



Office of Facilities Planning Newsletter #107 – July 2011

New FP-F form (Application for Examination and Approval of Final Plans and Specifications)

We have added a field to our Application for Examination and Approval of Final Plans and Specifications (FP-F 2006) requesting information about tuitioning of students. If the district for which this project is submitted receives tuition for students enrolled from outside the district, please check “yes.” If the district does not, please check “no.” In any case, this is an important item and must be included in the submission or your project manager will request a revised FP-F. Please find the form in our “Final Submission Forms Workbook”:

http://www.p12.nysed.gov/facplan/documents/Forms_Workbook_revised_051911.xls

Qualified School Construction Bond Awards

In accordance with the provisions of federal law and regulations governing Qualified School Construction Bonds 26 USC section 54F and the Regulations of the Commissioner of Education NYCRR section 155.22, we were able to allocate Qualified School Construction Bonds to 36 districts in New York State out of 164 applications received for the program. There are a few districts that need to provide us with further information on viable projects by the September 30, 2011 deadline in order to retain the awards. Failure to do so may free up some additional allocations that will allow us to move further down the list of applicants. The allocations were awarded to districts with a Free and Reduced Price application percentage of 58.6510% or higher. Should additional allocations become available from the 2010 Qualified School Construction Bond program, we will proceed to the next highest percentage on the list for an award.

The Award Letters were sent out to successful applicants on May 27, 2011. Please visit the following websites for information on the Qualified School Construction Bond Program.

You may view the spreadsheets for all the applications received with the Free and Reduced Price application percentages at <http://www.p12.nysed.gov/facplan/documents/QSCBAllocations2010.pdf> and the list of awardees at <http://www.p12.nysed.gov/facplan/documents/QSCBAwardees2010.pdf>.

If you have any further questions regarding this process, please do not hesitate to contact John O'Donnell or Carl Thurnau at (518) 474-3906.

Asbestos Material Testing

The Department has been in contact with representatives from the New York State Department of

Health (NYSDOH), and the New York State Department of Labor (NYSDOL) to provide guidance to school districts and facilities directors regarding the recent information from the Department of Health's Environmental Laboratory Approval Program (ELAP) related to testing of cellulose containing materials. The DOH's ELAP is the program that certifies the laboratories that are approved to analyze and report sampling results in New York State for various materials of interest, including asbestos. Representatives from DOL, DOH, and DOH ELAP have reviewed and provided edits on the language of this article.

The language below summarizes the recent changes to the NYS - approved methods and analytical requirements relating to ceiling tiles. While the underlying laws or regulations pertaining to the Federal EPA Asbestos Hazard Emergency Response Act (AHERA) or the State DOL (Code rule 56) have remained unchanged, the DOH- acknowledged approved methods (198.1, 198.4, and 198.6) have been modified. Since the DOH has direct jurisdiction over the laboratories performing such analysis on NYS samples, and performs AHERA inspections on behalf of the EPA, this change was found to have impact across agencies.

Effective April 1, 2011, ELAP revised testing methodology requirements to NYS approved methods 198.1, 198.4, and 198.6 based upon evidence that the analysis of ceiling tiles containing cellulose, performed without gravimetric reduction, resulted in conflicting results. While method 198.1 calls for additional sample preparation (e.g., gravimetric reduction) for construction materials that may have components that interfere with the identification of asbestos fibers, modifications to Table 1 of that method now requires ceiling tiles containing cellulose to be treated as Non-friable Organically Bound (NOB) material using ELAP items 198.6/198.4. ELAP made this clarification since there were instances identified where the presence of cellulose in ceiling tiles interfered with the ability of the analyst to detect fibers and to reliably report asbestos concentrations, potentially yielding false negative results.

Listed below are links to the NYS certification manuals for the PLM/TEM bulk sample analysis methods.

http://www.wadsworth.org/labcert/elapcert/certmanual/I198_1_04.pdf
http://www.wadsworth.org/labcert/elapcert/certmanual/I198_4_04.pdf
http://www.wadsworth.org/labcert/elapcert/certmanual/I198_6_05.pdf

This information is critical to school districts since most school buildings contain ceiling tiles. These ceiling tiles may have previously been sampled resulting in negative analytical results and therefore they may not be inventoried in the school's asbestos management plans as an Asbestos Containing Material (ACM).

These clarifications to the ELAP methods do not automatically invalidate sampling results obtained prior to April 1, 2011 or mandate additional testing according to the AHERA regulations, since these clarifications are not changes to the EPA/Federal regulatory requirements pursuant to AHERA. School districts along with their consultants (i.e. Asbestos Building Inspectors and Management Planners) should evaluate their school buildings and asbestos management plans to consider if additional sampling should be conducted. If there are any questions regarding the validity of the testing, or the available documentation in the record, additional sampling utilizing ELAP items

198.6/198.4 is the most protective approach.

As part of this evaluation, Districts must bear in mind that according to the NYSDOL Code Rule 56 (12 NYCRR, Part 56) regulations, prior to any disturbance such as renovations, remodeling, demolition or repair work, there must be a survey/bulk sampling completed consistent with Part 56 and the current ELAP requirements. Movement of ceiling tiles by district maintenance workers to access and maintain utilities above the suspended ceiling is considered disturbance. Districts should consider whether to test cellulose ceiling tiles if those tiles have not been determined to be non-asbestos containing material in accordance with current ELAP requirements, prior to disturbance.

If you have non-ACM bulk sample results (obtained prior to April 1, 2011) for a ceiling tile homogenous area, and the bulk sample analyses indicates cellulose present, new bulk samples should be analyzed by current procedures (ELAP items 198.6/198.4) to declare the homogenous area negative for asbestos prior to disturbance. If these additional analyses are not done, the potential exists for ACM ceiling tiles being disturbed without appropriate controls in place, thus potentially exposing occupants to elevated airborne asbestos fibers and/or causing asbestos fiber contamination of the building.

Based on the above information, the department recommends that districts take the following steps:

First, review your management plans and data, and contact the laboratory to determine if the ceiling tile results were obtained through an appropriate test, ELAP items 198.6 or 198.4. If the tiles were correctly tested in accordance with the current protocols and the data are available, no additional testing is required. If that information is not available, or if the results were not obtained in accordance with ELAP items 198.6 or 198.4, school districts should consider testing as either part of an existing or planned capital improvement or as an independent analysis prior to disturbance.

Second, be aware that ceiling tiles and other products purchased today can still contain asbestos, but many manufacturers offer documentation as to the asbestos free nature of their products. Some manufacturers date stamp ceiling tiles. If you can provide documentation of when and where the tiles were purchased and installed, the manufacturer should be able to provide documentation or certification that they do not contain ACM, and your management plan should be updated accordingly. The following information is excerpted directly from the current DOL industrial code rule 56 guidance document relating to replacement materials and Non-ACM documentation:

Question: Exceptions to Asbestos Survey Requirements. Would an architect or PE certification that the building/structure was designed and built with non-ACM materials only be sufficient in lieu of an asbestos survey? Or would information from the various manufacturers of the materials used for construction, indicating that the materials are non-ACM be sufficient?

Response: A certification from a registered architect or professional engineer responsible for the building/structure construction, indicating that only non-ACM products were specified for the building/structure construction and to the best of his/her knowledge, no ACM was used in the construction of the building/structure, would be acceptable documentation, similar to what is allowed under EPA AHERA.

However, the only way to know for sure that a material is non-ACM is through appropriate bulk sampling and analyses. For example, you are completing a renovation in an area that was previously renovated, and you have documentation that the installed materials do not contain asbestos...there is a complaint and the asbestos control bureau investigates....the inspector collects bulk samples of sheetrock and joint compound that is currently being disturbed...they find from the bulk sample results that the joint compound is an ACM, even though you have documentation that the sheetrock and joint compound were specified to be non-ACM only. Obviously, now you have an asbestos project cleanup as well as abatement for any remaining materials impacted by the renovation project. The positive bulk sample analysis results take precedence over any other documentation that you might have.

Also, don't forget that you can still purchase and install ACM products today! In addition, you should be aware that contractors may not actually install the materials that were approved if he/she has found an alternative.

Based on this information, if you have documentation that your ceiling tiles or other materials are non-ACM, additional testing is not required, however, as in any investigation, actual sample results would supersede documentation in an analysis of the situation.

Third, check the ELAP list, contained in the web links above, to see if any other materials in your school that may be disturbed such as vinyl tile, mastic, caulking, etc, were tested under the correct protocol, and the results are available. If these items were not tested properly under the current protocol with negative results they should be considered for additional sampling prior to any disturbance.

Fourth, if ceiling tiles and other materials are found to be asbestos containing under the current analysis method, the schools asbestos management plan must be updated in accordance with AHERA regulations. Areas with significantly damaged ceiling tiles must be isolated and the damaged areas removed in accordance with AHERA and code rule 56. Districts should consider whether to undertake capital projects if certain ceilings must be accessed on a regular basis.

It is important to remember that the presence or past disturbance of asbestos containing ceiling tiles does not automatically mean the facility is contaminated with asbestos. If testing and/or removal is performed, districts should develop priority response actions based on several factors such as:
Ceilings that are in poor condition, are deteriorating; Ceilings where frequent access is necessary to maintain equipment and utilities; Ceilings subject to frequent damage; Ceiling debris above tiles in return air plenums of heating ventilating systems; etc.

The department will work with districts as necessary to ensure that any testing and removal will be eligible for building aid in connection with capital construction projects submitted to the department for approval.

Finally, staff from ELAP will answer technical questions that laboratories may have with respect to

the ELAP items 198.6 or 198.4 testing protocols, and Facilities Planning will address other questions and seek additional guidance from DOL and DOH as necessary to respond.

Please send any general comments, requests, or questions to Curt Miller at hmiller2@mail.nysed.gov or 518-474-3906.

An Index of our Newsletters is available on our website at
<http://www.emsc.nysed.gov/facplan/NewsLetters.htm>