

ASBESTOS REGULATION

Pursuant To Act 394 of 1985, The Department developed proposed regulations that set requirements for contractors and workers that will be engaged in the removal of friable asbestos materials from Arkansas facilities. Major provisions of the regulations include an annual license fee of \$100.00 for contractors and a certification fee (initial and renewal) of \$5.00 for workers, and also a deadline of November 30, 1985 to apply for licensing. The regulation provide for training of prospective licensees, to be conducted by Department personnel, on numerous topics related to asbestos removal.

On October 13, 1985, public notices were published announcing this proposed regulation and a public hearing was held on November 13, 1985 to receive comments. Changes have been made to accommodate comments where applicable.

The Commission having considered the terms and conditions of the regulation does hereby approve and adopt said regulation subject to the conditions contained within.

COMMISSIONERS

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CHAIRMAN

SUBMITTED BY: Wilson Tolefrees DATE PASSED: Nov. 22, 1985

COMMISSION REGULATION

REGULATION FOR ASBESTOS CONTRACTOR LICENSING

PURPOSE

To establish training, classification, qualification, licensing, and certification standards for licensing contractors, employees thereof, and other persons engaged in the removal of friable asbestos materials from facilities in accordance with Act 394 of 1985.

AUTHORITY

Section 3 of Act 394 of 1985 (Act), the Asbestos Contractor Licensing Act, authorizes the Arkansas Department of Pollution Control and Ecology to adopt and promulgate regulations necessary or appropriate to implement the Act.

I. DEFINITIONS:

- A. "License" is a document issued by the Department to a contractor who meets the criteria under Section 5 of the Act, "Requirements for License"; namely, completion of application, proof of liability insurance coverage to the satisfaction of the Department, and proof of training and examination completion as required by the Department.
- B. "Certificate" is a document issued by the Department to any employee of a contractor, or any other person, who satisfactorily completes such training and examination as required by the Department in the removal of friable asbestos material from a facility for disposal.
- C. "Employee" means any supervisor, employee, subordinate, worker or agent of a contractor who performs work for or under the auspices of that contractor in the removal of friable asbestos material from a facility for disposal, for which removal project the contractor has primary responsibility.
- D. "Department" means the Arkansas Department of Pollution Control and Ecology.
- E. "Director" means the Director of the Arkansas Department of Pollution Control and Ecology.

Other terms included in this regulation shall have the same meaning as established by the Act.

II. LICENSES, CERTIFICATES, APPLICATIONS AND RENEWALS

- A. Licenses and certificates shall be initially issued in January, 1986, to contractors, employees, and other interested persons. As provided in the Act, the annual fee for licenses shall be \$100.00. To defray the cost of administration, a fee of \$5.00 will be assessed for each certificate.
- B. Licenses and certificates may be renewed for a period of one year, and annual fees of \$100.00 and \$5.00 shall be assessed, respectively, for renewals.
- C. Applications for initial licenses and certificates for 1986 shall be made by November 30, 1985. Applications for renewals of licenses or certificates for subsequent years shall be made by the same date in the year just preceding.
- D. If initial licensing or certification is hereafter granted during any month other than January in any subsequent year, application for renewal of such shall be made by November 30 of the same year for an effective renewal date of January in the subsequent year. For any partial year of initial licensing, a reduced annual fee may be assessed on a prorated basis; for a partial year of initial certification, the full fee shall be assessed.
- E. Persons or business entities who do not maintain offices in the state of Arkansas and who perform in this state work as a contractor, as defined in the Act, are subject to the licensing and certification requirements of the Act and this Regulation.
- F. Application for licenses or renewals thereof shall be made to the Department, on forms to be provided by the Department, and shall include the following:
 - 1. The name or business title of the contractor.
 - 2. Enclosure of the annual fee of \$100.00.
 - 3. (RESERVED FOR LIABILITY INSURANCE REQUIREMENTS.)

4. Number of persons employed who are not engaged in asbestos removal work.
 5. Number of employees who are engaged in asbestos removal work.
 6. If applicable, the number of employees who have current certificates.
 7. If applicable, state whether the applicant has previously received some manner of license or certificate for training in asbestos removal from any other state.
 8. If applicable, the number and names of any employees for whom certification is desired.
- G. Application for certificates or renewals thereof shall be made to the Department, on forms to be provided by the Department, and shall include the following:
1. The applicant's name.
 2. The employer's name, if applicable.
 3. If applicable, state whether the applicant has previously received some manner of a certificate or license certifying training in asbestos removal from any other state.
 4. If applicable, the signature of an authorized representative of the contractor for whom the employee will be working.

III. TRAINING AND EXAMINATION PROGRAM OFFERED BY THE DEPARTMENT

- A. Formal training for licensing and certification, which is intended to meet the training requirements of the Act, will be offered and conducted by the Department, and will consist of the following:

1. A minimum of two days training on the following general topics:
 - a. Background information on asbestos
 - b. Health effects.
 - c. Regulatory agencies and their areas of responsibility
 - d. Sampling and analysis.
 - e. Asbestos abatement methods.
 - f. Worker protection.
 - g. Asbestos removal procedures
 - h. Disposal requirements.

 2. Satisfactory completion of a written examination given at the end of this training.

 3. An additional day of training may be given for contractors, any employees designated by a contractor, or other interested persons to discuss administrative and supervisory topics relating to asbestos removal. There will be no examination following this training.
- B. Initial training for applicants of licenses and certificates will be offered and conducted by the Department during the months of November and December, 1985, and a schedule for such training will be issued to all applicants after all applications are received. The Department will make every effort to accommodate the training schedule to the needs of the applicants.
- C. The Department will prefer to schedule and conduct initial training for licensing and certification and, if needed, subsequent renewal training for such, during the months of November and December each year coincident with an administrative policy of having renewals to be effective each January, but the training program may be scheduled and conducted at other times during any calendar year at the Department's discretion.
- D. A contractor, employee, or other interested person may, upon a showing of good cause to the Department, apply for and receive initial training and examination at times during any year when the Department's program is not scheduled. For purposes of this subsection, good cause shall be established, but not limited to, these instances:

1. If the contractor can satisfactorily demonstrate that he is to commence business or operation as a contractor and is unable to wait until the next scheduled training period.
 2. If an employee or other interested person can satisfactorily demonstrate that he is engaged for work in asbestos removal work and is unable to wait until the next scheduled training period.
- E. The formal training set forth in this Section for initial licensing or certification, and such training as may be needed for renewals, will be conducted by the Department. Advance notice will be given concerning the dates, times, and locations of classes.

IV. POWERS AND DUTIES OF THE DIRECTOR

- A. The Director shall approve applications for initial licenses and renewals thereof based upon a satisfactory showing of the following:
1. A completed application with submission of the annual fee of \$100.00.
 2. (RESERVED FOR LIABILITY INSURANCE COVERAGE REQUIREMENTS.)
 3. Proof of training and examination satisfactory to the Director and based on the considerations set forth in subsections C, D, & E below.
- B. The Director shall approve applications for initial certificates and renewals thereof based upon a satisfactory showing of the following:
1. A completed application with submission of the fee of \$5.00.
 2. Proof of training and examination satisfactory to the Director and based on the considerations set forth in subsections C, D, and E below.
- C. For satisfaction of the training and examination requirements for initial licensing or certification, the Director shall accept documentation of the satisfactory

completion of the Department's training and examination program set forth herein.

- D. Training and examination for initial licensing and certification may be waived if the applicant holds a valid license or certificate from another state where the training requirements for eligibility for such are at least as stringent as the Department's program.
- E. For renewals of licenses or certificates, the Director may require the full program of training and examination as outlined herein in Section III as the Department's program, no additional training or examination, or an amount between these extremes. In exercising discretion on this matter, the Director may utilize any credible information received from any source concerning the past performance or work history of the contractor or certificate holder in question. The Director shall, if requested, provide to the contractor or certificate holder the basis for any decision to require additional training for renewals.
- F. The Director shall as much as is possible, accommodate those applicants who desire initial licensing and certification during the months after January of any subsequent year and who can demonstrate good cause for such request.
- G. The Director shall set forth to the applicant in writing the basis for a decision to disapprove an application for a license, certificate, or renewal thereof.
- H. The Director may hereafter establish and promulgate such criteria as may be deemed necessary or appropriate to define areas of competence for prospective licensees and certificate holders and to recognize substitutions of equivalency, education or experience.

V. CONTRACTOR ASSURANCE TO THE DEPARTMENT

As an additional requirement for licensing or renewal thereof, a contractor shall submit to the Department a written assurance, on forms to be provided by the Department, stating that, with respect to any site in the state of Arkansas where friable asbestos will be removed from a facility for disposal:

- 1) Only personnel who are licensed or certified under the Act and this Regulation will engage in the actual removal and disposal work; and that
- 2) Employees at all levels of supervision at each site will be licensed or certified under the Act and this Regulation.

VI. LAPSED LICENSE OR CERTIFICATE

Any license or certificate holder who allows a license or certificate to expire for over one year shall be required to take the full training and examination as specified in Section III above.

VII. REVOCATION OF LICENSE

The Department may revoke the license of a contractor for reasons including but not limited to the following:

- A. Use of non-licensed or non-certified personnel in asbestos removal work.
- B. Falsification of information on application.
- C. Repeated failure to comply with any regulations or procedures administered by the Department.
- D. Failure to comply with the terms of a Notice of Violation or Administrative Order issued by the Department.

VIII. REVIEW OF ACTIONS

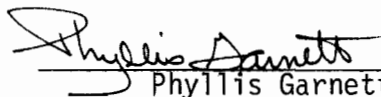
As provided in Section IV of the Act, an aggrieved party to any action taken under the authority of the Act or this Regulation by the Director or the Department, with respect to licenses and certificates, shall have rights of redress as provided in Part I of the Arkansas Water and Air Pollution Control Act, as amended, including but not limited to, Ark. Stat. Ann. § 82-1904(11) and 82-1906.

PROMULGATED this 22nd day of November, 1985

By ORDER OF THE COMMISSION ON POLLUTION CONTROL AND ECOLOGY

BY: 
Chairman

ATTEST:


Phyllis Garnett
Director

APPROVED:


Bill Clinton, Governor
State of Arkansas