

Duties of Employers and Building Owners: Asbestos Containing Materials



By Michael Walther, Program Director at EBI Consulting

The following are a few of the major regulatory triggers for building owners to perform inspections for asbestos containing materials and subsequent management actions. For liability protection, inspection and operations and maintenance (O&M) plans are recommended in addition to the minimum requirements mentioned herein.

FEDERAL STANDARDS

These standards are applicable in all states either by adoption or implementation of equal or more stringent state regulations.

29 CFR 1910.1001 and 1101 – OSHA Asbestos in General Industry and Construction Standards

EBI's Conclusions:

- 1) For buildings constructed prior to 1981, inspection and/or assumption of asbestos materials as well as other O&M plan practices are required in order to avoid exposure to regulatory and other liability.**
- 2) For buildings constructed in 1981 and later, inspection and/or assumption of asbestos materials as well as other O&M plan practices are recommended in order to avoid exposure to regulatory and other liability.**

Regulatory Summary

Duties of employers and building and facility owners:

- ◆ Shall determine the presence, location, and quantity of ACM and/or PACM at the work site.
- ◆ Shall exercise due diligence in complying with these requirements to inform employers and employees about the presence and location of ACM and PACM.

What materials are asbestos-containing materials (ACMs):

Buildings constructed before 1981, unless inspected and tested, these materials are assumed ACM or presumed ACM (PACM).

- TSI-Thermal system insulation (pipe, duct, tank insulation)
- Sprayed-on or troweled-on surfacing material (i.e. fireproofing, decorative ceilings, textured paint)
- Asphalt and vinyl flooring materials installed before 1981

1981 and later constructed buildings and other building materials:

- Any materials that the employer/owner should have known to be ACM through the act of Due Diligence.

How Many Samples to Collect (minimum numbers):

- ◆ 3 samples of each type of thermal system insulation
- ◆ 3, 5, or 7 samples of each type of surfacing material (depending on the quantity of material application; <1000, 1000-5000, or >5000 square feet). 9 samples recommended.
- ◆ 2 or 3 samples of each miscellaneous material (i.e. floor tile, ceiling tile, wallboard)

Hazard Communication Requirements:

Housekeeping/Maintenance

- ◆ Inform employers of employees who will perform housekeeping activities in areas which contain ACM and/or PACM of the presence and location of the ACM and/or PACM in such areas which may be contacted during such activities. Construction
- ◆ Prior to beginning work, owners shall identify the presence, location and quantity of ACM at a work site, and must inform the following:
 - Bidders
 - Owners' Employees
 - Employers of employees
 - Tenants who will occupy the worksite.

Warning Signs and Labels

- ◆ Warning signs must be posted at entrances to all mechanical areas where TSI or surfacing ACM is present, identifying:
- ◆ Where feasible, ACMs and PACMs shall be visibly labeled.
- ◆ Labels must be attached to all ACM products, scrap or debris, or their containers.

Training Requirements:

Housekeeping/Maintenance

- ◆ Initial and annual awareness training for all workers where ACM or PACM is present.

Construction

- Training for employees exposed to airborne asbestos fibers above thresholds.
- Training for employees who contact or disturb ACM.

40 CFR Part 61 Subpart M – NESHAP

EBI's Conclusions:

- 1) Inspection for ACMs is required for all buildings (regardless of age of building or date of last renovation and regardless of state or city) prior to any planned renovation or demolition.**
- 2) Removal of identified Regulated Asbestos Containing Materials (RACM) is required prior to renovation or demolition.**

Regulatory Summary

Inspection required prior to Renovation or Demolition:

The owner or operator of a demolition or renovation activity, prior to the commencement of the demolition or renovation, shall thoroughly inspect the affected facility or part of the facility where the demolition or renovation operation will occur for the presence of asbestos.

Removal is required for RACM prior to Renovation or Demolition.

- In general terms, RACM is any ACM that is friable or will become friable during the renovation or demolition.
- States have varying interpretations of RACM.
- Some states allow resilient floor covering and asphalt roofing products to remain in place during demolition.

Notification of Asbestos Removal

- 10 business day notification (prior to the day of start) for greater than 165 square or 265 linear feet
- Quantities and notification period can vary per state but must meet the above minimum standard

Notification of Building Demolition

- 10 business day notification prior to building demolition – even if no ACM

STATE/CITY-SPECIFIC REQUIREMENTS

Not comprehensive; just noteworthy examples

Asbestos Analytical Costs:

NY State – has the most expensive sample analytical requirements.

NJ and SC – also have expensive sample analytical requirements.

Filing Requirements:

NY City – the asbestos inspector and abatement contractor must be file with the Building Permit.

Philadelphia – the asbestos inspection and abatement plan must be filed with the Building Permit.

Asbestos Removal Requirements:

NYC – All ACMs are considered friable (RACM).

Notification Requirements:

VA – > 10 square/linear feet of ACM removal requires 20 calendar day notification.

DC – 30 calendar day notification prior to ACM removal.

Cook County, IL (surrounding Chicago) – 10 day notification regardless of ACM removal quantity.

Inspection Requirements:

Los Angeles, CA area – the South Coast Air Quality Management District (SCAQMD) requires lead paint inspection prior to demolition along with ACM inspection.

Michael Walther, Program Director

Mr. Walther has twenty years of experience in environmental and industrial hygiene consulting and remediation management. He spent over ten years conducting asbestos, lead, mold, radon, lead-in-water, and mold sampling investigations. He conducted and managed others performing Phase I environmental site assessments, subsurface investigations for petroleum contaminants, as well as asbestos and lead investigations including abatement and operations and maintenance plans.

In his role as Program Director at EBI, Mr. Walther manages the firm's asbestos abatement program, overseeing hazardous materials abatement contractors, assuring protection of the owner's property and occupants during construction. Mr. Walther manages the Hazardous Materials aspects of the construction projects, representing and protecting the Owner's interests from initial project budgeting, through bidding, through construction, and through project closeout. Additionally, he oversees a national staff of asbestos inspectors and maintains a network of qualified, reliable subconsultants to perform abatement projects around the country.

Mr. Walther holds a Bachelor's of Science in Natural Resources Management from University of Maryland, College Park. He is based out of EBI's York, Pennsylvania Office.