U.S. Federal Asbestos Regulations

AHERA
NESHAP
MAP
OSHA Construction
OSHA Respirators

U.S. Federal Asbestos Regulations:
AHERA, NESHAP, MAP, OSHA Construction, OSHA Respirators
by The Asbestos Institute

The Asbestos Institute
20033 N 19th Ave., Bldg. 6
Phoenix, AZ 85027
Phone (602) 677-3243
FAX (602) 864-6564
www.theasbestosinstitute.com

ISBN: 978-1-7323436-2-7 (softcover)

Library of Congress Control Number: 2018950244

Editor: William T. Cavness
Cover and Interior Design: Nick Zelinger, NZGraphics.com

First Edition

Printed in the United States of America

TABLE OF CONTENTS

Introduction to the federal asbestos regulations

There are many more federal asbestos regulations than these 4, but these, in addition to the OSHA Respiratory Protection standard are the main regulations that you will use in the asbestos control industry. Whether you are an owner, consultant, contractor or regulator, you need to become familiar with these regulations. They apply all across the United States. If you are familiar with these 4 federal regulations, it is not difficult to add any state, delegated agency or local jurisdiction rules to these federal regulations.

Each regulation has its own agenda or purpose. They may say things in different ways, but there is never a conflict between these regulations.

AHERA is about using a building safely in the presence of asbestos containing materials. This regulation gives us the regulatory application of an asbestos inspection and the concept of Operations and Maintenance (O&M) to control asbestos exposure in an occupied building.

NESHAP is the only regulation that requires asbestos to be removed from a building, and then it regulates the waste stream clear through disposal. The asbestos NESHAP applies to demolition and renovation activities to protect the public from asbestos emissions.
The Model Accreditation Plan is not about asbestos work, but it requires trained and certified people to do asbestos work in buildings. It also gives states and accredited training providers a regulatory guide for training classes in order to certify these people.

The OSHA asbestos standard for construction is about protecting employees on an asbestos work site. It is the one regulation that protects individual people (employees). This regulation may require the use of respirators to protect employees from asbestos exposure, but respirators are not the primary protection from asbestos. The required protection is accomplished mainly through work practices and engineering controls to prevent the asbestos from becoming airborne during disturbance.

The OSHA Respiratory Protection standard is “generic”, or not asbestos specific. It applies, in our case, when respirators are required by the construction standard, or when they are chosen to be used by the employer. If respirators are used for any purpose, they must be used according to this regulation.

These regulations are good regulations that will protect people from asbestos exposure if complied with. However, regulations are not the ultimate or best way to protect individuals or the public from asbestos. They are minimal. They are the least that must be done because they are the law. Most owners and employers will choose to go far beyond the regulations to protect themselves and others from the perception of asbestos exposure because of potential legal liabilities.

AHERA
Asbestos Hazard Emergency Response Act
40 CFR 763, Subpart E

MANAGING ASBESTOS IN BUILDINGS

Although this federal regulation applies only to schools, it is the only regulatory reference we have to apply to the concept of "O&M" (Operations and Maintenance), or how to manage asbestos safely in an occupied building which contains installed asbestos containing materials (ACM). If a building owner needs to reference federal regulation to support asbestos management practices, this is the regulation.

An extra-regulatory reference that should be used is *Managing Asbestos in Buildings: A Guide for Owners and Managers*, published by the Environmental Information Association (EIA), 2015. This is the most up to date, accurate and comprehensive resource on the subject.

www.theasbestosinstitute.com

40 CFR 763
Subpart E—Asbestos-Containing Materials in Schools

SOURCE: 52 FR 41846, Oct. 30, 1987, unless otherwise noted.

Sec.

§ 763.80 Scope and purpose.

(a) This rule requires local education agencies to identify friable and nonfriable asbestos-containing material (ACM) in public and private elementary and secondary schools by visually inspecting school buildings for such materials, sampling such materials if they are not assumed to be ACM, and having samples analyzed by appropriate techniques referred to in this rule. The rule requires local education agencies to submit management plans to the Governor of their State by October 12, 1988, begin to implement the plans by July 9, 1989, and complete implementation of the plans in a timely fashion. In addition, local education agencies are required to use persons who have been accredited to conduct inspections, reinspections, develop management plans, or perform response actions. The rule also includes recordkeeping requirements. Local education agencies may contractually delegate their duties under this rule, but they remain responsible for the proper performance of those duties. Local education agencies are encouraged to consult with EPA Regional Asbestos Coordinators, or if applicable, a State's lead agency designated by the State Governor, for assistance in complying with this rule.

(b) Local education agencies must provide for the transportation and disposal of asbestos in accordance with EPA's ''Asbestos Waste Management Guidance.'' For convenience, applicable sections of this guidance are reprinted as Appendix D of this subpart. There are regulations in place,

however, that affect transportation and disposal of asbestos waste generated by this rule. The transportation of asbestos waste is covered by the Department of Transportation (49 CFR part 173, subpart J) and disposal is covered by the National Emissions Standards for Hazardous Air Pollutants (NESHAP) (40 CFR part 61, subpart M).

§ 763.83 Definitions.

For purposes of this subpart:

Act means the Toxic Substances Control Act (TSCA), 15 U.S.C. 2601, et seq.
Accessible when referring to ACM means that the material is subject to disturbance by school building occupants or custodial or maintenance personnel in the course of their normal activities.
Accredited or accreditation when referring to a person or laboratory means that such person or laboratory is accredited in accordance with section 206 of Title II of the Act.
Air erosion means the passage of air over friable ACBM which may result in the release of asbestos fibers.
Asbestos means the asbestiform varieties of: Chrysotile (serpentine); crocidolite (riebeckite); amosite (cummingtonitegrunerite); anthophyllite; tremolite; and actinolite.
Asbestos-containing material (ACM) when referring to school buildings means any material or product which contains more than 1 percent asbestos.
Asbestos-containing building material (ACBM) means surfacing ACM, thermal system insulation ACM, or miscellaneous ACM that is found in or on interior structural members or other parts of a school building.
Asbestos debris means pieces of ACBM that can be identified by color, texture, or composition, or means dust, if the dust is determined by an accredited inspector to be ACM.
Damaged friable miscellaneous ACM means friable miscellaneous ACM which has deteriorated or sustained physical injury such that the internal structure (cohesion) of the material is inadequate or, if applicable, which has delaminated such that its bond to the substrate (adhesion) is inadequate or which for any other reason lacks fiber cohesion or adhesion qualities. Such damage or deterioration may be illustrated by the separation of ACM into layers; separation of ACM from the substrate; flaking, blistering, or crumbling of the ACM surface; water damage; significant or repeated water stains, scrapes, gouges, mars or other signs of physical injury on the ACM. Asbestos debris originating from the ACBM in question may also indicate damage.
Damaged friable surfacing ACM means friable surfacing ACM which has deteriorated or sustained physical injury such that the internal structure (cohesion) of the material is inadequate or which has delaminated such that its bond to the substrate (adhesion) is inadequate, or which, for any other reason, lacks fiber cohesion or adhesion qualities. Such damage or deterioration may be illustrated by the separation of ACM into layers; separation of ACM from the substrate; flaking, blistering, or crumbling of the ACM surface; water damage; significant or repeated water stains, scrapes, gouges, mars or other signs of physical injury on the ACM. Asbestos debris originating from the ACBM in question may also indicate damage.
Damaged or significantly damaged thermal system insulation ACM means thermal system insulation ACM on pipes, boilers, tanks, ducts, and other thermal system insulation equipment where the insulation has lost its structural integrity, or its covering, in whole or in part, is crushed, waterstained, gouged, punctured, missing, or not intact such that it is not able to contain fibers.