

CHAPTER 155
ASBESTOS REMOVAL AND ENCAPSULATION
[Prior to 10/18/00, see 875—Chs 81 and 82]

875—155.1(88B) Definitions.

“*Asbestos*” means material containing at least 1 percent by weight of chrysotile, amosite, crocidolite, tremolite asbestos, anthophyllite asbestos, actinolite asbestos or any combination of these minerals. Chemical treatment or alteration does not exempt the material from this definition.

“*Asbestos project*” means any activity involving the removal or encapsulation of friable asbestos materials, other releases of asbestos such as by the operation of hand-operated or power-operated tools that may produce or release fibers of asbestos, or other substantial alteration of asbestos-containing, nonfriable material.

“*Business entity*” means a partnership, firm, association, corporation, sole proprietorship, or other business concern. A business entity that uses its own employees in removing or encapsulating asbestos for the purpose of renovating, maintaining or repairing its own facilities is not included.

“*Contractor/supervisor*” means a person who supervises workers on asbestos projects or a person who enters into contracts to perform asbestos projects and personally completes the work.

“*Division*” means the division of labor services.

“*Friable asbestos material*” means any material containing more than 1 percent asbestos by weight and that can be crumbled, pulverized, or reduced to powder by hand pressure when dry.

“*Inspector*” means a person who inspects for asbestos-containing building materials in a school or a public or commercial building.

“*License*” means an authorization issued by the division permitting an individual to be employed as a worker, contractor/supervisor, inspector, management planner, or project designer.

“*Management planner*” means a person who prepares asbestos management plans for a school building.

“*Permit*” means an authorization issued by the division permitting a business entity to remove or encapsulate asbestos.

“*Project designer*” means a person who designs asbestos response or maintenance projects for a school or a public or commercial building.

“*Worker*” means a person who performs response or maintenance activities on one or more asbestos projects.

“*Working days*” means Monday through Friday including holidays that fall on Monday through Friday. The first working day shall be the date of actual delivery or the postmark date, whichever is earlier. However, documents with Saturday or Sunday postmark dates will be treated as though postmarked on the following Monday.

875—155.2(88B) Permit application procedures.

155.2(1) Application. To apply for or to renew a permit, a business entity shall submit a completed application, Form 309-6504, to the division. All requested applicable information and attachments must be provided. A \$500 nonrefundable application fee shall accompany each permit application.

155.2(2) Action on application. A new permit shall be valid for one year from the date of issuance. A renewal permit shall be valid for one year from the expiration date of the applicant’s prior permit. A permit may be denied for the reasons set forth in rule 155.8(17A,88B,252J,261) or if the application package is incomplete. Within 60 days of receiving a completed application package for a new permit, the division will issue a permit or deny the application. Within 30 days of receiving a completed application package for a permit renewal, the division will issue a permit or deny the application. Applications received after expiration of a prior permit will be considered applications for new permits rather than renewals.

875—155.3(88B) Other asbestos regulations. Regulation of encapsulation, removal and abatement procedures are found in 875—Chapters 10 and 26 and 567—Chapter 23. Nothing in this chapter shall

be viewed as providing an exemption, waiver, or variance from any otherwise applicable regulation or statute.

875—155.4(88B) Asbestos project records. The permittee shall keep a record of each asbestos project it performs and shall make the record available to the division at any reasonable time. Records required by this rule shall be kept for at least six years. The records shall include:

155.4(1) The name, address, and license number of the individual who supervised the asbestos project and of each employee or agent who worked on the project.

155.4(2) The location and a description of the project and the amount of asbestos material that was removed.

155.4(3) The start and completion dates of each instance of removal or encapsulation.

155.4(4) A summary of the procedures that were used to comply with all applicable standards.

155.4(5) The name and address of each asbestos disposal site where the asbestos-containing waste was deposited.

155.4(6) A receipt from the asbestos disposal site indicating the amount of asbestos and disposal date.

155.4(7) Copies of reports required by 29 CFR 1926.1101(k)(3)(iii).

155.4(8) Copies of air sampling results or initial negative assessment as required by 29 CFR 1926.1101(c).

155.4(9) Material safety data sheets for all solvents used on the asbestos project.

875—155.5(88B) Ten-day notices.

155.5(1) General. Permittees shall notify the division at least ten working days before an asbestos project begins. A project begins when site preparations for asbestos abatement, encapsulation, or removal begin; when asbestos abatement, encapsulation, or removal begins; or when any demolition begins, whichever is sooner. Legible electronic transmissions of ten-day notices in the proper format shall be accepted.

155.5(2) Emergency. When there is an immediate danger to life, health or property, the permittee may file the notice within five days after beginning the project. An explanation of the emergency must be included.

155.5(3) Format. The notice shall be on an 8½" by 11" sheet of paper and shall contain the following information:

a. The name, address, and telephone number of and contact person for the permittee performing the project.

b. The name, address, and telephone number of the project.

c. A description of the structure and work to be performed, including type and quantity of asbestos-containing material.

d. The anticipated dates of the project's start and end.

e. Designation of the asbestos disposal site.

f. The signature and printed name of the person who completed the form.

g. The shift or work schedule on which the project will be performed.

155.5(4) Disaster emergency proclamations. For structures that are both located in an area that is subject to a disaster emergency proclamation pursuant to Iowa Code section 29C.6 and damaged by circumstances related to those that caused the disaster emergency proclamation, the permittee shall file the notice described by this rule as early as possible, but not later than the working day following the initiation of the project.

875—155.6(88B) License application procedures.

155.6(1) Forms. Iowa Form 309-2068 must be used for all new and renewal asbestos license applications. The second page of the form is the respirator fit test and the third page is a physician's certification. Forms from other states may not be substituted for the Iowa form or any part thereof. Respirator fit tests and medical examinations must have occurred within the past 12 months. Only

worker and contractor/supervisor license applicants must submit the respirator fit test and physician's certification forms. Photocopies of the forms shall not be accepted.

155.6(2) Training. A certificate of appropriate training from a course provider approved for asbestos training by the U.S. Environmental Protection Agency must accompany all applications. Applicants for a license must be trained by training providers other than themselves. Applicants who completed initial training under a prior set of applicable rules will not be required to take another initial training course if they complete all annual refresher courses.

155.6(3) Photographs. Two 1" by 1" photographs clearly showing the applicant's face shall accompany all license applications.

155.6(4) Worker licenses. All persons seeking a license as an asbestos abatement worker shall complete an initial four-day training course and thereafter complete an annual one-day asbestos abatement worker refresher training course. A nonrefundable fee of \$20 shall accompany the application.

155.6(5) Contractor/supervisor licenses. All persons seeking a license as an asbestos abatement contractor/supervisor shall complete an initial five-day training course and thereafter complete an annual one-day asbestos abatement contractor/supervisor refresher training course. A nonrefundable fee of \$50 shall accompany the application.

155.6(6) Inspector licenses. All persons seeking a license as an asbestos inspector shall complete an initial three-day training course and thereafter complete an annual one-half-day asbestos inspector refresher training course. A nonrefundable fee of \$20 shall accompany the application.

155.6(7) Management planner licenses. All persons seeking a license as an asbestos management planner shall complete an initial three-day inspector training course and an initial two-day management planning training course. Thereafter, an annual one-half-day asbestos inspector refresher training course plus an additional one-half-day course on management planning are required. A nonrefundable fee of \$20 shall accompany the application.

155.6(8) Abatement project designer licenses. All persons seeking a license as an asbestos abatement project designer shall complete an initial three-day abatement project designer training course. Thereafter, an annual one-day asbestos abatement project designer refresher training course is required. A nonrefundable fee of \$50 shall accompany the application.

155.6(9) Action on application. Within 30 days of receiving a completed application, the division will issue a license or deny the application. If a license is issued, it will expire one year from the date the training was completed. An application may be denied for the reasons set forth in rule 155.8(17A,88B,252J,261) or if the application package is incomplete.

155.6(10) License on job site. While conducting asbestos work that requires a license, the license or a legible copy of the license shall be in the licensee's possession at the work site. However, if the division of labor services' Web site reflects that a license has been issued to a particular person, that person may perform work consistent with the type of license issued without the license or a copy of the license for up to 14 days from the issuance date.

155.6(11) Disaster emergency proclamations. For work on structures that are both located in an area that is subject to a disaster emergency proclamation pursuant to Iowa Code section 29C.6 and damaged by circumstances related to those that caused the disaster emergency proclamation, the labor commissioner deems an individual to be licensed and authorized for asbestos abatement if all of the criteria in either paragraph "a" or paragraph "b" are met:

a. The individual contractor, supervisor, or worker makes the following immediately available on the work site:

(1) A copy of a certificate for training that was provided within the past 12 months by a course provider approved by the U.S. Environmental Protection Agency and that pertains to the work being performed;

(2) A copy of a physician's statement indicating that, consistent with 29 CFR 1910.134, a licensed physician has examined the individual within the past 12 months and approved the individual to work while wearing a respirator;

- (3) Documentation of a respirator fit test consistent with 29 CFR 1910.134 within the past 12 months;
- (4) A valid, current asbestos license issued by another state that pertains to the type of work being performed; and
- (5) A photo identification card; or
 - b. The individual working as a project designer, inspector, or management planner makes the following immediately available on the work site:
 - (1) A copy of a certificate for training by a course provider approved by the U.S. Environmental Protection Agency and that pertains to the work being performed;
 - (2) A valid, current asbestos license issued by another state that pertains to the type of work being performed; and
 - (3) A photo identification card.

875—155.7(88B) Duplicate permits and licenses. Duplicate original permits and licenses are available from the division for a \$10 fee.

875—155.8(17A,88B,252J,261) Denial, suspension and revocation.

155.8(1) Grounds. The division may deny an application or suspend or revoke a permit or license when an investigation reasonably determines any of the following:

- a. Fraud or deception was utilized in obtaining or attempting to obtain a permit or license.
- b. The qualifications for a permit or license are not met.
- c. Any applicable federal or state standard for removal or encapsulation of asbestos was violated.
- d. An unlicensed or untrained person was employed or allowed to work on an asbestos project.
- e. The division received a certificate of noncompliance from the college student aid commission or the child support recovery unit of the department of human services.
- f. Penalties or other debts are owed by the applicant to the division and are 30 days or more in arrears.

155.8(2) Relinquishing license or permit. A licensee or permittee must return the original license or permit to the division when a revocation or suspension becomes final.

155.8(3) Suspension period. Unless ordered otherwise, a suspension shall last for 12 months.

875—155.9(17A,88B) Contested cases.

155.9(1) Scope. This rule applies to civil penalty assessments and to denials, revocations and suspensions of asbestos licenses and permits.

155.9(2) Procedures. The labor commissioner shall serve a notice of intended action by restricted certified mail, return receipt requested, or by other service as permitted by Iowa Code section 17A.18. A notice of contest must be received by the labor commissioner within 20 days after service of the notice of intended action. If a notice of contest is not timely filed, the action stated in the notice of intended action shall automatically be effective. Hearing procedures for asbestos contested cases are set forth in 875—Chapter 1, Division V. However, if a contested case is based on receipt by the division of a certificate of noncompliance, procedures outlined in Iowa Code chapter 252J or 261 shall apply.

These rules are intended to implement Iowa Code chapters 17A, 88B, 252J, and 261.

[Filed 3/22/85, Notice 11/7/84—published 4/10/85, effective 5/15/85]¹

[Filed emergency 9/5/86—published 9/24/86, effective 9/24/86]

[Filed emergency 4/17/87—published 5/6/87, effective 4/17/87]

[Filed 4/27/88, Notice 12/30/87—published 5/18/88, effective 7/1/88]

[Filed 7/8/88, Notice 5/18/88—published 7/27/88, effective 9/1/88]

[Filed 3/17/89, Notice 9/21/88—published 4/5/89, effective 5/10/89]

[Filed emergency 5/25/89—published 6/14/89, effective 7/1/89]

[Filed 10/26/89, Notice 6/14/89—published 11/15/89, effective 12/29/89]

[Filed 4/19/91, Notices 12/26/90, 1/23/91—published 5/15/91, effective 6/19/91]

[Filed 9/19/00, Notice 3/22/00—published 10/18/00, effective 11/22/00]

[Filed 11/20/01, Notice 6/13/01—published 12/12/01, effective 1/16/02]

[Filed 11/30/06, Notice 7/19/06—published 12/20/06, effective 1/24/07]

[Filed 4/16/07, Notice 2/28/07—published 5/9/07, effective 6/13/07]

[Filed emergency 6/25/08—published 7/16/08, effective 6/25/08]

- ¹ Effective date of Ch 81 delayed seventy days by the Administrative Rules Review Committee.
Exception: See rule 82.11(88B).
Effective date of Ch 82 delayed seventy days by the Administrative Rules Review Committee, IAB 6/5/85.
Effective date (5/15/85) of 82.3(1)“a”(11) delayed by the Administrative Rules Review Committee until the expiration of forty-five calendar days into the 1986 session of the General Assembly pursuant to Iowa Code section 17A.8(9), IAB 7/31/85.