

(2) the number of notices received during such year under section 2604 of this title, the number of such notices received during such year under such section for chemical substances subject to a section 2603 rule, order, or consent agreement, and a summary of any action taken during such year under section 2604(g) of this title;

(3) a list of rules issued during such year under section 2605 of this title;

(4) a list, with a brief statement of the issues, of completed or pending judicial actions under this chapter and administrative actions under section 2615 of this title during such year;

(5) a summary of major problems encountered in the administration of this chapter; and

(6) such recommendations for additional legislation as the Administrator deems necessary to carry out the purposes of this chapter.

(Pub. L. 94-469, title I, § 30, Oct. 11, 1976, 90 Stat. 2050; renumbered title I, Pub. L. 99-519, § 3(c)(1), Oct. 22, 1986, 100 Stat. 2989; amended Pub. L. 114-182, title I, § 19(s), June 22, 2016, 130 Stat. 510.)

Editorial Notes

AMENDMENTS

2016—Par. (2). Pub. L. 114-182 substituted “rule, order, or consent agreement” for “rule”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Jan. 1, 1977, see section 31 of Pub. L. 94-469, set out as a note under section 2601 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in this section relating to submitting annual report to Congress, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 163 of House Document No. 103-7.

SUBCHAPTER II—ASBESTOS HAZARD EMERGENCY RESPONSE

§ 2641. Congressional findings and purpose

(a) Findings

The Congress finds the following:

(1) The Environmental Protection Agency’s rule on local educational agency inspection for, and notification of, the presence of friable asbestos-containing material in school buildings includes neither standards for the proper identification of asbestos-containing material and appropriate response actions with respect to friable asbestos-containing material, nor a requirement that response actions with respect to friable asbestos-containing material be carried out in a safe and complete manner once actions are found to be necessary. As a result of the lack of regulatory guidance from the Environmental Protection Agency, some schools have not undertaken response action while many others have undertaken expensive projects without knowing if their action is necessary, adequate, or safe. Thus, the danger of exposure to asbestos continues to exist in schools, and some exposure actually may have

increased due to the lack of Federal standards and improper response action.

(2) There is no uniform program for accrediting persons involved in asbestos identification and abatement, nor are local educational agencies required to use accredited contractors for asbestos work.

(3) The guidance provided by the Environmental Protection Agency in its “Guidance for Controlling Asbestos-Containing Material in Buildings” is insufficient in detail to ensure adequate responses. Such guidance is intended to be used only until the regulations required by this subchapter become effective.

(4) Because there are no Federal standards whatsoever regulating daily exposure to asbestos in other public and commercial buildings, persons in addition to those comprising the Nation’s school population may be exposed daily to asbestos.

(b) Purpose

The purpose of this subchapter is—

(1) to provide for the establishment of Federal regulations which require inspection for asbestos-containing material and implementation of appropriate response actions with respect to asbestos-containing material in the Nation’s schools in a safe and complete manner;

(2) to mandate safe and complete periodic reinspection of school buildings following response actions, where appropriate; and

(3) to require the Administrator to conduct a study to find out the extent of the danger to human health posed by asbestos in public and commercial buildings and the means to respond to any such danger.

(Pub. L. 94-469, title II, § 201, as added Pub. L. 99-519, § 2, Oct. 22, 1986, 100 Stat. 2970.)

§ 2642. Definitions

For purposes of this subchapter—

(1) Accredited asbestos contractor

The term “accredited asbestos contractor” means a person accredited pursuant to the provisions of section 2646 of this title.

(2) Administrator

The term “Administrator” means the Administrator of the Environmental Protection Agency.

(3) Asbestos

The term “asbestos” means asbestiform varieties of—

- (A) chrysotile (serpentine),
- (B) crocidolite (riebeckite),
- (C) amosite (cummingtonite-grunerite),
- (D) anthophyllite,
- (E) tremolite, or
- (F) actinolite.

(4) Asbestos-containing material

The term “asbestos-containing material” means any material which contains more than 1 percent asbestos by weight.

(5) EPA guidance document

The term “Guidance for Controlling Asbestos-Containing Material in Buildings”, means

the Environmental Protection Agency document with such title as in effect on March 31, 1986.

(6) Friable asbestos-containing material

The term “friable asbestos-containing material” means any asbestos-containing material applied on ceilings, walls, structural members, piping, duct work, or any other part of a building which when dry may be crumbled, pulverized, or reduced to powder by hand pressure. The term includes non-friable asbestos-containing material after such previously non-friable material becomes damaged to the extent that when dry it may be crumbled, pulverized, or reduced to powder by hand pressure.

(7) Local educational agency

The term “local educational agency” means—

(A) any local educational agency as defined in section 7801 of title 20,

(B) the owner of any private, nonprofit elementary or secondary school building, and

(C) the governing authority of any school operated under the defense dependents’ education system provided for under the Defense Dependents’ Education Act of 1978 (20 U.S.C. 921 et seq.).

(8) Most current guidance document

The term “most current guidance document” means the Environmental Protection Agency’s “Guidance for Controlling Asbestos-Containing Material in Buildings” as modified by the Environmental Protection Agency after March 31, 1986.

(9) Non-profit elementary or secondary school

The term “non-profit elementary or secondary school” means any elementary school or secondary school (as defined in section 7801 of title 20) owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(10) Public and commercial building

The term “public and commercial building” means any building which is not a school building, except that the term does not include any residential apartment building of fewer than 10 units.

(11) Response action

The term “response action” means methods that protect human health and the environment from asbestos-containing material. Such methods include methods described in chapters 3 and 5 of the Environmental Protection Agency’s “Guidance for Controlling Asbestos-Containing Materials in Buildings”.

(12) School

The term “school” means any elementary school or secondary school as defined in section 7801 of title 20.

(13) School building

The term “school building” means—

(A) any structure suitable for use as a classroom, including a school facility such as a laboratory, library, school eating facil-

ity, or facility used for the preparation of food,

(B) any gymnasium or other facility which is specially designed for athletic or recreational activities for an academic course in physical education,

(C) any other facility used for the instruction of students or for the administration of educational or research programs, and

(D) any maintenance, storage, or utility facility, including any hallway, essential to the operation of any facility described in subparagraphs (A), (B), or (C).

(14) State

The term “State” means a State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Marianas, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(Pub. L. 94-469, title II, §202, as added Pub. L. 99-519, §2, Oct. 22, 1986, 100 Stat. 2971; amended Pub. L. 103-382, title III, §391(c)(1)-(3), Oct. 20, 1994, 108 Stat. 4022; Pub. L. 107-110, title X, §1076(f)(1), Jan. 8, 2002, 115 Stat. 2091; Pub. L. 114-95, title IX, §9215(xxx)(1), Dec. 10, 2015, 129 Stat. 2191.)

Editorial Notes

REFERENCES IN TEXT

The Defense Dependents’ Education Act of 1978, referred to in par. (7)(C), is title XIV of Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 2365, which is classified principally to chapter 25A (§921 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 921 of Title 20 and Tables.

AMENDMENTS

2015—Par. (7)(A). Pub. L. 114-95, §9215(xxx)(1)(A), made technical amendment to reference in original act which appears in text as reference to section 7801 of title 20.

Par. (9). Pub. L. 114-95, §9215(xxx)(1)(B), substituted “any elementary school or secondary school (as defined in section 7801 of title 20)” for “any elementary or secondary school (as defined in section 7801 of title 20)”.

Par. (12). Pub. L. 114-95, §9215(xxx)(1)(C), substituted “elementary school or secondary school as defined in section 7801 of title 20” for “elementary or secondary school as defined in section 7801 of title 20”.

2002—Pars. (7)(A), (9), (12). Pub. L. 107-110 substituted “7801” for “8801”.

1994—Pars. (7)(A), (9), (12). Pub. L. 103-382 made technical amendment to reference to section 8801 of title 20 to reflect change in reference to corresponding section of original act.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of Title 20, Education.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107-110, set out as an Effective Date note under section 6301 of Title 20, Education.

Executive Documents**TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS**

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 2643. EPA regulations**(a) In general**

Within 360 days after October 22, 1986, the Administrator shall promulgate regulations as described in subsections (b) through (i). With respect to regulations described in subsections (b), (c), (d), (e), (f), (g), and (i), the Administrator shall issue an advanced notice of proposed rule-making within 60 days after October 22, 1986, and shall propose regulations within 180 days after October 22, 1986. Any regulation promulgated under this section must protect human health and the environment.

(b) Inspection

The Administrator shall promulgate regulations which prescribe procedures, including the use of personnel accredited under section 2646(b) or (c) of this title and laboratories accredited under section 2646(d) of this title, for determining whether asbestos-containing material is present in a school building under the authority of a local educational agency. The regulations shall provide for the exclusion of any school building, or portion of a school building, if (1) an inspection of such school building (or portion) was completed before the effective date of the regulations, and (2) the inspection meets the procedures and other requirements of the regulations under this subchapter or of the “Guidance for Controlling Asbestos-Containing Materials in Buildings” (unless the Administrator determines that an inspection in accordance with the guidance document is inadequate). The regulations shall require inspection of any school building (or portion of a school building) that is not excluded by the preceding sentence.

(c) Circumstances requiring response actions

(1) The Administrator shall promulgate regulations which define the appropriate response action in a school building under the authority of a local educational agency in at least the following circumstances:

(A) Damage

Circumstances in which friable asbestos-containing material or its covering is damaged, deteriorated, or delaminated.

(B) Significant damage

Circumstances in which friable asbestos-containing material or its covering is significantly damaged, deteriorated, or delaminated.

(C) Potential damage

Circumstances in which—

- (i) friable asbestos-containing material is in an area regularly used by building occupants, including maintenance personnel, in the course of their normal activities, and
- (ii) there is a reasonable likelihood that the material or its covering will become damaged, deteriorated, or delaminated.

(D) Potential significant damage

Circumstances in which—

(i) friable asbestos-containing material is in an area regularly used by building occupants, including maintenance personnel, in the course of their normal activities, and

(ii) there is a reasonable likelihood that the material or its covering will become significantly damaged, deteriorated, or delaminated.

(2) In promulgating such regulations, the Administrator shall consider and assess the value of various technologies intended to improve the decisionmaking process regarding response actions and the quality of any work that is deemed necessary, including air monitoring and chemical encapsulants.

(d) Response actions**(1) In general**

The Administrator shall promulgate regulations describing a response action in a school building under the authority of a local educational agency, using the least burdensome methods which protect human health and the environment. In determining the least burdensome methods, the Administrator shall take into account local circumstances, including occupancy and use patterns within the school building and short- and long-term costs.

(2) Response action for damaged asbestos

In the case of a response action for the circumstances described in subsection (c)(1)(A), methods for responding shall include methods identified in chapters 3 and 5 of the “Guidance for Controlling Asbestos-Containing Material in Buildings”.

(3) Response action for significantly damaged asbestos

In the case of a response action for the circumstances described in subsection (c)(1)(B), methods for responding shall include methods identified in chapter 5 of the “Guidance for Controlling Asbestos-Containing Material in Buildings”.

(4) Response action for potentially damaged asbestos

In the case of a response action for the circumstances described in subsection (c)(1)(C), methods for responding shall include methods identified in chapters 3 and 5 of the “Guidance for Controlling Asbestos-Containing Material in Buildings”, unless preventive measures will eliminate the reasonable likelihood that the asbestos-containing material will become damaged, deteriorated, or delaminated.

(5) Response action for potentially significantly damaged asbestos

In the case of a response action for the circumstances described in subsection (c)(1)(D), methods for responding shall include methods identified in chapter 5 of the “Guidance for Controlling Asbestos-Containing Material in Buildings”, unless preventive measures will eliminate the reasonable likelihood that the asbestos-containing material will become significantly damaged, deteriorated, or delaminated.

(6) “Preventive measures” defined

For purposes of this section, the term “preventive measures” means actions which elimi-