



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 13 1993

OFFICE OF
PREVENTION, PESTICIDES
AND TOXIC SUBSTANCES

Mr. Kent Steinruck
Regulatory Boards Administrator
Commonwealth of Virginia
Department of Commerce
3600 West Broad Street
Richmond, Virginia 23230-4917

Dear Kent:

This letter replies to your recent inquiry about whether accreditation requirements apply to persons removing nonfriable asbestos-containing material from schools and public and commercial buildings. The answer is a qualified no, which I will try to briefly explain below.

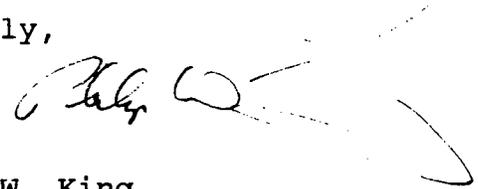
In the case of schools, 40 CFR 763.90(g) requires that all response actions other than small-scale, short-duration repairs, must be designed and conducted by accredited personnel. "Response actions" are defined in 40 CFR 763.83 to include "any method, including removal ... that protects human health and the environment from friable ACBM." "Friable" is then defined to include material which, when dry, may be crumbled, pulverized, or reduced to powder by hand pressure, and includes previously nonfriable material after such previously nonfriable material becomes damaged to the extent that when dry it may be crumbled, pulverized, or reduced to powder by hand pressure. Generally, if the removal involves nonfriable material, and the work methods will not result in the nonfriable material becoming friable, the use of accredited workers is not required. Custodial workers, however, should be trained in accordance with 40 CFR 763.92.

Given the pending ASHARA revisions to the Model Accreditation Plan (MAP), the situation is less clearly defined for public and commercial buildings. The only places we can look for help are directly to the statute itself, and/or to EPA's "Interim Guidance on ASHARA Requirements" (November, 1992). The statute (ASHERA as amended by ASHARA) stipulates that persons who design or conduct response actions with respect to friable ACM in a school, public or commercial building, must be accredited. The guidance expands upon this to communicate two implicit messages: (1) that the statutory language of ASHARA should be strictly interpreted, and (2) that terms or words not defined by the statute should be given their common or ordinary meaning. When we apply this guidance to the problem postulated in your letter, we generally conclude that what now constitutes a response action

in a school should also be regarded as a response action if taken in a public or commercial building. Conversely, what is not now a response action in a school should not be regarded as a response action in a public or commercial building, and should not require the use of accredited workers. Therefore, workers removing ACM from a public or commercial building would not have to be accredited unless they were working with friable material, or previously nonfriable material that has or will become friable. This is the interpretation which EPA has expressed through its interim guidance, and which is expected to remain in effect unless and until it may be further modified through promulgation of the revised MAP Rule.

I've tried to provide you with a succinct answer to your succinct question. Please let me know if we need to cover this in greater detail. I can be reached at (202) 260-7849. We appreciate your assistance and cooperation in implementing the new ASHARA program.

Sincerely,

A handwritten signature in dark ink, appearing to read "Philip W. King", is written over a faint, large, stylized graphic that resembles a signature or a large letter "K".

Philip W. King
Field Programs Branch (TS-798)
Chemical Management Division
Office of Pollution Prevention
and Toxics