

4400 Health Systems Protection

4475 Regulations Governing Asbestos

INTRODUCTION

This Regulation is promulgated under Chapter 78 "Asbestos", Title 16, of the Delaware Code. The Office of Management and Budget adopts this Regulation and it shall have the force and effect of law. In establishing such Regulation the Secretary of the Office of Management and Budget has responsibilities as set forth in Paragraph 7805, Chapter 78, Part VII, Title 16 of the Delaware Code, "Powers and Duties of the Office of Management and Budget", to promulgate such Regulation.

In the event this Regulation conflicts with the Delaware Code, the Delaware Code will take precedence.

This Regulation shall remain in effect as adopted and amended unless after public notice and public hearing it is amended or repealed, or it is amended, modified or superseded by amendment to Chapter 78, Title 16 of the Delaware Code.

The Office of Management and Budget, Division of Facilities Management, Environmental Section has the responsibility for the administration of this Regulation. The Department of Natural Resources and Environmental Control has the responsibility for law enforcement for this Regulation.

PREAMBLE

In November 1979, national attention was drawn to the possibility that friable asbestos-containing fireproofing, thermal insulation, soundproofing in schools and other state-owned facilities may pose a threat to school children, employees and visitors to these facilities. After surveys were performed on each public school, state-owned and state-leased buildings, the Office of Management and Budget established programs to manage and remove asbestos-containing materials safely in each facility. In October 1986 Congress passed and the President signed into law the Asbestos Hazard Emergency Response Act (AHERA) for public and private schools. This act establishes industry standards that are required for inspection, testing, managing, and removal.

At the same time studies showed that similar problems existed in the private sector in/on homes, offices, and other private structures.

A great many general contractors, professional service firms, painters, roofers, electricians, siding contractors, sealant manufacturers, equipment distributors, and self-proclaimed "experts" have entered the field of asbestos abatement. At times, because of the lack of regulation, contractors and other tradespersons engaged in asbestos abatement without being aware of the hazards. Some have made the successful transition to responsible abatement contractors who are reputable and knowledgeable of the hazards associated with asbestos-related activity. However, a percentage of contractors have neither the capability nor the desire to deal safely with asbestos-containing materials. Some contractors offer a flood of often conflicting and questionable claims concerning their products and/or abilities. Federal and State regulatory agencies cannot adequately police each and every abatement situation. When contractors take advantage of this shortfall, the result can be work practices that are less than safe. Failure to select a competent and reputable abatement contractor has led to questionable work practices and possible exposure of workers, building occupants, and the general public to airborne asbestos fibers. Liability for these actions often rests with the building operator or owner.

Certification of asbestos abatement contractors, asbestos professional service person/firms and field technicians, asbestos abatement workers, and asbestos project supervisors for asbestos abatement will reduce the public exposure to life-threatening asbestos by helping to assure that asbestos operations are performed by trained personnel in accordance with state-of-the-art work practices.

Approved training programs will assure that all contractors performing asbestos abatement work have demonstrated the ability to perform this work without endangering their health, the health of building occupants, or the general public.

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Building owners contracting with certified asbestos abatement contractors and contractors hiring certified asbestos abatement workers will know that the work is being performed by individuals who have received training and demonstrated competency in correct asbestos handling procedures.

The Office of Management and Budget finds that the application, use, enclosure, removal, and/or encapsulation of asbestos-containing material, when improperly performed, creates unnecessary health and safety hazards which are detrimental to the State's interest, and the interests of its citizens, in terms of wage loss, insurance, medical expenses disability compensation payments, family life, and preservation of human resources.

Exposure to airborne asbestos fibers and particles in the air has been linked by reputable medical and scientific authorities to a significant increase in the incidence of diseases such as asbestosis, lung cancer, mesothelioma, and other malignancies, and that substantial amounts of asbestos-containing materials have been used in buildings for fireproofing, insulation, soundproofing, decorative and other purposes. Additionally, asbestos-containing materials have been used in roofing, siding, flooring, and other building materials. A major cause of asbestos becoming airborne is the performance of building renovation and demolition without adequate adherence to procedures for safeguarding workers and the general public by persons who have not received adequate training in the handling of asbestos-containing materials. Asbestos-containing materials used as siding, roofing, flooring, pipe material, etc., without any type of disturbance (breaking, cutting, sanding, drilling) are not considered friable. However, if this material is disturbed or broken (including disposal) such that fibers are released, then the material is considered friable and needs to be subject to regulation.

Therefore, it is the purpose of this Regulation to safeguard the public by requiring that renovations or demolitions which disturb asbestos be conducted by contractors, supervisors, and workers certified by the Office of Management and Budget.

The Office of Management and Budget hereby declares that it is in the interest of the public to control, reduce, and prevent the exposure of the public to asbestos. It is the purpose and the policy of the Office of Management and Budget to insure the health, safety, and welfare of the public by ensuring that asbestos abatement is performed in a manner which will minimize the risk of exposure to asbestos by:

1. Reducing potential exposure from asbestos-containing materials through the training and certification of contractors, professional service firms and field technicians, project supervisors, and workers.
2. Providing the building owner with certificate(s) of analysis stating that the material that is to be disturbed is in fact asbestos-containing material.
3. Establishing a program for such standards, which shall include revocation, suspension, and/or refusal to renew certifications.
4. Establishing an asbestos management program in public schools under the guidelines and regulations as established under the U.S. Environmental Protection Agency (EPA) Asbestos Hazard Emergency Response Act (AHERA). Establish a similar program in public buildings for the purpose of protecting public health against the dangers of exposure to students/staff and the general public.

1.0 Definitions

The following words, terms, and phrases, when used in this Regulation, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning.

"AHERA" means Asbestos Hazard Emergency Response Act.

"Approved Landfill" means a landfill approved by the Delaware Solid Waste Landfill Authority, or by DNREC, or an EPA certified landfill.

"Approved Training Program" means a program approved by the department for training Asbestos Abatement Workers and/or Asbestos Project Supervisors and Field Technicians.

"Asbestos" means a general term used to describe a group of naturally occurring minerals that separate into fibers. The asbestiform varieties include chrysotile, crocidolite, amosite,

anthophyllite, tremolite, and actinolite, and any of these materials that has been chemically treated and/or altered.

“Asbestos Abatement”. For the purpose of this Regulation, asbestos abatement means the construction, demolition, repair, maintenance, or renovation of any public or private building or structure, mechanical piping equipment or system involving the demolition, removal, encapsulation, salvage, or disposal of asbestos-containing material. Asbestos abatement includes, but is not limited to:

- The wrecking or removal of any structural member containing asbestos material.
- The coating, binding, or resurfacing of walls, ceilings, pipes, or other structures for the purpose of preventing asbestos from becoming airborne.
- The construction of airtight walls and ceilings, by use of impact resistant materials, to isolate surfaces coated with material containing asbestos material.
- The removal of asbestos-containing material from any pipe, duct, boiler, tank, reactor, furnace, or any other structural member including, but not limited to roofs, ceilings, floors, or interior or exterior sidewalls.

“Asbestos Abatement Project” means work undertaken by a contractor or person which involves the installation, removal, encapsulation, application or enclosure of any asbestos project or asbestos-containing materials, or the disturbance of friable asbestos or cementitious asbestos-containing material or the disturbance of non-friable material that will become friable with handling, except for work in an owner occupied single family dwelling performed by the owner of such dwelling.

“Asbestos Containing Materials” means materials composed of asbestos of any type in an amount greater than 1% by area, either alone or mixed with other fibrous or non-fibrous materials.

“Asbestos Management Program” means a program to safely manage asbestos-containing material with ongoing inspections, maintenance, repair, and removal control methods.

“ASHARA” means Asbestos School Hazard Abatement Reauthorization Act.

“Authorized Enforcement Agency” means the State of Delaware, Department of Natural Resources and Environmental Control, which enforces this Regulation in accordance with 16 Delaware Code Chapter 7806(1).

“Building Owner” means legal right of possession through lawful title.

“Certification” means the authorization issued by the Office of Management and Budget to any contractor, professional services firm, project supervisor, worker, or field technician who has met the minimum requirements established by the department permitting the contractor or individual to engage in asbestos abatement. Certification is limited to demonstrated ability to engage in asbestos abatement in accordance with this Regulation and recognized standards for asbestos abatement only.

“Certified Asbestos Abatement Contractor Class A” means any individual, public or private corporation, partnership, association, firm, trust, estate, institution or other legal entity who has met the minimum requirements established by the department to perform all types of asbestos abatement (Unlimited) within the State of Delaware. Certification is limited to demonstrated ability to engage in asbestos in accordance with this Regulation and recognized standards for abatement only.

“Certified Asbestos Abatement Contractor Class B (Limited)” means any individual, public or private corporation, partnership, association, firm, trust, estate, institution, or other legal entity who has met the minimum requirements established by the department, and has been certified by the department to perform limited or specialized (roofer, exterior sider, plumber, HVAC mechanic or other tradesman who must work in and around asbestos-containing material in their normal everyday craft) asbestos abatement within the State of Delaware, and whose main business is not asbestos abatement. Certification is limited to demonstrated ability to engage in asbestos abatement in accordance with this Regulation and recognized standards for asbestos abatement only.

“Certified Asbestos Abatement Project Supervisor Class A (Unlimited)” means an asbestos abatement project supervisor who has met the minimum requirements of the department, has been certified by the department to perform all types of asbestos abatement and is designated

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- by the contractor as the contractor's representative, and responsible for the on-site supervision of the removal, encapsulation, enclosure, or repair of asbestos-containing materials. Certification is limited to demonstrated ability engage in asbestos abatement in accordance with this Regulation and recognized standards for asbestos abatement only.
- "Certified Asbestos Abatement Worker Class A (Unlimited)"** means an asbestos abatement worker who has met the minimum requirements of the department, has been certified by the department to perform all types of asbestos abatement, and is designated to construct and administer all environmental controls, clean, remove, encapsulate, haul or dispose of asbestos-containing materials. Certification is limited to demonstrated ability to engage in asbestos abatement in accordance with this Regulation and recognized standards for asbestos abatement only.
- "Certified Asbestos Abatement Worker Class B (Limited)"** means an asbestos abatement worker who has met the minimum requirements of the department, has been certified by the department to perform limited (roofs, exterior sidings, etc.) asbestos abatement for a Certified Class Abatement Contractor (Class B), and is designated to construct and administer all environmental controls, clean, remove, encapsulate, haul, or dispose of asbestos containing materials. Certification is limited to demonstrated ability to engage in asbestos abatement in accordance with this Regulation and recognized standards for asbestos abatement only.
- "Certified Asbestos Project Supervisor Class B (Limited)"** means a project supervisor who has met the minimum requirements of the department, has been certified by the department to perform limited or specialized (roofs, exterior sidings, etc.) asbestos abatement for a Certified Asbestos Abatement Contractor (Class B), and is designated by the contractor as the contractor's representative and responsible for the on-site supervision of the removal, encapsulation, enclosure, or repair of asbestos-containing materials. Certification is limited to demonstrated ability to engage in asbestos abatement in accordance with this Regulation and recognized standards for asbestos abatement only.
- "Certified Professional Services"** means certified professional services for asbestos. Includes design, plans and specifications, bulk and air samples, air monitoring, and laboratory results.
- "Certified Project Monitor"** means a certified individual assigned by a Certified Professional Service Firm to an asbestos abatement project.
- "Contractor"** means for the purpose of this Regulation an abbreviation for "asbestos abatement contractor", Class "A" and "B".
- "De Certification"** means the loss of a certification granted by the department Certification to include loss of all the privileges granted to a certificate holder.
- "Department"** means The State of Delaware, Office of Management and Budget.
- "Design Person"** means a person accredited by U.S.E.P.A. standards under the Asbestos Hazard Emergency Response Act (AHERA), 40 CFR 763, dated October 1987. The person/firm hired to design asbestos abatement projects.
- "DNREC"** means the State of Delaware, Department of Natural Resources and Environmental Control.
- "E. P. A."** means United States Environmental Protection Agency.
- "Encapsulation"** means the application of a material to asbestos-containing materials to control the release of asbestos fibers into the air. The material creates a membrane over the surface (bridging encapsulant) or penetrates the material and binds its components together (penetrating encapsulant).
- "Enclosure"** means the construction of air-tight walls, ceilings, or other physical barriers between the asbestos materials and the building environment, or around surfaces coated with asbestos-containing materials, or other appropriate scientific procedure as determined by the department which prevents the release of asbestos materials.
- "Environmental Controls"** means the use of proper mechanical and engineering controls necessary for the safe and effective abatement of asbestos-containing materials.

“Environmental/Engineering/Architectural Consulting Firms” means professional service firms hired for inspection, testing, management planning, specifications, project design, bulk sampling, air monitoring, project oversight, and contract administration for asbestos abatement project.

“Friable Asbestos-Containing Materials” means any material that contains more than 1% asbestos, by weight, that hand pressure can crumble, pulverize, or reduce to powder when dry, or is already dry and pulverized.

“In-Plant Operations” means employees engaged in routine maintenance operations and other minor asbestos projects involving asbestos or asbestos material worked on exclusively by employees of the plant owner or operator.

“Incidental” means a worker/tradesperson who comes in contact with asbestos-containing material during his/her normal day to day operation. A worker/tradesperson who does not fall into the category of Class "A" or Class "B" worker/contractor as described in this Regulation. (Example: A utility worker who is required to drill holes in asbestos siding to install a meter).

“NESHAPS” means National Emission Standards for Hazardous Air Pollutants 40 CFR, Part 61).

“NIOSH” means National Institute for Occupational Safety and Health.

“O.S.H.A.” means Occupational Safety and Health Administration.

“Public Agency” means any agency that receives State funds from any source and utilizes the funds for an asbestos abatement project.

“Removal” means the demolition or stripping of asbestos-containing materials or dislodging of any asbestos fibers from the original location, such as pipe, duct, boiler, tank, reactor, turbine, furnace, or structural member including but not limited to ceilings, floors, interior or exterior sidewalls, or at any other location that asbestos may be found.

“Renovation” means the altering of one or more building components to include modifications, changes, or additions.

“Repair” includes the restoration of asbestos-containing material that has been damaged. Repair usually consists of the application of duct tape, rewettable glass cloth, canvas, cement, or other suitable material to seal exposed areas where asbestos fibers may be released. Repair of previously encapsulated asbestos-containing materials may include filling damaged areas with non-asbestos substitutes and re-encapsulating. Repair of enclosures around asbestos-containing materials in contemplated by this term.

2.0 Training Requirements for Asbestos Contractors/Supervisors/Workers – Class “A” and “B”. Environmental Project Monitor

The following minimum training requirements are promulgated in accordance with 16 **Del. Code**, Chapter 78, "Asbestos", Paragraph 7805 (2) and U.S. Environmental Protection Agency Asbestos Hazard Emergency Response Act (AHERA), 40 CFR 763.

In order to become certified by the Office of Management and Budget to work with asbestos-containing materials in the State of Delaware all below listed training requirements must be met.

2.1 ASBESTOS WORKER - CLASS "A"

2.1.1 Shall successfully complete a four (4) day - thirty-two (32) hour course including fourteen (14) hours of hands-on training approved by the Department.

2.1.2 During a portion of the fourteen (14) hours hands-on training the student will demonstrate the prescribed skills handling ACM while in full containment under negative air pressure using type "C" grade "D" respiratory protection. This is required on State of Delaware public schools & public buildings only.

2.1.3 At the completion of training all students will take a 50 question examination and pass with a minimum score of 70%.

2.2 ASBESTOS ABATEMENT CONTRACTOR/SUPERVISOR - CLASS "A"

2.2.1 Shall be totally independent of the worker course and taught at a level in accordance with the ASHARA MAP.

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- 2.2.2 At the completion of this training, supervisors will take a 100 question examination and must pass with a 70% score.
- 2.2.3 In addition supervisors must pass a minimum for (4) hour nationally recognized C. P. R. course in order to become certified by the Department. The original credentials must be presented at the time of application for certification.
- 2.3 ASBESTOS ABATEMENT CONTRACTOR/SUPERVISOR - CLASS "B"
- 2.3.1 One competent person (per work site) for a "B" Contractor or Supervisor must have the forty (40) hour Class "A" Supervisor Training to meet OSHA Class II requirements.
- 2.3.2 Shall successfully complete a two (2) day, fourteen 14 hour course approved by the Department which includes hands-on in accordance with OSHA 1926.1101 "Asbestos". And must pass a thirty-five (35) question examination with a passing score of 70%.
- 2.3.3 Asbestos Worker Class "B" Training:
- 2.3.3.1 Shall successfully complete a 1 1/2 day, twelve (12) hour course approved by the department. And must pass a twenty-five (25) question examination with a passing score of 70%.
- 2.4 ANNUAL RE-TRAINING.
- 2.4.1 Annual re-training and examinations are required for Class "A" certifications as approved by the Department. Biennial — two (2) year - re-training is required for Class "B" certification.
- 2.5 At the successful completion of training all students must apply to the Office of Management and Budget within one (1) year of the initial training and within one (1) year after expiration for their certification and photo identification badges. See instructions under Section 12, Certification.
- 2.6 TRAINING ENTITIES/TRAINERS
- 2.6.1 All entities requesting to train in the State of Delaware must meet the minimum requirements in accordance with 16 Del Code, Chapter 78 "Asbestos" 7805(2), these regulations, and the U.S. Environmental Protection Agency, Asbestos Hazard Emergency Response Act (AHERA) and the Asbestos School Hazard Abatement Reauthorization Act (ASHARA). Training must be equal to or better than the State of Delaware requirements.
- 2.6.2 The State of Delaware has adopted the procedures for de-accreditation of persons and withdrawal of course approval in 40 CFR, Part 763, Unit III.C. (ASHARA).
- 2.7 TRAINING REQUIREMENTS FOR ENGINEERING/ENVIRONMENTAL CONSULTING FIRMS AND PROJECT MONITORS
- 2.7.1 Project Monitors are required to take a five (5) day technician course in Delaware on Delaware laws, regulations, and procedures. Training requirement is annually.
- 2.7.2 A prerequisite to Project Monitor training is prior approval by the Office of Management and Budget to attend this course for certification.
- 2.7.3 Prerequisites for Project Monitor training:
- Experience - combination of education and experience.
 - Education and training - successful completion of any EPA/State accredited AHERA supervisors course.
 - Current certificates of all accredited and other asbestos courses attended.
 - Copies of all in-house training certificates.
 - Current annual AHERA training requirements.
 - Resume of field experience.
- 2.7.3.1 If an applicant for Project Monitor does not hold a valid course completion certificate for project supervisor from another State or EPA approved supervisor course they will be required to attend the Delaware Project Supervisors Course.
- 2.8 OTHER PRE-REQUISITES FOR PROJECT MONITOR CERTIFICATION

- 2.8.1 An individual who has a current Asbestos Supervisor Certification may apply in the State of Delaware as a Project Monitor and must take a two (2) day Project Monitor Course.
- 2.8.2 An individual who has no asbestos abatement experience must take the five (5) day Supervisor Course in addition to the five (5) day Delaware Project Monitor course.
- 2.8.3 Individuals with extensive experience in other states may apply to be grandfathered. However, after review of the application, resumes, other courses taken in the asbestos field, and education, the Asbestos Office will determine if the individual is qualified under the grandfathering clause or if they must attend additional training before being issued a Project Monitor Certification.

NOTE: The fee for the Project Monitor certification is \$50.00 and will activate a one (1) year certification.

3.0 Compliance

- 3.1 Any public or private asbestos abatement project, except for work in an owner-occupied single family dwelling performed by the owner of such dwelling, shall be performed by a contractor and/or contractors who have been certified by the department.
- 3.2 All professional service firms preparing plans and specifications for asbestos abatement work to be performed in the State of Delaware shall be required to submit evidence that he/she is qualified, and shall be certified as hereinafter provided.
- 3.3 Any contractor engaged in asbestos abatement projects within the State shall be required to submit evidence that he/she is qualified to perform asbestos abatement, and shall be certified as hereinafter provided:
 - 3.3.1 It shall be unlawful for any contractor/professional service firm to engage in or offer to engage in asbestos abatement projects within the State unless such contractor has been duly certified under the provisions established by the department.
 - 3.3.2 It shall be unlawful for any contractor or professional service firm to use or advertise any title or description intending to convey the impression that such contractor or professional service firm is certified for asbestos abatement, unless such person has been certified by the department.
 - 3.3.3 A joint venture provides a means by which contractors may combine their resources in order to undertake a larger project that each would not otherwise be able to perform as separate contractors. No contractor may participate in a joint venture for the purpose of asbestos abatement unless all parties are certified contractors.
 - 3.3.4 No contractor under this Regulation shall subcontract any work involving asbestos abatement unless the subcontractor is certified by the department.
 - 3.3.5 No contractor shall initiate an asbestos abatement project without assigning a certified Asbestos Project Supervisor to the project who shall remain at the project site at all times the asbestos abatement portion of the project is in progress. The Asbestos Project Supervisor shall be certified by the department as hereinafter provided. Not mandatory for Class "B" type work
 - 3.3.6 No contractor under this Regulation shall directly or indirectly employ any worker for asbestos abatement projects who has not received a certification from the department in the classification for the contractor or higher. The department shall certify all Asbestos Abatement Workers as hereinafter provided.
 - 3.3.7 The requirements of this Regulation shall in no way be construed to relieve asbestos abatement contractors, supervisors, and/or workers from compliance with other regulatory requirements or contractual agreements which may be more restrictive.
 - 3.3.8 A copy of a valid Asbestos Abatement Contractor Certificate or other proof of the issuance of a valid Asbestos Abatement Contractor Certificate deemed suitable by the department shall be submitted by the bidder to the party soliciting bids prior to the award of any public works contract, all or part of which involves an asbestos abatement project.
 - 3.3.9 A copy of a valid Asbestos Abatement Contractor Certificate and a valid Professional Service Firm Certificate shall be conspicuously displayed proximate to but outside the work area on all asbestos projects.

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- 3.3.10 It shall be unlawful for any Professional Service Firm or Contractor to remove, repair, encapsulate, or demolish material from a structure as asbestos-containing material unless certificates of laboratory analysis have been provided to the building owner proving the material is asbestos-containing material.
- 3.3.11 It shall be unlawful for any Contractor or Professional Service Firm to work in public/private schools unless they are qualified under AHERA.

4.0 Requirements for asbestos Abatement Contractor Certification

- 4.1 The department shall evaluate the ability and experience of all applicants for Asbestos Abatement Contractor Certification and render a decision to approve or deny the applicant certification for asbestos abatement work within the State of Delaware. The department shall prepare and maintain a list of Certified Asbestos Abatement Contractors. The contractor shall possess the qualifications detailed below for the appropriate class of asbestos abatement projects.
- 4.2 Certification as an Asbestos Abatement Contractor, Class A (Unlimited) is required by all contractors whose primary business is asbestos abatement and/or in the course of doing business can reasonably expect to encounter all types of asbestos abatement projects, such as abatement from pipes, vessels, ceilings, structural member, floors, etc.
- 4.2.1 Qualifications for Asbestos Abatement Contractor, Class A (Unlimited) include:
- The contractor shall clearly demonstrate all experience in the field of asbestos abatement.
 - The contractor shall have access to at least one (1) approved asbestos disposal site in Delaware for deposit of all asbestos waste generated by that firm.
 - The contractor shall be able to clearly demonstrate the willingness and desire to correctly and safely handle asbestos abatement projects.
 - The contractor shall clearly demonstrate the knowledge and ability to correctly and safely organize, manage, and perform an asbestos abatement project.
 - The contractor shall demonstrate a history of successfully completed asbestos abatement projects.
 - If applicable, the contractor shall submit a history of fines, citations, or other actions by regulatory agencies.
 - The contractor shall demonstrate the capability to perform asbestos abatement work, including but not limited to necessary equipment, trained personnel, organizational structure, landfill availability, financial stability, experience and/or training.
 - Complete all required applications specified by the department.
 - Other qualifications as required by the department, as changes to Federal and State statutes dictate.
- 4.3 Certification as an Asbestos Abatement Contractor, Class B (Limited) is required by all contractors whose primary business is other than asbestos abatement but can reasonably expect that some projects will involve asbestos abatement as defined by this Regulation. (Example A: Roofing/siding contractor who can reasonably expect to handle asbestos-containing materials regulated by the Delaware Department of Natural Resources and Environmental Control, Regulation 21, Delaware Regulations Governing the Control of Air Pollution. Example B: Plumbing/HVAC contractors who can reasonably expect to handle asbestos-containing material limited to 3 square or 3 linear feet or less.) There is no limitation for the exterior of structures or buildings.
- 4.3.1 Qualifications for an Asbestos Abatement Contractor, Class B (Limited) will include:
- Demonstrate the same qualifications as outlined in Section 4.02(2) (3) (4) (5) (6) (7) (8) (9) of this Regulation.
 - Complete training for Class "B" certification as required.
- 4.4 Certification is limited to demonstrated ability to engage in asbestos abatement projects in accordance with this Regulation and recognized standards for asbestos abatement only.

5.0 Application for Asbestos Abatement Contractor Certification or Renewal of Certifications

- 5.1 All applications for Asbestos Abatement Contractor Certification shall be submitted as follows:
- 5.1.1 All applications for Asbestos Abatement Contractor Certification shall be submitted in writing on forms furnished by the department. Copies of such forms may be obtained from the Office of Management and Budget, Division of Facilities Management.
 - 5.1.2 Completion of such forms may require the inclusion of any information required by the department.
 - 5.1.3 Each certification application shall contain a verified statement by the applicant for certification or its duly authorized representative that any person employed by the applicant on any asbestos abatement project whose duties involve the installation, removal, encapsulation, application or enclosure of asbestos material, or the disturbance of friable asbestos, or the disturbance of cementitious asbestos material that can become friable by handling or disposal, the construction of a containment, or the supervision thereof, shall have a valid Asbestos Project Supervisor or Asbestos Worker Certificate as required by this Regulation, that the contractor will provide such persons with a copy of this Regulation and notify him/her of the obligation to abide by their provisions and that the contractor will abide by all rules and regulations promulgated by the department pursuant to the laws of the State of Delaware.
 - 5.1.4 Completed application shall be sent to the address specified in the application package accompanied by a non-refundable application fee of one hundred (\$100.00) dollars. The fee shall be paid in the form of a bank or postal money order, bank cashier's check, or certified check payable to the State of Delaware.
 - 5.1.5 The department shall notify the applicant in writing no later than thirty (30) days from receipt of the certification application of the issuance or denial of the certification or the need for further information from the applicant in order to process the certification application. Notification of denial of certification on any grounds other than failure to complete the certification application shall set forth the grounds for such denial.
 - 5.1.6 An Asbestos Abatement Contractor Certificate shall be valid for a period of one (1) year from the date of issuance.
 - 5.1.7 An applicant denied certification on any grounds other than failure to complete an application may request a hearing before the Secretary of Administrative Services or his designee by submitting a written request for such hearing within ten (10) days of receipt of denial.
- 5.2 All applications for renewal of Asbestos Abatement Contractor Certification shall be submitted as follows:
- 5.2.1 A certificate holder who intends to seek renewal of an Asbestos Abatement Contractor Certification issued by the department under this Regulation shall submit a notice to renew the certificate at least sixty (60) days prior to its expiration. Upon receipt of such notice, the department shall furnish a renewal application to the contractor. The renewal application may request the applicant to inform the department of any changes in information previously provided to the department and any other information deemed by the department to be relevant.
 - 5.2.2 The completed application shall be sent to the department at the address specified in the application package accompanied by a non-refundable renewal application fee of one hundred dollars (\$100.00). The fee shall be paid in the form of a bank or postal money order, bank cashier's check, or certified check payable to the State of Delaware. No other instrument shall be used for payment of an application fee for certification renewal. The renewal fee for Class "B" contractor shall be one hundred (\$100.00) dollars.
 - 5.2.3 The department shall notify the renewal applicant in writing of the issuance or denial of the certification renewal or the need for further information from the applicant in order to process the application. Notification of denial of a certification renewal on any grounds other than failure to complete the renewal application shall set forth the grounds for such denial. An applicant denied renewal of certification may request a hearing before the

Secretary of Administrative Services or his/her designee by submitting a written request for such hearing within ten (10) days of receipt of denial.

5.2.4 In the event the contractor fails to renew the certification before the expiration date, the contractor's certification will expire. Any contractor whose certification has expired shall be required to reapply for certification under the provisions of this Regulation. If the expiration period has been two years or more the applicant must apply as a first time applicant.

5.2.5 It shall be unlawful for any contractor to engage in or offer to engage in any asbestos abatement projects or activities within the State of Delaware if the contractor certification has expired. In addition, all other restrictions outlined in this Regulation apply for any contractor whose certification has expired and/or not been renewed.

5.3 The certificate for an Asbestos Abatement Contractor shall:

- Be in writing.
- Contain the date of issuance.
- Contain an expiration date.
- Contain the name and address of the contractor to whom it is issued.
- Be valid for one year from the date of issuance unless sooner suspended or revoked.
- Be signed by the Secretary of the Office of Management and Budget or his/her designee.
- Contain the contractor certification number.
- Contain the contractor federal employer identification number.
- Indicate Asbestos Abatement Contractor category, i.e. Class A (Unlimited) or Class B (Limited).

6.0 Denial of Contractor Certification

6.1 The department may deny contractor certification if it determines that the applicant has not demonstrated the ability to comply fully with applicable requirements or a standard of performance. The department may deny any request for certification if the applicant:

6.1.1 Fraudulently or deceptively attempts to obtain a certification.

6.1.2 Fails at any time to meet the qualifications for certification to comply with any provision or requirement of any rules and regulations adopted by the department.

6.1.3 Has been denied certification or has been decertified in any other State. The review panel will evaluate the comparison of regulations from State to State when making the determination.

6.1.4 Fails to submit a complete application.

6.1.5 Submits information with the application which fails to adequately demonstrate the contractor's ability to safely perform the asbestos abatement work.

6.1.6 If any information exists to indicate that the contractor has failed to meet obligations under a contract or has failed to safely perform any asbestos abatement project.

6.1.7 Has demonstrated repeated deficiencies outlined in Sections 8 and 9 of this Regulation.

6.1.8 Is under present litigation for asbestos violations in the State of Delaware.

6.2 The department shall notify the certification applicant in writing no later than thirty (30) days from receipt of the application of the issuance or denial of certification or the need for more information from the applicant in order to process the certification application. Notification of denial of certification on any grounds other than failure to complete the application shall set forth the grounds for denial. An applicant denied certification may request a hearing before the Secretary of Administrative Services or his/her designee by submitting a written request for such a hearing within thirty (30) days of denial. The decision of the Secretary may be appealed to Superior Court in accordance with Chapter 78, Title 16 of the Delaware Code. The department shall retain the application fee if certification is denied.

- 6.3 When certification is denied on grounds other than failure to complete the application the contractor may reapply for certification upon correction of the grounds for denial by resubmitting necessary applications with supporting evidence that the deficiencies have been corrected. Each re-application for the certification shall be accompanied by the full fee of one hundred dollars (\$100.00) for certification review.

7.0 Required Notices

- 7.1 The Contractor or Professional Service Firm shall notify the department within forty-eight (48) hours upon the sale in whole or any part of the firm certified by the State.
- 7.2 The contractor or professional service firm shall notify the department within forty-eight (48) hours of any changes in any of its members, if the firm is a partnership or association, and changes in its stockholders, officers or directors if the firm is a corporation.
- 7.3 The contractor or professional service firm shall notify the department within forty-eight (48) hours of any or all violations, citations, suspensions, and/or revocations incurred in any other state or by any local, state, or Federal agency.

8.0 Recordkeeping

- 8.1 Each Certified Asbestos Abatement Contractor (A and B) or Professional Service Firm shall maintain records of all asbestos projects performed and shall make these records available to the department or the authorized enforcement agency upon request. The Asbestos Abatement Contractor and Professional Service Firm shall retain the records for at least thirty (30) years.
- 8.2 The Asbestos Abatement Contractor shall record the following information for each project:
- 8.2.1 Name, address, social security number and certification number of each job supervisor responsible for the project;
 - 8.2.2 Name, address, social security number and certification number of each certified asbestos abatement worker on the project;
 - 8.2.3 A copy of the asbestos abatement contract;
 - 8.2.4 A detailed description of how the asbestos was abated;
 - 8.2.5 The location and description of the project and estimated amount of asbestos removed or estimated area encapsulated or enclosed at each project;
 - 8.2.6 Starting and completion dates. If completion date differs from that originally scheduled, include statement of reasons for delay;
 - 8.2.7 Summary of procedures used to comply with applicable requirements including copies of all notifications;
 - 8.2.8 Name and address of the asbestos waste disposal site and disposal receipts. These should indicate amount of material disposed and should clearly identify the source of the material;
 - 8.2.8 Name and address of the asbestos waste hauler and hauling receipts;
 - 8.2.9 Results of all air sampling conducted during the abatement including personal, area and clearance samples;
 - 8.2.10 The contractor shall comply with all submittal, documentation and notice requirements set forth by EPA, OSHA and all other Federal, State and local regulatory agencies.
 - 8.2.10.1 Copies of all submittals, documents and notices that are produced or are given to the owner or to any governmental agency must be retained by the contractor;
 - 8.2.11 Any other information which the department may require on a form and according to instructions provided by the department.
- 8.3 Whenever a Certified Asbestos Abatement Contractor ceases to do business and there is no successor contractor to receive and retain the records for the prescribed period, the contractor shall notify the department at least ninety (90) days prior to the cease of business and, upon request, transmit them to the department.
- 8.4 The employing asbestos abatement contractor will maintain complete accurate records of all pre-placement, annual and termination of employment medical examinations. Records must

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be retained by the firm for the duration of employment plus thirty (30) years in accordance with 29 CFR 1910.20(m)(3) or any revision or addition to same. The employer (contractor) is responsible for costs of medical examinations under OSHA 1910.20.

8.5 Employee exposure records.

8.5.1 Every contractor shall maintain records of any personnel physical or environmental monitoring for at least thirty (30) years in accordance with 29 CFR 1910.1001(m)(1) or any revision or addition to same.

8.5.2 Every employee and former employee shall have reasonable access to any record required to be maintained which indicates the employee's exposure to asbestos fibers.

8.6 Training program records.

8.6.1 Each certified asbestos abatement firm shall maintain records of all Certified Asbestos Project Supervisors and Certified Asbestos Workers for one (1) year beyond the last date of employment of that employee. The records shall contain at a minimum:

- Name, address, social security number, training course completion certificate (certificate of course completion) and Supervisor's/Worker's certificate number for each Certified Asbestos Supervisor and/or Worker.
- Records of all asbestos abatement training received by members of the contracting firm.

8.7 All documents, notices, and information listed which are required to be kept by the contractor, shall be maintained for a period of not less than thirty (30) years or as shown in this Regulation. The department shall be afforded access to all such information and documents, without charge during such time period. After such time and/or period prior to destroying any documents arising out of, relating to or resulting from any asbestos project, the contractor shall notify the department at least ninety (90) days in advance. At the department's request, the contractor shall deliver any such documents which are requested by the department to the department, with the contractor being responsible for shipping charges.

9.0 Inspections

9.1 At the Department of Administrative Service's or Department of Natural Resources and Environmental Control's discretion during an asbestos abatement project, the department may conduct on-site inspections of each certificate holder's procedures for the abatement and disposal of asbestos contaminated material. The department or a designated representative shall inspect all:

- Supervisor's/Worker's certificates.
 - Respirator and work protection programs.
 - All OSHA compliance records that are required by this Regulation.
 - All other inspections to be performed as deemed necessary by the department.
- Compliance with project specifications.

9.2 If failure to meet standards for certification is discovered during an inspection, the contractor and/or his employees shall be held liable and may be assessed penalties provided by law and this Regulation.

9.3 The Department of Natural Resources and Environmental Control (DNREC) has jurisdiction over all asbestos projects within the State of Delaware. Any or all inspection reports from DNREC may be included in the contractor's certification file.

10.0 Suspension and/or Revocation of Asbestos Certification

10.1 For the purposes of this Section, the definition for the term "Contractor" or "Professional Service Firm" shall be expanded to include:

"If the Contractor or Professional Service Firm, partnership, or association, and all of its members, or if the Contractor is a corporation, any and all of its stockholders,

officers or directors, or any and all persons designated to manage or supervise the asbestos abatement activities."

- 10.2 The department may, for the cause or for violation of this Regulation or DNREC Regulations, suspend and/or revoke any certification issued under this Regulation. Further, in any circumstances where any Contractor or Professional Service Firm has demonstrated the inability or reluctance to follow safety precautions or project specifications, the Contractor's certification may be immediately suspended and/or revoked.
- 10.3 In any instance where a Contractor or Professional Service Firm does not follow appropriate health or environmental requirements, that Contractor's certification will be suspended until such time as documented evidence can be presented, establishing full confidence by the department in the Contractor's ability to perform.
- 10.4 A Contractor whose certification has been suspended or revoked shall not bid, contract, or subcontract any work involving asbestos abatement within the State of Delaware.
- 10.5 Contractor suspension and/or revocation will involve the suspension and/or revocation of all principal members of the firm. Any principal in a firm whose certification has been suspended and/or revoked shall not serve on the Board of Directors, as an officer, or have any interest in another firm, certified or applying for certification within the State of Delaware. If it is found that a principal member of a firm whose certification has been suspended and/or revoked serves in any of the above capacities for a firm that is currently certified or seeking certification, that firm's certification may immediately be suspended and/or revoked.
- 10.6 If a contractor whose certification has been suspended and/or revoked is found to have obtained certification under another name or as a silent partner, or as a member of profit-sharing in another firm, this act will be considered an act of fraud and all firms involved may have their certification suspended and/or revoked.
- 10.7 A Contractor whose certification has been suspended and/or revoked in any other State or municipality, which has or may have in the future a certification program, may have the Delaware certification immediately suspended and/or revoked.
- 10.8 If a certified Contractor is barred from bidding on asbestos projects for Federal, State or local government project, that Contractor's certification may immediately be suspended and/or revoked within the State of Delaware.
- 10.9 If a Contractor is cited or fined by any Federal or State regulatory agency for an asbestos related violation, that violation will be reviewed by the department for severity and nature. If at the sole discretion of the department, it is determined that the violation puts the Contractor's qualifications and ability in any doubt, that Contractor's certification may be immediately suspended and/or revoked within the State of Delaware.
- 10.10 In addition to the above, causes for suspension and/or revocation include, but may not be limited to the following:
 - 10.10.1 Providing false information to the Department.
 - 10.10.2 Shows evidence of a mental or physical impairment, as determined by the department, which may interfere with the certificate holder's safe performance of asbestos abatement work.
 - 10.10.3 Knowingly or recklessly disregarding safe work practices while performing asbestos abatement work.
 - 10.10.4 Use of non-certified personnel in asbestos abatement work.
 - 10.10.5 Falsification of information on application.
 - 10.10.6 Failure to comply with any regulations or procedures administered by the department.
 - 10.10.7 Failure to comply with the terms of a Notice of Violation or Administrative Order issued by the department.
 - 10.10.8 Receiving a total of two stop work orders on any project.
 - 10.10.9 Direct violation of OSHA or EPA regulations regarding asbestos.
 - 10.10.10 Failure to comply with contract specifications.
 - 10.10.11 Failure to comply with DNREC regulations.

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- 10.10.12 Any acts of fraud.
- 10.10.13 Being loaned, abandoned or allowed to pass from the control of ownership stated in the application.
- 10.10.14 Conviction of the Contractor, or if the Contractor is a firm, partnership or association, of any of its members, or if a corporation, of any of its officers or directors, or of any person designated to manage or supervise the asbestos abatement activities, of a felony, or two or more misdemeanors involving fraudulent activities.
- 10.10.15 Failure to complete an asbestos abatement project due to insufficient financial resources to operate and conduct the asbestos abatement activities.
- 10.10.16 When any person, firm or corporation claims to have been damaged or injured by the gross negligence, incompetency, fraud, dishonest dealing and/or misconduct in the practice of contracting on the part of any Contractor certified hereunder shall file suit upon such claims in any of the courts of record in Delaware and recover judgment in such case, revoke the certificate under which such Contractor is operating at the time of the aforementioned violations.
- 10.10.17 Any action deemed by the department as worthy of suspension and/or revocation.
- 10.10.18 Failure to provide all notices required in Section 7 of this Regulation "Required Notices" to the department in a correct and timely manner.
- 10.11 If the department acts to suspend and/or revoke any certification under the provisions of this Section, the department shall promptly notify the certificate holder in writing, by certified mail, or the reason for suspension and/or revocation. The notice of suspension and/or revocation will provide necessary information concerning the right to request a hearing before the Secretary of Administrative Services.
- 10.12 A contractor whose certification is suspended and/or revoked under this Section shall surrender the Asbestos Abatement Contractor Certificate to the department within the time period specified in the notice.

11.0 Certification for Professional Service Firms

- 11.1 Architectural/Engineering/Environmental Consulting Firms who provide services such as specifications and design, project administration and management, perform bulk and air sampling for asbestos abatement projects and/or who provide technical consulting services for asbestos abatement projects shall be certified and regulated by this Regulation.
- 11.2 Qualifications for certification of asbestos professional services.
 - 11.2.1 Submit Federal Standard Forms 254 and 255 for review by Department Review Panel.
 - 11.2.2 Submit application provided by the department.
 - 11.2.3 Submit the following special qualifications and certificates of firm and staff as supplemental information:
 - 11.2.3.1 NVLAP accreditation
 - 11.2.3.2 AIHA accreditation
 - 11.2.3.3 PAT - Round Robin participation
 - 11.2.3.4 Project Design person accredited by EPA approved course
 - 11.2.3.5 AHERA Inspector's accreditation
 - 11.2.3.6 AHERA Management Planner accreditation
 - 11.2.3.7 Number of Field Technicians certified in Delaware
 - 11.2.3.8 NIOSH 582 course
 - 11.2.4 If the firm does not have its own laboratory facility, indicate what laboratory or laboratories the firm utilizes and the qualifications of that laboratory.

12.0 Asbestos Project Supervisor Certification

- 12.1 No Contractor shall engage in supervision or permit a person employed by the Contractor to supervise work on an asbestos project involving the installation, removal, encapsulation, application or enclosure of asbestos or asbestos material or the disturbance of friable asbestos, or the disturbance of cementitious asbestos material that can become friable by disturbance, unless each such supervisor has a valid Asbestos Project Supervisor Certification.
- 12.2 Any Supervisor whose duties involve the supervision of the installation, removal, encapsulation, application or enclosure of any asbestos material or the disturbance of friable asbestos material, or cementitious asbestos material that can become friable by disturbance, shall have an Asbestos Project Supervisor Certification or a copy thereof in his/her possession at all times during his/her work on the project. Should the department at any time deem it impractical for such certificates or copies thereof to be maintained in the possession of such persons, the department may designate some appropriate alternate location proximate to but outside the work area at which such certificates or copies may be kept.
- 12.3 The class of Supervisor certification will be determined by the nature of the employing Certified Asbestos Contractor Certification and activities as defined in Sections 2, 3, and 4 of this Regulation.
- 12.4 The qualifications required for certification as Asbestos Project Supervisor are:
 - 12.4.1 Delaware State certification as a Certified Asbestos Abatement Worker. The worker certification must be the same class (or higher class) as the class of Supervisor certification.
 - 12.4.2 Successful completion of a Delaware State approved Asbestos Project Supervisor training.
 - 12.4.3 Proof of current qualification from an American Red Cross or American Heart Association four (4) hour CPR course.
 - 12.4.4 Physical ability to perform asbestos abatement work without endangering the health and safety of themselves or others.
 - 12.4.5 Free of any respiratory and/or health disorders which would prevent the wearing of respiratory equipment.
 - 12.4.6 Other requirements as determined by the department.
- 12.5 All applications for Asbestos Project Supervisor Certification shall be submitted as follows:
 - 12.5.1 All applications for Asbestos Project Supervisor Certification shall be submitted in writing on forms provided by the department. Copies of such forms may be obtained from the department.
 - 12.5.2 Completion of such forms may require the inclusion of any information deemed appropriate by the department. Along with such application forms, every applicant shall submit full face photographs of himself/herself in such number and sizes as the department shall prescribe. Such photographs shall have been taken within thirty (30) days of such application.
 - 12.5.3 Each application for Asbestos Project Supervisor Certificate shall contain a verified statement by the applicant that he/she will abide by all rules and regulations promulgated by either the department or any other State agency as appropriate.
 - 12.5.4 Completed applications shall be sent to the address specified in the application package accompanied by a non-refundable application fee of twenty-five dollars (\$25.00). The fee shall be paid in the form of a bank or postal money order, bank cashier's check or certified check payable to the State of Delaware. No other instrument shall be used for payment of an application fee. This fee is in addition to the \$25.00 Worker fee.
 - 12.5.5 The department shall notify the applicant in writing no later than thirty (30) days from receipt of the certification application of the issuance or denial of the certification or the need for further information from the applicant in order to process the certification application. Notification of denial of a certificate on grounds other than failure to complete the certification application shall set forth the grounds for such denial. An applicant denied certification may request a hearing before the Secretary of Administrative Services or his/

her designee by submitting a written request for such hearing within ten (10) days of receipt of denial.

- 12.5.6 An Asbestos Project Supervisor Certificate shall be valid for a period of one (1) year from the date of training unless sooner suspended and/or revoked.
- 12.6 All applications for renewal of Asbestos Project Supervisor Certificates shall be submitted as follows:
- 12.6.1 A certificate holder who intends to seek renewal of an Asbestos Project Supervisor Certificate issued by the department under this Regulation shall submit a notice to renew the certificate at least sixty (60) days prior to its expiration. Upon receipt of such notice, the department shall furnish a renewal application package to the applicant. The renewal application may request the applicant to inform the department of any changes in information previously provided to the department and any other information deemed by the department to be relevant. The renewal application package sent to the applicant will contain the application for renewal of both the Supervisor and the Worker certifications since the Supervisor is required to maintain both certifications.
- 12.6.2 The completed renewal application package shall be sent to the department at the address specified in the application package accompanied by a non-refundable application fee of fifty dollars (\$50.00). The fee shall be paid in the form of a bank or postal money order, bank cashier's check, or certified check payable to the State of Delaware. No other instrument shall be used for payment of an application fee for certification renewal.
- 12.6.3 Applicants for renewal of an Asbestos Project Supervisor certification must submit evidence of successful completion of a State of Delaware approved annual refresher course for Asbestos Project Supervisors completed within one (1) year of the day of application and current CPR qualifications.
- 12.6.4 The department shall notify the renewal applicant in writing of the issuance of Asbestos Project Supervisor certification and/or Asbestos Worker certification, or the denial of Asbestos Project Supervisor certification and/or Asbestos Worker certification, or the need for further information from the applicant in order to process the application. Notification of denial of one or both of the certification renewals on any grounds other than failure to complete the renewal application shall set forth the grounds for such denial. An applicant denied renewal of one or both of the certifications may request a hearing before the Secretary of Administrative Services or his/her designee by submitting a written request for such hearing within ten (10) days of receipt of denial.
- 12.6.5 In the event the Asbestos Project Supervisor fails to renew his/her certification before the expiration date, the certification will expire. Any supervisor whose certification has expired shall be required to reapply for certification under the provisions of this Regulation. If the expiration period has been one (1) year or more the applicant must apply as a first time applicant.
- 12.6.6 It shall be unlawful for any Asbestos Project Supervisor to engage in or offer to engage in any asbestos projects or activities within the State of Delaware if the Supervisor certification has expired. In addition, all other restrictions outlined in this Regulation apply for any Asbestos Project Supervisor whose certification has expired and/or not been renewed.
- 12.7 Suspension and/or revocation of Asbestos Project Supervisor Certification.
- 12.7.1 The department may, for cause or for violation of any regulations, suspend and/or revoke any Asbestos Project Supervisor certification issued under the provisions of this Regulation. Further, in any circumstances where an Asbestos Project Supervisor has demonstrated the inability or reluctance to follow safety precautions of the project specifications or a minimum standard of care, the Asbestos Project Supervisor certification may be immediately suspended and/or revoked.

- 12.7.2 In any instance where there is a question as to the likelihood that an Asbestos Project Supervisor will not follow appropriate health, safety or environmental requirements, that Project Supervisor may have his/her certification suspended and/or revoked until such time as documented evidence can be presented, establishing full confidence on behalf of the department in the Asbestos Project Supervisor's ability to perform.
- 12.7.3 If any Asbestos Project Supervisor has his/her certification suspended and/or revoked in any other State which has, or may have in the future, a certification program, that Asbestos Project Supervisor may have his/her Delaware Asbestos Project Supervisor certification suspended and/or revoked.
- 12.7.4 An Asbestos Project Supervisor whose certification has been suspended and/or revoked shall not provide project supervision under the provisions of this Regulation on any asbestos projects within the State of Delaware. However, depending on the severity of the violation, the department may elect to suspend and/or revoke the violator's certification as an Asbestos Abatement Worker.
- 12.7.5 Any past, present or pending civil litigation shall be considered for suspension.
- 12.8 Lost, damaged or destroyed Asbestos Project Supervisor certificates can be replaced by a written request to the department. The request must be accompanied by a statement from the applicant that the certificate was lost, damaged or destroyed through no fault of the applicant. A fee of fifteen dollars (\$15.00) in the form of a bank or postal money order, bank cashier's check, or certified check payable to the State of Delaware must be submitted with the request for replacement to cover administrative costs.

13.0 Asbestos Abatement Workers Certification

- 13.1 No Contractor shall engage in supervision or permit a person employed by the Contractor to work on an asbestos project involving the installation, removal, encapsulation, application or enclosure of asbestos or asbestos material or the disturbance of friable asbestos, or the disturbance of cementitious asbestos material that can become friable by disturbance, unless each such worker is a valid Asbestos Abatement Worker Certification.
- 13.2 Any Worker whose duties involve the installation, removal, encapsulation, application or enclosure of any asbestos material or the disturbance of friable asbestos material, or cementitious asbestos material that can become friable by disturbance, shall have an Asbestos Abatement Worker Certificate or a copy thereof in his/her possession at all times during his/her work on the project. Should the department at any time deem it impractical for such certificates or copies thereof to be maintained in the possession of such workers, the department may designate some appropriate alternate location proximate to but outside the work area at which such certificates or copies may be kept.
- 13.3 The class of Worker certification will be determined by the nature of the employing Certified Asbestos Contractor Certification of the employers and the activities as defined in Sections 2, 3, and 4 of this Regulation.
- 13.4 The qualifications required for certification as an Asbestos Abatement Worker are:
 - 13.4.1 Successful completion of a Delaware State approved Asbestos Abatement Worker training course.
 - 13.4.2 Physical ability to perform asbestos abatement work without endangering the health and safety of themselves or others.
 - 13.4.3 Free of any respiratory and/or health disorders which would prevent the wearing of respiratory equipment.
 - 13.4.4 A report of participation in a medical surveillance program demonstrating full compliance with OSHA requirements under 29 CFR 1910.20 and including a doctor's certification that the Worker has no medical conditions which would preclude that Worker from working while wearing a respirator.
 - 13.4.5 Other requirements as determined by the department.
- 13.5 All applications for Asbestos Abatement Worker shall be submitted as follows:

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- 13.5.1 All applications for Asbestos Abatement Worker certification shall be submitted in writing on forms furnished by the department. Copies of such forms may be obtained from the department.
- 13.5.2 Completion of such forms may require the inclusion of any information deemed appropriate by the department. Along with such application forms, every applicant shall submit full face photographs of himself/herself in such number and sizes as the department shall prescribe. Such photographs shall have been taken within thirty (30) days of such application.
- 13.5.3 Each application for Asbestos Abatement Worker shall contain a verified statement by the applicant that he/she will abide by all rules and regulations promulgated by either the department or any other State agency as appropriate.
- 13.5.4 Completed applications shall be sent to the address specified in the application package accompanied by a non-refundable application fee of twenty-five dollars (\$25.00). The fee shall be paid in the form of a bank or postal money order, bank cashier's check or certified check payable to the State of Delaware. No other instrument shall be used for payment of an application fee.
- 13.5.5 The department shall notify the applicant in writing no later than thirty (30) days from receipt of the certification application of the issuance or denial of the certification or the need for further information from the applicant in order to process the certification application. Notification of denial of a certificate on grounds other than failure to complete the certification application shall set forth the grounds for such denial. An applicant denied certification may request a hearing before the Secretary of Administrative Services or his/her designee by submitting a written request for such hearing within ten (10) days of receipt of denial.
- 13.5.6 An Asbestos Abatement Worker certificate shall be valid for a period of one (1) year from the date of training unless sooner suspended and/or revoked.
- 13.6 All applications for renewal of Asbestos Abatement Worker certificates shall be submitted as follows:
- 13.6.1 A certificate holder who intends to seek renewal of an Asbestos Abatement Worker certificate issued by the department under this Regulation shall submit a notice to renew the certificate at least sixty (60) days prior to its expiration. Upon receipt of such notice, the department shall furnish a renewal application package to the applicant. The renewal application may request the applicant to inform the department of any changes in information previously provided to the department and any other information deemed by the department to be relevant.
- 13.6.2 The completed renewal application package shall be sent to the department at the address specified in the application package accompanied by a non-refundable application fee of twenty-five dollars (\$25.00). The package shall include the Annual Re-Training Certificate. The fee shall be paid in the form of a bank or postal money order, bank cashier's check, or certified check payable to the State of Delaware. No other instrument shall be used for payment of an application fee for certification renewal.
- 13.6.3 The department shall notify the renewal applicant in writing of the issuance or denial of Asbestos Abatement Worker certification or the need for further information from the applicant in order to process the application. Notification of denial on any grounds other than failure to complete the renewal application shall set forth the grounds for such denial. An applicant denied renewal of certification may request a hearing before the Secretary of Administrative Services or his/her designee by submitting a written request for such hearing within ten (10) days of receipt of denial.
- 13.6.4 In the event the Asbestos Abatement Worker fails to renew his/her certification before the expiration date, the certification will expire. Any Worker whose certification has expired shall be required to reapply for certification under the provisions of this Regulation. If the

expiration period has been one (1) year or more the applicant must apply as a first-time applicant.

- 13.6.5 It shall be unlawful for any Asbestos Abatement Worker to engage in or offer to engage in any asbestos projects or activities within the State of Delaware if the Worker certification has expired. In addition, all other restrictions outlined in this Regulation apply for any Asbestos Abatement Worker whose certification has expired and/or not been renewed.
- 13.7 Suspension and/or revocation of Asbestos Abatement Worker Certification.
- 13.7.1 The department may, for cause or for violation of any regulations, suspend and/or revoke any Asbestos Abatement Worker certification issued under the provisions of this Regulation. Further, in any circumstances where an Asbestos Abatement Worker has demonstrated the inability or reluctance to follow safety precautions of the project specifications or a minimum standard of care, the Asbestos Abatement Worker certification may be immediately suspended and/or revoked.
- 13.7.2 In any instance where there is a question as to the likelihood that an Asbestos Abatement Worker will not follow appropriate health, safety or environmental requirements, that Abatement Worker may have his/her certification suspended and/or revoked until such time as documented evidence can be presented, establishing full confidence on behalf of the department in the Asbestos Abatement Worker's ability to perform.
- 13.7.3 If any Asbestos Abatement Worker has his/her certification suspended and/or revoked in any other State which has, or may have in the future, a certification program, that Asbestos Abatement Worker may have his/her Delaware Asbestos Abatement Worker certification suspended and/or revoked.
- 13.7.4 An Asbestos Abatement Worker whose certification has been suspended and/or revoked shall not provide his/her services on any asbestos project under the provisions of this Regulation within the State of Delaware.
- 13.7.5 An Asbestos Abatement Worker whose certification is suspended and/or revoked under the provisions of this Regulation shall surrender his/her Asbestos Abatement Worker certificate to the department within the time period specified in the notice to suspend and/or revoke.
- 13.7.6 Any past, present or pending civil litigation, depending on the severity, shall be considered for suspension.
- 13.8 Lost, damaged or destroyed Asbestos Abatement Worker certificates can be replaced by a written request to the department. The request must be accompanied by a statement from the applicant that the certificate was lost, damaged or destroyed through no fault of the applicant. A fee of fifteen dollars (\$15.00) in the form of a bank or postal money order, bank cashier's check, or certified check payable to the State of Delaware must be submitted with the request for replacement to cover administrative costs.

14.0 Asbestos Project Monitor Certification

- 14.1 No Professional Service Firm or person employed by the firm or individual shall engage in project monitoring, air sampling, inspections, project management and final air clearances, unless such technician has a valid Asbestos Project Monitor Certification from the department.
- 14.2 Any Project Monitor whose duties involve the oversight of installation, removal, encapsulation, application or enclosure of any asbestos material or the disturbance of friable asbestos material, or cementitious asbestos material that can become friable by disturbance, shall have an Asbestos Project Monitor Certificate.
- 14.3 Certified Project Monitors have the authority and responsibility to issue a written stop work order for any violations of Federal or State statutes or of this Regulation.
- 14.4 The qualifications required for certification as Asbestos Project Monitor are:
- 14.4.1 Delaware Certification as a Certified Asbestos Project Monitor. The Project Monitor must meet the prerequisites as outlined under Section 2.09 of this Regulation.
- 14.4.2 Other requirements as determined by the Department, as changes to Federal and State statutes dictate.
- 14.5 All applications for Asbestos Project Monitor Certification shall be submitted as follows:

- 14.5.1 Submitted in writing on forms provided by the department.
- 14.5.2 Completion of such forms may require the inclusion of any information deemed appropriate by the department. Along with such application forms, every applicant shall submit full face photographs of himself/herself in such number and sizes as the department shall prescribe. Such photographs shall have been taken within thirty (30) days of such application.
- 14.5.3 Each application for Asbestos Project Monitor Certificate shall contain a verified statement by the applicant that he/she will abide by all rules and regulations promulgated by Federal and State agencies as appropriate.
- 14.5.4 Completed applications shall be sent to the address specified in the application package accompanied by a non-refundable application fee of fifty dollars (\$50.00). The fee shall be paid in the form of a bank or postal money order, bank cashier's check or certified check payable to the State of Delaware. No other instrument shall be used for payment of an application fee.
- 14.5.5 The department shall notify the applicant in writing no later than thirty (30) days from receipt of the certification application of the issuance or denial of the certification or the need for further information from the applicant in order to process the certification application. Notification of denial of a certificate on grounds other than failure to complete the certification application shall set forth the grounds for such denial. An applicant denied certification may request a hearing before the Secretary of Administrative Services or his/her designee by submitting a written request for such hearing within ten (10) days of receipt of denial.
- 14.5.6 An Asbestos Project Monitor Certificate shall be valid for a period of one (1) year from the date of training unless sooner suspended and/or revoked. Retraining and re-certification is required annually.
- 14.5.7 An Asbestos Project Monitor may be suspended or have his license revoked for violations of any part of this Regulation.