

# Control of Asbestos in Maryland

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## **Abstract**

*The State of Maryland in the United States has a long history of asbestos use. Asbestos was mined in Maryland until 40 years ago, mine tailings were used as road cover. More intense exposure was provided by the use of thousands of tons of asbestos in building materials and in its use in steel mills and shipyards located in Baltimore, Maryland. Thousands of Marylanders have died and become diseased from asbestos exposure.*

*The State of Maryland has regulated asbestos for three decades, but instituted a licensing, training, inspection and waste control regulations which were very stringent in the mid 1980s. The MDE (MD Dept. Env) program also oversees the Asbestos Hazard Emergency Response Act which strictly identifies and regulates all asbestos building products in schools. Now this program has been expanded to all buildings.*

*This presentation will detail the administrative controls the state places on all those who work with, identify, remove or own asbestos containing materials.*

Firstly, ACRONYMS or what we call alphabet soup; there are a few that I will use during this talk and it is easier to use these rather than give the whole term each time it is used:

1. EPA—Environmental Protection Agency. Protects the Air, Land, & Water. This is a federal agency that has oversight of states.
2. OSHA—Occupational Safety & Health Administration. Its duty is to protect workers in the public and private sectors from health and safety hazards on the job. Maryland is an OSHA-plan state and carries out OSHA-type inspections at factories, in government buildings, on the railroads, schools, etc.
3. AHERA—Asbestos Hazard Emergency Response Act and regulations. These regulations described in detail how schools were to find and manage the asbestos-containing building materials (ACBMs) in the school buildings. The regulations were published on 30/10/1987 and took effect 14/12/1987.

4. NESHAP—National Emission Standards for Hazardous Air Pollutants. These regulations detail how asbestos is handled in manufacturing, in milling operations, at disposal sites, how it is to be removed from buildings, and what to do with asbestos when a building is demolished. (The hazardous air pollutants include mercury, benzene, ozone, beryllium, and carbon monoxide.)
5. ASHARA—Asbestos School Hazard Abatement Reauthorization Act. These regulations extended most of the AHERA training requirements to persons working in buildings other than schools.

In Maryland in 2004 our asbestos regulations are more stringent in some areas than in other states and less stringent in some areas. The state enforces many federal regulations for the federal government and has promulgated regulations just for Maryland. For instance, our contractor licensing regulations follow the NESHAP regulations, but we do regulate jobs that are smaller than the NESHAP minimum. However, we have not declared all asbestos materials to be subject to the NESHAP and require the use of licensed contractors. For instance, many states have said that asbestos vinyl floor tile is always friable for purposes of removal and the removal has to follow stringent regulations for work practices and for training of the personnel removing the floor tiles.

Asbestos has been regulated in Maryland since 1973 when Maryland became an OSHA plan state. This meant that Maryland agreed to run the state program so that it was at least as stringent as the federal program. Whenever OSHA changed its regulations, Maryland had to change its regulations, too. We could also promulgate regulations that were more stringent than OSHA's. We did this in 2 instances, created confined space rules and made the lead in construction requirements very similar to those for lead in general industry.

In 1983 Maryland was the first state in the nation to have requirements for contractors who were removing asbestos or demolishing buildings containing asbestos. Looking back from today, 21 years later, these regulations seem very minimal. They were, but these were the first regulations that required the contractors to become licensed specifically to work with asbestos. The workers had to have 5 hours of training! And had to use a respirator at all times, had to have a physical examination by a physician, and could not use a disposable respirator! Of course we require more training now, but we still require that the workers use disposable clothing, always use a respirator, and have an annual physical exam. The last significant update to these regulations was in 1990.

The contractors have to notify our office before the job starts so that we can schedule an inspection. Work practices are described in the regulations. At the end of the job, the contractors have to submit documentation about where the waste was land filled and have to submit air-

monitoring reports on the air samples taken when the job was done. Of course the contractor must use AHERA-trained workers and supervisors on these jobs.

In 1991 Maryland adopted the AHERA regulations. We approved the training providers' courses in 2 steps, we approved the written application and when it was approved went to audit the class on site. Part of the AHERA activities involved developing and using photo identification cards for all persons involved in the asbestos occupations of inspector, management planner, project designer, worker, and supervisor.

The training regulations were updated in 1998 to again be as stringent as the federal requirements. We did add one discipline, foreign language worker. This arose from the problem of having many recent immigrants who were not fluent in English and wanted to work on asbestos jobs. Some of the training providers were trying teaching these folks by using an interpreter and in some cases, did not translate the course materials for the class. This foreign language worker discipline has worked very well.

Part of the compliance scheme is taking enforcement actions against contractors and training providers. This ranges from revoking the license of an asbestos contractor, issuing a notice of violation, assessing penalties for violations, issuing consent orders. These training providers may have their training approvals revoked; the photo identification card can be taken from an individual, etc.

### **Maryland Schools**

Maryland has about 2300 individual schools. There are 24 public school systems and 3 private school systems: the 7th Day Adventists and the Archdioceses of Washington and Baltimore. AHERA in Maryland covers all grade levels from preschool through 12th grade that is to say nursery, kindergarten, elementary, middle, and high schools. Universities and day care facilities are not part of AHERA.

The AHERA rules were published 30/10/1987 and took effect 14/12/1987. All of the schools had to achieve compliance by 9/7/1989. Probably 95-98% of the Maryland schools were in compliance at that time. Unfortunately that is not the case now.

Under AHERA, schools had to do many things to comply with AHERA. Basically the schools were required to inspect all of their buildings for ACBMs. When the inspection was finished the schools had to develop a plan to manage the asbestos and a schedule for doing this. The plan that was developed was to protect human health and the environment.

The schools *DID NOT HAVE TO REMOVE THE ASBESTOS JUST BECAUSE THEY HAD IT IN THE SCHOOLS*. However, removal was sometimes required depending upon the condition of the material.

The schools did have to do certain things in order to comply with AHERA.

1. Inspect all of their buildings for ACBMS in all of their buildings, not just the “school buildings”. For this the schools had to use accredited inspectors, persons with 3 days training. These persons took samples of suspect materials or could assume that it contained asbestos. Then if the material was friable (when dry, can be crumbled to a powder by hand pressure) assess the condition of the material.
2. When the inspection report was finished, the schools had to use an accredited management planner to develop response actions for the ACBMS. These could be removal, repair, encapsulation, enclosure, and operations & maintenance activities. There also had to be a schedule for accomplishing these tasks. The school could choose any method that was allowed in the regulations and could consider financial resources in deciding what they wanted to do.
3. The plan had to have a starting and ending date for each activity. This plan was also a compliance schedule for the school.
4. Mandatory tasks for the schools:
  - a. Designate a person to be responsible for the asbestos program. The schools also had to make sure this person had adequate training to carry out their duties.
  - b. Inspect for all asbestos-containing building materials; this did not in most cases include any material on the exterior of the building.
  - c. Use a management planner to choose a response action based on the hazard of the material and develop a schedule that would work for the school.
  - d. Provide 2-hour awareness training for the custodians and maintenance personnel. This training did not train them to work with asbestos, only taught them about the health effects, where it can be found, and how to recognize changes in its condition.
  - e. NOTIFY PARENTS, STAFF, AND TEACHERS EVERY YEAR ABOUT asbestos activities in the school for the past year and plans for the next year, where to find the management plan, how to contact the designated person, etc.
  - f. REINSPECT every 3 years. This meant using an accredited inspector and management planner to check all the ACBMS in all of the buildings to determine if it may have become friable, may have become damaged or accrued more damage in the past 3 years. The inspector did not need to resample, but could at this time sample things that had been assumed to contain asbestos before. Under AHERA schools could assume ACBM was positive, but could not assume that a material did not contain asbestos.

- g. PERIODIC SURVEILLANCE—This was to be done every 6 months and required the person doing it to check the ACBM for any changes in the material. This was only a visual check. This person did not need special training.
- h. At all times the schools are required to maintain an updated management plan in the school and the headquarters office for the schools.
- i. Warning labels had to be placed as close as possible to ACBMS in routine maintenance areas such as boiler rooms, crawl spaces, janitors' closets, etc. until the material was removed.

In 1988 and 1989 the schools achieved nearly 100% compliance with AHERA. However, that rate of compliance has dropped off due to many factors. We do inspections, but can do no more than 50-60 each year with our staffing limits. This is compared to the approximately 2300 school buildings in Maryland. We are outnumbered.

Some of the reasons that we have heard from schools for failure to comply are:

1. No funds or limited funds.
2. Other priorities.
3. Didn't know anything about AHERA.
4. Didn't replace the designated person, and this is critical.
5. Lost the management plan and didn't bother to replace it.
6. Thought that there was nothing going on since we hadn't been to visit their school!!!
7. Moved and thought they only had to comply once with AHERA.

COMPLIANCE ASSISTANCE—The Secretary of our Department and the Director of our Air Program are committed to compliance assistance and not just taking enforcement actions as the first step in achieving compliance. Compliance assistance is doing activities with the schools that have no enforcement component. Some of the things that we do are:

1. Publish a newsletter every 3 months and have done so for 10 years.
2. Run half-day workshops on various topics at no cost to the school personnel.
3. Maintain information on our web site that is free to the schools.
4. Provide copies of regulations, forms, etc. at no cost. All they have to do is ask for it.
5. Visit schools on a consultation basis and not for a compliance inspection.

All of these things are free and schools only need to ask for materials. When the management plans were sent to our office, we reviewed them for deficiencies and sent this information to the

schools so they could make these corrections. The schools had to then send in these corrections to our office.