

(3) Section 2619 of this title shall apply to civil actions described in this subsection, except to the extent inconsistent with this subsection.

(g) Failure to attain accreditation; penalty

Any contractor who—

(1) inspects for asbestos-containing material in a school, public or commercial building;

(2) designs or conducts response actions with respect to friable asbestos-containing material in a school, public or commercial building; or

(3) employs individuals to conduct response actions with respect to friable asbestos-containing material in a school, public or commercial building;

and who fails to obtain the accreditation under section 2646 of this title, or in the case of employees to require or provide for the accreditation required, is liable for a civil penalty of not more than \$5,000 for each day during which the violation continues, unless such contractor is a direct employee of the Federal Government.

(Pub. L. 94-469, title II, §207, as added Pub. L. 99-519, §2, Oct. 22, 1986, 100 Stat. 2983; amended Pub. L. 100-368, §5, July 18, 1988, 102 Stat. 833; Pub. L. 101-637, §15(a)(4), Nov. 28, 1990, 104 Stat. 4596.)

AMENDMENTS

1990—Subsec. (g). Pub. L. 101-637 added subsec. (g).
1988—Subsec. (a)(4), (5). Pub. L. 100-368 added pars. (4) and (5).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-637 effective upon expiration of 12-month period following Nov. 28, 1990, with provisions for extension, see section 15(c) of Pub. L. 101-637, set out as a note under section 2646 of this title.

EPA ADMINISTRATOR NOT EXERCISING “STATUTORY AUTHORITY” UNDER OSHA LAW IN EXERCISING AUTHORITY UNDER THIS CHAPTER

In exercising any authority under this chapter in connection with amendment made by Pub. L. 101-637, Administrator of Environmental Protection Agency not, for purposes of section 653(b)(1) of Title 29, Labor, to be considered to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health, see section 15(b) of Pub. L. 101-637, set out as a note under section 2646 of this title.

§ 2648. Emergency authority

(a) Emergency action

(1) Authority

Whenever—

(A) the presence of airborne asbestos or the condition of friable asbestos-containing material in a school building governed by a local educational agency poses an imminent and substantial endangerment to human health or the environment, and

(B) the local educational agency is not taking sufficient action (as determined by the Administrator or the Governor) to respond to the airborne asbestos or friable asbestos-containing material,

the Administrator or the Governor of a State is authorized to act to protect human health or the environment.

(2) Limitations on Governor action

The Governor of a State shall notify the Administrator within a reasonable period of time

before the Governor plans to take an emergency action under this subsection. After such notification, if the Administrator takes an emergency action with respect to the same hazard, the Governor may not carry out (or continue to carry out, if the action has been started) the emergency action.

(3) Notification

The following notification shall be provided before an emergency action is taken under this subsection:

(A) In the case of a Governor taking the action, the Governor shall notify the local educational agency concerned.

(B) In the case of the Administrator taking the action, the Administrator shall notify both the local educational agency concerned and the Governor of the State in which such agency is located.

(4) Cost recovery

The Administrator or the Governor of a State may seek reimbursement for all costs of an emergency action taken under this subsection in the United States District Court for the District of Columbia or for the district in which the emergency action occurred. In any action seeking reimbursement from a local educational agency, the action shall be brought in the United States District Court for the district in which the local educational agency is located.

(b) Injunctive relief

Upon receipt of evidence that the presence of airborne asbestos or the condition of friable asbestos-containing material in a school building governed by a local educational agency poses an imminent and substantial endangerment to human health or the environment—

(1) the Administrator may request the Attorney General to bring suit, or

(2) the Governor of a State may bring suit,

to secure such relief as may be necessary to respond to the hazard. The district court of the United States in the district in which the response will be carried out shall have jurisdiction to grant such relief, including injunctive relief.

(Pub. L. 94-469, title II, §208, as added Pub. L. 99-519, §2, Oct. 22, 1986, 100 Stat. 2985.)

§ 2649. State and Federal law

(a) No preemption

Nothing in this subchapter shall be construed, interpreted, or applied to preempt, displace, or supplant any other State or Federal law, whether statutory or common.

(b) Cost and damage awards

Nothing in this subchapter or any standard, regulation, or requirement promulgated pursuant to this subchapter shall be construed or interpreted to preclude any court from awarding costs and damages associated with the abatement, including the removal, of asbestos-containing material, or a portion of such costs, at any time prior to the actual date on which such material is removed.

(c) State may establish more requirements

Nothing in this subchapter shall be construed or interpreted as preempting a State from estab-