EPA Enforcement Bulletin ASBESTOS

Region 4 | Air Pesticides and Toxics Management Division | June 2003

EPA PLANNING INSPECTIONS to CHECK COMPLIANCE with ASBESTOS REGULATIONS

The United States Environmental Protection Agency (EPA) Region 4 will be conducting inspections throughout the eight southeastern states to evaluate compliance with the Agency's regulations governing asbestos. EPA regulates asbestos pursuant to two environmental laws: through the ***Asbestos Hazard Emergency Response Act (AHERA)***, to address asbestos in schools, and through the ***National Emission Standards for Hazardous Air Pollutants (NESHAP)*** for asbestos. For the past several years, EPA has maintained an oversight role while relying on state and local programs to enforce the regulations governing asbestos. Recently however, EPA Region 4 has become concerned about the effectiveness of the asbestos enforcement program. Therefore EPA will be using the upcoming inspections and other activities to evaluate the level of compliance with asbestos regulations within the regulated community.

This Enforcement Bulletin is being sent to asbestos abatement contractors, school superintendents, training course providers, and others throughout Region 4 who are responsible for compliance with EPA's asbestos regulations. Although regulated organizations or individuals should consult the actual regulations to ensure compliance, this Bulletin provides a brief summary of what each law and its implementing regulations require.

Asbestos Hazard Emergency Response Act (AHERA)

The Asbestos Hazard Emergency Response Act (AHERA) was issued by EPA on October 30, 1987 as a final rule under section 203 of Title II of the Toxic Substances Control Act (TSCA) to require that all ***local education agencies (LEAs)*** identify ***asbestos-containing materials (ACM)*** in their school buildings and take appropriate action to prevent the release of asbestos fibers. The following are the key requirements for each LEA under the AHERA rule:

LEA Designee – Designate a person to ensure that requirements under AHERA are implemented and that the LEA designated person receives adequate training to perform the assigned duties.

Management Plans – Develop an asbestos management plan for each school under its authority and submit plan to Governor Designee's office.

Inspections – An accredited Inspector must conduct inspections of each school building that is leased, owned, or otherwise used as a school building to identify all locations of friable and nonfriable asbestos containing building materials (ACBM).

Reinspections – An accredited Inspector must conduct a reinspection of all friable and nonfriable known or assumed ACBM in each school building at least once every three years after the management plan is in effect. Conduct a periodic surveillance every six months of each school building that contains ACBMs or is assumed to contain ACBM.

Operations and Maintenance – Implement an operations and maintenance plan (O&M) whenever any friable ACBM is present or assumed to be present in a building under its authority.

Response Actions – Implement appropriate response actions sufficient to protect human health and the environment when necessary.

Training – Use only accredited persons to conduct inspections, develop management plans, and carry out response actions. Provide two hours of awareness training required for all maintenance and custodial staff who may work in a building that contains asbestos and 14 hours of additional training required for maintenance and custodial staff who conduct ACBM activities that will result in the disturbance of asbestos.

*Words that appear in **bold italics** are defined in the glossary on page 4*

Notification – Provide notification in writing at lease once each school year to parent, teacher and employee organizations of the availability of management plans. Include in the management plans a dated copy of the notification. Notify short-term workers (e.g., telephone repairmen, etc) of the location of ACBM and of assumed ACBM in the building.

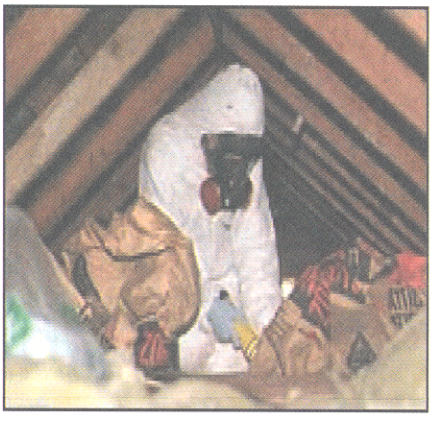
Record keeping – The management plan and all records involving the inspection of and response to ACBM must be kept in a centralized location in the administrative office of both the school and LEA. Update the management plan to keep it current with on-going operations and maintainence, periodic surveillance, inspection, reinspection, and response action activities.

Exclusion – Submit to the EPA Regional Office a copy of an asbestos exclusion letter for new construction at each school building that is leased, owned, or otherwise used as a school building.

Asbestos National Emission Standard for Hazardous Air Pollutants (NESHAP)

Section 112 of the Clean Air Act (CAA), 42 U.S.C. § 7412, requires EPA to develop and enforce regulations necessary to protect the public from exposure to airborne contaminants known to be hazardous to human health. Asbestos is governed as a hazardous air pollutant by regulations promulgated at 40 C.F.R. Part 61, Subpart M (the Asbestos NESHAP). The Asbestos NESHAP addresses milling, manufacturing and fabricating operations, demolition and renovation activities, waste disposal issues, active and inactive waste disposal sites, and asbestos conversion processes.

Friable asbestos-containing material (ACM) is defined by the Asbestos NESHAP. It is any material containing more than 1% asbestos, as determined using Polarized Light Microscopy, or PLM, (see Appendix E, Subpart E, 40 C.F.R. Part 763 Section 1) that, when dry can be crumbled, or



asbestos removal

reduced to powder by hand pressure. Friable ACM would readily release asbestos fibers into the air when damaged or disturbed. Conversely, nonfriable ACM **cannot** be crumbled, pulverized or reduced to powder by hand pressure. Nonfriable ACM would not readily release asbestos fibers into the air pulverized or aterial was severely damaged. Category I nonfriable ACM is any asbestos-containing packing, gasket, resilient floor covering or asphalt roofing product which contains more than 1% asbestos as determined by PLM. Category II nonfriable ACM is any nonfriable material, excluding Category I nonfriable ACM, containing more than 1% asbestos.

Regulated Asbestos-Containing Material (RACM) is defined under the Asbestos NESHAP as the following: (a) friable ACM, (b) Category I nonfriable ACM that has become friable, (c) Category I nonfriable ACM that will be or has been subjected to sanding, grinding, cutting or abrading, or (d) Category II nonfriable ACM that has a high probability of becoming or has become crumbled, pulverized or reduced to powder by the forces expected to act on the material in the course of demolition or renovation.

Among other requirements, the Asbestos NESHAP mandates the following work practices whenever demolition or renovation activities involving RACM occur:
* notify the appropriate regulatory agency of intent to demolish or renovate;
* remove all RACM from a facility being demolished or renovated before any disruptive activity begins or before access to the material is precluded;
* keep RACM adequately wet before, during and after removal operation;
* conduct demolition or renovation activities in a manner which produces no visible emissions to the outside air; and
* handle and dispose of RACM in an approved manner.

The Asbestos NESHAP further requires that if a facility is demolished by intentional burning, all of the ACM, including Category I and II nonfriable ACM, be considered RACM to be removed prior to burning. In addition, if Category I or II nonfriable ACM is to be sanded, ground, cut or abraded, the material is considered RACM and the owner or operator must comply with the following requirements:
* adequately wet the material during sanding, grinding, cutting or abrading;

* comply with 40 C.F.R. § 61.145(c)(3)(i) if wetting would unavoidably damage equipment or present a safety hazard;
* handle asbestos material produced by sanding, grinding, cutting or abrading as asbestos-containing waste material subject to the waste handling and collection provisions of 40 C.F.R. § 61.150.

State or local regulatory agencies may also have regulations applicable to asbestos which are more stringent than the Asbestos NESHAP.

Non-compliance with the Asbestos NESHAP or AHERA requirements will subject a regulated entity to potential enforcement action.

What is Asbestos?

Asbestos is a mineral found in certain types of rock formations. It is mined in much the same way as other minerals such as iron, lead, and copper. When mined and processed, it takes the form of small fibers which are usualy invisible to the naked eye. Because the fibers are so small and light they can remain in the air for many hours increasing the danger of inhalation. Asbestosis, lung cancer and mesothelioma (a rare form of cancer) have been associated with inhalation of asbestos.

Asbestos was first used in the U.S. in the early 1900s. Although some ACM was banned in 1989, ACM are still found in many older products and buildings. In 1988, it was estimated that 733,000 public and commercial buildings contained some ACM.

Asbestos Model Accreditation Plan

Persons who work with asbestos in public and commercial buildings and schools must be accredited. While requirements existed in AHERA for asbestos workers in schools, requirements for workers in public and commercial buildings were added via ASHARA in November 1990. On February 3, 1994, EPA issued the interim final rule to revise its asbestos Model Accreditation Plan (MAP) to clarify the types of persons who must be accredited to work with asbestos in schools and public and commercial buildings. The original MAP contained six components which, taken together, comprised a model accreditation plan for states and EPA approved training providers and only applied to asbestos work in schools. These components included: (1) initial training, (2) examinations, (3) refresher training, (4) qualifications, (5) decertification requirements, (6) reciprocity. The revision added two new components to the original MAP: (1) definitions which helps to determine the scope and applicability of the rule, and (2) new record keeping requirements for the providers of accredited courses.

Asbestos Worker Protection

In November 2000, EPA issued the final Asbestos Worker Protection Rule (WPR). EPA amended both the Asbestos WPR and the Asbestos-in-Schools Rule (AHERA). The WPR amendment protects state and local government employees from the health risks of exposure to asbestos to the same extent as private sector workers by adopting for these employees the Asbestos Standards of the Occupational Safety and Health Administration (OSHA). The WPR's coverage is extended to state and local government employees who are performing construction work, custodial work, and automotive brake and clutch repair work in those states that do not have an OHSA delegated program. Those states in EPA Region 4 are Alabama, Florida, Georgia, and Mississippi. This final rule cross-references the OSHA Asbestos Standards for Construction and General Industry, so that future amendments to these OSHA standards are directly and equally effective for employees covered by the WPR. EPA also amends the Asbestos-in-Schools Rule to provide coverage under the WPR for employees of local education agencies (LEAs) who perform operations, maintenance, and repair work. The effective date of the WPR was December 2000.

For More Information...

www.epa.gov/asbestos or http://cfpub.epa.gov/adi
Asbestos Hotline: (800) 368-5888, 8:30-4:30 pm EST

AHERA, Model Accreditation Plan, Worker Protection contact
John Hund (404) 562-8978

Asbestos NESHAP contact
Pamela McIlvaine (404) 562-9197

glossary

Asbestos - Asbestos is a mineral found in certain types of rock formations. It is mined in much the same way that other minerals, such as iron, lead, and copper are.

Asbestos Containing Material (ACM) - Any material containing more than 1% asbestos.

Friable - Any material containing more than 1% asbestos, that, when dry, can be crumbled, pulverized or reduced to powder by hand pressure. Friable ACM readily releases asbestos fibers into the air when damaged or disturbed.

Local Education Agencies (LEAs) - (1) any local education agency as defined in section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3381), (2) the owner of any nonpublic, nonprofit elementary, or secondary school building.

Nonfriable - Asbestos containing material which cannot be crumbled, pulverized or reduced to powder by hand pressure. Nonnfriable ACM would NOT readily release fibers into the air unless the material was severly damaged.

NESHAP - National Emission Standard for Hazardous Air Pollutants

AHERA - Asbestos Hazard Emergency Response Act