



### From the Director...

After 10 years of publishing "The Monitor", I began to reflect on previous issues and struggled with the idea of giving this publication a new look. After looking back, I decided to continue with the format and purpose of this newsletter...to continue to provide our clients and colleagues with environmental, health and safety news that we feel is pertinent and meaningful to you, the reader.

Today's business climate is about doing more with less, on-time and within budget. With the pressure of making profits for the company, operations are constantly being scrutinized to identify the most efficient means to complete a task or job. Safety must never be overlooked. Management must embrace safety in the workplace. But the owners and upper management cannot do it alone. They need our help.

Consider the following: Provide internal audits, conduct inspections, provide "tool box talks", send

your employees to training, conduct safety meetings, read the regulations, get in compliance, and for heaven sakes, just because your employee speaks a different language, it does not mean they don't deserve the same safety information as your other workers.

It is time to look back and identify how we can make our day-to-day operations safer and still be innovative and profitable.

Have a safe holiday season.

Sincerely,

E. Rush Barnett, CSP, CIH  
Director of Training

## WILL GCs STILL BE LIABLE FOR SUB'S SAFETY VIOLATIONS ON CONSTRUCTION SITES?

OSHA's authority to issue citations to general contractors under the "Multi-Employer Citation Policy" may be in question based on a recent decision by the Occupational Safety and Health Review Commission (OSHRC) (Secretary of Labor v. Summit Contractors Inc., OSHRC, No. 03-1622, 4/27/07).

OSHA's current Multi-Employer Citation Policy provides that although employers may not have employees of their own exposed to a safety hazard, they still could be cited for an OSHA violation if the employer had control of the work site, or had the authority to correct the hazard to which another's employee was exposed, or if the employer created the hazard that another's employee was exposed to.

The citation in question arose from scaffolding violations committed by a masonry subcontractor on a

construction site in Little Rock, Arkansas. The subcontractor was cited for violations, but OSHA also cited the GC, Summit Contractors, on the basis that they were the "controlling" employer.

Summit had not erected the scaffold nor did Summit have any of their employees exposed to the scaffold hazard created by the violations.

It was determined by a majority decision that under 1910.12(a), an employer engaged in "construction work" may be cited only for a violation of

construction standards that expose "his employees" to the prohibited hazard. It is important to understand that the Summit decision applies only to construction work, not General Industry.

(Ref: ASSE article by Stephen C. Yohay and Elizabeth M. Walsh, May, 2007)



Picture not related to Summit case

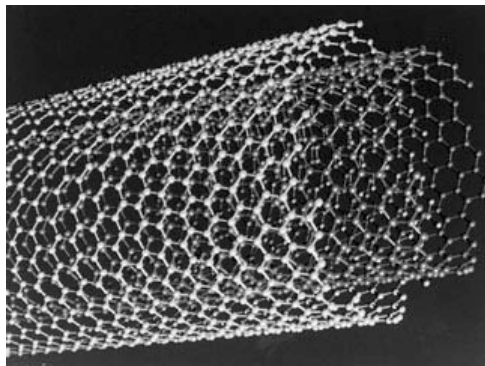
# OSHA 10-Hr. for Construction in SPANISH!!!

Get your Hispanic workers the training they need. See the attached training schedule or register online at [www.amatraining.com](http://www.amatraining.com). Space is limited. Dates for training are:

December 10-11, 2007 & February 21-22, 2008

## NANOTECHNOLOGY MOVES INTO THE EH&S SPOTLIGHT

If you have not heard of the term NANOTECHNOLOGY by now, you certainly will in the near future. Nanotechnology is the understanding and control of matter at dimensions of roughly one to 100 nanometers, where unique phenomena enable novel applications. A nanometer is one billionth of a meter – about one ten-thousandth the diameter of a human hair.



Nanotechnology allows scientists and engineers to take advantage of nanoscale properties and produce materials that are lighter, stronger, and more reactive than materials made with larger size particles of the same material. By taking advantage of these properties, nanotechnology has the potential for introducing many new and unique applications into many sectors of the American and world economies, including consumer products, medicine, transportation, energy, defense and agriculture. Nanotechnology also has the potential for reducing pollution, reducing energy consumption, and cleaning up

pollution. New generations of nanomaterials will evolve, and with them new and possibly unforeseen environmental health and safety issues.

At this early stage of development of nanotechnology, there are few detailed studies on the effects of nanoscale materials in the body or the environment. Early results are also inconclusive, and it is

clear that it is not yet possible to make broad conclusions about which nanoscale substances may pose risks.

As this exciting technological science continues to develop, expect to see the regulatory community develop standards and guidelines to ensure that people and the environment are protected. Already, OSHA, EPA, NIOSH, ASTM, associations and industry have issued information through websites, white papers, and conferences on the evolving science and the impact on human health and the environment.

## ASK THE LEAD EXPERT: What Is MDE's Lead Refresher Training Policy?

Since the COMAR Lead Regulations rules beyond the fact that 1-day for all disciplines except workers, you enforcement policy. As it stands in accreditation date are two (2) different



don't specifically address Lead Refresher refresher training is required every 2 years may be wondering about the MDE current Maryland, the training date and dates.

"Accredited" individuals (that means **trained AND licensed**), must attend the appropriate refresher training course prior to the expiration date of their accreditation. This date is on your State of Maryland Accreditation Certificate and not your AMA or other training providers' training certificate.

Individuals who fail to attend the appropriate refresher training course prior to the expiration date of their accreditation will be required to complete the initial training course! Note: If your Risk Assessor accreditation, and training, expires you must only retake the 2-Day Risk Assessor initial course.

In other words, if you are not accredited, then you will not have to retake the initial course if your training expires.

## MOSH LAUNCHES 5-YEAR STRATEGIC PLAN

Maryland Occupational Safety and Health (MOSH) published a five-year Strategic Plan establishing the Administration's vision, goals and strategies for the 2008-2012 timeframe.

*MOSH's mission is to promote and assure workplace safety and health while reducing workplace fatalities, injuries and illnesses.*

MOSH has adopted a new vision statement that summarizes what MOSH expects to accomplish by implementing their Strategic Plan.

*Every employer and employee in the State recognizes that occupational safety and health adds value to Maryland businesses, workplaces and workers' lives.*

Specific strategic performance goals and outcomes have been established. A summary of some of these goals include:

- Achieve a 5% reduction of fatalities in industries that are under MOSH jurisdiction by 2012.

- Reduce DART (Days Away Restricted/Transferred) Injury and Illness rate expressed in hours away per 100 hours worked from 2.4 hour to 2.1.
- Increase participation in VPP and SHARP programs.
- Increase in Partnerships and Alliances
- Increase the number of people participating in MOSH outreach and training programs by 3% annually.

MOSH has also posted high hazard occupation Standard Industrial Codes (SIC) by which they will target inspections. These **high hazard occupations** within construction are:

- Highway
- Poured concrete
- Masonry
- Roofing
- Electrical

The MOSH Strategic Plan can be found at <http://www.dllr.state.md.us/labor/moshplan.htm>.

## OSHA POLICY STATEMENT Employee Training Must Be Understandable

OSHA Chief Edwin Foulke, Jr. recently issued a memorandum to reiterate their policy that employee training, as required by OSHA standards, must be presented in a manner that employees can understand. OSHA enforcement guidance on this policy was also provided.



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Many OSHA standards require that employees receive training

so that work will be performed in a safe and healthful manner. Some of these standards require "training" or "instruction", others require "adequate" or "effective" training or instruction, and still others require training "in a manner" or "in language" that is understandable to employees. It is OSHA's position that, regardless

of the precise regulatory language, the terms "train" and "instruct", as well as other synonyms, mean to present information in a manner that employees receiving it are capable of understanding. This follows from both the purpose of the OSHA standards and the basic definitions of *training* and *instruction*.

Courts and the Commission have agreed with OSHA that an employer may not take advantage of "an adequately communicated work rule" when it did not communicate to a non-English speaking employee in a language that employee could understand. If the compliance officer determines that a deficiency exists in the employer's training program, they will document evidence of any barriers to understanding of the training as it applies to their specific workplace conditions. The violation may be cited as "Serious".

**Remember, You can always register online at: [www.amatraining.com](http://www.amatraining.com)**

## AMA OFFERS ONSITE "TOOLBOX TALKS"

AMA is now offering onsite safety audits/inspections for general contractors and sub-contractors at construction sites. Upon completion of the site inspection, our bilingual safety specialist can provide a 15-30 minute "Toolbox" talk in English, or in Spanish, to your workers regarding a pre-determined safety topic or

a topic relevant to the inspection. Have AMA visit one or several sites in a day. If you are interested in this service, please contact Todd Woerner or Carlos Campos in our office at 410-684-3327, or by email [twoerner@amaconsulting.com](mailto:twoerner@amaconsulting.com) or [ccampos@amatraining.com](mailto:ccampos@amatraining.com).

## WHEN IS AN ASBESTOS INSPECTION FOR A FACILITY REQUIRED?

Attention building owners, managers, architects, engineers, general contractors and subcontractors.

Under 40 CFR Part 61, the EPA requires an asbestos inspection be conducted prior to any renovation, demolition, construction or maintenance project that has the potential to disturb possible asbestos containing materials. This is a requirement unless the building owner can produce documentation that a previous

inspection has been completed, or if documentation is provided that no asbestos containing materials were used in the building. The date of construction is not considered as part of this requirement.

We at AMA Inc. are seeing more construction projects being delayed because responsible parties are overlooking this issue.

## NEW FAIRFAX TRAINING LOCATION

See the enclosed AMA Training Schedule for our new location for courses offered in the Northern Virginia area.



### Aerosol Monitoring & Analysis, Inc.

# The Monitor

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**Training Schedule Enclosed**

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