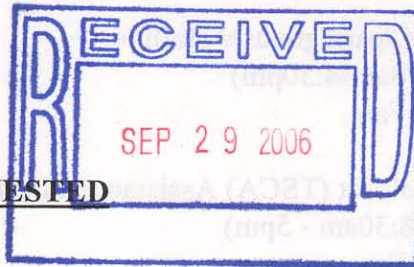




UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029



SEP 5 2006

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Dear Sir/Madam:

The U.S. Environmental Protection Agency (EPA) is sending you this letter to clarify the federal requirements for identifying asbestos-containing material under the Asbestos Hazard Emergency Response Act (AHERA), 15 U.S.C. §§ 2641-2656, and EPA's implementing regulations codified at 40 C.F.R. Part 763, Subpart E. As you may know, these requirements apply to local education agencies (LEAs) and address the identification and management of asbestos-containing building material (ACBM) in schools. EPA is sending this letter to your attention because you are considered to be a LEA as defined in 40 C.F.R. § 763.83.

Recently, EPA Region III became aware that many LEAs in the states of Maryland and West Virginia have been using information included in Occupational Safety and Health Administration (OSHA) Material Safety Data Sheets (MSDS) to determine whether school building material is regulated as asbestos-containing material. According to 40 C.F.R. §763.85, LEAs are required to visually inspect school buildings to identify the locations of all suspect ACBM. These regulations further require LEAs to either assume suspect building material to be regulated as ACBM, or sample and analyze such material in accordance with 40 C.F.R. §§763.86 and 763.87. As described at 40 C.F.R. §763.93, school management plans must include not only the location, quantity, and condition of all ACBM but also descriptions of sampling protocols and results of laboratory analyses.

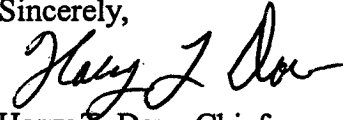
Neither AHERA nor EPA's regulations specify OSHA MSDS as a method to determine whether school building material is regulated as ACBM. If you have used MSDS to determine whether school building material is ACBM in any school under your jurisdiction, you are in violation of federal requirements and must come into compliance immediately. EPA expects to begin reviewing compliance by LEAs with fifty (50) or fewer schools six months after receipt of this letter. EPA expects to begin reviewing compliance by LEAs with fifty-one (51) or more schools one year after receipt of this letter.

Failure to remedy the violations expeditiously may be viewed as a knowing or willful violation, and may subject you to additional enforcement actions including civil and criminal penalties and injunctive relief.

Customer Service Hotline: 1-800-438-2474

The enforcement of AHERA enables EPA to protect the health and safety of children and school employees which is of utmost importance to Agency. If you have any questions, or need clarification, you may contact any of the individuals or offices provided in the enclosures.

Sincerely,



Harry T. Daw, Chief
Pesticides/Asbestos Programs &
Enforcement

cc: Mardel Knight, MD
Lee Miller, WV

Enclosures

For technical assistance on asbestos related issues, the following additional resources are available:

Asbestos Ombudsman Clearinghouse/ Hotline
800-368-5888 (8am-4:30pm)
202-566-2848 - Fax

Toxic Substance Control Act (TSCA) Assistance Information Service
202-554-1404 (8:30am - 5pm)
202-554-5603 - Fax
Email: tsca-hotline@epa.gov

State of Maryland Contact:
Ms. Mardel Knight 410-537-3814

State of West Virginia Contact:
Mr. Lee Miller 304-558-6718

EPA Region III Contacts
Mrs. Racine Davis 215-814-5797

The following documents about AHERA regulations enclosed are:

100 Commonly Asked Questions About the New AHERA Asbestos-in-Schools Rule

Asbestos-In-Schools: A Guide to New Federal Requirements for Local Education Agencies

40 Code of Federal Regulations Part 763- AHERA Regulations

For further information about AHERA requirements:

http://www.epa.gov/asbestos/pubs/asbestos_in_schools.html#2