ASBESTOS ABATEMENT ACTIVITIES

Bulletin No. 87-35

LEGISLATIVE COMMISSION

OF THE

LEGISLATIVE COUNSEL BUREAU

STATE OF NEVADA

March 1987

STUDY OF ASBESTOS ABATEMENT ACTIVITIES

BULLETIN NO. 87-35

LEGISLATIVE COMMISSION

OF THE

LEGISLATIVE COUNSEL BUREAU

STATE OF NEVADA

MARCH 1987

TABLE OF CONTENTS

REPORT OF THE LEGISLATIVE COMMISSION

TO THE MEMBERS OF THE 64TH SESSION OF THE NEVADA LEGISLATURE:

At its meeting of October 17, 1986, the legislative commission established a subcommittee to study asbestos abatement activities and requirements. The following membership was appointed to the subcommittee:

Assemblyman Bob L. Kerns, Chairman
Senator Raymond D. Rawson
Assemblyman Danny L. Thompson

The subcommittee was directed to report its findings and recommendations to the legislative commission upon completion of its study. The following report presents the basic recommendations. A brief description of asbestos and asbestos-related health hazards, relevant federal laws and regulations, programs in other states, and activities in Nevada are also included. Background materials and minutes of the subcommittee's deliberations are on file in the research library of the legislative counsel bureau.

Respectfully submitted,

Legislative Commission
Legislative Counsel Bureau
State of Nevada

Carson City, Nevada
February 1987

* *

LEGISLATIVE COMMISSION

Assemblyman Louis W. Bergevin, Chairman
Assemblyman Bob L. Kerns, Vice Chairman

Senator James H. Bilbray	Assemblyman Robert M. Sader
Senator Helen A. Foley	Assemblyman James W. Schofield
Senator Lawrence E. Jacobsen	Assemblyman Danny L. Thompson
Senator Kenneth K. Redelsperger	Assemblyman Barbara A. Zimmer
Senator Sue Wagner	

SUMMARY OF RECOMMENDATIONS

The following recommendations were approved by the subcommittee as elements of the state's overall program for regulation of asbestos abatement:

1. Place the primary responsibility for coordination and administration of the program in Nevada's department of industrial relations (DIR).

2. Authorize DIR to adopt the necessary regulations to implement the program.

3. Establish a mandatory training and licensure program for contractors, workforce and other people who work on projects for the control of asbestos.

4. Include in the program for training and licensure provisions for:

   a. Requiring satisfactory completion of an examination associated with the training;

   b. Annual renewal requirements;

   c. Continuing education or training when appropriate;

   d. A requirement that contractors being licensed by DIR for asbestos abatement activities also hold a license issued by the state contractor's board in any classification of contracting; and

   e. Reciprocity of licensing with other states having equivalent requirements.

5. Impose penalties for violation of the law or regulations as follows:

   a. For a first violation, impose a fine of not more than $500.

   b. For a second or subsequent violation, impose a fine of not more than $500, revoke the license, and require the violator to fulfill training and educational requirements in order to have his license reinstated.

6. Require the DIR or its authorized representative to inspect annually at least one project conducted by each licensed contractor.

7. Require that a survey for the presence of dangerous asbestos must be completed before renovation or demolition of any public building.

8. Provide that disposal of asbestos must be accomplished in accordance with the regulations adopted by the state environmental commission for the disposal of hazardous waste.

9. Include "effective dates" which will provide a reasonable time for the overall program to be implemented.

REPORT TO THE 64TH SESSION OF THE NEVADA LEGISLATURE BY THE LEGISLATIVE COMMISSION'S SUBCOMMITTEE TO STUDY ASBESTOS ABATEMENT ACTIVITIES

I. INTRODUCTION

Because of increasing awareness of the potential health hazards associated with asbestos, the legislative commission requested a report on the topic from Nevada's department of industrial relations (DIR). Based upon that report, the commission established a legislative subcommittee to study asbestos abatement activities and requirements.

The subcommittee held a meeting on January 12, 1987, in order to consider the issue. The following report summarizes the background information which the members considered and the recommendations which were adopted.

II. ASBESTOS AND ITS USES

Asbestos is a generic term applied to a wide variety of naturally occurring mineral silicates. The commercially valuable asbestos minerals generally form fibers which are incombustible and possess high tensile strength, good thermal and electrical insulating properties, and moderate to good chemical resistance. They may be packed, woven or sprayed. These characteristics of durability, flexibility, strength, and resistance to wear make asbestos well-suited for an estimated 3,000 separate commercial, industrial and public applications.

Asbestos has been used extensively in buildings since 1900 as an insulating and binding fiber in air ducts, asbestos cement, fireproof fabrics, binding and insulating fiber in floor tiles, pipe and boiler insulation, roof sheeting, structural steel insulation, texturing plaster and wall board. In 1973, the United States Environmental Protection Agency (EPA), pursuant to the Clear Air Act, prohibited asbestos in sprayed-on materials for fire protection, insulation and soundproofing. In 1975, EPA banned molded or wet-applied insulation containing asbestos if the material would crumble easily when dry. The United States Consumer Product Safety Commission, in 1977, banned patching compounds and artificial emberizing materials which contain asbestos. Currently, EPA is proposing a 10-year phaseout of virtually all asbestos uses under the authority of the Toxic Substances Control Act.

III. HAZARDS TO PUBLIC HEALTH

Asbestos is a confirmed environmental carcinogen. Inhalation of asbestos fibers may increase the risk of serious irreversible diseases, which can include:

1. Lung cancer--a respiratory malignancy. Studies have shown the risks of lung cancer increase directly with increasing cumulative exposure to asbestos.

2. Asbestosis--a noncancerous respiratory disease characterized by scarring of the lung tissue. Asbestosis is a chronic irreversible lung ailment that can produce shortness of breath and lung damage. There is a 20- to 30-year latency period associated with the onset of this disease.

3. Mesothelioma--a rare cancer that involves the thin membrane lining of the abdomen and chest. Mesothelioma has been observed almost exclusively when there has been a history of exposure to asbestos. Also, the earlier one begins inhaling asbestos, the higher the likelihood of developing mesothelioma in later life. Thus, a concern has arisen relative to exposure of school children to asbestos.

4. Other cancer. It is suspected that exposure to asbestos fibers may cause malignant tumors or cancer of the colon, esophagus, kidney, larynx, oral cavity, stomach and other vital organs. Based on this observation, scientists conclude that inhaled asbestos fibers are absorbed into the blood stream and carried to many parts of the body.

The presence of asbestos in a building, however, does not necessarily mean that the health of building occupants is endangered. As long as asbestos-containing material remains in good condition and is not disturbed, exposure is unlikely. When building maintenance, repair, renovation or other activities disturb or damage asbestos-containing material, asbestos fibers are released creating a potential hazard to workers and building occupants. Friable asbestos (material which can be crumbled, pulverized or reduced to powder by hand pressure) is of special concern because it is so easily damaged.

IV. FEDERAL LAWS AND REGULATIONS

A. OVERVIEW

Since the early 1970's, the federal agencies responsible for asbestos regulations have been the Occupational Safety and Health Agency (OSHA) and the Environmental Protection Agency.

The major thrust of the OSHA program has been regulation of asbestos exposure in most workplaces. Current OSHA regulations (29 Code of Federal Regulations 1910 and 1926) are very specific and are oriented toward the technical aspects of asbestos abatement and monitoring of workplace safety.

Under the Clean Air Act of 1973, EPA classified asbestos as a hazardous air pollutant and banned the spraying of asbestos insulation in buildings. This ban was later extended to include all asbestos-containing sprays used in buildings, and work practice standards were adopted. Under the authority of the Toxic Substances Control Act of 1976, the EPA is currently proposing a 10-year phaseout of virtually all asbestos uses.

While EPA has maintained a broad overview of asbestos contamination of the environment, one of the agency's specific programs has been associated with removal of dangerous asbestos from schools. The Asbestos School Hazard Detection and Control Act of 1980 required EPA to issue rules to reduce the health risk from exposure to asbestos in school buildings. Thus, in 1982, EPA required that all private and public primary and secondary schools be inspected for asbestos, maintain records of their findings, and notify school employees and parent-teacher groups when dangerous asbestos is found.

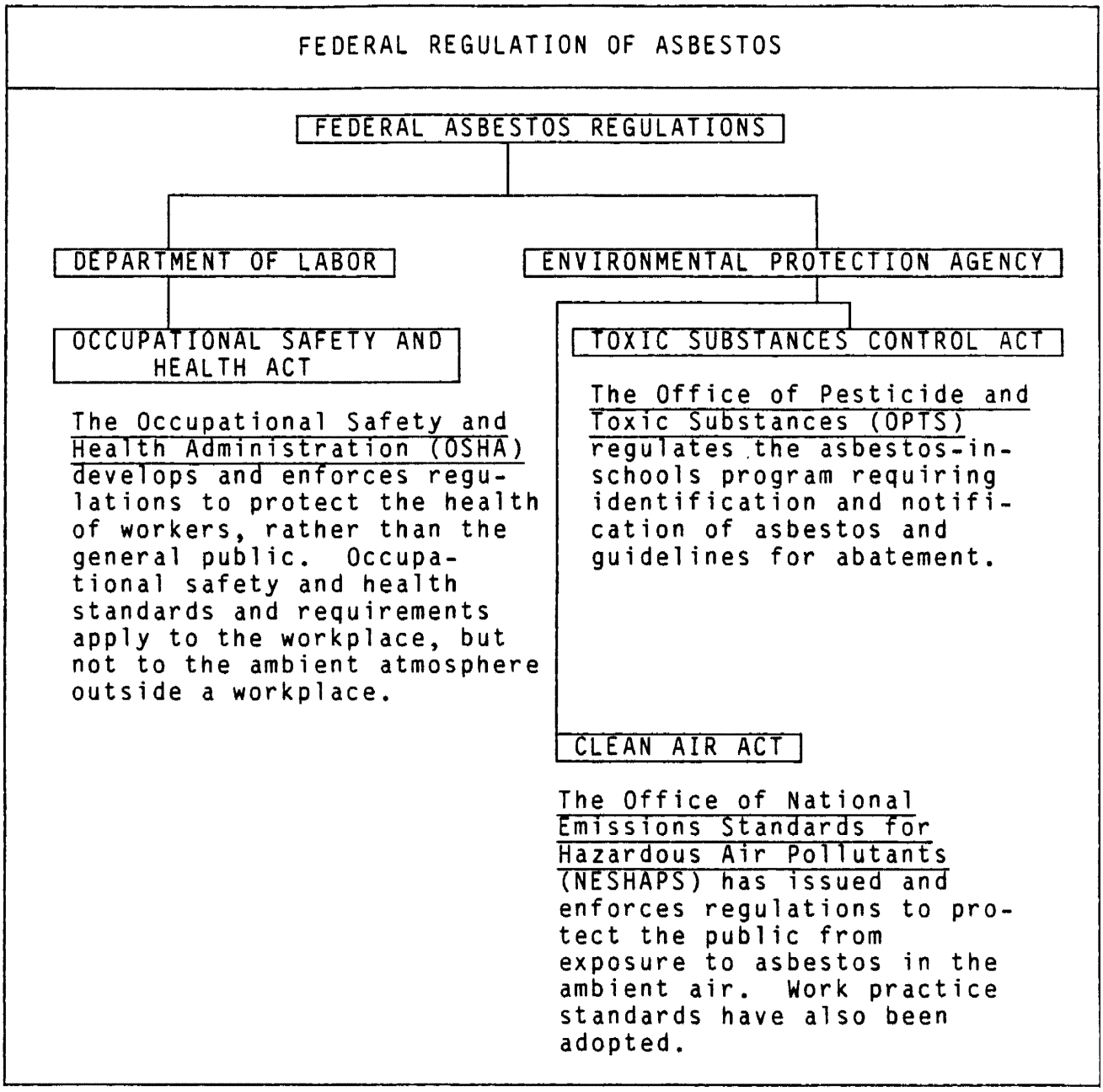
On October 22, 1986, the Asbestos Hazard Emergency Response Act was signed into law. This measure requires removal of dangerous asbestos from schools. It places the primary responsibility upon the local school districts. The law requires that management plans for abatement programs in the schools be submitted to the states for review and approval. The act also establishes procedures through which EPA will develop a "model plan" for contractor accreditation. The states must adopt a contractor accreditation plan which is at least as stringent as the federal model. A summary of the Asbestos Hazard Emergency Response Act is contained in Appendix A of this report.

B. HISTORY OF FEDERAL REGULATIONS

Active regulation of asbestos at the federal level has expanded significantly since the early 1970's. The programs and activities have appeared to be somewhat fragmented because of the fact that several different entities have been involved in the regulatory process.

The following chart (Table 1) outlines the three major thrusts of federal regulation of asbestos to date.

TABLE 1



Source: Nevada's department of industrial relations.

Regulations Promulgated by OSHA Under the Occupational Safety and Health Act

- The Occupational Safety and Health Administration adopted a permissible airborne exposure limit of 12 asbestos fibers per cubic centimeter of air (f/cc) on May 29, 1971, in the initial promulgation of agency standards.

- A new asbestos standard was adopted in June 1972, reducing the permissible exposure limit to 5 f/cc and then to 2 f/cc effective July 1, 1976.

  This standard was based on the determination that it would prevent asbestosis, and reduce the risk of cancer to an undefined extent. The standard included requirements for compliance methods, monitoring, medical surveillance and housekeeping.

- The current standard was promulgated in June 1986, lowering the permissible exposure limit to 0.2 f/cc for all industries, and including revisions for worker training, restricted areas, respiratory protection and housekeeping procedures.

Regulations Adopted by NESHAPS Under the Clean Air Act

- On April 6, 1973, the Environmental Protection Agency (through NESHAPS) promulgated regulations to control asbestos emissions from asbestos mills, nine manufacturing source categories, and demolition of buildings containing friable asbestos-containing fireproofing and insulating material. The regulations also restricted the spraying of asbestos-containing materials in buildings and structures for fireproofing and insulating purposes and placed restrictions on surfacing of roadways with asbestos tailings.

- On October 14, 1975, substantial changes were made in the EPA regulations. The new amendments included the addition of two manufacturing source categories (bringing the total to 11), the inclusion of renovation projects with regulated demolition activities, regulation of "fabrication" of asbestos-containing products, provisions to prohibit use of wet-applied and molded insulation (i.e., pipe lagging), and expansion of the scope of regulation to cover asbestos-containing waste handling and disposal.

- Changes in the regulations in 1978 included expanded coverage of spraying restrictions to prohibit application of asbestos-containing materials for decorative purposes and adoption of a provision to exempt bituminous or resinous-based materials from the spraying restrictions. Also, the amendment repromulgated certain work practice provisions.

- Repromulgation of regulations in April of 1984 was designed to make existing work practices rules enforceable. The need to repromulgate stemmed from a United States Supreme Court decision in the case of Adamo Wrecking Company of Michigan versus United States. The

court held that parts of the asbestos standard, in the form of work practice standards, were not emission standards within the meaning of Section 112 of the Clean Air Act as amended in 1970. Thus, certain work practice standards were deemed not enforceable.

During the court case, the Clean Air Act was amended (August 7, 1977) to authorize the use of "design, equipment, work practice and operational standards." Some, but not all, of the work practice standards were repromulgated on June 19, 1978. More recent repromulgation of the entire standard ensures that all work practice standards are now enforceable. The standard was also rearranged, and parts of it reworded, for clarity.

Regulations Adopted by OPTS Under the Toxic Substances Control Act and Other More Specific Acts

- In June 1980, the Asbestos School Hazard Detection and Control Act required the Office of Pesticide and Toxic Substances (OPTS) to issue rules to reduce the health risk from exposure to asbestos-containing materials in school buildings. The rule has been applied to private and public elementary and secondary (grade 12 and under) schools. It requires local education agencies to identify friable asbestos-containing material by inspection and sampling, notify employees and parent-teacher associations of the inspection results, and maintain records of the inspection results. The rule exempts schools built after December 31, 1978, and schools in which friable asbestos-containing material has been adequately removed, enclosed, or encapsulated.

  The "asbestos-in-school" rule does not contain abatement provisions whereby corrective action is required to remove friable asbestos-containing material or eliminate the exposure risk.

- In 1984, the Asbestos School Hazard Abatement Act provided financial assistance for local educational agencies which engaged in the removal of asbestos from schools.

- The Asbestos Hazard Emergency Response Act of 1986 directs EPA to promulgate regulations which provide the framework for abatement of asbestos hazards in schools. As previously mentioned, an outline of the major provisions of this act is contained in Appendix A of this report.

V. ACTIVITIES IN NEVADA

Recent increases in awareness of the hazards associated with asbestos have caused corresponding increases of activity in the State of Nevada.

A. REGULATORY ACTIVITY

As previously outlined, worker protection regulations have been promulgated by the federal OSHA. As part of the state program, Nevada's division of occupational safety and health in the department of industrial relations has adopted and enforces these same regulations for Nevada workplaces.

Asbestos fibers have also been designated as a hazardous air pollutant and thus subject to federal regulation through NESHAPS. Similar to the process related to workplace regulations, the state has also adopted the federal regulations for air quality. Nevada's division of environmental protection in the state department of conservation and natural resources is the enforcement agency for these regulations within the state.

The program for asbestos in schools has been the responsibility of each local school district. The districts have corresponded directly with the federal EPA, and no state agency has been involved in this regulatory process. However, the state will become more directly involved in the future as a result of the federal Asbestos Hazard Emergency Response Act of 1986.

B. ASBESTOS IN NEVADA BUILDINGS

Earlier sections of this report document the substantial use of asbestos-containing materials in building construction until the mid-1970's. Although a complete assessment of Nevada buildings has not been undertaken, it has been assumed that a similar type of construction was utilized in this state during the relevant period of time.

In 1984, Nevada's divisions of environmental protection and occupational safety and health surveyed state-owned buildings for asbestos-containing material. Less than 10 percent of the buildings had potential asbestos exposures that were classified as having a high priority for removal. Over 50 percent of the buildings were found to have asbestos-containing material, but these buildings were classified as low priority because the materials were only used as insulation for boilers and steam pipes.

A thorough survey of local government buildings has not been conducted. However, the local school districts have sampled for asbestos-containing material as directed by federal law. Among the 258 public school buildings, a total of 153 were found to have asbestos-containing material present. The state board of education has reported that the serious exposures have been or are scheduled to be removed or encapsulated.

VI. LAWS AND PROGRAMS IN OTHER STATES

In recent years, many states have enacted legislation which created asbestos abatement programs. Because of action in 1986, sources vary concerning the exact number of states which have included various elements within their statutes and programs.

According to The Council of State Governments (CSG), only seven states had adopted asbestos legislation through 1984. In 1985, however, 20 states adopted asbestos-related laws. Legislation to create comprehensive programs was adopted in Alaska, California, Colorado, Connecticut, Illinois, Louisiana and Rhode Island. Contractor certification requirements were also established in Arkansas, Kansas, Oklahoma and Washington. Iowa, Massachusetts, Michigan and Nebraska adopted local bonding or tax levy authorization to fund asbestos abatement activities.

Again according to the CSG, as of August 1, 1986, a total of 23 states had passed asbestos legislation during that year. Connecticut, Georgia, Mississippi, Nebraska, New Hampshire, New York, Utah, Vermont, Washington and West Virginia adopted legislation requiring contractor training, certification, or licensing. Legislation to create comprehensive programs for inspection, assessment and remediation of asbestos-containing materials was enacted in Georgia, Kentucky, Maryland, New Hampshire, Vermont and Virginia. Funding programs were established in Maine, Missouri and Mississippi.

Based upon testimony presented to the subcommittee, the following 17 states currently have active programs for contractor licensing or certification:

Alabama	Maryland	Rhode Island
Arizona	Michigan	South Carolina
Arkansas	Mississippi	Tennessee
Illinois	New Jersey	Vermont
Iowa	Ohio	Washington
Kansas	Oklahoma	

Legislation has been enacted and actual implementation of licensing programs is pending in an additional 13 states.

Appendix B is a chart which outlines the provisions of contractor training and certification programs in 14 states. The chart provides a summary of the effective dates of latest regulations, the requirements for training, the applicability of the programs, and the names of the state enforcement agencies.

In September 1986, the National Conference of State Legislatures (NCSL) distributed a booklet entitled "Asbestos Contractor Licensing and Worker Certification - A Review of State Laws." Chapter IV of the document contains a discussion of various elements within several state programs. Appendix C of the present report reproduces Chapter IV of the NCSL booklet.

VII. LEGISLATIVE SUBCOMMITTEE ACTIONS

At its meeting of January 12, 1987, the legislative subcommittee reviewed asbestos abatement laws and programs in other states. The members were also provided background information concerning relevant federal laws and the status of programs in Nevada.

A. POSSIBLE ELEMENTS OF COMPREHENSIVE LEGISLATION

The following outline provided the structure for consideration of elements which could be included in proposed legislation for Nevada.

1. Establishment by appropriate state entity of standards for abatement plans and projects, including:

    a. "Traditional" abatement activities, such as removal or encapsulation;

    b. Building demolition;

    c. Transportation and disposal of asbestos-containing materials; and/or

    d. Other types of activities.

2. Training and licensing of general contractors responsible for asbestos abatement projects.

3. Training and certification of allied personnel, including:

    a. Workforce;

    b. Subcontractors;

    c. Inspectors;

    d. Technical service personnel, such as laboratories; and

    e. People who prepare management or abatement plans.

4. Requirement that asbestos management and abatement plans be reviewed and approved by an appropriate governmental entity before work is initiated. This provision could be made to apply to work in:

   a. Schools;

   b. All public buildings; or

   c. All buildings.

5. Inspection of buildings to determine if asbestos was used in their construction and the condition of the asbestos. This provision could be made to apply to:

   a. Schools;

   b. All state-owned buildings;

   c. All public buildings; and/or

   d. All buildings.

6. Inspection of work in progress by representatives of appropriate governmental entity/entities.

7. Penalties for noncompliance with the law.

8. Mechanisms for funding of governmental programs and required activities.

B. SUBCOMMITTEE RECOMMENDATIONS

The subcommittee determined that a comprehensive program for regulation of asbestos abatement activities should be established in Nevada. However, the members also concluded that the elements of highest priority should receive the initial attention.

The following recommendations were approved by the subcommittee as elements of the state's overall program for regulation of asbestos abatement:

1. **Place the primary responsibility for coordination and administration of the program in Nevada's department of industrial relations.**

2. **Authorize DIR to adopt the necessary regulations to implement the program.**

3. **Establish a mandatory training and licensure program for contractors, workforce and other people who work on projects for the control of asbestos.**

4. Include in the program for training and licensure provisions for:

   a. Requiring satisfactory completion of an examination associated with the training;

   b. Annual renewal requirements;

   c. Continuing education or training when appropriate;

   d. A requirement that contractors being licensed by DIR for asbestos abatement activities also hold a license issued by the state contractor's board in any classification of contracting; and

   e. Reciprocity of licensing with other states having equivalent requirements.

5. Impose penalties for violation of the law or regulations as follows:

   a. For a first violation, impose a fine of not more than $500.

   b. For a second or subsequent violation, impose a fine of not more than $500, revoke the license, and require the violator to fulfill training and educational requirements in order to have his license reinstated.

6. Require the DIR or its authorized representative to inspect annually at least one project conducted by each licensed contractor.

7. Require that a survey for the presence of dangerous asbestos must be completed before renovation or demolition of any public building.

8. Provide that disposal of asbestos must be accomplished in accordance with the regulations adopted by the state environmental commission for the disposal of hazardous waste.

9. Include "effective dates" which will provide a reasonable time for the overall program to be implemented.

Appendix D contains a copy of the suggested legislation drafted to implement these recommendations.

VIII. SOURCES OF ADDITIONAL INFORMATION

Information concerning asbestos programs is available from several sources.

Within the State of Nevada, the primary sources of information include Nevada's department of industrial relations and the division of environmental protection. The department of industrial relations provided substantial assistance to the subcommittee in conducting the current study.

A. EPA INFORMATION AND TRAINING CENTERS

The United States Environmental Protection Agency is funding several regional information and training centers to address issues associated with asbestos abatement. Information and practical "hands-on" types of training courses are offered at these centers.

Three centers have been in existence for a long enough period of time to gain a widespread reputation. They are located at the Georgia Institute of Technology, the University of Kansas and Tufts University in Massachusetts. Major centers are currently being established at the University of California-Berkeley and the University of Illinois at Chicago.

Satellite centers designed for providing training only to supervisory personnel are presently being created at the Drexel University in Pennsylvania, Rutgers University in New Jersey, the University of Texas at Arlington and the University of Utah.

B. THE NATIONAL CONFERENCE OF STATE LEGISLATURES

The National Conference of State Legislatures has been developing a capability to provide assistance to state legislatures concerning asbestos abatement.

On September 12 and September 13, 1986, the NCSL and the Asbestos Action Program of the EPA cosponsored a seminar for state policymakers to review state programs and responsibilities in managing asbestos hazards in buildings. The seminar was designed especially for representatives of the states which had not adopted asbestos contractor licensing and workforce certification programs. A summary of the proceedings of the seminar has been printed and is available through the research library of the legislative counsel bureau (LCB). Audio cassette tapes of the presentations during the seminar are also available from the NCSL.

As previously mentioned, the NCSL also printed a booklet entitled "Asbestos Contractor Licensing and Worker Certification - A Review of State Laws" in September 1986. A copy of this document is on file in the LCB's research library.

At the present time, the NCSL has applied for a grant from the EPA to serve as an information source specifically for state legislatures. If the grant is approved, the NCSL will function as an information clearinghouse, provide technical assistance to states, prepare relevant issue briefs, and hold a conference for issue discussion.

C. LIST OF PEOPLE TO CONTACT FOR ADDITIONAL INFORMATION

Legislative work often requires personal contact with people who can provide specific types of information. Following is a list of the names and telephone numbers of people who have supplied information for the subcommittee's work. Each person has expressed a willingness to provide additional assistance upon request.

- Kelly, Richard; University of California-Berkeley Asbestos Information and Training Center (415-642-1550)
- Lee, Jeffrey; University of Utah Asbestos Training Satellite Center (801-581-5710)
- McNally, Robert; Asbestos Action Program in the Office of Pesticides and Toxic Substances, EPA (202-382-3949)
- Sacarto, Doug; Coordinator of Asbestos Abatement Information Activities, NCSL (303-623-7800)
- Semones, Jo Ann; Regional Asbestos Coordinator, EPA Region IX (415-454-8588)

Kevin Devlin, research assistant with The Council of State Governments (606-252-2291), prepared a background paper entitled "Asbestos Abatement in the States" (August 1986) from which information was extracted for the present report. A copy of this background paper is also on file in the LCB's research library.

IX. CONCLUSION

The legislative subcommittee studying asbestos abatement activities was apprised of the hazards associated with asbestos-containing materials in buildings. After review of relevant federal laws, existing Nevada regulatory programs and laws in other states, the members concluded that a comprehensive program for regulation of asbestos abatement activities should be established in Nevada.

Appendix D contains the suggested legislation drafted to implement the subcommittee's recommendations.

X. APPENDICES

APPENDIX A

SUMMARY OF THE ASBESTOS HAZARD EMERGENCY RESPONSE ACT OF 1986

Source: National Conference of State Legislatures, "Summary of Proceedings - Seminar on State Programs and Legislation for Asbestos Safety in Buildings," September 1986.

APPENDIX A

ASBESTOS HAZARD EMERGENCY RESPONSE ACT

(H.R. 5073)

Summary of Major Components

The main components of H.R. 5073 are...

First, EPA promulgates regulations which provide a framework for addressing asbestos hazards in schools. EPA also develops a model accreditation program for people who inspect for asbestos, develop management plans, and conduct abatement work.

Second, all public and private elementary and secondary schools conduct inspections for asbestos-containing materials (ACM) and develop management plans which describe abatement actions which will be undertaken.

Third, States, using the EPA model, develop accreditation programs and review the management plans prepared by the schools.

Fourth, schools implement their management plans and complete them in a timely fashion.

Description of Requirements and Deadlines

The major actions and deadlines of H.R. 5073 are...

180 days after enactment -

- EPA is required to publish proposed rules covering eight different subjects (described below).
- EPA develops a model accrediation plan for persons who inspect, develop management plans, and conduct abatement work. States then have 180 days after beginning of their next legislative session to adopt a plan at least as stringent.

360 days after enactment -

- EPA publishes final rules.
- National Bureau of Standards establishes lab accrediation for bulk sampling.
- States establish procedures for review of management plans which will later be filed by the schools.

720 days after enactment -

- NBS establishes lab accrediation program for air sampling.
- Schools submit management plan to states. Governor reviews and can disapprove within 90 days. If Governor disapproves, schools have 30 days to revise and resubmit. If Govenor does nothing within 90 days, the plan is approved.

990 days after enactment -

- Schools must begin implementation of management plans

Description of EPA Regulations

There are eight subsections which require EPA to promulgate regulations...

1) Inspections. EPA develops regulations which prescribe procedures for determing whether ACM is present. Regulations shall exclude school buildings if (1) inspection was completed before effective date of regulations, and (2) the inspection meets requirements of these regulations or of the Purple Book.

2) Circumstances Requiring Response Actions. EPA develops regulations which define appropriate response action in at least the following circumstances:

- Damage - friable ACM or covering is damaged, detriorated or deliminated;
- Significant damage - friable ACM significantly damaged, deteriorated or delaminated;
- Potential damage - friable ACM in area regulary used by occupants in course of normal activities and reasonable likelihood that material will become damaged;
- Potential significant damage- friable ACM is area regularly used by occupants in course of normal activities and reasonable likelihood of significant damage;

3) Response Actions. EPA develops regulations describing response action using "least burdensome methods which protect human health and environment."

- For damaged asbestos - include methods in chapter 3 (O&M) and 5 (abatement methods) of Purple Book.
- For significantly damaged asbestos - include methods in chapter 5.
- For potential damage - include methods in chapters 3 and 5, unless preventive measures will eliminate reasonable likelihood that ACM will become damaged.
- For potentially significant damage - includes methods in chapter 5, unless preventive measures eliminate reasonable likelihood that ACM will become significantly damaged.

4) Implementation. EPA develops regulations requiring implementation of response actions and, where appropriate, for determination of when a response action is completed.

5) Operations and Maintenance. EPA develops regulations to require implementation of an O&M program for all friable ACM.

6) Periodic Surveillance. EPA develops regulations to require identification of friable and non-friable ACM, provisions for surveilliance and periodic reinspection of friable and non-friable ACM, and provisions for education of school employees about location of ACM and relevant safety procedures.

7) Transportation and Disposal. EPA develops regulations which prescribe standards for transportation and disposal of waste ACM to protect human health and environment, including provisions on loading and unloading of vehicles and provisions to assure physical integrity of containers.

8) Management Plans. EPA develops regulations which require schools to develop management plans, begin implementation of the plan within 990 days, and to complete implementation in a timely fashion. Elements of plan are specified in legislation. The plan must be submitted to Governor, it may be submitted in stages (i.e, covering a portion of a district's buildings), and must be available to public in administrative office of school district.

Hammer Provision

If EPA fails to promulgate regulations within 360 days, the school district has to carry out the following in accordance with EPA's most current guidance...

- Within 540 days after enactment, school district shall conduct an inspection.
- Within 720 days after enactment, school district shall develop and begin implementation of an operations and maintenance plan for friable ACM.
- Within 810 days after enactment, LEA develops a management plan for friable ACM and submits plan to Governor. LEA must begin implementation 990 days after enactment..

Other Significant Provisions

1) Enforcement - Schools which fail to conduct inspections, knowingl submit false information to the Governer, or fail to develop a management plan in accordance with the regulations, can be assessed civil penalty under Sec. 16 of TSCA of up to $5,000 for each day during which the violation continues. Civil penalties assessed shall be used by schools to comply with requirements of this act (e.g., to conduct abatement work). Unspent portions of civil penalities are desposited in asbestos trust fund.

2) Asbestos Trust Fund - Loans repaid under ASHAA are collected in an Asbestos Trust Fund. These funds are available for asbestos hazard abatement activities under ASHAA.

3) EPA Study of Public Buildings - Within 360 days EPA must submit t Congress a study which shall

- assess the extent to which ACM is present in public and commercial buildings
- assess condition of material and exposure of occupants in public and commercial buildings
- consider and report on whether public and commercial buildings need same inspection and response action requirements that appl to schools
- assess whether existing Federal regulations protect public and abatement personnel from exposure during renovation and demolition in public and commercial buildings
- include recommendations on need for standards and regulations for public buildings.

4) EPA Study on Liability - By April 1, 1988 EPA must submit to Congress an interim report on availability of liability insurance for schools and contractors. Final report due to Congress on October 1, 1988. Study shall examine

- availability of liability insurance for schools and contractors
- extent to which coverage has become more expensive and less complete
- whether limitation in availability of insurance is the result of factors other than liability standards in applicable law
- extent to which accreditation of contractors has affected the availability or cost of insurance
- whether limitation in insurance liability is inhibiting inspections or development of management plans
- other impediments to completion of inspections or management plan development.

5) Waiver for State Programs - EPA may waive, upon request of a Governor and after notice and comment in the affected State, some or all of the requirements of the EPA regulations for States which have established and are implementing a program of inspection and management at least as stringent as required by the Act.

6) ASHAA Funds for Inspection and Plan Development - For FY'88 and '89 EPA shall provide financial assistance (up to 10% of ASHAA funds) in the form of grants to states or school districts to carry out inspections and prepare management plans. States can use up to 2 percent of grant for administrative purposes. EPA must consider financial need when approving grants to schools.

7) Use of Accredited Personnel - Only persons accredited by State or through courses approved by EPA Administrator can inspect, prepare management plans, or design or conduct response actions. Schools which apply for ASHAA funds are not eligible unless they use accredited personnel.

8) Emergency Authority - EPA or Governor is authorized to act if school is not taking sufficient action to abate asbestos which presents an imminent and substantial endangerment to human health.

9) Effect on Litigation - It is not the intent of Congress that the Act or any rules, regulations or orders issued persuant to the Act be interpreted as influencing, in either the plaintiff's or defendent's favor, the disposition of any civil action for damages relating to asbestos.

10) Asbestos Ombudsman - EPA appoints ombudsman to receive complaints and grievances and render assistance.

APPENDIX B

SUMMARY OF STATE ASBESTOS ABATEMENT TRAINING AND CERTIFICATION PROGRAMS

APPENDIX B

SUMMARY OF STATE ASBESTOS ABATEMENT TRAINING AND CERTIFICATION PROGRAMS

States	Effective Date of Latest Reqs.	Training For Supervisors	Training For Workers	Training For Others	Retrain Require.	Exam	Applicability	Enforcement Agency
Alabama	1983	GA Tech. AMCI Course	1 day Univ. of Alabama	Arch. & Eng.	Yearly	Yes	State funded projects & public schools	Building Comm.
Alaska	2/9/86	32 hours	32 hours	-----	Every 3 years	Yes	All asbestos abatement work	Labor
Arkansas	1/1/86	State run, 2-3 days	State run, 2 days	-----	-----	Yes	All public and commercial buildings	Pollution Contol & Ecology
Illinois	11/29/85	Length & content of GA Tech., K.U., Tufts	15 hours	-----	Plans to add this	Yes	Public and private schools	Public Health
Iowa	7/85	5 hours if they work with asbestos	5 hours	-----	Annually	No	Anyone engaged in asbestos projects	Labor
Kansas	1/6/86	18 hours Kansas U.	6 hours	-----	Annually	Yes	Anyone engaged in asbestos abatement	Health & Environment
Maryland	4/83	5 hours	5 hours	-----	Annually	Not currently	Anyone engaged in asbestos abatement	Health & Mental Hygiene
New Jersey	5/85	30 hours	30 hours	Air monitors, custodians & maintenance workers	Biannually	Yes	Abatement contractors who work in public and private sectors	Labor & Health Depts.
Ohio	11/4/85	Contractors 22 hours	Workers 10 hours	-----	Biannually	Yes	Schools	Health
Oklahoma	Provisional 3/1/86, final 9/1/86	Contractors 64 hours (approx.)	32 hours includes supvrs.		Yearly 32 hrs.	Yes	All asbestos abatement both public & private	Labor
Rhode Island	2/4/86	4 days	4 days	Air samplers & other consultants (architects, etc.)	Annually	Yes	Anyone conducting asbestos abatement	Health
South Carolina	5/86 not yet effective	GA Tech, K.U. or Tufts	1 day	Air samplers & architects	Annually	Yes	All areas except private industry	Health & Environmental Control
Tennessee	1/1/86	EPA approved or sponsored courses	-----	-----	Not formally required	No	All asbestos abatement contractors	Board for Licensing Contractors
Washington	11/21/85	30 hours	30 hours	-----	Biannually	Yes	All asbestos projects in public or private bldgs.	Labor & Industries

Source: United States Environmental Protection Agency.

APPENDIX C

ASBESTOS CONTRACTOR LICENSING AND WORKER CERTIFICATION - A REVIEW OF STATE LAWS

Source: Chapter IV, "Certification and Licensing Laws," "Asbestos Contractor Licensing and Worker Certification - A Review of State Laws," National Conference of State Legislatures, September 1986, pages 5 through 15.

IV. CERTIFICATION AND LICENSING LAWS

More than 20 states have established mandatory programs for asbestos contractor licensing and worker certification, most under specific statutory authorization. (8,9) Four basic elements of a contractor licensing and worker certification program are defined by state legislation, although specific legislative programs vary considerably among the states. These basic elements are the program's scope, standards, enforcement, and administration. (State laws reviewed for this summary are listed in the Sources section.)

Scope of State Programs

State programs differ significantly in their scope, which is delineated primarily through statutory definitions of asbestos abatement projects and asbestos contractors. Most state programs only apply to projects that involve materials composed of at least 1 percent asbestos by weight. Projects below a specified size threshold--typically 160 square feet or 260 linear feet--also are exempted in some states. Alaska's worker certification program, however, applies to any project that may release asbestos fibers into the air.

Although most state programs apply to asbestos projects in any type of building, some states have restricted their programs to specific buildings. Illinois and Louisiana limit their licensing and certification programs to contractors for asbestos abatement projects in schools. All schools--elementary, secondary, and post-secondary--are encompassed by the Louisiana program, while Illinois confines its program to educational institutions for grades 12 and under. Arkansas and Oklahoma exclude projects in single-family residences and apartments with fewer than five units (Arkansas) or six units (Oklahoma).

Most state asbestos laws require licensing of contractors and certified training of asbestos workers. Exceptions include Alaska (worker certification only) and Louisiana (contractor licensing only).

Standards

State asbestos safety legislation frequently mandates standards in two areas. The core standards for licensing and certification programs set qualifications that must be satisfied by asbestos contractors and workers. In addition, asbestos legislation in several states establishes safety procedures that asbestos projects must follow. These two types of standards in combination create a stronger system for protecting public health and worker safety than either type of standard by itself.

Qualifications for Contractors and Building Owners/Managers. State legislation varies greatly in prescribing qualifications needed to obtain an asbestos contractor's license. Some state statutes (e.g., Louisiana) do not specify qualifications, but delegate that task to the administering agency. In several states, however, the legislatures have specified minimum qualifications for asbestos contractors. The Iowa legislation, for example, sets minimum qualifications that link contractor licensing to worker training, capability of the contractor to conduct asbestos projects safely, and proper disposal of asbestos materials.

> "88B.4 - Qualifications for license. To qualify for a license, a business entity shall:
>
> 1. Ensure that each employee or agent of the business entity who will come into contact with asbestos or who will be responsible for an asbestos project is certified to work on an asbestos project.
> 2. Demonstrate to the satisfaction of the commissioner that the business entity is capable of complying with all applicable requirements, procedures and standards of the United States environmental protection agency, the United States occupational safety and health administration and the state bureau of labor under chapter 88.

3. 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.
4. Meet other standards established by the commissioner under this chapter.

Loose licensing standards serve mainly as a registration system and provide little assurance that asbestos abatement will be performed safely. (9) When combined with standards for abatement practices, however, contractor registration can be used to weed out unscrupulous or incompetent contractors. Contractors who grossly violate standards can lose their licenses. More stringent licensing programs help ensure that asbestos contractors understand the hazards posed by asbestos, have instituted worker training and health programs, and know proper procedures for conducting abatement projects. State legislation, as in Illinois, Arkansas and Michigan, also may require that asbestos contractors demonstrate financial capability and liability insurance coverage.

Most state programs for contractor licensing only apply to companies that perform asbestos abatement for hire. An exception is New Hampshire, which also requires building owners or managers to obtain a license if they plan to conduct asbestos abatement for their own buildings. Legislation introduced in Ohio also is notable because it would require separate certification of professionals in two categories:

> "Asbestos hazard abatement specialist" means a person with responsibility for the supervision of asbestos hazard abatement activities, including, but not limited to, architects or engineers involved in the preparation of plans and specifications for asbestos hazard abatement projects, hazard abatement project supervisors and foremen, and employees of school districts or other governmental or public entities who coordinate or directly supervise asbestos hazard abatement activities performed by school district, governmental, or other public employees in school district, governmental, or other public buildings.

> "Asbestos hazard evaluation specialist" means a person responsible for evaluating the health hazards associated with the presence of friable asbestos materials or for establishing or monitoring procedures in asbestos hazard abatement activities for the purpose of protecting the public health from the hazards associated with exposure to asbestos, including, but not limited to, the performance of air and bulk sampling. This category of specialists includes, but is not limited to, health professionals, industrial hygienists, private consultants, or other individuals involved in asbestos risk assessment or regulatory activities.

State licensing programs often apply only to contractors who perform the hands-on tasks of asbestos abatement, even though the knowledge and practices of specialists who evaluate the site and design the abatement project are equally critical for effective and safe management of asbestos. The Ohio requirements are intended to assure that asbestos abatement projects are designed, managed, and evaluated only by qualified professionals. In addition, distinct licensing programs for asbestos contractors, abatement specialists, and evaluation specialists promote separation of these functions. When a single contractor is responsible for all phases of a project, conflict of interest may arise. Abatement needs may be exaggerated because the contractor also will perform the work. Self-monitoring during and after the work also may allow unsafe or inadequate abatement practices. Separation of these functions through distinct licensing or certification should facilitate the use of independent contractors and help avoid such conflicts of interest.

Qualifications for Asbestos Workers. Most legislatures have given their agencies very broad discretion in defining the training and qualifications that asbestos workers need to obtain a certificate. Minimum qualifications have been specified by statute, however, in Washington, Michigan, and Ohio (proposed legislation). The Rhode Island legislature similarly outlined qualifications, not as a requirement, but for "due consideration" by the administering agency in prescribing worker training programs. In addition to training requirements,

some legislatures have required competency tests for worker certification (e.g., Alaska, Arkansas) and periodic retraining (e.g., California, Michigan). The Michigan statute also requires that within the year immediately preceding work on an asbestos abatement project, an asbestos worker must be examined by a physician and declared by the physician to be physically capable of working while wearing a respirator.

Abatement Procedures and Standards. Prescribed qualifications for asbestos contractors and workers are the core of state licensing/ certification programs. They help protect workers and identify contractors who are qualified to conduct asbestos abatement projects. Licensing by itself, however, gives only weak assurance that projects actually will be performed safely and completely. (9) Many states therefore have mandated by statute that asbestos projects be conducted according to procedures and standards set by the state administering agency. Key provisions, and examples of states that have prescribed them by statute, include the following:

- o Project Notification. Building owners, managers and asbestos contractors may be required to notify the state regulatory agency before commencing an asbestos abatement project. (Alaska, California, New York, Rhode Island, Washington)
- o Work Documentation and Record Keeping. The person managing an abatement project may be required to record their procedures and maintain those records for a specific number of years. (Iowa, Illinois, Kansas, Michigan, New York)
- o Inspection and Abatement Procedures. Safety procedures and performance standards may be prescribed regarding use of respirators, isolation of the work area, clean rooms, special vacuums, air monitoring, and so forth. These are the core requirements for assuring worker safety, protection of public health, and satisfactory

abatement of asbestos hazards. (Arkansas, Kansas, Louisiana, Massachusetts, New Hampshire, New Jersey, Ohio, Oklahoma, Rhode Island, Utah)

- o Hazard Standard. Standards that define a hazardous condition requiring abatement, and tests for satisfactory elimination of the hazard, deserve special note. When defined by statute, they usually specify maximum acceptable concentrations of asbestos in air samples. (California, Michigan, New Hampshire, Rhode Island)
- o Disposal Procedures. Standards for proper disposal of asbestos materials removed from buildings may be mandated to assure safe handling and final elimination of this hazardous material. (Iowa, Kansas, New Hampshire, New Jersey, Rhode Island)

In combination, contractor licensing/worker certification and abatement standards form a strong system for protecting the public health and worker safety. The effectiveness of these programs depends in practice, however, on the enforcement tools given to the administering agency.

Enforcement of State Standards

State programs for contractor licensing, worker certification, and standards for abatement practices require strong enforcement procedures and adequate administrative resources to ensure compliance. Regulatory programs without effective enforcement are worse than no regulation at all because they only mask problems with a false impression that hazards to public health and worker safety have been eradicated.

Ineffective and dangerous practices in handling asbestos have two principal causes: ignorance and self interest. Contractor licensing and worker certification inform and train professionals who work with asbestos. Broader educational programs can supplement these regulatory programs by alerting the

general public to the hazards of improper handling of asbestos, and targeting specific groups, including building maintenance workers, construction and home improvement industries, and owners and managers of public and private buildings. The New Hampshire legislature has directed the state public health service to conduct educational programs of this kind.

Self interest, or ingrained skepticism about asbestos hazards, can induce some people, however, to follow hazardous procedures even when aware of prescribed standards and safety measures. To ensure that proper procedures are followed despite contrary selfish interests, state lawmakers have established a variety of regulatory procedures and enforcement powers for their administering agencies.

- o Project Notification. A procedural requirement for agency notification before commencing an abatement project helps regulatory oversight by identifying projects and promoting more conscientious work practices. (Alaska, California, New York, Rhode Island, Washington)
- o Work Documentation and Record Keeping. This procedural requirement promotes more careful, systematic work practices and helps the enforcement agency spot faulty procedures. Record keeping also documents where asbestos remains in a building for ongoing management. (Iowa, Illinois, Kansas, Michigan, New York)
- o Worksite Inspection. Right of entry to any asbestos abatement work site allows the enforcement agency to oversee worker safety procedures and to efficiently identify improper abatement practices. The prospect of unannounced inspections also encourages more conscientious project management. New Hampshire's explicit authority to take samples and photocopy records strengthens the inspection powers. (Michigan, New Hampshire, Oklahoma, Rhode Island)

- o Stop-Work Orders. Some state legislatures have empowered their regulatory agencies to order immediate cessation of work to prevent endangerment of worker safety or the public health through asbestos contamination. (Illinois, Kansas, New York, Ohio, Oklahoma)
- o Abatement Orders. The power to order abatement of asbestos in buildings is a logical extension of state standards for unacceptable exposure to asbestos (the hazard standard described in the previous section on abatement standards). This authority may include building evacuation and closure orders. New Hampshire limits abatement orders to public buildings, schools, and rental dwellings, but authorizes closure of any buildings that violate the hazard standard. The Illinois program applies only to schools. (Illinois, New Hampshire, Rhode Island)
- o Building Permit Restrictions. The Rhode Island legislature has enlisted local and state regulation of building permits in the enforcement of asbestos standards. Municipal and state officials may not issue a building permit or demolition permit involving asbestos abatement without accompanying certified copies of the approved abatement plan and the contractor's asbestos abatement license.
- o Contractor Penalties. Virtually every state asbestos safety statute prescribes civil and criminal penalties for violation of regulatory standards. Fines in some states may be deposited in a special fund to help finance the regulatory program. Fines are the backbone of enforcement, but to be effective they must overshadow the gains obtained by violating regulatory standards. The New Hampshire statute, for example, prescribes fines up to $25,000 per day for each violation. License revocation also is authorized in most of the asbestos statutes.

- o Client Penalties. States also may impose sanctions on building owners and managers who employ unlicensed contractors to perform asbestos abatement. Such penalties help overcome the skepticism of some building owners/managers regarding asbestos hazards or their self interest in using cheap, but incompetent or unscrupulous contractors. (California)
- o Whistle-Blower Protection. State lawmakers can encourage asbestos workers and employees of building owners or managers to report hazardous asbestos conditions and improper abatement practices, either by granting them specific protection from employer retaliation or by explicitly bringing them under the shield of broader whistle-blower protection acts. (New Jersey, Rhode Island)

Program Administration

Proper administration is an important concern in any regulatory effort. Delegation of authority to the appropriate agencies, coordination among agencies, funding mechanisms, and program oversight all figure into the effectiveness of any state regulation and, perhaps, especially asbestos safety programs.

Typically, several state agencies have responsibilities or programs related to the management of asbestos in buildings, often in response to federal programs and requirements. State education agencies became involved beginning in 1982 through federally mandated inspections of schools for friable asbestos. State air management agencies in most states have some responsibilities regarding asbestos due to federal emissions standards for hazardous air pollutants. State occupational health and safety agencies become involved when they administer federal standards that limit workplace exposures to asbestos. State licensing boards and labor departments also have programs and interests

pertinent to any consideration of state licensing of asbestos contractors and worker certification. State health departments generally also have a clear interest in regulatory programs to protect the public from hazardous exposures to asbestos, while state departments of administration usually are responsible for management of state buildings.

Thus, several state agencies typically have responsibilities related to asbestos safety, and a variety of regulatory activities, often in different agencies, have been created, if only in response to federal programs. Careful review of current state activities and federal requirements therefore is warranted in developing an administrative structure for asbestos contractor licensing, worker certification, and abatement standards. Some mechanism to consolidate or coordinate agency programs may be needed. The New Hampshire legislature, for example, established a coordinating committee whose members represent the governor, the attorney general, and the heads of the state education, labor, air resources, and public health agencies.

The agency best suited to administer licensing/certification and abatement standards will depend on special circumstances in each state. State agencies responsible for public health (Illinois, Michigan, New Hampshire, New Jersey), environment (Arkansas, Louisiana, Utah), or labor (Alaska, Iowa, New Jersey, New York, Washington) may administer such programs. Responsibilities also may be divided (California, Oklahoma).

However administrative responsibilities are assigned, adequate funding is essential for effective enforcement. Virtually all state licensing/certification programs establish fees, and several state legislatures assign the revenues to a special fund for administration of the program (New Hampshire, Utah). Fines for violations also may be placed in such an administrative fund, as already noted.

Finally, some states may find that reciprocity arrangements, whereby contractor licenses or worker certifications from other states are accepted, can promote effective asbestos management and lighten regulatory burdens (Illinois, New Hampshire). Reciprocity may be especially attractive for small contiguous states or for sparsely populated states adjacent to larger states. Texas, New Mexico, and Oklahoma, for example, are exploring a reciprocity agreement.

APPENDIX D

SUGGESTED LEGISLATION

BDR 53-1321.... An act relating to asbestos; requiring the department of industrial relations to license and regulate persons who remove asbestos from buildings or otherwise abate the dangers of asbestos; requiring the department to adopt regulations in compliance with federal law for the removal of asbestos from schools; requiring a survey for the presence of dangerous asbestos before the demolition or renovation of a public building; providing a penalty; and providing other matters properly relating thereto.

APPENDIX D

SUMMARY--Provides for licensing and regulation of persons engaged in control of asbestos. (BDR 53-1321)

FISCAL NOTE: Effect on Local Government: Yes.

Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to asbestos; requiring the department of industrial relations to license and regulate persons who remove asbestos from buildings or otherwise abate the dangers of asbestos; requiring the department to adopt regulations in compliance with federal law for the removal of asbestos from schools; requiring a survey for the presence of dangerous asbestos before the demolition or renovation of a public building; providing a penalty; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 618 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 17, inclusive, of this act.

Sec. 2. *As used in sections 2 to 17, inclusive, of this act, unless the context otherwise requires, "control of asbestos" means:*

1. The removal of asbestos from a building;

2. The abatement of the danger posed to human beings by the presence of asbestos in a building;

3. The demolition of a building containing asbestos; or

4. Any activity connected with that removal, abatement or demolition.

Sec. 3. *The department shall:*

1. After consultation with the health division of the department of human resources and the division of environmental protection of the state department of conservation and natural resources, adopt standards for projects for the control of asbestos and for laboratories which monitor the air for such projects.

2. Adopt regulations to carry out the responsibilities of the State of Nevada pursuant to the Asbestos Hazard Emergency Response Act of 1986, Public Law 99-519.

Sec. 4. *1. A person shall not engage in a project for the control of asbestos unless he holds a license issued by the department.*

2. The department shall establish classifications of licenses, including licenses for contractors for projects for the control of asbestos, inspectors, consultants, planners and laborers. The department shall prescribe the qualifications for each classification established.

Sec. 5. *1. A person applying for a license must:*

(a) Submit an application on a form prescribed and furnished by the department, accompanied by a fee prescribed by the department;

(b) Present proof satisfactory to the department that he has completed a course of training in the control of asbestos certified by the Environmental Protection Agency or its equivalent, as determined by the department; and

(c) Meet any additional requirements established by the department.

2. Before the issuance of a license, an applicant must satisfactorily complete an examination of his qualifications administered by the department. The examination must be designed in accordance with the standards for licensing adopted by the department.

Sec. 6. *The department shall adopt regulations fixing fees for applications and the issuance or renewal of a license. No such fee may exceed $200.*

Sec. 7. *1. To renew a license a person must, on or before January 1 of each year:*

(a) Apply to the department for renewal;

(b) Pay the annual fee for renewal set by the department; and

(c) Submit evidence to the department of his completion of the requirements for continuing education or training required by the department, if any.

2. The department may adopt regulations requiring continuing education or training of licensees and, as a prerequisite for the renewal or restoration of a license, require each licensee to comply with those requirements.

Sec. 8. *The department shall require any person applying for a license as a contractor for projects for the control of asbestos to hold a license issued by the state contractors' board in any classification of contracting.*

Sec. 9. *The department may issue a license to an applicant who holds a valid license issued to him by the District of Columbia or any state or territory of the United States, if:*

1. The legal requirements for a license for the control of asbestos were, at the time of issuing the license, at least equivalent to those of this state.

2. The applicant is of good moral character and reputation.

3. The applicant passes an examination, if required by the board.

4. The applicant furnishes to the board such other proof of his qualifications as the board requires.

Sec. 10. *A person licensed as a contractor for projects for the control of asbestos shall:*

1. Employ on his projects only persons who are licensed pursuant to section 4 of this act.

2. Use for the monitoring of air for a project only a laboratory which meets the standards adopted by the department.

3. Comply with the standards adopted by the department for projects.

Sec. 11. *If the department finds that any person licensed pursuant to section 4 of this act has violated any of the provisions of sections 2 to 17, inclusive, of this act, or the standards or regulations adopted by the department, it may:*

1. Upon the first violation, impose an administrative fine of not more than $500.

2. Upon the second and subsequent violations:

(a) Impose an administrative fine of not more than $500;

(b) Revoke his license; and

(c) Require him to fulfill certain training or educational requirements in order to have his license reinstated.

Sec. 12. *1. Except as otherwise provided in subsection 2, if the department intends to revoke a license issued pursuant to sections 2 to 17, inclusive, of this act, it must first give reasonable notice to all parties by certified mail. The notice must contain the legal authority, jurisdiction and reasons for the action taken.*

2. If the department finds that the public health requires immediate action it may order a summary suspension of a license pending proceedings for revocation.

3. A person is entitled to a hearing to contest a summary suspension or the proposed revocation of a license. A request for a hearing must be made pursuant to regulations adopted by the department.

4. Upon receiving a request for a hearing to contest a summary suspension, the department shall hold a hearing as soon as practicable.

Sec. 13. *The department or a person authorized by the department shall inspect annually at least one project conducted by each contractor for projects for the control of asbestos licensed pursuant to section 4 of this act.*

Sec. 14. *All asbestos removed from a building in a project to control asbestos must be disposed of in accordance with the regulations adopted by the state environmental commission for the disposal of hazardous waste.*

Sec. 15. *The department may adopt such regulations as are necessary to carry out the provisions of sections 2 to 17, inclusive, of this act.*

Sec. 16. *The department may maintain in any court of competent jurisdiction a suit for an injunction against any person engaged in the control of asbestos in violation of the provisions of sections 2 to 17, inclusive, of this act, or the standards or regulations adopted by the department. An injunction:*

1. May be issued without proof of actual damage sustained by any person, this provision being a preventive as well as a punitive measure.

2. Does not relieve such a person from criminal prosecution for engaging in the control of asbestos without a license.

Sec. 17. *Any person who engages in the control of asbestos without a license issued by the department is guilty of a misdemeanor.*

Sec. 18. Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

No public building or other public structure may be renovated or demolished until a survey of the building or structure has been made for the presence of dangerous asbestos.

Sec. 19. 1. This section and sections 1, 2, 3, 6, 14, 15 and 18 of this act become effective on July 1, 1987.

2. Sections 4, 5, 7 to 13, inclusive, 16 and 17 of this act become effective on July 1, 1988.