

Have you heard of AHERA?

AHERA is the acronym for "Asbestos Hazard Emergency Response Act of 1986" Public Law 99-519. The Environmental Protection Agency (EPA) has determined that standards need to be established for the proper identification of asbestos-containing material, the appropriate response actions to be taken and the manner in which the actions are to be conducted. Due to the lack of standards and regulatory guidance, it has been determined that some schools have not undertaken response actions while others have conducted extensive projects which may have been unnecessary, inadequate or unsafe.

The danger of exposure to school students may have increased due to the lack of standards and improper response action.

The establishment of these standards will place the responsibility of identifying asbestos-containing materials (ACM) in school buildings and the taking of appropriate actions to control the release of asbestos fibers on the local educational agency (LEA). The LEA will be required to describe their actions in a management plan and to use specially trained and accredited persons "to conduct inspections, reinspections, develop management plans, or perform response actions."

The latest rule will require the identification of FRIABLE and NON-FRIABLE ACM in public and private elementary and secondary schools. Previous rulings focused upon FRIABLE asbestos and the actions to be taken when the exposure levels indicated the implementation of abatement action.

The latest rule requires LEAs to prepare and submit management plans to the Governor of their State by October 12, 1988, to implement the plans by July 9, 1989, and complete implementation of the plan in a timely fashion. The rule also includes recordkeeping requirements, and the proper transportation and disposal of asbestos waste in compliance with requirements of the Department of Transportation and the National Emission Standard for Hazardous Air Pollutants.

The Local Education Agency's responsibilities are:

- 1) To ensure that any activity performed is in accordance with the rule.

- 2) To properly train all custodial and maintenance employees.
- 3) To inform at least annually workers and building occupants, or legal guardians of inspections, reinspections, response actions and response action activities to include surveillance activities planned or in progress.
- 4) To ensure that short-term workers who may come in contact with asbestos are provided information regarding the location of asbestos-containing building materials (ACBM) and suspected ACBM assumed to be ACM are instructed in safe work practices regarding such materials.
- 5) To post warning labels.
- 6) To make management plans available and notify parent, teacher and employee organizations.
- 7) To designate a person to implement the program and have that person receive adequate training to perform their duties.

AHERA, which is Title II of The Toxic Substance Control Act makes it unlawful for a LEA to:

- 1) Fail to conduct inspections
- 2) Fail to use accredited personnel and laboratories
- 3) Knowingly submit false information
- 4) Fail to develop a management plan

A violation of Title II of the Act may bring a civil penalty of not more than \$5,000 per day. A "violation" means noncompliance in a single school building. Also, a violation of Title II constitutes a violation of Title I of the Act. Title I makes it unlawful to fail or refuse to maintain required records, submit reports, post notices and other information, to refuse access to buildings and records or to interfere with inspections. Violations under Title I of the Act shall bring civil penalties up to \$25,000 for each violation. If any Local Education Agency knowingly, or willfully, commits a violation, criminal penalties may be assessed.

David B. Letscher is Director of Research and Development for the firm of Con-Safe, Inc. of Altoona, Pa.

Environmental Health Occupational Safety

CONSULTANT

P.O. Box 2267 Altoona, PA 16603

THIS IS YOUR
LAST FREE ISSUE
SUBSCRIBE TODAY!

CERTAIN-TEED PRODUCTS CORP.
PIPE & PLASTICS GROUP
ATTN: PLANT MANAGER
PO BOX 860
VALLEY FORGE, PA 19482

NEVER REC'D HERE
BEFORE.

Bulk Rate
U.S. POSTAGE
PAID
Hollidaysburg, PA
Permit #62

CTD002112

ISSN 0891-6349

Environmental Health/Occupational Safety CONSULTANT

Vol. 1, No. 9

-\$2.00-

September 1987

Real Estate Liability Under Environmental Laws

Environmental regulations affecting real estate transactions have increased dramatically in the past years, causing brokers to carefully review commercial property history.

Present owners of property, unbeknown to them, may be living on a legal time bomb, ready to be set off when environmental contamination surfaces. Even persons who have sold property years ago are being subjected to liability for clean up. Strangely, lenders are being lead down the legal path for recovery, also.

Currently, Pennsylvania has "no direct" regulations affecting environmental concerns toward real estate transactions. However, a Federal House Bill (H.R. 2837) will require states to implement a "State Radon Program." Yet another bill will require asbestos identification, not only in commercial buildings but also in residential homes.

New Jersey adopted a Cleanup Responsibility Act governing property. Other states generally follow New Jersey's example concerning environmental issues, so you should be looking in the near future for Pennsylvania rulings.

Generally, New Jersey law states "It must be determined by the broker or agent listing the property whether the property generated, manufactured, transported, treated, stored or disposed of hazardous waste including petroleum products (i.e. oil, solvents, degreasers), and fuel oil for heating purposes." (New Jersey Environmental Cleanup Responsibility Act)

Factors disclosed above are generally not considered when commercial property is placed on the listings. Agents are unaware of the legal ramifications, even years down the road, not only toward the buyer and sellers but also for the real estate agencies.

Whether you are working for the seller or buyer, it is obviously of importance that the parties to a transaction determine who will be responsible for environmental liabilities prior to drafting a purchase and sells agreement.

We encourage agencies to purchase "Environmental Law and Real Estate Handbook" published by Government Institutes, Inc., 966 Hungerford Drive, #24, Rockville, MD 20850.

Christopher Tate, Vice President/Con-Safe, Inc.

What's Inside...

EMERGENCY PLANNING
AND COMMUNITY
RIGHT-TO-KNOW.....5

FORMALDEHYDE FOUND
CARCINOGENIC.....3

HAVE YOU HEARD OF
AHERA?.....BC

HAZARDOUS WASTE
MANAGEMENT.....8

OSHA: YOUR WORKPLACE
RIGHTS IN
ACTION.....12

REAL ESTATE LIABILITY
UNDER ENVIRON-
MENTAL LAWS.....FC

THE MATERIAL SAFETY
DATA SHEET.....10