

2008 Statewide Asbestos Conference

- Contractor Breakout Session



Topics to Discuss

- Floor tile, mastics and caulk
- School Issues
- Recent US Supreme Court Decision
- Other?



Floor Tile/Mastic Removal

- RACM or NOT RACM
 - “Regulated asbestos-containing material” or “RACM” means:
 - (a) Friable asbestos material;
 - (b) Category I nonfriable ACM that has become friable;
 - (c) Category I nonfriable ACM that will be or has been subjected to **sanding, grinding, cutting or abrading**; or
 - (d) Category II nonfriable ACM that has a high probability of becoming or has become crumbled, pulverized or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations regulated by this chapter.



Floor Tile/Mastic Removal

- Sanding and abrading –assume standard definitions
- “Grinding” means to reduce to powder or small fragments and includes mechanical chipping or drilling.
- “Cutting” means to penetrate with a sharp-edged instrument and includes sawing, but does not include shearing, slicing or punching.



Floor Tile/Mastic Removal

- Applicability Determination Index
 - Handout and Discuss
 - Control # A060002
 - Control# A040002
 - Control# A040001
 - Control # C86



Caulk

- Applicability Determination Index
 - Discuss Control # A060003



School Issues

- AHERA Recordkeeping Requirements
 - 40 CFR 763.94
 - Preventative Measures and Response Actions
 - Operations and Maintenance Activities
 - Maintenance Activities Greater than Small Scale Short Duration
 - Fiber Release Episodes



Preventative Measures and Response Actions

- *Preventive measures* means actions taken to reduce disturbance of ACBM or otherwise eliminate the reasonable likelihood of the material's becoming damaged or significantly damaged.
- *Response action* means a method, including removal, encapsulation, enclosure, repair, operations and maintenance, that protects human health and the environment from friable ACBM.



Preventative Measures and Response Actions

- **The local education agency shall provide:**
 - A detailed written description of the measure or action, including methods used, the location where the measure or action was taken, reasons for selecting the measure or action
 - Start and completion dates of the work
 - Names and addresses of all contractors involved, and if applicable, their State Certification Numbers, and
 - if ACBM is removed, the name and location of storage or disposal site of the ACM



Operations and Maintenance

- The local education agency shall record
 - Name of each person performing the activity
 - Start and completion dates of the activity
 - Locations where such activity occurred
 - Description of the activity including preventive measures used, and
 - if ACBM is removed, the name and location of storage or disposal site of the ACM.



Fiber release episodes

- The local education agency shall provide
 - Date and location of the episode
 - Method of repair
 - Preventive measures or response action taken
 - Name of each person performing the work, and
 - if ACBM is removed, the name and location of storage or disposal site of the ACM.



Maintenance activities other than small scale short duration

- The local education agency shall provide
 - Name and signature, certification number of each person performing the activity
 - Start and completion dates of the activity,
 - Locations where such activity occurred,
 - Description of the activity including preventive measures used, and
 - if ACBM is removed, the name and location of storage or disposal site of the ACM.



To ease the confusion

- For every job in a school
 - A detailed written description of the measure or action, including methods used, the location where the measure or action was taken, reasons for selecting the measure or action
 - Start and completion dates of the work
 - Names and addresses of all contractors involved, and if applicable, their State Certification Numbers
 - Name and signature, certification number of each person performing the activity, and
 - if ACBM is removed, the name and location of storage or disposal site of the ACM

US Supreme Court Decision

- Handout and Discuss
 - San Diego Law Review
 - WI Professional Engineers Harenda article
 - SCS –Tim McQuay Patrick Cudahy



OSHA 29 CFR 1926.1101

- **1926.1101(k)(5)(ii)** An employer or owner may demonstrate that PACM does not contain more than 1 percent asbestos by the following:
 - **1926.1101(k)(5)(ii)(A)** Having a completed inspection conducted pursuant to the requirements of AHERA (40 CFR Part 763, Subpart E) which demonstrates that the material is not ACM; or



PACM Testing

- **1926.1101(k)(5)(ii)(B)** Performing tests of the material containing PACM which demonstrate that no ACM is present in the material. Such tests shall include analysis of bulk samples collected in the manner described in 40 CFR 763.86. The tests, evaluation and sample collection shall be conducted by an certified inspector. Analysis of samples shall be performed by persons or laboratories with proficiency demonstrated by current successful participation in a nationally recognized testing program such as the National Voluntary Laboratory Accreditation Program (NVLAP) or the National Institute for Standards and Technology (NIST) or the Round Robin for bulk samples administered by the American Industrial Hygiene Association (AIHA) or an equivalent nationally-recognized round robin testing program.

Flooring Testing

- **1926.1101(k)(5)(iii)** The employer and/or building owner may demonstrate that flooring material including associated mastic and backing does not contain asbestos, by a determination of certified inspector based upon recognized analytical techniques showing that the material is not ACM.

