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# Asbestos 101

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

## EDITOR'S NOTES ...

On May 17, 2004, the Department issued a revocation order against Ethel Mae Holmes of Holmes Environmental based in Norfolk VA. The order revoked her accreditation for the project designer, management planner, and inspector disciplines. She was found guilty in federal court on March 23, 2004, of using fraudulent certificates from F&M Environmental Technologies, Inc. to obtain accreditation in these disciplines. She used the same certificates in MD to obtain accreditation in these disciplines. At the time these fraudulent certificates were used in MD, the Department and the training provider did not know that these were fraudulent. She first used these certificates in MD in 1999 and 2001 to start her "accreditation chain".

See the June 2001 *Asbestos 101* issue for more details on F&M's activities.

As of this date, she has not returned any photo identification cards or certificates that she obtained in MD. These were to be returned as part of the revocation order. She was also to provide a list of projects that she worked on in MD. There are three photo identification cards that are still "active". These have been revoked. One is for project designer issued 12/10/03 that expires 12/10/04. The other two have passed their one-year expiration date, but the holder in ordinary circumstances could attend a review class during this second year of eligibility to continue their accreditation. The management planner initial certificate expired 12/12/03, but the second year of eligibility ends 12/12/04. The inspector review certificate expired 11/20/03 and the second year of eligibility ends 11/20/04. This "second year of eligibility" is just that, the person is able to renew their accreditation and remain accredited. However, the person may not perform any activities as an accredited person in this second year until they attend a review course. If this second year passes without attendance at a review course, the person must take the initial course for this discipline.

The bottom line is that any activities that Ms. Holmes may have performed for your company using these certificates or the prior certificates are deemed invalid since she was not accredited to do any of the inspector, management planner, or project designer activities. If for example, she took any asbestos bulk samples and was required to be accredited to do this, then it is as if she took no samples. If you have any questions, please contact Mardel Knight at 800-633-6101, ext. 3801. Note: If any of your jobs required a project monitor, you need to contact David Dick

in the Virginia Department of Professional and Occupational Regulation at 804 367-8595 for more information.

Good news for the charter schools because the state will receive \$13 million over the next 3 years to help fund charter schools. Each charter school could receive an award of up to \$200,000. The money will be awarded on a competitive basis by the Department of Education.

## **SCHOOLS ... or AHERA 101 ...**

School is out, but this section will be a short summer course titled AHERA 101. This is required reading for designated persons and others involved with asbestos in schools. No credit is offered, but the reward for taking the class is assessing whether your school is in compliance with AHERA, protecting children's health and preventing enforcement actions. The rate of compliance nationwide is not very good and the EPA is looking at various ways to assist schools, but at the same time the EPA will continue enforcement actions.

The Asbestos Accreditation & School Assistance Division staff has done several AHERA inspections over the past few months. We have found many deficiencies that need to be corrected as soon as possible. These occurred in large as well as small schools.

These topics were covered in the March/April AHERA workshops that many did not attend. If you attended a workshop you already have "credit" for the course.

**AHERA 101 A-Introduction.** Public and non-profit private schools, preschool-12th grade, must have an inspection for asbestos-containing materials. This inspection must be done by

an accredited inspector who also has a Maryland Photo Identification card. There are forms on our website that the inspector must use for inspections. Then an accredited management planner must develop a plan to handle, not remove the asbestos. This person must have a MD Photo Id card and must use forms on our website. Schools completed after October 12, 1988, may be eligible for an exclusion. Home schools are not covered. If you lease space for your school, the EPA will look to both the owner and the school for compliance with AHERA.

**AHERA 101 B. -Round 1** The inspection and management plan are just the beginning. The school must choose a designated person whose responsibilities are making sure that the AHERA requirements are met. This person must have training that is commensurate with their responsibilities. The designated person may not be a committee, nor may it be a company.

At the time of the initial inspection and management plan, a notification must be made to the staff, teachers, and parents. This must be done annually and a dated copy must go in to the management plan for each school. This must be done even if the school has an exclusion.

If the school is part of a school system, then there must be an inspection and management plan at the administrative headquarters as well as at each school. These are to be mirror images of each other! All records pertaining to asbestos activity in a school are to be kept as part of that school's management plan, not housed in other files, rooms, buildings, etc.

All custodial and maintenance personnel must receive the 2-hr awareness training if there are any asbestos-containing materials in the school. Maryland is an OSHA plan state so an annual review is required. If there are any asbestos materials, make sure that the warning signs are posted in the routine maintenance

areas.

**AHERA 101 C-Round 2.** Now that the management plan is done and on the shelf in the office, there comes the time for updates. The first is 6-month periodic surveillance of all known or assumed asbestos materials. Then there is the annual notification to all interested parties. Last, but not least, is the 3-year reinspection of all known or assumed asbestos materials. The reinspection must be done by accredited inspectors and management planners. All of these items, as they are completed, must be placed in the management plan at the local school as well as headquarters. Don't wait until the 3-year reinspection to scurry around and find these items to place in the management plan.

If there have been any response actions, these records need to be placed in the plan in a timely manner. The AHERA regulations mandate that the school have an updated management plan. This means that the plan is current at all times.

**AHERA 101 Round 3-KEEP EPA AWAY.** You may not prevent an inspection by the EPA, but you will come away without notices of violation and or no proposed penalties. The following are some common problems that we have observed that you can prevent.

Large school systems have two problems, size and the need for two copies of the relevant documents for the management plan. The local school **MUST** have the same information as headquarters. The systems with the most success at carrying out this task, have decided to hand deliver updates to the school and place it in the management plan. Mailing things to the principal to insert in the file does not work well. Frequently the principal or head custodian have no idea what the inspector is talking about when he asks for a management plan. Some have a dim memory of the management plan

in the last school they were at, but don't know anything about the management plan in this school.

This shows that the headquarters is not making an effort to make sure that the local school personnel are aware of the location of the plan, what it is there for, etc. In one large school system, the designated person is going to be on the agenda for the principals' in service training before school starts. It would make sense, too, that a school system decide where the plans are to be kept in the local schools. Our inspectors find them in the principal's office, the vice principal's office, the school secretary's filing cabinet, or in the custodian's office. This is not a good situation. One of the reasons for having the updated management plan at the local school is for companies coming in to do work to be able to check the management plan for the location of the asbestos. If these companies cannot find the plan, if they even ask for it, the company will usually go right on with the job that they were hired to do!!

When the inspectors comes knocking at your door, they want to see an updated plan, periodic surveillance reports, annual notifications, reinspections, two-hour awareness training records, response action records (if any), and information on the designated person.

Remember there must always be a designated person and there must always be a copy of the plan in the building. At this time there is no ending date for AHERA requirements. A new school must have the inspection and management plan prepared before the school opens.

A school must always have a designated person with the appropriate training. The designated person needs to make sure that the plan is always available at headquarters during business hours. The local school may require an appointment, but it must occur within 5 days.

## CONTRACTORS' CORNER ...

This month we have a couple of questions that just bear repeating and repeating!! (1) Who can submit notifications to the Department? ANSWER—The owner or the Company that is contracted to do the work should send in the notifications. Notifications are required for all demolitions of facilities (as defined by the NESHAP regulation), even if there is no asbestos present. When there is asbestos present and it has to be removed before demolition, it is probably better to send in two notifications, one for the asbestos removal and one for the demolition. If a Company subcontracts to another licensed asbestos contractor, the contractor that is actually doing the work needs to submit the notification. If the notification has already been submitted, then a revision can be submitted with the subcontractor's name.

(2) When does non-friable asbestos become friable, or otherwise known as regulated asbestos containing material (RACM)? ANSWER—There are times when non-friable material becomes RACM. Just because a material is labeled as Cat I or Cat II, does not mean that is what the material remains. There are many ways that this type of material can become RACM and you really don't want to have an inspector come to your site and find that the asbestos that you thought was non-regulated had become regulated. As always, if you have any questions concerning an asbestos contractor or asbestos regulations, you may call 800-633-6101, -3200.

## STATESIDE ...


Please, please check the training calendar very carefully. Your notice of training will have the directions to the location for that class.

Several classes have been moved to MDE headquarters and two are being moved to Soldier's Delight in Owings Mills. The starting time for the classes at Soldier's Delight is a little later. The ones at MDE are all on the first floor in the MDE reception area. Three classes are staying at Rosewood because of the hands-on requirements. These are the WORKER INITIAL—9/25-29/04, SUPERVISOR INITIAL—10/25-29/04, and AUTO—11/9/04.

Management plans are due 9/30/04 for state buildings. The forms are on our website. Don't forget about the schools that you lease space to that also fall under AHERA requirements. These schools need the six months periodic surveillance, an annual notification, and a three year reinspection.

Just a reminder that Rebecca Macewen and Mike Sweeney have divided the state between them so that Becky is responsible for facilities in Montgomery, Howard, Harford, Baltimore County & City, Carroll, Frederick, Washington, Alleghany, and Garrett counties. Mike will be responsible for the others.

(These classes are only for state employees.)

JULY AND AUGUST 2004	SEPTEMBER 2004
<p><b>NO CLASSES!</b></p> 	<p>2 WR/MDE Terra RM 21-24 WORKER I 28 SR/MDE Test RM 30 ASHS/MDE Aeris RM</p>
OCTOBER 2004	NOVEMBER 2004
<p>5 WR/Soldier's Delight 7 BIMPR/MDE Terra RM 14 SR/Soldier's Delight 19 BIMPR/MDE Test RM 25-29 SUPERVISOR I</p>	<p>9 AUTO WORKER 15-17 BI/MDE Test RM 18-19 MP/MDE Test RM</p>
DECEMBER 2004	<p>If you must cancel, call Sharon Manger or Janice Lafon at (410) 537-3801 or (800) 633-6101, 3801 or email: smanger@mde.state.md.us or jlafon@mde.state.md.us</p>
<p>2 WR/MDE Test RM</p>	