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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...

*This is the seventh year for the newsletter!!*

In the spirit of the season, I have a present for all of you that you will find useful! The COMAR is on-line and user friendly for those of you who wish to download the regulations. The COMAR is current except for the last two weeks. (The COMAR was on-line earlier, but it was not as easy to use as it is now.) Here are the directions for the two COMAR chapters that are most often used for persons either working with asbestos or providing asbestos training.

A few words that you should know before you begin. *COMAR means Code of Maryland Regulations*. This is a compilation of the all the current regulations in Maryland. (These are not the statutes that are necessary to authorize regulations.) Anytime you see Title 26, that is a reference to the Department of the Environment. See the table below. The citation: 26.11.23.01.B(15)(b)(ix) takes you to "Church" that is one of the items listed under the definition of "Public and commercial building".

|       |          |         |            |         |            |           |              |
|-------|----------|---------|------------|---------|------------|-----------|--------------|
| 26    | 11       | 23      | 01         | B       | 15         | b         | ix           |
| Title | Subtitle | Chapter | Regulation | Section | Subsection | Paragraph | Subparagraph |

These are the steps to follow that will take you to the website for downloading the regulations:

Step 1: Go to the website address at [www.dsd.state.md.us](http://www.dsd.state.md.us)

Step 2: On the right hand side, click "COMAR On-line".

Step 3: Scroll to the bottom of the page and click on the no. 1 button.

Step 4: On the search screen, in the box, type either 26.11.21\* (Control of Asbestos) or 26.11.23\* (Accreditation of Individuals, and Approval of Training Providers). The "\*" (asterisk) allows you to select all of the regulations in a chapter.

Step 5: You may print each regulation individually or print all of them. *Chapter 21 has 13 regulations* and two other documents that give the title and legislative history of the regulations. These are listed as 26.11.21.00 and 26.11.21.999.htm, respectively. The latter tells you what regulation(s) were changed and when. For example, on August 24, 1998, regulation .10B was amended. (Fees were raised.) *Chapter 23 has 15 regulations* and plus the two, ".00" and ".9999.htm", documents that give the title and legislative history of that chapter, respectively.

At this time, there is no way to print all the regulations with one command. However, it is easy to open the first regulation, print it, and use the browser's back button to go back and print the next. After a regulation is opened, the color of number changes from red to blue so that it is easy to see which ones have been printed.

If all else fails, please call or email me, and I will send you a copy.

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

As some of you may know, Lorraine Anderson is the chief of the Licensing and Enforcement Division. One of her favorites topics is "Variances" (just kidding) and she has provided the following guidance on variances and floor tile. She will be occasionally contributing to this column.

The purpose of a *variance request* is to allow alternative procedures for *just cause* where it is impractical or impossible to comply with the NESHAP regulations. In order to receive these variances, you need to provide a *good justification* to conduct the job in that fashion. Please do not submit variance requests unless you are certain that you have received the job. *Leave enough time to process these requests because some of these requests require inspections and could take some time to process.* You need to

submit all documentation to assure that the inspector will understand the reason for the variance request. Let me just say that because the owner wants this done tomorrow is not a good reason for a 10-day notice variance request.

We do not accept notifications by fax, this is an EPA requirement and we must abide by it. Notifications must be submitted at least 10 days before a NESHAP job starts and for jobs that are not NESHAP, the notice must be submitted before work commences. If the start time or end time for a notified job changes, you must call in the changes and send in a revised notification. The purpose of this requirement is to allow the inspectors to schedule job inspections before the job commences and during asbestos removal.

*Floor tile jobs are continuing to be the source of many questions.* If floor tiles are removed without breakage, they are unregulated and a notification is not required. If breakage occurs, the job becomes an asbestos project and you need to act accordingly. Any time that a mechanical device is used on floor tile, the job is regulated, this is also true for excessive breakage of tiles using hand tools. If you have any questions on these items, please call Ms. Anderson at (410) 631-3801.

## **ASBESTOS FOR ALL...**

It is that time of the year when *CARBON MONOXIDE* poisonings occur with often fatal results. Any combustion device such as space heaters, idling motor vehicles, etc. can cause problems. Remember that carbon monoxide is colorless, odorless, and tasteless. The symptoms are confused with the flu, being tired, etc.

This winter promises to be colder than usual so cold stress becomes critical. Workers unused to the cold need acclimation in the same way that workers need to become acclimated to the heat.

## SCHOOLS...

Over the past few months I have received many questions from consultants who have been hired to perform reinspections. The AHERA regulations, 40 CFR Part 763, Asbestos-Containing Materials in Schools; Final Rule and Notice, HAVE NOT BEEN AMENDED. The regulations were effective October 30, 1987!! This was 13 years ago.

The first question is: "What if I find asbestos-containing building materials (ACBM) that were not previously identified?" The short answer is deal with it, either take samples or assume it contains asbestos. Yes, the regulation did specifically say to reinspect all known and assumed ACBM. However, a professional should have a true crisis of conscience if he or she says to the school, "I found some previously unidentified ACBM, but AHERA doesn't address it and so I won't either." It is sad, but I have been asked this question many times!!

The next question is: "What if the school has lost its management plan?" If we don't have a copy (and we only have copies of plans from the last 3 years), and the previous consultant cannot provide a copy, the school will need another plan. Section 763.99(g)(2) is very clear when it says that each local education agency (LEA) shall maintain in its administrative office a complete, updated copy of a management plan for each school under its control. This means that the school will need another inspection and management plan. There is no time when the schools are allowed to not have a management plan on hand.

The next question is: "Just how far do I have to go on the reinspection?" First you need to read the regulations which are very specific [§763.85(g)(3) *Reinspections*] about what is needed. The reinspection requires many of the same actions as an initial reinspection, except the ACBM does not need repeat sampling. However

this is a good time to sample assumed materials to determine whether they are indeed ACBM. All the known and assumed ACBM has to be re-assessed to make sure that the condition has not changed. Also careful attention needs to be paid to nonfriable material to see if it has become friable. The recommended response actions may need to be changed if the condition of the material has deteriorated since the last inspection. Of course, for any newly discovered ACBM, all of these same procedures that were part of an initial inspection have to be performed. If materials are missing that were on any previous inspection report, the inspector needs to determine if the abatement is complete and try to find the records for same. Then the results of the inspection need to be turned over to the management planner for review, etc.

While the management planner is reviewing the inspection report, he/she should be checking for periodic surveillance reports, any records of abatement activities, the annual dated notifications, etc. These items need to be part of an updated, current management plan. The management planner needs to make sure that there is a designated person and suggest appropriate training for that person and note it in the management plan. The mark of the true professional demands that some time be spent with the designated person explaining the inspection findings, need for the annual notification, etc. We find that many designated persons would benefit from some time spent with the management planner who would explain what the inspection findings mean, what the school needs to do, etc. Schools need to be reminded that the response action plan is also considered their compliance plan. The management planner needs to check that the response actions have been completed or updated as necessary.

The next question that I hear is: "But I didn't include that in my cost estimate for the reinspection!" The short answer is that it's your problem.

There are certain minimum requirements for a reinspection. If the school does not have a management plan and refuses to pay for another one...explain carefully that they are in violation of the regulations and subject to fines for failure to have a management plan. Having one at one time counts only in showing that the school has knowledge of the requirements making it hard to plead ignorance.

After 13 years with the same regulations, many newsletters, many workshops, lots of review courses; I am surprised and dismayed that folks are asking these questions.

## TRAINING...

Just a few reminders. The issue of the number of instructors for the asbestos courses came up recently for a number of training providers. The rule is that there be at least two instructors for each initial course, except for the worker. It is strongly recommended that you use two instructors for the worker class especially for the hands-on portion. This is from a policy memo dating back to 1990. It was sent to all training providers and this issue has been mentioned in many newsletters including the September 2000 issue of this newsletter. If you need a copy, please call.

I will shortly be ordering the new laser-ready photo id cards and I need comments from those who received samples now or it will be too late. I did make a template for you to use that works well and is yours for the asking.

Color photos must be used on the photo id cards according to the regulations. The cards must either be filled out by typing or by a printer. The only handwritten items on the photo id cards are the signatures of the student and the training director. The approval number includes the acronym for the training class i.e. 21-00-00 WR (WR means worker review). Don't forget to place the acronym for your company just to the left of the red number on the front of the card.

## NET NIBBLES...

The final ergonomics standard was published 11/14/00 in the Federal Register. Go to the OSHA website: [www.osha.gov](http://www.osha.gov) where the ergonomics standard is prominently featured. It covers only general industry at this time. This is the first plain language standard and it is in a question and answer format. *The standard, 29 CFR 1910.900, is effective on January 16, 2001.* Employers covered by the standard must provide the basic information to employees by October 14, 2001. The only thing that an employer must do initially is provide basic information about the signs and symptoms of common musculoskeletal disorders (MSDs). The employer can comply with this part of the standard by distributing fact sheets to employees and posting these at the work site. There are many documents available on the OSHA website, including a fact sheet that is suitable for the employees. At this time only general industry, public sector employees in the OSHA-plan states (after the states adopt the federal standard), and the postal service are covered by the standard.

## STATESIDE...

In case you have missed the last newsletter, training classes are being held at the Rosewood Hospital Center. Training classes will be cancelled if Baltimore City or Baltimore County close schools due to inclement weather. These classes are only for state employees.

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|--|---|
| January 2001<br>10 Worker R                                  | February 2001<br>1 Auto Worker I<br>22 Asbestos Safety & Health Spec.   |
| March 2001<br>7 Auto Worker I<br>13-16 Worker I<br>29 BIMP R | If you must cancel, call Sharon Manger or Janice Lafon at (410) 631-3801 or (800) 633-6101,-3801 or email:<br><br>smanger@mde.state.md.us<br>jlafon@mde.state.md.us |