

Revised Asbestos Regulations and Charter Schools

Background

The Asbestos Hazard Emergency Response Act (AHERA), passed by Congress in 1986, required the U.S. Environmental Protection Agency (EPA) to establish federal regulations that safeguard school children from asbestos exposure in school buildings. The "Asbestos in Schools Rule" (40 CFR Part 763, Subpart E) sets forth specific regulatory requirements designed to protect students, teachers, and other school employees from exposure to asbestos within schools. Charter Schools are subject to AHERA's requirements and are required to designate a person to inspect for asbestos-containing building materials and prepare management plans that make recommendations for the reduction of asbestos hazards.

Federal Requirements for Asbestos Management in Charter Schools

- AHERA requires charter schools to designate a person to ensure that the responsibilities of asbestos management are properly implemented. This person must receive proper training but is not required to be a licensed asbestos consultant. There is no specific training course but the EPA has developed a "Designated Person's Self-Study Guide" detailing the knowledge required. (www.epa.gov/region2/ahera/e23.pdf)
- The designated person must prepare an asbestos management plan for managing asbestos and controlling exposure in each school. This plan must be signed by the designated person.
- The designated person must retain the services of properly accredited persons to conduct an original inspection and re-inspection every three years to determine the presence of asbestos-containing building materials. An inspection of each area of every building that is leased, owned, or otherwise used as a school building is required.
- The designated person must provide yearly written notification to parent, teacher, and employee organizations regarding the availability of the school's asbestos management plan and any asbestos abatement actions taken or planned. This notice must be dated and documented in the asbestos management plan.
- The designated person must perform periodic surveillance of known or suspected asbestos-containing building materials and note any changes in the material. This must be done at least once every six months and does not need to be conducted by a licensed consultant. It is often performed by custodial or maintenance personnel.
- The designated person must ensure that all maintenance and custodial staff receive at least two hours of asbestos awareness training annually. New custodial and maintenance employees must be trained within 60 days of employment. Short-term workers, such as utility repair workers, who may come in contact with asbestos, must be informed of the location of asbestos-containing building materials.
- The designated person must keep records of all asbestos related activities in the asbestos management plan and make them available for public review.

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Questions and Answers

1. What is asbestos?

Asbestos is a mineral found in certain types of rock formations. When mined and processed, it takes the form of very small fibers, usually invisible to the naked eye.

2. What constitutes asbestos-containing material (ACM)?

ACM is any material containing more than 1% asbestos.

3. Is it dangerous to have asbestos-containing material in a school?

Undamaged asbestos that is properly managed in place poses little health risk to students or teachers. However, it is important that the school designated authorities regularly inspect asbestos-containing materials. Asbestos can pose a hazard when it is disturbed and becomes airborne and, therefore, breathable.

4. Is the AHERA Asbestos in Schools Rule mandatory?

Charter schools that fail to comply with existing regulatory requirements are subject to enforcement action. The rule is enforceable by law, and charter schools may be subject to monetary penalties if they are not in compliance with its requirements.

5. What does the term "school building" mean?

- Any structure used as a classroom, including a laboratory, library, or eating facility;
- Any gymnasium or facility designed for athletic or recreation activities for an academic course in physical education;
- Any facility used for the instruction or housing of students or for the administration of educational or research programs;
- Any maintenance, storage, or utility facility, including any hallway essential to the operation of a school building;
- Any portico or covered exterior hallway or walkway; and
- Any exterior portion of a mechanical system used to condition interior space.

6. What is an asbestos management plan?

An asbestos management plan provides documentation of the recommended asbestos response actions, the location of asbestos within the school, and any action taken to repair or remove the material. This 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 must be included.

7. What are the responsibilities of the charter school designated person?

The designated person serves as the single point of contact for public information about asbestos-related activities. This person must ensure that initial inspections, re-inspections, and semi-annual surveillance activities are conducted properly by qualified personnel. They must make sure the results of the inspections are in the management plan and that custodial and maintenance workers receive required safety training. They are responsible for informing all teacher, parent, and employee organizations yearly about asbestos activities in each school and documenting the notification in the asbestos management plan.

Additional Resources and Information

Asbestos in Schools Rule, <http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?YEAR=current&TITLE=40&PART=763&SECTION=&SUBPART=E&TYPE=TEXT>

EPA asbestos website, <http://www.epa.gov/asbestos/pubs/schools.html>

The Asbestos Hazard Emergency Response Act (AHERA), 15 U.S.C. §§ 2641-2656, http://www.access.gpo.gov/uscode/title15/chapter53_subchapterii_.html

The Florida Department of Education, Office of Educational Facilities, <http://www.firn.edu/doe/edfacil/>

The Florida Department of Education, Office of Independent Education and Parental Choice, <http://www.floridaschoolchoice.org>

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