THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT
DEPARTMENT OF LABOR STANDARDS

# Guidance for Inspectors: Best practices for conducting inspections and reinspections for AHERA compliance

**Scope and Purpose**

The scope and purpose of the Asbestos Hazard Emergency Response Act (AHERA) 40 CFR 763.80(a) and 454 CMR 28.13(2) requires each local education agency (LEA) to identify friable and nonfriable asbestos-containing materials (ACM) in public and private elementary and secondary schools by visually inspecting every school building for such materials, and may include sampling such materials if they are assumed to be ACM.

Inspectors are required to apply the "state of the art" and best practices in technology and science in the asbestos consulting field, 454 CMR 28.02 and 28.07(6). A well conducted inspection or reinspection will be a valuable tool that schools can use to protect their building occupants from asbestos exposure, and will improve AHERA compliance in schools in Massachusetts. When the inspector does not apply the best practices, it frequently results in the LEA being in non-compliance with AHERA requirements.

**Preparing the Contract**

To facilitate AHERA compliance, both the inspector and the LEA should refer to the Sample RFP for Reinspections that is posted on the Department of Labor Standards (DLS) website as guidance for conducting reinspections (mass.gov/lwd/labor-standards/asbestos-program/in-schools). Poor drafting of both proposals and contracts, including relying on "boilerplate" language, is one of the main reasons that reinspections are not properly conducted. Frequently, more emphasis is placed on the price of the contract rather than the scope of work.
A contract to perform an asbestos assessment is a contract to define an unknown, such as how much asbestos is present in a building. A properly performed asbestos survey will allow the site conditions, such as the types, amounts, locations, and condition of suspect ACM to determine the scope of work. "A low bid commonly results in a lower quality work product, which puts building occupants at risk, and incurs AHERA violations for the schools". [*Building Inspector Manual, "*US EPA Model Curriculum for Training Building Inspector Refresher course for Accreditation under TSCA", Section 206, page 15].

Well drafted contracts will call for "best practices" or "state of the art" protocols. This means that inspectors should perform their work in accordance with the skills of the profession, using due diligence and the degree of care ordinarily exercised by, and consist with, the standards of competent consultants practicing in the same or similar locality. [Ibid, page 16].

**Standard Elements of the Reinspection**

1) **Review Previous *Inspection Reports***—When previous inspections or bulk sampling have been performed, the inspector should confirm that these reports were properly performed before relying on them. Many previous inspections and sampling were not properly performed, and relying on them may result in improper conclusions being drawn and improper response actions being taken. Frequently, several types of suspect ACM were overlooked during the initial or subsequent reinspections, or an inadequate number of samples were collected. When LEAs do not know where the ACM is located in their school buildings, they cannot take effective measures to protect their building occupants.

2) **Inspect *Building Records***—Review the floor plans for the building, and verify that the room numbers or functional spaces are correct. Over time, rooms can be repurposed and renamed or renumbered. If the LEA cannot find the ACM in the school, they cannot protect their building occupants.

    - Review abatement records for the period of time between reinspections. Verify if the previously-identified ACM has been partially or completely abated, and inspect the location(s). Verify that the abatement was performed by a licensed asbestos contractor, the project design is present, the appropriate clearance air tests were completed, and a waste shipment record is on file.

    - Review *Bulk sample reports* for materials that have been confirmed as asbestos containing or non-asbestos containing. Verify that the required number of samples were collected, and that the locations of the sample collection can be correlated to the correct location in the school. Sampling cannot combine two distinct materials, or dissimilar homogeneous areas.

3) **Meet with the Local Education Agency representative**—An initial meeting should be held with the Designated Person to discuss any concerns about asbestos in the school(s). Determine if, and where, bulk samples will be collected. It is helpful to locate and interview maintenance personnel who are knowledgeable about ACM in the building. Whenever possible, conduct the inspection when the building is unoccupied.

4) **Conduct the Visual Inspection**—Enter each room, including utility rooms, storage rooms, mechanical rooms, and equipment rooms. If previous reports have identified asbestos containing ceiling tiles, or areas of the school where spray applied fireproofing is present above a suspended ceiling, use precautions and safe work practices when moving the ceiling tiles. Take notice if the required AHERA warning signs are posted in routine maintenance areas when ACM is present in those locations.

5) **Identify types, amounts, locations, and condition of ACM or assumed ACM**—Each type of ACM that is observed must be listed in the *Inspection/reinspection report*. The inspector may observe ACM that was not previously identified, and will add the newly discovered ACM to the building inventory. The presence of all remaining ACM should be documented in the new report as follows:

   - Describe clearly the location of all ACM observed. Verify that your location description concurs with the LEA. The LEA cannot manage ACM if they cannot locate it.
   - Provide approximate quantities of all ACM. Distinguish between the materials that are assumed to be ACM, and the materials that have been sampled. The LEA may want to sample materials that have not been previously sampled, or were inadequately sampled.
   - Indicate the condition of the ACM or assumed ACM. Assign a physical assessment category (1 through 7) pursuant to 454 CR 28.13(5) and 40 CFR 763.88(b), and indicate the extent or quantity of any damage. The amount and locations of ACM in damaged condition will assist the LEA in prioritizing response actions, and may necessitate special cleaning practices.
   - Many LEAs are requiring, and consultants are now providing, as assessment for both friable and nonfriable ACM to assist in better management of the ACM and protection of the building occupants. The physical assessment of the same type of ACM may vary from room to room. Thermal system insulation (TSI) in a gym or cafeteria will have a greater potential for damage than TSI in a crawl space or library.

6) **Collect Samples**—If the scope of work includes bulk sampling, ensure that any ACM disturbed during sample collection is patched or repaired. Collect samples from discreet areas whenever possible, such as corners of the room or closets. Although the AHERA regulation requires a minimum of two samples for each miscellaneous material, the LEA may wish to collect more, depending on the size of the homogeneous area, such as floor tiles. Keep in mind the following:

   - Many consultants are using the sampling scheme for surfacing materials when sampling floor tiles. All samples must be collected using a random sampling scheme, and must be representative of the entire homogeneous area. For example, if all the floor tiles on the first and second floor of the school are homogeneous[1], samples need to be collected from different rooms on each floor. In no case will samples be collected from only one room/area and used to characterize the homogeneous area that extends beyond that room/area.
   - Clearly identify the location of each sample collected. The LEA needs to know the areas where samples were collected pursuant to 454 CMR 28.13(3) and 40 CFR 763.93(e)(3).

- Samples collected from schools must be analyzed by a laboratory that holds a *Massachusetts Class A certification for Polarized Light Microscopy* (PLM). Although the required method of analysis for bulk materials is PLM, it cannot reliably detect lower concentrations of asbestos, and the small thin fibers typically found in nonfriable, organically-bound materials, such as floor tiles and mastics. The LEA may choose to use TEM for bulk sample analysis of the materials.
- Submit a copy of the *Chain-of-custody* and the *Laboratory report* to the LEA which indicates the laboratory name and address, name and signature of the analyst, date of analysis, and the results of the analysis. The LEA must maintain this information in the management plan.

7) **Submit the *Inspection Report* to the LEA**—Within 30 days of the inspection/reinspection, the LEA must be provided with a copy of the report for inclusion in the *AHERA management plan*. Include the name, signature, and license number of each contributing Inspector and Management Planner, and the date (day, month, year) that the inspection was performed.

Visit the Department of Labor Standards (DLS) website, mass.gov/dols for more information, or contact DLS for technical assistance with inspections and reinspections at (413) 735-6201 or (413) 735-6202.

[1]Homogeneous includes materials of the same size, color, or texture, and were applied at approximately the same time. Floor tiles of different sizes or colors are not homogeneous. Ceiling tiles of different textures or colors are not homogeneous. Material used in a building addition or renovation is not homogeneous to the same material that remains in the original construction.

References:
*Building Inspector Manual*, "U.S. EPA Model Curriculum for Training Building Inspectors Refresher Course for Accreditation under TSCA", Section 206

U.S. EPA "A Guide to Performing Reinspections Under the Asbestos Hazard Emergency Response Act (AHERA)", EPA 77/B-92/001

40 CFR 763 Subpart E, Asbestos Hazard Emergency Response Act