

ARKANSAS DEPARTMENT OF POLLUTION
CONTROL & ECOLOGY

MINUTE ORDER NO. 88- 07

LOCATION - SUBJECT Amendment of
Revisions to Asbestos Regulations
PAGE 1 OF 2

FINDINGS:

The Department has revised its existing accreditation regulations to meet the program requirements of the federal model contractor's accreditation plan for states.

The State's proposed accreditation regulations have six components:

1. Initial Training
2. Examinations
3. Refresher Training Course
4. Qualifications
5. Recertification Requirements
6. Reciprocity

The number of required training days for workers have been increased from two days to three days. The course requirements include: lectures, demonstrations, at least six hours of hands-on training, individual respirator fit testing, course review and an examination.

The Asbestos Abatement Contractor's and Supervisor's Course requires that all persons seeking accreditation as Asbestos Abatement Contractors or Supervisors complete a four-day training course. The training course includes: lectures, demonstrations, at least six hours of hands-on training, individual respirator fit testing, course review, and a written examination.

A public notice was mailed and published on December 6-12, 1987, and a hearing held on January 11, 1988. No adverse comments were received at the hearing.

ORDER:

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

EFFECTIVE DATE:

This regulation and any amendment thereof shall be in full force and effect twenty days after filing with the Secretary of State.

ARKANSAS DEPARTMENT OF POLLUTION
CONTROL & ECOLOGY

LOCATION - SUBJECT Adoption of


Revisions to Asbestos Regulations

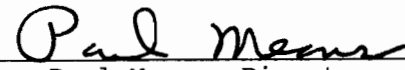
MINUTE ORDER NO. 88-07

PAGE 2 OF 2

Promulgated this 22nd day of January, 1988.


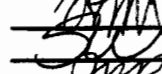
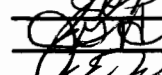
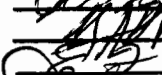
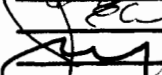

BY ORDER OF THE COMMISSION ON
POLLUTION CONTROL AND ECOLOGY

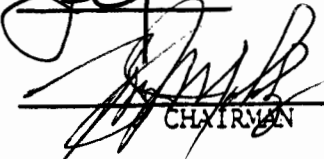
BY: 
Bryce Mobley, Chairman

Attest: 
Paul Means, Director

APPROVED: 
Bill Clinton, Governor
State of Arkansas

COMMISSIONERS


CHAIRMAN

SUBMITTED BY: James B. Jones DATE PASSED: 1-22-88

ARKANSAS DEPARTMENT OF POLLUTION CONTROL AND ECOLOGY

COMMISSION 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 abatement and disposal of friable asbestos materials in accordance with Act 531 of 1987 and Section 206 of Title II of TSCA.

AUTHORITY

Section 3 of Act 531 of 1987 (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 asbestos abatement or 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 asbestos abatement or 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.
- F. "Asbestos Abatement" means procedures to control fiber release from asbestos-containing materials in buildings. This shall include removal, encapsulation, and enclosure.
- G. "Enclosure" means the construction of airtight walls and ceilings around asbestos-containing material to prevent the release of airborne

fibers.

H. "Encapsulation" means the coating of asbestos-containing material with a bonding or sealing agent to prevent the release of airborne fibers.

I. "Removal" means to take out friable asbestos material from any facility.

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 issued to contractors, employees, and other interested persons. As provided in the Act, the annual fee for licenses shall be \$300.00. To defray the cost of administration, a fee of \$25.00 for class enrollment and \$25.00 for both the examination and certificate shall be assessed.

B. Licenses and certificates may be renewed for a period of one year, and annual fees of \$300.00 and \$25.00 shall be assessed, respectively, for renewals.

C. Applications for renewals of certificates for subsequent years shall be made by the anniversary of the issuance of the original certificate.

D. If initial licensing 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.

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 \$300.00.
3. Proof of liability insurance coverage in the form and amount as set forth in Section VII A.2. hereinbelow.
4. Number of persons employed who are not engaged in asbestos abatement work.
5. Number of employees who are engaged in asbestos abatement 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 abatement 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 abatement from any other state.
 4. If applicable, the signature of an authorized representative of the contractor for who the employee will be working.

III. 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 regulated by the Department, requirements found in Section IV.
1. Satisfactory completion of a written examination provided by the Department. The examination for contractors and supervisors will consist of 100 multiple choice questions and the examination for asbestos abatement workers shall consist of 50 multiple choice questions. Passing score for both groups shall be 70%.
- B. The formal training set forth in this Section for initial licensing or certification, and such training as may be needed for renewals, will be regulated by the Department. Advance notice will be given concerning the dates, times, and locations of classes.

IV. PERMITTING OF TRAINING COURSES BY THE DEPARTMENT

- A. Formal training for licensing and certification, which is intended to meet the training requirements of the Act, may be conducted by any educational institution, business entity, or individual that is approved by the Department, and shall include the following:
1. The name and address of the institution, business entity, or individual that plans to conduct the training course, and the name of the responsible individual and his or her telephone number.
 2. A detailed outline of the course curriculum, the amount of time allotted to each topic, and the name of the instructor(s) for each topic.

3. Copies of course notebook, handout materials and a written description of audio-visual material used. This written description shall identify whether material consists of slides, transparencies, or video tape. The developer or creator of the material shall be included as well as the year the material was developed. If the material has a formal title, the title shall also be included.
 4. A description of the training methods to be used to present each topic, i.e., lectures, discussions, demonstration and audio-visual materials.
 5. A detailed list of equipment used in the course such as type of respirators.
 6. A list of instructors and their qualifications. A list of permanent staff acting as instructor shall be included with the application. A list of guest instructors shall be submitted to the Department no later than 3 days prior to the commencement of the course.
 7. Description and example of the student evaluation form and certificate of completion.
 - a. Certificate of completion shall include name of training company, date of training, and trainees name, and certificate number.
 8. Enclosure of the annual fee of \$300.00.
 9. A detailed statement about the development of the examination used in the course.
- C. Training courses permitted in accordance with these regulations shall meet the following criteria.
1. Lectures shall be presented by person(s) who have education and/or experience that is appropriate for the subject matter presented.
 2. The asbestos contractor and supervisor course shall consist of a minimum of 32 hours (4 days) of instruction with at least 6 hours of hands on training, individual respirator fit testing, course review and written examination.
 3. The asbestos abatement worker course shall consist of a minimum of 24 hours (3 days) instructions with at least 6 hours of hands on training, individual respirator fit testing, course review and written examination.
 4. Provisions shall be made to allow a representative of the Department to attend one or more presentations of any course for which a training permit has been issued, without payment of any associated fees. Written notification of a course conducted within the State of Arkansas must be submitted to the Department 10 calendar days prior to the course. This notice shall include the title of the course, the dates of the course, the location and the

amount of the course fee. This attendance shall be for the purpose of determining compliance with this regulation and the correctness of the information being presented. The Director may deny, revoke, or suspend the permit of any course or the basis of findings resulting from this attendance.

5. Any permittee under this section of the regulation shall follow all policies, guidelines or procedures as established by the Department to regulate training.
- D. The contractor and supervisor's training course shall adequately address the following topics:
1. The physical characteristics of asbestos, and asbestos-containing materials. Identification of asbestos, aerodynamic characteristics, typical uses, physical appearance, a review of hazard assessment considerations, and a summary of abatement control options.
 2. Potential health effects related to asbestos exposure. The nature of asbestos-related diseases; routes of exposure; dose-relationships and the lack of a safe exposure level; synergism between cigarette smoking and asbestos exposure; latency period for disease.
 3. Employee personal protective equipment. Classes and characteristics of respirator types; limitations of respirators and their proper selection, inspection, donning, use, maintenance, and storage procedures; methods for field testing of the facepiece-to-face seal (positive and negative pressure fitting tests); qualitative and quantitative fit testing procedures; variability between field and laboratory protection factors; factors that alter respirator fit (e.g., facial hair); the components of a proper respiratory protection program; selection and use of personal protective clothing; use, storage, and handling of non-disposable clothing; and regulations covering personal protective equipment.
 4. State-of-the-art work practices. Proper work practices for asbestos abatement activities including descriptions of proper construction and maintenance of barriers and decontamination enclosure systems; positioning of warning signs; electrical and ventilation system lockout; proper working techniques for minimizing fiber release; use of wet methods; use of negative pressure ventilation equipment; use of high efficiency particulate air (HEPA) vacuums; proper clean-up and disposal procedures. Work practices for removal, encapsulation, enclosure, and repair; emergency procedures for sudden releases; potential exposure situations; transport and disposal procedures, and recommended and prohibited work practices. Discussion of new abatement-related techniques and methodologies may be included.
 5. Personal hygiene. Entry and exit procedures for the work area; use of showers; and avoidance of eating, drinking, smoking, and chewing (gum or tobacco) in the work area. Potential exposures, such as family exposure, shall also be included.

6. Additional safety hazards. Hazards encountered during abatement activities and how to deal with them, including electrical hazards, heat stress, air contaminants other than asbestos, fire and explosion hazards, scaffold and ladder hazards, slips, trips and falls, and confined spaces.
 7. Medical monitoring. OSHA requirements for a pulmonary function test, chest X-rays and a medical history for each employee.
 8. Air monitoring. Procedures to determine airborne concentrations of asbestos fibers, including a description of aggressive sampling, sampling equipment and methods, reasons for air monitoring, types of samples, and interpretation of results, specifically from analysis performed by polarized light, phase-contrast, and electron microscopy analyses.
 9. Relevant Federal, State and local regulatory requirements. Procedures and standards, including:
 - a. Requirements of TSCA Title II.
 - b. 40 CFR Part 61, National Emission Standards for Hazardous Air Pollutants, Subparts A (General Provisions) and M (National Emission Standard for Asbestos).
 - c. OSHA standards for permissible exposure to airborne concentrations of asbestos fibers and respiratory protection (29 CFR 1910.134).
 - d. OSHA Asbestos Construction Standard (29 CFR 1926.58).
 - e. EPA worker Protection Rule, 40 CFR Part 763, Subpart G.
 10. Respiratory protection programs and medical surveillance programs.
 11. Insurance and liability issues. Contractor issues; worker's compensation coverage and exclusions; third-party liabilities and defenses; insurance coverage and exclusions.
 12. Recordkeeping for asbestos abatement projects. Records required by Federal, State and local regulations; records recommended for legal and insurance purposes.
 13. Supervisory techniques for asbestos abatement activities. Supervisory practices to enforce and reinforce the required work practices and discourage unsafe work practices.
 14. Contract specifications. Discussion of key elements that are included in contract specifications.
 15. Course review. A review of key aspects of the training course.
- E. The asbestos abatement worker training course shall adequately address the following topics:

1. Physical characteristics of asbestos. Identifications of asbestos, aerodynamic characteristics, typical uses, and physical appearance, and a summary of abatement control options.
2. Potential health effects related to asbestos exposure. The nature of asbestos-related diseases, routes of exposure, dose-response relationships and the lack of a safe exposure level, synergism between cigarette smoking and asbestos exposure, and latency period for disease.
3. Employee personal protective equipment. Classes and characteristics of respirator types; limitations of respirators and their proper selection, inspection, donning, use, maintenance, and storage procedures; methods for field testing of the facepiece-to-face seal (positive and negative pressure fitting tests); qualitative and quantitative fit testing procedures; variability between field and laboratory protection factors; factors that alter respirator fit (e.g., facial hair); the components of a proper respiratory protection program; selection and use of personal protective clothing; use, storage, and handling of non-disposable clothing; and regulations covering personal protective equipment.
4. State-of-the-art work practices. Proper asbestos abatement activities including descriptions of proper construction and maintenance of barriers and decontamination enclosure systems; positioning of warning signs; electrical and ventilation system lockout; proper working techniques for minimizing fiber release; use of wet methods; use of negative pressure ventilation equipment; use of high efficiency particulate air (HEPA) vacuums; proper clean-up and disposal procedures; work practices for removal, encapsulation, enclosure, and repair; emergency procedures for sudden releases; potential exposure situations; transport and disposal procedures; and recommended and prohibited work practices.
5. Personal hygiene. Entry and exit procedures for the work area; use of showers; avoidance of eating, drinking, smoking and chewing (gum or tobacco) in the work area; and potential exposures, such as family exposure.
6. Additional safety hazards. Hazards encountered during abatement activities and how to deal with them, including electrical hazards, heat stress, air contaminants other than asbestos, fire and explosion hazards, scaffold and ladder hazards, slips, trips and falls, and confined spaces.
7. Medical monitoring OSHA requirements for a pulmonary function test, chest X-rays and a medical history for each employee.
8. Air Monitoring. Procedures to determine airborne concentrations of asbestos fibers, focusing on how personal air sampling is performed and the reasons for it.
9. Relevant Federal, State and Local regulatory requirements, procedures, and standards. With particular attention directed at

relevant EPA, OSHA, and State Regulations concerning asbestos abatement workers.

10. Establishment of respiratory protection programs.

11. Course review. A review of key aspects of the training course.

F. The Director may revoke the permit of any training entity, business, or individual for reasons including but not limited to the following:

1. Failure to follow Department training policies, requirements, guidelines, or procedures, or

2. Unethical practices, or

3. Failure to adequately present either the topics set forth in this section of the regulation, or

4. Submitting false information on an application, or

5. Failure to comply with the terms of a Notice of Violation or Administrative Order issued by the Department.

V. REFRESHER TRAINING COURSE

Asbestos abatement workers, contractors and supervisors shall annually attend a one-day refresher training course for reaccreditation. After completing the annual refresher course, workers, contractors and supervisors shall have their accreditation extended an additional year. The refresher course shall be specific for contractors, supervisors and workers and shall adequately address the following:

A. Changes in Federal and State regulations

B. Developments in state-of-the-art procedures

C. Review of key aspects of the initial training course.

VI. QUALIFICATIONS

A. Contractors and Supervisors: One year experience in the practice of Asbestos Abatement.

B. Workers: (Reserved).

VII. 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 license fee of \$300.00.

2. A signed duplicate original of a Certificate of Liability Insurance evidencing that the contractor has in force a public liability insurance policy. The Certificate shall evidence that the policy provides for personal injury protection to compensate all persons injured as a result of the removal, encapsulation, and enclosure of friable asbestos materials; that the minimum liability coverage is in an annual amount of \$500,000.00, exclusive of defense costs; that coverage is being provided on a claims-made or occurrence-based basis; that the policy contains a rider requiring that the insurer notify the Director in writing at least thirty (30) days in advance of any substantive changes made to the policy including, but not limited to, any termination or failure to renew, or any reduction of the monetary limits of coverage. The Certificate shall be issued by a company or business concern which is either licensed to do business or approved as a surplus lines insurer in the State of Arkansas, or a risk retention group holding a valid Certificate of Registration with the Insurance Commissioner of the State of Arkansas. All contractors shall maintain the liability insurance policy required by this Section in full force during the term of the license or any renewal thereof.
 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 \$25.00 for enrollment and \$25.00 for the examination/certificate.
 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. 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 or certificate holder in question. The Director shall, if requested, provide to the contractor or certificate holder the bases for any decision to require additional training for renewals.
- E. 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.

- F. 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.
- G. 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.
- H. To establish minimum performance standards for the abatement of friable asbestos materials under Section 3(b) of the Act, specific regulations promulgated by the United States Environmental Protection Agency in 40 CFR Part 61, Subpart M (National Emissions Standards for Asbestos) are hereby adopted as provisions of this Regulation as though set forth herein line for line and word for word with the exception that all reference therein to the "Administrator" shall be considered a reference to the "Director of the Arkansas Department of Pollution Control & Ecology," and all reference to the "United States Environmental Protection Agency" shall be considered a reference to the "Arkansas Department of Pollution Control & Ecology"; further, the effective date of provisions adopted herein by reference as provisions of this Regulation shall be the date such provisions are specified as being effective by the Commission in its rulemaking, and the effective date of the federal regulations adopted herein shall have no bearing on the effective date of any provisions of this Regulation. The following federal regulations are hereby adopted: Sections 61.140, 61.141, 61.145, 61.146, 61.147, and 61.152 of Title 40, Code of Federal Regulations, Part 61, Subpart M, all as adopted as final rules by the United States Environmental Protection Agency on or before July 1, 1987. The Director, within one hundred and eighty (180) days after the date of promulgation of any new or revised federal regulations pertaining to National Emissions Standards for Asbestos, shall conduct rulemaking with reference to this Regulation to adopt such provisions. Such new or revised federal regulations, upon the date of their publication as final rules of the United States Environmental Protection Agency, shall constitute minimum guidelines to the Director in formulating rule making proposals to this Regulation, but shall not construed to limit or to interfere with the adoption of provisions more stringent than federal regulations.

VIII. 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 abated or 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 abatement 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, and at least one supervisor is required to be at the work site at all times while work

is in progress.

IV. LAPSED LICENSE OR CERTIFICATE

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

X. REVOCATION OF LICENSE

- A. The Department may revoke the license of a contractor for reasons including but not limited to the following:
 - 1. Use of non-licensed or non-certified personnel in asbestos removal work.
 - 2. Falsification of information on application.
 - 3. Failure to comply with any regulations or procedures administered by the Department.
 - 4. Failure to comply with the terms of a Notice of Violation or Administrative Order issued by the Department.
- B. The Department may suspend or revoke the certificate of a worker for reasons including but not limited to the following:
 - 1. Negligence.
 - 2. Failure to comply with work practice standards.
 - 3. To loan, abandon or transfer ownership of person's certification card or number.
 - 4. Being debarred under the Act or any other state law.
 - 5. Any good cause within the meaning and purpose of the Act.
 - 6. Incompetence.

XI. RECIPROCITY

Training and examination for initial licensing and certification may be waived if the applicant holds a valid license or certificate from another state with an EPA approved accreditation program or from an EPA approved training course.

XII. 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. Section 82-1904(11) and 82-1906.

XIII. EFFECTIVE DATE

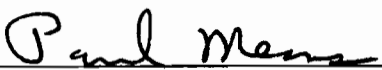
This regulation and any amendment thereof shall be in full force and effect twenty days after filing with the Secretary of State.

PROMULGATED this *January 22, 1988.*

By ORDER OF THE COMMISSION ON POLLUTION CONTROL AND ECOLOGY


BY  _____
Chairman

ATTEST:



Paul Means
Director

APPROVED:



Bill Clinton, Governor
State of Arkansas