

Division of Environmental, Cultural and Safety Management (DECSM)

Asbestos Hazard Emergency Response Act (AHERA)

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Asbestos Hazard Emergency Response Act (AHERA)

40 CFR 763 (subpart E)

- ✱ In grades Kindergarten – Twelve (K-12)
- ✱ In school buildings – not housing quarters
- ✱ Compliance Enforcement is at the Federal Level.
- ✱ AHERA is a federal regulation enforced by the USEPA.
- ✱ Division of Environmental, Cultural and Safety (DECSM) is enforcing AHERA on the NR in compliance with 40 CFR 763 (subpart E).

School Buildings Defined

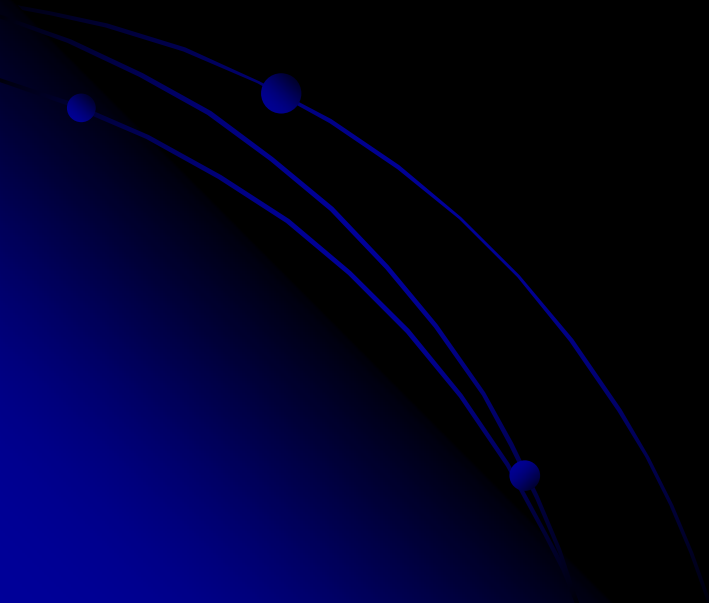
✱ 40 CFR 763.83 (School Building means:)

- Structure suitable for use as classroom.
- School facility such as Library, Eating Facility, Laboratory or Kitchen.
- Gym used for physical education or any sports activity.
- Any facility that houses of students which is a dormitory (not government houses)
- Any maintenance, storage, utility or hallway.
- Any covered exterior hallway or walkway.
- A mechanical system used to condition interior space.
- AHERA is the interior of school buildings.

763.84 Local Education Agency (LEA) Responsibilities

- ✱ Designate a designated person (DP) to see that AHERA is carried out.
- ✱ Every school is to have a DP.
- ✱ The LEA is to ensure that the DP is trained in:
 - 1. Health effects
 - 2. Detection & assessment of ACBM
 - 3. Options for controlling ACM
 - 4. Asbestos management program
 - 5. Relevant Federal and State Regulations concerning asbestos.

LEA defined for 40 CFR 763.84

- ✱ (1) Any local educational agency as defined in section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3381).
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Local Education Agency (LEA) defined for 40 CFR 763.84 (cont.)

- ✱ (2) The owner of any nonpublic, nonprofit elementary, or secondary school building.
- ✱ (3) The governing authority of any school operated under the defense dependents education system provided for under the Defense Dependents Education Act of 1978 (20 U.S.C. 921, et seq.).

763.84 LEA Responsibilities (cont)

- ✱ These are all taught in the two hour awareness training
- ✱ Ensure that the AHERA management plan is available in the front office as specified in 763.93(g).
- ✱ Ensure that the warning labels are in place as in 763.95.

AHERA

Re-inspections as in 763.85(b)

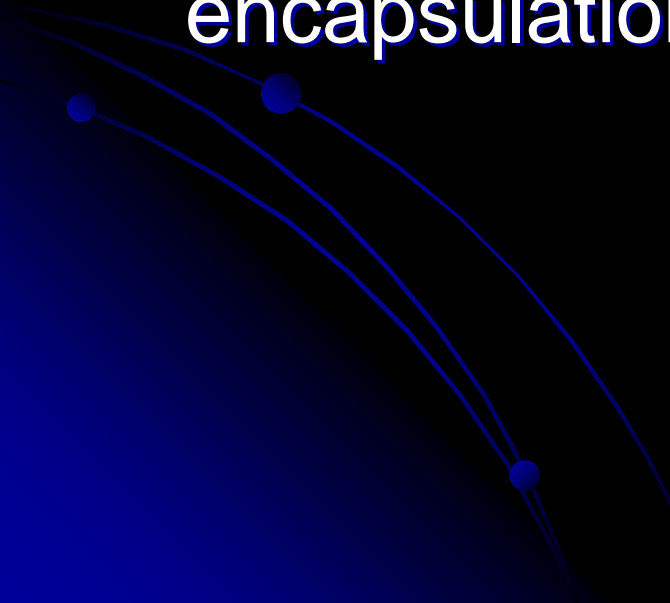
- ✱ AHERA re-inspections are done every 3-years.
- ✱ Inspections are conducted for schools K-12 for schools that have asbestos containing building material (ACBM).
- ✱ Contracted by DECSM to inspect BIA, Contract, and Grant schools, if BIA owns the building.

AHERA

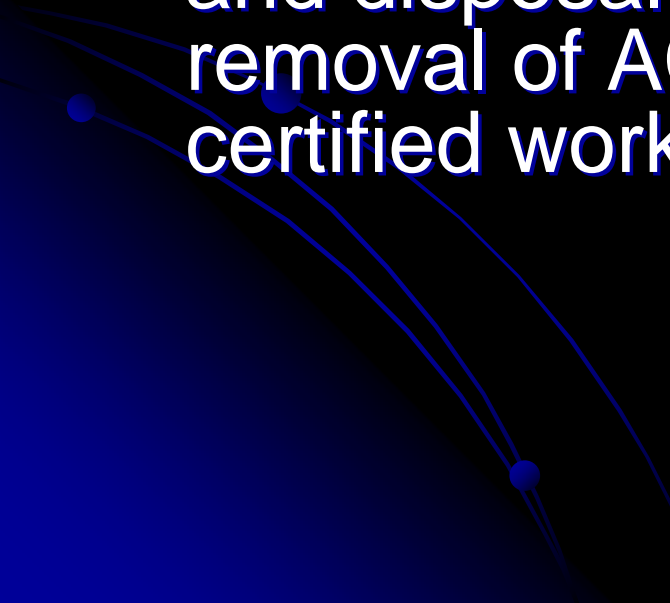
Re-inspections as in 763.85(b)

- ✱ Copies of the re-inspections are provided to school, agency facility management & DECSM.
- ✱ A Compact Disk (CD) is sent to NNEPA, USEPA, Agency Facility Management, Regional Facility Management and DECSM

Types of Control of ACBM

- ✱ There is complete removal.
 - ✱ There is enclosure. This must be air tight and water resistant.
 - ✱ There is encapsulation. Carpeting is **NOT** encapsulation.
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Types of Control of ACBM (cont.)

- ✱ The three methods are to be designed by a certified designer.
 - ✱ Lastly is O&M that can even be done by RFM. I ask to be involved in the pre con meeting since there are specific air tests and disposal that must be done and the removal of ACBM must be done by certified workers.
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Types of Control of ACBM (continued)

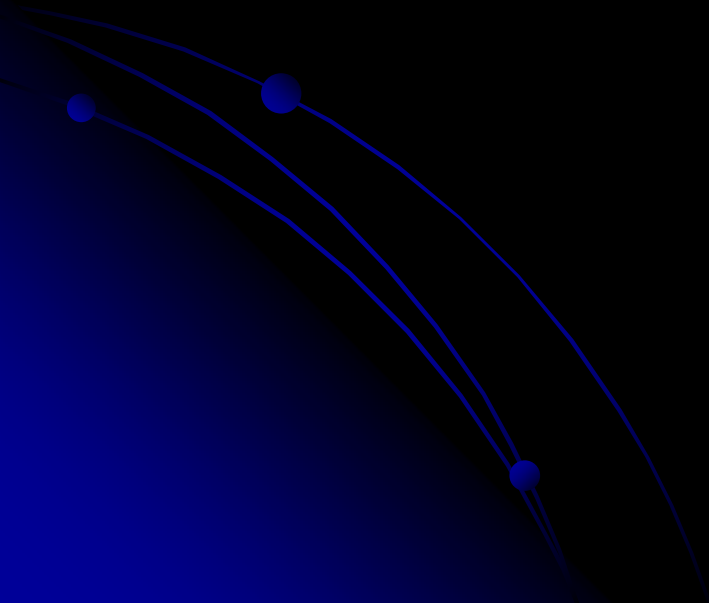
- ✱ The OSHA regulations must be met to protect the worker.
- ✱ Do not put the entire back of carpeting laid over VAT covered with mastic. Put spots of mastic and a thin continuous mastic strip around the edge of the carpet. When replaced the carpet will be easier to get off. Please be sure the mastic does not contain asbestos as on the can content label.

Specific Regulations

- ✦ The air test or called Transmission Electron Microscopy (TEM) must be completed if the area abated is greater than 160 SF. I recommend the TEM if the area is greater than three SF in any school building to protect the students and staff.

Specific Regulations (continued)

- ✱ The contractor who did the abatement **can not** complete the TEM. A copy of the TEM must be in the final report.



Specific Regulations (continued)

- ✱ The Phase Contrast Microscopy (PCM) is allowed for areas abated that are <160 square feet . But the contractor still cannot collect the sample from his own work and take it to the lab for analysis. Also we are under the USEPA and NNEPA but not any state EPA.
- ✱ A copy of the Manifest signed at the landfill must be in the final report.

Specific Regulations

- ✱ The final report must be placed by the contractor at the school in the AHERA Management Plan, a copy to the NNEPA and a copy to DECSM

Major Objectives of AHERA

- ✱ 1. Identification of all ACBM for the purpose of:
- ✱ 2. Assessment of Friable & TSI ACBM so that ACBM may be:
- ✱ 3. The ACBM is Managed Safely in the Building.

AHERA Requirements

40 CFR 763

- ✱ 763.84: Building owner responsibilities – The LEA responsibilities defined such as to appoint the DP and verify everything of the Management Plan is done.
- ✱ 763.85: Inspections and Re-inspections – This sections defines the inspections and re-inspections and when to be done.
- ✱ 763.86: Sampling is done at the Inspection or Re-inspections & lab analysis.
- ✱ 763.87: Analysis is done, by a NVLAP accredited lab, on samples collected under 40 CFR 763.86. Lab analysis for ACBM is done by Polarized Light Microscopy (PLM).
- ✱ 763.88: Assessments and control of ACBM

AHERA Requirements

40 CFR 763 (cont)

✱ 763.90: Response Actions

- LEA must implement AHERA in a timely manner. There are 5 responses of removal, encapsulation, enclosure, repair or O&M.
- Protect human health & the environment in the least burdensome way.
- Mandate for accredited Project Designer

✱ 763.91: Operations & Maintenance (O&M) –

- 1. Mandate for O&M friable ACM
- 2. EPA Worker Protection
- 3. Special Cleaning
- 4. Special Work Practices
- 5. Emergency Responses

AHERA Requirements

40 CFR 763 (cont)

- ✱ 763.92: Training and Periodic Surveillance
 - In 40 CFR 763.92 (a)(1) a 2 hour awareness of AHERA is required for all maintenance and custodial employees at the school.
 - In 29 CFR 1910.1101 the Occupational Health and Safety Act (OSHA) the training is required within 30 days of employment and annually there after.
 - In 40 CFR 763.92(a)(2) the 14 hour AHERA if working with ACBM.

AHERA Requirements

40 CFR 763 (cont)

- ✦ 763.92(cont.) As in 40 CFR 763.92 the six month surveillance is to be completed each 6 months. All ACBM materials are to be inspected for friable materials. Our Region has the for the 6 month surveillance form in the re-inspection report so it can be completed each 6 months. The completed form is to be in the Management Plan as in 40 CFR 763.84. The LEA is to verify this is completed.

AHERA Requirements 40 CFR 763 (cont.)

✱ 763.93: Management Plans

- Three Year Re-inspection Reports
- Annual Notifications – one for each school year-19 notifications
- Six Month Periodic Surveillance – 30 of them – not needed in the 6 month period of the AHERA 3 year re-inspection
- Training Records

AHERA Requirements 40 CFR 763 (cont.)

- ✱ 763.93: Management Plans (cont.) The **Annual Notification** must be completed each school year as in 40 CFR 763.93(g)(4). This is to be put in the Management Plan & the LEA is responsible for seeing that it is completed as in 40 CFR 763.84. The annual notification copies are to be sent to all parents in the weekly news report or separately. This letter is to be signed by the principal.

AHERA Requirements 40 CFR 763 (cont.)

✱ 763.93: Management Plans (cont.)

- Record Keeping of any management such as encapsulation, enclosure, removal or O&M – Have a copy of the TEMs & Manifest plus a report from the contractor of what was done

AHERA Requirements 40 CFR 763 (cont.)

✱ 763.93: Management Plans (cont.)

- A letter to designate the AHERA Designated Person (DP) that is to be appointed by the LEA as in 40 CFR 763.84(g) - give:
 - ◆ 1. name of DP
 - ◆ 2. address of DP
 - ◆ 3. phone # at work & home of DP
 - ◆ 4. AHERA training of DP

AHERA Requirements 40 CFR 763 (cont.)

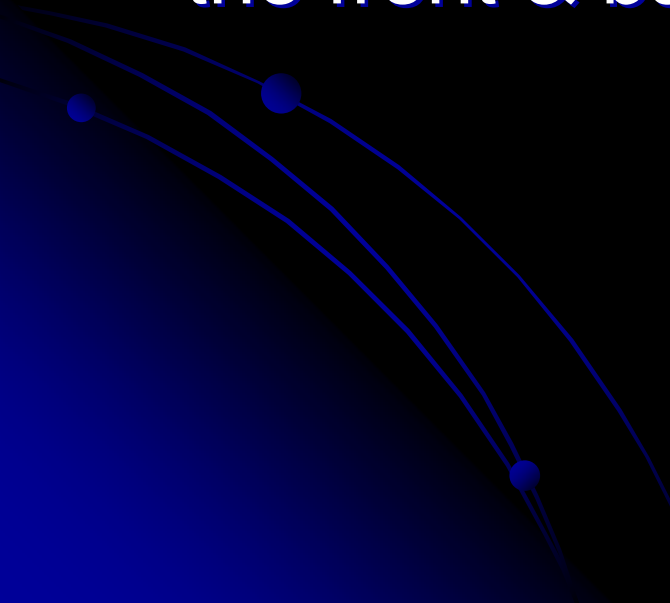
- ✱ 763.94: Record Keeping-There must be record report of all ACBM activities >3 square feet done by the contractor. This is to be in the Management Plan as in 40 CFR 763.93(h). The report is to include a copy of the Transmission Electron Microscopy (TEM) and the waste manifest. The TEM is to show all ACBM has been removed before children allowed in & the manifest is to show proper waste disposal.

AHERA Requirements 40 CFR 763 (cont.)

- ✱ 763.95: Warning Labels the label on ACBM materials in non-routine areas (where children cannot go) such as boiler rooms must have the exact wording of this section. This is:

CAUTION: ASBESTOS, HAZARDOUS, DO NOT DISTURB WITHOUT PROPER TRAINING AND EQUIPMENT.

AHERA Requirements 40 CFR 763 (cont.)

- ✱ 763.95: (cont.) A sign may be placed on the door to routine maintenance areas with the exact wording given and not label each individual item. Be sure to have a sign on the front & back doors.
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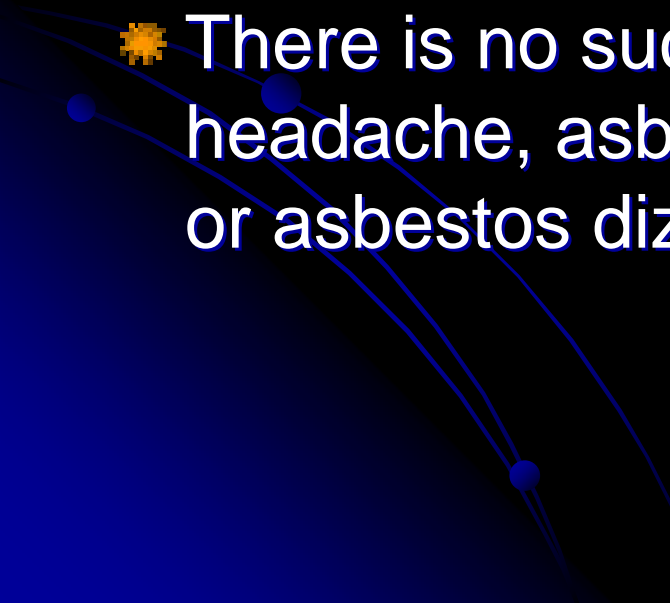
AHERA Requirements 40 CFR 763 (cont.)

- ✱ 763.97: Compliance and Enforcement – as in subsection (f) the USEPA may conduct inspections at any time to ensure compliance. Fines are up to \$5,000.00/day & a total of \$25,000.00/violation. Most inspections are not announced so we need to be in compliance at all times.
- ✱ 763.98: Waiver – This brings up our right to a hearing.

AHERA Requirements 40 CFR 763 (cont.)

- ✱ 763.99: Exclusions – in 40 CFR 763.99(a)(7) it states that a building built after 10/12/1988 only needs a letter of no ACBM, if none, and no inspection is needed or 6 month surveillance. This needs to be a letter of one sentence. Put in the Statement of Work (SOW) that the contractor will not be paid the final \$50,000.00 until they provide this letter. A Management Plan is still needed and the Annual Notification, still needed, stating No Asbestos.

Frequent Asbestos Concerns

- ✱ Exposure to asbestos fibers will not immediately give you cancer or cause health effects; it is a long term disease of cancer or asbestosis that takes 15-30 years to develop.
 - ✱ There is no such thing as an asbestos headache, asbestos flu, asbestos stomach ache or asbestos dizzy spells.
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National Emission Standards for Hazardous Air Pollutants (NESHAPS) in 40 CFR 61

- ✱ The AHERA states to follow NESHAPS regulations for abatement in any school building.
- ✱ NESHAPS also has regulations for asbestos removal and disposal for the government quarters and other facilities. A 10 day notification form must be presented to USEPA before removal.

Why did we use Asbestos so much?

Good for :

- ☀ fire insulation
- ☀ cold insulation
- ☀ heat insulation
- ☀ sound insulation
- ☀ electrical insulation > 3,000 products