

OFFICE OF MANAGEMENT AND BUDGET
DIVISION OF FACILITIES MANAGEMENT
Statutory Authority: 16 Delaware Code, Chapter 78 (16 **Del.C.** Ch. 78)

FINAL

ORDER

Regulation Governing the State of Delaware Asbestos Certification and Training Program

AND NOW, this 13th day of September, 2013, Ann Shepard Visalli, as Director of the Delaware Office of Management and Budget, in accordance with 29 **Del.C.** §§6303A & 6307A, for the reasons stated below enters this ORDER adopting and promulgating the Regulation Governing the State of Delaware Asbestos Certification and Training Program (the "Regulation").

NATURE OF PROCEEDINGS; SYNOPSIS OF THE SUBJECT AND SUBSTANCE OF THE PROPOSED REGULATION

In accordance with procedures set forth in 29 **Del.C.** Ch. 11, Subch. III and 29 **Del.C.** Ch. 101, the Director of the Delaware Office of Management and Budget is adopting the final regulation governing the State of Delaware Asbestos Certification and Training Program.

On July 1, 2013 (Volume 17, Issue 1), the Delaware Office of Management and Budget published in the *Delaware Register of Regulations* its notice of proposed regulations, pursuant to 29 **Del.C.** § 10115. It was requested that written materials and suggestions from the public concerning the proposed regulations be delivered to the Office of Management and Budget by August 30, 2013 or be presented at a duly noted public hearing on August 7, 2013, after which time the Office of Management and Budget would review information, factual evidence and public comment to the said proposed regulations.

No written comments were received during the public comment period. Therefore, no evaluation or summarization of comments is presented in the accompanying "Summary of Evidence."

Corrections deemed not material have been made by the Office of Management and Budget.

SUMMARY OF EVIDENCE

In accordance with Delaware Law, public notices regarding the proposed REGULATION GOVERNING THE STATE OF DELAWARE ASBESTOS CERTIFICATION AND TRAINING PROGRAM were published in the *Delaware State News*, the *News Journal* and the *Delaware Register of Regulations*. A public hearing on the proposed regulation was held on August 7, 2013. No members of the public attended or offered comments. The public comment period was open from July 1, 2013 through August 30, 2013. No comments were received on the proposed regulation during the public comment period and no changes have been made to the proposed regulation.

FINDINGS OF FACT AND CONCLUSIONS

1. The Delaware Office of Management and Budget has established rules and procedures to safeguard the public by requiring that renovations or demolitions which disturb asbestos be conducted only by contractors, supervisors, and workers certified by the Office of Management and Budget's Division of Facilities Management.
2. The Regulation reflects these rules and procedures and comprehensively updates language contained therein for federal requirements and state business practices.
3. The Director of the Delaware Office of Management and Budget has statutory authority to promulgate regulations pursuant to 29 **Del.C.** §§6303A & 6307A.

DECISION AND ORDER CONCERNING THE REGULATION

NOW THEREFORE, under the statutory authority and for the reasons set forth above, the Director of the Delaware Office of Management and Budget does hereby ORDER that the Regulation be, and that it hereby is, adopted and promulgated as set forth below. The effective date of this Order is ten days from the date of its publication in the *Delaware Register of Regulations*, in accordance with 29 **Del.C.** §10118(g).

Ann Shepard Visalli, Director, Delaware Office of Management and Budget

Regulation Governing the State of Delaware Asbestos Certification and Training Program

1.0 Introduction

This Regulation is promulgated pursuant to 16 **Del.C.** §7801, et seq. The Division of Facilities Management of the State

of Delaware Office of Management and Budget adopts this Regulation and it shall have the force and effect of law. In establishing this Regulation, the Director of the Division of Facilities Management has responsibilities as set forth at 16 Del.C. §7805 to promulgate this Regulation. This Regulation is not intended to, and shall not be, interpreted to conflict with or supersede any provision of the Delaware Code.

The Division of Facilities Management, Environmental Section shall have the responsibility for the administration of this Regulation. The Department of Natural Resources and Environmental Control shall have the responsibility for the enforcement for this Regulation.

2.0 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. Similar problems were found to have existed in any building that contained friable asbestos. After surveys were performed on each public school, state-owned and state-leased buildings, the Division of Facilities Management of the State of Delaware 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 federal act established industry standards that are required for inspection, testing, managing, and removal.

The Division of Facilities Management has determined that it is in the interest of the public to control, reduce, and prevent the exposure to asbestos. The Division of Facilities Management 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.

A great many general contractors, professional service firms, painters, roofers, electricians, siding contractors, sealant manufacturers, equipment distributors, 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 in a manner that was potentially dangerous to those improperly engaging in abatement practices and those exposed to friable asbestos due to such improper abatement practices.

Certification of asbestos abatement contractors, asbestos professional service person/firms and Project Monitors, asbestos abatement workers, and asbestos project supervisors for asbestos abatement will reduce the public exposure to friable 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.

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 Division of Facilities Management.

It is the purpose and the policy of the Division of Facilities Management 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 Project Monitors, 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 denial 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.

3.0 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.

“ASHARA” means Asbestos School Hazard Abatement Reauthorization Act.

“Asbestos” is 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 means, 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:

- a. The wrecking or removal of any structural member containing asbestos material.
- b. The coating, binding, or resurfacing of walls, ceilings, pipes, or other structures for the purpose of preventing asbestos from becoming airborne.
- c. The construction of airtight walls and ceilings, by use of impact resistant materials, to isolate surfaces coated with material containing asbestos material.
- d. 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” means project work undertaken by a contractor or person which involves the installation, removal, encapsulation, application or enclosure of any asbestos project or asbestos-containing project 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 Materials with other fibrous or non-fibrous materials.

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

“Asbestos Professional Service Firm” means professional service firms hired for inspection, asbestos building and visual and air clearance, testing, management planning, specifications, project design, bulk sampling, air monitoring, project oversight, and contract administration for asbestos abatement project.

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

“Approved Training Program” means a program approved by Facilities Management for training Asbestos Abatement Workers and/or Asbestos Project Supervisors, Project Monitors, Project Designer, Management Planner, and Building Inspector.

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

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

“Certification” means the authorization issued by the Division of Facilities Management of the State of Delaware Office of Management and Budget to any contractor, professional services firm, project supervisor, worker, or Project Monitors who has met the minimum requirements established by Facilities Management 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” (Unlimited)” means any individual, public or private corporation, Asbestos partnership, association, firm, trust, estate, institution or other legal entity who has met the minimum requirements established by Facilities Management to perform all types of asbestos abatement 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 Facilities Management, and has been certified by Facilities Management 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 Facilities Management, has been certified by Facilities Management to perform all types of asbestos abatement 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 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 Facilities Management, has been certified by Facilities Management 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 Facilities Management, has been certified by Facilities Management 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 Facilities Management, has been certified by Facilities Management to perform limited or specialized (roofs, exterior sidings, etc.) asbestos abatement for a Certified Class B Asbestos Abatement Contractor, 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, Asbestos Building Inspection, air Monitoring, and laboratory results.

"Certified Project Monitors" means a certified individual employed by a Certified Professional Service Firm to an asbestos abatement project.

"Contractor" for the purpose of this Regulation is an abbreviation for "asbestos abatement contractor", Class "A" and Class "B".

"DNREC" means State of Delaware, Department of Natural Resources and Environmental Control.

"De-Certification" means the loss of a certification granted by Facilities Management to include loss of all the privileges granted to a certificate holder.

"Department" means the Division of Facilities Management of 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.

"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 Facilities Management 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.

"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 Employees" means those 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 that 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). The maximum allowed removal quantity is 3 square/lineal feet as per AHERA. Worker should have asbestos awareness training when they have potential to come in contact with asbestos.

"NESHAPS" means National Emission Standards for Hazardous Air Pollutants 40 CFR, Part 61.

"NIOSH" means the National Institute for Occupational Safety and Health.

"O.S.H.A." means the 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 is contemplated by this term.

"U.S.E.P.A." means the United States Environmental Protection Agency

4.0 Training Requirements for Asbestos Contractors/Supervisors/Workers Class "A" and "B" Environmental Project Monitors

- 4.1 The following minimum training requirements are promulgated in accordance with 16 Del.C. §7805(2) and U.S. Environmental Protection Agency Asbestos Hazard Emergency Response Act (AHERA), 50 CFR 763.
- 4.2 In order to become certified by the Division of Facilities Management to work with asbestos-containing materials in the State of Delaware, all below-listed training requirements must be met.
- 4.3 Asbestos Workers - Class "A"
 - 4.3.1 Shall successfully complete a four (4) day, thirty-two (32) hour course including fourteen (14) hours of hands-on training approved by Facilities Management.
 - 4.3.2 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 and state-owned buildings only.
 - 4.3.3 At the completion of training, all students will take a 50 question examination and pass with a minimum score of 70%. An examination is required for Initial and Refresher Training.
- 4.4 Asbestos Abatement Contractor/supervisor - Class "A"
 - 4.4.1 Shall be totally independent of the worker course and taught at a level in accordance with the 40 CFR Part 763; AHERA Model Accreditation Plan (MAP).
 - 4.4.2 At the completion of the this training, supervisors will take a 100 question examination and must pass with a 70% score. An examination is required for Initial and Refresher Training. In addition, supervisors must pass a minimum four (4) hour nationally recognized C.P.R. course in order to become certified by Facilities Management. The original card must be presented at the time of application for certification. No on-line CPR courses or computer printed cards will be accepted.
- 4.5 Asbestos Abatement Contractor/supervisor - Class "B"
 - 4.5.1 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.
 - 4.5.2 Shall successfully complete a two (2) day, fourteen (14) hour course approved by Facilities Management which includes hand-on in accordance with OSHA 1926.1101 "Asbestos". And must pass a 35 question examination with a passing score of 70%. An examination is required for Initial and Refresher Training.
 - 4.5.3 Asbestos Worker Class "B" Training: Shall successfully complete a 1 ½ day, twelve (12) hour course approved by Facilities Management. Must pass a 25 question examination with a passing score of 70%. An examination is required for Initial and Refresher Training.
- 4.6 Annual Re-training and examinations are required for Class "A" certifications as approved by Facilities Management. Biennial - two (2) year - re-training is required for Class "B" certification.
- 4.7 At the successful completion of training, all students must apply to the Division of Facilities Management within one (1) year of the initial training and within one (1) year after expiration for their certification and photo identification badges.
- 4.8 Training Entities/trainers
 - 4.8.1 All entities requesting to train in the State of Delaware must meet the minimum requirements in accordance with 16 Del.C. §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. This shall include at a minimum, a training facility within the state boundaries and shall be equipped with a hands-on laboratory for asbestos simulation work practices with proper equipment and materials.

- 4.8.2 All instructors shall be reviewed/audited and approved by the State for the portion of the class they intend to teach.
- 4.8.3 A desk audit of course material, test and question bank shall be submitted and approved prior to scheduling any class. As per 40 CFR Part 763, Subpart E, Appendix C.
- 4.8.4 The State of Delaware has adopted the procedures for de-accreditation of persons and withdrawal of course approval as set forth in 40 CFR, Part 763, Subpart E, Appendix C Unit III C. (MAP)
- 4.9 Training Requirements For Engineering/environmental Consulting Firms And Project Monitors.
Project Monitors may be required to take a five (5) day Project Monitor's course in Delaware on Delaware laws, regulations and procedures. A prerequisite to Project Monitors training is prior approval by the Division of Facilities Management to attend this course for certification.
- 4.10 Prerequisites for Project Monitors training:
 - 4.10.1 Experience - combination of education and experience.
 - 4.10.2 Education and training - successful completion of any EPA/State accredited AHERA supervisor course.
 - 4.10.3 Current certificates of all accredited and other asbestos courses attended.
 - 4.10.4 Copies of all in-house training certificates.
 - 4.10.5 Current annual AHERA training requirements.
 - 4.10.6 Resume of field experience.
- 4.11 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 prior to taking any additional Project Monitors training courses.
- 4.12 Other Prerequisites For Project Monitors Certification
 - 4.12.1 An individual who has a current Asbestos Supervisors Certification may apply in the State of Delaware as a Project Monitors and must take a one (1) day Project Monitors Course: to include Delaware laws, rules, regulations, and procedures.
 - 4.12.2 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 Monitors course.
 - 4.12.3 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 Monitors Certification.
 - 4.12.4 The fee for the Project Monitors certification is \$50.00 and will activate a one (1) year certification.

5.0 Compliance

- 5.1 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 Facilities Management.
- 5.2 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.
- 5.3 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:
 - 5.3.1 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 Facilities Management.
 - 5.3.2 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 Facilities Management.
 - 5.3.3 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.
- 5.3.4 No contractor under this Regulation shall subcontract any work involving asbestos abatement unless the subcontractor is certified by Facilities Management.
- 5.3.5 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 Facilities Management as hereinafter provided. Not mandatory for Class "B" type work.
- 5.3.6 No contractor under this Regulation shall directly or indirectly employ any worker for asbestos abatement projects who has not received a certification from Facilities Management in the classification for the contractor or higher. Facilities Management shall certify all Asbestos Abatement Workers as hereinafter provided.
- 5.3.7 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.
- 5.3.8 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 Facilities Management 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.
- 5.3.9 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.
- 5.3.10 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 or the materials that still contain original manufacture labels stating that it is an asbestos containing product. Also, a Professional Service Firm's Building Inspector may assume the materials are positive without having lab analysis performed. For Example: transite material, in an existing containment, could be assumed positive for asbestos and be removed and disposed of without lab testing.
- 5.3.11 It shall be unlawful for any Contractor or Professional Service Firm to work in public/private not for profit schools unless they are qualified and trained under 40 CFR Part 763 AHERA.

6.0 Requirements for Asbestos Abatement Class "A" & "B" Contractor Certification

- 6.1 Facilities Management 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. Facilities Management 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.
- 6.2 Certification as an Asbestos Abatement Contractor, Class "A" (Unlimited) is required by all contractors whose primary business activity 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.
- 6.3 Qualifications for Asbestos Abatement Contractor, Class "A" (Unlimited) include:
- 6.3.1 The contractor shall clearly demonstrate all experience in the field of asbestos abatement.
- 6.3.2 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.
- 6.3.3 The contractor shall be able to clearly demonstrate the willingness and desire to correctly and safely handle asbestos abatement projects.
- 6.3.4 The contractor shall clearly demonstrate the knowledge and ability to correctly and safely organize manage and perform an asbestos abatement project.
- 6.3.5 The contractor shall demonstrate a history of successfully completed asbestos abatement projects.
- 6.3.6 If applicable, the contractor shall submit a history of fines, citations, or other actions by regulatory agencies.
- 6.3.7 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.

- 6.3.8 Complete all required applications specified by Facilities Management.
- 6.3.9 Other qualifications as required by Facilities Management, as changes to Federal and State statutes dictate.
- 6.4 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.)
- 6.5 Qualifications for an Asbestos Abatement Contractor, Class "B" (Limited) will include:
 - 6.5.1 Demonstrate the same qualifications as outlined in Section 6.3.2 - 6.3.9 of this Regulation.
 - 6.5.2 Complete training for Class "B" certification as required.
- 6.6 Certification is limited to demonstrated ability to engage in asbestos abatement projects in accordance with this Regulation and recognized standards for asbestos abatement only.

7.0 Application for Asbestos Abatement Contractor Certification or Renewal of Certifications

- 7.1 All applications for Asbestos Abatement Contractor Certification shall be submitted as follows:
 - 7.1.1 All applications for Asbestos Abatement Contractor Certification shall be submitted in writing on forms furnished by Facilities Management. Copies of such forms may be obtained from the Division of Facilities Management.
 - 7.1.2 Completion of such forms may require the inclusion of any information required by Facilities Management.
 - 7.1.3 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 Supervisors or Asbestos Workers 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 Facilities Management pursuant to the laws of the State of Delaware.
 - 7.1.4 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 cash, a bank or postal money order, bank cashier's check, or certified check payable to the State of Delaware.
 - 7.1.5 Facilities Management 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.
 - 7.1.6 An Asbestos Abatement Contractor Certificate shall be valid for a period of one (1) year from the date of issuance unless sooner suspended or revoked.
 - 7.1.7 An applicant denied certification on any grounds other than failure to complete an application may request a hearing before the Director of the Division of Facilities Management or his/her designee by submitting a written request for such hearing within thirty (30) days of receipt of denial.
- 7.2 All applications for renewal of Asbestos Abatement Contractor Certification shall be submitted as follows:
 - 7.2.1 A certificate holder who intends to seek renewal of an Asbestos Abatement Contractor Certification issued by Facilities Management under this Regulation shall submit application to renew the certificate at least thirty (30) days prior to its expiration. The renewal application may request the applicant to inform Facilities Management of any changes in information previously provided to Facilities Management and any other information deemed by Facilities Management to be relevant.
 - 7.2.2 The completed application shall be sent to Facilities Management 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.

7.2.3 Facilities Management 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 Director of the Division of Facilities Management or his/her designee by submitting a written request for such hearing within thirty (30) days of receipt of denial.

7.2.4 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.

7.2.5 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.

7.3 The certificate for an Asbestos Abatement Contractor shall:

7.3.1 Be in writing.

7.3.2 Contain the date of issuance.

7.3.3 Contain an expiration date.

7.3.4 Contain the name and address of the contractor to whom it is issued.

7.3.5 Be valid for one (1) year for Class "A" Contractors, and Professional Service Firms from the date of issuance unless sooner suspended or revoked.

7.3.6 Be signed by the Director of the Division of Facilities Management or his/her designee.

7.3.7 Contain the contractor certification number.

7.3.8 Indicate Asbestos Abatement Contractor category, i.e. Class "A" (Unlimited) or Class "B" (Limited).

8.0 Denial of Contractor Certification

8.1 Facilities Management 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. Facilities Management may deny any request for certification if the applicant:

8.1.1 Fraudulently or deceptively attempts to obtain a certification.

8.1.2 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 agency

8.1.3 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.

8.1.4 Fails to submit a complete application.

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

8.1.6 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.

8.1.7 Has demonstrated repeated deficiencies outlined in Sections 10.0 and 11.0 of this Regulation.

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

8.2 Facilities Management 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 Director of the Division of Facilities Management or his/her designee by submitting a written request for such a hearing within thirty (30) days of denial. The decision of the Director may be appealed to Superior Court in accordance with 16 Del.C. Ch. 78. Facilities Management shall retain the application fee if certification is denied.

8.3 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.

9.0 Required Notices

- 9.1 The Contractor or Professional Service Firm shall notify Facilities Management within thirty (30) days upon the sale in whole or any part of the firm certified by the State.
- 9.2 The contractor or professional service firm shall notify Facilities Management within thirty (30) days 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 the company name, address, or phone number.
- 9.3 The contractor or professional service firm shall notify Facilities Management within thirty (30) days "of any or all violations, citations, suspensions, and/or revocations incurred in any other state or by any local, state or Federal agency.

10.0 Recordkeeping

- 10.1 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 Facilities Management 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.
- 10.2 The Asbestos Abatement Contractor shall record the following information for each project:
 - 10.2.1 Name, address, social security number and certification number of each job supervisor responsible for the project.
 - 10.2.2 Name, address Social Security Number and certification number of each certified asbestos abatement worker on the project.
 - 10.2.3 A copy of the asbestos abatement contract.
 - 10.2.4 A detailed description of how the asbestos was abated.
 - 10.2.5 The location and description of the project and estimated amount of asbestos removed or estimated area encapsulated or enclosed at each project.
 - 10.2.6 Starting and completion dates. If completion date differs from that originally scheduled, include statement of reasons for delay.
 - 10.2.7 Summary of procedures used to comply with applicable requirements including copies of all notifications.
 - 10.2.8 Name, address, phone number and contact person 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.
 - 10.2.9 Name, address, phone number and contact person of the asbestos waste hauler and hauling receipts.
 - 10.2.10 Results of all air sampling conducted during the abatement including personal, area and clearance samples.
 - 10.2.11 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. 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.
 - 10.2.12 Any other information which Facilities Management may require on a form and according to instructions provided by Facilities Management.
- 10.3 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 Facilities Management at least ninety (90) days prior to the cease of business and, upon request, transmit them to Facilities Management.
- 10.4 The employing asbestos abatement contractor will maintain complete accurate records of all pre-placement, annual and termination of employment medical examinations. Records must 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) shall ensure that all medical examinations and procedures are performed by or under the supervision of a licensed physician, and are provided at no cost to the employee and at a reasonable time and place per OSHA 1926.1101(m)(1)(ii)(A).
- 10.5 Employee exposure records.
 - 10.5.1 Every contractor shall maintain records of any personnel physical or environmental Monitoring for at least thirty (30) years in accordance with 29 CFR 1926.1101(n) (iii) or any revision or addition to same.
 - 10.5.2 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.
 - 10.5.3 Any employee found to have been exposed at any time to airborne concentrations of asbestos fibers in excess of the limits prescribed in 29 CFR 1926.1101(f)(5) shall be notified in writing of the exposure as

soon as practical but no later than five days of the finding. The employee shall be notified at the same time of the corrective action being taken.

10.6 Training program records.

10.6.1 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:

10.6.1.1 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.

10.6.1.2 Records of all asbestos abatement training received by members of the contracting firm.

10.7 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. Facilities Management 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 Facilities Management at least ninety (90) days in advance. At Facilities Management's request, the contractor shall deliver any such documents which are requested by Facilities Management to Facilities Management, with the contractor being responsible for shipping charges.

11.0 Inspections

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

11.1.1 Supervisor's/Worker's certificates.

11.1.2 Respirator and work protection programs.

11.1.3 All OSHA, EPA, and State of Delaware compliance records that are required by this Regulation.

11.1.4 All other inspections to be performed as deemed necessary by Facilities Management. Compliance with project specifications.

11.2 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.

11.3 The Department of Natural Resources and Environmental Control (DNREC) shall have the authority to enforce the law and this regulation in relation to all asbestos projects within the State of Delaware pursuant to 16 **Delaware Code** Chapter 78. Any or all inspection reports from DNREC may be included in the contractor's certification file.

12.0 Suspension and/or Revocation of Asbestos Certification

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

12.1.1 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.

12.2 Facilities Management may, for the cause or for violation of this Regulation or DNREC Regulations, suspend, deny and/or revoke any certification issued under this Regulation. Facilities Management may, at its discretion, issue a "Letter of Reprimand" to the company and/or any individual for minor violations of 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.

12.3 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 Facilities Management in the Contractor's ability to perform.

12.4 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.

12.5 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.

- 12.6 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.
- 12.7 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.
- 12.8 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.
- 12.9 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 Facilities Management for severity and nature. If at the sole discretion of Facilities Management, 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.
- 12.10 In addition to the above, causes for suspension, denial and/or revocation include, but may not be limited to the following:
- 12.10.1 Providing false information to Facilities Management.
- 12.10.2 Shows evidence of a mental or physical impairment, as determined by Facilities Management, which may interfere with the certificate holder's safe performance of asbestos abatement work.
- 12.10.3 Knowingly or recklessly disregarding safe work practices while performing asbestos abatement work.
- 12.10.4 Use of non-certified personnel in asbestos abatement work.
- 12.10.5 Falsification of information on application.
- 12.10.6 Failure to comply with any regulations or procedures administered by Facilities Management.
- 12.10.7 Failure to comply with the terms of a Notice of Violation or Administrative Order issued by Facilities Management.
- 12.10.8 Receiving a total of two stop work orders on any project.
- 12.10.9 Direct violation of OSHA or EPA regulations regarding asbestos.
- 12.10.10 Failure to comply with contract specifications.
- 12.10.11 Failure to comply with DNREC regulations.
- 12.10.12 Any acts of fraud.
- 12.10.13 Being loaned, abandoned or allowed to pass from the control of ownership stated in the application.
- 12.10.14 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.
- 12.10.15 Failure to complete an asbestos abatement project due to insufficient financial resources to operate and conduct the asbestos abatement activities.
- 12.10.16 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.
- 12.10.17 Any action deemed by Facilities Management as worthy of suspension and/or revocation.
- 12.10.18 Failure to provide all notices required in Section 9.0 of this Regulation "Required Notices" to Facilities Management in a correct and timely manner.
- 12.11 If Facilities Management acts to suspend and/or revoke any certification under the provisions of this Section, Facilities Management shall promptly notify the certificate holder in writing, by certified mail, for other reason for suspension and/or revocation. The agency may, at its own discretion, issue a "Letter of Reprimand" to the company and/or any individual for minor violation of the regulation. The notice of suspension and/or revocation will provide necessary information concerning the right to request a hearing before the Director of the Division of Facilities Management.

13.0 Certification for Professional Service Firms

- 13.1 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.
- 13.2 Qualifications for certification of asbestos professional services.
- 13.2.1 Submit Federal Standard Forms 330 for review by Department Review Panel.
- 13.2.2 Submit application provided by Facilities Management.
- 13.2.3 Submit the following special qualifications and certificates of firm and staff as supplemental information:
- 13.2.3.1 NVLAP accreditation
 - 13.2.3.2 AIHA accreditation
 - 13.2.3.3 PAT - Round Robin participation
 - 13.2.3.4 Project Design person accredited by EPA approved course.
 - 13.2.3.5 AHERA Inspector's accreditation
 - 13.2.3.6 AHERA Management Planner accreditation
 - 13.2.3.7 Number of Project Monitors certified in Delaware
 - 13.2.3.8 NIOSH 582 course
- 13.2.4 If the firm does not have its own laboratory facility, indicate what laboratory or laboratories the firm utilizes and the qualifications of that laboratory.
- 13.2.5 The firm must employ at least one (1) active Delaware Project Monitors.
- 13.2.6 All applications for Professional Service Firms shall be submitted in writing on forms furnished by the agency.
- 13.2.7 Completed application shall be sent to the address specified in the application package accompanied by a non-refundable application fee of one hundred (\$100) dollars. The fee shall be paid in the form of a bank or postal money order or postal money order, bank cashier's check, or certified check made payable to the State of Delaware.
- 13.2.8 All applications for Professional Service Firms shall be submitted in writing on forms furnished by the agency.
- 13.2.9 An applicant denied certification on any grounds other than failure to complete an application may request a hearing before the Director of Facilities Management and/or his/her designee by submitting a written request for such hearing within thirty (30) days of receipt of denial.
- 13.2.10 Certification will be valid for one (1) year from the date of issuance unless previously suspended or revoked.

14.0 Asbestos Class ["A"] Project Supervisors Certification

- 14.1 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 cementations asbestos material that can become friable by disturbance, unless each such supervisor has a valid Asbestos Project Supervisors Certification.
- 14.2 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 cementations asbestos material that can become friable by disturbance, shall have an Asbestos Project Supervisors Certificate or a copy thereof in his/her possession at all times during his/her work on the project. Should Facilities Management at any time deem it impractical for such certificates or copies thereof to be maintained in the possession of such persons, Facilities Management may designate some appropriate alternate location proximate to but outside the work area at which such certificates or copies may be kept.
- 14.3 The class of Supervisors certification will be determined by the nature of the employing Certified Asbestos Contractor Certification and activities as defined in Sections 3.0 and 4.0 of this Regulation.
- 14.4 The qualifications required for certification as Asbestos Project Supervisor are:
- 14.4.1 Successful completion of a Delaware State approved Asbestos Project Supervisor training.
 - 14.4.2 Proof of current qualification from an accredited CPR training facility which offers a four (4) hour course. No on-line training courses accepted.
 - 14.4.3 Physical ability to perform asbestos abatement work without endangering the health and safety of themselves or others.
 - 14.4.4 Free of any respiratory and/or health disorders which would prevent the wearing of respiratory equipment.

[14.4.5 An original report of participation in a medical surveillance program demonstrating full compliance with OSHA requirements under 29 CFR 1926.1101 and including a doctor's certification that the Supervisor has no medical conditions which would preclude that Supervisor from working while wearing a respirator.]

14.4.[56]Other requirements as determined by Facilities Management.

14.5 All applications for Asbestos Project Supervisors Certification shall be submitted as follows:

14.5.1 All applications for Asbestos Project Supervisors Certification shall be submitted in writing on forms provided by Facilities Management. Copies of such forms may also be obtained from the Division of Facilities Management or the State website.

14.5.2 Completion of such forms may require the inclusion of any information deemed appropriate by Facilities Management. Along with such application forms, every applicant shall submit full face photographs of himself/herself in such number and sizes as Facilities Management shall prescribe. Such photographs shall have been taken within thirty (30) days of such application.

14.5.3 Each application for Asbestos Project Supervisors Certificate shall contain a verified statement by the applicant that he/she will abide by all rules and regulations promulgated by either Facilities Management or any other State agency 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 (\$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 Facilities Management 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 Director of the Division of Facilities Management or his/her designee by submitting a written request for such hearing within thirty (30) days of receipt of denial.

14.5.6 An Asbestos Project Supervisors Certification shall be valid for a period of one (1) year from the date of training unless sooner suspended and/or revoked.

14.6 All applications for renewal of Asbestos Project Supervisors Certificates shall be submitted as follows:

14.6.1 A certificate holder who intends to seek renewal of an Asbestos Project Supervisors Certificate issued by Facilities Management under this Regulation shall submit a notice to renew the certificate. The renewal application may request the applicant to inform Facilities Management of any changes in information previously provided to Facilities Management and any other information deemed by Facilities Management to be relevant.

14.6.2 The completed renewal application package shall be sent to Facilities Management 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 cash, 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.

14.6.3 Applicants for renewal of an Asbestos Project Supervisors 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 with current CPR and medical qualifications.

14.6.4 Facilities Management shall notify the renewal applicant in writing of the issuance of Asbestos Project Supervisors certification and/or Asbestos Workers certification, or the denial of Asbestos Project Supervisors certification and/or Asbestos Workers 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 Director of the Division of Facilities Management or his/her designee by submitting a written request for such hearing within thirty (30) days of receipt of denial.

14.6.5 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.

14.6.6 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 Supervisors 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.

14.7 Suspension, denial and/or revocation of Asbestos Project Supervisors Certification

14.7.1 Facilities Management may, for cause or for violation of any regulations, suspend and/or revoke any Asbestos Project Supervisors 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 Supervisors certification may be immediately suspended and/or revoked.

14.7.2 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 Facilities Management in the Asbestos Project Supervisor's ability to perform.

14.7.3 If any Asbestos Project Supervisor has his/her certification suspended, denied 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 Supervisors certification suspended and/or revoked.

14.7.4 An Asbestos Project Supervisor whose certification has been suspended, denied 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, Facilities Management may elect to suspend and/or revoke the violator's certification as an Asbestos Abatement Worker.

14.7.5 Any past, present or pending civil litigation shall be considered for suspension.

14.8 Lost, damaged or destroyed Asbestos Project Supervisor license can be replaced by Facilities Management. 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 for replacement to cover administrative costs.

15.0 Asbestos "A" Abatement Workers Certification

15.1 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 cementations asbestos material that can become friable by disturbance, unless each such worker is a valid Asbestos Abatement Workers Certification.

15.2 Any Worker whose duties involve the installation, removal, encapsulation, application or enclosure of any asbestos material or the disturbance of friable asbestos material, or cementations asbestos material that can become friable by disturbance, shall have an Asbestos Abatement Workers Certificate or a copy thereof in his/her possession at all times during his/her work on the project. Should Facilities Management at any time deem it impractical for such certificates or copies thereof to be maintained in the possession of such workers, Facilities Management may designate some appropriate alternate location proximate to but outside the work area at which such certificates or copies may be kept.

15.3 The class of Workers certification will be determined by the nature of the employing Certified Asbestos Contractor Certification of the employers and the activities as defined in Sections 4.0, 5.0, and 6.0 of this Regulation.

15.4 The qualifications required for certification as an Asbestos Abatement Worker are:

15.4.1 Successful completion of a Delaware State approved Asbestos Abatement Workers training course.

15.4.2 Physical ability to perform asbestos abatement work without endangering the health and safety of themselves or others.

15.4.3 Free of any respiratory and/or health disorders which would prevent the wearing of respiratory equipment.

15.4.4 An original report of participation in a medical surveillance program demonstrating full compliance with OSHA requirements under 29 CFR ~~1910.20~~ 1926.1101 and including a doctor's certification that the Worker has no medical conditions which would preclude that Worker from working while wearing a respirator.

15.4.5 Other requirements as determined by Facilities Management.

15.5 All applications for Asbestos Abatement Workers shall be submitted as follows:

- 15.5.1 All applications for Asbestos Abatement Workers certification shall be submitted in writing on forms furnished by Facilities Management. Copies of such forms may also be obtained from the Division of Facilities Management or the State of Delaware's website.
- 15.5.2 Completion of such forms may require the inclusion of any information deemed appropriate by Facilities Management. Along with such application forms, every applicant shall submit full face photographs of himself/herself in such number and sizes as Facilities Management shall prescribe. Such photographs shall have been taken within thirty (30) days of such application.
- 15.5.3 Each application for Asbestos Abatement Workers shall contain a verified statement by the applicant that he/she will abide by all rules and regulations promulgated by either Facilities Management or any other State agency as appropriate.
- 15.5.4 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 cash, 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.
- 15.5.5 Facilities Management 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 Director of the Division of Facilities Management or his/her designee by submitting a written request for such hearing within thirty (30) days of receipt of denial.
- 15.5.6 An Asbestos Abatement Workers certificate shall be valid for a period of one (1) year from the date of training unless sooner suspended and/or revoked.
- 15.6 All applications for renewal of Asbestos Abatement Workers certificates shall be submitted as follows:

 - 15.6.1 A certificate holder who intends to seek renewal of an Asbestos Abatement Workers certificate issued by Facilities Management under this Regulation shall submit a notice to renew the certificate prior to its expiration. Upon receipt of such notice, Facilities Management shall furnish a renewal application package to the applicant. The renewal application may request the applicant to inform Facilities Management of any changes in information previously provided to Facilities Management and any other information deemed by Facilities Management to be relevant.
 - 15.6.2 The completed renewal application package shall be sent to Facilities Management 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 cash, 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.
 - 15.6.3 Facilities Management shall notify the renewal applicant in writing of the issuance or denial of Asbestos Abatement Workers 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 Director of the Division of Facilities Management or his/her designee by submitting a written request for such hearing within thirty (30) days of receipt of denial.
 - 15.6.4 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.
 - 15.6.5 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 Workers 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.
- 15.7 Suspension and/or revocation of Asbestos Abatement Workers Certification

 - 15.7.1 Facilities Management may, for cause or for violation of any regulations, suspend, deny and/or revoke any Asbestos Abatement Workers 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 Workers certification may be immediately suspended and/or revoked.
 - 15.7.2 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 Facilities Management in the Asbestos Abatement Worker's ability to perform.

- 15.7.3 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 Workers certification suspended and/or revoked.
- 15.7.4 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.
- 15.7.5 An Asbestos Abatement Worker whose certification is suspended and/or revoked under the provisions of this Regulation shall surrender his/her Asbestos Abatement Workers licenses to Facilities Management within the time period specified in the notice to suspend and/or revoke.
- 15.7.6 Any past, present or pending civil litigation, depending on the severity, shall be considered for suspension.
- 15.8 Lost, damaged or destroyed Asbestos Abatement Workers licenses can be replaced by Facilities Management. 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 cash, 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.

16.0 Asbestos Project Monitors Certification

- 16.1 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 Monitors Certification from Facilities Management.
- 16.2 Any Project Monitors whose duties involve the oversight of installation, removal, encapsulation, application or enclosure of any asbestos material or the disturbance of friable asbestos material, or cementations asbestos material that can become friable by disturbance, shall have an Asbestos Project Monitors Certificate.
- 16.3 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.
- 16.4 The qualifications required for certification as Asbestos Project Monitors are:
 - 16.4.1 Delaware Certification as a Certified Asbestos Project Monitors. The Project Monitors must meet the prerequisites as outlined under Section ~~16.5~~ 4.1 of this Regulation.
 - 16.4.2 Other requirements as determined by Facilities Management, as changes to Federal and State statutes dictate.
- 16.5 All applications for Asbestos Project Monitors Certification shall be submitted as follows:
 - 16.5.1 Submitted in writing on forms provided by the Division of Facilities Management or the State of Delaware website.
 - 16.5.2 Completion of such forms may require the inclusion of any information deemed appropriate by Facilities Management. Along with such application forms, every applicant shall submit full face photographs of himself/herself in such number and sizes as Facilities Management shall prescribe. Such photographs shall have been taken within thirty (30) days of such application.
 - 16.5.3 Each application for Asbestos Project Monitors 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.
 - 16.5.4 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 cash, 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.
 - 16.5.5 Facilities Management 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 Director of the Division of Facilities Management or his/her designee by submitting a written request for such hearing within thirty (30) days of receipt of denial.
 - 16.5.6 An Asbestos Project Monitors Certification 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.

16.5.7 An Asbestos Project Monitor may be suspended, denied or have the license revoked for violations of any part of this Regulation.

17.0 Asbestos Class "B" Supervisor/Workers Certification

- 17.1 The Class "B" Supervisor/Workers certification will be determined by the nature of the employing Certified Asbestos Class "B" Contractor Certification and activities as defined in Section 4 (Class "B" Contractor) of this regulation.
- 17.2 The qualifications required for certification as a Class "B" Supervisor/Worker are:
 - 17.2.1 Delaware State certification as a Class "B" Asbestos Abatement Supervisor/Worker.
 - 17.2.2 Successful completion of a Delaware State approved Asbestos Class "B" Supervisor/Workers training.
- 17.3 All applications for Class "B" Supervisor/Workers Certification shall be submitted as follows:
 - 17.3.1 All applications for Class "B" Supervisor/Workers Certification shall be submitted in writing on forms provided by Facilities Management. Copies of such forms may also be obtained from the State website.
 - 17.3.2 Completion of such forms may require the inclusion of any information deemed appropriate by Facilities Management. Along with such application forms, every applicant shall submit full face photographs of himself/herself in such number as sizes as Facilities Management shall prescribe. Such photographs shall have been taken within thirty (30) days of such application.
 - 17.3.3 Each applicant for Class "B" Supervisor/Workers Certification shall contain a verified statement by the applicant that he/she will abide by all rules and regulations promulgated by either Facilities Management or any other State agency as appropriate.
 - 17.3.4 Completed applications shall be sent to the address specified in the application package accompanied by a non-refundable application fee of twenty dollars (\$20.00). The fee shall be paid in the form of cash, 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.
 - 17.3.5 Facilities Management 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 Director of the Division of Facilities Management or his/her designee by submitting a written request for such hearing within thirty (30) days of receipt of denial.
 - 17.3.6 An Asbestos Class "B" Supervisor/Workers Certification shall be valid for a period of one (1) year from the date of training unless sooner suspended or revoked.

17 DE Reg. 446 (10/01/13) (Final)