



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

J.F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203-2211

CERTIFIED MAIL-
RETURN RECEIPT REQUESTED

IN THE MATTER OF:

City of Haverhill
4 Summer Street
Haverhill, MA 01830

)
)
) **TOXIC SUBSTANCES CONTROL ACT**
) **NOTICE OF NONCOMPLIANCE**
) **Case No. A-93-001**

Attention: Theodore A. Polosi, Mayor

Dear Mr. Polosi:

Official notice is hereby given that you have violated Title II of the Toxic Substances Control Act, commonly referred to as the Asbestos Hazard Emergency Response Act of 1986 or "AHERA," 15 U.S.C. Section 2641 et seq., and the regulations promulgated pursuant to AHERA, 40 C.F.R. Part 763, Subpart E. 52 Fed. Reg. 41826 (October 30, 1987).

Bartlett Elementary School is part of the Haverhill Public Schools and is owned by the City of Haverhill, a "Local Education Agency" as defined in Section 202(7) of the AHERA, 15 U.S. C. § 2642(7), and at 40 CFR § 763.83. On July 8, 1992, a duly designated representative of the United States Environmental Protection Agency ("EPA") conducted an inspection of the Bartlett Elementary School. During this inspection, such duly designated EPA representative observed the following deficiencies:

- ✓ 1. The LEA failed to designate a person to ensure all AHERA requirements are properly implemented, in violation of 40 C.F.R. § 763.84(g)(1).
- ✓ 2. The LEA failed to ensure that the person designated by the LEA received adequate training to perform duties assigned under AHERA, in violation of 40 C.F.R. § 763.84(g)(2).
3. The LEA failed to conduct periodic surveillance in each building that it leases, owns, or otherwise uses as a school building that contains ACBM or is assumed to contain ACBM at least once every 6 months after its management plan was in effect, in violation of 40 C.F.R. § 763.92(b)(1). *YFS*
4. The LEA failed to maintain and update its management plan to keep it current with on-going operations and maintenance, periodic surveillance, inspection, reinspection, and response action activities, in violation of 40 C.F.R. § 763.93(d). *7*

*Has a
management
plan?*



5. The management plan did not contain the following information:
- a. the name, address, and telephone number of the person designated by the LEA and the course name, and dates and hours of training taken by that person to carry out the duties [40 C.F.R. § 763.93(e)(4)]
 - b. a description of steps taken to inform workers and building occupants, or their legal guardians, about inspections, reinspection, response actions, and post-response action activities, including periodic reinspection and surveillance activities that are planned or in progress [40 C.F.R. § 763.93(e)(10)]
6. At least once each school year, the LEA failed to notify in writing parent, teacher, and employee organizations of the availability of management plans and include in the management plan a description of the steps taken to notify such organizations, and a dated copy of the notification, in violation of 40 C.F.R §§ 763.93(g)(4) & 763.84(f).

Within thirty (30) days of receipt of this Notice of Noncompliance, you must submit a written, certified statement specifically describing what actions you have taken to address the findings cited above and preclude further violation of the AHERA regulations. Documentation should be addressed to Gretchen Ekstrom, Environmental Engineer, United State Environmental Protection Agency, JFK Federal Building, ATC, Boston, MA 02203.

Please note that the issuance of this Notice of Noncompliance does not preclude EPA from electing to pursue any other remedies or sanctions authorized by law. Such sanctions may include administrative, civil, and/or criminal action which may be available by reason of the failure of the City of Haverhill, its officers, employees, or agents, to comply with AHERA or the regulations promulgated under AHERA.

If you have any question concerning this matter, please contact Gretchen Ekstrom at (617) 565-3278.

Dated and signed this 18th day of November, 1992.

Linda Murphy
Linda Murphy, Director
Air, Pesticides and Toxics Management Division

cc: Frank DiStephano, Acting Building Director
Thomas Fowler-Finn, Superintendent