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## **Office of Facilities Planning Newsletter #109 – August 2012**

### **Welcome to New Staff**

Jean Beudet joined the Facilities Planning Project Manager staff on July 23. Jean has worked for NYS for 32 years and the State Education Department (SED) for almost 19 years. Prior to coming to Facilities Planning, she worked in the SED Charter School Office for 5 years and in the SED Rate Setting Unit for 14 years. Other state experience included working at the NYS-Office of General Services in the Bureau of Leases doing fiscal and lease document reviews for commercial space leased by NYS. Jean graduated with an undergraduate degree in accounting from Siena College in Loudonville, NY, and obtained a graduate degree in accounting from SUNY Albany. Besides her fiscal experience, Jean has experience in computer systems design and implementation; most recently working with the Data Governance Board at SED.

Jean lives in Clifton Park with four legged furry companions. Besides being an animal lover, she is an avid cyclist, hiker and skier. When not enjoying these sports she likes to garden and promote environmental awareness through bike commuting and other community initiatives.

### **Project Submissions**

We have been receiving a number of project submissions where required items are not paper-clipped in the specifications. Please refer to FP-CL Checklist for Application for Building Permit and Examination and Approval of Final Plans and Specifications form, 2<sup>nd</sup> page, under Specifications, for items required to be paper-clipped as follows:

- Wage Rates
- Equivalency Clause
- Non Collusive Clause
- Uniform Safety Standards - Commissioner's Regulations 155.5

### **Vermiculite – Asbestos Containing**

In April of 2011, the NYS Department of Health issued a list of frequently asked questions regarding asbestos/fibers analysis. One of the questions was: “How can I tell if vermiculite contains asbestos or what sampling methods should be used?” The following is the Department of Health’s response:

According to the EPA, you should assume that vermiculite insulation contains asbestos. It is recommended that you do not disturb it; or use a trained professional if it needs to be disturbed or removed. According to NYS Industrial Code Rule 56, vermiculite is a suspect miscellaneous asbestos containing material. Since there is currently no approved analytical methodology to

reliably confirm vermiculite as non-asbestos containing, it is always best to assume vermiculite is contaminated with asbestos and proceed accordingly. For more information see the EPA website at <http://www.epa.gov/asbestos/pubs/verm.html>. The full DOH question and answer sheet can be seen at: <http://www.p12.nysed.gov/facplan/documents/NYASbestosFAQApril8-2011.pdf> .

In June of 2012, DOH also issued a Q and A update specifically in reference to vermiculite. Please view this document at:

[http://www.p12.nysed.gov/facplan/documents/VermiculiteGuidance\\_Rev062212.pdf](http://www.p12.nysed.gov/facplan/documents/VermiculiteGuidance_Rev062212.pdf)

There are many school buildings with vermiculite that have historically been managed in accordance with this previous guidance. However, as noted above, there is no longer any approved testing methodology for vermiculite, and therefore it must be treated as an asbestos containing material.

### **Accessible Pools - Means of Entry and Exit**

The Department of Justice published revised final regulations implementing the Americans with Disabilities Act for Title II (State and local government services) and Title III (public accommodations and commercial facilities) on September 15, 2010 in the Federal Register. Link to Revised ADA Requirements: Accessible Pools - [http://www.ada.gov/pools\\_2010.htm](http://www.ada.gov/pools_2010.htm)

The 2010 Standards set minimum requirements for making swimming pools, wading pools, and spas (pools) accessible. Newly constructed and altered pools must meet these requirements. Public entities and public accommodations also have obligations with respect to existing pools. State and local governments must make recreational programs and services, including swimming pool programs, accessible to people with disabilities. Public accommodations must bring existing pools into compliance with the 2010 Standards to the extent that it is readily achievable to do so.

### Compliance Dates:

#### On or after March 15, 2012

All newly constructed or altered facilities of public entities and public accommodations, including pools, must comply with the 2010 Standards, and all existing facilities of public entities and public accommodations, including pools, must comply with the 2010 Standards to the extent required under Title II accessibility or Title III readily achievable barrier removal requirements.

How does this affect schools?

If an existing pool currently has an accessible lift to provide access to a pool, it would need to comply with the 2010 Standard. To be in compliance the existing lift may need to be modified or replaced, to provide independent operation by individuals with disabilities. Larger pools with over 300 linear feet of wall must have two means of entry and exit (provided by ramps or lifts).

Typical school pools are 25 yards /meters in length, and 6 or 8 lanes wide, with less than 300 feet of wall length, and therefore requiring only one accessible location.

Districts that are currently out of compliance should plan on making necessary upgrades in compliance with the standards as soon as possible. Capital construction associated with such modifications will be eligible for building aid.

## **New Final Cost report process**

Please be reminded of the legislation enacted last session with respect to Final Cost reports. In a nutshell, if your project was approved prior to July 1, 2011, you remain subject to the “old” provisions that start the Final Cost report deadline clock based on the date of final substantial completion. If the Final Cost report is considered late, all aid with respect to the project is lost. This includes aid already paid, and any aid that would have been due for the remainder of the amortization period.

For those projects approved by the Commissioner on or after July 1, 2011, the rules are different. There is no longer any Final Cost report deadline so you cannot lose all aid, however, aid for your project will not begin to flow until both the final CSC (Certificate of Substantial Completion) and the FCR are received by the Department, but no earlier than 18 months. Therefore if your project takes 24 months to complete and submit documentation, your aid cannot flow before then. It is critical to maintain proper project documentation and to be able to submit final cost reports as soon as possible after the completion of a project. Other changes include submission of Final Cost reports directly to the Office of State Aid.

There are circumstances where aid can be allowed to flow in 18 months for complex and/or complicated projects that cannot reasonably be completed in 18 months. For a complete guide to the new process, please see the joint memo released by the Office of State aid, and the Office of Facilities Planning at the following link:

[https://stateaid.nysed.gov/build/pdf\\_docs/ch\\_97\\_bldg\\_aid\\_guidance\\_with\\_timelines.pdf](https://stateaid.nysed.gov/build/pdf_docs/ch_97_bldg_aid_guidance_with_timelines.pdf).

## **Late Final Cost Report Forgiveness**

The Legislature also enacted a forgiveness package for those districts that currently have late Final Cost reports. For those projects that are currently late, the district can submit a Final Cost Report no later than December 31, 2012 and have aid partially restored. The penalty has changed from the total loss of all aid to the loss of aid for the time that the report was considered late.

If that same report is received January 1, 2013 or later, *no aid will be restored*. Please visit the following link for details:

[https://stateaid.nysed.gov/build/html\\_docs/pastdue\\_final\\_cost\\_rep\\_cap\\_projects.htm](https://stateaid.nysed.gov/build/html_docs/pastdue_final_cost_rep_cap_projects.htm)

Facilities' Planning has developed the following list of potentially late final cost reports using the best data available from our various sources. Each district is responsible to ensure that their final cost reports are submitted on time. Please be aware that a project that is not on this list could still be potentially late – for example if the district has not submitted a CSC wherein the actual date of substantial completion renders the project late despite the fact that the form has not been submitted. Please review all current and outstanding projects to ensure your various reports are filed or as necessary, you submit necessary reports by 12/31/12. No aid will be restored after that date.

<http://www.p12.nysed.gov/facplan/Projects/PLFCRS.htm>

Please send any general comments, requests, or questions to Carl Thurnau at [cthurnau@mail.nysed.gov](mailto:cthurnau@mail.nysed.gov) or 518-474-3906.

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