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# Asbestos 101

This newsletter is on the MDE web site: <http://www.mde.state.md.us>.

## Season's Greetings!!

### EDITOR'S NOTES...

In the spirit of the season, I am giving all readers one more chance to choose the method of newsletter delivery. If you don't wish to receive the newsletter, that's OK, too. I have enclosed a postcard with each newsletter. All you need to do is check off a box, add your e-mail address if necessary, and drop the postcard in a mailbox. It is that easy! If there is any problem with the address or name of addressee, please make corrections on the card.

My thanks to those of you who did respond earlier. This is your chance to change your mind regarding the method of delivery. *Beginning with the March 2000 issue, the newsletter will go out via the method you have chosen.* If we don't hear from you, no newsletter for you. I would remind all recipients that we try to keep you abreast of changes at EPA, OSHA, etc. that are important to your asbestos programs. The regulated parties, training providers and contractors, need to keep up on asbestos issues especially changes in forms, procedures, regulations, etc.

### ASBESTOS FOR ALL...

The wheels of justice grind slowly, but they do stop eventually. And on November 16, 1999, Ms. Helen F. Fahey, the U.S. Attorney for the Eastern District of Virginia announced that the wheels had stopped on a training provider in Virginia. Omar Gonzalez, the owner of Industrial Training & Support Services, Inc. (ITSS) located in Richmond pled guilty to giving false statements about asbestos training classes and evading taxes. (Remember Al Capone, folks?) Gonzalez pled guilty to making false statements in violation of Title 18, United States Code, Section 1001, and to tax evasion of title 26, United States Code, Section 7201.

Gonzalez issued asbestos training certificates to persons who had not completed the training as required by Section 206 of Toxic Substances Control Act, Title II, 15 U.S.C. 2646. The certificates were issued between January 1994 and August 1996. The tax evasion charges stemmed from the fact that Gonzalez and ITSS earned about \$91,000 in illegal income from the training classes allegedly given. He pled guilty to tax evasion for filing tax returns for 1994 and 1995 that did not report accurately the amount of back taxes.

The false statement charges carry a maximum penalty of five years imprisonment, a \$250,000 fine, full restitution, 3 years of supervised release, and a special assessment. The corporation is liable for a maximum fine of \$500,000. The tax evasion charge carries a maximum penalty of five years imprisonment, a \$100,000 fine, full restitution, a special assessment, costs of prosecution, and three years of supervised release. Sentencing is scheduled for February 23, 2000.

## **SCHOOLS...**

Last quarter we started sending out letters to the "new" schools advising them of the requirements according to the Asbestos Hazard Emergency Response Plan (AHERA). These "new" schools are those that the Maryland State Department of Education (MSDE) has either accredited or registered as a church-exempt school. The MSDE has sent copies of the correspondence to our program. We, in turn, send letters by certified mail (with a return receipt) with a packet of information including the regulations.

At the end of this quarter we will provide Region III with the name of one school that failed to comply with requirements of AHERA. This school had even called and asked for extra time which was granted! When you receive one of these letters, PLEASE don't ignore it. The letters are tracked in a database and the due dates are noted. You have 60 calendar days after receipt of the

letter to respond. *The clock starts running the day after letter is received at the facility.*

There seems to be a lack of concern on the part of those folks who lease buildings from another entity. The regulations do refer to the owner of the nonpublic non profit building as the Local Education Agency [LEA, 40 CFR 763.83 (Definitions)]. The EPA has informed us that it will take action against the school and the owner. Remember we do not have the name of the owner, nor does the EPA. And we do not plan to collect this information!!

The other group of unconcerned LEAs seem to be those with new buildings that think that their LEAs have nothing to do. *WRONG!* These LEAs have obligations under AHERA and need to comply as well as those LEAs with asbestos in their facility. IF the LEA is eligible for an exclusion, there are a small number of requirements.

1. Obtain a statement from the architect, project engineer, or accredited inspector that there was no asbestos-containing building material (ACBM) specified for the building and that to the best of their knowledge, no ACBM was installed in the building.
2. Appoint a designated person and ensure that this person has training which may be satisfied by reading the regulations and "100 Questions".
3. Prepare a notification to the parents, teachers, and staff that informs them about the exclusion, where the records are, and the name and phone number of the designated person. Send this out prior to submitting the exclusion documents to the Department (MDE).
4. There are forms with instructions on the MDE website on the Asbestos and Industrial Hygiene Program page. These forms can be obtained by calling us at (410) 631-3801 or (800) 633-6101, -3801.
5. After the exclusion documents have been submitted, there are still obligations. The parents, teachers, and staff must be notified at least annually that the school has fulfilled its obligations under AHERA.

6. The school must ensure that there is always a designated person (with training) who will oversee issuing the annual notification and will maintain the exclusion documents including copies of each notification in a file that is accessible to the interested parties during regular business hours.

## **CONTRACTORS' CORNER...**

The year is coming to an end and that means that certain notifications expire!! If a notification covers a project that extends into the new year, this notification expires 12/31/1999. The project must be re-notified with a start date of 01/01/2000 and completion date in 2000. The 10 day prior notification is waived for these continued projects.

It seems the spread of fairy tales continues unabated. Tis not the season for asbestos miracles. The following are still true:

1. Floor tile is still regulated depending upon the circumstances. (Don't forget OSHA/MOSH.)
2. The length of asbestos training review courses has not changed. The worker and supervisor review courses are 1 day in length. In Maryland, this means a 7 hour day of instruction, excluding meals and breaks. These review courses are an annual requirement.
3. The employees working on any asbestos project must be employees of a licensed contractor, regardless of the size of the project.

Cold weather is setting in for the season and this is a reminder to be aware of the hazard of carbon monoxide (CO) poisoning. It can occur any time that you use improperly vented combustion devices for heating or cooking or lighting. This may be particularly true this year if there are any deviations in electrical power supplies at the end of the year. Those propane stoves, kerosene heaters, and butane-fuelled stoves and heaters can produce large quantities of CO which is an odorless, colorless, and tasteless gas. Any odor that

you may smell is some other component of the combustion process.

## **NET NIBBLES...**

See the OSHA website at [www.osha.gov](http://www.osha.gov) for information on the *proposed* ergonomics standard. It does not apply to construction activities, but it will cover persons in your offices, maintenance shops, warehouses, etc. Take a look at the "Frequently Asked Questions" that explain in plain language the contents of the proposed standard. There are examples of companies that took a proactive approach to ergonomics and achieved significant savings in workmen's compensation costs. This standard is also an example of OSHA's effort to provide a "plain language" standard with a two column format in the Federal Register that should be easier to read. The proposed standard was published November 23, 1999.

Look at the last couples months of "What's New" and take note of the number of workers being killed and maimed by careless employers who are being heavily penalized for failing to protect against fall hazards. It is disheartening to note how many of these employers have received willful and repeat violations for their egregious conduct.

## **TRAINING PROVIDERS...**

We are catching up on recordkeeping audits. Here are some of the findings:

1. The auditors are not like bank auditors, we do not go through your records. We expect that you will produce the required records when we visit your office.
2. Voided cards are to be returned as soon as they are voided and not months later. Keep a record of the voids.
3. Use the cards in numerical order because it makes reconciliation much simpler!!

4. The parchment training certificates and course approval certificates must be displayed in an area accessible to the public. When training off site, take a copy of the certificate and do not use the originals.
5. If the printing on the card is off line, please void the card and issue another. We have plenty of cards so do not issue poorly printed cards.
6. Keep the cards secured and limit access to a minimum number of persons.
7. When you change style and/or format of a certificate, please provide a sample of the new certificate. Companies do call and ask about certificates.
8. Most of you are doing a good job of recordkeeping and all of you have been very cooperative with the auditors.

The certificates for "Approval to Conduct Training" have expiration dates that are important. Applications need to be renewed prior to this date!! We do notify you at least 90 days before the application expires. Don't depend on our notification and send in renewals on a timely basis!!

Some reminders for your trainees:

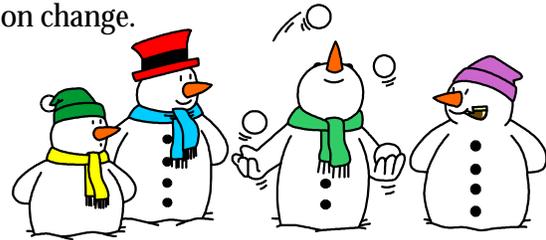
1. The Operations & Maintenance training courses are required to be approved just as the ASHARA courses are approved. There is no application fee for these courses.
2. There is NO training required for the personnel conducting periodic surveillance (6 months) in schools. This is not to say that some training would not be advisable, BUT these people are only required to check on the condition of the asbestos; not touch it to check for friability, not to take samples, etc.
3. Length of asbestos review courses has not changed since the original MAP was published in 1987. There are no proposed changes.
4. Please emphasize that floor tile is regulated under some circumstances. There are differences between the NESHAP requirements and OSHA,

but Maryland is an OSHA plan state and both NESHAP and OSHA requirements must be followed.

5. Remind management planners that when conducting reinspections, that they need to check for records such as the annual notifications, abatement records, periodic surveillance reports, etc. These records are necessary for the school and by ensuring that the records are there, the management planner is providing a valuable service.

## STATESIDE...

Update on move to Rosewood: The training center at Rosewood will undergo renovation in January and February. The move from Spring Grove to Rosewood will tentatively take place in March. Agency coordinators should be on the lookout for a notice about the move when it occurs. Check your training notifications for the location change.



*You can only have this much fun if schools are closed in Baltimore City or Baltimore County due to inclement weather!! Then training classes will be cancelled!!!*

These are training classes for state employees and are not open to the public.

January 2000	February 2000
13 Worker R	10 AS & H Specialist I 24 Supervisor R
March 2000	If you must cancel, call Mrs. Manger at (410) 631-3801 or (800) 633-6101,-3801 e-mail: smanger@mde.state.md.us
2 Worker R 8-10 Inspector I 16-17 Management Planner I 23 Auto I	