



The State of New Hampshire
Department of Environmental Services



Thomas S. Burack, Commissioner

May 12, 2015

Edward J. Markey, Ranking Member
United States Senate
Subcommittee on Superfund, Waste Management, and Regulatory Oversight
Washington, DC 20510-6175

Barbara Boxer, Ranking Member
United States Senate
Committee on Environment and Public Works
Washington, DC 20510-6175

Re: AHERA Implementation – New Hampshire Department of Environmental Services

Dear Senators Markey and Boxer:

On behalf of The Honorable Governor Margaret Hassan, the New Hampshire Department of Environmental Services, Air Resources Division (“DES”) appreciates the opportunity to provide comments in response to your request dated March 31, 2015, regarding implementation of the Asbestos Hazard Emergency Response Act (“AHERA”) in New Hampshire.

Background

With the creation of the AHERA program in 1986, the N.H. Department of Education (“DOE”) took responsibility for administration of the AHERA program. Subsequently, administration of the AHERA program was transferred from the DOE to the N.H. Department of Health and Human Services (“DHHS”). In 2004, the AHERA program was transferred from the DHHS to DES. Currently DES is the sole state agency responsible for compliance and enforcement of the AHERA program.

On July 15, 2008, Governor John H. Lynch submitted to the EPA Region 1 Regional Administrator, a letter with supporting documentation requesting a full waiver of the requirements of EPA’s asbestos-in-schools program pursuant to AHERA and 40 CFR 763.98. In the May 8, 2009 *Federal Register* (74 FR 21683), EPA published the Notice of Final Approval for the State of New Hampshire to implement a state program of asbestos inspection and management that is at least as stringent as the federal program. EPA issued the waiver under section 203(m) of the Toxic Substances Control Act (“TSCA”) and 40 CFR 763.98. Effective October 21, 2008, the New Hampshire Code of Administrative Rules Env-A 1800, *Asbestos Management and Control* were amended and adopted to fully implement the State approved asbestos program.

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Since 2005, DES has received federal funding to support EPA Region 1 in administering the AHERA program in NH. DES designs and implements its AHERA program to meet the program needs and accountability consistent with its grant commitments with the EPA Region 1. By administering this program, DES ensures that LEA's maintain compliance with the AHERA requirements, and that asbestos abatement projects are conducted safely and in accordance with all applicable requirements; thereby, reducing the potential for exposure to airborne asbestos fibers in New Hampshire's schools.

In NH, the DOE regulates School Administrative Units ("SAU's") which include Local Educational Agencies ("LEA's") as defined by AHERA.

The following are DES's responses to the questions contained in the March 31, 2015 letter. Each question is listed and DES's response is provided in **black bold italic font**.

Scope of Asbestos Hazards in School

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.

All LEA's in NH are subject to AHERA. Currently, the DOE list approximately 921 individual schools that are subject to AHERA. Small schools may have only one building but larger schools may have several buildings throughout the school campus. The DOE does not publish a count of the number of buildings; however, based on the number of schools there are over 921 buildings. The DOE listing of the SAU's is found at: http://www.education.nh.gov/data/school_sau.htm.

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?

To DES's knowledge all existing LEA's that were subject to AHERA in 1986 completed an initial asbestos inspection. However, DES has found that newly constructed private schools and charter schools often overlook this requirement. DES reviews the DOE listing of schools on an annual basis and targets new schools for an AHERA asbestos inspection to ensure compliance with AHERA.

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.

This information is not required to be maintained by DES under its grant obligations to EPA Region 1. In addition, under AHERA, schools can either remove or manage asbestos in place. Given the expense of removing asbestos containing materials, many

schools opt to manage asbestos containing materials in place. The LEA must identify all existing asbestos containing materials in its asbestos management plan and place signs on the material within the building so that it is properly managed.

Awareness and Monitoring of Asbestos Hazards in Schools

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

LEA's are not required to report AHERA compliance information to DES until requested. DES obtains compliance information during its AHERA asbestos audit/inspection of the school. The exception is when a school undertakes asbestos abatement or renovation work it must notify DES in accordance with Env-A 1800.

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)?

DES believes that all LEA's submitted plans to the DOE on or before the October 1988 deadline. At that time, the DOE required the LEA's to submit a copy of their plans to the DOE. The DOE disposed of the plans in the early 2000's. During an AHERA asbestos inspection, DES requires the school to provide a copy of its current plan for review. If a school failed to complete the plan update, DES will request that the plan be updated within a specified time frame. Failure to comply will result in DES taking enforcement action against the LEA.

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

See #5 above.

7. How many local education agencies in your state have conducted the periodic inspections as required by AHERA regulations? Please provide a list of those local education agencies and the number of school buildings in each for which periodic inspection have not been conducted.

This information is not required to be maintained by DES under its grant obligations to EPA Region 1. All LEA's are required to conduct periodic surveillances of buildings that harbor asbestos-containing materials. During an AHERA asbestos inspection, DES requires the school to demonstrate that it has completed the required periodic inspections. If a school failed to complete the required inspection, DES will request that the inspection be completed within a specified time frame. Failure to comply will result in DES taking enforcement action against the LEA.

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 inspection and/or audits since 2010.

DES conducts 40 inspections per year, per our grant commitment with EPA Region 1. The attached spreadsheet lists each inspection and the date since 2010. DES's inspection strategy is to inspect at least one school in every SAU at least once every five years, and to operate under the attached Neutral Administrative Inspection Scheme.

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

Annual costs for the last five years are presented in the attached table.

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

Yes. In May of 2007, DES executed an administrative fine by consent to SAU#48 for violation of Env-A 1805.01 by failing to ensure compliance with asbestos work practice requirements during the upgrade to the school's HVAC system in July 2006. Of the total fine of \$1,650, DES suspended 21% or \$350, based upon the cooperation of the SAU and its establishing written procedures to prevent a reoccurrence of this violation.

DES's Corrective Action and Response Policy ("CARP") provides that the issuance of administrative fines is a last resort to achieving compliance, and is generally reserved for major violations with major impacts, or for repeat offenders. DES's preferred means of achieving compliance is through issuance of warning letters and letters of deficiencies. For instance in the last five years DES has issued over 90 warning letters and three letters of deficiencies.

Prior to DES's management of the AHERA program, EPA provided enforcement support to the DOE and DHHS.

11. Has your State ever taken any emergency action against any local education agencies for noncompliance with AHERA? If so, please describe these occasions and their outcomes.

DES has not taken any emergency actions.

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?

DES receives approximately one to two complaints/tips per year. DES investigates all complaints to assess any noncompliance, required corrective actions, and any required enforcement action.

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

This information is not required to be maintained by DES under its grant obligations to EPA Region 1.

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.

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

Pursuant to Env-A 1800, DES manages the asbestos licensing program in NH. DES issues licenses to asbestos management planners, designers, inspectors, and abatement contractors. The licensing process includes a review of the applicant's qualifications, professional conduct, and a written exam. All asbestos professionals working in NH must be trained by a DES approved training provider. In addition, DES performs periodic audits of asbestos-related work to ensure professionals are performing work in accordance with Env-A 1800.

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. Attached are sections of RSA 141-E and Env-A 1800 which provide details on the requirements and procedures for licensing. NH RSA 141-E, Asbestos Management and Control, establishes the law related to asbestos management in NH including fines and penalties for violation of the law. NH Code of Administrative Rule Env-A 1800, Asbestos Management and Control, establishes the methods and means for implementation of RSA 141-E. In addition, DES's CARP provides guidance and actions that are available when addressing violations of environmental laws.

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. However, DES provides guidance to LEA's as requested.

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

This information is not required to be maintained by DES under its grant obligations to EPA Region 1. All LEA's are required to provide annual notifications; however, DES does not require the LEA to submit its notification to DES. During an AHERA inspection, DES requires the school to demonstrate that it has completed the required annual notifications. If a school failed to complete the required notification, DES will request that the notification be completed within a specified time frame following the DES provided notification guidance. Failure to comply will result in DES taking enforcement action against the LEA.

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?

DES submits the following to EPA Region 1 (example copies attached): DES's Annual Enforcement Report, per 40 CFR 763.98(g); Monthly AHERA inspection reports, using EPA's Express-ICIS Form; Quarterly Compliance Assistance Activity Log, using EPA's 10 Column Table; Quarterly summary of DES's Annual Commitment System ("ACS") performance data, using EPA Region 1 OECA Asbestos Activities Log; and Monthly reports, using EPA's Consolidated Lead Asbestos Support System Auditing Compliance Tool ("Class Act") report format.

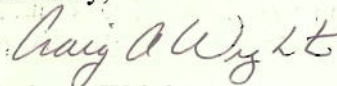
20. Does your State receive grant funding to assist in the enforcement of AHERA (e.g., funding to conduct inspections)? If so, please describe the funding amount, funding period and reporting requirements.

Yes. Since 2005, EPA has authorized a grant to DES under the TSCA OECA program, for its assistance to EPA in its management of the AHERA program. DES designs and implements its AHERA program to meet the program needs and accountability consistent with requirements established by EPA Region 1. DES's AHERA program includes, but is not limited to, inspections, enforcement, licensing, outreach and education, and grant administration and reporting. To meet these commitments, DES must retain a full-time staff, and a match using its own resources in the amount of a 33% of the grant amount. By administering this program, DES ensures that LEA's maintain compliance with the AHERA requirements, and that asbestos abatement projects are conducted safely and in accordance with all applicable requirements; thereby, reducing the potential for students and staff to be exposed to airborne asbestos fibers in New Hampshire's schools. Reporting requirements are described in response to question #19.

DES has demonstrated its commitment to administration of a quality AHERA program at the current level of funding, approximately \$106,000 in federal grant funds for FFY 15, with a 33% in-kind match provided by DES for oversight, management, and administration of the program. In its November 18, 2014 memo, attached, the EPA proposes a 55% reduction of funding to DES for the AHERA program. On January 22, 2015, DES submitted to EPA its comments, and stated that DES would have to seriously consider if, at the proposed 55% reduction in the AHERA funding, it could economically implement any aspect of the AHERA program. See funding assessment in table provided in response to question #9.

DES appreciates the opportunity to provide the above overview of our AHERA program. If you have any questions or would like to discuss further please contact Mark Ledgard at Mark.Ledgard@des.nh.com or (603) 271-5629.

Sincerely,



Craig A. Wright
Director
Air Resources Division

Attachments

ec: Pamela Walsh, Governor's Office, State House, 107 North Main Street, Concord, NH 03301, w/out attachments
Jonathan Britt, USEPA Region 1, w/out attachments
James Bryson, USEPA Region 1, w/out attachments

#8.

CALENDAR YEAR 2010 NH AHERA INSPECTIONS

<u>Insp. #</u>	<u>School Name</u>	<u>Insepection Date</u>	<u>Town/City</u>
1	Claremont Christian Academy	7-Jan-10	Claremont NH
2	Gilford Elementary School	14-Jan-10	Gilford NH
3	Woodland Community School	21-Jan-10	Bethlehem NH
4	Pine Haven Boys Center	26-Jan-10	Allenstown NH
5	Gilmanton Elementary School	16-Feb-10	Gilmanton NH
6	Grace Christian School	17-Feb-10	Bedford NH
7	Antrim Elementary School	23-Feb-10	Antrim NH
8	Belmont Middle School	2-Mar-10	Belmont NH
9	Windham Middle School	16-Mar-10	Windham NH
10	New Hampton School	18-Mar-10	New Hampton NH
11	Little Harbour School	25-Mar-10	Portsmouth NH
12	Mason Elementary School	13-Apr-10	Mason NH
13	Rollinsford Grade School	15-Apr-10	Rollinsford NH
14	Plymouth Regional High School	20-Apr-10	Plymouth NH
15	Grantham Village School	22-Apr-10	Grantham NH
16	Lyme Elementary School	4-May-10	Lyme NH
17	Newington Public School	6-May-10	Newington NH
18	Sanborn Regional High School	25-May-10	Kingston NH
19	Errol Consolidated Elementary School	17-Jun-10	Errol NH
20	Griffin Memorial School	18-Jun-10	Litchfield NH
21	Laconia Elm Street School	8-Jul-10	Laconia NH
22	Somersworth Middle School	12-Jul-10	Somersworth NH
23	Newmarket Jr/Sr High School	13-Jul-10	Newmarket NH
24	Plainfield Elementary School	22-Jul-10	Meriden NH
25	Robert B. Jolicoeur School	12-Aug-10	Manchester NH
26	Moultonborough Academy	19-Aug-10	Moultonborough NH
27	Jaffrey Grade School	24-Aug-10	Jaffrey NH
28	New Durham Elementary School	9-Sep-10	New Durham NH
29	Barnstead Elementary School	14-Sep-10	Ctr. Barnstead NH
30	North Salem Elementary School	21-Sep-10	Salem NH
31	The Derryfield School	1-Oct-10	Manchester NH
32	Sant Bani School	5-Oct-10	Sanbornton NH
33	Cocheco Arts & Technology Academy	12-Oct-10	Dover NH
34	Unity Elementary School	19-Oct-10	Newport NH
35	Maple Avenue School	16-Nov-10	Claremont NH
36	Freedom Elementary School	30-Nov-10	Freedom NH
37	Inter-Lakes High School	2-Dec-10	Meredith NH
38	Rye Elementary School	22-Dec-10	Rye NH
39	Adeline C. Marston School	28-Dec-10	Hampton NH

CALENDAR YEAR 2011 NH AHERA INSPECTIONS

<u>Insp. #</u>	<u>School Name</u>	<u>Insepction Date</u>	<u>Town/City</u>
1	Kimball Union Academy	6-Jan-11	Meriden NH
2	Trinity High School	11-Jan-11	Manchester NH
3	Wilson School	20-Jan-11	Manchester NH
4	Pelham Memorial School	26-Jan-11	Pelham NH
5	Mascenic Regional High School	8-Feb-11	New Ipswich NH
6	Licoln Akerman School	10-Feb-11	Hampton Falls NH
7	Florence Rideout Elementary School	15-Feb-11	Wilton NH
8	School Street School	1-Mar-11	Rochester NH
9	Stewartstown Community School	29-Mar-11	W. Stewartstown NH
10	St. Patrick School	30-Mar-11	Pelham NH
11	St. Casimir School	5-Apr-11	Manchester NH
12	Mildred C. Lakeway School	12-Apr-11	Littleton NH
13	New England Classical Academy	14-Apr-11	Claremont NH
14	Becket – Mount Prospect Academy	5-May-11	Plymouth NH
15	Danbury Elementary School	11-May-11	Danbury NH
16	Conway Elementary School	17-May-11	Conway NH
17	Daniel J. Bakie School	26-May-11	Kingston NH
18	St. Thomas Aquinas	1-Jun-11	Derry NH
19	Goshen-Lempster Cooperative School	7-Jun-11	Lempster NH
20	Pine Hill Waldorf School	16-Jun-11	Wilton NH
21	Wediko Childrens Services, Inc.	21-Jun-11	Windsor NH
22	South Range Elementary School	14-Jul-11	Derry NH
23	Hillsboro Christian School	19-Jul-11	Hillsboro NH
24	Estabrook School	26-Jul-11	Plainfield NH
25	Tri-City Christian Academy	5-Aug-11	Somersworth NH
26	Jesse Remington High School	9-Aug-11	Candia NH
27	Fairgrounds Elementary School	16-Aug-11	Nashua NH
28	Kearsarge Reg. Elem. School-Bradford	30-Aug-11	Bradford NH
29	James Faulkner Elementary School	8-Sep-11	Stoddard NH
30	Monadnock Waldorf HighSchool	20-Sep-11	Keene NH
31	Hooksett Memorial School	13-Oct-11	Hooksett NH
32	Hinsdale Jr/Sr High School	18-Oct-11	Hinsdale NH
33	HEAR in New Hampshire	24-Oct-11	Hooksett NH
34	Nute Jr/Sr High School	25-Oct-11	Milton NH
35	St Joseph Regional School	8-Nov-11	Salem NH
36	Salem Christian School	8-Nov-11	Salem NH
37	Holderness School	15-Nov-11	Plymouth NH
38	Timberlane Regional Middle School	22-Nov-11	Plaistow NH
39	Pioneer Junior Academy	6-Dec-11	Westmoreland NH
40	Kellogg Christian School	7-Dec-11	Bedford NH
41	Bow Memorial School	22-Dec-11	Bow NH

CALENDAR YEAR 2012 NH AHERA INSPECTIONS

<u>Insp. #</u>	<u>School Name</u>	<u>Insepection Date</u>	<u>Town/City</u>
1	Cornerstone Christian Academy	10-Jan-12	Epsom NH
2	Pittsfield High School	19-Jan-12	Pittsfield NH
3	Cardigan Mountain School	24-Jan-12	Canaan NH
4	Bishop Brady High School	26-Jan-12	Concord NH
5	Laconia High School	2-Feb-12	Laconia NH
6	PACE Career Academy Charter School	9-Feb-12	Suncook NH
7	Early Childhood Learning Center	14-Feb-12	Barrington NH
8	St. John Regional School	23-Feb-12	Concord NH
9	Tabernacle Christian School	6-Mar-12	Litchfield NH
10	White Mountain Waldorf School	13-Mar-12	Conway NH
11	Reg Svces & Educ Ctr-Longview	29-Mar-12	Deerfield NH
12	St. Joseph Regional School	3-Apr-12	Keene NH
13	Holy Family Academy	10-Apr-12	Manchester NH
14	Paul A. Smith Elementary School	17-Apr-12	W. Franklin NH
15	Sunapee Middle/Sr. High School	2-May-12	Sunapee NH
16	St. Elizabeth Seton School	18-May-12	Rochester NH
17	Winnisquam Regional Middle School	22-May-12	Tilton NH
18	Sarah Porter School	24-May-12	Langdon NH
19	RSEC Academy & Administrative Offices	7-Jun-12	Amherst NH
20	Lamprey River Elementary School	19-Jun-12	Raymond NH
21	Maple Street School	26-Jun-12	Contoocook NH
22	Hillside Elementary School	12-Jul-12	Berlin NH
23	Winchester School	24-Jul-12	Winchester NH
24	Dover Middle School	31-Jul-12	Dover NH
25	Hillsboro-Deering Elementary School	7-Aug-12	Hillsboro NH
26	Hampstead Central School	15-Aug-12	Hampstead NH
27	Mill Falls Charter School	22-Aug-12	Manchester NH
28	Birches Academy for Academics & Art	11-Sep-12	Salem NH
29	TEAMS Charter School	18-Sep-12	Penacook NH
30	MC Connections Charter School	20-Sep-12	Manchester NH
31	Bernice A. Ray School	3-Oct-12	Hanover NH
32	Polaris Charter School	16-Oct-12	Manchester NH
33	Bartlett Elem. School	18-Oct-12	Goffstown NH
34	Hampshire Country School	23-Oct-12	Rindge NH
35	American Vivekanada Academy	25-Oct-12	Hudson NH
36	North Country Class	29-Nov-12	Whitefield NH
37	Proctor Academy	4-Dec-12	Andover NH
38	Robert Frost Charter School	5-Dec-12	North Conway NH
39	Brewster Academy	11-Dec-12	Wolfeboro NH
40	Kenneth A. Brett School	13-Dec-12	Tamworth NH

JANUARY 2013 TO END OF FFY 2013 NH AHERA INSPECTIONS

<u>Insp. #</u>	<u>School Name</u>	<u>Insepection Date</u>	<u>Town/City</u>
1	Epping High School	15-Jan-13	Epping NH
2	Ellis School	17-Jan-13	Fremont NH
3	Stark Village School	22-Jan-13	Stark NH
4	El Shaddai Christian Academy	31-Jan-13	Salem NH
5	Clark-Wilkins School	7-Feb-13	Amherst NH
6	Seacoast Charter School	14-Feb-13	Kingston NH
7	Beech Hill School	7-Mar-13	Hopkinton NH
8	Auburn Village School	21-Mar-13	Auburn NH
9	Nashua Catholic Regional Jr. High School	26-Mar-13	Nashua NH
10	Pembroke Hill School	27-Mar-13	Pembroke NH
11	Learning Skills Academy	2-Apr-13	Rye NH
12	Academy for Science & Design Charter School	7-May-13	Nashua NH
13	Surry Village Charter School	9-May-13	Surry NH
14	High Mowing School	14-May-13	Wilton NH
15	Nashua Christian Academy	21-May-13	Nashua NH
16	Kingswood Regional High School	28-May-13	Wolfeboro NH
17	Lyndeborough Central School	4-Jun-13	Lyndeborough NH
18	Pelham Memorial School	11-Jun-13	Pelham NH
19	Fuller Elementary School	25-Jun-13	Keene NH
20	Cooperative Middle School	27-Jun-13	Stratham NH
21	Cutler School	11-Jul-13	W. Swanzey NH
22	Seacoast Learning Collaborative	18-Jul-13	Brentwood NH
23	Oyster River High School	23-Jul-13	Durham NH
24	Canaan Elementary School	30-Jul-13	Canaan NH
25	Holderness Central School	6-Aug-13	Holderness NH
26	Next Charter School	8-Aug-13	Derry NH
27	Rollinsford Grade School	20-Aug-13	Rollinsford NH
28	Plainfield Elementary School	10-Sep-13	Meriden NH
29	MC Connections Charter School	19-Sep-13	Manchester NH
30	Broken Ground School	24-Sep-13	Concord NH

FFY 2014 NH AHERA INSPECTIONS

<u>Insp. #</u>	<u>School Name</u>	<u>Insepection Date</u>	<u>Town/City</u>
1	Mary A. Fisk Elementary School	8-Oct-13	Salem NH
2	James Mastricola Elementary School	15-Oct-13	Merrimack NH
3	Newmarket Jr-Sr High School	17-Oct-13	Newmarket NH
4	Milford Middle School	22-Oct-13	Milford NH
5	Woodsville Elem School	5-Nov-13	Woodsville NH
6	Alvirne High School	14-Nov-13	Hudson NH
7	Conval Regional High School	21-Nov-13	Peterborough NH
8	Gilmanton Elementary School	10-Dec-13	Gilmanton NH
9	Barnstead Elementary School	17-Dec-13	Barnstead NH
10	Pittsfield Middle & High School	13-Dec-13	Pittsfield NH
11	Henniker Community School	7-Jan-14	Henniker NH
12	St. Paul's School	16-Jan-14	Concord NH
13	North Londonderry Elem School	23-Jan-14	Londonderry NH
14	Dublin School	29-Jan-14	Dublin NH
15	St. Thomas Aquinas High School	11-Feb-14	Dover NH
16	Spurwink School	4-Mar-14	Gonic NH
17	Heronfield Academy	14-Mar-14	Hampton Falls
18	Claremont Christian Academy	24-Mar-14	Claremont
19	Danville Elementary School	27-Mar-14	Danville
20	Children Unlimited, Inc.	27-Mar-14	Conway
21	Immaculate Conception Apostolic	10-Apr-14	Center Harbor
22	Liberty Harbor Academy	15-Sep-14	Manchester
23	Gilsum Elementary School	17-Apr-14	Gilsum
24	Groveton Elementary School	7-May-14	Northumberland
25	Cady Memorial School	14-May-14	Center Conway
26	Phillips Exeter Academy	16-May-14	Exeter
27	Cornish Elementary School	21-May-14	Cornish
28	Lafayette Regional School	30-Apr-14	Franconia
29	McClelland Elementary School	25-Jun-14	Rochester
30	Nashua High School South	23-Jun-14	Nashua
31	Lebanon High School	7-Jul-14	Lebanon
32	Milan Village Elementary School	30-Jul-14	Milan
33	Dover High School	15-Jul-14	Dover
34	Somersworth High School	14-Aug-14	Somersworth
35	Landaff Blue School	11-Aug-14	Landaff
36	Chesterfield Central School	13-Aug-14	Chesterfield
37	Holy Trinity Catholic School	19-Aug-14	Laconia
38	Rye Jr. High School	15-Aug-14	Rye
39	Towle Elementary School	17-Sep-14	Newport
40	Newton Memorial School	17-Sep-14	Newton

#8

NEW HAMPSHIRE DEPARTMENT OF ENVIRONMENTAL SERVICES NEUTRAL
ADMINISTRATIVE INSPECTION SCHEME FOR AHERA
FFY 14 – FFY 16

Background: Under the cooperative agreement with the United States Environmental Protection Agency (“EPA”), the New Hampshire Department of Environmental Services (“DES”) inspects schools for the presence of asbestos hazards. DES has the authority to accredit the AHERA disciplines and the authority to inspect public buildings and rental properties. The NH Department of Education (“DOE”) is the New Hampshire AHERA designated agency. DES works closely with DOE to coordinate its review of Management Plans.

Targeting Strategy: Local Education Agencies (“LEAs”) will be selected for inspection through the state's revised Neutral Administrative Inspection Scheme (“NAIS”) procedures. These neutral selection procedures will be monitored and, if necessary, updated to maintain consistency with any changes in the TSCA Compliance Monitoring Strategy (September 16, 2011 issuance). The NAIS is based upon the following criteria, listed in order of priority:

- 1) Tips, complaints and referrals: DES responds to all credible tips, complaints and referrals received in regard to LEAs. Inspections are generally unannounced (same or next day) and include a review of the Management Plan. DES typically receives one or two tips or complaints per year.
- 2) LEAs Located in Environmental Justice areas: In FFY 07, EPA requested through the TSCA Asbestos Assistance Grant that DES maximize compliance assistance to LEAs located in Environmental Justice Areas, as defined by EPA. EPA and DES have identified at least 32 LEAs as being located in EJ areas. DES will target four LEAs in EJ areas every year.
- 3) New Schools and New School Administrative Units: Schools that have opened in the last FFY will be inspected. In a typical year, one or two new schools are opened in New Hampshire.
- 4) LEAs Conducting Abatement: DES inspects approximately 25% of LEAs that notify DES that they are conducting abatement activities. Selection is made on a random basis to assure that all licensing and work practice requirements are in compliance with the rules. Year, approximately 50 LEAs conduct abatement activities in approximately 75 buildings.
- 5) LEAs Employing Persons Who Have Violated Asbestos Law/Rules: DES will investigate all LEAs known to be employing anyone who has violated any asbestos law or rule.
- 6) Date of Last Inspection: DES will use the length of time from the last inspection to target LEAs for inspection. DES attempts to inspect at least one school in each LEA every 5 years.
- 7) New Designated Person: DES will inspect LEAs with new designated persons to determine if they are fulfilling their requirements. DES typically learns of new designated persons by attending the meetings of the Association of School Business Officials. New business managers, who are often the LEA's designated persons, are introduced at these meetings.
- 8) Compliance History: LEAs which have had asbestos enforcement actions in the past will be targeted for inspection on a random basis. DES targets these schools for inspection every three years.

AHERA Program Income Vs Expenses (40 Inspections/Year)					
FFY	EPA Grant	*Grant Expenses	**Grant Match	***License & Fees Income	Net cost to DES
2008	\$66,000	\$49,737	\$22,000	\$8,130	\$ 2,393.00
2009	\$100,000	\$84,925	\$33,333	\$7,470	\$ (10,788.33)
2010	\$100,000	\$92,363	\$26,390	\$13,435	\$ (5,317.80)
2011	\$94,446	\$82,376	\$26,407	\$10,235	\$ (4,102.19)
2012	\$94,446	\$108,787	\$26,450	\$9,945	\$ (30,845.53)
2013	\$94,446	\$109,650	\$25,952	\$9,835	\$ (31,321.27)
2014	\$106,000	\$111,955	\$35,453	\$9,480	\$ (31,927.72)
2015	\$107,000	\$110,000	\$35,667	\$9,500	\$ (29,166.67)
2016	\$108,000	\$110,000	\$36,000	\$9,500	\$ (28,500.00)
2017	\$46,840	\$110,000	\$15,613	\$9,500	\$ (69,273.33)
2018	\$45,710	\$110,000	\$15,237	\$9,500	\$ (70,026.67)

Notes:

*Grant expenses are DES salaries, benefits, and other indirect costs.

**NH State Match includes DES salaries, benefits, and other indirect costs.

*** License and Fees is the income derived from the issuance of licenses associated with the AHERA program.

EPA Approved Grant Funds:

FFY 14 - 16 funding is DES's current EPA approved three year grant.

FFY 17 & 18 are EPA Grant funding based on EPA's November 18, 2014 proposed reallocation of grant funds.

FFY 15 - FFY 18 Grant Expenses, Grant Match, and Income are projected based on DES's current commitments.

DES performs 40 AHERA inspections per year.

#16

TITLE X PUBLIC HEALTH

CHAPTER 141-E ASBESTOS MANAGEMENT AND CONTROL

Section 141-E:10

141-E:10 Licensure. –

I. Any contractor, employer, or individual which engages in asbestos abatement activities or activities involving the disturbance of asbestos at asbestos disposal sites shall first obtain a license from the department, except for:

(a) Individuals exempt pursuant to paragraph II below;

(b) Individuals exempt by rules adopted by the commissioner in accordance with RSA 141-E:4, XII;

(c) Owners of single family owner occupied properties who personally perform asbestos abatement within the confines of their private properties; and

(d) Individuals who obtain a waiver from the licensing requirements of this section.

II. Individuals certified pursuant to RSA 141-E:11 shall not be required to obtain a license for the performance of asbestos abatement or disturbance of asbestos at asbestos disposal sites when carried out under the authority of a contractor or employer holding a valid license issued by the department pursuant to this section.

III. A license to engage in asbestos abatement, disturbance of asbestos at any asbestos disposal site, or both, shall be issued in writing by the department and shall be valid for a period of 12 months from the date of issuance, shall be dated when issued, shall contain an expiration date, and shall be signed by the commissioner or designee. The license shall also include the name and address of the applicant.

IV. The license or a certified copy thereof shall be available at the worksite for inspection by representatives of the department or an authorized representative of the local government.

V. The department may grant a license to an applicant if the applicant is licensed by another state whose standards for licensure are substantially equivalent to the provisions of this section and the rules adopted by the department.

Source. 2000, 275:1, eff. July 1, 2000. 2005, 249:13, 14, eff. Sept. 12, 2005.

PART Env-A 1810 LICENSING AND CERTIFICATION FOR ASBESTOS ABATEMENT AND SCHOOL ASBESTOS ABATEMENT PLANNING

Env-A 1810.01 Applicability.

(a) Pursuant to RSA 141-E:10 and RSA 141-E:11, the rules in this part shall apply to any contractor, employer, or individual that engages in any asbestos abatement or school asbestos abatement planning activities.

(b) Pursuant to ~~the AHERA regulations promulgated~~ by EPA, individuals who conduct asbestos inspections of schools, or provide services as an asbestos management planner or project designer to schools, shall apply to the department for certification as either an asbestos inspector, asbestos management planner, or as an asbestos project designer.

(c) Each individual to whom a certification has been issued pursuant to this part shall maintain a current training certificate while the certification is in effect.

(d) Each individual performing work at an asbestos abatement project in New Hampshire, except as exempted under Env-A 1810.02, shall have in his or her possession at the work site the certification issued by the department and the initial and current training certificates issued to that individual.

Source. (See Revision Note at chapter heading for Env-A 1800) #9298, eff 10-21-08

Env-A 1810.02 Exemptions.

(a) Any individual, other than a maintenance worker, who performs only minor asbestos abatement projects as defined in Env-A 1802.41 shall be exempt from the requirement to obtain an entity license in accordance with Env-A 1810.12, provided such individual holds a valid asbestos abatement worker or supervisor certificate issued pursuant to Env-A 1810.13 or Env-A 1810.14 and complies with Env-A 1805.07 and 1805.08(a) and (b).

(b) Any individual working only as an asbestos inspector, asbestos management planner, asbestos abatement project designer, or a combination of these, shall be exempt from the licensing requirements of Env-A 1810.12 only if these services are not provided to schools.

(c) A maintenance worker who works in one or more buildings that contain asbestos-containing building materials shall be exempt from licensing and certification requirements for asbestos abatement site supervisors and workers provided that the maintenance worker:

- (1) Receives 16 hours of initial training as described in 40 CFR 763.92(a)(1) and (2);
- (2) Receives 4 hours of refresher training annually, which refresher courses shall include changes in federal and state regulations, developments in state-of-the-art procedures, and a review of key aspects of the initial training course; and
- (3) Performs only operations, maintenance, and repair activities that are of small-scale and short-duration as defined in Env-A 1802.54.

Source. (See Revision Note at chapter heading for Env-A 1800) #9298, eff 10-21-08

Env-A 1810.03 Application Procedures.

(a) An individual seeking a certificate for asbestos abatement or school asbestos abatement planning or a person seeking a license for asbestos abatement shall submit a complete application in writing to the department at the following address:

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NH DES
Attn: Asbestos Licensing Program
P.O. Box 95
29 Hazen Drive
Concord, NH 03302-0095

(b) A complete application shall include:

- (1) The information specified in Env-A 1810.04 and Env-A 1810.12 through Env-A 1810.17, as applicable, on an application form obtained from the department;
- (2) The signature and certification required by Env-A 1810.05;
- (3) If the applicant is an individual, 2 clear, un mutilated, and unstapled 2-inch by 2-inch color photographs of the applicant with the name of the applicant printed legibly on the back of each photograph;
- (4) If the applicant is an individual, a copy of each dated training certificate which shows the applicant's training to be current at the time of application;
- (5) If the applicant is an entity, a copy of each training certificate held by each responsible person who fulfills the licensing requirement specified in Env-A 1810.12(b)(4); and
- (6) The appropriate application fee as set forth in Env-A 1810.08.

(c) An applicant may submit a combination application for asbestos inspector, asbestos management planner, and project designer, provided the applicant fulfills the application requirements for each discipline for which application is being made and applies for the certifications at the same time. Any applications received separately from the same applicant shall be treated as separate applications.

Source. (See Revision Note at chapter heading for Env-A 1800) #9298, eff 10-21-08

Env-A 1810.04 Information Required for All Applications. Each applicant shall supply the following information on the application form:

- (a) The name, mailing address, daytime telephone number, and date of birth of the applicant;
- (b) The name, mailing address, and daytime telephone number of the employer or principal place of business of the applicant;
- (c) The type of certification being requested;
- (d) A list of each agency that has certified the applicant, if any, and for each such agency, the following information:
 - (1) The name and address of the agency that issued the certification;
 - (2) The name, title, and daytime telephone number and, if available, an e-mail address, of the individual at the agency who can be contacted regarding the requirements that must be met in order to receive certification from that agency;
 - (3) The type of certification issued; and
 - (4) The dates of issuance and expiration of the certification; and
- (e) A list of all state or federal enforcement actions against the applicant with regard to asbestos abatement or planning work, if any, and for each action, the following information:

- (1) The name and address of the agency that initiated the enforcement action;
- (2) The date of the action;
- (3) Whether the action has been resolved; and
- (4) If the action has been resolved, when and how the action was resolved.

Source. (See Revision Note at chapter heading for Env-A 1800) #9298, eff 10-21-08

Env-A 1810.05 Signature and Certification Required for Applications.

(a) The application shall be signed by:

- (1) The applicant, if the applicant is an individual; or
- (2) A responsible person, if the applicant is an entity.

(b) The signature of the applicant shall constitute certification that:

- (1) The applicant has read, and understands, the New Hampshire asbestos management rules;
- (2) The application has been prepared in conformity with this chapter; and
- (3) All information contained in the application, including any supplements attached, is true and correct to the best of the knowledge and belief of the signor.

Source. (See Revision Note at chapter heading for Env-A 1800) #9298, eff 10-21-08

Env-A 1810.06 Requests for Replacement Certificates.

(a) The department shall provide a replacement certificate for a certificate that has been lost, destroyed, or stolen, provided the certificate holder submits a request that is:

- (1) In writing;
- (2) Signed by the certificate holder;
- (3) Accompanied by 2 photographs as specified in Env-A 1810.03(b)(3); and
- (4) Accompanied by the appropriate application fee as set forth in Env-A 1810.08(b)(9).

(b) If the certificate holder finds a certificate that has been replaced pursuant to (a), above, the certificate holder shall return the original certificate to the department.

Source. (See Revision Note at chapter heading for Env-A 1800) #9298, eff 10-21-08

Env-A 1810.07 Renewal Application Requirements.

(a) An application for renewal of a license or certification issued under this chapter shall be on a form obtained from the department and include:

- (1) All of the information required by Env-A 1810.03 and Env-A 1810.12, Env-A 1810.13, Env-A 1810.14, Env-A 1810.15, Env-A 1810.16, or Env-A 1810.17, as applicable to the license or certification for which application is being made;

(2) Documentation that annual refresher courses as required by this chapter are current at the time renewal is sought; and

(3) The appropriate application fee as set forth in Env-A 1810.08.

(b) Any person holding a license or certification that expired more than 3 years prior to the date a renewal application would be filed shall submit a new application pursuant to Env-A 1810.04 in lieu of an application to renew.

(c) An applicant may apply for renewal of combination certifications only if the renewal application is for the same certifications the applicant originally received. An applicant requesting any changes in the certifications shall submit new applications pursuant to Env-A 1810.03 in lieu of an application to renew.

(d) The department shall not accept an application for renewal of a license or certification more than 60 days before expiration of the current license or certification.

(e) Department action on the renewal application shall be in accordance with RSA 541-A:29.

Source. (See Revision Note at chapter heading for Env-A 1800) #9298, eff 10-21-08

Env-A 1810.08 Application Fees.

(a) A non-refundable application fee in the form of cash, company check, certified check, or money order shall accompany each license or certification application. A company check, certified check, or money order shall be made payable to "Treasurer, State of New Hampshire".

(b) The fees for each category of license and certification application shall be as follows:

(1) For an asbestos abatement entity, an initial licensing fee of \$1,000 and an annual renewal fee of \$750;

(2) For an asbestos abatement site supervisor, an initial certification fee of \$200 and an annual renewal fee of \$200;

(3) For an asbestos abatement worker, an initial certification fee of \$50 and an annual renewal fee of \$50;

(4) For an asbestos inspector, an initial certification fee of \$200 and an annual renewal fee of \$200;

(5) For an asbestos management planner, an initial certification fee of \$200 and an annual renewal fee of \$200 for each annual certification renewal;

(6) For an asbestos project designer, an initial certification fee of \$200 and an annual renewal fee of \$200;

(7) For initial combination certifications, an initial certification fee of \$200 for the first certification and \$50 for each additional certification;

(8) For annual renewals of identical combination certifications, \$200 for the first certification and \$50 for each additional certification; and

(9) For replacement of a lost or stolen certificate, a fee of \$20.

Source. (See Revision Note at chapter heading for Env-A 1800) #9298, eff 10-21-08

Env-A 1810.09 License and Certification Suspension, Denial, and Revocation.

(a) If the department obtains credible information indicating that one or more reasons to suspend or revoke an asbestos abatement license or certification as specified in (i), below, exists, the department shall notify the holder of the license or certification in writing of:

- (1) The department's intended action;
- (2) The reason(s) for the intended action; and
- (3) The date by which the holder of the license or certification shall file a written request for an adjudicative hearing if the holder wishes to contest the proposed action, which date shall be 15 working days from the date of the department's notice.

(b) If the department receives a written request for an adjudicative hearing in accordance with (a)(3), above, the department shall proceed in accordance with RSA 541-A:31 and Env-C 200 as applicable to adjudicative proceedings.

(c) If the department does not receive a written request for an adjudicative hearing in accordance with (a)(3), above, the license or certification shall be deemed suspended or revoked, as specified in the notice issued pursuant to (a), above, as of the 16th working day from the date of the department's notice.

(d) The department shall suspend a license or certification if the department determines that one or more reason(s) to suspend or revoke a license or certification exists but that:

- (1) The license or certification holder did not act with intent to deceive; and
- (2) The deficiency(ies) can be corrected so as to conform to applicable requirements.

(e) If the department suspends a license or certification, the department shall:

- (1) Notify the license or certification holder in writing of the specific deficiency(ies);
- (2) Specify a reasonable time to correct the deficiency(ies), which shall be determined based on the number and nature of the deficiency(ies); and
- (3) Inform the license or certification holder in the written notice that if the deficiencies are not corrected within the specified time, the approval shall be deemed revoked.

(f) The department shall revoke a license or certification if the department determines that one or more reason(s) to suspend or revoke a license or certification exists and that:

- (1) The license or certification holder acted with intent to deceive; or
- (2) The deficiency(ies) can not be corrected so as to conform to applicable requirements.

(g) If the department revokes a license or certification, the department shall notify the license or certification holder in writing of the revocation and the reason(s) therefor.

(h) If the department obtains credible information indicating that a reason exists to suspend or revoke a license or certification as specified in (i), below, while an application for renewal of a license or certification is pending, the department shall inform the license or certification holder of the information and offer an opportunity for the license or certification holder to respond to the information prior to a decision being made on the application for renewal.

(i) A license or certification shall be denied, suspended or revoked if:

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- (1) The official record of the applicant, license holder, or certification holder contains violations of health and safety laws or regulations of the United States of America, or any state, which pose a threat to workers or the public;
- (2) The applicant, license holder, or certification holder has submitted materially false or fraudulent information on an application;
- (3) The applicant, license holder, or certification holder has failed to submit any required information or documentation with the application; or
- (4) The applicant, license holder, or certification holder has demonstrated an inability to comply with any applicable federal or state standard for asbestos projects.

Source. (See Revision Note at chapter heading for Env-A 1800) #9298, eff 10-21-08

Env-A 1810.10 Appeal. A license or certification holder aggrieved by a department decision made pursuant to Env-A 1810.09 who wishes to appeal the decision shall appeal to the air resources council in accordance with the rules adopted by that council, Env-AC 200.

Source. (See Revision Note at chapter heading for Env-A 1800) #9298, eff 10-21-08

Env-A 1810.11 Expiration. Each license and certification issued under this chapter shall expire on the sooner of:

- (a) One year from the date of issuance, unless the license or certification is revoked prior to that date; or
- (b) The expiration of the training certificate filed with the initial or renewal application.

Source. (See Revision Note at chapter heading for Env-A 1800) #9298, eff 10-21-08

Env-A 1810.12 Asbestos Abatement Entity Licensing Requirements.

(a) An asbestos abatement entity shall not engage in any asbestos abatement project in New Hampshire without first:

- (1) Being licensed to do so under the provisions of this chapter, unless it is exempt as specified in Env-A 1810.02; and
- (2) Being registered and in good standing to do business as required by the secretary of state.

(b) The information required by Env-A 1810.03(b)(1) from an applicant for an asbestos abatement entity license shall be as follows:

- (1) A list of the names and addresses of the responsible person(s) of the applicant, as defined in Env-A 1802.50, and all individuals in management of the entity having primary responsibility for, and control over, the asbestos abatement work of the applicant;
- (2) A list of all names, acronyms, or other identifiers by which the applicant is or has been known, or under which the applicant does or has done business;
- (3) A list of all New Hampshire-certified asbestos abatement supervisors in the applicant's employ at the time of application; and
- (4) Documentation that a responsible person, as defined in Env-A 1802.50, and currently employed by the entity, has attended and completed an approved training course for asbestos

abatement contractors and supervisors as outlined in Env-A 1809.03(g) and (i) with a score of 70 percent or greater on the required written examination.

(c) Each asbestos abatement entity to which the department issues a license shall:

- (1) Have a current copy of this chapter available at all active asbestos abatement worksites;
- (2) Retain for 30 years all business and personnel records for each asbestos abatement project which has been performed by the entity in New Hampshire;
- (3) Notify the department within 30 days of any change in personnel employed by the entity as New Hampshire-certified asbestos abatement supervisors;
- (4) Ensure that a asbestos abatement supervisor who is certified in accordance with Env-A 1810.13 and whose training is current is present on-site whenever any asbestos abatement activity is being carried out as part of an asbestos abatement project in New Hampshire;
- (5) Require all employees and contract workers engaged in asbestos abatement activities in New Hampshire to be certified in accordance with the provisions of this chapter and to have a current training certificate;
- (6) Submit documentation of all employee training upon request of the department;
- (7) Notify the department within 30 days of any change in the names or addresses of any responsible person(s) who work(s) for the licensed entity; and
- (8) Maintain an accurate list of the name of each individual entering and exiting an established asbestos abatement containment area.

(d) The department shall renew an asbestos abatement entity license annually provided the license holder meets the license renewal requirements specified in Env-A 1810.07, and provides the following:

- (1) A current list of New Hampshire-certified asbestos abatement supervisors in its employ;
- (2) A list of projects performed by the licensed entity within the last 12 months, which includes the date of project, name of project owner, contact person, telephone number, and project supervisor(s); and
- (3) Documentation of attendance and completion, by a responsible person as defined in Env-A 1802.50 and currently employed by the entity, of an annual refresher course for asbestos abatement contractors and supervisors as outlined in Env-A 1809.03(j), with a score of 70 percent or greater on the required written examination.

Source. (See Revision Note at chapter heading for Env-A 1800) #9298, eff 10-21-08

Env-A 1810.13 Asbestos Abatement Supervisor Certification Requirements.

(a) Except as specified in Env-A 1810.02, no individual shall engage in any on-site supervision of asbestos abatement workers during an asbestos abatement project in New Hampshire without first being certified as an asbestos abatement supervisor under the provisions of this chapter.

(b) The information required by Env-A 1810.03(b)(1) from an applicant for certification as an asbestos abatement supervisor shall include documentation that the applicant has:

- (1) At least 12 months of asbestos abatement work experience; and

(2) Attended and completed an approved training course for asbestos abatement contractors and supervisors as outlined in Env-A 1809.03(g) and (i), with a score of 70 percent or greater on the required written examination.

(c) The department shall renew an asbestos abatement supervisor certification annually provided the certificate holder meets the requirements for certification renewal specified in Env-A 1810.07, and provides the following:

(1) Documentation that the applicant has attended and completed an approved asbestos abatement supervisor annual review course as outlined in Env-A 1809.03(j), with a score of 70 percent or greater on the required written examination; and

(2) A list of projects supervised by the applicant within the last 12 months which includes the date of project, name of project owner, contact person, and telephone number.

Source. (See Revision Note at chapter heading for Env-A 1800) #9298, eff 10-21-08

Env-A 1810.14 Asbestos Abatement Worker Certification Requirements.

(a) Except as exempted by Env-A 1810.02, no individual shall perform as an asbestos abatement worker in New Hampshire without first being certified as an asbestos abatement worker under the provisions of this chapter.

(b) The information required by Env-A 1810.03(b)(1) from an applicant for certification as an asbestos abatement worker shall include documentation that the applicant has attended and completed an approved training course for asbestos abatement workers as outlined in Env-A 1809.03(g) and (h), with a score of 70 percent or greater on the required written examination.

(c) The department shall renew an asbestos worker certification annually provided the certificate holder:

(1) Meets the requirements for certification renewal specified in Env-A 1810.07; and

(2) Provides documentation that the applicant has attended and completed an approved asbestos abatement worker annual review course as outlined in Env-A 1809.03(j), with a score of 70 percent or greater on the required written examination.

Source. (See Revision Note at chapter heading for Env-A 1800) #9298, eff 10-21-08

Env-A 1810.15 Asbestos Inspector Certification Requirements

(a) No individual shall perform any asbestos inspections of schools in New Hampshire without first being certified as an asbestos inspector under the provisions of this chapter.

(b) The information required by Env-A 1810.03(b)(1) from an applicant for certification as an asbestos inspector shall include documentation that the applicant has:

(1) Attended and completed an initial approved training course for asbestos inspectors as outlined in Env-A 1809.03(g) and (h), with a score of 70 percent or greater on the required written examination; and

(2) Had a minimum of 6 months experience in a comparable occupation or 2 months field experience under the supervision of a certified asbestos inspector or management planner.

(c) The department shall renew an asbestos inspector certification annually provided the certificate holder:

- (1) Meets the requirements for certification renewal specified in Env-A 1810.07; and
- (2) Provides documentation that the applicant has attended and completed an approved asbestos abatement inspector review training course as outlined in Env-A 1809.03(j), with a score of 70 percent or greater on the required written examination.

Source. (See Revision Note at chapter heading for Env-A 1800) #9298, eff 10-21-08

Env-A 1810.16 Asbestos Management Planner Requirements.

(a) No individual shall function as an asbestos management planner for schools in New Hampshire without first being certified as an asbestos management planner under the provisions of this chapter.

(b) The information required by Env-A 1810.03(b)(1) from an applicant for certification as an asbestos management planner shall include documentation that the applicant has:

(1) Attended and completed an approved asbestos management planning training course as outlined in Env-A 1809.03(g) and (h), with a score of 70 percent or greater on the required written examination;

(2) A minimum of an associate degree or certificate of completion of a 2-year program in:

- a. Project planning;
- b. Management;
- c. Environmental sciences;
- d. Engineering;
- e. Construction;
- f. Architecture;
- g. Industrial hygiene;
- h. Occupational health, or
- i. A related scientific field; and

(3) A minimum of 6 months experience in asbestos abatement, including experience in asbestos management, or a combination of education and experience equivalent to that minimum.

(c) The department shall renew an asbestos management planner certification annually provided the certificate holder:

- (1) Meets the requirements for certification renewal specified in Env-A 1810.07; and
- (2) Provides documentation that the applicant has attended and completed an approved asbestos management planner annual review training course as outlined in Env-A 1809.03(j), with a score of 70 percent or greater on the required written examination.

Source. (See Revision Note at chapter heading for Env-A 1800) #9298, eff 10-21-08

Env-A 1810.17 Asbestos Project Designer Requirements.

(a) No individual shall function as an asbestos project designer for schools in New Hampshire without first being certified as an asbestos project designer under the provisions of this chapter.

(b) The information required by Env-A 1810.03(b)(1) from an applicant for certification as an asbestos project designer shall include documentation that the applicant has:

(1) Attended and completed an approved asbestos abatement project designer course as outlined in Env-A 1809.03(g) and (i), with a score of 70 percent or greater on the required written examination; and

(2) One of the following combinations of education, training, and professional registration:

a. At least 12 months experience in asbestos abatement and a bachelor's degree in industrial hygiene, occupational health, environmental science, biological or physical science or a closely related field;

b. At least 12 months experience in asbestos abatement and registration as a registered architect or registered engineer; or

c. At least 2 years experience in asbestos abatement including experience in asbestos abatement design.

(c) The department shall renew an asbestos abatement project designer certification annually provided the certificate holder:

(1) Meets the requirements for certification renewal specified in Env-A 1810.07; and

(2) Provides documentation that the applicant has attended and completed an approved asbestos abatement project designer annual review training course as outlined in Env-A 1809.03(j), with a score of 70 percent or greater on the written examination.

Source. (See Revision Note at chapter heading for Env-A 1800) #9298, eff 10-21-08

Env-A 1810.18 Reciprocity.

(a) In accordance with RSA 141-E:11, asbestos abatement site supervisors, workers, inspectors, management planners, and project designers who have been granted certification by other states, or the EPA, shall be granted reciprocity by the state of New Hampshire, provided the certification requirements of said state(s) are substantially equivalent to the provisions of Env-A 1810 for the individual discipline certification for which application is being made.

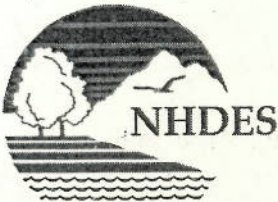
(b) The applicant for reciprocity shall:

(1) Apply in accordance with Env-A 1810.03; and

(2) Fulfill all requirements as specified for the individual discipline certification for which application is being made.

(c) The department shall act on the application in accordance with RSA 541-A:29.

Source. (See Revision Note at chapter heading for Env-A 1800) #9298, eff 10-21-08



The State of New Hampshire
Department of Environmental Services



Thomas S. Burack, Commissioner

February 5, 2015

VIA Email

James Bryson
US EPA – Region 1
Office of Environmental Stewardship
Toxics and Pesticides Unit
TSCA – AHERA Program
5 Post Office Square – Suite 100
Mail Code: OES-05-4
Boston, MA 02109-3912

RE: FFY 2014 – AHERA Annual Enforcement Report, 40 CFR 763.98(g)

Dear Mr. Bryson:

In accordance with the requirements of 40 CFR 763.98(g), the New Hampshire Department of Environmental Services Air Resources Division respectfully submits this AHERA Annual Enforcement Report for the period October 1, 2013 to September 30, 2014.

We thank EPA for its continued support in these endeavors. If you have any questions or require additional information, please do not hesitate to contact Steve Cullinane at (603) 271-1373 or by email Stephen.Cullinane@des.nh.gov, or me at (603) 271-5629 or by email Mark.Ledgard@des.nh.gov.

Sincerely,

Mark Ledgard
Compliance & Enforcement Programs Manager
Air Resources Division

Enclosure: DES' February 5, 2014, AHERA Annual Enforcement Report FFY 2014

cc: H. Curtis Spalding, Regional Administrator, EPA Region 1 (w/enclosure)
Jonathan Britt, EPA Region 1 (w/enclosure)



**ASBESTOS HAZARD EMERGENCY RESPONSE ACT
ANNUAL ENFORCEMENT REPORT
FFY 2014**

Date: February 5, 2015

Prepared by:

**New Hampshire Department of Environmental Services
Air Resources Division
29 Hazen Drive, P.O. Box 95
Concord, New Hampshire 03302-0095**

Prepared for:

**US EPA - Region 1
Office of Environmental Stewardship
Toxics Pesticides Unit
TSCA - AHERA Program
5 Post Office Square - Suite 100
Boston, Massachusetts 02109-3912**

1.0 New Hampshire AHERA Waiver Approval

1.1 Waiver Approval

On July 15, 2008, New Hampshire's Governor John H. Lynch submitted to the EPA Region 1 Regional Administrator, a letter with supporting documentation requesting a full waiver of the requirements of EPA's asbestos-in-schools program pursuant to the Asbestos Hazard Emergency Response Act ("AHERA") statute of 40 CFR 763.98. By letter dated July 31, 2008, the EPA Regional Administrator indicated to New Hampshire that the request was received. All actions with this waiver request were recorded by EPA under Docket Identification No. EPA-HQ-OPPT-2008-0790, and are listed on the www.regulations.gov Web site.

On September 30, 2008, the Manager of the EPA's Toxics and Pesticides Unit submitted comments to the New Hampshire Department of Environmental Services, Air Resources Division - Compliance Bureau ("DES") regarding the AHERA waiver request. On October 10, 2008, DES provided EPA with a response addressing each of EPA's comments.

On December 19, 2008, EPA published a notice of proposed approval, and a request for comments with a detailed description of this waiver request and EPA's rationale for approving the waiver. No comments were received on EPA's approval.

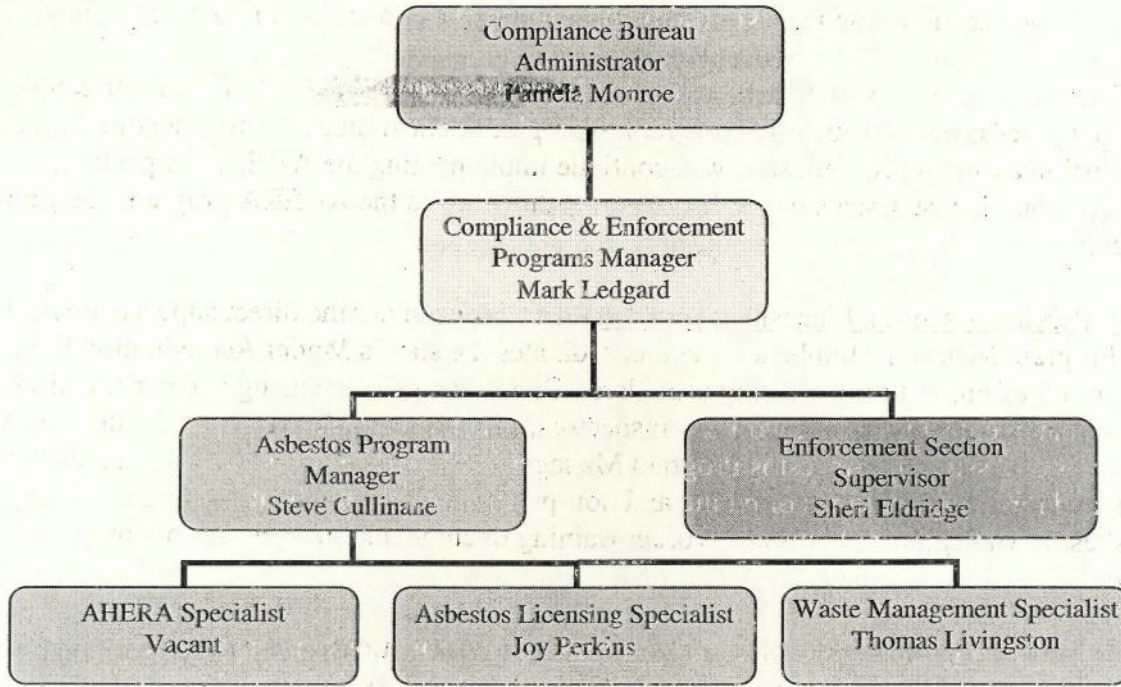
In the May 8, 2009 Federal Register (74 FR 21683), EPA published the Notice of Final Approval to the State of New Hampshire to implement the state program. EPA issued the waiver under section 203(m) of the Toxic Substances Control Act (TSCA) and 40 CFR 763.98. Section 203 is within Title II of TSCA, also known as AHERA.

1.2 New Hampshire AHERA Program Administrative Authority

DES is the agency responsible for administering and enforcing the AHERA requirements in the State of New Hampshire. Effective October 21, 2008, the New Hampshire Code of Administrative Rules Env-A 1800, *Asbestos Management and Control* was amended and adopted under the authority of New Hampshire RSA 141-E:4, I and II.

The current DES AHERA program contacts and responsibilities are described below.

Chart 1 – DES AHERA Program Organization



2.0 AHERA Program Administration and Management

2.1 Administration and Management

Pamela Monroe, Administrator, Air Resources Compliance Bureau - Provides leadership, develops policy, and administers the AHERA inspection, enforcement, and outreach and education activities, to ensure the regulated community maintains compliance with state and federal rules.

Mark Ledgard, Compliance and Enforcement Program Manager – Develops, coordinates and implements program plans in support of AHERA inspection, enforcement, and outreach and education activities. Administers grants to support these programs, and coordinates and directs activities between the Asbestos Program Management and the Enforcement Sections.

Steve Cullinane, Asbestos Program Manager – Manages and supervises the planning and prioritization of the AHERA program and asbestos licensing activities to ensure the consistent implementation of the asbestos rules.

Vacant, AHERA Specialist – Functions under the direct supervision of the Asbestos Program Manager. Implements and coordinates the AHERA inspection, outreach and education, and reporting activities of public and non-profit private schools, including reviewing school Asbestos Management Plans and worker training documentation to ensure ongoing compliance.

Effective December 12, 2013, this position became vacant as a result of staff retirement. DES is in the process of determining an appropriate replacement strategy for this position. In the interim, existing asbestos program staff will continue implementing the AHERA inspection, reporting and compliance assistance work to ensure adherence to the AHERA program and grant requirements.

Joy Perkins, Asbestos Licensing Specialist – Functions under the direct supervision of the Asbestos Program Manager. Implements and coordinates the state's Model Accreditation Plan ("MAP") for certifying asbestos training providers. Coordinates the licensing and certification of asbestos abatement supervisors, workers, inspectors, management planners, project designers and contractors. Assists the Asbestos Program Manager in the AHERA inspection, outreach and education, and reporting activities of public and non-profit private schools, including reviewing school Asbestos Management Plans and worker training documentation to ensure ongoing compliance.

Thomas Livingston, Waste Management Specialist – Functions under the direct supervision of the Asbestos Program Manager. Assists the Asbestos Program Manager in the AHERA inspection, outreach and education, and reporting activities of public and non-profit private schools, including reviewing school Asbestos Management Plans and worker training documentation to ensure ongoing compliance.

2.2 Enforcement

Sheri Eldridge, Enforcement Section Supervisor – Manages the enforcement activities to ensure the consistent implementation of enforcement policies and procedures as they relate to the AHERA program. Coordinates with the Asbestos Program Manager in establishing the appropriate enforcement actions consistent with the AHERA program and the DES *Compliance Assurance Response Policy*.

3.0 Training Provider Approval and Licensing

3.1 Training Provider Approval

DES reviews and approves all training classes that are administered in New Hampshire for contractors, supervisors, workers, and consultants, to ensure they meet the requirements of the Model Accreditation Plan ("MAP").

Currently, two New Hampshire based companies offer training in these disciplines: RPF Environmental, Incorporated, in Northwood, NH; and CARDNO ATC Associates, Incorporated in Manchester, NH. Several out-of-state training companies conduct classes in New Hampshire

for specific asbestos abatement companies. The Asbestos Licensing Specialist verifies that these classes are approved by the proper authority in the state of origin of the training provider.

On-site training class audits are conducted by the Asbestos Licensing Specialist during the actual classes to ensure that the required areas of training are covered and that proper recordkeeping is maintained. During FFY 2014, DES completed audits for the following training providers, all of which were found to be in compliance with MAP requirements:

- a. February 27, 2014 -- Asbestos Inspector Refresher Training Audit of Institute for Environmental Education in Salem, NH

3.2 Licensing

The accreditation requirements for licensing and certification of asbestos professionals are established in New Hampshire Code of Administrative Rules Env-A 1800, *Asbestos Management and Control*, and meet the MAP requirements. Upon completion of an accredited training program, an applicant submits their application to DES. The Asbestos Licensing Specialist reviews the application for completeness and accuracy. The training rosters are examined to ensure the applicant attended the required course for the required number of hours.

Between October 1, 2013 and September 30, 2014, DES issued the following asbestos professional licenses and certificates in the following disciplines (number of licenses issued is shown in parenthesis):

- Asbestos Abatement Contractors (68)
- Asbestos Abatement Supervisors (250)
- Asbestos Abatement Workers (561)
- Asbestos Inspectors (79)
- Asbestos Management Planners (22)
- Asbestos Project Designers (27)

4.0 School Inspection, Outreach and Enforcement Activities

4.1 Inspection and Enforcement

Between October 1, 2013 and September 30, 2014, DES completed forty (40) AHERA school inspections, which met the established FFY 2014 AHERA grant inspection goal. DES submits its proposed inspection schedule at the beginning of the inspection period and periodically updates the inspection schedule as necessary.

Of these inspections, twenty one (22) had no violations noted, and nineteen (18) were cited for various compliance issues. As a result of the inspections, warning letters were issued to nineteen (18) schools for the following violations:

- Failure to make annual notifications;
- Failure to document 6-month surveillance inspections;

- Failure to train new maintenance staff;
- Failure to appoint and train new designated persons; and,
- Failure to keep the Asbestos Management Plan up to date.

4.2 Reporting

Beginning the first quarter of FFY 2012, DES submitted timely AHERA inspection reports using EPA's new Express Integrated Compliance Information System Form (Express ICIS Form). Prior reports were submitted using EPA's FIFRA/TSCA Tracking System Input Document form. Since the first quarter of FFY 2012, DES has reported quarterly with completed Express ICIS Forms including the "10 Column Report."

4.3 Outreach and Education Activities

DES provides continuous outreach and education to the regulated community consisting of "Distributed Targeted" materials and "Workshop/Training" activities:

Distributed Targeted materials are provided during inspections, or upon request by the educational district or school. These include: technical information on asbestos containing materials, access to web based resources, and distribution of various training materials (i.e., awareness, designated person, annual parent and employee notification requirements, asbestos management plan requirements, etc.).

DES attends educational district or school meetings for direct participation in Workshop/Training activities. On November 6, 2013, DES conducted a 2-hour Asbestos Awareness Training for the Newmarket SAU. On April 9, 2014, DES conducted a 2-hour Asbestos Awareness Training for the Rochester School District.



Sent To EPA - Date, From, To:		E-mailed to J.Britt by S.Cullinane on 4/16/2015
STATE ID Tracking Number:		FFY 15-24
State Name:		New Hampshire
1)	Inspector Information:	*****
2)	(a) Inspector First Name:	Joy
	(b) Inspector Last Name:	Perkins
	(c) Inspector Phone Number:	603-271-4609
3)	Inspector Actual Start Date:	3/27/2015
4)	Inspector Actual Completion Date:	4/8/2015
NOTE: <<< CHECKLIST MUST BE ATTACHED FOR CREDIT >>>		*****
Address of Activity:		*****
	(a) Site Name:	Woodland Heights Elementary Shool
	(b) Site Address - 1:	225 Winter Street Extension
	(c) Site Address / Unit # - 2:	
	(d) Site Address - 3:	
	(e) Site City:	Laconia
	(f) Site State:	NH
	(g) Zip:	03246-3299
6)	Contact Address (if different from # 5 Site):	*****
	(a) Contact Name:	William Caruso, AHERA Designated Person
	(b) Contact Address - 1:	Laonia School District - SAU #30
	(c) Contact Address - 2:	39 Harvard Street
	(d) Contact City:	Laconia
	(e) Contact State:	NH
	(f) Contact Zip:	03247-0309
	(g) Other Contact Information:	
7)	Federal Statute: TSCA - Toxic Substances Control Act:	*****
8)	Law Sections:	*****
	SELECT ONE:	Leave the one most suitable entry listed in a to e, and delete the other 4. See example tabs(s)
	(a) TSCA : 208 : Asbestos Emergency Authority:	
	(b) TSCA : 203 : Asbestos in Schools - AHERA:	(b) TSCA : 203 : Asbestos in Schools - AHERA
	(c) TSCA : 402 : Lead-Based Paint Activities, Training Provider Audit-Certification Validation - Work Practice Inspection:	
	(d) TSCA : 406B : Lead-Based Paint - Pre-Renovation Education:	
	(e) TSCA : 402c : Lead: Renovation Repair Painting:	
9)	Compliance Monitoring Action Reason:	*****
	SELECT ONE:	Leave the one most suitable entry listed in a to d, and delete the other 4. See example tabs(s)
	(a) Citizen Complaint:	
	(b) Core Program:	(b) Core Program
	(c) For Cause:	
	(d) Random:	
10)	Comments/Remarks:	*****
	(a) Located in EJ Area (YES / NO):	NO
	(b) Common Area (YES / NO):	NO
	(c) Any Children Under 6yo (YES / NO):	YES
	(d) Enter Floor Number of Inspection:	Whole School
	(e) Enter Follow Up Actions:	Warning Letter
	(f) Other Comments:	School now in compliance.
	(g) Other Comments:	

Region 1 OECA Asbestos Activities
PERIOD: Oct. – Dec. 2014 New Hampshire

Information for OECA										ACS Numbers						
State Name: New Hampshire	Number of asbestos inspections conducted by state with EPA credentials	Number of asbestos inspections conducted by state under own authority (waiver states)	Number of asbestos inspections conducted with EPA credentials that resulted in federal enforcement action (including civil penalties and notices of non-compliance)	Warning Letters	NON	Civil	Criminal	Other	Total	Total number of enforcement actions taken by State	Number of charter schools inspected	Number of inspections of LEAS in EJ areas	Number of LEAS not inspected / audited in last 6 years	Number of inspections of public employee asbestos activities	Number of school children attending institutions reached through general toxic fibers education and outreach activities	
																0*
	0*	12	0*	4	0	0	0	22, 6#	12	6	6	2	0	4	0	**2621
	<ul style="list-style-type: none"> * We don't have EPA credentials and we are waiver State now. ? Not issued yet, still working @ school. # No Violation noted. 															
	** the number of students attend inspected schools.															

Local ID #: FY 15-24
 Inspection Date: Mar 27, 2015

Contractor: 00000SAU30-Laconia School District
 Site : Woodland Heights Elementary School
 Address: 225 Winter Street Extension
 Laconia NH 03246-3299
 Primary Inspector: Joy Perkins

1. Reason for Inspection ("Yes" to all that apply)	
LEA selected under Neutral Administration Scheme.	1. YES
LEA selected under For Cause Inspection Scheme.	0. N/A - Not Applicable
New LEA or never Federal/State inspected.	0. N/A - Not Applicable
Last Federal/State inspection 3 years or more.	1. YES
LEA has history of violations.	0. N/A - Not Applicable
Newly acquired building/school within LEA	0. N/A - Not Applicable
Response action within last 3 years	0. N/A - Not Applicable

2. Opening Conference	
Show credentials.	1. YES
EPA Notice of Inspection signed by LEA representative.	1. YES
New Designated Person since last Federal/State Inspection?	1. YES
New LEA Superintendent since last Federal/State Inspection?	1. YES

3. Local Education Agency	
763.84(a) Did the LEA perform required activities in accordance with AHERA?	1. YES
763.84(d) Were short-term workers informed regarding the presence and location of ACBM?	1. YES
763.84(g)(1) The LEA has a "designated person" as required by AHERA.	1. YES
763.84(g)(2) Did the "designated person" receive adequate training to perform duties under AHERA?	1. YES

4. Custodial and Maintenance Training	
763.92(a)(1) Did maintenance and custodial staff who work in a building that contains ACBM receive at least 2 hours awareness training?	1. YES
763.92(a)(1) Did new maintenance and custodial staff receive awareness training within 60 days of hire?	1. YES
763.92(a)(2) Did maintenance and custodial staff who perform SSSD activities receive at least 2 hour awareness training and an additional 14 hours removal training?	0. N/A - Not Applicable

5. Operations and Maintenance	
763.91(a) Has the LEA implemented an Operations, Maintenance and Repair program?	1. YES
763.91(b) Were employees who perform SSSD activities protected (respirators, PPE, work practices)?	0. N/A - Not Applicable
763.91(d) Were required procedures (signs, restricting area, work practices, cleaning, disposal) followed during operations and maintenance activities disturbing friable ACM?	0. N/A - Not Applicable

763.91(f)(1)	For minor release episodes (less than 3 linear/square feet) were required procedures followed?	0. N/A - Not Applicable
763.91(f)(2)	For major release episodes (more than 3 linear/square feet) were required procedures followed?	0. N/A - Not Applicable

6. Inspections (Complete for new LEA or newly acquired facility)		
763.85(a)	Did the LEA inspect each school building they lease or	0. N/A - Not Applicable
763.85(a)(3)	Was the inspection conducted by an accredited inspector?	0. N/A - Not Applicable
763.88(a)(1)	For each inspection, did the LEA have an accredited inspector provide a written assessment of each school building?	0. N/A - Not Applicable
763.88(b)	Did the inspector classify ACBM and suspect ACBM assumed to be ACBM in the written assessment?	0. N/A - Not Applicable

7. Re-inspections (Complete since last Federal/State inspection)		
763.85(b)(1)	Did the LEA conduct a re-inspection every 3 years after a management plan was in effect?	1. YES
763.85(b)(2)	Was the re-inspection performed by an accredited inspector?	1. YES

8. Periodic Surveillance		
763.92(b)(1)	Did the LEA conduct periodic surveillance in each building that it leases or owns that contains ACBM (or assumed) every 6 months?	1. YES
763.92(b)(2)	Did the person performing periodic surveillance submit a written record for inclusion in the management plan?	1. YES

9. Management Plans		
763.93(d)	Did the LEA maintain and update its management plan including surveillance, inspection, re-inspection and response actions?	2. NO (VIOLATION)
763.93(e)	Was the management plan developed by an accredited planner?	1. YES
763.93(g)(2)	Did the LEA maintain a complete updated copy of a management plan in its administrative office for each school for inspection without cost or restriction?	1. YES
763.93(g)(4)	Did the LEA at least once each year notify in writing parent, teacher, and employee organizations of the availability of management plans?	1. YES
763.93(i)	Did the management plan contain a statement signed by the Designated Person that LEA responsibilities have and will be met?	1. YES

10. Recordkeeping		
763.94(a)	Were records maintained in the administrative offices of both the school and LEA?	2. NO (VIOLATION)
763.94(a)	Where ACBM has been removed has the LEA retained those records for at least 3 years after the next re-inspection?	1. YES
763.94(b)	Did the LEA retain detailed written descriptions of response actions including required signatures, contractors, laboratories and accreditations?	1. YES

763.94(c)	Did the LEA retain training records for maintenance and custodial staff showing hours, name and title, training dates and training location?	1. YES
763.94(d)	Did the LEA retain written periodic surveillance records showing persons' name, date and any change in ACBM condition?	1. YES
763.94(i)	Did the LEA retain records of any fiber release episode showing dates, response action taken, names and disposal sites?	0. N/A - Not Applicable

11. Warning Labels		
763.95(a)	Did the LEA attach a warning label immediately adjacent to ACBM located in routine maintenance areas?	0. N/A - Not Applicable
763.95(b)	Were warning labels prominently displayed in readily visible locations?	0. N/A - Not Applicable
763.95(c)	Were warning labels of sufficient size and color to be readily visible?	0. N/A - Not Applicable

12. Response Actions (Abatement Projects within last 3 years)		
763.90(a)	Did the LEA implement in a timely manner the appropriate response action to protect human health and the environment?	0. N/A - Not Applicable
763.90(g)	Were response actions designed by persons accredited to design response actions?	0. N/A - Not Applicable
763.91(e)	Were response actions conducted by persons accredited to conduct response actions?	0. N/A - Not Applicable
763.90(i)(1)(i)	Was a visual inspection of each functional space where a response action was conducted performed?	0. N/A - Not Applicable
763.90(i)(2)(i)	Were clearance air samples collected after the response actions?	0. N/A - Not Applicable
763.90(i)(2)(ii)	Was an accredited laboratory utilized for the analysis of air samples?	0. N/A - Not Applicable
763.90(i)(3)	For response actions greater than 160 square feet or 260 linear feet were 13 air samples collected and analyzed by TEM?	0. N/A - Not Applicable
763.90(i)(5)	For response actions less than 160 square feet or 260 linear feet were 5 air samples collected and analyzed by PCM?	0. N/A - Not Applicable

13. Abatement Project Notification (NESHAP)		
61.145(b)	Did employer provide Asbestos NESHAP notification?	1. YES
61.145(b)(1)	Was notification provided 10 working days/14 calendar days prior to project?	1. YES

14. Closing Conference		
	Complete EPA Receipt for Samples if samples, photos, or documents taken.	1. YES
	Review findings and any additional steps to be taken.	1. YES
	Were violations of AHERA discovered during the inspection?	1. YES
	Will a Notice of Non-Compliance be issued?	3. NO (NOT A VIOLATION)

Comments

On March 27, 2015 and April 8, 2015 DES inspector Joy EH Perkins met with William Caruso, Facilities Manager and AHERA Designated Person for Woodland Heights Elementary School, Laconia New Hampshire. Mr. Caruso is also the AHERA Designated Person for the other two elementary schools in SAU #30, Pleasant Street School and Elm Street School.

The available documents for the school were reviewed. Paperwork showed Ms. Marjorie Yin, DES inspector, had been on site in January, 2004. The most recent 3-Year Re-Inspection report was not available at the school on March 27. Mr. Caruso was able to obtain a copy of the most recent 3-year re-inspection completed by RPF Environmental Inc, in 2014, for the April 8 visit. He has been keeping up with the 6-month surveillance inspections consistently since 2004.

Mr. Caruso indicated that there has been no new construction or renovations since Ms. Yin's inspection of 2004. The architect statement for the addition, from Banwell Architects, was in the Management Plan file. Mr. Caruso supplied a copy of the floor plan for Woodland Elementary School indicating the portion that was the "new" construction from 2002.

There are three custodial staff at Woodland Heights, they are scheduled for their annual asbestos awareness review on April 15, 2015.

After review of the paperwork, Mr. Caruso showed this inspector where the remaining asbestos containing materials were located in the building. We looked at fire doors and inside the boiler room off the gymnasium. Most of the left over material consists of enclosed asbestos inside fire door and door jams. Photos included pictures of door jams, boiler room, and the exterior where the flashing on the roof is ACM.

Non-Compliance Items

- 1 - (9. Management Plans) - 763.93(d) Did the LEA maintain and update its management plan including surveillance, inspection, re-inspection and response actions?
2 - (10. Recordkeeping) - 763.94(a) Were records maintained in the administrative offices of both the school and LEA?

Corrected Items

- 1-(9. Management Plans) - 763.93(d) The Management Plan has been updated by Mr. Caruso and he will be making a notebook to be kept in the school Principal's office. Mr. Caruso is also doing the same thing for Pleasant Street and Elm Street schools.
2-(10. Record keeping) - 763.94(a) Mr. Caruso, the designated person for the Laconia Elementary Schools, is preparing and will ensure copies of the management plans are available in each school's Principal's office.



The State of New Hampshire
Department of Environmental Services



Thomas S. Burack, Commissioner

January 22, 2015

VIA E-MAIL

Everett Bishop
Office of Compliance
US Environmental Protection Agency
bishop.everett@epa.gov

Re: Proposed Changes to TSCA STAG Fund Distribution Methodology

Dear Mr. Bishop:

The New Hampshire Department of Environmental Services Air Resources Division ("DES") appreciates the opportunity to provide comments in response to your memorandum dated November 18, 2014 and received by the New Hampshire Department of Environmental Services ("DES") on December 1, 2014, regarding the US EPA, Office of Compliance proposed changes to the TSCA STAG fund distribution methodology beginning in FFY 2016.

Background

N.H. Laws of 2004, Chapter 257:18, effective July 1, 2004, transferred both the personnel and management of the AHERA program and the asbestos licensing program authorized pursuant to N.H. RSA 141-E, *Asbestos Management and Control Act*, as well as administration of the lead licensing program authorized pursuant to RSA 130-A, *Lead Paint Poisoning Prevention and Control Program*, from the N.H. Department of Health and Human Services ("DHHS") to DES. Previously, all other responsibility for implementing the comprehensive asbestos management program was vested with DES and DHHS had concurrent statutory authority (and corresponding implementing rules). Contrary to administration of the asbestos program, all functions of the lead program were previously entirely vested in DHHS. Consequently, the N.H. Laws of 2005, Chapter 288:1, effective September 20, 2005, effectively reversed the transfer of the lead licensing program to DES and transferred the authority for the lead licensing program back to DHHS and those functions remain in DHHS today. The personnel and management of the AHERA program and the asbestos licensing program and all other aspects of RSA 141-E, *Asbestos Management and Control Act*, the N.H. Code of Admin. Rules, Env-A 1800 and He-P 5000, remained vested in DES.

Subsequent to the transfer of the AHERA and asbestos licensing responsibilities to DES, we undertook a comprehensive review of the statute, rules, programs, and funding related to asbestos management and control. As a result, the N.H. Laws of 2005, Chapter 249, effective September 12, 2005, were amended to clarify the provisions of RSA 141-E and transferred all responsibility for asbestos-related issues from DHHS to DES. Further, On July 15, 2008, Governor John H. Lynch submitted to the EPA Region 1 Regional Administrator, a letter with supporting documentation requesting a full waiver of the requirements of EPA's asbestos-in-

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29 Hazen Drive • PO Box 95 • Concord, NH 03302-0095
(603) 271-3503 • TDD Access: Relay NH 1-800-735-2964



schools program pursuant to the Asbestos Hazard Emergency Response Act ("AHERA") and 40 CFR 763.98. In the May 8, 2009 *Federal Register* (74 FR 21683), EPA published the Notice of Final Approval for the State of New Hampshire to implement a state program of asbestos inspection and management that is at least as stringent as the federal program. EPA issued the waiver under section 203(m) of the Toxic Substances Control Act (TSCA) and 40 CFR 763.98. Lastly, effective October 21, 2008, the New Hampshire Code of Administrative Rules Env-A 1800, *Asbestos Management and Control* were amended and adopted to fully implement the State approved program.

NH AHERA Program Summary

The New Hampshire Department of Education lists approximately 635 schools within the State of New Hampshire with approximately 720 buildings. Many of these schools were constructed or renovated in the 1960's through the 1980's, during a period of time when asbestos containing materials were in use. Today the potential still exists for materials containing asbestos to be used in construction and renovation projects. If not managed correctly, this material poses a health risk to students, faculty, and staff.

Since 2008, DES has designed and implemented its AHERA program to meet the program needs and accountability consistent with its grant commitments with the EPA. By administering this program, DES ensures that Local Education Agencies maintain compliance with the AHERA requirements, and that asbestos abatement projects are conducted safely and in accordance with all applicable requirements; thereby, reducing the potential for exposure to airborne asbestos fibers in New Hampshire's schools. The program activities ensure compliance with the statute and rules through: compliance inspections; enforcement; outreach and compliance assistance; and public access to information relative to the presence of asbestos in schools. In summary, administration of the AHERA program includes, but is not limited to, the following:

- A) **Inspections and Enforcement:** DES completes 40 school inspections per year. DES selects Local Education Agencies and schools for inspection based on an EPA approved Neutral Administrative Inspection Scheme. DES monitors and updates the inspection scheme as necessary to maintain consistency with any changes in the TSCA Compliance Monitoring Strategy as requested by Region 1. In addition, DES is responsible for addressing all instances of non-compliance, including: issuing warning letters; Notices of Noncompliance; Notices of Past Violations; Letters of Deficiency; Administrative Orders; Notices of Proposed Fines; and, Referrals for Enforcement to the NH Department of Justice. The format of the Notice of Noncompliance is approved by Region 1.
- B) **Licensing:** DES administers the licensing of over 100 asbestos management planners, designers, inspectors, and abatement contractors that conduct these activities in schools. DES also approves all training providers, and audits licensees and training providers.
- C) **Education and Outreach:** DES provides "Distributed Targeted" materials to the educational district, school, or contractor. These materials include technical information on asbestos containing materials, access to web-based resources, and distribution of

various training materials (i.e., awareness, designated person, annual parent and employee notification requirements, asbestos management plan requirements, etc.). DES also attends Local Education Agency or school meetings for direct participation in workshop and training activities.

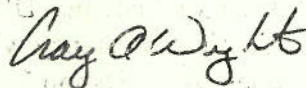
- D) Grant Management and Reporting:** Currently DES submits timely AHERA inspection reports using EPA's new Express Integrated Compliance Information System Form, and timely "10 Column Reports" as required by EPA. Previously, DES submitted reports using EPA's FIFRA/TSCA Tracking System Input Document form.

Impact of Proposed Changes to TSCA STAG Fund Distribution Methodology

DES has demonstrated its commitment to administration of a quality AHERA program at the current level of funding that equates to approximately \$100,000 in federal grant funds with in-kind match provided by DES for oversight, management and administration of the program. However, under EPA's proposed changes to the TSCA STAG allocation formula, shares would be "weighted" in favor of the lead-based paint program. Since the AHERA and lead-based paint programs are managed in two different agencies, the existing program personnel and other resources cannot be easily shifted to accommodate the revised allocation methodology. Further, it is unlikely that DES would be successful in securing general funds to continue implementing the program. Consequently, DES would have to seriously consider if, at the proposed level of funding, that it could economically implement any aspect of the AHERA program responsibilities listed above.

DES appreciates the opportunity to provide the above overview of our AHERA program and the impact of EPA's proposal on DES's future administration of the program. If you have any questions or would like to discuss further please contact Pamela Monroe at Pamela.Monroe@des.nh.gov or (603) 271-0882.

Sincerely,



Craig A. Wright
Director
Air Resources Division

Ec: Jonathan Britt, USEPA Region 1
James Bryson, USEPA Region 1