



Maryland
Department
of the
Environment

Robert L. Ehrlich, Jr.
Governor

Lynn Y. Buhl
Acting Secretary

Air & Radiation
Management
Administration

1800 Washington Blvd.
Baltimore, MD
21230-1720

Published by
The Asbestos
Accreditation &
School Assistance
Division

Editor:
Mardel Knight
(410) 537-3801
(800) 633-6101
mknight@mde.state.md.us

FAX (410) 537-3924
[TTY USERS:
(800) 735-2258
Maryland Relay
Services]

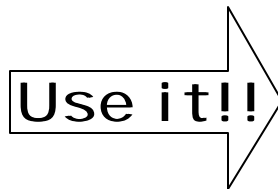
Volume IX, No. 2
March 2003

Asbestos 101

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

EDITOR'S NOTES...

Fiscal Services has notified us that companies are not sending their funds and applications to the lockbox. This is a box that is opened by our bank and the reports of funds received and any accompanying paperwork are forwarded to the Department for further processing. This procedure provides security for your funds and speeds up processing time because less handling is required. Make sure that the pages of the application are securely fastened together. Place the check or money order at the front of the application so it can be easily found. This is the address:



Department of the Environment
P.O. Box 2037
Baltimore MD 21203-2037

You will receive an acknowledgment that the funds and application have been received within 10-14 days. If you don't receive it, please contact Ms. Sharon Manger at the numbers on the left.

I have posted revised applications to our website with the address to the lockbox. Please download these and use them. Go to our website: www.mde.state.md.us/asbestos and you will find the revised applications under "Asbestos Forms". If you cannot download these, we will send you a copy. These forms are in Word® 2000 and in Adobe® Acrobat® format, .pdf. I suggest that you use the .pdf format unless you are good at fixing Word® documents. (Using a printer other than the one the Word document was created on may cause some parts to move to different pages and/or appear differently from the original.)

You are also required to provide a copy of your workers' compensation policy binder number or a copy of a certificate of compliance with the Maryland Workers' Compensation Act. (Environment Article, § 1-202) There is a space for this number on page 1 of either application and it is in the upper left hand corner of the page. We

will not issue a license without this number. Keep the number handy, as you will need it for each application. This requirement also applies to those companies located out of state. Those entities that are self-insured will need to provide a copy of their certificate of compliance. If you need any more information, please call the Workman's Compensation Commission at 410-864-5100 or 800-492-0479.

When submitting corrections, please mark them as such. Occasionally we receive the corrections that look like full application packages and that causes much confusion as we try to enter it as a new application! And of course, we are looking for more money!! *We only need the corrections; no other parts of the application are needed!!*

SCHOOLS...

In this newsletter, I have warned repeatedly that the owners of nonpublic, nonprofit school buildings must have management plans for the schools that lease their spaces. This includes owners such as state facilities, public school systems, religious facilities, etc. In the September 2002 issue, I had described a situation whereby the EPA was preparing a case with civil penalties against a county government that had not fulfilled the AHERA requirements for some of the schools that lease space from the county. The entity is Montgomery County Government. (Not the public school system.)

The county was penalized \$22,000, of that sum, \$18,000 was used to correct the violations and the remaining \$4,000 was paid to the EPA. The schools in question, private schools, received Notices of Noncompliance (NON's). Our inspector found that a variety of violations had occurred; some schools did not have the current reinspections, a designated person without proper training, no designated person, It can

happen to any of you as owners of these school buildings. The EPA will and in this case, did take action against the schools and the owner. Remember that these schools have to comply with all the requirements of AHERA just like the any other public or private school.

Again, I have been asked about preschools. In Maryland, preschool means nursery and kindergarten levels and these are covered by AHERA. The AHERA regulations direct a state to look at its definition of elementary and secondary education, which in Maryland is preschool through 12th grade. **Nowhere in the AHERA regulations is there a mention of K-12 grade levels!**

CONTRACTORS' CORNER...

The first part was contributed by Lorraine Anderson, Division Chief of the Asbestos Licensing and Enforcement Division.

Part 1.—It has come to my attention that questions have been raised concerning notification requirements. This should help clarify things. There are two types of notifications, one for NESHAP jobs, and one for non-NESHAP jobs, or state only jobs.

For NESHAP notifications, the notification should be postmarked at least 10 working days before the project begins and should be sent to EPA Region 3 and to this Department. A good rule of thumb for any revisions to a notification is to call in the change as soon as possible and then follow up with the written notification. It would make it easier for us if you would highlight the changes that you make. When you revise the start date, you still need to notify us at least 10 working days before the project begins.

For non-NESHAP notifications, the notification has to be provided to the Department be-

fore the job begins. These notifications do not have to be sent to EPA Region 3.

As always, if you have any specific questions concerning notifications, I can be reached at (410) 537-3200.

Part 2- Recordkeeping is very important and failure to maintain records can be an expensive proposition. An asbestos abatement company in Massachusetts was fined (subject to appeal) **\$44,000** for failure to maintain accurate records of its employees' exposure to asbestos. It is alleged that the company failed to accurately record or keep measurements of employees' exposure during an asbestos job in 2002. As a result of these allegations, OSHA cited the company for an alleged ***willful violation, the most severe category of OSHA citation.***

An additional \$6,900 in penalties was proposed for these alleged ***serious*** violations. These included failure to calibrate pumps, missing or incomplete records of respirator use, and failure to monitor employees who were cleaning equipment. Full details can be found at www.osha.gov and click on "What's New". (Entry for 3/5/03.)

Part 3.—If you want copies of the regulations, we can mail these to you **or** you can get them for yourself. **No faxes.** For the COMAR regulations, go to the website for the Division of State Documents. This is www.dsd.state.md.us. At the home page, click on the "COMAR On-line" button that is on the left hand side of the page. Choose option no. 1 and type 26.11.21* for the asbestos licensing regulations or 26.11.23* for the training regulations. Click on the search option and all the regulations in each chapter will be shown. You will need to print each separately. COMAR 26.11.21 has 13 regulations, .01-.13 and COMAR 26.11.23 has 15 regulations, .01-.15. Be sure to use the asterisk because this will bring up all the regulations in each chapter. You

will need to print each separately as there is no way to give a command to print all at one time.

For the NESHAP you can go to the federal website, <http://www.access.gpo.gov/nara/cfr/cfr-retrieve.html>. Choose "retrieve CFR sections by citation". The title is 40, part is 61, subpart is M and select PDF for type of file. **OR** I can mail you a copy that I downloaded. All you need is Adobe® Acrobat® Reader™ to open it and then print it out.

TRAINING PROVIDERS...

I am sorry that I have to relay the sad news that Kent Steinruck died on March 6 in Richmond. Many of us knew him personally and professionally because he worked for the State of Virginia and was part of the approval process for training providers and licensing of individuals in Virginia. He was also part of our regional consortium, MAREC. At the time of his death, he was working for a consulting and training firm in Virginia. I do have his wife Rose's address if anyone wants it.

The next meeting is scheduled for Thursday, September 11, 2003 here at MDE. The room is booked, cookies ordered, and my cell phone's ringer is on! If you can, please bring the person who is responsible for record keeping and preparing the Form 265s for submittal to MDE.

The status of the bills in the Maryland State Legislature that I mentioned at the meeting has changed. The indoor air quality bill has been withdrawn for more study and that means it will probably be back next year. The bill on the tax status verification is in the house (HB 936 or SB 656) now for further action and the bill for charter schools (HB 11) has been withdrawn. Charter schools may be started in some coun-

ties because technically there is no law against this action. Frederick County has rules in place to do this. The charter schools are required to comply with the AHERA requirements. If the charter schools lease space from a county school system, then the school system will also be responsible for a management plan, etc.

The revised instructions for preparation of management plans is on our website. Please use these in your inspector and management planner classes. There are a few requirements for Maryland that are not mentioned in the federal rules such as providing a diagram drawn to scale of homogeneous areas and location of sampling sites, using our forms for any "new" management plans, etc.

Our school inspector recently visited a school that appeared to have "appearing" and "disappearing" thermal insulation. The reinspections in the school were up to date, but the materials were mentioned in a reinspection, but not in the next one and were there in the next reinspection! Magic! No, it is rather failure of the inspector and management planner hired by the school to pay close attention to the materials in the facility and to investigate what happened to materials that are missing on a subsequent reinspection. Management plans have an inventory of the materials in the buildings, conditions of same, and any response actions needed or taken. Obviously if materials are off the inventory they were removed and records need to be produced.

For the supervisor, project designer, inspector and management planner classes; please place emphasis on the record keeping that AHERA requires. The items are listed in the AHERA regulations at 40 CFR Part §763.93 (b-h) and on our Required Elements Checklist that is on the website under "Asbestos Forms". The record keeping requirements are very, very detailed. The contractor needs to maintain certain records and the designated person needs to make sure that these records are part of any contract for work

and that copies become part of the management plan.

Many schools and designated persons have forgotten that EPA interprets the response action schedule in the management plan as the compliance plan for the school's asbestos activities. The EPA could take action based on failing to meet the schedule, especially if there are problems in the buildings. The schedule for response actions may be changed, but this needs to be noted in the management plan.

I have extended the deadline for training providers to submit additional information for the training providers' list. You may add a web site address, an email address, and a fax number. You will have until Monday, April 7, 2003 to email the information to me. Please check the list on the website and make sure that any entries there are correct e.g. you moved and forgot to tell us! If you do move, you will not receive new approval certificates until your next renewal. The system is not set up so that we can do this.

On the Form 265, Certification Form for Training Providers, please provide the address of the training class, even if it is at headquarters. Do not put the names of persons on the form *who did not receive a photo id card.*

(These classes are for state employees only.)

<p>April 2003</p> <p>3 Supervisor R 22-25 Worker I</p>	<p>May 2003</p> <p>7-9 B. Inspector I 15 Auto Worker 20-21 Management Planner I 29 Worker R</p>
<p>June 2003</p> <p>5 Supervisor r 12 IMP R</p>	<p>If you must cancel, call Janice Lafon at (410) 537-3801 or (800) 633-6101, -3801 e-mail: jlafon@mde.state.md.us</p>