



**STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF MANAGEMENT AND BUDGET**

May 19, 2015

United States Senate
Committee on Environment and Public Works
Attention: Dr. Jennifer Wagner
Washington, DC 20510-6175

Dear Dr. Wagner:

This correspondence is provided in response to the March 31 letter sent to Delaware Governor Jack Markell regarding AHERA implementation in Delaware. Your specific questions and our responses follow.

Scope of Asbestos Hazards in Schools

1. How many local education agencies in your state are subject to AHERA? Please provide a list of the local education agencies subject to AHERA and identify the number of school buildings in each.

There are forty local education agencies in Delaware. Please see Attachment 1.

2. How many local education agencies in your state have conducted an initial asbestos inspection of all buildings owned, leased, or used as school buildings as required by AHERA?

Eighteen of 19 school districts provided information. All 18 districts that provided information had conducted an initial asbestos inspection.

Nineteen of 24 Charter schools provided information. Ten of the 19 charters provided information as having done an initial asbestos inspection. Eight charters reported they had not because their buildings were built after 2000 and no asbestos was used in their construction. One charter school just acquired their buildings and is in the process of inspecting currently.

3. How many local education agencies in your state have been identified as having school buildings that harbor asbestos-containing materials? Please provide a list of those local education agencies and provide the number of school buildings in each that have been identified as harboring asbestos-containing building materials.

Fifteen of the 18 school districts that provided information have school buildings that harbor asbestos-containing materials. Of the 19 charter schools that provided information, 3 have school buildings that harbor asbestos-containing materials.

Of the School Districts that provided information:

Appoquinimink School District: 1 building.
Brandywine School District: 10 buildings.
Christina School District: 26 buildings.
Red Clay School District: 23 buildings.
Caesar Rodney School District: 4 buildings.
Capital School District: 8 buildings.
Lake Forest School District: 5 buildings.
Milford School District: 2 buildings.
Cape Henlopen School District: 9 buildings.
Indian River School District: 11 buildings.
Laurel School District: 2 buildings.
Seaford School District: 5 buildings.
NCC VoTech School District: 5 buildings.
Polytech School District: 1 buildings.
Sussex Tech School District: 4 buildings.
Total School District buildings with known asbestos: 116.

Of the Charters that provided information:

Campus Community Charter School: 1 building.
East Side Charter School: 1 building.
Wilmington Charter: 1 building.
Total Charter school buildings with known asbestos: 3.

Awareness and Monitoring of Asbestos Hazards in Schools

4. How frequently do local education agencies report AHERA compliance information to the State?

LEAs only submitted to the State the first initial Asbestos Survey and Management Plan that was developed. LEAs are not required to report AHERA compliance information to the state.

5. How many local education agencies in your state have prepared and submitted asbestos operation and management (O&M) plans as required by AHERA regulations (40 C.F.R. §763.91)?

Asbestos Operations and Management Plans (O&M) were submitted for all 19 Public School Districts and the Wilmington Catholic Arch Diocese in 1986. Since that time we believe approximately 5-7 charter schools have submitted asbestos operation and management plans.

6. How many local education agencies in your state have prepared and submitted asbestos management plans as required by AHERA regulations (40 C.F.R. §763.93)?

Asbestos Inspection Plans were submitted for all 19 Public School Districts and the Wilmington Catholic Arch Diocese in 1986. Since that time we believe approximately 5-7 charter schools have submitted asbestos management plans.

7. How many local education agencies in your state have conducted the periodic inspections as required by AHERA regulations?

All 18 school districts that provided information conduct periodic inspections.

8. How often does your State conduct inspections and/or audits of each local education agency for their compliance with AHERA? Please provide the dates of state inspections and/or audits since 2010.

The State does not inspect LEA's for AHERA Compliance. These are performed by EPA Region III Office. The State does inspect asbestos abatement projects in all state buildings including public schools.

9. For each of the past five (5) years, what were the annual costs of your State's implementation and enforcement of AHERA?

The State of Delaware is not responsible for AHERA compliance. The Division of Facilities Management serves as a technical resource for LEAs. Costs specifically related to AHERA are not broken out.

10. Have any local education agencies in your state been issued penalties for non-compliance with AHERA? If so, please describe these occasions.

The State has been notified by EPA Region III of 7 NON letters sent to LEA's; 1 in 2001, 1 in 2003, 5 in 2007. Most of these were for failure to Notify Parents and Staff annually and training of the ELA or 2 hour training of maintenance & custodial staff.

11. Has your State ever taken an emergency action against any local education agencies for noncompliance with AHERA? If so, please describe these occasions and their outcomes. Delaware has not taken an emergency action against an LEA for AHERA noncompliance.

12. How many complaints or informant tips about alleged AHERA violations has your state received from parents, teachers, students, janitorial staff, etc. each year since AHERA became law in 1986?

Asbestos related complaints are received by the Department of Natural Resources and Environmental Control. AHERA related violations are not tracked separately.

Asbestos Abatement Status

13. Of the local education agencies known to have or have had buildings with asbestos-containing material, how many local education agencies have completed full abatement of the asbestos hazards? By "full abatement" we mean full removal of the asbestos hazards and not management in place through encapsulation, enclosure, or other means.
 - a. Please provide a list of the local education agencies that have completed full abatement and the date upon which the abatement was completed.

The following LEAs reported they have fully abated:

Caesar Rodney School District. Abatement date unknown.
Smyrna School District. Abatement completed in 2011.
Delmar School District. Abatement date unknown.
Thomas Edison Charter. Abatement completed in 2006.

- b. Please provide a list of those local education agencies that have not fully abated known asbestos hazards and the number of school buildings in each that continue to harbor asbestos-containing materials.

The following LEAs reported they have not fully abated:

Appoquinimink School District. 1 building.
Brandywine School District. 7 buildings.
Christina School District. 26 buildings.
Red Clay School District. 23 buildings.
Capital School District. 8 buildings.
Lake Forest School District. 5 buildings.
Milford School District. 2 buildings.
Cape Henlopen School District. 9 buildings.
Indian River School District. 11 buildings.
Laurel School District. 2 buildings.
Seaford School District. 5 buildings.
Woodbridge School District. 3 buildings.
New Castle County Vo-Tech District. 5 buildings.

Polytech School District. 1 building.
Sussex Vo-Tech District. 4 buildings.

Campus Community Charter. 1 building.
East Side Charter. 1 building.
Wilmington Charter 1 building.

Asbestos Accreditation, Training, and Licensure

14. Did your State adopt the EPA's Model Accreditation Plan (i.e., the EPA's template establishing definitions, training, examinations, continuing education, qualifications, recordkeeping, deaccreditation, reciprocity, and electronic reporting as set forth in 40 C.F.R. Pt. 763, SubPt. E, App. C) to ensure contractors, inspectors, and other professionals are adequately trained to handle asbestos-containing materials safely? If not, please describe the differences of your State's accreditation plan as compared with EPA's.

Yes, the State adopted the EPA Model Accreditation Plan (MAP) for training. EPA approved the State to approve training providers starting in 1989. In addition, the State of Delaware certifies Delaware Project Monitors and this course is based on the MAP recommendation of subject matter to be taught.

15. How does your State verify that professionals conducting asbestos-related work (such as building inspections, abatement projects, etc.) are properly accredited?

The Department of Natural Resources and Environmental Control performs on-site inspections and credentialing verification on asbestos abatement job sites throughout the state.

16. In addition to AHERA requirements for accreditation of contractors and laboratories, does your State require any professionals to be licensed to perform asbestos-related work? If so, please describe the requirements for licensure, penalties for doing asbestos-related work without a license, and disciplinary procedures for not performing asbestos-related work in conformity with professional standards in your State. Provide appropriate citations to State statutes when applicable.

Yes, The Division of Facilities Management issues licenses to Asbestos Professionals Services Firms and Asbestos A Contractors and B Contractors (limited license). Requirements for licensure are contained in the following regulation:

<http://regulations.delaware.gov/AdminCode/title19/4000/4100/4103.shtml#TopOfPage>

Penalties for doing asbestos-related work without a license are contained in the following regulation:

<http://regulations.delaware.gov/AdminCode/title7/1000/1100/1121.shtml#TopOfPage>

Statutory provisions are provided at the following site:

<http://delcode.delaware.gov/title16/c078/index.shtml> See Chapter § 7807 Violations, penalties and injunctions

Asbestos Notifications to Parents, Teachers, and Staff

17. Does your State have a template notification letter for use by local education agencies to provide parents, teachers, and staff annual notifications about asbestos management plans? If so, please provide a copy.

No, Delaware does not provide a template notification letter.

18. How many local education agencies have provided annual notification letters to parents, teachers, and staff each year since 2010?
- a. Please provide a list of the local education agencies that have provided annual notification letters to parents, teachers, and staff each year since 2010.

The following districts and charters reported that they have provided the annual notification:

Appoquinimink School District.
Brandywine School District.
Christina School District
Caesar Rodney School District
Smyrna School District
Red Clay School District.
Capital School District.
Lake Forest School District.
Milford School District.
Cape Henlopen School District. .
Indian River School District.
Laurel School District.
Seaford School District.
Woodbridge School District.
New Castle County Vo-Tech District.
Polytech School District.
Sussex Vo-Tech District.

MOT Charter*
Campus Community Charter
Newark Charter*
Odyssey Charter
Positive Outcomes Charter*
Sussex Academy Charter*
Thomas Edison Charter*
Wilmington Charter

- b. Please provide a list of the local education agencies that have not provided annual notification letters to parents, teachers, and staff each year since 2010.

Delmar School District (Delmar is fully abated).

1st State Montessori Academy*
Academy of Dover*
ASPIRAS Charter*
Delaware Academy of Public Safety/Security*
Delaware Military Academy*
Delaware College Prep Academy*
Early College High @ DSU*
East Side Charter
Family Foundations Charter*
Providence Creek Academy*

* - School has reported buildings are asbestos free

Reporting to EPA

19. What information related to AHERA and asbestos hazards in schools does your State report to the EPA? How frequently does this reporting occur?

Initial management plans were reported to the EPA when completed. There are no additional requirements under AHERA for the state to report to EPA. DNREC does provide reporting regarding asbestos under the NESHAP regulations.

20. Does your State receive grant funding to assist in the enforcement of AHERA (e.g., funding to conduct inspections)? If so, please describe the funding amount, funding period, and reporting requirements

No, the State of Delaware does not receive grants to perform AHERA audits. This work is performed by EPA Region III staff.

AHERA Implementation letter
May 19, 2015

I trust this information satisfactorily addresses your inquiries, but please contact me at robert.scoglietti@state.de.us should you have any further questions or require additional information.

Sincerely



Robert Scoglietti
Director of Policy and External Affairs
Delaware Office of Management and Budget

Attachment 1

LEAs	Total # of Schools
School Districts	
Appoquinimink	16
Brandywine	16
Caesar Rodney	12
Cape Henlopen	9
Capital	12
Christina	30
Colonial	14
Delmar	2
Indian River	15
Lake Forest	6
Laurel	4
Milford	7
New Castle County Votech	4
Polytech	1
Red Clay	26
Seaford	6
Smyrna	8
Sussex Technical	1
Woodbridge	4
Charters	
Academy of Dover Charter	1
Aspira Aspira Academy	1
Campus Community Charter	1
Charter School of Wilmington	1
Delaware Academy of Security/Public Safety	1
Delaware College Prep Academy	1
Delaware Military Academy	1
East Side Charter	1
Family Foundations Charter	2
Gateway Charter	1
Kuumba Academy	1
MOT Charter	1
Moyer Academy	2
Newark Charter	3
Odyssey Charter	2
Positive Outcomes	1
Prestige Academy	1
Providence Creek Academy	1
Reach Academy	1
Sussex Academy	1
Thomas Edison Charter	1

Charter Schools Opened 2014/15:

Academia Antonia Alonso	1
Early College High School	1
First State Montessori Academy	1