writing parent, teacher, and employee organizations of the availability of management plans and shall include in the management plan a description of steps to notify such organizations, and a dated copy of the notification. In the absence of any such organizations for parents, teachers, or employees, the local education agency shall provide written notice to that relevant group of the availability of management plans and shall include in the management plan a description of the steps taken to notify such groups and a dated copy of the notification" (763.93(g)(4)).

The LEA asbestos designee for the school district is to oversee that these AHERA required notifications occur each school year. The school may determine when to do AHERA notification, as long as it occurs at least once each school year.

Enforcement of this requirement is done by the Environmental Protection Agency's (EPA) Region II office. They have been very active inspecting New York State schools for compliance with AHERA. Schools which lack required elements in the AHERA management plan, including the notification documentation outlined above, will be issued an EPA Notice of Noncompliance. Subsequently, the school has thirty days from the Notice date to correct the violations. Schools which do not comply with the Notice within thirty days are subject to additional EPA enforcement action, which may result in civil or criminal penalties.

Assistance for the AHERA management plan notification is available from your local BOCES Health, Safety, Risk Management office and from the Department's Health, Safety, Risk Management Unit at (518) 474-3911.