

Asbestos Frequently Asked Questions

Contents

Top 20 Questions	1
Asbestos in the Home	6
Asbestos in Vermiculite	7
Finding Asbestos	7
Asbestos in Brakes	7
Reporting a Violation	8
Asbestos in Schools: General Questions	8
Asbestos in Schools: Applicability to the Asbestos Hazard Emergency Response Act	9
Asbestos in Schools: School Personell Training	13
Asbestos in Schools: Asbestos Sampling and Testing	15
Asbestos in Schools: Inspections and Reinspections	19
Asbestos in Schools: Annual Notification Requirements	24
Asbestos in Schools: Local Education Agency Designated Persons	24
Asbestos in Schools: Recordkeeping and Asbestos Management Plans	26
Asbestos in Schools: Small-Scale Short-Duration Projects.....	27
Asbestos in Schools: Determining Friability.....	28
Asbestos in Schools: Response Actions	28
Asbestos in Schools: Operations and Maintenance.....	30
Asbestos in Schools: Labeling of Asbestos-Containing Materials	30
Asbestos Model Accreditation Plan (MAP): Applicability	31
Asbestos Model Accreditation Plan (MAP): EPA Interpretations	33
Asbestos Model Accreditation Plan (MAP): Conflict of Interest.....	38
Asbestos Model Accreditation Plan (MAP): Foreign Language Courses.....	39
Asbestos Model Accreditation Plan (MAP): Computer-Based Training.....	39
Asbestos Model Accreditation Plan (MAP): Becoming an Asbestos Model Accreditation Plan Training Provider.....	40
Asbestos Model Accreditation Plan (MAP): Training Course Certificates.....	40

TOP 20 ASBESTOS QUESTIONS

1. How do I know if I have asbestos in my home (in floor tile, ceiling tile, shingles, siding, etc.)?

The only way to be sure whether a material contains asbestos is to have it tested by a qualified laboratory. EPA only recommends testing suspect materials if they are damaged (fraying, crumbling) or if you are planning a renovation that would disturb the suspect material. Samples should be taken by a properly trained and accredited asbestos professional (inspector).

2. What are the health risks if I have asbestos in my home, building, apartment, or school?

Asbestos that is in good condition and left undisturbed is unlikely to present a health risk. The risks from asbestos occur when it is damaged or disturbed where asbestos fibers become airborne and can be inhaled. Managing asbestos in place and maintaining it in good repair is often the best approach.

3. Where can I find someone to remove the asbestos in my home?

You can perform an internet search for “asbestos contractor” and the location of your home. Contact your state to determine what state training and accreditation requirements may exist for both the contractor and their workers. EPA recommends that you use an asbestos contractor that is properly trained to handle asbestos.

4. My attic has vermiculite insulation in it. Am I at risk? Should I take it out?

If you have vermiculite insulation in your home, you should assume this material may be contaminated with asbestos and be aware of steps you can take to protect yourself and your family from exposure to asbestos. The EPA recommends that vermiculite insulation be left undisturbed. Airborne asbestos fibers present a health risk through inhalation, so the first step is to not disturb the material, which could release fibers into the air. If you disturb the insulation, you may inhale some asbestos fibers. The degree of health risk depends on how much and how often this occurred. If you choose to remove the vermiculite insulation, this work should be done by a trained and accredited asbestos abatement contractor that is separate and independent from the company that performed the assessment of the vermiculite insulation to avoid any conflict of interest.

5. I am thinking about buying a house but it has vermiculite attic insulation in it. Should I have it removed before or after I buy the house?

Removal of the vermiculite insulation may not be necessary if it is confined in a manner where it will be left undisturbed. If you choose to have the vermiculite insulation removed, the EPA recommends that you use a trained and accredited asbestos contractor that is separate and independent from the company that performed the assessment of the vermiculite insulation to avoid any conflict of interest.

6. I use/used vermiculite to enhance my potting soil. Should I be concerned?

EPA's investigation ([see report](#)) into these products indicates that consumers face only a minimal health risk from using vermiculite products at home or in their gardens.

To further reduce the risk associated with the occasional use of vermiculite products during gardening activities, EPA recommends that consumers:

- Use vermiculite outdoors or in a well-ventilated area.
- Avoid creating dust by keeping vermiculite damp during use.
- Avoid bringing dust into the home on clothing.

Although EPA does not endorse the use of any particular product, consumers may choose to use:

- Premixed potting soils, which ordinarily contain more moisture and less vermiculite than pure vermiculite products and are less likely to generate dust.
- Soil amendment materials other than vermiculite, such as peat, sawdust, perlite, or bark.

7. How do I get certified as an asbestos professional?

To become a properly trained and accredited asbestos professional you will need to seek training from a training provider that offers courses approved by the EPA or a state to conduct asbestos training pursuant to the Asbestos Model Accreditation Plan. Most states also require a license to perform this work. Your training course completion certificate is a general prerequisite to applying for such a license. The training courses vary in length from 2 to 5 days depending upon the type of work you wish to perform. Accredited asbestos training courses are offered in five separate disciplines; Asbestos Abatement Worker, Asbestos Abatement Supervisor, Inspector, Management Planner and Project Designer. Some states may refer to these training disciplines by different, yet similar names.

8. Where can I find someone to test a material to see if it contains asbestos?

You can perform an internet search for “asbestos inspection and assessment” and the location of your home. Also, make sure that the inspector is properly trained and accredited by your state.

9. I'm remodeling my home. Do I need to be concerned about asbestos in the building materials?

It's not possible for you to tell whether a material in your home contains asbestos simply by looking at it. If you suspect a material within your home might contain asbestos (for example floor tile, ceiling tile or old pipe wrap) and the material is damaged (fraying or falling apart) or if you are planning on performing a renovation that would disturb the material, the EPA recommends that you have it sampled by a properly trained and accredited asbestos professional (inspector). The professional then should use a qualified laboratory to perform the asbestos analysis. Also, you may

learn more about whether the replacement materials you intend to install might possibly contain asbestos by reading the product labels, calling the manufacturer, or by asking if your retailer can provide you with the Material Safety Data Sheet (MSDS) for the product(s) in question.

10. Since asbestos was banned, do I need to be worried about products on the market today containing asbestos?

On July 12, 1989, the EPA issued a final rule under Section 6 of the Toxic Substances Control Act (TSCA) banning most asbestos-containing products in the United States. In 1991, the rule was vacated and remanded by the Fifth Circuit Court of Appeals. As a result, most of the original ban on the manufacture, importation, processing, or distribution in commerce for most of the asbestos-containing product categories originally covered in the 1989 final rule was overturned. Only the bans on corrugated paper, rollboard, commercial paper, specialty paper, and flooring felt and any new uses of asbestos remained banned under the 1989 rule. Although most asbestos containing products can still legally be manufactured, imported, processed and distributed in the U.S., according to the U.S. Geological Survey, the production and use of asbestos has declined significantly.

11. Is there still asbestos in automobile brakes?

It is possible that some aftermarket brakes, especially imported brakes, may still contain asbestos.

12. How do I find out if my child's school has asbestos in it?

The Asbestos-Containing Materials in Schools Rule, pursuant to the Asbestos Hazard Emergency Response Act (AHERA) requires schools to make their asbestos management plans available to the public, including parents, within 5 working days of the request. The asbestos management plan should discuss the location and type of asbestos-containing materials and any preventive measures or response actions taken in your child's school. You can also contact the school's AHERA Designated Person directly for more information, or if you have specific questions about asbestos in your child's school. The AHERA Designated Person's name and contact information appears in the management plan.

13. Was my school required to be inspected for asbestos?

Yes, unless the building architect or project engineer responsible for the construction of the school building certified in writing that no asbestos materials were used in the building's construction. Otherwise, all public and non-profit private primary and secondary schools need to be inspected for asbestos. The results of the inspections and all re-inspections, required every three years, are contained within the schools asbestos management plan. A complete and up-to-date copy of the asbestos management plan is required to be housed in the school's administrative office.

14. My child's school has asbestos in it. Why aren't they taking it out?

Local education agencies (e.g., school districts) are required under the asbestos-containing materials in schools rule, pursuant to the Asbestos Hazard Emergency Response Act (AHERA) to inspect for and manage asbestos containing materials properly through the development and implementation of an asbestos management plan. The local education agency can safely and effectively "manage in place" asbestos-containing materials that are in good condition. The risk from asbestos is when it is damaged and/or disturbed and asbestos fibers become airborne where they can be inhaled. If the local education agency does perform a "response action" or an asbestos abatement, they must use properly trained and accredited asbestos professionals to do this work. Local education agencies are required to undertake timely and appropriate maintenance or response actions whenever asbestos-containing materials become friable.

15. Is the school district required to do anything about asbestos in its school buildings?

Yes. The Asbestos Hazard Emergency Response Act (AHERA) was passed by Congress in 1986. AHERA requires public school districts and non-profit private schools to inspect their schools for asbestos-containing building material and prepare management plans which recommend the best way to reduce the hazard from any asbestos-containing materials that may be present. Options include repairing damaged asbestos-containing material (such as spraying it with sealants, enclosing it) or removing it. The plans must be developed by accredited management planners and submitted to the State. The school authority must notify parent, teacher and employee organizations of the plans, and then the plans must be implemented. The school district must also perform periodic surveillance of asbestos-containing material every 6 months in its schools. AHERA also requires accreditation of abatement project designers, abatement workers, supervisors, and building inspectors.

16. What is an asbestos management plan?

An asbestos management plan is required to provide documentation of the recommended asbestos response actions, the location of asbestos within the school, and any action taken to repair or remove the material. The school authority must maintain records to be included in the Asbestos Management Plan. These records include among other things:

- List of the name and address of each school building and whether the building has asbestos containing building material, and the type of asbestos-containing material.
- Date of the original and each subsequent school re-inspection.
- The plan for re-inspections, and operation and maintenance.
- A blueprint that clearly identifies the location and condition of all asbestos-containing building material that remains in the school.
- A description of any response action or preventive measures taken to eliminate or control asbestos exposure.
- A copy of the analysis of any building material, and the name and address of any laboratory that sampled the material.

- The name, address, and telephone number of the “designated person” to ensure the duties of the local education agency (LEA) are carried out.
- A description of steps taken to inform workers, teachers, and students or their legal guardians about inspections, re-inspections, response actions, and periodic surveillance.

17. Does this management plan have to be updated periodically?

Yes. The asbestos management plan must be updated with information collected during periodic surveillance every 6 months, re-inspections every 3 years, and every time a response action is taken within the school. Also, records of annual notifications to parents, teachers, and staff concerning the availability of the school’s asbestos management plan must be included within the asbestos management plan files.

18. Does my school district know where the asbestos in its school buildings is located?

They are required to know and to describe where the material is located in the asbestos management plan, and also to monitor and record any change in its condition that might pose a potential safety risk.

19. How can we have the air tested in my school?

AHERA only requires air testing following an asbestos response action (e.g., asbestos repair or removal activity) to determine whether the activity has been properly completed. This is done by measuring the amount of asbestos in the air where the asbestos response action took place, and is referred to as "clearance." However, the local education agency, e.g., the school district, may hire a qualified consultant to test its air at any time, as may be needed or appropriate.

20. Is it dangerous to have asbestos containing material in my school?

Not necessarily. Undamaged asbestos that is properly managed in place poses little health risk to students, teachers and other school occupants. However, it is important that the proper school designated authorities regularly inspect the condition of asbestos-containing materials to ensure they remain intact. Asbestos can pose a health hazard when it is disturbed and asbestos fibers become airborne where they can be inhaled. Undamaged non-friable asbestos is best left undisturbed and managed in place. If done improperly, removing asbestos has the potential to create a greater health risk than leaving it undisturbed.

ASBESTOS IN THE HOME

1. Does a home seller have to disclose to a potential buyer that a home contains asbestos? What about vermiculite?

Federal law does not require the seller to disclose to a buyer that their home contains asbestos or vermiculite. State or local requirements may require disclosure. Contact your state about such requirements.

2. Does the EPA have money available for homeowners to pay for asbestos testing or asbestos removal?

The EPA does not have funding available to homeowners for asbestos testing or removal.

3. My neighbor is re-siding and re-roofing his house and there is material all over the ground. Do I need to be worried about asbestos exposure?

Not all house siding or roofing materials contain asbestos. If you are concerned the material might contain asbestos, you can ask your neighbor whether or not the material has been tested for asbestos. Federal regulations regarding renovations or demolitions of asbestos-containing materials do not apply to a homeowner's renovation of their home. State or local regulations may be applicable if the siding or roofing materials do contain asbestos. Contact your state regulatory agency or local government building department about such requirements.

4. I found out the cement water pipes leading to my house (business) contain asbestos. What should I do?

If the pipes are damaged they should be properly repaired or replaced by your water utility. For more information on asbestos in drinking water visit:

<http://water.epa.gov/drink/contaminants/basicinformation/asbestos.cfm>

ASBESTOS IN VERMICULITE

5. Can I take vermiculite insulation out myself?

Federal asbestos regulations do not apply to work that you perform in your own home, but the EPA strongly recommends that you not attempt to remove vermiculite insulation yourself. Instead, the EPA strongly recommends that you hire a properly accredited asbestos contractor if you need to have vermiculite insulation removed from your home.

FINDING ASBESTOS

6. Does dry wall or sheet rock contain asbestos?

There is no way to know whether these materials contain asbestos without having them tested. If you are concerned those materials in your home may contain asbestos and the materials are damaged (frayed, falling apart) or if you are performing a renovation that will disturb the material, consult with a state accredited asbestos assessment/inspection firm.

ASBESTOS IN BRAKES.

7. I have changed my brakes in the past, should I be worried about asbestos exposure?

Because some, but not all, automotive brakes and clutches available or in use today may contain asbestos, professional automotive technicians and home mechanics who repair and replace brakes and clutches can potentially be exposed to asbestos dust. Brake and clutch dust can be seen when a

brake disk, drum, clutch cover, or the wheel is removed from a car, truck, or other equipment. There are also many small dust particles that cannot be seen with the eye. If the brakes contain asbestos, the dust may contain asbestos fibers, which could be inhaled. The greater the exposure is to asbestos, the greater the chance of developing harmful health effects. Disease symptoms may take many years to develop following exposure. If you are concerned about possible exposure, consult a physician who specializes in lung diseases (pulmonologist). For more information visit:

<http://www.epa.gov/asbestos/pubs/brakesbrochure.html>

REPORTING A VIOLATION

8. How can I report a suspected asbestos violation?

You may submit a tip through an online form on the EPA website at: <http://www.epa.gov/tips/>

ASBESTOS IN SCHOOLS:

General Questions

9. I thought asbestos was banned and then removed from schools years ago?

Asbestos-containing materials, with few exceptions, are not currently banned in the United States and are still “managed-in-place” in schools. Under requirements set forth by the Asbestos Hazard Emergency Response Act (AHERA) these asbestos-containing materials in schools must be managed in an undamaged and non-friable condition

10. I found out that my child’s school has asbestos in it. Is there a risk to him (her)?

If done properly, asbestos-containing material that is in good condition can be safely managed in place. Local education agencies (e.g. , school districts) are required under the asbestos-containing materials in schools rule, pursuant to the Asbestos Hazard Emergency Response Act (AHERA), to inspect for and manage asbestos containing materials properly. Asbestos may be a risk when it is damaged and/ or disturbed and asbestos fibers become airborne and can be inhaled.

11. Are schools supposed to notify parents if their child attends a school that has asbestos in it?

Yes. The asbestos-containing materials in schools rule, pursuant to the Asbestos Hazard Emergency Response Act (AHERA), requires local education agencies (e.g. ,school districts) to notify building workers (including teachers) and parents annually regarding asbestos-related activities such as asbestos inspections, and response actions (abatement). The local education agency must also annually notify parent, teacher and employee organizations regarding the availability of their schools’ asbestos management plans.

12. If my children have been in a building with asbestos, do they need to see a physician? If I taught in a building with asbestos, do I need to see a physician?

Not necessarily. Asbestos does not pose a health risk if it is managed properly. However, if you feel you may have been exposed to asbestos fibers in the air, you should consult with a physician that specializes in lung disorders or occupational exposures.

13. Who is responsible for overseeing the management of asbestos in a school building?

The school district/local education agency must nominate a “designated person” to perform and delegate, if necessary, the management of asbestos in a school building. This person is also a resource for the entire school community who can answer specific questions and address specific concerns about the presence or management of asbestos in that particular school.

14. I have seen the janitor machine-cleaning the floor tile in our school. Should I be worried that these machines will degrade the tiles and create a hazard?

Machine-cleaning of floor tile can be part of a good maintenance program for asbestos-containing floor tiles, as long as the machine is operated properly and the tiles are not in poor condition. EPA has issued special guidance on the proper maintenance of asbestos-containing floor tiles, and the guidance is available from the TSCA Hotline at (202) 554-1404. Undamaged, well maintained floor tiles present little risk to students, teachers, and school staff.

15. Who is responsible for overseeing the asbestos-in-schools regulations?

EPA is the primary governmental agency responsible for enforcing the regulations promulgated under AHERA. However, if your State has been issued a "waiver" (or delegation of program authority), the State agency then becomes responsible for enforcing these requirements. The states that currently have waiver programs are: Connecticut, Colorado, Louisiana, Massachusetts, Maine, Oklahoma, Rhode Island, Texas, Utah, Illinois, Kentucky, and New Hampshire.

Applicability to the Asbestos Hazard Emergency Response Act

16. Q: Are churches that have Sunday school classes, daycare centers, or kindergartens regulated under the Asbestos Emergency Response Act (AHERA)?

A: The Asbestos Hazard Emergency Response Act (AHERA) applies to public and private non-profit elementary and secondary schools. The term ‘non-profit elementary or secondary school’ means any elementary or secondary school as defined in section 198 of the Elementary and Secondary Education Act of 1965. Under this Act, the terms elementary and secondary schools refer to day or residential schools which provide elementary or secondary education determined under state law. Sunday school classes and daycare accommodations would not be subject to AHERA. However, kindergarten classes conducted in a church may be covered under the Act. Whether or not kindergarten classes conducted in a particular church are subject to AHERA would depend on the stipulations of the state education law in the state in which the church is located. If state law defines elementary

and secondary education as K through 12, then that part of the church where kindergarten classes are conducted would be subject to AHERA because the classroom would be included under AHERA's definition of "school building."

17. Q: Do the Asbestos Hazard Emergency Response Act (AHERA) requirements in 40 CFR part 763 mandating routine facility inspections and management plan development apply to for-profit private schools as they apply in public K-12 schools?

A: AHERA requirements for facility inspections and management plan development do not apply to for-profit private schools, but they do apply to non-profit private K-12 schools. This exemption for private for-profit schools was directly mandated in the enabling legislation (the AHERA statute).

18. Q: Is a nursery/daycare center subject to the Asbestos Hazard Emergency Response Act (AHERA)?

A: Generally no. Nursery/daycare centers are generally not subject to AHERA because they generally do not fall within the definition of "school" under AHERA or the asbestos in schools rule. However, if a nursery/daycare center did fall within the definition of "school" (based on how a school is defined under state law), then all parts of the facility that would be considered a school building under 40 CFR part 763.83 would be covered.

19. Q: If a private school has a daycare area, is the daycare area excluded from the rule and/or the whole educational facility?

A: If the private school is non-profit, then all parts of the facility that would be considered a school building under 40 CFR part 763.83 would be covered. Conversely, if the private school is a for-profit institution, neither the school nor the daycare center would be subject to the regulation.

20. Q: Are vocational schools covered under the Asbestos Hazard Emergency Response Act (AHERA)?

A: Vocational schools that provide elementary or secondary education under state law are covered as schools under AHERA.

21. Q: Are private for-profit schools included under the Asbestos Hazard Emergency Response Act (AHERA)?

A: No. Private for-profit schools are not covered under AHERA. This is a statutory exemption.

22. Q: Does the Asbestos Hazard Emergency Response Act (AHERA) apply to schools on military bases?

A: Yes. AHERA applies to all public and private non-profit elementary and secondary schools, which includes schools on military bases.

23. Q: Are state-run schools (e.g. prison schools, schools for students with disabilities, etc...) covered by the Asbestos Hazard Emergency Response Act (AHERA)?

A: The definition of “school” under AHERA covers any elementary or secondary school as defined by state law. Thus, reference to state law would determine whether a state-run school is covered as an elementary or secondary school and therefore covered by AHERA. However, state for-profit private schools are expressly exempted under AHERA and therefore not covered.

24. Q: Several public high school students take advanced placement classes with college freshmen at the State University. Does a classroom or building that these students frequent have to be inspected?

A: No. The Asbestos Hazard Emergency Response Act (AHERA) § 203 refers to school buildings under the authority of a local education agency (LEA). State university classrooms are not under an LEA’s authority, and therefore are not covered.

25. Q: Are the school district’s administrative offices (such as the Board of Education or the Superintendent’s Office) covered by the Asbestos Hazard Emergency Response Act (AHERA), even if students never attend classes in these buildings?

A: Yes. Among the structures covered in the definition of “school building” in AHERA (section 202) and in the asbestos in schools rule (40 CFR part 763.83) are “... any other facility used for the instruction or housing of students or for the administration of education or research programs.”

26. Q: Are the school system’s maintenance or storage facilities (e.g., bus garage or warehouse) covered by the asbestos in schools rule?

A: In general, the answer is yes. Section 202 of the Asbestos Hazard Emergency Response Act (AHERA) defines “school building” to include “... any maintenance, storage, or utility facility, including any hallway, essential to the operation of any facility described” in the statute’s definition of “school building.” Some of the facilities specifically mentioned in the definition of school building include classrooms, libraries, gymnasiums, and administrative offices. For purposes of the rule, the facility is deemed essential if the local education agency (LEA) uses the facility. If an LEA facility of this type is vacant (i.e., empty storage facilities, empty warehouses, etc.), it is not deemed essential, and therefore is exempt.

Once the LEA begins to use these facilities, however, they become essential and must be addressed as required by the rule.

27. Q: A school uses a single room in a non-school building on a regular basis as a classroom for elementary and secondary education purposes during regular school hours. Is the room covered by the Asbestos Hazard Emergency Response Act (AHERA) asbestos in schools rule? Is the entire building also covered?

A: The single room used by the school on a regular basis as a classroom is covered by the AHERA asbestos in schools rule (40 CFR part 763, subpart E), in addition to the hallways and bathrooms used by the school children. However, the rest of the building is not covered.

28. Q: A school building includes a “covered exterior hallway or walkway.” Is this covered exterior hallway or walkway covered by the asbestos in schools rule? If so, does this include both the underside and roof of these areas?

A: Yes. Under 40 CFR part 763.83 of the asbestos in schools rule, “school building” is defined to include “[a]ny portico or covered exterior hallway or walkway,” so the covered exterior hallway or walkway is covered. However, only the underside of the hallway or walkway is included, the roof is not.

29. Q: Are churches or sanctuaries that are under the local education agency’s (LEA’s) authority, which are attended by students for religious worship purposes during normal school hours, required to be inspected?

A: If the church is not used for school instruction (e.g., math, spelling, etc.) purposes, no. However, when the church is under the authority of an local education agency (LEA) and is used for school instruction it must be inspected and included in the management plan. (Asbestos Hazard Emergency Response Act (AHERA) section 202(13); 40 CFR part 763.83)

30. Q: If a building is on the premises of a local education agency (LEA) property and under the authority of the LEA, but is being used only as a private residence, is it subject to the Asbestos Hazard Emergency Response Act (AHERA)?

A: If the residence does not perform any of the functions listed or fall under any of the descriptions given in the definition of a “school building” in AHERA section 202(13) and the asbestos in schools rule (40 CFR part 763.83), then it is not subject to AHERA.

31. Q: A public school district leases space from a non-school group (e.g., corporation, YMCA, etc.) to use as a “school building.” Who is responsible, the school or the landlord, for complying with the asbestos in schools rule?

A: The local education agency (LEA) is responsible for complying with the rule. Under the Asbestos Hazard Emergency Response Act (AHERA) section 202(7), the following are LEAs:

“the public authority legally constituted within a state that governs or controls a public elementary or secondary school; the owner of any private, nonprofit elementary or secondary school building; and the governing authority of any school operated pursuant to the Defense Dependents’ Education Act.” If the school leasing space in a non-school building is a public elementary or secondary school, which includes public elementary or secondary charter schools, or a school operated under the Defense Dependents’ Education Act, then the governing authority of the school leasing the space is the LEA and is responsible for complying with AHERA. (AHERA section 202(7)(A) and (C)). If the school leasing the space in a non-school building is a private, non-profit elementary or secondary school, the owner of the leased space, not the school, is the LEA and is responsible for AHERA compliance. (AHERA section 202(7)(B)).

32. Q: Do the Asbestos Hazard Emergency Response Act (AHERA) requirements apply to charter schools that provide online elementary and secondary education through “learning centers” and/or directly in the home?

A: If the charter school providing online education is considered an elementary or secondary school under relevant state law and the facility where such online education is located qualifies as a “school building” under AHERA, then that same charter school’s learning center would also be covered by the AHERA requirements. Since private homes are not school buildings or facilities under AHERA, they would not be covered by the AHERA requirements.

School Personnel Training

33. Q: A local education agency (LEA) plans to contract all asbestos-related work (including minor repairs) to outside contractors. The LEA has provided 2-hour awareness training to all of their custodial and maintenance staff, but has not provided the 14-hour training. The LEA would like to have its custodial staff remove loose nonfriable vinyl floor tiles for disposal from the building after the accredited asbestos contractor has performed the removal work. Under the Asbestos Hazard Emergency Response Act (AHERA) does picking up nonfriable floor tiles for the purposes of disposal constitute “disturbance” of asbestos-containing building material (ACBM) and therefore would require the 14-hour training?

A: Yes. Custodial and maintenance staff who conduct any activity that results in the disturbance of ACBM must receive the 14-hour training in addition to the 2-hour awareness training. (40 CFR part 763.92(a)(2)). Only custodial or maintenance staff that have had 16 total hours of training can pick-up and dispose of unattached floor tiles. Note that if the material is friable and left over from a response action, then only asbestos model accreditation plan (MAP)-accredited personnel may perform the work. However, if the

removal of the material is required in the performance of an emergency or routine maintenance activity, not intended solely as asbestos abatement, then operations and maintenance personnel may remove small amounts of friable asbestos-containing material (ACM). The LEA must ensure that any disposal of asbestos is in accordance with Appendix D of 40 CFR part 763, subpart E or the applicable National Emission Standards for Hazardous Air Pollutants (NESHAP) disposal requirements under 40 CFR part 61.

34. Q: What are the qualifications or exact training needed by an individual who conducts the 2-hour asbestos awareness training and the 14-hour additional training for the maintenance and/or custodial employees under the asbestos in schools rule pursuant to the Asbestos Hazard Emergency Response Act (AHERA)?

A: The asbestos in schools rule (40 CFR part 763, subpart E) does not require specific qualifications for instructors who perform O&M training. EPA recommends, however, that local education agencies (LEAs) select instructors with a professional or educational background in the asbestos field.

35. Q: 40 CFR part 763.92(a)(1) and (2) of the asbestos in schools rule pursuant to the Asbestos Hazard Emergency Response Act (AHERA) refer to 2-hour training and 14-hour training. If a local education agency's (LEA's) workers have not taken the 3-day course to become "accredited" abatement workers, and the LEA decides to have workers receive the 2-hour and 14-hour training, where should the workers go for the abbreviated training? How is this training documented?

A: EPA anticipates that LEAs will use a variety of resources to train custodial staff. Private consultants, LEA staff, local colleges and labor groups are potential sources of instructors for O&M training. 40 CFR part 763.94(c) of the asbestos in schools rule requires LEAs to keep specific information for each person required to be trained, including the location of the training and the number of hours of training.

36. Q: How often must school custodial staff complete the 2-hour or 14-hour asbestos awareness training under the Asbestos Hazard Emergency Response Act (AHERA)?

A: 40 CFR part 763.92(a) requires local education agencies (LEAs) to train custodians and maintenance workers "within 60 days after commencement of employment." Although the asbestos in schools rule does not require refresher training for custodial staff and maintenance workers, the Occupational Safety and Health Administration (OSHA) construction standard regulations (29 CFR 1926.1101(k)(9)(ii)) and OSHA regulations for most other occupational exposures (29 CFR 1910.1001(j)(7)(ii)) contain a requirement for annual refresher training. The EPA Asbestos Worker Protection Rule (40 CFR part 763.122) applies these OSHA regulations to state and local government employers who are not otherwise regulated by OSHA's asbestos standards.

Asbestos Sampling and Testing

37. Q: How many samples do you have to take for friable miscellaneous material under the Asbestos Hazard Emergency Response Act (AHERA)??

A: 40 CFR part 763.86(c) says that “an accredited inspector shall collect bulk samples [plural] from each homogeneous area of friable miscellaneous material that is not assumed to be asbestos containing material.” Therefore, at least two samples must be taken.

38. Q: If friable asbestos-containing material (ACM) is accidentally left behind after an abatement project had passed air clearance by transmission electron microscopy (TEM) analysis, do I need to re-test the air under the Asbestos Hazard Emergency Response Act (AHERA)??

A: Yes. Both the visual inspection and the abatement were not properly completed under 40 CFR part 763.90(i)(1). The loose debris should be removed and the area thoroughly re-cleaned. Air monitoring should be repeated using TEM analysis for the functional space where the original abatement occurred. (40 CFR part 763.90(f) and (i))

39. Q: Under the Asbestos Hazard Emergency Response Act (AHERA), how many samples do you have to take for non-friable suspected asbestos-containing building material?

A: 40 CFR part 763.86(d) says that “...an accredited inspector shall collect, in a manner sufficient to determine whether the material is asbestos-containing material or not asbestos-containing material, bulk samples [plural] from each homogeneous area of non-friable suspected asbestos-containing building material that is not assumed to be asbestos-containing material.” Therefore, at least two samples must be taken.

40. Q: Is floor tile considered asbestos containing material (ACM) under the Asbestos Hazard Emergency Response Act (AHERA), if there are contradictory results after analysis of the material through polarized-light microscopy (PLM) and transmission electron microscopy (TEM)?

A: For its inspection and assessment purposes, the local education agency (LEA) must first rely upon the results analyzed using the 1992 Interim PLM Method found at Appendix A to Subpart E in 40 CFR part 763, unless, it chooses to alternatively rely upon the improved “Test Method for the Determination of Asbestos in Bulk Building Materials (EPA/600/R-93/116, July 1993)” which employs TEM analysis. The Environmental Protection Agency (EPA) recommends use of the updated method of TEM analysis to determine whether or not floor tiles are ACM. TEM analysis is able to yield more precise analytical results, especially at low asbestos concentrations, and helps to rule-out false negatives when performing analysis on floor tile. If either TEM or PLM analysis yields a result that the

material contains greater than 1 percent asbestos, then the material must be considered ACM.

41. Q: If vermiculite insulation bulk samples analyzed by standard polarized-light microscopy (PLM) analysis is found to be negative for asbestos, can schools treat the vermiculite as a non-asbestos containing material under the Asbestos Hazard Emergency Response Act (AHERA)?

A: Vermiculite insulation containing less than 1 percent asbestos does not qualify as asbestos containing material (ACM) under AHERA and the asbestos in schools rule. If standard PLM analysis, ensuring that bulk samples comply with sampling requirements as laid out in 40 CFR part 763.86 and that subsequent analysis of such samples complies with analysis requirements set forth in 40 CFR part 763.87, concludes that a material contains less than 1 percent asbestos, then it is not ACM. As the Environmental Protection Agency (EPA) has recommended in its guidance to homeowners the school may wish to treat the vermiculite insulation as containing asbestos before taking any actions that might disturb it.

42. Q: Under the Asbestos Hazard Emergency Response Act (AHERA), when acquiring samples of multi-layered material such as wallboard, do you sample both the wallboard and the joint compound as separate materials or can you take a weighted average of both to arrive at a final reportable number?

A: As stated in the January 5, 1994 Asbestos Sampling Bulletin clarification, joint compound and wallboard form a “wall system,” and the Environmental Protection Agency (EPA) therefore recommends the use of a composite analysis for this material. See 59 FR 542; see also 60 FR 65243 (1995). For joint compound (not skim coat), EPA recommends that an accredited inspector take a weighted average of the different wall system components to arrive at the final reportable number.

43. Q: How many samples of miscellaneous material or nonfriable suspected material must be taken to determine if the material is asbestos-containing material (ACM) under the Asbestos Hazard Emergency Response Act (AHERA)?

A: For miscellaneous material, 40 CFR part 763.86(c) states that “in a manner sufficient to determine whether material is asbestos-containing material (ACM) or not ACM, an accredited inspector shall collect bulk samples from each homogeneous area of friable miscellaneous material that is not assumed to be ACM.” Although a specific number of samples are not mentioned, at least two samples from each homogeneous area of miscellaneous material must be taken due to the plural use of the word “samples.” An accredited inspector may determine that more than two samples are necessary to determine whether or not the material is ACM. In regards to nonfriable suspected material, 40 CFR part 763.86(d) also uses the plural word “samples” and therefore also requires a

minimum of two samples. An accredited inspector can use his or her discretion to take more than two samples.

44. Q: Under the Asbestos Hazard Emergency Response Act (AHERA), can a building inspector use his/her own lab to analyze the bulk samples or air samples taken?

A: Yes, but only if the lab is currently accredited by the National Voluntary Laboratory Accreditation Program (NVLAP) operated by the National Institute of Standards and Technology (NIST), formerly known as the National Bureau of Standards. (40 CFR part 763.87(a) and 40 CFR part 763.90 (i)(2)(ii))

45. Q: I work for a commercial lab and have questions on how to report the results of asbestos analysis for a local education agency (LEA). Who should I talk to?

A: You can contact the National Institute of Standards and Technology's (NIST's) National Voluntary Lab Accreditation Program (NVLAP) at (301) 975-4016 or at NVLAP@nist.gov.

46. Q: Please define the term "nonfriable suspected ACBM." Also, what does the term "manner sufficient to determine" mean with respect to sampling such material under the Asbestos Hazard Emergency Response Act (AHERA)?

A: Nonfriable suspected asbestos-containing building material (ACBM) means suspected surfacing asbestos-containing material (ACM), thermal system insulation ACM, or miscellaneous ACM that is found in or on the interior structural members or other parts of a school building and that when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure. (40 CFR part 763.83) An example of nonfriable suspected ACBM could be wallboard or floor tile.

The phrase "in a manner sufficient to determine" means the accredited inspector must take an appropriate number of bulk samples (plural) of such material that permits a determination of whether the material is or is not ACM. (40 CFR part 763.86(b)(3), (c), (d)) For example, a number of training courses recommend that an inspector take the same number of samples for materials like floor and ceiling tiles as the inspector would for surfacing material.

47. Q: Please clarify the use of the term "homogeneous area," under the Asbestos Hazard Emergency Response Act (AHERA), which has a regulatory definition of being uniform in color or texture, when applied 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: A certain number of bulk samples (based on the size of the area) are required for each homogeneous area as described at 40 CFR part 763.86(a). The accredited inspector must make a judgment on whether pipe lagging is indeed uniform in color and texture, and

therefore a homogeneous area. If the suspect material looks darker due to water damage, 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. This non-homogeneous area would require separate bulk samples. (40 CFR part 763.86(a))

48. Q: With respect to transmission electron microscopy (TEM), what does the term “contiguous portions” mean under the Asbestos Hazard Emergency Response Act (AHERA)?

A: Contiguous portions means areas directly adjacent to one another that are part of the same functional space. The intent of 40 CFR part 763.90(i)(6) is to prevent an LEA from artificially dividing up a large project so as to avoid the TEM requirement. For example, a local education agency (LEA) that has a 3,300 square foot gymnasium cannot artificially divide the gym into separate areas, and then conduct separate abatement in each area, These areas are obviously contiguous, thus TEM is required. However, an abatement job in wing A of a building and an abatement job in a separate, non-contiguous wing are not contiguous portions of material.

49. Q: Are there criteria under the Asbestos Hazard Emergency Response Act (AHERA) for doing aggressive asbestos air monitoring?

A: Yes. Unit III.B.7.d. of Appendix A to 40 CFR part 763, subpart E provides criteria for aggressive air monitoring.

50. Q: If phase contrast microscopy (PCM) is being used for clearance, does the sampling volume table in the mandatory transmission electro microscopy (TEM) method have to be followed to determine the sampling volume for the PCM samples under the Asbestos Hazard Emergency Response Act (AHERA)?

A: No. The table is required only for samples which will be analyzed by TEM (40 CFR part 763, Appendix A, Unit II.B., Table 1). The table was set up to maintain an analytical sensitivity of 0.005 fibers per cubic centimeter (f/cm^3) for the TEM analysis. The table does not apply to the PCM analysis.

51. Q: Under the Asbestos Hazard Emergency Response Act (AHERA), how does one determine the amount of air to sample for the phase contrast microscopy (PCM) analysis to maintain a limit of quantification of 0.01 f/cm^3 ?

A: Follow the procedure in the Environmental Protection Agency (EPA) Silver Book, or “Measuring Airborne Asbestos Following an Abatement Action (EPA-600/4-85-049)” specifically outlined in Chapter 4, page 5. The volume required to reliably quantify fibers down to 0.01 f/cm^3 may be calculated using the first formula on this page. Note that for the

National Institute for Occupational Safety and Health (NIOSH) 7400, the minimum fiber loading is specified. Also, alert labs that the area of viewing for a field will vary between microscopes and that they must determine this value from their microscopes. You can obtain a copy of the EPA Silver Book by calling the TSCA Hotline at 202-554-1404.

52. Q: Under the Asbestos Hazard Emergency Response Act (AHERA), can someone collect more than five samples inside the asbestos abatement site and pick the best of the results for the clearance test?

A: No. An equal number of samples must be taken inside and outside the asbestos abatement site for clearance. The minimum number is five inside and five outside (40 CFR part 763.90(i)(3)). The asbestos in schools rule does not prohibit the collection of more than five samples inside and an equal number outside; however, all of the samples must be averaged (40 CFR part 763.90(i)(3)).

53. Q: Under the Asbestos Hazard Emergency Response Act (AHERA), are five transmission electron microscopy (TEM) outside clearance air samples required, i.e., do they have to be collected with the five inside and the two blanks if the five inside samples and two field blanks are below 70 structures/millimeter squared (mm²)?

A: The five outdoor samples must be collected in addition to the five indoor samples, the two field blanks, and the one sealed blank for a total of thirteen air samples. (40 CFR part 763.90(i)(3)) If the five inside samples are below 70 structures/mm² and the volume of air used for the samples is equal to or greater than 1,199 L of air for a 25 mm filter, or greater than or equal to 2,799 L of air for a 37 mm filter, then according to 40 CFR part 763.90(i)(4), regardless of the statistical comparison between the indoor and outdoor samples, the response action is considered complete.

Inspections and Reinspections

54. Q: How soon must a local education agency (LEA) inspect a school leased or acquired after October 12, 1988 that is to be used as a school building?

A: An LEA must inspect such a building anytime prior to its use as a school building. In the event that emergency use of an uninspected school building is necessitated such buildings shall be inspected 30 days after commencement of such use. (40 CFR part 763.85(a)(2))

55. Q: Are local education agencies relieved of the requirement of reinspections once every 3 years for schools which are asbestos-free, either because they were constructed without asbestos-containing building material (ACBM) or because all ACBM has been removed?

A: Yes, because the reinspection requirements at 40 CFR section 763.85(b) apply only to schools which contain known or assumed ACBM.

56. Q: If the architect or project engineer responsible for the construction of a school building built after October 12, 1988 provides a statement indicating there is no asbestos-containing material in the school, does the local education agency (LEA) still have to perform an original inspection of this school building prior to its occupancy?

A: 40 CFR part 763.99(a) and (a)(7) of the asbestos in schools rule provides that an LEA “shall not be required to perform an inspection under § 763.85(a) in any sampling area . . . or homogeneous area of a school building where: . . . (7) An architect or project engineer responsible for the construction of a new school building built after October 12, 1988, or an accredited inspector signs a statement that no asbestos-containing building material (ACBM) was specified as a building material in any construction document for the building, or, to the best of his or her knowledge, no ACBM was used as a building material in the building.”

57. Q: Can an architect or project engineer responsible for the construction of a school built before October 12, 1988 submit a signed statement that no asbestos was used in the building in order for a local education agency (LEA) to avoid performing an inspection?

A: No. Pursuant to 40 CFR part 763.99(a)(7), this exclusion from an inspection is only available for schools built after October 12, 1988. A valid exclusionary statement for a school building constructed prior to October 12, 1988 can only be prepared and submitted by a trained and accredited asbestos inspector (40 CFR part 763.99(a)(3), (b) or (a)(6)).

58. Q: During an inspection, can a local education agency (LEA) just assume that some or all homogeneous areas of friable and nonfriable suspected ACBM are ACM rather than take samples?

A: Yes. 40 CFR part 763.85(a)(4)(iv) explicitly permits homogeneous areas of friable and non-friable suspected asbestos-containing building material (ACBM) to be assumed to be asbestos-containing material (ACM). (See also 40 CFR part 763.86(a), (b), (c), and (d)).

59. Q: What should a school do if it finds thermal system insulation (TSI) in a ceiling space, pursuant to the Asbestos Hazard Emergency Response Act (AHERA)?

A: If the space in which the TSI is discovered has never been inspected in accordance with the Asbestos Hazard Emergency Response Act (AHERA) inspection requirements, then such an inspection must be undertaken and should focus on all such previously unexpected space above a drop ceiling in which TSI is present. Any areas of a school building where friable asbestos-containing building material (ACBM), damaged or significantly damaged TSI ACM, or friable suspected ACBM assumed to be ACM are present shall be cleaned at least

once after the inspection is complete. See 40 CFR part 763.91(c). If any of the TSI encountered is damaged, AHERA requires that the local education agency repair the damaged material and/or “remove the damaged material if it is not feasible, due to technological factors, to repair the damage.”

60. Q: Do the Asbestos Hazard Emergency Response Act (AHERA) requirements for inspection and reinspection of school buildings for asbestos-containing building materials (ACBM) apply to newly installed building materials in school buildings?

A: Generally, the AHERA initial inspection and subsequent reinspection requirements do not apply to building materials installed after an initial inspection. If, however, an entirely new structure is being added to an existing school (e.g. a new wing or new building), this new structure does have to undergo the initial inspection. The re-inspection requirements will apply as well if the school continues to have known or assumed asbestos-containing building material.

61. Q: If my school does not have any known or assumed asbestos containing building materials (ACBM), do I need to reinspect?

A: No. Only schools that contain friable and non-friable known or assumed ACBM must be reinspected once every 3 years.

62. Q: What specifically must be inspected in a school building subject to the Asbestos Hazard Emergency Response Act (AHERA)? How far does an inspector have to go to inspect for asbestos?

A: The asbestos in schools rule requires local education agencies (LEAs) to ensure that accredited inspectors conduct a thorough and complete inspection. This includes all of the steps listed in 40 CFR part 763.85(a)(4) of the asbestos in schools rule. However, in most cases, EPA does not intend that the accredited inspector undertake destructive steps (e.g., tearing down a wall) in an attempt to locate asbestos-containing building material (ACBM). Instead, an accredited inspector is expected to take reasonable steps to locate ACBM. Specifically, an accredited inspector should conduct a thorough visual inspection, including, among other things, an examination of areas not immediately visible but that can be accessed (e.g., above drop ceilings, inside ventilation shafts, etc.), carefully reviewing building plans and using his or her own knowledge to determine if ACBM was used in areas that cannot be accessed (See 40 CFR part 763.85(a)(4)). While building plans may provide some helpful information about where to look for ACBM, they are not a substitute for a thorough inspection.

63. Q: A school building burns down. A local education agency (LEA) wants to use a local community center under the authority of an LEA for 6 months due to the emergency. Does this temporary school building have to be inspected?

A: Yes. 40 CFR part 763.85(a)(2) of the asbestos in schools rule states that, “[i]n the event that emergency use of an uninspected building as a school building is necessitated, such buildings shall be inspected within 30 days after commencement of such use.”

64. Q: Could miscellaneous asbestos-containing building material (ACBM) on the floors of two identical classrooms on two separate floors be viewed as homogeneous areas?

A: No. This would not be a homogeneous area, which is defined as “an area of surfacing material, thermal insulation material, or miscellaneous material that is uniform in color and texture.”[40 CFR part 763.83]

65. Q: The asbestos in schools rule pursuant to the Asbestos Hazard Emergency Response Act (AHERA) requires that an accredited management planner review the results of each inspection and assessment. Is this also required for reinspections?

A: Yes. 40 CFR part 763.88(d) of the asbestos in schools rule states that “[t]he local education agency shall select a person accredited to develop management plans to review the results of each inspection, reinspection, and assessment . . . ”

66. Q: If the architect or project engineer responsible for the construction of the building provides a statement indicating there is no asbestos-containing material in the school, does the local education agency (LEA) still have to submit an asbestos management plan or have the school building(s) inspected?

A: 40 CFR part 763.99(a) of the asbestos in schools rule provides that an LEA “shall not be required to perform an inspection under § 763.85(a) in any sampling area . . . or homogeneous area of a school building where: . . . (7) An architect or project engineer responsible for the construction of a new school building built after October 12, 1988, or an accredited inspector signs a statement that no ACBM was specified as a building material in any construction document for the building, or, to the best of his or her knowledge, no asbestos-containing building material (ACBM) was used as a building material in the building.” However, as this subsection goes on to clarify, this does not relinquish the requirement for the LEA to submit an asbestos management plan. All LEAs must submit asbestos management plans for all of their schools.

The asbestos management plan in this case (i.e., where no ACBM was specified or used as a building material) would contain:

-The “Exclusionary Statement” (for each school building) signed by the accredited inspector, or the architect or project engineer responsible for the construction of a

new school building built after October 12, 1988, stating that no ACBM was specified or used as a building material (40 CFR part 763.99(a)(7)).

-The name, address and telephone number for the Asbestos Hazard Emergency Response Act (AHERA) Designated Person (40 CFR part 763.93(e)(4)).

-The training records for the AHERA Designated Person (i.e., course name, dates, and hours of training taken) (40 CFR part 763.93(e)(4)).

-A list of the name and address of each school building covered by the asbestos management plan and a statement that they do not contain ACBM (40 CFR part 763.93(e)(1)).

-A dated copy of each year's annual notification of the asbestos management plan's availability to parents, teachers and employees, along with a description of the steps taken to effect the notification (40 CFR part 763.93(g)(4)).

-A "True and Correct Statement" signed by the Designated Person which certifies that the general, local education agency responsibilities, as stipulated by 40 CFR part 763.84, have been met or will be met (40 CFR part 763.93(i)).

-The name of each consultant that contributed to the asbestos management plan, and a statement that each consultant is accredited by a state which has adopted a contractor accreditation program or is accredited by an EPA-approved course (40 CFR part 763.93(e)(12)).

-If required by the LEA, a statement signed by an accredited asbestos management plan developer that such a person has prepared or assisted in the preparation of the asbestos management plan or has reviewed such plan, and that such plan is in compliance with 40 CFR part 763, Subpart E (§ 763.93(f)).

67. Q: How should the periodic surveillance results be documented pursuant to the Asbestos Hazard Emergency Response Act (AHERA)? How detailed does the information have to be and what constitutes adequate records?

A: 40 CFR part 763.94(d) of the asbestos in schools rule pursuant to the Asbestos Hazard Emergency Response Act (AHERA) requires local education agencies (LEAs) to "record the name of each person performing the [periodic] surveillance, the date of the surveillance, and any changes in the conditions of the materials." A one-page checklist (i.e., change/no change) with sufficient room for comments by the person conducting the surveillance would be adequate, although other methods that record this information also would be acceptable. If changes are noticed, the comments must describe each change clearly.

Annual Notification Requirements

68. Q: Are schools within a local education agency with no asbestos-containing building material (ACBM) relieved of the annual notification requirements at 40 CFR part 763.84(c)?

A: Yes. However, the annual notification regarding the availability of the school's management plan must continue indefinitely to parent, teacher, and employee organizations (or, in the absence of any such organizations, to the relevant group) (see sections 40 CFR part 763.84(f) and 40 CFR part 763.93(g)(4)). Copies of these annual notices are to be retained in the management plan.

69. Q: Is the local education agency (LEA) required to provide a separate notification to non-short-time workers and building occupants (i.e. parents, teachers, and employees or their organizations) for each response action that is performed?

A: No. Under 40 CFR part 763.84(c), a separate notification for each response action taken is not required. A notice to parents, teachers, and employees or their organizations once a year is sufficient.

Local Education Agency Designated Persons

70. Q: Does a local education agency (LEA) with all asbestos-free schools need a designated person pursuant to 40 CFR part 763.84(g)?

A: Yes. One of the requirements of the LEA is to continue the annual notification to parents and others of the availability of the management plan indefinitely. The designated person can handle any questions and concerns that arise regarding asbestos.

71. Q: Can a local education agency (LEA) designate a committee instead of one person to coordinate asbestos programs for an LEA?

A: No. Section 763.84(g)(1) requires each LEA to designate "a person" (i.e., an individual). The name, address, and telephone number of the person designated under 40 CFR part 763.84 to ensure that the duties of the local education agency are carried out must appear in the management plan (40 CFR part 763.93(e)(4)).

72. Q: Under the Asbestos Hazard Emergency Response Act (AHERA), can a group of local education agencies (LEAs) share a Designated Person?

A: Yes. There is nothing in the Asbestos Hazard Emergency Response Act (AHERA) or the asbestos in schools rule that prohibits this.

73. Q: Under the Asbestos Hazard Emergency Response Act (AHERA), must a local education agency's (LEA's) Designated Person be an employee of the LEA, or can this person be an outside consultant, available on a part-time basis? Does the Designated Person have to be "on-site" at the LEA, or can he/she be located at another location?

A: The Designated Person does not have to be an LEA employee. The designated person can be an outside consultant and does not have to be on-site at the LEA.

74. Q: A local education agency (LEA) is required to "designate a person to ensure" that all LEA responsibilities and/or requirements "are properly implemented." (40 CFR part 763.84(g)(1)) Such a designated person, in turn, is required to obtain "adequate training." Does this mean that the designated person is required to be "accredited"? If not, what constitutes adequate training?

A: The LEA's designated person is not required to be "accredited" as the term is used in the asbestos in schools rule; nonetheless, he or she must have some minimal training. 40 CFR part 763.84(g)(2) of the asbestos in schools rule lists areas for which the designated person is required to receive basic knowledge through training, as necessary. However, no specific hours of training are required since a designated person in a small LEA with only non-friable asbestos-containing building material (ACBM) may not need to have as much training as the designated person for a large city school system. 40 CFR part 763.93(e)(4) of the asbestos in schools rule requires, however, that the management plan for any LEA include the course name, dates, and hours of training undertaken by the designated person. EPA Region 10 developed the guidance document How to Manage Asbestos in School Buildings: AHERA Designated Person's Self-study Guide (January 1996) to help clarify which topics a designated person should be familiar with. It is available at <http://www.epa.gov/region2/ahera/e23.pdf>.

75. Q: Who is responsible for ensuring that a project has been reviewed by a project designer in order to ensure compliance with the Asbestos Hazard Emergency Response Act (AHERA)?

A: AHERA response actions are required to be designed, not reviewed, by accredited persons. The local education agency (LEA) and its "designated person" under 40 CFR part 763.84(g) have the responsibility to ensure that AHERA requirements are carried out. For asbestos work in public and commercial buildings, it is any contractor who employs individuals to conduct the response action.

Recordkeeping and Asbestos Management Plans

76. Q: Pursuant to the Asbestos Hazard Emergency Response Act (AHERA), can a local education agency (LEA) store a management plan in electronic format (e.g., CD ROM)?

A: The asbestos in schools rule does not specifically prohibit LEAs from storing records in electronic format. However, such records must be available to the public, without cost or restriction on request in the LEAs administrative office and from each school's individual administrative office within 5 working days after the request for an inspection. Documents containing original signatures may be scanned and stored in electronic format, but must be made available and accessible in their entirety (40 CFR part 763.93(g)(2) or (3)).

Source letter: 11-01-05 Response to inquiry about whether it is permissible to maintain records pertaining to the asbestos in schools rule under the Asbestos Hazard Emergency Response Act (AHERA) in electronic format

77. Q: If a school has all asbestos-containing building material (ACBM) removed, how long do we need to keep records in the asbestos management plan pursuant to the Asbestos Hazard Emergency Response Act (AHERA)??

A: After all the ACBM has been removed, certain records listed under 40 part 763.94(a) can be discarded three years after the next scheduled reinspection. However, other records that are part of the management plan must be maintained indefinitely.

78. Q: Is each individual school required to keep a complete updated copy of its asbestos management plan pursuant to the Asbestos Hazard Emergency Response Act (AHERA) in its administrative office?

A: Yes, each school is required to maintain in its administrative office a complete, updated asbestos management plan for that school. (40 CFR part 763.93(g)(3)).

Small-Scale Short-Duration Projects

79. Q: When the worker training requirements specified in the Asbestos Hazard Emergency Response Act (AHERA) standard (40 CFR part 763) were extended to abatement activities conducted in commercial, public, and some residential buildings, an exception was made for "small scale, short duration" projects. Specifically, the Environmental Protection Agency (EPA) did not appear to require "accredited" asbestos abatement professionals to be utilized for a "small scale, short duration" activities. Is this interpretation correct?

A: EPA does not require Model Accreditation Plan (MAP) accreditation for asbestos-abatement professionals when conducting "small-scale, short-duration" operations and maintenance activities. However, operations and maintenance (O&M) training under the AHERA schools rule (not MAP accreditation) is required for "small-scale, short-duration" activities done in schools. Also, EPA recommends O&M training for small-scale, short-duration projects done in other buildings. In addition, Occupational Safety and Health Administration (OSHA), state and local requirements may be applicable.

80. Q: Under the Asbestos Hazard Emergency Response Act (AHERA), are there any size or volume constraints on the amount of asbestos that can be disturbed or removed during any single small-scale, short-duration project?

A: Yes, size and volume constraints exist on the amount of asbestos that can be disturbed or removed during any single small-scale, short-duration project. Unit I.A.8 of Appendix C to Subpart E in 40 CFR part 763 provides some useful guidance about how to understand small-scale, short-duration activities. For example, small-scale, short-duration repair or removal work should fit into a single glove bag (for removal of asbestos-containing thermal system insulation) or a single prefabricated mini-enclosure (for repairs to small amounts of friable asbestos-containing material only if they are required in the performance of maintenance-activities that are not intended solely to be asbestos-abatement actions).

81. Q: Does cutting hatchways into ceilings where small amounts of asbestos is disturbed for purposes of mounting fire alarm components in a school fall within the scope of "small-scale, short-duration activities" under the Asbestos Model Accreditation Plan (MAP)?

A: Yes, if the activity is required in the performance of an emergency or routine maintenance activity not intended solely as an asbestos abatement. Additionally, such work must be done and contained in a single prefabricated mini-enclosure (Appendix C to 40 CFR part 763, subpart E).

Determining Friability

82. Q: Under the Asbestos Hazard Emergency Response Act (AHERA), what criteria must be applied to determine when a non-friable asbestos containing material is made friable?

A: Non-friable asbestos-containing material is made friable if, when dry, it may be crumbled, pulverized, or reduced to powder by hand pressure.

83. Q: If a non-friable component such as a piece of floor tile is broken into small pieces (0.25 inch squares or smaller) in a removal process and the resulting pieces still can't be reduced to powder by hand pressure, does the Environmental Protection Agency (EPA) still classify these pieces as non-friable and consider this removal process one that can be performed by unaccredited workers pursuant to the Asbestos Hazard Emergency Response Act (AHERA),?

A: If floor tiling is removed by a method that does not render it friable (not able, when dry, to be crumbled, pulverized, or reduced to powder by hand pressure) then removal is not considered to be a response action that requires workers accredited under the Asbestos Model Accreditation Plan (MAP).

Response Actions

84. Q: Under the Asbestos Hazard Emergency Response Act (AHERA), must the accredited management planner review the inspector's written assessment?

A: Yes. 40 CFR part 763.88(d) of the asbestos in schools rule requires that the accredited management planner "review the results" of inspections, assessments, and reinspections and "conduct any other necessary activities in order to recommend in writing to the local education agency (LEA) appropriate response actions."

85. Q: Under the Asbestos Hazard Emergency Response Act (AHERA), does the recommendation that the management planner provides to the local education agency (LEA) need to include a date for implementation of the response action?

A: No. However, the management plan must include a schedule for completing the response actions. (40 CFR part 763.93(e)(6)) Accordingly, the dates of implementation can be discussed between the management planner and the LEA.

86. Q: Under the Asbestos Hazard Emergency Response Act (AHERA), is the installation of carpet over damaged A/V floor tile an enclosure?

A: No. An enclosure is defined in 40 CFR part 763.83 of the asbestos in schools rule as “an airtight, impermeable, permanent barrier around asbestos-containing building material (ACBM) to prevent the release of asbestos fibers into the air.” Carpeting is not impermeable, permanent, or airtight.

87. Q: If, during a periodic surveillance check, a custodian finds damaged thermal system insulation, what must be done under the Asbestos Hazard Emergency Response Act (AHERA)?

A: 40 CFR part 763.90(b) states that “[i]f damaged or significantly damaged thermal system insulation ACM is present in a building, the local education agency shall:

- At least repair the damaged area.
- Remove the damaged material if it is not feasible, due to technological factors, to repair the damage.
- Maintain all thermal system insulation ACM and its covering in an intact state and undamaged condition.”

88. Q: Under the Asbestos Hazard Emergency Response Act (AHERA), what is meant by the phrase “at approximately the same time” in 40 CFR part 763.90(i)(6) as it relates to transmission electron microscopy (TEM) clearance?

A: The intent of 40 CFR part 763.90(i)(6) is to prevent a local education agency (LEA) from avoiding the TEM air clearance requirement by either artificially dividing up a larger project, or by removing asbestos-containing building material (ACBM) in stages over the course of a relatively short period of time in connection with what normally would have been one large project. For example, if an LEA removed 160 square feet of surfacing ACBM in October and 160 square feet of adjacent surfacing ACBM a few weeks later, the Environmental Protection Agency (EPA) would consider this to be removing contiguous portions of ACBM at “approximately the same time.” Thus, TEM would be required.

Operations and Maintenance

89. Q: Under the Asbestos Hazard Emergency Response Act (AHERA) operations and Maintenance (O&M) is for friable asbestos-containing building material (ACBM), or non-friable ACBM and non-friable assumed ACBM when the material is about to become friable. What about non-friable ACBM with the potential for damage? Does this type of material need to be addressed in an O&M plan?

A: Non-friable and non-friable assumed surfacing and miscellaneous ACBM need not be covered by an O&M plan, even if they have potential for damage or significant damage, unless they are about to become friable as a result of activities performed in the school building. (40 CFR part 763.91(a))

90. Q: Will areas of newly friable asbestos-containing building material (ACBM) or newly friable assumed ACBM be required to undergo initial cleaning in accordance with 40 CFR part 763.91?

A: Yes, the following requirements as stated in 40 CFR part 763.91(c)(1) of the asbestos in schools rule will apply: "Initial Cleaning. Unless the building has been cleaned using equivalent methods within the previous 6 months, all areas of a school building where friable ACBM, damaged or significantly damaged thermal system insulation ACM, or friable suspected ACBM assumed to be ACM are present shall be cleaned at least once after the completion of the inspection required by 40 CFR part 763.85(a) and before the initiation of any response action, other than O&M activities and repair . . ." Note that an area must be cleaned before a response action, which would include any response action to address the newly friable ACBM or newly friable assumed ACBM.

Labeling of Asbestos-Containing Materials

91. Q: Under the Asbestos Hazard Emergency Response Act (AHERA) do you have to label enclosed or encapsulated asbestos-containing building material ACBM in routine maintenance areas?

A: Yes. 40 CFR part 763.95(a) of the asbestos in schools rule states that "[t]he local education agency shall attach a warning label immediately adjacent to any friable and non-friable ACBM and suspected ACBM assumed to be ACM located in routine maintenance areas (such as boiler rooms) at each school building. This shall include:

- Friable ACBM that was responded to by a means other than removal.
- ACBM for which no response action was carried out."

Asbestos Model Accreditation Plan (MAP)

Applicability to the Asbestos Model Accreditation Plan (MAP)

92. Q: Is someone who works as a “Registered Environmental Assessor” also required by the Asbestos Hazard Emergency Response Act (AHERA) to be an accredited asbestos inspector in order to perform asbestos inspection work?

A: Yes. If a person’s job entails inspecting schools and/or public or commercial buildings for asbestos containing building materials (ACBM), the Asbestos Hazard Emergency Response Act (AHERA) requires that said person acquire valid accreditation as an asbestos inspector by completing the necessary training course work before inspecting a school building or public or commercial building.

93. Q: Under the Asbestos Model Accreditation Plan (MAP) can unaccredited persons under the supervision of an accredited inspector collect samples, and look in crawl spaces and other areas to locate asbestos-containing building material (ACBM)?

A: No. 40 CFR part 763.85 and 763.86 of the asbestos in schools rule specifically require an accredited inspector to conduct the necessary tasks in order to fulfill the inspection and reinspection requirements.

94. Q: Are persons who conduct the asbestos portion of an environmental assessment required to be certified under the Asbestos Model Accreditation Plan (MAP) if they do not collect asbestos samples?

A: Yes. If a person is conducting an environmental assessment that includes the identification and assessment of asbestos containing building materials either in a regulated school or public or commercial building, the Asbestos Hazard Emergency Response Act (AHERA) requires that such a person be properly trained and accredited as an inspector, regardless of whether or not the person is actually collecting samples.

95. Q: Are persons who collect asbestos bulk samples on an infrequent or occasional basis subject to Asbestos Model Accreditation Plan (MAP) inspector accreditation requirements?

A: Yes. Persons who collect asbestos bulk samples for the purpose of using those samples to determine the presence or location of asbestos containing building materials (ACBM) or to determine the condition of ACBM must be accredited as inspectors. The frequency at which these samples are taken is not a factor in determining the applicability of the accreditation requirement.

96. Q: Do accreditation requirements under the Asbestos Model Accreditation Plan (MAP) apply to persons removing nonfriable asbestos-containing material from schools?

A: No, unless the nonfriable material becomes friable in the removal process. Generally, if a removal action involves nonfriable materials and the work methods used in removal of the nonfriable material will not cause it to become friable by the material crumbling, becoming pulverized or to be reduced to powder by hand pressure, then the use of MAP-accredited workers is not required.

97. Q: Do accreditation requirements under the Asbestos Model Accreditation Plan (MAP) apply to persons removing nonfriable asbestos containing material from public and commercial buildings?

A: Workers removing asbestos containing material from a public or commercial building would not have to be accredited under the MAP unless they were working with friable material, or previously nonfriable material that has or will become friable.

98. Q: The worker training requirements specified in 40 CFR part 763 appear to apply only to projects (excluding small-scale, short-duration projects) involving interior building components. Specifically, is roofing work and other exterior work excluded from accreditation requirements?

A: Worker training requirements specified in 40 CFR part 763, including those for accreditation under the Asbestos Model Accreditation Plan (MAP), apply to interior building projects done in schools and public and commercial buildings. Additionally, the asbestos National Emission Standards for Hazardous Air Pollutants (NESHAP), Occupational Safety and Health Administration (OSHA), state and local training requirements may apply.

99. Q: Do the worker training requirements applicable to schools, public buildings, and commercial buildings as specified in 40 CFR part 763 apply to any abatement activity involving non-friable asbestos containing materials?

A: In general, the Asbestos Model Accreditation Plan (MAP) accreditation requirements applicable to schools and public and commercial buildings do not apply to any abatement activity involving non-friable asbestos-containing materials. Additionally, the asbestos National Emission Standards for Hazardous Air Pollutants (NESHAP), Occupational Safety and Health Administration (OSHA), state and local training requirements may apply.

EPA Interpretations of the Asbestos Model Accreditation Plan (MAP) Requirements

100. Q: Does the Asbestos Model Accreditation Plan (MAP) require that a design plan be prepared by an accredited project designer before covered response actions begin inside a school or public and commercial building?

A: The MAP stipulates that a person must be accredited as a project designer to design any of the following activities with respect to friable asbestos-containing building material (ACBM) in a school or public and commercial building: (1) a response action other than a small scale short duration (SSSD) maintenance activity, (2) a maintenance activity that disturbs friable ACBM other than a SSSD maintenance activity, or (3) a response action for a major fiber release episode (see unit I.B.5 of the MAP). The MAP does not mandate that a **written** design plan be prepared for a covered response action. If a building owner chooses to have a written design plan prepared, however, the plan must be prepared by an accredited project designer.

101. Q: Can training providers streamline Asbestos Model Accreditation Plan (MAP) reaccreditation by offering a single refresher course that would meet the update requirements for two or more of the basic courses in a combined fashion?

A: No, each refresher course shall correspond to only one Asbestos Model Accreditation Plan (MAP) training discipline. Each accredited refresher training course must be specific to that distinct discipline, and cannot be combined with any other training during the term of the refresher course.

102. Q: When conducting an asbestos abatement operation that is not a small-scale, short-duration project, what length of asbestos-containing material (ACM) pipe insulation or area of ACM surfacing/miscellaneous material triggers the requirement to use Asbestos Model Accreditation Plan (MAP)-accredited workers? Does this limit apply to each individual project conducted at a facility or to the total amount of material abated in all non-small-scale, short-duration projects conducted at the facility?

A: Response actions other than a small-scale, short-duration project must be designed and conducted by Asbestos Model Accreditation Plan (MAP)-accredited persons. See 40 CFR part 763.90(g). Additionally, the asbestos National Emission Standards for Hazardous Air Pollutants (NESHAP), Occupational Safety and Health Administration (OSHA), state and local training requirements may apply.

103. Q: What is the applicability of Federal asbestos inspector accreditation requirements under the Asbestos Hazard Emergency Response Act (AHERA) to real estate appraisers?

A: Real estate appraisers may not assess the suspected presence, location, or condition of asbestos in a school building or a public and commercial building during an appraisal unless they are accredited pursuant to the Toxic Substances Control Act (TSCA) and the Asbestos Model Accreditation Plan (MAP), as conducting an examination, either visual or physical, to determine whether a substance contains asbestos qualifies as an “inspection” as defined by the MAP. EPA advises real estate appraisers to obtain asbestos inspector training and accreditation *only if* they determine that they will be undertaking inspections and examinations that would fall within the activities that trigger accreditation requirements under TSCA and the MAP. If an appraiser relies entirely upon an existing asbestos inspection report for a particular building that they are appraising, for purposes of estimating the impact of the presence or condition of asbestos on the value of the property, that appraiser would not need to be accredited.

104. Q: Are state safety inspectors required to attain accreditation under the Asbestos Model Accreditation Plan (MAP)?

A: Yes, any person who inspects for asbestos-containing material (ACM) in a school building under the authority of a local education agency (LEA) or in a public or commercial building must be accredited. Toxic Substances Control Act (TSCA) Section 206(a).

105. Q: Is a state agency in violation of asbestos regulations, pursuant to the Asbestos Hazard Emergency Response Act (AHERA), if it chose, as a matter of policy, not to consider asbestos in its safety inspections?

A: The Asbestos Hazard Emergency Response Act (AHERA) does not require that public and commercial buildings be inspected for asbestos. If the owner/operator of such a building elected to have an inspection performed, then the inspection must be performed by an accredited individual. If the owner/operator of such a building undertakes a demolition or renovation activity and the building is an asbestos National Emission Standard for Hazardous Air Pollutants (NESHAP) regulated facility, it would be subject to the asbestos NESHAP regulations and a thorough inspection for the presence of asbestos would be required.

106. Q: Can an Asbestos Model Accreditation Plan (MAP) accredited Contractor/Supervisor exchange that accreditation for Worker accreditation without further training?

A: Yes. 40 CFR part 763, subpart E, Appendix C, Unit I.B.1. of the Asbestos Model Accreditation Plan permits accredited contractor/supervisors to “perform in the role of a worker without possessing separate accreditation as a worker.” Therefore, if a state wishes to permit its accredited contractor/supervisors to relinquish their certificates in favor of accreditation certificates as workers, the Environmental Protection Agency (EPA) has no basis upon which to object.

107. Q: What are the requirements under the Asbestos Hazard Emergency Response Act (AHERA) for refresher training for a person who wants to “step down” his/her certification from contractor/supervisor status to worker status?

A: If such a person takes contractor/supervisor refresher courses on an annual basis, that person may perform in both the contractor/supervisor and worker roles. If, however, the person chooses only to take annual worker refresher courses, that person may continue to act in the role of an accredited worker but loses the ability to perform contractor/supervisor duties in the future.

Source: 10-27-97 Clarification of whether the Asbestos MAP permits accredited Contractor/Supervisors to exchange that accreditation for Worker accreditation without further training; attached to facsimile transmittal sheet dated 12/29/97

108. Q: If I take an 8-hour refresher training course under the Asbestos Model Accreditation Plan (MAP) from an asbestos training provider who fraudulently claimed to be accredited to conduct such training, do I need to retake the 8-hour refresher training after my original certification expires?

A: Yes. You must retake the 8-hour refresher training course in order to have your accreditation status reinstated.

109. Q: Can Asbestos Model Accreditation Plan (MAP) accredited workers and/or contractor/supervisors collect asbestos bulk samples for the purpose of inspection if they have not obtained separate inspector accreditation?

A: No, accredited workers and contractor/supervisors are not accredited to perform inspections and must obtain separate inspector accreditation in order to collect bulk samples in order to determine the presence or location of asbestos-containing building materials.

110. Q: May a Asbestos Model Accreditation Plan (MAP) training provider combine students from different disciplines in order for these students to attend special training modules on selected topics, such as “health effects”?

A: No. Each initial and refresher training course offered for accreditation must be specific to a single discipline and not combined with training for any other discipline. Also, a person seeking accreditation in any of the five accredited Asbestos Model Accreditation Plan (MAP) disciplines cannot attend two or more courses concurrently, but may attend such courses sequentially.

111. Q: Under the Asbestos Hazard Emergency Response Act (AHERA), at what stage in the project is a project designer required?

A: The Asbestos Hazard Emergency Response Act (AHERA) requires that a project designer begin to participate in a response action before the action begins. Response actions, including removal, encapsulation, enclosure or repair (other than small-scale, short duration repairs) shall be designed by persons accredited to design response actions. See 40 CFR part 763.90(g). Although it is not specifically required, it would be prudent for a local education agency or building owner to have the design in hand before the project is bid and for an accredited contractor to have the design before the project is bid, in order to know best how to enter a bid.

112. Q: How can I determine whether or not an individual instructor’s credentials are sufficient for purposes of presenting asbestos abatement courses under the Asbestos Model Accreditation Plan (MAP)?

A: 40 CFR part 763, subpart E, Appendix C, Unit I.B of the Asbestos Model Accreditation Plan (MAP) requires that all instructors be approved before they present material in a classroom for the Asbestos Hazard Emergency Response Act (AHERA) accreditation purposes. In determining the adequacy of an individual instructor’s credentials, it is important to consider his/her credentials in the context of the actual classroom material for which the instructor will be responsible. For example, if an instructor will be one of only two presenting the entire curriculum, his/her training and field experience must demonstrate broad knowledge of all of the various topic areas to be covered. If, on the other hand, the instructor is presenting only one or a few subjects, he/she should only be expected to demonstrate knowledge in those relevant areas.

113. Q: Is it possible to complete in-house training for purposes of Asbestos Model Accreditation Plan (MAP) accreditation?

A: Yes, as long as the training entity has approval for each of its accredited courses from either the Environmental Protection Agency (EPA) or a state program at least as stringent as the MAP. These training programs, however, are subject to audit by the EPA and/or the state in the same way that any other approved training programs are.

114. Q: Does the Environmental Protection Agency (EPA) recognize any state certifications for an approved asbestos program that allows a contractor to teach outside the state they were certified in?

A: Yes, in certain circumstances. Under 40 CFR part 763, subpart E, Appendix C, Unit III , “[c]ourses that have been approved by a State with an accreditation program at least as stringent as this MAP are approved under [AHERA] for that particular State, and also for any other State that does not have an accreditation program as stringent as this MAP.”

115. Q: If an Asbestos Hazard Emergency Response Act (AHERA) accredited- training course is taught by someone other than instructors certified by the state or the Environmental Protection Agency (EPA), can an approved contractor/instructor sign certificates for individuals even if the approved contractor/instructor did not instruct the class?

A: No. An EPA Asbestos Hazard Emergency Response Act (AHERA) accredited training course must be taught by EPA/state approved instructors and only those approved instructors may issue AHERA approved training course certificates.

116. Q: Is there a formal requirement that an Asbestos Model Accreditation Plan (MAP) asbestos training course must have a training manual?

A: Accredited trainers are not required to have a formal training manual, per se. According to the Asbestos Model Accreditation Plan (MAP), at Unit III, (A)(3), (A)(4)(d) and (A)(5) of appendix C to 40 CFR part 763, subpart E, a trainer’s application for course approval must include the course curriculum, a description of all the topics covered in the course, and a copy of all course materials in order to obtain initial approval from a MAP-approved state. It is not specifically prescribed that they must have a formal student manual, but, if they have such a manual, their initial application for approval must include it. Alternatively, in the absence of a formal training manual, the application would need to include any other course materials (e.g., handouts, rule summaries and copies of presentations).

117. Q: Does the Asbestos Model Accreditation Plan (MAP) require that a written design plan be prepared by an accredited project designer before a covered response action begins inside a school or public and commercial building?

A: No, the MAP does not explicitly mandate **written** design plans for covered response actions in a school or public and commercial building. However, EPA strongly recommends preparation of a **written** design plan before undertaking a response action *Source: 6-23-94 Clarification of whether the Asbestos Model Accreditation Plan (MAP) requires that a design plan be prepared by an accredited project designer prior to the commencement of covered response actions in a school or in a public or commercial building*

Conflict of Interest

118. Q: When would a conflict of interest exist among Asbestos Model Accreditation Plan (MAP)- accredited personnel?

A: A conflict of interest with respect to Asbestos Model Accreditation Plan (MAP)-accredited personnel would exist if, for example, the management planner and abatement contractor worked for the same firm. The planner might recommend to the LEA more expensive response actions than are necessary in the management plan.

119. Q: Under the Asbestos Hazard Emergency Response Act (AHERA), can a local education agency (LEA) hire one abatement firm both to conduct a response action and to carry out the transmission electron microscopy (TEM) clearance air monitoring on that project?

A: No. In Unit II.B.2 of Appendix A to 40 CFR part 763, subpart E it states that TEM “[s]ampling operations must be performed by qualified individuals completely independent of the abatement contractor to avoid possible conflict of interest.” Accordingly, the LEA would have to select another person or firm “completely independent” of the abatement contractor to do this work. The abatement firm would not be allowed to subcontract this work since the subcontractor is not “completely independent” of the contractor.

120. Q: Many local education agency’s (LEAs) intend to select certain person(s) who are permanent employees of the district to become accredited inspectors, management planners, project designers, contractor/supervisors and abatement workers under the Asbestos Hazard Emergency Response Act (AHERA),. Does the Environmental Protection Agency (EPA) foresee any problems with this approach, since 40 CFR part 763.84(h) cautions against “conflict of interest” among accredited personnel?

A: Generally, no. The conflict-of-interest provision in the asbestos-containing materials in schools rule, which merely requires LEAs to “consider” conflict of interest issues, primarily

pertains to outside contractors who serve in two or more capacities. (See rule preamble discussion at 52 FR 41836 accessible via www..) LEAs retain the option of using their own employees to carry out these tasks, and there can be a direct benefit to the LEA from having their employees well-trained and able to perform these functions. Nonetheless, conflict-of-interest issues could arise and, pursuant to 40 CFR part 763.84(h), must be considered by the LEA.

Foreign Language Courses under the Asbestos Model Accreditation Plan

121. Q: Can courses taught under the Asbestos Model Accreditation Plan (MAP) be taught in foreign languages?

A: Only the worker course can be taught in a foreign language. All other course disciplines must be taught in English.

122. Q: May an asbestos training provider company provide courses in a language other than English to non-English speaking persons under the Asbestos Model Accreditation Plan (MAP) who will be working on United States' facilities located in those persons' native country?

A: Yes. Accredited training providers may provide training courses in the language of the country where asbestos abatement work will be performed. Any accreditation certificates issued by these providers, however, should be marked "For Use in [Name of Country] Only."

Computer Based Training

123. Q: Are Asbestos Model Accreditation Plan (MAP) training course instructors required to be present during a student's completion of a Computer Based Training (CBT) session, for both initial and refresher training courses?

A: The Asbestos Model Accreditation Plan (MAP) allows for and encourages use of audio-visual materials to complement lectures, where appropriate. However, the MAP requires that course instruction must be provided by EPA or state-approved instructors, which implies that even when audio-visual materials are used, the course instructor must be available or accessible to students throughout the course in the event that a student needs individual instruction or assistance.

Becoming an Asbestos Model Accreditation Plan Training Provider

124. Q: How does a company become a provider of an Asbestos Model Accreditation Plan (MAP) accredited asbestos training courses?

A: Individuals or groups wishing to sponsor training courses for disciplines required to be accredited under section 206(b)(1)(A) of the Toxic Substances Control Act (TSCA) may apply for approval from states that have accreditation program requirements that are at least as stringent as the EPA Asbestos Model Accreditation Plan (MAP). For a course to receive approval, it must meet the requirements for the course as outlined in the MAP, and any other requirements imposed by the state from which approval is being sought. Courses that have been approved by a state with an accreditation program at least as stringent as this MAP are approved under section 206(a) of TSCA for that particular state, and also for any other state that does not have an accreditation program as stringent as the MAP.

125. Q: I'm interested in becoming an Asbestos Model Accreditation Plan (MAP) accredited asbestos training course provider. Where can I acquire the Environmental Protection Agency (EPA) Model training course materials?

A: You can purchase the EPA Model training course materials from the National Technical Information service at <http://www.ntis.gov/>

Asbestos Model Accreditation Plan (MAP) Training Course Certificates

126. Q: When reviewing an Asbestos Model Accreditation Plan (MAP) course completion certificate, what are the identifying characteristics to ensure that the certificate is from a certified instructor presenting a certified course?

A: Training providers (or a state, directly) must issue unique numbered certificates to students who pass a particular training course examination. The numbered certificate should include the name of the student and the course completed, the dates of the course and the examination, a statement indicating that the student completed the requisite training, and an expiration date for accreditation that is one (1) year after the date on which the student successfully completed the course and examination. See Unit I.C.1 of Appendix C to 40 CFR part 763, subpart E,