



Department of the Environment

# A sbestos 101

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

## **EDITOR'S NOTES . . .**

School inspections are still being conducted by our staff. We are required to conduct 50 inspections, which we will send to Environmental Protection Agency (EPA). EPA will continue to use our inspection information to determine a school's compliance with the Asbestos Hazard Emergency Response Act (AHERA). The AHERA regulations finalized on October 30, 1987 have not changed! The regulations are over 20 years old, and we still find schools that have been in existence for that long or new ones that seem to have no knowledge of their responsibilities under AHERA.

Here is the "Dirty Dozen", or the reasons that schools use to explain why there is no current updated management plan.

1. Never heard of asbestos or AHERA.
2. For Profit, but never filed a letter with us. We do check the tax id number with the IRS to make sure the school is not registered as a not for profit entity.
3. Eligible for an Exclusion, but never filed one with us. These are for the school buildings that were completed after October 12, 1988 and need an exclusion package.
4. Submitted a management plan in 1988-89 and did nothing further.
5. Lost management plan.
6. Made an attempt at compliance, but records are spotty.
7. Those who knew about asbestos have moved on....retired, died, or changed jobs in the organization so all asbestos activities stopped.
8. Moved to a new location and thought they only had to create a management plan once.
9. Thought the AHERA requirements were no longer valid since they had not been inspected by MDE.
10. Had heard that asbestos is banned and is no longer a problem.
11. Don't own the building.
12. Registered with the Department of Education as a school, but never opened the school or opened school and current staff is unaware that the facility is registered as a school.

None of these are sufficient reasons for noncompliance. Even the schools newly registered with the Department of Education (MSDE) receive a letter listing MDE as one of the agencies that receives a copy of the registration letter.

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Air & Radiation Management Administration  
Published by Asbestos Division, Lorraine Anderson, Editor



A number of schools that satisfied the original AHERA requirements by submitting a management plan in 1988-89 may have NOT UPDATED the management plan since the original inspection. Even if there was no asbestos found at the time of original inspection, or it has been removed since then, there are still requirements for further school documentation. This may be as simple as designating a person to provide an annual notification to parents, staff, and teachers about the inspection/management plan.

**COST REDUCTION.** When an inspection or reinspection is required, there are some actions a school can take before inspection to reduce costs.

1. Get several estimates.
2. Ask for references.
3. Provide a simple diagram, drawn to scale, for all buildings at the school.
4. Measure the rooms so the inspector can easily determine the size of homogeneous area e.g. floor tile, ceiling tiles.
5. Make sure there is someone who will accompany the inspector on the day of the inspection, can answer questions, and has keys to the building and all doors.
6. Make sure that the contract requires the inspector/management planner to make corrections at no cost to the school.
7. Whenever possible, hire an inspector/management planner who can perform all of the AHERA requirements. When your management plan is completed, send a copy to our office for review. This is only for the first management plan. After that, no updates or reinspections are required to be sent to our office.

## **TRAINING PROVIDERS . . .**

*The next training provider meeting will be at MDE, November 17, 2009, from 10:00 to noon. It will be in the same room as always.*

The Department has the option of asking that a class be videotaped. (COMAR 26.11.23.C(3)). This is not reserved just for out of state training providers so don't be surprised when Larry Vermont calls and asks that you tape a class. There is no need to hire a professional videographer. Larry will give you a few days notice to set things up. He will also explain what we need to see on the tape.

On the applications, please list all of the courses in that submittal on page one. *Please do not provide a separate page one for each course.* You also do not need to pay for each course separately; the fees may be combined into one check. As long as you send the page one, properly filled out, with the check to the lockbox there will be no problems for you or us.

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

The Asbestos Licensing & Enforcement Section would like to welcome our new inspector, Latoya Reeder. She will be an asset to the Section and looks forward to receiving your fullest cooperation.

Emergencies come up from time to time in the asbestos removal business. There are justified reasons for requesting a variance to the 10-day notification requirement for a NESHAP project. An emergency is when, through some unforeseen circumstance, a job has to be done immediately, such as the repair of a leaking pipe. The proper way to notify an emergency is to call the Department and speak to an inspector. If you are calling before or after regular working hours, or during a holiday, there will not be an inspector available, so please call as soon as possible when the offices are open. You will need to follow up the phone call with a paper version of your notification as soon as possible.

As some of you may have noticed, we have been issuing Administrative Settlement letters (ASL). This is an enforcement tool which is used when a significant violation has occurred and has been corrected. Please note that penalties will increase if violations are repeated and show a recurring pattern. The following are some examples of ASLs that have been completed within the last 6 months:

- ASL mailed 9/29/08 for \$750 - Violation – Several employees were observed hanging glovebags while in street clothes, in an area clearly marked with OSHA DANGER signs requiring the use of respirators, a violation of COMAR 26.11.21.05D(1)&(2).
- ASL mailed 9/29/08 for \$750 - Violation - There was no plastic sheeting on the floor at the work site, and no variance had been obtained from the Department to deviate from the regulation, a violation of COMAR 26.11.21.06D(1).
- ASL mailed 9/29/08 for \$1,500 - Violations - Several workers were observed working in street clothes, with no respirators, at the work site, a single-story residential structure used for commercial purposes. One worker was using a heavy metal scraper to dislodge 9x9 inch floor tiles. He had damaged the tiles to such an extent that the inspector on site judged that significant amounts of asbestos-containing material had been rendered friable, a violation of COMAR 26.11.21.05D(1)&(2). Also, neither the entrance to the structure, nor several windows, including the ones in the room where the floor tiles were damaged were covered with plastic barriers in violation of COMAR 26.11.21.06C(1).
- ASL mailed 9/29/08 for \$1,500 - Violations - There were no Project Notification signs posted at any entrance to or exit from the building, in which an asbestos project was being conducted, a violation of COMAR 26.11.21.06A(2)(a). Also the inspector found dry asbestos waste bags in violation of COMAR 26.11.21.06B(2).
- ASL mailed June 4, 2009 for \$750 – Violation - The original notification for this project, signed on April 10, 2009, stated the project was not subject to NESHAP, and would start on April 14. However, the notified surface area of friable asbestos to be removed was 200 square feet, well above the NESHAP threshold. The Department verified this amount during an inspection. This constitutes a violation of COMAR 26.11.21.03A, which requires a 10 working day prior notification for NESHAP projects.

## STATE EMPLOYEE'S TRAINING CALENDAR

August 2009 19 Asbestos Worker Review - MDE	September 2009 16 Inspector/Management Planner Review – MDE
October 2009 7 Supervisor Review – MDE	November 2009 4 Automotive Worker – (TBA) 18 Worker Review - MDE
December 2009 2 Asbestos Safety & Health Specialist - MDE	If you must cancel your scheduled training, your supervisor must call Sharon Manger at 1-800-633-6101 ext. 3200 or e-mail SManger@mde.state.md.us

