

A.C.A. § 19-6-452

West's Arkansas Code Annotated [Currentness](#)

Title 19. Public Finance

▣ [Chapter 6. Revenue Classification Law \(Refs & Annos\)](#)

▣ [Subchapter 4. Special Revenue Funds](#)

→ **§ 19-6-452. Asbestos Control Fund**

The **Asbestos** Control Fund shall consist of those special revenues as specified in [§ 19-6-301\(130\)](#) there to be used to administer and enforce a program for licensing contractors engaged in the removal of friable **asbestos** materials from facilities by the Arkansas Department of Environmental Quality, as set out in [§ 20-27-1001 et seq.](#)

CREDIT(S)

Acts of 1987, Act 792, § 5; [Acts of 1999, Act 1164, § 171, eff. July 30, 1999.](#)

HISTORICAL AND STATUTORY NOTES

Arkansas Code Revision Commission

Technical changes were made in 2007 to conform with the official Arkansas Code of 1987 as approved by the Arkansas Code Revision Commission.

A.C.A § 19-6-452, AR ST § 19-6-452

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Title 20. Public Health and Welfare

Subtitle 2. Health and Safety (Chapters 6 to 44)

▣ Chapter 27. Miscellaneous Health and Safety Provisions

→ Subchapter 10. Removal of Asbestos Material (Refs & Annos)

§ 20-27-1001. Purpose

The purpose of this subchapter is to protect the public health and safety and the environment and to qualify the Arkansas Department of Environmental Quality to adopt, administer, and enforce a program for licensing training providers involved with the training of regulated asbestos professionals, for licensing asbestos abatement consultants and asbestos abatement contractors, and for certifying air monitors, contractor-supervisors, inspectors, management planners, project designers, and workers involved with demolitions, renovations, and asbestos-response actions in which regulated asbestos-containing materials are disturbed in accordance with this subchapter, the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., and regulations issued pursuant thereto.

§ 20-27-1002. Penalties

(a) Any person who violates any provision of this subchapter or commits any unlawful act thereunder or who violates any regulation or order of the Arkansas Pollution Control and Ecology Commission shall be subject to the penalty provisions provided in § 8-4-103.

(b) All moneys collected as civil penalties shall be deposited into the Hazardous Substance Remedial Action Trust Fund as provided by § 8-7-509.

§ 20-27-1003. Definitions

As used in this subchapter:

- (1) "Air monitor" means any person who collects airborne samples for analysis of asbestos fibers;
- (2) "Asbestos abatement consultant" means any person or other legal entity, however organized, that acts as an agent for the owner or operator in performing demolitions, renovations, or response actions which will involve, or may involve, the removal or disturbance of asbestos-containing materials in any facility;
- (3) "Asbestos abatement contractor" means any person or other legal entity, however organized, that acts as an agent for the owner or operator in performing demolitions, renovations, or response actions which will involve, or may involve, the removal or disturbance of asbestos-containing materials in any facility;
- (4) "Category I nonfriable asbestos-containing material" means asbestos-containing packings, gaskets, resilient floor coverings, and asphalt roofing products containing more than one percent (1%) asbestos as determined using the method specified in Appendix E, Subpart E, 40 C.F.R. Part 763, Section 1, Polarized Light Microscopy;

(5) "Category II nonfriable asbestos-containing material" means any material excluding Category I nonfriable asbestos-containing materials containing more than one percent (1%) asbestos as determined using the methods specified in Appendix E, Subpart E, 40 C.F.R. Part 763, Section 1, Polarized Light Microscopy that when dry cannot be crumbled, pulverized, or reduced to powder by hand pressure;

(6) "Certificate" means a document issued by the Arkansas Department of Environmental Quality to any person certifying that that person has satisfactorily completed asbestos training, examination, and other requirements established by the department to perform the duties of the following:

(A) Air monitor;

(B) Contractor/supervisor;

(C) Inspector;

(D) Management planner;

(E) Project designer; and

(F) Worker;

(7) "Contractor/supervisor" means any person who supervises the following activities with respect to friable asbestos-containing material in a facility:

(A) A response action other than a small-scale short-duration activity;

(B) A maintenance activity that disturbs friable asbestos-containing material other than a small-scale short-duration activity; or

(C) A response action for a major fiber-release episode;

(8) "Demolition" means the wrecking or taking out of any load-supporting structural member of a facility together with any related handling operations or intentional burning of a facility;

(9) "Department" means the Arkansas Department of Environmental Quality;

(10) "Director" means the Director of the Arkansas Department of Environmental Quality;

(11)(A) "Facility" means:

(i) Any institutional, commercial, public, industrial, or residential structure, installation, or building, including any structure, installation, or building containing condominiums or individual dwelling units operated as a residential cooperative but excluding residential buildings having four (4) or fewer dwelling units;

(ii) Any ship; and

(iii) Any active or inactive waste disposal site.

(B) For purposes of this definition, any building, structure, or installation that contains a loft used as a dwelling is not considered a residential structure, installation, or building. Any structure, installation, or building that was previously subject to this regulation is not excluded, regardless of its current use or function;

(12) "Friable asbestos materials" means any materials containing more than one percent (1%) asbestos as determined by using the method specified in Appendix E, Subpart E, 40 C.F.R. Part 763, Section 1, Polarized Light Microscopy that when dry can be crumbled, pulverized, or reduced to powder by hand pressure;

(13) "Inspector" means any person who inspects for asbestos-containing material in a facility;

(14) "License" means a document issued by the department to an asbestos abatement contractor, asbestos abatement consultant, or training provider who meets the criteria for licensing as established by the department;

(15) "Management planner" means any person who prepares management plans for a school;

(16) "Nonfriable asbestos-containing material" means any material containing more than one percent (1%) of asbestos as determined using the method specified in Appendix E, Subpart E, 40 C.F.R. Part 763, Section 1, Polarized Light Microscopy, that when dry cannot be crumbled, pulverized, or reduced to powder by hand pressure;

(17) "Owner or operator" means any person who owns, leases, operates, controls, or supervises the facility being demolished or renovated or any person who owns, leases, operates, controls, or supervises the demolition or renovation operation, or both;

(18) "Project designer" means any person who designs the following activities with respect to friable asbestos-containing material in a facility:

(A) A response action other than a small-scale short-duration activity;

(B) A maintenance activity that disturbs friable asbestos-containing material other than a small-scale short-duration activity; or

(C) Response action for a major fiber-release episode;

(19) "Regulated asbestos-containing material" means:

(A) Friable asbestos material;

(B) Category I nonfriable asbestos-containing material that has become friable;

(C) Category I nonfriable asbestos-containing material that will be or has been subjected to sanding, grinding, cutting, or abrading; or

(D) Category II nonfriable asbestos-containing material that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations regulated by this subchapter;

(20) "Renovation" means altering a facility or one (1) or more facility components in any way, including the stripping or removal of regulated asbestos-containing material from a facility component. Operations in which load-supporting structural members are wrecked or taken out are demolitions;

(21) "Response action" means a method, including removal, encapsulation, enclosure, repair, and operation and maintenance, that protects human health and the environment from friable asbestos-containing material;

(22) "Training provider" means any person or other legal entity, however organized, that conducts some or all of the training programs for asbestos professional disciplines which are regulated by the department; and

(23) "Worker" means any person who carries out any of the following activities with respect to friable asbestos-containing material in a facility:

(A) A response action other than a small-scale short-duration activity;

(B) A maintenance activity that disturbs friable asbestos-containing material other than a small-scale short-duration activity; or

(C) A response action for a major fiber-release episode.

§ 20-27-1004. Powers and duties

The Arkansas Department of Environmental Quality shall be charged with the responsibility of administering and enforcing this subchapter and is given and charged with the following powers and duties:

(1) To require and regulate training and examinations for all disciplines certified by this subchapter and the regulations promulgated pursuant to this subchapter;

(2) To establish standards and procedures for the licensing of consultants, contractors, and training providers and to establish performance standards for the abatement of friable and nonfriable asbestos materials. The performance standards shall be as stringent as those standards adopted by the United States Environmental Protection Agency pursuant to section 112 of the Clean Air Act; [FN1]

(3) To enforce regulations necessary or appropriate to the implementation of this subchapter, including taking legal action in any court of competent jurisdiction;

(4) To issue licenses and certificates to all applicants who satisfy the requirements of this subchapter and any regulations issued pursuant to this subchapter, to renew the licenses and certificates, and to suspend or revoke the licenses and certificates for cause and after notice and opportunity for hearing; and

(5) To establish annual license fees for asbestos abatement consultants, asbestos abatement contractors, and training providers, annual certification fees for air monitors, contractor/supervisors, inspectors, management

planners, project designers, and workers in order to recover the costs of processing license and certificate applications and the issuance of licenses and certificates, and such other fees as are necessary to recover the costs of enforcing this subchapter.

[FN1] 42 U.S.C.A. § 7412.

§ 20-27-1005. Methods; proceedings

The procedures of the Arkansas Department of Environmental Quality and the Arkansas Pollution Control and Ecology Commission for issuance of rules and regulations, conduct of hearings, notice, power of subpoena, review of action on licenses, right of appeal, presumptions, finality of actions, and related matters shall be as provided in Part I of the Arkansas Water and Air Pollution Control Act, § 8-4-101 *et seq.*, including, but not limited to, §§ 8-4-205, 8-4-210, 8-4-212 -- 8-4-214, and 8-4-218 -- 8-4-229.

§ 20-27-1006. Licensing

(a) Any asbestos abatement consultant or asbestos abatement contractor shall obtain a license under this section from the Arkansas Department of Environmental Quality prior to actively engaging in any asbestos demolition, renovation, or asbestos response action, and any training provider shall obtain a license under this section from the department prior to actively engaging in any asbestos training as provided by this subchapter.

(b)(1) The application for license shall be made in the manner and form required by the department. An application for license or renewal of a license shall be accompanied by proof of liability insurance coverage in the form and amount required by the department and proof of training and examination as required by the department.

(2) Training providers shall not be required to furnish proof of liability insurance coverage under subdivision (b)(1) of this section.

(c)(1) The department shall license all applicants for licenses under this subchapter who satisfy the requirements of this subchapter.

(2) Licenses shall be valid for a period of one (1) year.

(3) Licenses shall be renewable upon application and upon satisfying the renewal requirements of the department.

(d) State and federal governments and subdivisions thereof shall be exempt, except for training providers, from the license requirements of this section.

§ 20-27-1007. Prohibitions

It shall be unlawful for any person:

(1) To conduct:

(A) Asbestos response actions, demolitions, or renovations without having first obtained a license from the Arkansas Department of Environmental Quality when acting as an asbestos abatement consultant or as an

asbestos abatement contractor;

(B) Training without having first obtained a license from the department when acting as an asbestos training provider; or

(C) Asbestos response actions, demolitions, or renovations without having first obtained certification from the department when acting as a clearance air monitor, contractor/supervisor, inspector, management planner, project designer, or worker;

(2) To participate in any response action, demolition, or renovation contrary to the regulations or orders issued under this subchapter or contrary to the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., and the Arkansas Solid Waste Management Act, § 8-6-201 et seq., and the regulations promulgated thereunder, whether or not such person is required to have a license or certificate pursuant to this subchapter;

(3) To knowingly make any false statement, representation, or certification in any application, record, report, or other document filed or required to be maintained under this subchapter or regulations adopted pursuant to this subchapter or to falsify, tamper with, or knowingly render inaccurate any monitoring device or method required to be maintained under this subchapter or any regulations adopted pursuant to this subchapter; or

(4) To violate any provision of this subchapter or any regulation or order adopted or issued under this subchapter.

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