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Asbestos 101

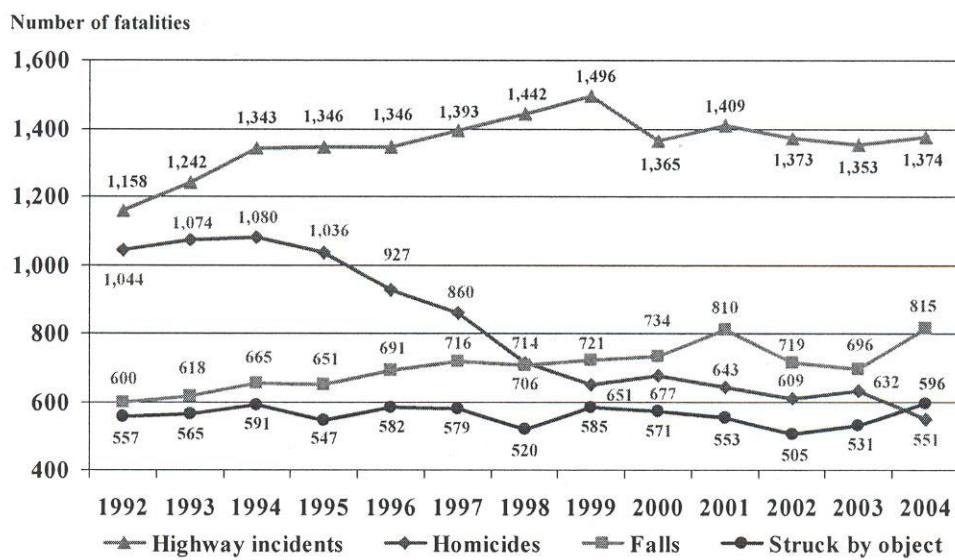
This newsletter is on the MDE web site: <http://www.mde.state.md.us/asbestos>

EDITOR'S NOTES ...

Another school year has begun, and it's time to make sure that the annual asbestos notification has been distributed to parents, staff, and teachers. Many schools with new principals or assistant principals may not know the location of their asbestos management plan, so please follow up to ensure that they know where the plan is. There has already been an incident in a large school system that just finished its reinspections. The principal had no idea where the plan was. If this happens during a compliance inspection, it's a serious violation of the Asbestos Hazard Emergency Response Act (AHERA) regulations!

The chart below is from the Bureau of Labor Statistics, released August 2005. Traffic accidents cause the most deaths in the workplace. Falls are the second highest cause of deaths. Falls also cause the highest number of injuries at work.

The four most frequent work-related fatal events, 1992-2004



ASBESTOS FOR ALL ...

A. Operations & Maintenance (O&M).

If you have questions about O&M training requirements for the work, the Class III and Class IV training requirements are found in the OSHA Asbestos Construction Standard, 29 CFR 1926.1101. OSHA refers to the O&M training requirements found in AHERA at 40 CFR Part 763.92(a)(1) for Class IV and (a)(2) for Class III work. The following describes the training requirements for O&M work and other considerations involved performing it at your facility:

1. Training Requirements. O&M activities in most cases require the same training as OSHA describes for the Class III activities. These requirements are covered in two places, 29 CFR 1926.1101 Asbestos Construction Standard (OSHA) and COMAR 26.11.21 Control of Asbestos (MD). For example, if work is done using one standard glove bag, it requires 16 hours of training referenced in AHERA, 40 CFR 763.92(a)(2) for persons performing O&M work. An annual 4-hr refresher is required and that is the refresher described in COMAR 26.11.21.13.C(2)(b). These are the **minimum** training requirements that apply to persons in all public and commercial facilities. This includes schools, that are performing O&M work as described in COMAR 26.11.21.

2. The O&M activities in COMAR 26.11.21 are limited to 10 ft² or 20 linear ft. These activities are associated with small repairs or maintenance. Or think of it as the small-scale, short-duration activities that AHERA describes in Appendix B. When the purpose for the O&M activity is *not asbestos abatement, but the asbestos must be disturbed as part of the activity*, such as when

replacing a leaking valve surrounded by asbestos insulation; this is O&M.

3. Persons with only 2-hr awareness training that OSHA describes as adequate for **Class IV MAY NOT DO ANY ASBESTOS ABATEMENT IN MD, NOR MAY THEY PICK UP ASBESTOS DEBRIS AFTER CLASS I, II, OR III ACTIVITIES.** If there is any asbestos debris left after abatement activities, the abatement activity is not complete. The 2-hr awareness training **does not include** training on use of respirators, protective clothing, work practices, etc. **The 2-hr trained personnel cannot do any activities that disturb asbestos or clean up asbestos debris!!!**

4. Contractor's license. If the school or other facility *including a government facility*, chooses to do O&M activities, the entity requires a license (except MD state facilities), no matter how small the job. The O&M workers need annual medical monitoring, must have the required protective clothing, and use respirators. The license also requires that there be a currently accredited supervisor (AHERA 5 day) available at all times.

5. The other requirement of note is that the asbestos quantities removed from a facility accumulate on a calendar basis. Once you have removed the NESHAP quantities, more than 160 ft², or 260 linear feet, or 35 ft³, you must THEN use 4-day trained workers. The 2-day O&M trained person cannot be upgraded, and must take the 4 day initial worker course. So in most cases, it makes little sense to train anyone for O&M, if you anticipate larger jobs. The other drawback to O&M trained persons is that they are not allowed to perform jobs larger than either the 10 ft² or 20 linear foot quantity. So if a job turns into something larger, personnel would need to stop and tell the supervisor to send in 4-day trained workers to finish the job. The bottom line is—there are not many reasons for training people just for O&M. The training costs may be a little

more for a 4-day class than for a 2-day class, but all of the other costs for equipment, medical monitoring, etc. are the same, and it still requires a 5-day supervisor.

B. Accredited Inspectors, Project Designers, Supervisors, and Workers.

Accredited personnel, except management planners, have been required for asbestos activities in public and commercial buildings **since October 4, 1994**. This is when the Asbestos School Hazard Abatement Reauthorization Act (ASHARA) took effect. The ASHARA extended the AHERA training requirements for school personnel to persons doing these same activities in public and commercial buildings.

The ASHARA definition of inspection "means any activity undertaken in a school or a public and commercial building, to determine the presence or location, or to assess the conditions, of friable or non-friable asbestos-containing material (ACBM) or suspected ACBM, whether by visual or physical examination, or by collecting samples of such material"(40 CFR SUBPART 763, APPENDIX C TO SUBPART E OF PART 763—ASBESTOS MODEL ACCREDITATION PLAN).

This means that any inspection activities done in a public and commercial building must be done by an accredited inspector. Accredited workers and supervisors, of course, perform the asbestos abatement work. Project designers must design how the abatement activity is carried out in a public and commercial building. This includes all projects greater than 3 ft² or 3 linear feet, a major fiber release episode. It does not include the small-scale short-duration projects as described earlier.

The ASHARA requirements did not extend to management planners. Management plans are

only required for schools and must be prepared by the accredited management planner.

SCHOOLS ...

The Department's school asbestos inspectors have been very busy this summer, inspecting a number of small nonpublic schools. Our findings include the following comments for not having an asbestos management plan—
(a) never heard about AHERA,
(b) only provide day care services,
(c) why are you inspecting my school,
(3) lease space from a religious entity,
(4) thought AHERA was done,
(5) we had a management plan, but there have been several changes in personnel, and
(6) does (MDE) have a copy, and so on.

The AHERA regulations will be 18 years old on October 30th of this year! This newsletter, Asbestos 101, has been in publication for eleven years! For the newer nonpublic schools, the Maryland State Department of Education (MSDE) has added MDE's school asbestos group to its letters of approval and exemption. They are "cc" (copied) as one of the entities that the school must contact before opening the school. In the past 10 years, we have probably heard from no more than ten schools.

If your facility is for day care only, it does not need to be registered as a school. However, AHERA in MD does cover preschool age children that are part of a school. If the words "school" or "academy" appear in the name of the institution, it may not be used in the name of a day care facility. Direct any questions about your nonpublic school and its status, to Ms. Jistine Smith at 410-767-0409.

Schools operated by a bonafide religious organization are also subject to AHERA. Grades from preschool through 12th grade are covered by AHERA.

When the inspectors finish your school inspection, they will provide a time table for submitting corrections to MDE. On time submission is reported as part of the inspection report. Making the corrections demonstrates that the school is using due diligence to come in to compliance with AHERA. These inspection reports are sent to Region III EPA for any enforcement action. Even if the corrections are turned in on time, enforcement action may be taken. This may range from a school signed notice of non-compliance, signifying it will not repeat these violations, to a penalty that may be offset by the costs of making the corrections. The EPA has many options to help bring schools into compliance. The goal of AHERA is to protect human health and environment. The EPA does not wait until exposures have occurred at the school to take an enforcement action.

As an example, the EPA is seeking a \$64,900 penalty from the Archdiocese of Philadelphia. During the summer of 2003, twelve schools were randomly selected for inspection. The findings included failure to reinspect, no management plan on site, no 2-hour awareness training, no periodic surveillance, or notification. However, the EPA did say that "the complaint does not allege the students or other building occupants were exposed to asbestos as a result of the inspections".

The EPA and the Archdiocese were in discussion to resolve the alleged violations and reach a consent agreement. As this did not happen a complaint was issued 4/13/05 and the EPA is seeking payment of the penalty from the Archdiocese.

Each year, some nonpublic schools receive certified letters from our office about the AHERA status of the school, requiring a response within 60 calendar days. A number of schools are contacted in this manner, as MDE is limited in the number of schools we can inspect each

year. Please contact us for any assistance you may need. If we receive no response, we may refer your school to the EPA for enforcement action. If you need a deadline extension to get your inspection materials in order, feel free to ask for it.

Schools that are visited may also ask for time extensions on their AHERA corrections. We advise that schools NOT wait until the corrections are overdue.

TRAINING PROVIDERS ...

The next training providers' meeting is Thursday, March 9th, 2006, here at MDE, 9:30-Noon and in the Test Room.

STATESIDE ...

Facility management plans are due by September 30, 2005. These plans and any corrections to them, are required for Asbestos Oversight Committee money eligibility. Consider lining up FY'08 project requests to give us time to schedule visits as needed. Please do not submit projects with materials in good condition just because you want an "asbestos-free" building.

(Note: These classes are for state employees.)

October 2005	November 2005
5-7 Inspector I - MDE TR 13 Worker R - MDE TR 18-19 MP I - MDE TR 27 IMPR - MDE TR	1 Worker R - MDE TR 3 Supervisor R - MDE TR 15 Auto Worker-Rosewood
December 2005	
1 Worker R - MDE TR 6 IMPR - MDE TR	If you must cancel, call Sharon Manger at 410-537-3200 or (800)633-6101, -3200 or email: smanger@mde.state.md.us
HAPPY HOLIDAYS!!	