

AMENDMENTS

1990—Pub. L. 101-637, §14(a)(3), made technical amendment to section catchline.

Subsec. (a). Pub. L. 101-637, §14(b)(3), inserted heading and struck out par. (1) designation before “There is hereby established”.

Subsec. (b). Pub. L. 101-637, §14(b)(4), inserted heading.

Subsec. (b)(2). Pub. L. 101-637, §4(1), (2), substituted “educational agencies” for “agencies” and “institutions, including parent and employee organizations,” for “institutions”.

Subsec. (b)(3). Pub. L. 101-637, §4(3), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “the development within forty-five days of August 11, 1984, of an interim or final application form, which shall be distributed promptly to local educational agencies; and”.

§ 4013. State records and priority lists

(a) Records

The Governor of each State shall maintain records on—

(1) the presence of asbestos materials in school buildings of local educational agencies;

(2) the asbestos detection and abatement activities and other response actions conducted by local educational agencies (including activities relating to the replacement of the asbestos materials removed from school buildings with other appropriate building materials); and

(3) repairs made to restore school buildings to conditions comparable to those which existed before the abatement activities referred to in paragraph (2) were undertaken.

(b) Priority list

(1) Each year, in accordance with procedures established by the Administrator, the Governor of each State shall:

(A) submit to the Administrator a priority list of all schools under the authority of a local educational agency within the State, without regard to the public or private nature of the school involved, that are candidates for abatement activities and other response actions; and

(B) forward to the Administrator for each candidate for abatement activities and other response actions all applications for financial assistance prepared by the local educational agencies in accordance with the provisions of section 4014 of this title; and¹

(2) The priority list shall rank the potential candidates for abatement action based on the nature and magnitude of the existing and potential exposure presented by the asbestos materials.

(3) For each school listed, the Governor shall certify that the statement of need contained in the application for assistance accurately reflects the financial resources available to the local educational agency for the asbestos abatement program.

(4) For the purpose of determining the adequacy of the financial resources available to a local educational agency for the abatement of asbestos threats the Governor shall, to the extent practicable, consider the following:

(A) A measure of financial need used by the State in which the local educational agency is located.

(B) The estimated per capita income of the locality of such agency or of those directly or indirectly providing financial support for such agency.

(C) The extent to which the local school millage rate falls above or below (i) the millage rate average of the State and (ii) the millage rate of other local educational agencies with comparable enrollment, per capita income, and resource base.

(D) The ratio, expressed as a percentage, of the estimated cost of the project to the total budget of the local educational agency.

(E) The borrowing capacity of the local educational agency.

(F) Any additional costs to the local educational agency of meeting the special needs of disadvantaged students.

(G) Any other factor that demonstrates that the local educational agency has limited financial resources.

(Pub. L. 98-377, title V, §504, Aug. 11, 1984, 98 Stat. 1289; Pub. L. 101-637, §§5, 14(a)(4), (b)(5), (6), Nov. 28, 1990, 104 Stat. 4590, 4594, 4595.)

AMENDMENTS

1990—Pub. L. 101-637, §14(a)(4), substituted “State records and priority lists” for “State plans” in section catchline.

Subsec. (a). Pub. L. 101-637, §§5(a)(1), 14(b)(5), inserted heading and substituted “The Governor of each State shall maintain records on” for “Not later than three months after August 11, 1984, the Governor of each State shall submit to the Administrator a plan which describes the procedures to be used by the State for maintaining records on” in introductory provisions.

Subsec. (a)(2). Pub. L. 101-637, §5(a)(2), (3), inserted “and other response actions” after “abatement activities” and inserted “and” after semicolon at end.

Subsec. (a)(3). Pub. L. 101-637, §5(a)(4), substituted “paragraph (2)” for “subparagraph (B)”.

Subsec. (b). Pub. L. 101-637, §14(b)(6)(A), inserted heading.

Subsec. (b)(1). Pub. L. 101-637, §5(b)(1), substituted “Each year, in accordance with procedures established by the Administrator,” for “Not later than six months after August 11, 1984, and annually thereafter,” in introductory provisions.

Subsec. (b)(1)(A). Pub. L. 101-637, §§5(b)(2), (3), 14(b)(6)(B), substituted “abatement activities and other response actions” for “abatement”, struck out “and the Secretary of the Department of Education” after “submit to the Administrator”, and inserted “and” after semicolon at end.

Subsec. (b)(1)(B). Pub. L. 101-637, §§5(b)(2), 14(b)(6)(B), (C), substituted “abatement activities and other response actions” for “abatement”, struck out “section 4012(b)(3) of this title and” before “section 4014”, and struck out “and the Secretary of the Department of Education” after “forward to the Administrator”.

Subsec. (b)(1)(C). Pub. L. 101-637, §5(b)(4), struck out subpar. (C) which read as follows: “forward to the Secretary of the Department of Education a copy of all information submitted to the Administrator in accordance with subsection (b)(3) of this section.”

Subsec. (b)(4)(C). Pub. L. 101-637, §14(b)(6)(D), inserted a comma after “per capita income”.

Subsec. (b)(4)(F), (G). Pub. L. 101-637, §5(c), added subpar. (F) and redesignated former subpar. (F) as (G).

Subsec. (c). Pub. L. 101-637, §5(d), struck out subsec. (c) which read as follows: “Not later than nine months after the submission of the plan described in subsection (a) of this section, and each twelve months thereafter,

¹ So in original. Probably should end with a period instead of “; and”.

the Governor shall submit to the Administrator a report which describes the actions taken by the State in accordance with its plan under such subsection.”

§ 4014. Financial assistance

(a) Assistance Program

There is hereby established within the Environmental Protection Agency an Asbestos Hazards Abatement Assistance Program (hereinafter in this chapter referred to as the “Assistance Program”), which shall be administered in accordance with this section.

(b) Application submission

(1) Applications for financial assistance shall be submitted by a local educational agency to the Governor, or the Governor’s designee, who shall establish a priority list based on the criteria of section 4013(b)(2) of this title.

(2) Pursuant to section 4013 of this title, the Governor shall submit applications, together with the Governor’s report and priority list, to the Administrator who shall review and rank such applications pursuant to subsection (c)(2) of this section and propose financing pursuant to the criteria of section 4013(b)(4) of this title. The Administrator shall approve or disapprove applications for financial assistance no later than April 30 of each year.

(c) Review of application

(1) The Administrator shall provide financial assistance on a school-by-school basis to local educational agencies in accordance with other provisions of this section to carry out projects for—

(A) abating the threat posed by materials containing asbestos to the health and safety of children or employees;

(B) replacing the asbestos materials removed from school buildings with other appropriate building materials; and

(C) restoring school buildings to conditions comparable to those existing before abatement activities were undertaken pursuant to this section.

(2) The Administrator shall review and list in priority order applications for financial assistance. In ranking applications, the Administrator shall consider—

(A) the priority assigned to the abatement program by the Governor pursuant to section 4013(b)(2) of this title; and

(B)(i) the likelihood of release of asbestos fibers into a school environment;

(ii) any other evidence of the risk caused by the presence of asbestos including, but not limited to, situations in which there is a substantial quantity of dry loose asbestos-containing material on horizontal surfaces or asbestos-containing material is substantially deteriorated or damaged, and there is asbestos-containing material in an air plenum or in a high traffic area, confined space, or within easy reach of a passerby;

(iii) the extent to which the corrective action proposed by the applicant will reduce the exposure of school children and school employees; and

(iv) the extent to which the corrective action proposed by the applicant uses the least

burdensome methods which protect human health and the environment.

(3) In determining whether an applicant is eligible for assistance, and the nature and amount of financial assistance, the Administrator shall consider the financial resources available to the applicant as certified by the Governor pursuant to section 4013(b)(4) of this title.

(d) Limitation

In no event shall financial assistance be provided under this subchapter to an applicant if—

(1) the Administrator determines that such applicant has resources adequate to support an appropriate asbestos materials abatement program; or

(2) the applicant is not in compliance with title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.).

(e) Amount of loan or grant

(1) An applicant for financial assistance may be granted a loan of up to 100 percent of the costs of an abatement program or, if the Administrator determines the applicant is unable to undertake and complete an asbestos materials abatement program with a loan, such applicant may also receive a grant (alone or in combination with a loan) not to exceed 50 percent of the total costs of abatement, in the amount which the Administrator deems necessary.

(2) In approving any grant, the Administrator shall state with particularity the reasons why the applicant is unable to undertake and complete the abatement program with loan funds.

(f) Loan agreement

Loans under this section shall be made pursuant to agreements which shall provide for the following:

(1) the loan shall not bear interest;

(2) the loan shall have a maturity period of not more than twenty years (as determined by the Administrator) and shall be repayable during such period at such times and in such amounts as the Administrator may specify in the loan agreement;

(3) repayment shall be made to the Secretary of the Treasury for deposit in the Asbestos Trust Fund established by section 4022 of this title; and

(4) such other terms and conditions that the Administrator determines necessary to protect the financial interest of the United States.

(g) Application requirements

(1) No financial assistance may be provided under this section unless an application has been submitted to the Administrator in accordance with such procedures as may be developed by the Administrator.

(2) The Administrator shall not approve an application unless—

(A) the application contains such information as the Administrator may require, including but not limited to information describing—

(i) the nature and extent of the asbestos problem for which the assistance is sought;

(ii) the asbestos content of the material to be abated;