

01.01.1987.22

EXECUTIVE ORDER 01.01.1987.22 Asbestos Oversight Committee

A. Asbestos Oversight Committee.

(1) There is an Asbestos Oversight Committee in the Executive Branch. This Committee is tasked to define the status of the asbestos situation in the State with respect to its employees and facilities and to develop and implement an asbestos management plan and appropriate policies to effectively address and resolve any related asbestos issues.

(2) The Asbestos Oversight Committee consists of Secretaries or designees, from the following Departments:

(a) The Department of the Environment;

(b) The Department of Licensing and Regulation;

(c) The Department of General Services;

(d) The Department of Personnel;

(e) The Department of State Planning;

(f) Two public members appointed by the Governor; and

(g) A designee of the Speaker of the House of Delegates and a designee of the President of the Senate to represent the General Assembly's interests in asbestos-related matters involving Legislative facilities.

The Chair of the Committee shall be the Secretary, Department of the Environment, or designee.

(3) The Committee may invite participation by representatives of other State agencies having an interest in the asbestos management issue.

(4) The Committee shall meet at least quarterly each year, and more often as necessary, and shall:

(a) Develop and annually update an Asbestos Management Plan, which shall consist of:

(i) A safety, health and equipment program;

(ii) A training and medical monitoring program;

(iii) A Statewide operations and maintenance program; and

(iv) An Asbestos Abatement Plan which includes a prioritized schedule of abatement activities; projected costs, based upon criteria established in advance by the full committee; and criteria for managing asbestos projects which may require significant renovations, as well as renovation projects which may require significant asbestos abatement.

(b) Review, evaluate and promulgate asbestos policy, procedures and practices consistent with existing COMAR, EPA, OSHA and MOSH Regulations.

(c) Evaluate asbestos abatement project proposals and establish abatement contract guidelines and criteria for State-owned facilities;

(d) Develop and present to the Governor and the General Assembly by the first day of October each year, a consolidated budget for asbestos management for State facilities that also sets forth the relevant portions of the operating budget of any agency responsible for asbestos management activities, priorities and describes abatement and safety projects, and is consistent with the Asbestos Management Plan.

(5) When the members of the Committee have prepared the Asbestos Management Plan, the Chairperson shall forward the plan to the Governor for approval.

(6) Prior to each legislative session, the Asbestos Oversight Committee shall present a report to the Governor and the General Assembly on the Asbestos Management Plan for State facilities, the activities of the Committee and the current status of the program.

B. Departmental Responsibilities.

(1) It is the responsibility of all department heads to cooperate fully with the Asbestos Oversight Committee in the implementation of this program.

(2) Each agency designated in Section A(2) of this order is responsible for providing competent and knowledgeable representation to the Committee. Other departments and agencies not listed in Section A(2) are also expected to render assistance, expertise and other resources upon the request of the Committee.

(3) Any staff loaned to the Committee shall be paid by the agency that employs them, except for permanent staff authorized pursuant to Sections A(4) and A(5) of this order.

(4) Certain departments shall be assigned specific program responsibilities by way of this Order. Those responsibilities shall be carried out in accordance with directions provided by the Asbestos Oversight Committee.

C. Safety and Health Program.

(1) Safety and Health.

(a) State employees shall be required to work with asbestos only when that work is incidental, but necessary, for the performance of their normal duties and responsibilities and where the amount of asbestos to be removed is less than 160 square feet per building per year, or less than 260 linear feet per building per year if the asbestos is in the form of pipe insulation. Projects exceeding those limitations shall be contracted out to firms licensed to perform asbestos work.

(b) Each agency or facility head shall be responsible to the department or agency head for implementation of the Asbestos Safety and Health Program.

(c) The head of each facility shall appoint a facility Asbestos Safety and Health Specialist who shall be responsible to the facility head for the implementation of the Asbestos Safety and Health Program.

(d) The Safety and Health Committees shall be formed for each department and/or individual facility. Each coordinator and safety specialist shall consult the Department of Licensing and Regulation for assistance and consultation on matters relating to the formation and organization of such committees.

(2) Equipment.

(a) Each department and State agency shall equip its employees with appropriate respiratory protection equipment and protective clothing where there is the possibility of ingesting or inhaling asbestos or of skin or clothing contamination with asbestos.

(b) Type "C" pressure demand supplied air respirators with full facepieces approved by the Mine Safety and Health Administration and the National Institute for Occupational Safety and Health described in the Asbestos Safety and Health Program Policy and Procedures Manual shall be used by employees performing Level II type activities.

(3) The Secretary of Licensing and Regulation is responsible for coordinating the safety and equipment provisions of this section, and exceptions to any provisions of this section can be authorized only by the Secretary of Licensing and Regulation or his designee, or by the full committee.

D. Medical Monitoring and Training Program.

(1) Medical Monitoring Requirements.

(a) The Secretary of the Department of the Environment shall oversee the preplacement, periodic and post-employment examinations in accordance with the Asbestos Safety and Health Program for Level II employees described in Section D(2)(c) of this Executive Order.

(b) Participation in the Medical Monitoring Program.

(i) Employees agreeing to work in positions which involve incidental exposure to asbestos, after successfully completing a formal asbestos training program, must participate in the medical monitoring program.

(ii) An employee who participates in the medical monitoring program, but refuses any or all components of the examination, shall be advised that the refusal may compromise his health status.

(iii) If an employee refuses to work with asbestos, he or she will not be eligible for medical monitoring, except as provided in subsection (1)(e) of this section. The refusal shall be documented.

(c) Discrimination involving Medical Examination. Any employee found to be unable to wear a respirator, or who is otherwise unfit for potential asbestos exposure, may not be permitted to work with asbestos. The employee may not be subjected to adverse personnel action because of his or her inability to be exposed to asbestos.

(d) Partial Disability Involving Asbestos-Related Disease. If an employee's disability is detected during asbestos medical monitoring, reasonable accommodations shall be made for the employee so far as is practicable up to and including job transfers.

(e) Past Exposure to Asbestos. If an employee can document in writing previous Level II exposure as a State employee but no longer works with asbestos, he or she may volunteer for medical monitoring from the State.

(f) Confidentiality of Medical Data.

(i) The confidentiality of all medical records will be assured by maintaining medical records separate from personnel records and limiting access to those records only to medical personnel, the employee and the employee's designated representative.

(ii) Any reports to management concerning medical examinations for the purpose of carrying out the Asbestos Safety and Health Program will contain only aggregate data with all personal identifiers removed. Each individual report of duty status shall state whether the worker is able to wear a respirator. No other medical findings or information will be included in these reports.

(2) Training Requirements.

(a) Level I and Level II employees shall attend asbestos training from, or approved by, the Department of the Environment.

(b) Level I employees are those workers employed in positions with the potential for asbestos exposure because of work-related activities or location, but who are not required to break, cut into, tear out or otherwise disturb asbestos or asbestos-containing materials.

(c) Level II employees are those workers employed in positions whose job activity may cause them to break, cut into, tear out or otherwise disturb asbestos-containing materials, or who must work in areas where this activity takes place.

(d) A Level II employee may not work with asbestos until he or she has attended the appropriate asbestos safety and health training and successfully completed training requirements.

(e) The asbestos safety and health training standards shall be developed by the Secretary of the Department of the Environment in consultation with both the Maryland Occupational Safety and Health Administration and representatives of these State employees who are or may be exposed to asbestos.

(3) The Secretary of the Department of the Environment is responsible for implementation and coordination of the medical monitoring and training provisions of the Asbestos Safety and Health Program.

E. Operations and Maintenance.

(1) There shall be, as part of the Asbestos Management Plan, an operations and maintenance program. The program shall consist of the following elements:

(a) A procedure for identifying and locating asbestos in State-owned buildings, and for assessing the condition and type of asbestos present in those buildings.

(b) A statewide project schedule for asbestos abatement using priority criteria developed by the Committee. The schedule shall also contain estimates of cost for such projects based upon the most current financial, health, physical characteristics and other information available.

(c) A procedure for performing recurrent surveys and inspections of known asbestos contamination for the purpose of discovering deteriorating conditions and to provide data for use in updating item (a) and (b) above.

(d) Guidelines for the preparation of contracts for the abatement of asbestos hazards by outside contractors to ensure that the work is properly prioritized, scheduled and stated in the scope of the work section; that safe and acceptable work practices are to be followed by the contractor; and that contracts are consistent with the Asbestos Management Plan.

(e) Guidelines for the development of site-specific asbestos operations and maintenance plans.

(2) The Operations and Maintenance Program shall be implemented pursuant to this Order and consistent with standards set forth in the State of Maryland Asbestos Safety and Health Program Policy and Procedures Manual and other relevant standards, regulations and statutes.

(3) Responsibility for implementation of the operations and maintenance program shall be shared as follows:

(a) The Secretary/Head of each Department/Agency/Facility shall be responsible for development, implementation and management of an operations and maintenance program specific to the Agency/Facility, including:

(i) The periodic conduct of inspections and surveys of known asbestos contamination;

(ii) Performance of repair and maintenance of asbestos-containing material by Level II employees;

(iii) The application of appropriate abatement practices, including the monitoring of contractors; and

(iv) Notification of Departmental Coordinators and other appropriate parties of changes in the condition of asbestos contamination.

(b) The Asbestos Oversight Committee shall:

(i) Maintain and update the State of Maryland Asbestos Safety and Health Program Policy and Procedures Manual;

(ii) Develop and maintain a priority list of abatement projects to be accomplished each year;

(iii) Annually prepare a budget for asbestos abatement projects; and

(iv) Evaluate and authorize changes to the operations and maintenance program in any current fiscal year.

(c) The Department of General Services shall:

(i) Assist Departments/Agencies in contracting for asbestos abatement activities in accordance with State finance and procurement laws;

(ii) Manage funds appropriated to the Asbestos Oversight Committee for asbestos abatement projects;

(iii) Maintain records to document asbestos abatement projects accomplished by Department/Agencies; and

(iv) Develop guidelines for the preparations of contracts for asbestos abatement to ensure that the work is properly prioritized and described.

(d) The Department of the Environment shall:

(i) Assist in the inspection and evaluation of asbestos hazards;

(ii) Assist in the review of asbestos abatement contracts;

(iii) Provide advice and consultation concerning potential health hazards associated with asbestos contamination; and

(iv) Provide the Oversight Committee with reports of evaluations and inspections indicating the compliance for inclusion in periodic reports to the Governor and for any other purpose as needed by the Oversight Committee and its chairman.

F. Personnel Practices. The Secretary of Personnel shall oversee the interpretation and application of personnel practices involving salaries and wages, incentive pay, classification and job evaluation, employee relations, recruitment and examination and other personnel activities which are related to asbestos and consistent with Merit System Law and Regulations.

G. Enforcement Authority.

(1) By virtue of this Order, the Asbestos Oversight Committee has full power and authority to implement and enforce all provisions of the Asbestos Management Program.

(2) The Committee is empowered to prepare and administer a program budget; to promulgate policy and regulations; to take testimony; to subpoena witnesses; and to issue findings of fact and recommendations.

Effective date: November 4, 1987 (14:25 Md. R. 2613)