



# Enforcement Alert

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## Schools Learn to Protect Students, Staff From Exposure to Asbestos Hazards

### U.S. Law Requires Inspections, Planning and Notice of Potential Danger

U.S. Environmental Protection Agency (EPA) inspections of five schools in Puerto Rico in 2002-2003 found widespread failure to protect children from exposure to asbestos. Dust was evident in

several school buildings where stucco containing asbestos had been removed improperly: significant portions of the stucco remaining in classrooms was damaged and pieces of stucco were found on a desk and a floor in one classroom. It was clear that schools were not properly collecting asbestos-containing waste material. EPA learned that in one school, a teacher and several students had removed about 2,000 square feet of asbestos-containing vinyl floor tiles. Neither the students nor the teacher were properly trained in how to do this safely and they did not wear protective gear.

In an administrative settlement reached in early 2004, the EPA imposed a \$5.6 million penalty against the Puerto Rico Department of Education for violations of the Asbestos Hazard Emergency Response Act (AHERA). The settlement calls for the Puerto Rico Department of Education (DOE) to invest the funds in a comprehensive three-year program to identify and reduce or eliminate asbestos hazards and reduce children's exposure to asbestos in over 1,500 public schools on the island.

Under the terms of the Consent Agreement, the Puerto Rico DOE will submit to EPA and the Puerto Rico Environmental Quality Board a work plan that provides for the training of personnel on AHERA requirements, the inspection of all schools and the abatement of any damaged asbestos-containing



#### About Enforcement Alert

*Enforcement Alert* is published periodically by EPA's Office of Regulatory Enforcement in the Office of Enforcement and Compliance Assurance to inform and educate the public and the regulated community of key environmental enforcement issues, recent trends and significant enforcement actions.

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#### What is asbestos?

Asbestos is a naturally occurring mineral fiber, once widely used in building materials for its thermal insulating properties and fire resistance. Today, there is a popular misconception that asbestos-containing materials were banned and removed from school buildings many years ago. Although the removal of asbestos from school buildings has been an option for schools, it is much more likely that schools, or local education agencies, have chosen to manage some asbestos-containing building material in place.

More asbestos answers  
inside.



### Questions and Answers



materials. The inspection portion stipulates that the Puerto Rico DOE will inspect all of its schools by Aug. 31, 2004, and inspect first the schools that were built prior to 1989, which are the most likely to contain asbestos.

As for abatement, the Puerto Rico DOE will fix any asbestos problems or isolate areas until they can be properly addressed. It also must submit monthly progress reports to EPA, inform the public of all

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*Asbestos in schools remains an important national public health issue, one that EPA takes most seriously*

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abatement work and clearly mark the areas to be abated or isolated. The Puerto Rico DOE must develop and update asbestos management plans; conduct all other inspections, such as those required on a semiannual and triennial basis; develop operations and maintenance plans; and keep records of all asbestos-related activities in all schools. All information pertaining to the requirements must be available for public review in each school.

This edition of EPA's Enforcement Alert is to remind schools of their obligations under AHERA and

provide the public with some very basic compliance information.

#### **Why is asbestos a problem?**

The presence of asbestos in high-activity public buildings, such as schools, makes accidental damage or disturbance of the materials possible and creates the potential for exposure. When asbestos-containing building material is damaged or disturbed, fibers can be released into the air and they can be inhaled into the lungs by school children, teachers and school employees. Asbestos exposure can lead to diseases such as lung cancer, asbestosis (scarring of the lung) and mesothelioma (cancer of the abdominal lining). These diseases have a very long latency period. Symptoms of disease may not occur for 30 years after the initial exposure.

#### **Is asbestos still used in building materials?**

A number of building materials still in use today contain asbestos. Asbestos remains in use as an acoustic insulator, thermal insulation, fire proofing, roofing, flooring and other materials. You can find a more complete list of where you can find asbestos at: [www.epa.gov/asbestos/asbuses.pdf](http://www.epa.gov/asbestos/asbuses.pdf)

#### **What is AHERA?**

The Asbestos Hazard Emergency Response Act, a provision of the Toxic Substances Control Act, was

passed by Congress in 1986.

AHERA requires local educational agencies to inspect their schools for asbestos-containing building material and prepare management plans that make recommendations for the reduction of asbestos hazards.

#### **Who is subject to AHERA?**

Public school districts and non-profit private schools (collectively called local educational agencies) are subject to AHERA's requirements. This includes charter schools and schools affiliated with religious institutions.

#### **How do I comply with AHERA?**

The rules implementing AHERA are published in the Code of Federal Regulations, Chapter 40, Part 763, Subpart E. The AHERA rules require local education agencies to take actions, including the following:

- Perform an original inspection and re-inspection every three years of asbestos-containing material;
- Develop, maintain, and update an asbestos management plan and keep a copy at the school;
- Provide yearly 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 in the school;

- Designate a contact person to ensure the responsibilities of the local education agency are properly implemented;
- Perform periodic surveillance of known or suspected asbestos-containing building material;
- Ensure that properly-accredited professionals perform inspections and response actions and prepare management plans; and
- Provide custodial staff with asbestos-awareness training.

### What is an asbestos management plan?

An asbestos management plan is the local educational agency's documentation of its recommended actions in response to asbestos. It cites the location of asbestos within the school and any action taken to repair or remove the material. The local educational agency must maintain records to be included in the asbestos management plan. These records include:

- A list of the name and address of each school building and whether the building has asbestos-containing building material and what type of material contains asbestos;
- The date of the original school inspection;

- The plan for re-inspections;
- A blueprint, diagram or written description that clearly identifies the location of any asbestos-containing building material remaining in the school;
- A description of any response action or preventive measures taken to reduce 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 person designated by the local education agency to carry out the plan; and
- A description of steps taken to inform workers, teachers, and students or their legal guardians about inspections, re-inspections, response actions and periodic surveillance.

The asbestos management plan must be updated with information collected during surveillance every six months, re-inspections every three years, and every time a response action is taken within the school.

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.

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

The local education agency must nominate a "designated person" to perform and delegate, if necessary, the management of asbestos in a school building.

### What is EPA doing to help keep children safe?

EPA is committed to ensuring that local educational agencies protect children by complying with AHERA. EPA will provide local education agencies and parents and teachers with information about the AHERA asbestos-in-schools requirements. EPA is working with the National Parent-Teacher Association, the National Education Association, and the Department of Education. A new website provides Regional contacts and news: [www.epa.gov/asbestos/regioncontact.html](http://www.epa.gov/asbestos/regioncontact.html)

Although EPA is using outreach as its primary compliance tool, where appropriate, EPA will continue to take enforcement actions against local educational agencies that fail to maintain compliance with AHERA.

### What happens to penalties assessed against schools for failure to comply?

AHERA provides that penalties





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assessed against local educational agencies first be used to return the schools to compliance with asbestos requirements.

**What else do I have to do to ensure that students are safe?**

The Asbestos National Emissions Standards for Hazardous Air Pollutants (NESHAP), found at 40 C.F.R. Part 61, Subpart M, requires that owners or operators of facilities notify the appropriate authority (usually the state air agency) before demolishing or renovating facilities. If minimum amounts of regulated asbestos will be removed or disturbed, the owner/operator must adequately wet and carefully remove the asbestos components, keeping them wet until collected for disposal, and then disposing of the asbestos waste in accordance with the regulations.

There are certain emergency exceptions to allow speedy cleanup of unsafe buildings and other extraordinary conditions. The

Asbestos NESHAP defines the kinds of facilities and asbestos that are regulated. Additional information at: [www.epa.gov/compliance/resources/policies/civil/caa/neshapguid.html](http://www.epa.gov/compliance/resources/policies/civil/caa/neshapguid.html)

**Where can I learn more?**

Additional information on AHERA and asbestos in schools is available on EPA's asbestos in schools website at: [www.epa.gov/asbestos/asbestos\\_in\\_schools.html](http://www.epa.gov/asbestos/asbestos_in_schools.html)

You will find several resources on the EPA website including the recently updated *The ABC's of Asbestos in Schools*. You can also request more information on the AHERA requirements from the Toxic Substances Control Act (TSCA) Assistance Information Service at 202-554-1404, or from the Asbestos Ombudsman at 1-800-368-5888.

EPA maintains 10 Regional Offices to implement Federal environmental programs around the country. These Regional Offices cooperate

with Federal, State, interstate, and local agencies, as well as with industry, academic institutions, and other private groups, to ensure that their Region's needs are addressed and that Federal environmental laws are upheld.

Within each Region, Regional Asbestos Coordinators and National Emission Standards for Hazardous Air Pollutants (NESHAPs) Asbestos Coordinators oversee Asbestos efforts: [www.epa.gov/asbestos/regioncontact.html](http://www.epa.gov/asbestos/regioncontact.html)

**Useful Compliance Assistance Resources**

**Office of Enforcement and Compliance Assurance:**  
[www.epa.gov/compliance](http://www.epa.gov/compliance)

**National Compliance Assistance Clearinghouse:**  
[www.epa.gov/clearinghouse](http://www.epa.gov/clearinghouse)

**Compliance Assistance Centers:**  
[www.assistancecenters.net](http://www.assistancecenters.net)

**Small Business Gateway:**  
[www.epa.gov/smallbusiness](http://www.epa.gov/smallbusiness)