

## Standard Interpretations / Comprehensive building/facility/vessel surveys for asbestos.

- **Standard Number:** 1910.1001 ; 1926.1101 ; 1915.1001

OSHA requirements are set by statute, standards and regulations. Our interpretation letters explain these requirements and how they apply to particular circumstances, but they cannot create additional employer obligations. This letter constitutes OSHA's interpretation of the requirements discussed. Note that our enforcement guidance may be affected by changes to OSHA rules. Also, from time to time we update our guidance in response to new information. To keep apprised of such developments, you can consult OSHA's website at <http://www.osha.gov>.

June 12, 2009

Mr. F. Stephen Masek  
Masek Consulting Services, Inc.  
23478 Sandstone St.  
Mission Viejo, CA 92692

Dear Mr. Masek:

Thank you for your letter, May 4, 2009, to the Occupational Safety and Health Administration (OSHA). Your letter was referred to OSHA's Directorate of Enforcement Programs for a reply to your questions on OSHA's Asbestos Standards. This reply letter constitutes OSHA's interpretation only of the requirements discussed and may not be applicable to any question not detailed in your original correspondence. You paraphrased question and our reply are below.

**Question:** You asked why doesn't the U.S. Environmental Protection Agency (EPA) and OSHA (for worker protection) require that new comprehensive asbestos building surveys, including sampling of exterior building materials and more thorough sampling of non-friable materials, be performed on all of the K-12 schools covered by the Asbestos Hazard Emergency Response Act of 1986 (AHERA)?

**Reply:** Please note that the Occupational Safety and Health Act of 1970 (the OSH Act) deals with the protection of **employees**, not the general public, so we cannot address your suggested changes to AHERA, or changes to the EPA's AHERA regulations at 40 CFR Part 763. However, the OSHA Asbestos Standards, 29 CFR 1910.1001, 29 CFR 1926.1101, and 29 CFR 1915.1001, do **not** require a comprehensive building survey for asbestos. OSHA's Final Rule for Occupational Exposure to Asbestos, 59 *FR* 40964-41162, August 10, 1994, addressed the question of comprehensive building/facility/vessel surveys for asbestos, such as those required by the AHERA regulations, and OSHA stated the following:

Another option OSHA considered was requiring a comprehensive AHERA-type (EPA's schools rule) building/facility inspection. AHERA (Asbestos Hazard Emergency Response Act, 40 CFR 735) requires that all school buildings be visually inspected for asbestos-containing building materials (ACBM) by an EPA-accredited inspector and that inventory of the locations of these materials be maintained...

Although there was substantial support for a comprehensive inspection requirement, OSHA believes that the regulatory approach in these [OSHA's] final standards will achieve equivalent or superior protection to exposed workers at much reduced cost. The reasons are as follows. A comprehensive wall-to-wall inspection requirement is found to be unnecessary to protect employees against risks of exposure from asbestos-containing building material of which they are unaware. Such an inspection requirement would be very costly, may be overly broad, the results may not be correct or timely, would not necessarily focus on potential sources of asbestos exposure which present significant risks to employees, and its great expense may divert resources from active protection of workers who actually disturb asbestos. [59 FR 41015]

As you also pointed out in your letter, such "comprehensive" surveys are often incomplete and inaccurate. Instead of requiring building owners and/or employers to perform a comprehensive building survey for installed asbestos, OSHA designed its Asbestos Standards with a simpler approach, called the "presumptive rule." Under this rule, the standards require building owners and employers to presumptively identify certain widely prevalent and more risky building materials. These are thermal system insulation and sprayed-on and troweled-on surfacing materials installed in buildings built no later than 1980. Such materials may be easily recognized without any technical training. These materials are termed "presumed asbestos containing materials" (PACM) and are to be treated as asbestos-containing for all purposes of the standards. Additionally, the OSHA standards allow building/facility/vessel owners and employers to rebut these presumptions through bulk sampling, such as may be performed during an AHERA survey. For a complete discussion of this issue, please review the Final Rule, which we cited above.

Thank you for your interest in occupational safety and health. We hope you find this information helpful. OSHA requirements are set by statute, standards, and regulations. Our interpretation letters explain these requirements and how they apply to particular circumstances, but they cannot create additional employer obligations. This letter constitutes OSHA's interpretation of the requirements discussed. Note that our enforcement guidance may be affected by changes to OSHA rules. Also, from time to time we update our guidance in response to new information. To keep apprised of such developments, you can consult OSHA's website at <http://www.osha.gov>. If you have any further questions, please feel free to contact the Office of Health Enforcement at 202-693-2190.

Sincerely,

Richard E. Fairfax, Director  
Directorate of Enforcement Programs