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Asbestos

Go to <http://www.mde.state.md.us/arma/Programs/Asbestos/asbestos.html> for previous issues of the newsletter, other asbestos information, and forms.

EDITOR'S NOTES:

For our readers who lost relatives and friends on September 11, please accept our deepest sympathy.

CORRECTIONS: (For the June newsletter.) Mr. Babonis of F&M Environmental was sentenced on April 13, 2001, not April 20. He was sentenced to 15 months for each of the two counts and he will be serving these concurrently. He did not receive a 30 month sentence. The Commonwealth of Virginia revoked the F&M Environmental, Inc. training approvals on August 15, 2001.

ASBESTOS FOR ALL...

Just a friendly reminder concerning National Emission Standards for Hazardous Air Pollutants (NESHAP). Whenever a building has reached a NESHAP quantity (260 linear feet, or 160 square feet, or 35 cubic feet), during a calendar year, any and all subsequent regulated asbestos work is subject to the NESHAP provision. This regulation can be found in 40 CFR 145(a)(4). This means, for example, that variances are needed for the use of glovebags and notifications should be submitted at least 10 days in advance of the beginning of the project. It would also be a good idea to speak with the building owner concerning any previous asbestos activity that may have already taken place in the building. As always, if you have any questions concerning the Asbestos Licensing & Enforcement Program, please call Ms. Lorraine Anderson at (410) 631-3200.

Asbestos Pictures. These are micrographs of what we are talking about. The picture on the left is chrysotile and on the right is tremolite. (From the United States Geological Service Fact Sheet FS-012-01)



SCHOOLS...

Larry Vermont and Jim Hourihane have been inspecting schools for compliance with the Asbestos Hazard Emergency Response Act (AHERA). The **problems** they found are not a surprise, but all these years after the AHERA regulations were issued (10/30/87); we had hoped that the schools were doing a better job of being in compliance! This is particularly true of the schools that had a management plan at one time. Here are a few of the **problems** that they found.

NO. 1: No Designated Person-Unless the school is for profit and not required to comply with the AHERA regulations, there **MUST** be a designated person who is responsible for the school's AHERA responsibilities. If a new one is assigned, make sure that person has training sufficient for their responsibilities.

If the school has an exclusion, the designated person still has duties to perform. This includes keeping the exclusion documents and any other forms in the school's administrative office. The designated person must make sure that the annual notification is made to parents, staff, and teachers.

If the school has a management plan, the designated person has more duties to perform. This includes keeping the management plan in the school's administrative office, ensuring that the required periodic surveillance and reinspections are carried out, and keeping any abatement records, etc. with the management plan. Again, it is the designated person's responsibility to make sure that the annual notification is made to all interested parties.

NO.2: Exclusions-This status is granted to school buildings that were built after October 12, 1988. The "management plan" for this facility will consist of a statement by an architect or engineer stating "no asbestos-containing build

ing material (ACBM) was specified in any construction document for the building, or, to the best of his or her knowledge, no ACBM was used as a building material in the building" (40 CFR 763.99). An accredited inspector may make a similar statement. The rest of the management plan will include the name, phone, and address of the designated person, his or her training, and the annual notifications. The notifications are still necessary so that you can inform interested parties that you have complied with the rule.

There are other categories of exclusions based on older inspections that may apply, but most of these inspections were carried out under a rule that was not as comprehensive as the AHERA regulations. This was the Friable Asbestos Containing Materials in Schools, Identification and Notification Rule known as the Asbestos-in-Schools rule. It took effect in 1983 and required schools to find only friable materials, sample these, and then report the results to the interested parties. Only 40% of the schools complied with this rule and that was part of the reason for the more stringent AHERA rule.

NO.3 Nonpublic, nonprofit school-The question comes up again about who is responsible for the inspection and management plan for nonpublic, nonprofit school buildings. The AHERA regulations clearly define these local education agencies (LEA's) as the "owner of any nonpublic, nonprofit school building." (40 CFR 763.83) The school should work with the owner to make sure that the inspection and management plan are prepared. If the owner does not cooperate, the school is still responsible. It is still your problem because the EPA has told us that they will take action against both the school and the owner. Please note that our records do not contain the name of your landlord, so when we tell the EPA that your school is not in compliance; we give them your name and not the owner's name!!

NO.4: No management plan-If your school had a management plan once upon a time, that doesn't count for anything if it cannot be found!! If it is out of date, you need a reinspection ASAP. There is no grace period allowed in the regulations for schools to "find" old plans or not have a plan. *If your school opened before you prepared a management plan, it is not in compliance with the AHERA regulations.* The only exception is for an emergency move into another building. Then you have 30 days to have the inspection done.

Our school inspectors will give you a certain number of days to obtain the reinspection or management plan. This information will be on the inspection form that you sign at the time of the inspection. If you fail to meet the deadline, we report to EPA-Region III that your school failed to comply with the requirements. If you need more time, please don't hesitate to ask. If it is reasonable, we will grant your request.

Don't forget that you have to use our forms for the initial inspection and management plan. We will return the documents if these are not on the required forms. The forms are on our website.

NO.5: No Reinspections-These are required every 3 years if you still have ACBM in your building. It doesn't matter if it is in good condition, only in the teacher's lounge, etc. Periodic surveillance is required every 6 months for these same materials. If any previously unidentified materials are found during a reinspection, handle it as though it had been found on the initial inspection.

By the way it is not possible to perform a reinspection for a facility that has no initial inspection or management plan!!

No.6: No. Records-Abatement records need to be added to the management plan because you need to account for materials that have been removed. There is an extensive list of records that are needed for the management plan.

Enforcement Note. The EPA-Region III fined the Easton Area School District (in PA) \$27,500 for violations of notification requirements, record keeping, and management plans. The EPA did not find that teachers, students, or other building occupants were exposed to asbestos. Instead of paying the fine to the EPA, the school district consented to spend at least that much on asbestos removal projects in 3 schools.

You do not need to be guilty of exposing persons to asbestos emissions to be fined by the EPA. Lack of notifications and management plans are very serious violations.

CONTRACTORS' CORNER...

It seems that this must be the season to think about repairs to facilities because I have had a number of inquiries about Operations & Maintenance (O&M) work.

Yes, the Control of Asbestos regulations, COMAR 26.11.21, are more stringent than the OSHA regulations!

Yes, your company needs an asbestos abatement license to perform O&M work on asbestos materials that are regulated.

Yes, you need to have an accredited supervisor listed in the license application. This person has to supervise the O&M operations.

Look carefully at the definition of operations and maintenance in the definitions in COMAR 26.11.21. The definition defines a size limit for O&M activities with the caveat that these jobs are performed in association with small repairs or maintenance.

You are not allowed to use O&M projects to remove small amounts on a regular basis just to get past the requirements for NESHAP jobs. The amounts that you remove are cumulative and once you exceed the NESHAP amounts for your facility for the year, then all of the work is subject to the requirements of NESHAP projects. This would include sending the O&M trained persons out to a 4 day worker course, invoking the 10 day notification requirement, etc.

The other thing to remember is that the O&M work is intended for small projects that you are carrying out because asbestos is in the way of your job. For example a valve springs a leak and it must be repaired, however, asbestos is on the valve and must be handled as part of the plumbing repair. In other words, the purpose for O&M job is not to remove asbestos per se, but to handle the asbestos because it is part of the repair job. The O&M projects are small projects of short duration.

Something else to keep in mind, is that if the little repair job blows up into a job greater than the O&M project size, you will need to stop the O&M-trained persons and bring in 4-day trained workers. When you think about it, there are not many opportunities to use just O&M-trained persons on your jobs. These persons require medical monitoring, training, protective clothing, etc. the same as the workers and supervisors.

For those of you who are still asking, the persons trained in the 2-hour AHERA awareness course cannot perform any asbestos activities, O&M or otherwise. These persons are custodial and maintenance persons at the schools who have received training on health effects of asbestos, where it is found, and whom to notify about changes in the condition of ACBM.

TRAINING PROVIDERS...

Please check your course submittals (form 265) and make sure that the numbers on the cards match the student list. When you void a card, it should be noted on the form 265 which makes it easier for the those entering and checking the records.

If you did not attend the training provider meeting on September 27, please contact me for any handouts that were given out.

NET NIBBLES...

For more reading on F&M, go to www.pilotonline.com/news/nw0723reg.html, www.pilotonline.com/news/nw0805aba.html, www.pilotonline.com/news/nw0816boa.html and www.pilotonline.com/news/nw0915asb.html.

STATESIDE...

The asbestos management plans are due September 30, 2001.

The students must bring manuals to class. These are available on a CD, diskette, or by email if your system can handle a large attachment. You will also need the latest version of Adobe® Acrobat Reader ver. 5.0.

October 2001	November 2001
11 Supervisor R 18 Worker R 22-26 Supervisor Initial	6-9 Worker Initial 15 Auto Worker 28 Safety & Health Specialist
December 2001	If you must cancel, call Janice Lafon at (410) 631-3801 or (800) 633-6101,-3801 or email: jlafon@mde.state.md.us
4 Worker R 11 Bldg. Insp. & Mgmt. Plan. R	