

# **STATE OF KANSAS ASBESTOS REGULATIONS AND STATUTES**



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# Article 53.—KANSAS STATUTES ANNOTATED ASBESTOS CONTROL

## **65-5301. Definitions. As used in this act:**

- (a) "Asbestos project" means an activity undertaken to remove or encapsulate friable asbestos containing materials.
- (b) "Business entity" means a partnership, firm, association, corporation, sole proprietorship, or other business concern.
- (c) "Certificate" means an authorization issued by the secretary permitting an individual person to engage in an asbestos project.
- (d) "License" means an authorization issued by the secretary permitting a business entity to engage in an asbestos project.
- (e) "Secretary" means the secretary of health and environment.
- (f) "Friable asbestos containing material" means any material that contains more than 1% asbestos, by weight, which is applied to ceilings, walls, structural members, piping, ductwork or any other part of a building and which, when dry, may be crumbled, pulverized or reduced to powder by hand pressure.
- (g) "Asbestos" means that asbestiform varieties of: Chrysotile, crocidolite, amosite, anthophyllite, tremolite and actinolite.

**History:** L. 1985, ch. 203, ' 1; Jan. 1, 1986.

## **65-5302. Asbestos projects; license required; exemptions.**

- (a) Except as otherwise provided in this act, no business entity shall engage in an asbestos project unless the entity holds a license issued by the secretary for that purpose.
- (b) The provisions of this act do not apply to a business entity which uses its own employees in removing or encapsulating asbestos for the purposes of renovating, maintaining, repairing or demolishing the entity's own facilities.

**History:** L. 1985, ch. 203, ' 2; L. 1998, ch. 31, ' 1; July 1.

## **65-5303. Administration of act; duties of secretary; license and certificate fees; inspections; rules and regulations.**

The secretary shall administer the provisions of this act. In administering the provisions of this act, the secretary shall:

- (4) a description of the site decontamination procedures that the business entity will use;

- (a) Prescribe fees for the issuance and renewal of certificates and licenses. The fees shall be based upon the amount of revenue determined by the secretary to be required for proper administration of the provisions of this act;
- (b) conduct on-site inspections of procedures being utilized by a licensee for removing and encapsulating asbestos during an actual asbestos project;
- (c) inspect and approve asbestos disposal sites; and
- (d) adopt rules and regulations necessary for the administration of this act including, but not limited to, requirements, procedures and standards relating to asbestos projects as are necessary to protect the public health and safety.

**History:** L. 1985, ch. 203, ' 3; L. 1998, ch. 31, ' 2; July 1.

## **65-5304. Licensure of business entities; qualifications; requirements.**

In order to qualify for a license, a business entity shall:

- (a) Ensure that each employee or agent of the business entity who will come into contact with asbestos or who will engage in an asbestos project is certified;
- (b) demonstrate to the satisfaction of the secretary that the business entity is capable of complying with all applicable requirements, procedures, standards of the United States environmental protection agency and the United States occupational safety and health administration and the secretary;
- (c) have access to at least one approved asbestos disposal site for deposit of all asbestos waste that the business entity will generate during the term of the license; and
- (d) comply with all rules and regulations adopted by the secretary under this act.

**History:** L. 1985, ch. 203, ' 4; Jan. 1, 1986.

## **65-5305. Same; application; form; requirements; fee.**

- (a) To apply for a license, a business entity shall submit an application to the secretary in the form required by the secretary and shall pay the fee prescribed by the secretary.
- (b) The application shall include:
  - (1) The name and address of the business entity;
  - (2) a description of the protective clothing and respirators that the business entity will use;
  - (3) the name and address of each asbestos disposal site that the business entity will use;
  - (5) a description of the removal and encapsulation methods that the business entity will use;

- (6) a description of the procedures that the business entity will use for handling waste containing asbestos;
- (7) a description of the air monitoring procedures that the business entity will use;
- (8) a description of the procedures that the business entity will use in cleaning up after completion of the asbestos project;
- (9) the signature of the chief executive officer of the business entity or a designee of the chief executive officer; and
- (10) any other information which may be required by the secretary.

**History:** L. 1985, ch. 203, ' 5; Jan. 1, 1986.

#### **65-5306. Same; term; renewal.**

(a) A license expires one year from its effective date unless it is renewed for a one-year term as provided in this section.

(b) Not less than one month before a license expires, the secretary shall send to the licensee, at the last known address of the licensee, a renewal notice that states:

- (1) The date on which the current license expires;
- (2) the date by which the renewal application must be received by the secretary for the renewal license to be issued and mailed before the current license expires; and
- (3) the amount of the renewal fee.

(c) Before a license expires, the licensee periodically may renew it for an additional one-year term, if the business entity:

- (1) Otherwise is entitled to be licensed;
- (2) submits a renewal application to the secretary in the form required by the secretary; and
- (3) pays the renewal fee prescribed by the secretary.

**History:** L. 1985, ch. 203, ' 6; Jan. 1, 1986.

#### **65-5307. Records of asbestos projects required, contents; notification of secretary**

(a) Every licensee shall keep a record of each asbestos project it performs and shall make the record available to the secretary at any reasonable time. Records required by this section shall be kept for not less than six years. The record shall include:

- (1) The name, address and certificate number of the individual person who supervised the asbestos project and of each employee or agent of the licensee who worked on the project;
- (2) the location and a description of the project and the amount of asbestos material that was removed;
- (3) the starting and completion dates of each instance of removal or encapsulation;
- (4) a summary of the procedures that were used to comply

with all applicable standards;

(5) the name and address of each asbestos disposal site where the waste containing asbestos was deposited; and

(6) any other information which may be required by the secretary.

(b) Every licensee, state agency or political or taxing subdivision of the state that engages in an asbestos project shall notify the secretary, in the manner prescribed by the secretary, of the proposed date on which the project is to be initiated.

**History:** L. 1985, ch. 203, ' 7; Jan. 1, 1986.

#### **65-5308. Certification of individuals required; exemptions; qualifications; application; fee; renewal.**

(a) Except as otherwise provided in this act, no individual person shall engage in an asbestos project unless the person holds a certificate issued by the secretary for that purpose.

(b) The provisions of this act do not apply to an individual person who is an employee of a business entity which is exempted from the provisions of this act by subsection (b) of K.S.A. 65-5302, and amendments thereto.

(c) In order to qualify for a certificate, an individual person must have successfully completed a basic course, approved by the secretary, on the health and safety aspects of the removal and encapsulation of asbestos including the federal and state standards applicable to asbestos projects.

(d) In order to qualify for renewal of a certificate, an individual person must have successfully completed a review course approved and within the period prescribed by the secretary.

(e) Applications for certificates and renewals shall be submitted to the secretary on forms prescribed by the secretary and shall be accompanied by a fee prescribed by the secretary.

(f) A certificate shall expire one year from its effective date unless the secretary establishes an alternative date by rules and regulations.

**History:** L. 1985, ch. 203, ' 8; L. 1998, ch. 31, ' 3; July 1.

#### **65-5309. Schedule of fees; disposition of monies.**

(a) The secretary shall establish by rules and regulations a reasonable schedule of fees for licensure, for certification and for project evaluations under this act. The fee schedule shall be established on the basis of determination by the secretary of the amount of revenue required for administration of the provisions of this act.

(b) The secretary shall remit all monies received from the fees established pursuant to this section to the state treasurer at least monthly. Upon receipt of such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury to the credit of the state general fund.

**History:** L. 1985, ch. 203, ' 9; L. 1987, ch. 252, ' 1; July 1.

**65-5310. Denial, suspension or revocation of license or certificate; notice and hearing; appeals; temporary suspension.**

(a) The secretary may deny, suspend or revoke any license issued under this act if the secretary finds, after notice and hearing conducted in accordance with the provisions of the Kansas administrative procedure act, that the applicant for license or licensee, whichever is applicable, has:

(1) Fraudulently or deceptively obtained or attempted to obtain a license;

(2) failed at any time to meet the qualifications for a license or to comply with any provision or requirement of this act or any rules and regulations adopted by the secretary under this act;

(3) failed at any time to meet any applicable federal or state standard for removal or encapsulation of asbestos; or

(4) employed or permitted an uncertified individual person to work on an asbestos project.

(b) The secretary may deny, suspend or revoke any certificate issued under this act if the secretary finds, after notice and hearing conducted in accordance with the provisions of the Kansas administrative procedure act, that the applicant for certificate or certificate holder, whichever is applicable, has:

(1) Fraudulently or deceptively obtained or attempted to obtain a certificate; or

(2) failed at any time to meet the qualifications for a certificate or to comply with any provision or requirement of this act or any rules and regulations adopted by the secretary under this act.

(c) Before any license or certificate is denied, suspended or revoked, the secretary shall conduct a hearing thereon in accordance with the provisions of the Kansas administrative procedure act.

(d) Any individual person or business entity aggrieved by a decision or order of the secretary may appeal the order or decision in accordance with the provisions of the act for judicial review and civil enforcement of agency actions.

(e) (1) If the secretary finds that the public health or safety is endangered by the continuation of an asbestos project, the secretary may temporarily suspend, without notice or hearing

in accordance with the emergency adjudication procedures of the provisions of the Kansas administrative procedure act, the license of the business entity or the certificate of any person engaging in such asbestos project.

(2) In no case shall a temporary suspension of a license or certificate under this section be in effect for a period of time in excess of 90 days. At the end of such period of time, the license or certificate shall be reinstated unless the secretary has suspended or revoked the license or certificate, after notice and hearing, or the license has expired as otherwise provided under this act.

**History:** L. 1985, ch. 203, ' 10; Jan. 1, 1986.

**65-5311. Waiver of license requirement, when; alternative requirements.**

(a) In an emergency that results from a sudden, unexpected event that is not a planned renovation or demolition, the secretary may waive the requirement for a license.

(b) The secretary may approve, on a case-by-case basis, an alternative to a required public health protection procedure for an asbestos project if the business entity or state or political or taxing subdivision of the state submits a written description of the alternative procedure to the secretary and demonstrates to the satisfaction of the secretary that the proposed alternative procedure provides equivalent protection.

(c) If a business entity or state or political or taxing subdivision of the state is not primarily engaged in the removal or encapsulation of asbestos, the secretary may waive the requirement for a license or employee certification if public health protection requirements are met or an alternative procedure is approved under subsection (b).

**History:** L. 1985, ch. 203, ' 11; Jan. 1, 1986.

**65-5312. State agencies and political subdivisions; bid acceptance requirements; compliance with act.**

(a) No state agency or political or taxing subdivision of the state shall accept a bid in connection with any asbestos project from a business entity which does not hold a license at the time the bid is submitted.

(b) No state agency or political or taxing subdivision of the state shall carry out any asbestos project using its own employees except in compliance with the requirements of K.S.A. 65-5304 that also apply to business entities.

**History:** L. 1985, ch. 203, ' 12; Jan. 1, 1986.

**65-5313. Violations; criminal penalties.**

(a) Any individual person or business entity who willfully

violates any provision of this act or any rules and regulations adopted under this act is guilty:

- (1) For a first offense, of a class C misdemeanor; and
- (2) for a second offense, of a class B misdemeanor.

**History:** L. 1985, ch. 203, ' 13; Jan. 1, 1986.

**65-5314. Same; civil penalties; appeal and review; disposition of monies recovered.**

(a) Any business entity which violates any provision of this act or any rules and regulations adopted under this act, in addition to any other penalty provided by law, may incur a civil penalty imposed under subsection (b) in an amount not to exceed \$5,000 for each violation and, in the case of a continuing violation, every day such violation continues shall be deemed a separate violation.

(b) The secretary, upon a finding that a business entity has violated any provision of this act or any rules and regulations adopted under this act, may impose a civil penalty within the limits provided in this section upon such business entity, which civil penalty shall be in an amount to constitute an actual and substantial economic deterrent to the violation for which the civil penalty is assessed.

(c) No civil penalty shall be imposed under this section except upon the written order of the secretary after notification and hearing, if a hearing is requested, in accordance with the provisions of the Kansas administrative procedure act.

(d) Any business entity aggrieved by an order of the secretary made under this section may appeal such order to the district court in the manner provided by the act for judicial review and civil enforcement of agency actions. An appeal to the district court or to an appellate court shall not stay the payment of the civil penalty. If the court sustains the appeal, the secretary shall refund forthwith the payment of any civil penalty to the business entity with interest at the rate established by K.S.A. 16-204, and amendments thereto, from the date of payment of the penalty.

(e) Any penalty recovered pursuant to the provisions of this section shall be remitted to the state treasurer, deposited in the state treasury and credited to the state general fund.

**History:** L. 1985, ch. 203, ' 14; Jan. 1, 1986.

**65-5315. Injunctions.**

Notwithstanding the existence or pursuit of any other remedy, the secretary may maintain, in the manner provided by the act for judicial review and civil enforcement of agency actions, an action in the name of the state of Kansas for injunction or

other process against any business entity to restrain or prevent any violation of the provisions of this act or of any rules and regulations adopted under this act.

**History:** L. 1985, ch. 203, ' 15; Jan. 1, 1986.

## **Article 50 -- ASBESTOS CONTROL REGULATIONS**

**28-50-1. Definitions.**

As used in this article, the following terms have these definitions:

(a) Accredited asbestos worker@ means a person who has fulfilled the training requirements and successfully completed the written examination requirements prescribed under federal law for persons who conduct response actions with respect to friable asbestos-containing material in either elementary and secondary schools or public and commercial buildings. (b) Agent@ means any person who is not an employee of a business or public entity that has been specifically authorized by the entity to act in its behalf in regard to carrying out any activity that requires the person to be present in the work area while an asbestos-removal project, an asbestos-encapsulation project, or an asbestos-related dismantling project is in progress.

(c) Appropriate protective clothing@ means outer clothing intended to be worn by a person who is engaged in asbestos-removal or asbestos-encapsulation activities. This clothing shall facilitate the removal of asbestos fibers from the person before that person moves from an area that contains asbestos fibers into an area that is intended to remain free of these fibers. Protective clothing shall consist of coveralls or a similar whole-body covering, head covers, gloves, and foot covers. Protective clothing shall be worn at all times that friable asbestos-containing materials are being handled directly and when otherwise required by OSHA or EPA regulations, work specifications governing the activities, or work plans submitted to the department in compliance with the requirements of K.A.R. 28-50-8.

(d) Appropriate respirator@ means an air purifying respirator meeting either of the following criteria:

(1) A respirator approved by NIOSH for respiratory protection against particulates under 42 C.F.R. Part 84, as in effect on October 1, 1998, for particulates and hazardous chemicals contained in encapsulants; or

(2) a respirator providing a higher protection factor if its use is specified by any of the following requirements applying to

asbestos-removal or asbestos-encapsulation activities:

- (A) OSHA and EPA regulations;
  - (B) work specifications governing the activities; or
  - (C) a work plan submitted to the department in accordance with the requirements of K.A.R. 28-50-8.
- (e) Appropriate warning sign means any asbestos hazard warning sign that complies with federal OSHA or EPA regulations and is required when airborne concentrations of asbestos exceed the prescribed limits.
- (f) Approved waste disposal site@ means a solid waste disposal area that is operated under a permit issued by the department, as provided in K.S.A. 65-3407, and amendments thereto, and is authorized by the department to receive friable asbestos-containing solid wastes.
- (g) Asbestos encapsulation project means activities that include, and are incidental to, the coating of a friable asbestos-containing surface material with a coating or penetrating type of sealing substance, when the intended purpose of the activities is to prevent the continued release of asbestos fibers from the material into the air. The following activities shall be exempt from this definition:
- (1) The repainting of a previously painted asbestos-containing surface primarily for the intended purpose of improving the appearance;
  - (2) the application of a sealing material to a surface to after the removal of asbestos from it;
  - (3) the application of an encapsulant to asbestos-containing material while the material is being removed;
  - (4) the application of a sealing substance to 10 or fewer square feet of friable asbestos-containing material that is contiguous to other types of material;
  - (5) the application of a sealing substance to asbestos-containing material that has previously been enclosed or encapsulated; or
  - (6) the painting of friable asbestos-containing material located in a privately owned single-family residence.
- (h) Asbestos label@ means a label that complies with applicable federal EPA, DOT, and OSHA regulatory requirements and is to be securely affixed to a waste container that contains friable asbestos materials.
- (i) Asbestos-related demolition project@ means any activity that includes the razing of all or a portion of a structure that contains friable asbestos-containing materials or other asbestos-containing materials that may become airborne if the materials are crushed or broken. This definition shall not include the demolition of a residential structure or structures unless the demolition activity is subject to the requirements of

40 C.F.R. Part 61, subpart M, as adopted by reference in K.A.R. 28-19-735.

- (j) “Asbestos-related dismantling project” means activities that include the disassembly, handling, and moving of the components of any structural or equipment item that has been covered with friable asbestos-containing material without first removing this material from the item. This definition shall not include these activities when conducted for the purpose of repair, replacement, or maintenance of the item and require the removal of either 25 or fewer lineal feet of friable asbestos-containing materials from the surface of a pipe or 10 or fewer square feet of friable asbestos-containing materials from any other type of surface in order to dismantle the item.
- (k) Asbestos-related maintenance operation@ means any operation, that involves the removal or cleanup of either 25 or fewer lineal feet of friable asbestos-containing material from the surface of a pipe or 10 or fewer square feet of friable asbestos-containing material from any other type of a structural or equipment item in order to repair, replace, or maintain the item or any appurtenances to it.
- (l) Asbestos removal project@ means activities that involve, and are required by these regulations to be carried out in relation to, the removal of a friable asbestos-containing material from any of the following surfaces:
- (1) A structural or equipment item that is intended to remain in place; or
  - (2) a structural or equipment item after its removal as a result of an asbestos-related dismantling operation. This definition shall include activities associated with the cleanup of loose, friable asbestos-containing debris and refuse from floors and other surfaces. This definition shall not include activities that are associated with the removal of friable asbestos-containing materials as part of an asbestos-related maintenance operation or the collection of samples for asbestos analysis.
- (m) Asbestos repair means returning damaged friable asbestos-containing material to an undamaged state or to an intact state to contain fiber release.
- (n) Class I asbestos worker@ means a person who is certified to engage in asbestos removal or asbestos-encapsulation projects in a nonsupervisory capacity.
- (o) Class II asbestos worker@ means a person who is certified to supervise and direct asbestos-removal and asbestos-encapsulation projects in compliance with the requirements of these regulations and applicable federal regulations.
- (p) Control curtain@ means either of the two following types of closure devices that are to be constructed of not less than

four-mil-thick plastic sheeting material and installed in an entryway of an area that is considered to be contaminated with free asbestos fibers:

**(1)** A ventilation curtain that is intended to allow unrestricted air flow movement into a contaminated area when it is being ventilated with an exhaust fan. This curtain shall consist of a single flap that opens into the contaminated area and is securely fastened across the top of the entryway framework in a manner that will allow it to overlap both sides of the entryway by a distance of no fewer than 12 inches and the base of the entryway by a distance of no fewer than three inches; or

**(2)** a confinement curtain that is intended to restrict the movement of air into, and from, an unventilated and contaminated area. This curtain shall consist of three constructed baffles that cover the entire area of the entryway and are securely fastened along the top of the entryway framework and along alternate sides of it at locations and in a manner that will allow two of the curtains to fully cover the entryway opening while a person passes through the third curtain. An airlock arrangement consisting of two baffle curtain entryways that are located at least three feet apart may be substituted for the triple baffle arrangement.

**(q)** Department means staff employed by the Kansas department of health and environment.

**(r)** DOT means the federal department of transportation.

**(s)** EPA means the federal environmental protection agency.

**(t)** Emergency situation means a condition that exists as the result of a sudden and unexpected event and is likely to cause immediate and substantial damage to persons or property.

**(u)** Encapsulation means the treatment of a friable asbestos-containing material with a substance to prevent the release of fibers into the air.

**(v)** Enclosure means the construction of an airtight, impermeable, permanent barrier around friable asbestos-containing material to control the release of fibers into the air.

**(w)** Equipment means any item that is designed or intended to perform any operation and shall include any item attached to it to assist in the operation.

**(x)** Furnishings means removable furniture, drapes, rugs, and decorative items.

**(y)** Grade D breathing air means an air supply that contains the following:

**(1)** 19.5-23.5 percent oxygen on a volumetric basis;

**(2)** not more than 10 volumes of carbon monoxide per million volumes of air;

**(3)** not more than 1,000 volumes of carbon dioxide per million volumes of air;

**(4)** not more than five milligrams of condensed hydrocarbons per cubic meter of air; and

**(5)** no objectionable odors.

**(z)** HEPA filter means a filter capable of trapping and retaining at least 99.97 percent of all mono-dispersed particles of 0.3 micrometers in diameter. The equivalent particulate filters, as referenced by, NIOSH 42 C.F.R. Part 84, as in effect on October 1, 1998, are the N100, R100, and P100 filters.

**(aa)** NIOSH-approved respirator means a respirator and any required attachments, including filters, that have been approved by the federal national institute for occupational safety under provisions of federal law.

**(bb)** Occupied spaces@ means a building, structure, or adjoining area that is accessible to the public, and in which a business entity, state agency, or political or taxing subdivision of the state is engaging in an asbestos project, as defined in subsections (g) (i), (j), (k), and (l) of this regulation.

**(cc)** OSHA means the federal occupational safety and health administration.

**(dd)** Sealing material means a liquid substance that does not contain asbestos and that is used to cover a surface that has previously been coated with a friable asbestos-containing material for the intended purpose of preventing any asbestos fibers remaining on the surface from being disburged into the air. Sealants shall be colored a different color than the surface to which they are applied.

**(ee)** Structural item means roofs, walls, ceilings, floors, structural supports, pipes, ducts, fittings, and fixtures that have been installed as an integral part of any structure.

**(ff)** Type C respirator system@ means an airline respirator designed for atmospheres not immediately dangerous to life or health and consisting of a source of respirable breathing air, an air hose with a detachable coupling, flow control fittings, and a facepiece, helmet, or hood.

**(gg)** Waste generator means the business entity that is most directly responsible for the supervision of activities that result in the accumulation of friable asbestos-containing waste materials.

**(hh)** Wet cleaning means the process of using water or other liquid and a wet brush, mop, cloth, sponge, or similar wet cleaning device to completely remove any residue of asbestos-containing materials from surfaces on which they may be located. This definition shall not include the use of a wet vacuum cleaner to pick up wet friable asbestos-containing

debris, or asbestos- contaminated wastewater.

**(ii)** Wetting agent means any chemical that is added to water to decrease its surface tension and allow it to spread more easily over or penetrate into friable asbestos-containing materials.

**(jj)** Work area means a specific room or physically isolated portion of a room, other than the space enclosed within a glove bag, in which friable asbestos-containing material is required to be handled in accordance with the requirements of this article. These areas shall be designated as work areas from the time that the room, or portion of it, is being prepared in order to carry out the removal, encapsulation, or dismantling activity until the time that the area has been cleaned in accordance with any requirements applicable to these operations. (Authorized by and implementing K.S.A. 1998 Supp. 65-5303; effective, T-87-1, Jan. 6, 1986; effective May 1, 1987; amended, T-88-54, Dec. 16, 1987; amended May 1, 1988; amended Feb. 4, 1991; amended Oct. 1, 1999.)

#### **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 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 P Oct. 1, 1999)

### **28-50-3. Public agency engaging in asbestos projects.**

A state agency or political or taxing subdivision of the state that engages in an asbestos removal, an asbestos encapsulation project, or an asbestos related dismantling project using its own employees shall comply with all requirements of K.A.R. 28-50-2 that are applicable to business entities, except that: (a) A letter of approval issued by the department shall replace the license required by K.A.R. 28-50-2(a); and

(b) the fee payment requirements of K.A.R. 28-50-2(d) and 28-50-2(e) shall not be applicable. The letter of approval shall remain in effect unless the public agency is notified, in writing, that the approval is being withdrawn because of the agency's failure to continue to comply with applicable requirements of K.A.R. 28-50-2. The approval shall not be withdrawn until the department has conducted adjudicative proceedings that comply with the requirements of the Kansas administrative procedure act. (Authorized by K.S.A. 65-5303; implementing K.S.A. 65-5312; effective, T-87-1, Jan. 6, 1986; effective May 1, 1987.)

### **28-50-4. Revoked October 1, 1999**

(Authorized by K.S.A. 65-5303; implementing K.S.A. 65-5302, 65-5308; effective, T-87-1, Jan. 6, 1986; effective May 1, 1987; amended, T-88-54, Dec. 16, 1987; amended May 1,

1988; revoked Oct. 1, 1999.)

### **28-50-5. Asbestos worker certification.**

(a) A person shall not supervise or engage in an asbestos-removal project, an asbestos-encapsulation project, or an asbestos-related dismantling project unless that person has a valid class I or class II asbestos worker certificate that has been issued in accordance with this regulation. Original certificates for each person who is engaged in a project that requires certification shall be available for inspection by the department at the project site.

(b) A class I or class II asbestos worker certificate shall not be issued to any person, or renewed for that person, unless the following requirements are met:

(1) The person has successfully completed a basic training or annual review course within the preceding year that has been approved in accordance with the requirements of K.A.R. 28-50-6 or otherwise approved by the department.

(2) The person applies for a certificate or renewal of a certificate on a form provided by the department and submits, along with this application, a check or money order for the fee prescribed in subsection (c) of this regulation. Failure to comply with all requirements of this subsection within 60 days of initial submittal of the application form shall void the application. Fees accompanying voided applications shall not be returned.

(3) The person has complied with requirements of paragraphs (1) and (2) of this subsection and has submitted an application for renewal of a certificate not later than six months after the certificate has expired. Failure to renew a certificate within this time period shall require compliance with all requirements applicable to initial application for a certificate.

(c) Persons applying for a class I or class II asbestos worker certificate or renewal of these certificates shall pay an annual fee of \$20.00 for a class I certificate or an annual fee of \$40.00 for a class II certificate. This fee shall cover a 12-month period beginning on the effective date of issuance of the certificate or renewal. No portion of this fee shall be refunded if the certificate is denied, suspended, or revoked during the 12-month period or if the person no longer plans to engage in asbestos-abatement or asbestos-removal projects during any portion of the 12-month period.

(d) A certificate issued under this regulation may be suspended or revoked by the secretary if the secretary determines that the holder has performed any of the following:

(1) Fraudulently or deceptively complied with the requirements of subsection (b) of this regulation;

(2) willfully disobeyed any instructions or written procedural

policies provided by an employer for the purpose of complying with these regulations;

(3) knowingly permitted another person to represent that person as the holder of the certificate; or

(4) altered or modified the certificate in a manner to represent facts that are untrue.

(e) Other provisions of this regulation notwithstanding, a person shall not supervise or engage in removal, encapsulation, enclosure, or repair of any friable asbestos-containing material located in an elementary or secondary school or public and commercial building, except as part of an asbestos-related maintenance operation, unless that person is currently an accredited asbestos worker. Persons who engage in these activities shall provide evidence, acceptable to the department, that the person has been accredited by successfully completing a federal EPA-approved training course, has been certified under a state program that has been approved by the federal EPA, or has been certified in Kansas at the class I or class II level, as appropriate, after completing training in compliance with the requirements of this article. (Authorized by K.S.A. 1998 Supp. 65-5303; implementing K.S.A. 1998 Supp. 65-5303, 65-5308, K.S.A. 65-5309, 65-5310; effective, T-86-1, Jan. 6, 1986; effective May 1, 1987; amended, T-88-54, Dec. 16, 1987; amended May 1, 1988; amended Feb. 4, 1991; amended Oct. 1, 1999.)

#### **28-50-6. Asbestos worker training course approval.**

(a) Any person, business entity, state agency, political or taxing subdivision of the state, or other entity may develop and present a class I or class II asbestos worker certification training course that is intended to comply with the requirements of K.A.R. 28-50-5(b)(1). The training course shall be approved by the department before its official presentation for the purpose of complying with the regulatory requirements. Training courses shall be approved in writing, and the approval shall remain in effect until withdrawn in accordance with the provisions of subsection (f) of this regulation.

(b) Application for approval of a training course, as provided for in subsection (a) of this regulation, shall be made on forms provided by the department. The application shall include the following information:

(1) A listing of the persons who will present the training course, and their experience, education, and other qualifications;

(2) a description of the course, including the title and length of each lecture to be presented, the general nature of the

information to be included in the lecture, the training aids and handouts intended to be used in its presentation, and the written examination to be given;

(3) the maximum number of students to be enrolled in each course presentation;

(4) the dates or time period over which individual courses are intended to be presented;

(5) the proposed charge for each course; and

(6) other information that the department considers necessary to evaluate the probable effectiveness and acceptability of the training course, including copies of the course manual and other handouts that are to be provided to the students and a copy of the written examination that is intended to be given. Approval of a course may be denied by the department if the applicant fails to provide information required by this subsection within 60 days of receipt of written notice that an application is deficient.

(c) The applicant shall immediately inform the department, in writing, whenever there is any change in the information provided under subsection (b) of this regulation.

(d) Provisions shall be made to allow a representative of the department to attend one or more presentations of any course for which approval is required, at no cost to the department, and this course shall be given at a location within the state or at a border city as defined in K.A.R. 1-16-18. This attendance shall be for the purpose of determining compliance with this regulation and the correctness of the information being presented and shall be completed before a course is approved and any time thereafter that the department deems necessary. The applicant shall give the department at least a 30-day notice before presenting the course, to allow time for scheduling departmental attendance. Approval of any course may be denied, withdrawn, or suspended by the department on the basis of findings resulting from this attendance.

(e) Training courses approved in accordance with these regulations shall meet the following criteria:

(1) Lectures shall be presented by persons who have education and experience that are appropriate for the subject matter presented.

(2) Training courses for class I asbestos workers may include respirator fit-testing of each student and shall provide a total of at least four training days of instruction consisting of the following:

(A) A discussion concerning the identification of asbestos, including its physical characteristics and a summary of its uses and the abatement procedures used for its control;

(B) a general discussion concerning the health hazards

associated with exposure to asbestos, including special problems associated with smoking and a general description of common diagnostic procedures used to detect asbestos-related disease;

**(C)** a general description of state-of-the-art work practices used to reduce asbestos exposures to workers and the public during asbestos-removal and asbestos-encapsulation operations and emergency clean-up operations and maintenance operations including use of wet removal methods, control of spraying operations, use of ventilation equipment, use of barriers and decontamination enclosures, use of glove bags, use of HEPA filtered vacuum-cleaning devices, and proper clean-up and waste disposal procedures;

**(D)** a general description of the use of personal protective clothing and the need for good personal hygiene practices, including a discussion of proper procedures for entering and exiting asbestos work areas and the need to abstain from eating, drinking, or smoking in these areas;

**(E)** a detailed description of the level of protection afforded by different types of respirators, the procedures for proper use and care of respirators, including donning, seal testing, cleaning, and storage, and

the components of a proper respirator protection program;

**(F)** a general description of other hazards commonly encountered in asbestos control work, including electrical shock, falls, cuts, fires, heat exhaustion or heat stroke, confined spaces, air contaminants other than asbestos, and measures that need to be taken to avoid and respond to them;

**(G)** a general description of state and federal regulations intended to provide protection to asbestos workers, including information on federal requirements pertaining to medical examinations and air monitoring and how people responsible for their enforcement may be contacted;

**(H)** no fewer than 14 hours of hands-on training in the proper use of work procedures identified in paragraph (e)(2)(C); and

**(I)** a separate final review session to discuss key information that is presented during the remainder of the course.

**(3)** Training courses for class II asbestos workers may include respirator fit-testing of each student and shall provide a total of at least five training days of instruction. The instruction shall include discussion of the following topics, in addition to the instruction required by paragraph (e)(2) of this regulation:

**(A)** A detailed discussion of asbestos-related notification and record-keeping requirements included in state and federal regulations and records recommended to be kept for legal and insurance purposes;

**(B)** a detailed discussion of Kansas and federal requirements concerning work procedures to be followed in asbestos-removal and asbestos-encapsulation projects, including the following requirements:

**(i)** Requirements of Title II of the federal toxics substance control act;

**(ii)** requirements of Kansas and federal air pollution control regulations that pertain to asbestos removal associated with the renovation and demolition of structures;

**(iii)** requirements of OSHA pertaining to respiratory protection practices and programs that are applicable to asbestos-control activities;

**(iv)** requirements of the OSHA construction and general industry standard pertaining to asbestos;

**(v)** requirements of the OSHA construction industry standards applicable to safe work practices at temporary work sites, including requirements concerning fire safety and hazard communication; the use of scaffolds, ladders, and electrical equipment; and working in confined spaces;

**(vi)** requirements of the EPA worker protection rule that applies to public employees who engage in asbestos-control activities; and

**(vii)** work practice requirements defined in K.A.R. 28-50-9 through 28-50-14;

**(C)** a general discussion of the principles and procedures involved in assessing the hazards associated with exposures to asbestos-containing building materials before undertaking abatement actions;

**(D)** a general discussion of the principles and procedures involved in collecting, analyzing, and interpreting the results of clearance-type airborne asbestos samples collected under federal EPA regulatory requirements after response actions have been completed in schools;

**(E)** a general discussion of insurance and liability issues that are encountered in relation to asbestos-control activities, including the type of coverage and exclusions associated with worker's compensation and other types of insurance and third party liabilities and defenses;

**(F)** a general discussion about the purpose, development, and use of contract specifications in asbestos-control work; and

**(G)** a general discussion about supervisory practices that are effective in the establishment and maintenance of proper and safe work practices at asbestos-control work sites.

**(4)** Training courses intended to provide annual review training required by state statute for class I and class II asbestos workers shall consist of at least one full training day and shall provide information on one or more topics listed in

paragraphs (2) and (3) of this subsection, including a general presentation concerning new state and federal asbestos control-related regulatory requirements that are in effect or pending at the time that the training is presented and any other subject matter that may be prescribed by the department before the presentation of the training. The annual review training courses for class I and class II asbestos workers shall be conducted as separate and distinct courses and shall not be combined with any other training throughout the course.

(5) Training courses for initial certification of class I and class II asbestos workers shall include the administering and grading of a written, closed book examination for all persons who attend the course. The examinations shall adequately cover the subject matter prescribed by paragraphs (2) and (3) of this subsection and shall consist of 50 multiple-choice questions for class I worker training courses and 100 multiple-choice questions for class II worker training courses. Only persons who correctly answer 70 percent or more of the questions included in the examination shall be considered to have successfully completed the training course for the purpose of certification under the provisions of K.A.R. 28-50-5(b)(1).

(f) Approval of any training course that fails to comply with the requirements of this regulation or is otherwise deemed unacceptable may be withdrawn by the department. The person responsible for presentation of the training course shall be notified by the department of the basis for the proposed withdrawal in writing, and a 30-day time period shall be allowed for the identified deficiencies to be corrected before a final written notice is issued to indicate that the approval is withdrawn.

(g) Each person who has attended any asbestos control-related training course that is required for asbestos worker certification or accreditation in any other state where the person is certified or accredited or any other asbestos training course that has been approved by the federal EPA may be considered to have met the requirements of K.A.R. 28-50-5(b)(1) for initial certification or certification renewal if the department determines that the training course essentially complies with the requirements of subsection (e) of this regulation. Each person requesting that the determination be made shall submit the following information to the department:

(1) The date or dates that the course was attended and the location;

(2) the name and address of the business, organization, institution, or agency that presented the course;

(3) a schedule or outline of the course that indicates the subject matter that was presented and the amount of time devoted to each subject; and

(4) a written, personal certification that the person attended all course presentations in their entirety on the dates specified.

(h) Each person who applies for initial certification or certification renewal under the provisions of subsection (g) of this regulation may be required to complete additional training on topics included in subsection (e) before issuance or renewal of a certificate if the department determines that the credited course did not substantially comply with the requirements of subsection (e) of this regulation. (Authorized by K.S.A. 1998 Supp. 65-5303; implementing K.S.A. 1998 Supp. 65-5303, 65-5308; effective, T-87-1, Jan. 6, 1986; effective May 1, 1987; amended, T-88-54, Dec. 16, 1987; amended May 1, 1988; amended Feb. 4, 1991; amended Oct. 1, 1999.)

#### **28-50-7. Revoked October 1, 1999**

(Authorized by and implementing K.S.A. 65-5303; effective, T-87-1, Jan. 6, 1986; effective May 1, 1987; amended, T-88-54, Dec. 16, 1987; amended May 1, 1988; amended Feb. 4, 1991; revoked Oct. 1, 1999.)

#### **28-50-8. Asbestos project notification requirements.**

(a)(1) Each licensee, state agency, or political or taxing subdivision of the state that proposes to use its own employees to engage in an asbestos-removal project, an asbestos-encapsulation project, an asbestos-related dismantling project, or an asbestos-related demolition project shall notify the department of this intent by submitting a properly completed written notification in a manner that will reasonably assure its receipt at the department's offices not later than 10 working days before the project is intended to be started. This requirement shall apply to projects conducted in occupied spaces as defined in K.A.R. 28-50-1(bb). Improperly completed notifications may be returned for correction and required to be resubmitted in accordance with the requirements of this subsection. For the purpose of this regulation, working days means days other than Saturdays, Sundays, or legal holidays.

(2) The 10-day notification requirement may be waived by the department in emergency or other situations if the written notification required by subsection (b) is received a sufficient amount of time before initiation of the project to allow the department to complete any proposal reviews or inspections that it considers to be necessary. An emergency notification may be made verbally but shall be verified in writing within

one working day afterwards.

(b) The notification required by subsection (a) of this regulation shall be submitted on forms provided by the department and shall be accompanied by a check or money order for payment of the fee prescribed by subsection (d) of this regulation, except as otherwise provided by that subsection. The notification shall include the following information and any additional information that is requested by the department in order to determine the nature of the project and to identify any state and federal laws or regulations that are applicable to it:

(1) A description of the structure in which the activities will be carried out;

(2) the anticipated dates during which the activities will be carried out;

(3) the anticipated amount and type of friable asbestos-containing material that will be involved in the activity;

(4) a general description of the work practices that will be followed, including containment and worker protection measures that are proposed;

(5) a listing of the employees that will be involved in the project or operation and information concerning whether or not the employees have been certified in accordance with these regulations or have received special asbestos-related work training; and

(6) the manner in which asbestos-containing materials are to be disposed of.

(c) Each notification that is provided in accordance with the requirements of subsections (a) and (b) of this regulation and indicates that the activity for which the notification has been provided will be, or is likely to be, carried out in violation of any of the requirements of an asbestos-control regulation that pertains to the project shall be considered to be an invalid notification. The person who submits the notification shall be notified by the department of the nature of the identified violation as quickly as practicable before the activity is scheduled to start. A notification that has been revised to eliminate the identified violation shall be submitted in accordance with the requirements of subsection (a) of this regulation and shall be approved by the department before the activity is initiated.

(d) Each business entity that engages in an asbestos-removal project, an asbestos-encapsulation project, an asbestos-related dismantling project, or an asbestos-related demolition project that is required to be reported under this regulation shall pay a project evaluation fee that has been calculated in accordance with the following requirements:

(1) A baseline fee of \$50 shall be paid for each activity required to be individually reported under this regulation.

(2) An additional fee shall be paid for each asbestos-removal project, asbestos-encapsulation project, asbestos-related dismantling project, and asbestos-related demolition project involving 260 lineal feet or more of friable asbestos-containing material that is installed on a pipe surface or 160 square feet or more of friable asbestos-containing material that is installed on the surface of any other type of structural or equipment item. The additional fee shall be based upon the amount of money proposed to be paid to the business entity for the completion of all project-related activities that are subject to the requirements of these regulations and shall be calculated as 0.5 percent of the amount of this payment, except that the fee shall be rounded off to the nearest whole dollar and shall not exceed \$2,500. If the business entity is to be paid a lump sum to cover the work done on facilities that are required to be reported on more than one notification form, or a lump sum that will only be reasonably determinable upon completion of one or more reportable activities, an alternate schedule that will permit delayed payment of the fee established under this subsection may be approved by the department.

(3) If the department agrees to waive the normal 10-day notification period for other than emergency situations, under provisions of subsection (a) of this regulation, the project evaluation fee shall be two times the amount that is calculated in accordance with the provisions of paragraphs (d)(1) and (d)(2) of this regulation.

(4) If the payment used to calculate the fees established by paragraph (d)(2) of this regulation subsequently changes, the department shall be immediately advised of the reason for, and the amount of, this change. When the payment is proposed to be increased, the fee shall also be increased in accordance with the provisions of paragraphs (d)(1) and (d)(2). No portion of a fee that is initially paid shall be refunded if the payment to the contractor has been reduced below the amount that was used to originally calculate the fee. (Authorized by K.S.A. 1998 Supp. 65-5303; implementing K.S.A. 1998 Supp. 65-5302, 65-5303, K.S.A. 65-5307, 65-5312, 65-5309; effective, T-87-1, Jan. 6, 1986; effective May 1, 1987; amended, T-88-54, Dec. 16, 1987; amended May 1, 1988; amended Feb. 4, 1991; amended Oct. 1, 1999.)

### **28-50-9. Work practices for asbestos-removal projects in occupied spaces.**

(a) Each asbestos-removal project that involves the removal

of friable asbestos-containing materials from a structural item or equipment that is located in any area that can be expected to subsequently be reoccupied by any person after the project is completed, or in an area that is only directly accessible from an area that is, or subsequently will be, occupied by any person other than persons directly involved in the project, shall be conducted in accordance with the following requirements:

(1) Each proposed work area shall be isolated from other areas of the building and outside areas by erecting temporary partitions that are rigid and airtight around the work area or by installing airtight seals over doorways, windows, and ventilation system openings, except that doorways between the work area and decontamination facilities and waste load-out areas shall be closed off with a control curtain. At least one temporary partition or seal shall contain a clear viewing area that is 18 inches or more in height and width and is installed in a manner that will allow direct visual observation of the work area from a location outside of the work area. Plastic sheeting used for the construction of airtight seals shall be not less than four mils thick. Whenever possible, each heating and ventilation system serving the work area shall be shut down and locked out. If these systems cannot be shut down, special provisions shall be made to assure that airborne contamination from the work area cannot enter the ventilation system and be carried to other areas of the building. Appropriate warning signs shall be prominently posted at all entryways into the work area. Provisions shall be made to prevent any person other than those persons having responsibilities directly related to the project from entering the area before the requirements of paragraphs (9) and (12) of this subsection are met and the project is approved in accordance with all other applicable requirements.

(2) All movable furnishings, equipment, and fixtures in the proposed work area shall be precleaned with a HEPA filter-equipped vacuuming device or wet cleaning methods. After cleaning, the items shall be removed from the work area and stored in an area that is not subject to contamination with asbestos fibers. The items shall not be returned to the work area until final room cleanup has been completed and approved in accordance with requirements applicable to the project.

(3) All structural item surfaces, other than those from which asbestos is to be removed, and all non-movable furnishings, equipment, and fixtures remaining in the proposed work area shall be precleaned with a HEPA filter-equipped vacuuming device or wet cleaning methods and covered with not less than

four-mil-thick plastic sheeting, except that floors shall be covered with a minimum of two layers of six-mil-thick plastic sheeting that extends up the walls at least 12 inches. Plastic sheeting on walls shall be affixed to the wall in a manner that assures that it will remain in position throughout the length of the project and shall overlap the floor sheeting at least 12 inches above the intersection of the walls with the floor. Any tears that are noted in the protective plastic sheeting required by this subsection shall be immediately repaired.

(4) HEPA filter-equipped ventilation fans shall be installed in a manner that will continually exhaust air from all locations within the work area. The total capacity of the fans shall be sufficient to remove the entire volume of air contained in the workroom area within 15 minutes or less, unless a longer time period is specifically approved by the department. The removed air shall be discharged through a duct that has been installed through the plastic on the walls in a manner that will provide an airtight seal between the plastic and the outside surface of the duct. The exhausted air shall be discharged outside of the building whenever possible and shall not be discharged inside the building, unless this discharge is specifically approved by the department in writing. Each ventilation fan shall be continuously operated throughout the duration of the project until the action required by paragraph (12) of this subsection is completed. Each fan shall be operated in a manner that establishes, and maintains, a flow of air into the work area from all adjacent areas of the building as demonstrated by use of smoke-producing tubes. At a minimum, these determinations shall be made and the results recorded before initiation of asbestos-removal operations and at the start of each day's operation.

(5)(A) A decontamination facility shall be provided between the work area and building areas intended to remain uncontaminated with asbestos fibers generated by the asbestos-removal operations. All persons entering or leaving the work area shall pass through and use the decontamination facility. Each decontamination facility shall consist of the following designated areas, which are each to be entered through a doorway that is covered by a control curtain:

(i) A clean room that shall be maintained free of asbestos-containing debris and shall be first entered by any persons entering the work area. The clean room shall be constructed in a manner that provides adequate space for removing or putting on street clothing, putting on and fit-testing respirators, and putting on protective clothing and other protective equipment required to be worn in the work area.

**(ii)** A shower room that shall be first passed through by any person that moves from the work area into the clean room. These persons shall be required to shower before entering the clean room. Each shower room shall be provided with at least one shower head that is supplied with hot and cold water. Adequate quantities of soap, hair shampoo, and towels shall be provided to accommodate each person who emerges from the work area. Shower enclosures shall be leak proof and constructed of disposable or easily washable material. Shower water may be drained directly into the building's plumbing system or collected for subsequent disposal in accordance with the requirements of K.A.R. 28-50-14.

**(iii)** An equipment room that shall be passed through before the shower room can be entered from the work area. The equipment room shall be used for temporary storage of contaminated tools, equipment, and protective clothing used in the work area. The floor and walls of the room shall be lined with not less than six-mil-thick plastic sheeting. Tools, equipment, and protective clothing shall be free of gross contamination before removal from the work area into the equipment room.

**(B)** All decontamination facility areas shall be fully enclosed and shall be contiguous to each other and the work area unless connected to one another by enclosed passageways that are effectively isolated from areas intended to remain free of asbestos contamination. Decontamination facilities shall remain in place and in functional condition until removal of airtight seals and partitions is authorized in accordance with the requirements of K.A.R. 28-50-9(a)(12).

**(6)** A waste load-out area may be constructed between the work area and the exit through which asbestos-containing waste materials are intended to be removed from the work area. If a waste load-out area is provided, it shall be totally enclosed, and the doorway between the work area and the waste load-out area shall consist of a combination of control curtain and rigid door. The floor of the load-out area shall be covered with not less than six-mil-thick plastic sheeting, which shall be kept clean and free of visible asbestos-containing debris. Floor covering shall be removed upon completion of the project and disposed of in compliance with the requirements of K.A.R. 28-50-14. Asbestos-containing waste shall not be transferred from the waste load-out area unless it has been placed in containers that comply with the requirements of K.A.R. 28-50-14(a). Waste containers shall be removed from the waste load-out area only by persons who enter the load-out area from an area that is intended to be maintained free of asbestos-containing debris

generated by the removal operations. The doorway between the work area and load-out area shall be kept secured except when waste materials are being transferred from the work area. The load-out area doorway shall not be used as an entrance or exit by persons who leave or enter the work area.

**(7)** All exposed surfaces of friable asbestos-containing materials shall be maintained in a wet condition while the material is being removed or cleaned up from structural or equipment items. Any friable asbestos-containing material shall be wetted with a water solution containing an effective wetting agent. The wetting solution shall be applied with a low pressure spraying system. The effectiveness of the solution in penetrating the asbestos-containing materials shall be determined by applying it to a small representative sample of the material before the gross removal operation is initiated. The removed friable asbestos-containing materials shall be maintained in a wet condition until placed in sealed containers for disposal in accordance with the requirements of K.A.R. 28-50-14. All accumulations of loose debris shall be removed from floors and other surfaces and placed in sealed bags or containers as quickly as practicable and at least daily.

**(8)** After the asbestos-containing materials have been removed from the structural or equipment items, all plastic sheeting, equipment, and surfaces in the work area shall be cleaned with a HEPA filter-equipped vacuuming device or by wet cleaning methods and shall be free of all visible debris, but if more than one layer of plastic sheeting has been used on walls and floors, this additional layer of sheeting may be removed and disposed of instead of being cleaned. Sheetting that is removed shall be disposed of in compliance with the requirements of K.A.R. 28-50-14. Any liquid or material that has leaked through these additional layers of sheeting shall be removed by wet cleaning methods.

**(9)** The surfaces from which the friable asbestos-containing materials have been removed shall be cleaned free of all visible residues and then covered with an effective sealing material before the final layer of plastic sheeting covering the floors, walls, and non-movable items is removed.

**(10)** After the sealant has dried, the plastic wall and floor coverings shall be removed and disposed of in compliance with the requirements of K.A.R. 28-50-14. After removal of the plastic wall and floor coverings, all surfaces in the work area shall be cleaned with a HEPA filter-equipped vacuuming device or by wet cleaning methods and shall be free of all visible debris.

**(11)** After completing the requirements in paragraph (10) of this subsection, clearance monitoring, as described in 40

C.F.R. 763.90(i), as in effect on July 1, 1998, and hereby adopted by reference, may be conducted. In the absence of clearance monitoring, an air stream from a high speed leaf blower or equivalent device shall be swept across all surfaces within the work area for a period of not less than five minutes for each 1,000 square feet of surface area.

**(12)** Each temporary partition and airtight seal provided for doors, windows, and duct openings in accordance with paragraph (1) of this subsection shall remain in place until the sampling results from the clearance monitoring, referenced in K.A.R. 28-50-9(a)(11), indicate compliance or in the absence of clearance monitoring, the temporary partitions and airtight seals shall remain in place for no fewer than 24 hours after completion of the actions required by paragraph (11) of this subsection and until the cleanup is approved in accordance with any other special requirements applicable to the project.

**(b)** Any individual requirement of subsection (a) of this regulation may be waived by the department for asbestos-removal projects if the notification submitted in accordance with K.A.R. 28-50-8 identifies the requirements for which waiver is requested, the reason for requesting the waiver, and any alternate procedure that is proposed. A waiver shall not be granted unless the health and safety of the workers and building occupants are adequately protected. The following minimum requirements shall also be met:

**(1)** The work area in which the asbestos is to be removed shall be completely isolated from any other areas of the building by the construction or installation of airtight barriers that shall continually remain in place for the duration of the asbestos removal project until final cleanup is completed and approved in accordance with requirements applicable to the project.

**(2)** Appropriate warning signs shall be prominently posted at all entryways into the work area, and access to the work area shall be restricted to only those persons that are required to enter it because of responsibilities directly related to the project until the requirements of paragraphs (3) and (4) of this subsection are met and the project is approved in accordance with all other applicable requirements.

**(3)** The surfaces from which the asbestos-containing materials have been removed shall be cleaned free of all visible residue and covered with an effective sealant before the warning signs required by paragraph (2) of this subsection are removed and access to the work area of persons other than those directly involved in the project is permitted.

**(4)** All visible asbestos-containing debris shall be removed from the work area before the warning signs required by paragraph (2) of this subsection are removed or access to the

work area of persons other than those directly involved in the project is permitted.

**(5)** Asbestos contamination shall be removed from all persons that have been in the work area before they leave the premises or enter any area intended to remain free from asbestos contamination. All equipment used on the project shall be cleaned free of visible debris before it is removed from the work area.

**(6)** The waiver and all proposed alternative procedures shall be approved by the department in writing before the project is initiated, except that verbal approval may be provided if the 10-day notification period has been waived in accordance with the provisions of K.A.R. 28-50-8(a).

**(c)** The requirements of subsections (a) and (b) of this regulation may be waived by the department for the removal of friable asbestos-containing materials from the surface of pipes, structural items, or other similar conduits if the following minimum requirements are met:

**(1)** All friable asbestos-containing materials proposed to be removed in the work area shall be removed using six-mil-thick or thicker leak-proof glove bags in accordance with the manufacturer's instructions. Glove bags shall not be used to remove asbestos-containing materials from surfaces having a temperature of 150°F or more unless written authorization to do so is provided by the department before the removal.

**(2)** Appropriate warning signs shall be prominently posted at all entryways into the work area. Provisions shall also be made to prevent any person other than those persons that have responsibilities directly related to the project from entering the work area until the actions required by paragraphs (6), (7), and (8) of this subsection are completed and the project is approved in accordance with all other applicable requirements.

**(3)** Each person using the glove bag shall avoid damaging or otherwise causing the release of asbestos fibers from any other friable asbestos-containing materials that are located within the work area, including any debris that may have accumulated in the area before the start of the project. Each section of the pipe, structural item, or conduit from which damaged or loose hanging friable asbestos-containing material is to be removed that is not immediately enclosed within a glove bag shall be tightly enclosed in six-mil-thick plastic sheeting until a glove bag is placed over it and the asbestos-containing material is removed.

**(4)** Glove bags shall be sealed to the pipe, structural item, or conduit in a manner that provides an airtight seal around the area from which the asbestos is to be removed until the glove

bag is removed, unless the manufacturer's instructions require air pressure within the bag to be maintained below the pressure outside of the bag. Glove bags shall not be moved and used for removal at more than one location except under written authorization provided by the department and in compliance with any special requirement imposed as a condition for granting the authorization.

**(5)** All exposed surfaces of friable asbestos-containing materials shall be wetted with a water solution containing an effective wetting agent while the material is removed, and the removed material shall be maintained in a wet condition while it remains in the glove bag until the bag is sealed for final disposal in accordance with the requirements of K.A.R. 28-50-14.

**(6)** Surfaces from which asbestos-containing materials have been removed shall be cleaned free of all visible residues before the glove bag is removed.

**(7)** A sealing material shall be applied to all surfaces from which the asbestos-containing material is removed, and to all friable asbestos-containing material surfaces that become exposed as a result of this removal before the warning signs required by paragraph (2) of this subsection are removed or access to the work area of persons other than those directly involved in the project is permitted.

**(8)** The work area shall be free of all visible asbestos-containing debris, including accumulations that existed before the start of the project and before the warning signs required by paragraph (2) of this subsection are removed or access to the work area of persons other than those directly involved in the project is permitted.

**(9)** Each project activity in the work area shall be immediately discontinued if any asbestos contamination of the general work area results from damage or improper use of the glove bags or if there is damage to any other friable asbestos-containing materials located within the area. Project activities shall not be resumed until all surfaces in the area that are likely to have become contaminated with asbestos fibers have been thoroughly cleaned with a HEPA filter-equipped vacuuming device or by wet cleaning methods. Each person who is likely to be contaminated with asbestos fibers resulting from these sources, including the cleanup operation, shall remove, or use a HEPA filter-equipped vacuuming device or wet cleaning methods to clean all contaminated outer work clothing before leaving the work area.

**(d)** The requirements of subsections (a) and (b) of this regulation may be waived by the department for an asbestos-

removal project that involves the removal of friable asbestos-containing materials from structural items or equipment that is installed in, and accessible from, outdoor areas, if the following minimum requirements are met:

**(1)** Each door, window, or other opening into enclosed areas that is adjacent to the work area shall be securely covered with not less than four-mil-thick plastic sheeting if the opening is located 100 or fewer feet from the work area.

**(2)** A person other than the persons that have responsibilities directly related to the project shall not be allowed to occupy or pass through any unenclosed area that is located 50 or fewer feet from the work area. This area shall be identified and defined by fences or other effective means. Appropriate warning signs shall be prominently posted at all entryways into the area until the requirements of paragraphs (4) and (5) of this subsection are met and the project is approved in accordance with all other applicable requirements.

**(3)** All exposed surfaces of friable asbestos-containing material shall be wetted with a water solution that contains an effective wetting agent while the material is being removed. All removed material, including debris on surfaces below the location from which the material is removed, shall be maintained in a wet condition until placed in sealed containers for disposal in accordance with the requirements of K.A.R. 28-50-14.

**(4)** All friable asbestos-containing debris, including accumulations that existed before the start of the project, shall be removed from the work area before the warning signs required by paragraph (2) of this subsection are removed or access to the area of persons other than those having responsibilities directly related to the project is permitted.

**(5)** All surfaces from which asbestos-containing materials are removed shall be cleaned free of visible residues and covered with an effective sealant before the warning signs required by paragraph (2) of this subsection are removed or access to the area of persons other than those having responsibilities directly related to the project is permitted.

**(6)** Each person who removes asbestos-containing materials or otherwise occupies the restricted area identified in paragraph (2) of this subsection shall remove outerwear that is worn in the area before entering any enclosed area that is occupied by any person other than those persons engaged in the project.

**(e)** The requirements of subsections (a) and (b) of this regulation may be waived by the department for an asbestos project that involves the removal of friable asbestos-containing materials from structural items that are

installed in, and accessible from, any structure or portion of a structure that is demolished after the material is removed, if the following minimum requirements are met:

(1) Appropriate warning signs shall be prominently posted at all areas into the work area, and persons other than the persons that have responsibilities directly related to the asbestos-removal project shall not be allowed to occupy or pass through the work area until the requirement of paragraph (4) of this subsection is met and the project is approved in accordance with any other applicable requirements.

(2) Each window, door, and other direct opening between any area where asbestos is to be removed and any other area of the structure that is not intended to be demolished shall be sealed airtight, with securely fastened plastic sheeting, until the project is completed. The plastic sheeting seals shall be not less than four mils thick.

(3) All exposed surfaces of friable asbestos-containing material shall be maintained in a wet condition while the material is being removed. The material shall be wetted with a water solution containing an effective wetting agent. All removed friable asbestos-containing material, including debris that falls on surfaces below the location from which the material is removed, shall be maintained in a wet condition until placed in sealed containers in accordance with the requirements of K.A.R. 28-50-14.

(4) All friable asbestos-containing debris, including accumulations that existed before the start of the project, shall be removed from the work area before the warning signs required by paragraph (1) of this subsection are removed or access to the work area of persons other than those having responsibilities directly related to the project is permitted.

(5) Each person who removes asbestos-containing materials or otherwise occupies the work area before the project is completed shall remove outerwear that is worn in the area before entering any enclosed area that is occupied by any person other than those persons engaged in the project.

(6) Structural items from which friable asbestos-containing material is removed shall not be sold or reused for any purpose unless the surfaces from which the material has been removed are free from visible residue and have been covered with an effective sealing material, unless the sealing requirement is waived by the department in writing.

(f) Each person engaged in an asbestos-removal project or entering an asbestos-removal project work area shall be provided with, and shall wear, an appropriate respirator and protective clothing.

(g) Airborne asbestos exposures of each person engaged in an

asbestos-removal project shall be determined in accordance with applicable OSHA or EPA exposure-monitoring requirements. Copies of the results of the analyses of samples collected at a project subject to the requirements of this regulation shall be submitted to the department as soon as practicable, after receipt of a written request for the results of the analyses from the department. (Authorized by and implementing K.S.A. 1998 Supp. 65-5303; effective, T-86-1, Jan. 6, 1986; effective May 1, 1987; amended, T-88-54, Dec. 16, 1987; amended, T-89-8, March 18, 1988; amended, T-89-15, April 26, 1988; amended Sept. 19, 1988; amended Feb. 4, 1991; amended Oct. 1, 1999.)

### **28-50-10. Work practices for asbestos-encapsulation projects.**

(a) Use of encapsulation as a method of controlling asbestos fiber release from friable asbestos-containing materials on structural items or equipment shall be subject to the following requirements:

(1) Encapsulating materials shall not be applied to fibrous, sprayed-on, asbestos-containing materials or to cementitious asbestos-containing materials that show signs of poor adhesion.

(2) Encapsulating material shall not be applied to friable asbestos-containing materials that are installed on surfaces in locations that are subject to frequent abrasive or other physical damage.

(3) Penetrating encapsulating agents shall be tested for, and shall demonstrate, acceptable adhesive and penetrating characteristics. Testing shall consist of applying the encapsulant to the surface of the material in the prescribed manner and then removing a core sample of this material for physical and visual inspection. Representative testing shall be conducted at one or more randomly selected locations within the structure before initiation of the project. Test core holes shall be repaired immediately after the visual inspection is completed.

(4) Encapsulant materials shall have acceptable flame retardant characteristics and shall not be noxious or toxic to applicators or to persons that occupy the structure after the project is completed.

(5) Each damaged portion of a surface to which the encapsulant material is to be applied shall be repaired with asbestos-free patching materials before it is applied.

(b) An encapsulation project that involves the encapsulation of friable asbestos-containing materials shall be conducted in accordance with the work practices contained in 29 C.F.R.

1926.1101, as in effect on July 1, 1998 and hereby adopted by reference.

(c) Each person engaged in an asbestos-encapsulation project or entering an asbestos-encapsulation project work area shall be provided with, and shall wear, an appropriate respirator and protective clothing. (Authorized by and implementing K.S.A. 1998 Supp. 65-5303; effective, T-87-1, Jan. 6, 1986; effective May 1, 1987; amended Feb. 4, 1991; amended Oct. 1, 1999.)

### **28-50-11. Revoked October 1, 1999**

(Authorized by and implementing K.S.A. 65-5303; effective, T-87-1, Jan. 6, 1986; effective May 1, 1987; revoked Feb. 4, 1991.)

### **28-50-12. Work practices for asbestos related dismantling projects.**

(a) Structural or equipment items that are covered with friable asbestos containing materials and are intended to be moved without first removing the asbestos containing materials from the surfaces of them shall be handled in the following manner:

(1) The removal of friable asbestos containing materials from any portion of the surface of a structural or equipment item for the purpose of mechanically disassembling or cutting the item into smaller components shall be conducted in accordance with the requirements of K.A.R. 28-50-9.

(2) Structural or equipment items, or component parts of them, that are covered with friable asbestos containing material shall either be securely wrapped in not less than a double layer of six mil thick plastic sheeting or shall be placed in a disposable fiber or metal container that is equipped with a plastic bag liner and a tight fitting and firmly attached lid before being removed from the work area. All exposed surfaces of the friable asbestos containing material covering the item or component shall be wetted with a water solution containing a wetting agent before the item or component is wrapped or placed in a container. The exterior surface of the container or wrapping shall be cleaned free of all visible residues by wet cleaning methods before the item or component is moved and the item or component shall be handled in a manner that will prevent damage to the container or wrapping. If damage to a wrapping or container occurs, a new wrapping or container shall be immediately provided and all friable asbestos containing debris released from the damaged wrapping container shall be immediately cleaned up using wet cleaning procedures or a HEPA filter equipped vacuum cleaner.

(b) Structural or equipment items, or component parts of them, that have been removed in accordance with the provisions of subsection (a) of this regulation shall be disposed of in compliance with the requirements of K.A.R. 28-50-14(a)(4) unless the friable asbestos containing material covering the items is subsequently removed in compliance with the following requirements:

(1) Items, or component parts, from which asbestos containing material is removed shall not be sold or reused for any purpose until the surfaces from which the material has been removed are free of visible residue and have been covered with an effective sealing material, unless the sealing requirement is waived by the department in writing.

(2) The removal of the friable asbestos containing material outdoors shall be carried out in compliance with the requirements of K.A.R. 28-50-9(d).

(3) The removal of the friable asbestos containing material indoors shall only be done in an area specifically designated for this purpose and in compliance with the following requirements:

(A) Access to the area must be controlled to prevent any person other than those responsible for the removal operations from entering it. An appropriate warning sign shall be posted at each entryway into the area.

(B) The area shall not be served by a common heating and ventilation system that serves other enclosed occupied areas on the premises.

(C) A local exhaust system that is approved by the department shall be provided. Air exhausted from the removal area shall be discharged to the outside air after being passed through an air cleaning device that has been approved by the department.

(D) Each person working in the area shall be provided a convenient area immediately adjacent to the removal area to take showers and change into uncontaminated clothing, unless other arrangements are approved by the department.

(E) Each person entering into the area shall be provided with and wear an appropriate respirator and protective clothing.

(F) The designated asbestos removal area shall not be used for any other purpose until the removal operations have been discontinued and the area has been cleaned of all visible residue and debris with a HEPA filter equipped vacuuming device or by wet cleaning methods.

(G) All exposed surfaces of the friable asbestos containing material shall be maintained in a wet condition while the material is being removed from the structural or equipment item, or component, unless dry removal is approved by the department. The friable material shall be wetted with a water

solution containing an effective wetting agent.

**(H)** Friable asbestos containing materials that are removed from any structural or equipment item, or component, shall be handled in accordance with the requirements of K.A.R. 28-50-14. (Authorized by and implementing K.S.A. 65-5303; effective, T-87-1, Jan. 6, 1986; effective May 1, 1987.)

**28-50-13. Work practices for asbestos-related demolition projects.**

**(a)** The following requirements shall be met before a structure that contains structural items that are covered with friable asbestos-containing material is demolished:

**(1)** The structural items shall be removed from the structure in accordance with the requirements of K.A.R. 28-50-12; or

**(2)** All friable asbestos-containing materials covering the structural materials shall be removed from the materials while they remain in place in accordance with the requirements of K.A.R. 28-50-9.

**(b)** Any business entity, state agency, political or taxing subdivision of the state, or person that demolishes a structure which contains any structural item covered with, or composed of, asbestos fiber-containing material shall assure that the item is handled in a manner that will prevent the asbestos fibers from becoming airborne. (Authorized by K.S.A. 65-5303; implementing K.S.A. 65-5303; effective, T-87-1, Jan. 6, 1986; effective May 1, 1987; amended Feb. 4, 1991.)

**28-50-14. Asbestos waste disposal.**

**(a)** All solid waste materials containing friable asbestos that result from an asbestos-removal project, an asbestos-encapsulation project, an asbestos-related dismantling project, or an asbestos-related demolition project shall be handled in the following manner:

**(1)** All friable asbestos-containing waste shall be placed in tightly sealed containers in a wet condition before it is removed from the work area. Waste containers shall be double bagged in not less than six-mil-thick, liquid-tight, clear plastic bags unless the waste contains rigid or heavy objects that are likely to tear the bags. If bag damage is likely to occur, the waste shall be placed in fiber or metal containers that are equipped with a plastic bag liner and a tight-fitting lid that can be firmly fastened in position. Large sections of structural items, including pipe or ductwork that has been removed with friable asbestos-containing materials left in place, may be tightly wrapped in not less than a double layer of six-mil-thick, clear plastic sheeting for disposal purposes if they cannot be placed in containers. All exposed surfaces of the friable asbestos-containing material shall be in a wet condition

when each item is wrapped.

**(2)** The exterior surface of each container or individually wrapped object shall be cleaned free of all visible debris, and an asbestos label shall be securely attached before the container or wrapped object is removed from the work area to another area for storage or transport purposes.

**(3)** Before each container or wrapped object of friable asbestos-containing material is removed from the work area to another area for storage or transport purposes, the waste generator shall place on the exterior of each container or wrapped object specific information that will identify the asbestos-removal project, asbestos-encapsulation project, asbestos-related dismantling project, or asbestos-related demolition project at which the waste was generated. The identifying information shall be legible and printed with indelible ink. The waste generator shall mark each container or wrapped object by any of the following methods:

**(A)** Printing or attaching to each container or wrapped object a label that contains the name of the licensed business entity or approved public agency that carried out the project and the project location at which the waste was generated;

**(B)** printing on the exterior surface of each container or wrapped object the identifying number provided by the department for each project upon receipt of a project notification submitted in compliance with the requirements of K.A.R. 28-50-8; or

**(C)** attaching to each container or wrapped object a label that meets the requirements of applicable federal EPA or OSHA regulations pertaining to the identification of containers or wrapped objects used for the disposal of asbestos-containing materials.

**(4)** Each waste container shall be carefully handled and transported in order to prevent breaking or opening. Whenever a container breaks or otherwise becomes unable to completely contain the waste, the waste shall be immediately transferred into another sealed container that complies with the requirements of paragraphs (a)(1) and (a)(2) of this regulation. Any friable asbestos-containing solid waste materials that come out of the original container shall be immediately cleaned up after being saturated with water and placed in the replacement container.

**(5)** Waste shall be transported in vehicles that have completely enclosed cargo areas, or a four-sided cargo area that shall be completely covered with six-mil-thick plastic sheeting or other equivalent covering while the waste is being transported. All visible debris remaining in the vehicle cargo area after the waste has been deposited at the disposal area

shall be immediately removed by wet cleaning methods and disposed of in accordance with the requirements of this subsection.

**(6)** The waste generator shall remain responsible for storage, transport, and disposal of the waste in accordance with this subsection until the time that the waste is delivered to and accepted by the operator of an approved waste disposal site. The waste generator shall be released from further responsibility for handling of the waste when the disposal site operator acknowledges, in writing, that the delivered waste has been properly identified as friable asbestos-containing material and has been delivered in a manner and condition that is acceptable to the disposal site operator.

**(b)** Wastewater and other liquid waste that contains friable asbestos-containing materials that result from an asbestos-removal project, an asbestos-encapsulation project, or an asbestos-related maintenance, dismantling, or demolition operation may be disposed of by mixing them with solid waste materials and disposing of the mixture in accordance with the requirements of subsection (a) of this regulation. Wastewater that cannot be handled in this manner shall be disposed of by one of the following methods:

**(1)** Wastewater from decontamination showers and final cleanup of waste containers and equipment may be disposed of in public sewer systems either by discharge into the plumbing system where the waste is generated or by storing the waste and discharging it directly into the sewer system at a location designated by the operator of the system. The wastewater shall be free of any material that is likely to cause stoppage in the plumbing or sewer systems.

**(2)** Discharge of any other asbestos-contaminated wastewater or liquid waste or the use of any other method for the disposal of contaminated liquid wastes shall only be at a location and in a manner specifically approved by the department in writing. (Authorized by and implementing K.S.A. 1998 Supp. 65-5303; effective, T-87-1, Jan. 6, 1986; effective May 1, 1987; amended, T-88-54, Dec. 16, 1987; amended May 1, 1988; amended Feb. 4, 1991; amended Oct. 1, 1999.)