

Kansas Administrative Regulations

Department of Health and Environment

Article 50.—Asbestos Control

28-50-2. Business entity license.

(a) A business entity shall not engage in an asbestos-removal project, an asbestos-encapsulation project, or an asbestos-related dismantling project unless the secretary has issued, or renewed, a license authorizing the business entity to engage in the activities. This requirement shall apply to business entities that conduct the activities in occupied spaces as defined in K.A.R. 28-50-1(bb).

(b) A business entity shall not be issued a license, or a license shall not be renewed or remain in effect, unless the business entity demonstrates that it has met the following requirements:

(1) The business entity shall be owned by, or shall employ, one or more identified individuals who shall be required to be physically present at, and directly supervise, each project for which the license is required and who shall be responsible for compliance with this article. This individual shall hold a currently valid certificate as a class II asbestos worker that has been issued in accordance with this article.

(2) Each employee or agent of the business entity who will come into contact with asbestos or who will engage in an asbestos-removal project, an asbestos-encapsulation project, or an asbestos-related dismantling project shall be certified and accredited as appropriate in accordance with this article.

(3) The business entity shall provide, or make available at its cost, medical examinations for all employees to the extent that the examinations are required by OSHA and EPA.

(4) The business entity shall designate an individual who is responsible for the establishment and maintenance of its respiratory protection program. The business entity shall submit a written description of the program to the department for its approval.

(5) The business entity shall own and maintain in operable condition, at minimum, the following equipment items for use in each asbestos-removal or asbestos-encapsulation project that it proposes to engage in:

(A) Two HEPA filter-equipped portable exhaust fan units with a minimum rated capacity of 500 cubic feet per minute;

(B) two HEPA filter-equipped portable vacuum-cleaning devices equipped with hoses and attachments necessary for cleaning dry surfaces;

(C) a type C pressure demand or continuous flow respirator system. The air supply equipment shall be capable of providing sufficient volumes and pressures of grade D breathing air to accommodate the manufacturer's specifications for all respirators intended to be connected to it. A sufficient number of respirators to meet all anticipated requirements shall be maintained for use with the compressor, and all respirators, hoses, and regulators shall be designated as being NIOSH approved; and

(D) a sufficient number of air-purifying respirators to meet all anticipated requirements. At least 10 filter cartridges specifically designated for use with each of these respirators shall be maintained on a continuing inventory basis.

(6) The business entity shall not prohibit the department from inspecting any work area where an asbestos-removal project, an asbestos-encapsulation project, or an asbestos-related dismantling project is being conducted under a license issued in accordance with this regulation.

(c) Any requirement of paragraph (b)(5) of this regulation may be waived by the department if the business entity demonstrates to the satisfaction of the department that compliance with the requirement is not necessary in order to assure compliance with all requirements, procedures, and standards of OSHA, EPA, and K.A.R. 28-50-9 through 28-50-14 that are applicable to asbestos abatement and encapsulation projects for which the application for license, or license renewal, has been submitted.

(d) Each application for a license, or license renewal, shall be made on a form provided by the department and shall be accompanied by a check or money order for the fee prescribed in subsection (e) of this regulation.

(e) Business entities applying for a license, or renewal of a license, to engage in asbestos-removal or asbestos-encapsulation projects shall pay an annual licensing fee

of \$1,000.00. The fee shall cover a 12-month period beginning on the effective date of the issuance or renewal of the license. No portion of the fee shall be refunded if the license is suspended or revoked during the 12-month period or if the business entity otherwise discontinues the licensed activities within the state during the 12-month period.

(f) The applicant shall be notified by the department of each deficiency that it considers sufficient to deny the license or renewal of the license. The license shall be denied if the listed deficiencies are not corrected within 60 days of the mailing date of the notification. The application fee shall be retained by the department if a license is denied or the application is withdrawn. Each reapplication for a license shall be accompanied by the full fee prescribed in subsection (e) of this regulation.

(Authorized by K.S.A. 1998 Supp. 65-5303; implementing K.S.A. 1998 Supp. 65-5303, K.S.A. 65-5304, 65-5305, 65-5306, 65-5309; effective, T-86-1, Jan. 6, 1986; effective May 1, 1987; amended, T-88-54, Dec. 16, 1987; amended May 1, 1988; amended Oct. 1, 1999.)

***** Authenticated Kansas Administrative Regulation *****