

Cindy Fenner



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

AUG 20 1990

OFFICE OF  
PESTICIDES AND TOXIC  
SUBSTANCES

Jonathan P. Hiatt, Washington General Counsel  
Service Employees International Union, AFL-CIO  
1313 L Street, N.W.  
Washington, D.C. 20005

Dear Mr. Hiatt:

This is in response to your letter of July 5, 1990 in which you stated that the New York City Public School Board has interpreted Section 763.92 of the Asbestos Hazard Emergency Response Act (AHERA) regulations to mean that maintenance and custodial employees in the City's schools are not "members of its maintenance and custodial staff" and, therefore, the Board is not obligated to provide the 2-hour training on the hazards of asbestos to these employees.

In the telephone conversation you had with Betty Weiner of my staff on July 25 you explained that, in accordance with a long time practice, the Board delegates the hiring of maintenance and custodial staff to the operating engineer at each school. The operating engineers have been given the authority by the School Board to interview, select and employ individuals. The funds to pay wages to employees hired under this arrangement are provided for in the budget that has been adopted by the School Board. The funds allocated for wages are passed down to the operating engineers who then are given control of that part of their school's budget.

General local education agency (LEA) training responsibilities are stated in Section 763.84(b) as follows: "Ensure that all custodial and maintenance employees are properly trained as required by this Subpart E and other applicable Federal and/or State regulations (e.g., the Occupational Safety and Health Administration asbestos standard for construction, the EPA worker protection rule, or applicable State regulations)". More specifically, Section 763.92(a)(1) states "The local education agency shall ensure, prior to the implementation of the O&M provisions of the management plan, that all members of its maintenance and custodial staff (custodians, electricians, heating/air conditioning engineers, etc.) who may work in a building that contains ACBM receive awareness training of at least 2 hours..."

If the facts of this situation are as stated by SEIU, the custodial and maintenance staff employed in the schools of New York City are employees of this LEA. Under any circumstances, under AHERA the LEA is responsible for the awareness training of its employees on the custodial staff.

If you have any questions regarding this matter, please call Betty Weiner of my staff on 382-3790.

Sincerely,

*Gina Bushong*

Gina Bushong, Chief  
Abatement Programs Section  
Environmental Assistance Division

cc: Alan Carpien  
Sally Sasnett  
Cindy Fournier  
Betty Weiner  
Al Kramer, Region II



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

MAY 12 1995

OFFICE OF  
ENFORCEMENT AND  
COMPLIANCE ASSURANCE

Mr. Richard T. Kane  
Tucson Unified School District  
Risk Management and Safety Services  
Asbestos Management  
2025 East Winsett  
Tucson, AZ 85719

Dear Mr. Kane:

This is in response to your letter dated February 28, 1995, to the U.S. Environmental Protection Agency, Region IX Office pertaining to the Asbestos Hazard Emergency Response Act (AHERA) regulations. Specifically, you wanted guidance regarding the disposition of obsolete Asbestos Management Plans.

The following are your questions and our responses to them:

Question 1: When we generate a new management plan what becomes of the old Asbestos Management Plan?

Answer 1: If the new management plan contains up-to-date information from the prior approved management plan, then we recommend that the old management plan be disposed of after the new plan has been approved by the proper authorities. However, if the old management plan still contains pertinent information, such as inspection reports, not available in the new management plan, then the source must maintain both the new and old management plans.

Question 2: How long need we retain the old management plan, with its voluminous listings, such as the Inspection Report and the Response Action Report, on file?

Answer 2: 40 CFR 763.94 requires that Local Education Agencies (LEAs) collect and retain various records, which are not part of the information submitted to the Governor in the management plan, such as response actions and preventive



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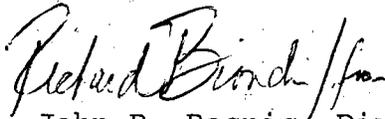
measures, fiber release episodes, periodic surveillance, and various operation and maintenance activities. The section also states that "for each homogeneous area where all asbestos containing building material (ACBM) has been removed, the LEA shall retain such records for three years after the next reinspection." We also recommend that the old management plan which has been replaced by the new updated management plan be kept for the same period of time.

Question 3: Is archiving of essential data, as we do for updates, adequate when we replace the entire Asbestos Management Plan?

Answer 3: Archiving old information and the old management plan is acceptable. However, there should be a protocol to provide and maintain quality assurance for the information archived.

This determination has been coordinated with the Office of Regulatory Enforcement and the Office of Pollution Prevention and Toxics. If you have any question about this letter, please contact Chris Oh of my staff at (202) 564-7004.

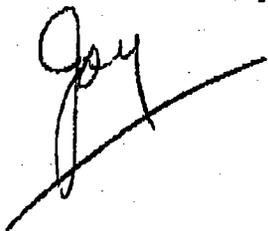
Sincerely,



John B. Rasnic, Director  
Manufacturing, Energy and Transportation Division  
Office of Compliance

cc: Cindy Fournier, TED  
Bob Jordan, OPPT  
Vincent Mancus Region IX

**TUCSON UNIFIED SCHOOL DISTRICT**  
**RISK MANAGEMENT AND SAFETY SERVICES**  
**ASBESTOS MANAGEMENT**  
 2025 East Winsett  
 Tucson, AZ 85719  
 Telephone (602) 617-7084



February 28, 1995

USEPA  
 Region IX (A-4-4)  
 ATTN.: Vincent Mancus  
 75 Hawthorne  
 San Francisco, CA 94013

The purpose of this letter is to request guidance regarding the disposition of obsolete Asbestos Management Plans. This office currently holds Asbestos Management Plans resulting from the initial inspections in 1988, and reinspections for 1991 and 1994.

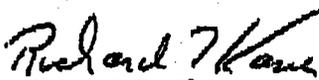
With more than one hundred twenty separate facilities, we are storing nearly four hundred Asbestos Management Plans. Physically, those plans each consist of from one one inch binder up to eight three inch binders per plan. That presents a considerable storage problem.

The data for the latest inspection or change report is in database files. When a major event, such as a re inspection occurs, in addition to any changes noted by the inspector, fundamental facts, the date of inspection and the inspector's name, are changed. Since these items occur throughout the Asbestos Management Plan, a new management plan is generated.

A related case occurs when there has been Major Activity, such as abatement during renovation. That causes significant change to the data base of sample areas and functional spaces and thus to the Asbestos Management Plan. The current practice of this office has been to retain two parts of our old plan. Those parts are the Asbestos Containing Material Inventory and the List Of Homogeneous Areas And Written Assessments. The former lists suspect ACM and the laboratory assessment for each (Yes or No) by Functional Space. The latter lists the same information by Sample Area, i.e., in what Functional Spaces does this material occur?. Those two sections, as archives, tell us everything historical that we need to know about ACM in a given facility--what, where, how much, and in what condition. They also show the Responsible Person, the Inspector and the date of inspection.

It appears that the Asbestos Management Plan is a permanent document that must be transferred to the new owner if the building is sold. The question is when we generate a new management plan what becomes of the old Asbestos Management Plan? How long need we retain the old management plan, with its voluminous listings such as the Inspection Report and the Response Action Report on file? Is the archiving of essential data, as we do for updates, adequate when we replace the entire Asbestos Management Plan?

Sincerely Yours,

  
 Richard T. Kane  
 Asbestos Records Manager

OPTIONAL FORM 89 (7-90)

**FAX TRANSMITTAL**

# of pages **1**

To	From
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GENERAL SERVICES ADMINISTRATION	