

## Office of Facilities Planning Newsletter #57 – November 2004

### **Mercury Q&A for Schools:**

The SED Office of Facilities Planning and the SED Science Curriculum staff have prepared a joint question and answer document about the Department of Environmental Conservation (DEC) law affecting the presence and use of elemental mercury and mercury added products in all New York State elementary and secondary schools. This new law took effect on September 4, 2004. Please see our web page at [https://www.p12.nysed.gov/facplan/Emergency/mercury\\_law\\_Q&A\\_101904.html](https://www.p12.nysed.gov/facplan/Emergency/mercury_law_Q&A_101904.html). If you have additional questions please contact Ed Smith at [esmith3@mail.nysed.gov](mailto:esmith3@mail.nysed.gov), Laura Sahr at [lsahr@mail.nysed.gov](mailto:lsahr@mail.nysed.gov), or Ann Crotty at [acrotty@mail.nysed.gov](mailto:acrotty@mail.nysed.gov).

### **Compliance of Vehicle Lifts:**

Are you the designer of record or has your district had a vehicle lift installed at your facilities over the past couple of years? Please check that lift for the following: A contractor informed a “code official” that his lifts have been installed at over 50 locations state-wide, including schools. When these lifts were installed they had not been tested by the proper agencies as required by the Building Code of New York State (BCNYS) and through this moment in time they remain not tested. These tests determine if the lift meets the maximum limit advertised for the lift. These lifts are 66,000 # lifts manufactured by Stenhoj (made in Denmark) and being installed by Total Tool.

The BCNYS, section 3001.2, requires the lifts to meet the standards of ALI B53-1, Standards for Automotive Lifts. This standard requires the lifts to be tested by ECL (formerly ETL). The arrangements for the tests are finally being scheduled but may take a number of months before they are completed. Meanwhile if you have these lifts installed at your facility you should not use them. Your engineer of record can check when the proper tests are completed and certify the lifts were installed according to the requirements of the test. If you are currently reviewing shop drawings for the installation of these lifts they should be rejected because they are not code compliant.

### **Professional Seals:**

Just a reminder to everyone, all construction documents, addenda, reports and miscellaneous paper work requiring a seal, must have the seal of a professional licensed in the state of New York. Documents submitted to the State Education Department may not use a corporate seal as the required seal. The term “grandfathered corporation” relates to how the firm was formed and does business. The grandfathering does not permit the use of corporate seals as the required seals on construction documents. Therefore, an appropriately qualified architect or engineer must be sealing documents submitted to Facilities Planning. The corporation seal is not acceptable as follows.

Per the New York State Education Law, Article 147 Architecture, section 7307, “... no official of this state, or of any county, city, town or village herein, charged with the enforcement of laws, ordinances or regulations relating

to the construction or alteration of buildings or structures, shall accept or approve any plans or specifications that are not stamped:

1a. With the seal of an architect or professional engineer registered in this state and bearing the authorized facsimile of the signature of such architect or professional engineer...

4. It shall be lawful for a corporation organized and existing under the laws of the state of New York, and which on or before the twelfth day of April nineteen hundred twenty-nine and continuously thereafter was lawfully practicing in New York state to continue such practice, provided that the chief executive officer of such corporation in the state of New York shall be an architect licensed under this article, and provided further that the construction of buildings and structures shall be under personal supervision of such architect and that drawings, plans, and specifications shall be prepared under the personal direction and supervision of such architect and bear the stamp of his official seal, and the drawings or specifications shall also be signed on the original, with the personal signature of such architect.

<http://assembly.state.ny.us/leg/?cl=30&a=139>

The requirements for engineering seals are similar. Further, in the Laws of New York, Business Corporation Article 15 Professional Service Corporations, section 1504 (b), Each final plan and report made or issued by a corporation practicing professional engineering, architecture, landscape architecture or land surveying shall bear the name and seal of one or more professional engineers, architects, landscape architects or land surveyors, respectively, who are in responsible charge of such plan or report.” <http://assembly.state.ny.us/leg/?cl=13&a=15>

### **Pesticide Applications in Public and Nonpublic School Buildings and Grounds:**

Pesticide use in schools and on school grounds should only be considered as a last resort when other methods have proven unsuccessful. Even then, in accordance with the Commissioner’s RESCUE regulation (155.4(d) (2)), only least toxic and pest-specific pesticides should be used.

If a decision is made to use a pesticide product, whether in a building or on school grounds, pesticide applications may only be performed by individuals currently certified by the State Department of Environmental Conservation (DEC) as a pesticide applicator or by a certified pesticide technician or an apprentice working under the *direct on-site* supervision of a certified applicator. It is illegal for any individual other than those noted above to apply any pesticide products in a school building or on school grounds. In other words, faculty and staff need to be instructed not to bring in a pesticide product from home to apply in their own classroom or office. (Article 33 of the DEC Law and Part 325 of DEC regulations relating to the application of pesticides.)

<http://www.dec.state.ny.us/website/regs/part325.html>

The State Education Department strongly recommends that schools only employ mature individuals who are at least twenty-one years old to apply pesticide products in schools and on school grounds, and only those who are also certified by the DEC as a pesticide applicator. DEC also requires that the pesticide applicator must provide a copy of the pesticide label to the building owner prior to the actual application, as well as possess a copy of the label for the product, which is being applied at the time of the application, and their current DEC applicator certification card.

Please remember that all public or nonpublic elementary or secondary schools must also comply with the State Neighbor Notification Law (section 409-h of the Education Law).

For additional information on New York State pesticide application and notification rules, please refer to the following web sites: <http://www.dec.state.ny.us/website/dshm/pesticid/pesticid.htm>

<https://www.p12.nysed.gov/facplan/HealthSafety.htm> (scroll to bottom of page)

An Index of our Newsletters is available on our web site at <https://www.p12.nysed.gov/facplan/NewsLetters.htm>.

If you would like to have this Newsletter sent directly to you by e-mail, please send your e-mail address to Joe Levy at [jlevy@mail.nysed.gov](mailto:jlevy@mail.nysed.gov)

Please continue to send in your comments and requests. If you have a subject you would like addressed, feedback on the material you read, input or general comments we are happy to hear from you.