AHERA Designated Person Roles & Responsibilities

INTRODUCTION

EPA requires public school districts and private non-profit schools to appoint an asbestos management coordinator, called the "AHERA Designated Person." This person is responsible for a number of asbestos-related activities, including the implementation of the plan for managing asbestos-containing building materials (ACBM) in the school buildings and compliance with the federal asbestos regulations.

Even though the AHERA requirements have been in place for some time, EPA has found widespread misunderstanding and confusion on how to implement the requirements, as well as how to best manage asbestos in school buildings. EPA staff have observed that the quality of school asbestos programs depend heavily on the dedication and work of the AHERA Designated Person. Schools without a competent Designated Person (DP) tend to have more AHERA violations and asbestos fiber releases. Schools with DPs who know the AHERA requirements can more effectively manage the school district's asbestos program, as well hiring and overseeing the work of others conducting asbestos-related activities in their school buildings.

RESPONSIBILITIES OF THE AHERA DESIGNATED PERSON

The responsibilities of the AHERA Designated Person include:

- ensure that asbestos-related activities are carried out in accordance with the AHERA requirements, such as inspections, reinspections, periodic surveillance, management plan implementation and updates, maintenance or removal of asbestos containing building materials;

- ensure that all custodial and maintenance employees are properly trained;

- ensure that all workers, building occupants, students, and their parents are notified annually about management plan availability and recent and upcoming asbestos-related activities;

- ensure that short-term workers who may come into contact with asbestos are provided information regarding the location of this asbestos;

- ensure that all warning labels are posted; and

- consider any conflicts of interest that may arise when selecting accredited personnel to conduct asbestos-related activities.
THE STATUTE AND REGULATIONS

On October 22, 1986, Congress passed the Asbestos Hazard Emergency Response Act (AHERA), Public Law 99-519, which mandated that EPA develop regulations to respond to asbestos in schools. On October 30, 1987, EPA promulgated the Asbestos-Containing Materials in Schools Rule (hereinafter referred to as the AHERA Rule), 40 CFR Part 763, Subpart E. This rule requires that all of the nation's nonprofit elementary and secondary schools, both public and private nonprofit, inspect their school buildings for suspected asbestos-containing building materials (ACBM), develop and implement a plan to manage the asbestos for each school building, notify parents and staff of the plan's availability, provide asbestos training to school maintenance and custodial workers, and a variety of other requirements described below.

The governing authority responsible for AHERA compliance is the Local Education Agency (LEA). "Local Education Agency" means either any local educational agency as defined in Section 198 of the Elementary and Secondary Education Act of 1965, that is the owner of any private, non-profit elementary or secondary school building, or the governing authority of any school operated under the Defense Department's education system.

USE OF ASBESTOS

Asbestos has been used in thousands of products, largely because it is plentiful, readily available, cheap, strong, does not burn, conducts heat and electricity poorly, and is resistant to chemical corrosion.

Asbestos proved particularly useful in the construction industry. Building materials that contain asbestos are referred to as asbestos-containing building materials (ACBM). Commercial usage of asbestos products in the construction industry was most common from about 1945 to 1980. Some of the most common uses of ACBM include:

- Fireproofing material -- Usually spray-applied to steel beams used in construction of multi-story buildings to prevent structural members from warping or collapsing in the event of fire.

- Insulation material -- Usually spray-applied, trowel-applied, or manually installed after being preformed to fit surfaces such as pipes for thermal insulation and condensation control.

- Acoustical or soundproofing material -- Trowel- or spray-applied. May also be used for decoration. Asbestos was mixed with other materials and sprayed onto ceilings and walls to produce a soft, textured look.

- Miscellaneous materials -- Asbestos has been added to asphalt, vinyl, cement and other materials to make products like roofing felts, exterior siding and roofing shingles, wallboard, pipes for water supply, combustion vents, and flues for waste gases and heat.
Examples of the more common ACBM found in schools are flooring, vinyl base, mastic, roofing materials, gaskets in heating and air-conditioning equipment, ceiling panels and tiles, wallboard, joint compound, plaster, pipe and boiler insulation, duct-wrap insulation, duct joint tape, duct vibration dampening cloth, fireproofing on structural members, fire brick for boilers, fire doors, acoustical spray-on, asbestos cement pipes, and panels.

ASBESTOS HEALTH RISKS

Exposure to asbestos may result in asbestosis (a disease characterized by lung scarring, which reduces the lungs' ability to function), lung cancer, mesothelioma (always-fatal cancer arising in the chest or abdominal cavity), and other diseases. Asbestos-related diseases are often dose-response related (the greater the exposure to airborne fibers, the greater the risk of developing an illness) and have a latency period (typically 15 to 30 years).

Risks associated with low-level, non-occupational exposure (e.g., a building occupant who is not actually disturbing the asbestos) are not well established. The National Institute for Occupational Safety and Health (NIOSH) has determined, however, that there is no established safe level of exposure.

Asbestos pose little risk if it is well maintained. EPA only requires asbestos removal to prevent significant public exposure to airborne asbestos fibers during building demolition or renovation activities.

THE AHERA INSPECTION

By being familiar with the requirements for and process of conducting an inspection and reinspection, the DP can play a key role in assuring the highest quality inspection or reinspection. The DP will use the inspection and reinspection report in effectively managing the ACBM and preventing asbestos exposure.

An accredited inspector must conduct inspections of each school building under the authority of the LEA. This includes portable buildings. This involves visually inspecting buildings for ACBM, sampling such materials unless they are assumed to be ACBM, and collecting and analyzing samples in accordance with the AHERA regulations. Only accredited laboratories may be used to perform bulk material sampling analyses. As long as any ACBM remains in a school building, an accredited inspector must conduct a reinspection of all known ACBM at least once every three years. When a new building is built or acquired, the DP must assure that an inspection is conducted or get a statement from the architect or manufacturer that ACBM was not included in the design nor used in the construction.

For each inspection and reinspection, an accredited inspector must provide a written assessment of all friable known or assumed ACBM in the school building. This involves categorizing the material into one of seven physical assessment classifications, based on condition of material, location and amount of material,
whether material is accessible, potential for disturbance, known or suspected causes of damage and preventative measures which might eliminate likelihood of undamaged ACBM from becoming damaged.

The results of an AHERA inspection and the assessment must be documented in an inspection report. Based on the inspection and assessment, the management planner makes written recommendations on appropriate response actions (operations and maintenance, repair, encapsulation, enclosure, or removal) for the remaining ACBM.

The DP must check to make sure that the inspector who conducts the inspection or reinspection and makes the assessment on the condition of the ACBM and the management planner who makes recommendations on appropriate response actions have current and valid accreditation certificates.

The DP must ensure that he or she receives the inspection/reinspection report, assessments/reassessments, and management planner recommendations within 30 days. After reviewing these report and deciding what actions must be taken, the DP needs to put these reports into the management plan. When reviewing these reports, the DP should make sure that the inspector covered all buildings and areas likely to have ACBM. Garages, gymnasiums and portable buildings are often overlooked. Plaster and sheetrock are probably the most often overlooked materials and are major areas of suspected asbestos-containing building materials (ACBM).

**THE MANAGEMENT PLAN**

Each school building must have an asbestos management plan, even portable buildings and buildings not used as classrooms, such as transportation buildings. The management plan is a site-specific guidance document that the DP will follow in managing the ACBM present in a school building. The DP is responsible for ensuring that the activities related to the management plan are implemented.

As an asbestos program manager, the DP must see to it that the following records are kept in the management plan:

- General information, such as the list of the names and addresses of all school buildings, whether the school building contains ACBM or suspected ACBM
- AHERA Designated Person information
- Inspection and reinspection reports, including assessments and recommendations and sampling results
- Description of the operations and maintenance program, including documentation on operations and maintenance activities
- Response action, fiber release episode and preventive measure documentation, including air clearance sampling, accreditation certificates of persons designing and conducting the activities, etc.

- Updated information on the locations of ACBM

- Information on future activities, such as a plan for reinspections, operations and maintenance (O&M) activities, periodic surveillance inspections, etc.

- Copies and information on required notifications

- Six-month periodic surveillance reports

- Documentation on the training for maintenance and custodial staff

EPA has found that many management plans were not "user-friendly" and required specialized instruction to understand. Because the management plan is the basis for all asbestos work done in the school and is a guide for anyone who could disturb ACBM during maintenance or custodial work, DP should review the management plan for clarity and usability and assure changes are made to make this plan user-friendly.

The Asbestos Management Plans (Plan) should be considered a "living" document. Some Plans are left exactly the same as they were when they were created, with no updates whatsoever. This is particularly true with respect to required records concerning the six-month periodic surveillance to document changes in the condition of asbestos-containing building materials; annual notifications to parents, building occupants and workers; documentation pertaining to response actions or fiber releases episodes; and records of the two-hour and sixteen-hour training for custodial and maintenance workers. It is the responsibility of the LEA designated person to ensure that complete and up-to-date records are maintained and included in the management plans.

The administrative staff at individual schools are sometimes unaware of the existence of management plans and/or do not know where the school's copy of the plan is kept. The DP must ensure that a copy of the management plan is in the main administrative office and in each school building and that staff are aware of its location and understand how to use it. The plan must be available to persons for inspection without cost or restriction.

**OPERATIONS AND MAINTENANCE PROGRAM**

The DP must assure that the LEA has an effective operations and maintenance program where there is asbestos-containing building materials in a school building. The O & M program has three objectives:
Clean up existing contamination.

Minimize future asbestos fiber releases by controlling access to ACBM and instituting proper work practices.

Properly maintain the ACBM until it is removed.

The specific work practices that must be followed when routine maintenance activities are being conducted depend on the likelihood that the activities will disturb the ACBM and cause fibers to be released. In buildings where ACBM is present, routine maintenance activities, such as work on light fixtures, plumbing fixtures and pipes, air registers, HVAC ducts, and other accessible parts of a building's utility systems, can disturb ACBM and raise levels of airborne asbestos. The DP must instruct maintenance workers not to perform any maintenance work that could disturb ACBM unless they are appropriately trained and use specific work practices.

If employees work in areas where asbestos fiber levels exceed a certain level and the employees are required to wear pressure respirators, then the DP must assure that LEA or the hired contractors have effective medical surveillance and respiratory protection programs.

A DP can minimize accidental disturbances of ACBM during maintenance and renovation activities by establishing a permit system that calls for all work orders and requests to be processed through the DP.

Vinyl Asbestos Tile (VAT) is the most prevalent source of asbestos containing material in the school buildings and most likely will be for years to come. Although VAT is considered non-friable, the frictional forces exerted on these materials during routine floor-care maintenance operations can release asbestos fibers. The DP must instruct and remind maintenance and custodial staff of the specific practices which must be followed in maintaining VAT in order to prevent asbestos fibers releases.

At least once every six months, the LEA assign someone—usually someone from the custodial and maintenance staff or the DP—to conduct periodic surveillance in each building that contains ACBM or suspected ACBM to see if the condition of the ACBM or suspected ACBM has changed and to alert the DP if action needs to be taken to avoid any asbestos fiber releases. The DP must assure that appropriate action is taken if the condition of the ACBM has changed such that asbestos fiber releases are likely. The DP must assure that these periodic surveillance reports are kept in the management plan.

Once ACBM is identified or assumed to be present, the DP must assure that persons are notified and warned to the potential hazard of ACBM in the building and are provided basic information on how to avoid the hazard.
The DP must issue the following notifications regarding asbestos identified in its schools:

An annual notice to all workers and building occupants, or their legal guardians, of all inspections, reinspections, and activities being conducted to control asbestos exposure, including periodic surveillance and asbestos removal, that are planned or in progress. Often this notification is published in the school's newsletter. This notification should be documented in the management plan.

An annual written notice informing parent, teacher, and employee organizations of the availability of the management plan for their review. Often this notification is published in the school's newsletter. A dated copy of this notice must be maintained as part of the management plan.

A notice to short-term workers (e.g., telephone repair workers, utility workers, or exterminators) who may come into contact with asbestos in a school identifying the location of ACBM or assumed ACBM in the building. Often this notification is in the form of a description of the locations of ACBM in the building and a sign-in log for short term workers to sign. This notification is a key in preventing short term workers from accidently causing asbestos fiber releases due to a lack of knowledge where ACBM is located in the building. This notification should be documented in the management plan.

The LEA is required to attach a warning label immediately adjacent to any ACBM or assumed ACBM that is located in routine maintenance areas (such as boiler rooms) at each school building. Unlike notification, labeling is not intended as a way to disseminate general information. Instead, it is a last line of defense to prevent unprotected individuals from unknowingly disturbing ACBM.

**TRAINING AND ACCREDITATION**

The DP must be trained on the following topics: health effects of asbestos; detection, identification and assessment of ACBM; options for controlling ACBM; asbestos management program; related federal and state laws. The DP is responsible for assuring that all people working on the school buildings who might encounter ACBM are properly trained, and that all people conducting asbestos-related activities have current and valid accreditation certificates.

The DP must assure that all maintenance and custodial staff who may work in a building that contains ACBM receive a minimum of two hours awareness training, whether or not they are required to work with ACBM. This training must be given within 60 days of hire. The training includes information on asbestos and its uses and forms; health effects associated with asbestos exposure; locating ACBM identified throughout each school building in which they work; recognizing various conditions of ACBM; name and telephone number of LEA designated person; information pertaining to the availability and location of management
plan. Staff that may disturb ACBM must receive an additional 14 hours of training. Their training includes the information contained in the two hour asbestos awareness training and proper methods for handling ACBM; information on proper use of respiratory protection; hands-on training in the use of respiratory protection, other personal protection measures, and good work practices; information pertaining to various regulations; technical information.

Building inspectors, management planners, project designers, contractors/supervisors, and asbestos workers must successfully complete EPA- or State-approved courses, pass an exam and receive accreditation before they can perform any asbestos-related activities and complete annual EPA- or State-approved refresher courses to maintain their accreditation. Building inspectors learn technical information needed to identify and describe ACBM; information needed to write an inspection report. The Management Planner's course is an extension of the building inspector training, plus how to develop a schedule (or plan) for implementation of response actions for hazards or potential hazards identified in the inspection report, how to develop an O&M plan, and how to prepare a management plan. Project Designers learn how to design response actions and abatement projects; basic concepts of architectural design, engineering controls and proper work practices. Supervisors/contractors learn proper work practices and procedures; contractor issues such as legal liability, contract specifications, insurance, and bonding; air monitoring. Workers learn work practices and procedures, personal protective equipment, health effects of asbestos exposure, and other critical information.

**ACTIONS FOR MANAGING ASBESTOS IN SCHOOL BUILDINGS**

Based on the recommendations of the management planner, the DP will play a key role to select the appropriate actions to deal with the existing asbestos-containing building materials. The DP must see to it that these actions are carried out in a timely manner and in compliance with the AHERA requirements.

Operations and Maintenance (O&M) Program -- This is a program of work practices designed to maintain ACBM in good condition and ensure clean-up of asbestos fibers previously released. An effective O & M program can prevent further release by minimizing and controlling ACBM disturbance or damage.

Repair -- This involves returning damaged ACBM to an undamaged condition or to an intact state by replacing limited sections or patching damaged areas.

Encapsulation -- This involves the treatment of ACBM with a material that surrounds or embeds asbestos fibers in an adhesive matrix to prevent the release of fibers. The encapsulant either creates a membrane over the surface (bridging encapsulant) or penetrates the material and binds its components together (penetrating encapsulant). Both types of encapsulants are applied to the material surface using airless spray equipment at low pressure to reduce release of fibers during the application.
Enclosure -- This involves creating an airtight, impermeable, permanent barrier around ACBM to prevent the release of asbestos fibers into the air. The barrier is typically attached physically or sprayed on. For example, materials such as PVC or corrugated metal may be fastened around insulated piping, or a barrier may be constructed around asbestos fireproofing on structural members by spraying material that cures into a hard shell.

Removal -- This involves the taking out or the stripping of ACBM from a damaged area, a functional space, or a homogeneous area in a school building. Only accredited personnel can design the activity and conduct the removal, and only an accredited laboratories can be used to perform final clearance air sample analyses to assure that the area is safe for building occupants.

RELATED REGULATIONS

An asbestos management program is subject not only to AHERA and the AHERA Rule, but also may be subject to NESHAP, OSHA, DOT regulations and the EPA Worker Protection Rule. The DP must become familiar with these regulations, as these regulations impact his responsibilities of safe management and removal of ACBM.

Relevant provisions of NESHAP establish work practices for asbestos air emission control when a facility is being demolished or renovated, and for the disposal of asbestos-containing waste material.

OSHA established minimum standards for the protection of workers involved in asbestos-related work or employees exposed to asbestos-contaminated workplaces. These standards include required work practices, engineering controls, permissible exposure limits, written programs for respiratory protection and medical surveillance, methods for compliance, hazard communication, housekeeping, competent person training and responsibilities, and required recordkeeping.

OSHA excludes federal, state, or local government employees from its worker protection rules (including public school employees). The EPA Worker Protection Rule extends the protection afforded by OSHA to all employees in asbestos abatement who may have been excluded from protection by OSHA.

Relevant provisions of DOT regulations establish labeling, packaging and shipping standards for the transporting of asbestos-containing materials.