



Office of the Governor

May 14, 2015

The Honorable Barbara Boxer, Ranking Member
Committee on Environment and Public Works

The Honorable Edward J. Markey, Ranking Member
Subcommittee on Superfund, Waste Management, and Regulatory Oversight
United States Senate
Washington, DC 20510-6175

Dear Senators Boxer and Markey:

On March 31, 2015, you wrote to Governor Brian Sandoval requesting information on the implementation of the Asbestos Hazard Emergency Response Act (AHERA). Working with the Nevada Department of Education and the Nevada Department of Business and Industry, we have compiled some of the information you requested. Preliminary responses are included below.

Scope of Asbestos Hazards in Schools

1. How many local education agencies in your state are subject to AHERA? Please provide a list of the local education agencies subject to AHERA and identify the number of school buildings in each.

RESPONSE: See attached.

2. How many local education agencies in your state have conducted an initial asbestos inspection of all buildings owned, leased, or used as school buildings as required by AHERA?

RESPONSE: Based on self-reporting, it appears all local education agencies conducted at least the initial inspection.

3. How many local education agencies in your state have been identified as having school buildings that harbor asbestos-containing materials? Please provide a list of those local education agencies and provide the number of school buildings in each that have been identified as harboring asbestos-containing building materials.

RESPONSE: See attached.

Awareness and Monitoring of Asbestos Hazards in Schools

4. How frequently do local education agencies report AHERA compliance information to the State?

RESPONSE: No reporting has been made in Nevada prior to this request.

5. How many local education agencies in your state have prepared and submitted asbestos operation and management (O&M) plans as required by AHERA regulations (40 C.F.R. §763.91)?

RESPONSE: All agencies except Mineral report having prepared a plan. Two submitted their plan in response to this request (Storey and Charters).

6. How many local education agencies in your state have prepared and submitted asbestos management plans as required by AHERA regulations (40 C.F.R. §763.93)?

RESPONSE: All except Mineral report preparation.

7. How many local education agencies in your state have conducted the periodic inspections as required by AHERA regulations? Please provide a list of those local education agencies and the number of school buildings in each for which periodic inspections have not been conducted.

RESPONSE: Agencies self-reported full compliance in response to this request.

8. How often does your State conduct inspections and/or audits of each local education agency for their compliance with AHERA? Please provide the dates of state inspections and/or audits since 2010.

RESPONSE: The State does not audit local education agencies for this purpose.

9. For each of the past five (5) years, what were the annual costs of your State's implementation and enforcement of AHERA?

RESPONSE: Unknown.

10. Have any local education agencies in your state been issued penalties for noncompliance with AHERA? If so, please describe these occasions.

REPNSE: Unknown.

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11. Has your State ever taken an emergency action against any local education agencies for noncompliance with AHERA? If so, please describe these occasions and their outcomes.

RESPONSE: Unknown.

12. How many complaints or informant tips about alleged AHERA violations has your state received from parents, teachers, students, janitorial staff, etc. each year since AHERA became law in 1986?

RESPONSE: Unknown.

Asbestos Abatement Status

13. Of the local education agencies known to have or have had buildings with asbestos-containing material, how many local education agencies have completed full abatement of the asbestos hazards? By "full abatement" we mean full removal of the asbestos hazards and not management in place through encapsulation, enclosure, or other means.

- a. Please provide a list of the local education agencies that have completed full abatement and the date upon which the abatement was completed.
- b. Please provide a list of those local education agencies that have *not* fully abated known asbestos hazards and the number of school buildings in each that continue to harbor asbestos-containing materials.

RESPONSE: Unknown.

Asbestos Accreditation, Training, and Licensure

14. Did your State adopt the EPA's Model Accreditation Plan (*i.e.*, the EPA's template establishing definitions, training, examinations, continuing education, qualifications, recordkeeping, deaccreditation, reciprocity, and electronic reporting as set forth in 40 C.F.R. Pt. 763, SubPt. E, App. C) to ensure contractors, inspectors, and other professionals are adequately trained to handle asbestos-containing materials safely? If not, please describe the differences of your State's accreditation plan as compared with EPA's.

RESPONSE: See NRS 618.765 (attached)

15. How does your State verify that professionals conducting asbestos-related work (such as building inspections, abatement projects, etc.) are properly accredited?

RESPONSE: See NRS 618.790 (attached)

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16. In addition to AHERA requirements for accreditation of contractors and laboratories, does your State require any professionals to be licensed to perform asbestos-related work? If so, please describe the requirements for licensure, penalties for doing asbestos-related work without a license, and disciplinary procedures for not performing asbestos-related work in conformity with professional standards in your State. Provide appropriate citations to State statutes when applicable.

RESPONSE: AHERA's definition of a contractor is limited in scope. In NRS 618.790, Nevada requires abatement supervisors, abatement workers, and asbestos consultants to hold a valid license issued by the Division of Industrial Relations. If caught without the proper licensure, a contractor will receive a regulatory citation (\$1,000.00) along with any other citations for violations associated with the asbestos standards set for by Federal Codes for occupational safety and health. As for improper disposal, the entity in violation would be under the jurisdiction of the State Environmental Commission and OSHA (618.775 & 618.780).

Asbestos Notifications to Parents, Teachers, and Staff

17. Does your State have a template notification letter for use by local education agencies to provide parents, teachers, and staff annual notifications about asbestos management plans? If so, please provide a copy.

RESPONSE: No.

18. How many local education agencies have provided annual notification letters to parents, teachers, and staff each year since 2010?

- a. Please provide a list of the local education agencies that have provided annual notification letters to parents, teachers, and staff each year since 2010.
- b. Please provide a list of the local education agencies that have *not* provided annual notification letters to parents, teachers, and staff each year since 2010.

RESPONSE: Unknown.

Reporting to EPA

19. What information related to AHERA and asbestos hazards in schools does your State report to the EPA? How frequently does this reporting occur?

RESPONSE: Nevada has no such reporting requirement.

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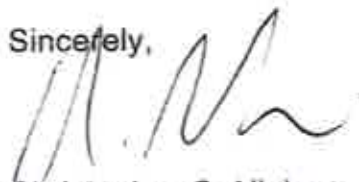
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20. Does your State receive grant funding to assist in the enforcement of AHERA (e.g., funding to conduct inspections)? If so, please describe the funding amount, funding period, and reporting requirements.

RESPONSE: Unknown.

If you have any questions, please do not hesitate to contact Ryan McGinness in my Washington, D.C. office at (202) 624-5405.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Nielsen", with a stylized flourish at the end.

Christopher G. Nielsen
Deputy Chief of Staff

Attachments

Local Education Agency	Number of Buildings	Buildings Known or Assumed to Be Harboring Asbestos
1. Carson City	33	25
2. Churchill	12	12
3. Clark	2491	1848
4. Douglas	12	8
5. Elko	250	22
6. Esmeralda	13	1
7. Eureka	Unreported	0
8. Humboldt	20	20
9. Lander	6	2
10. Lincoln	20	5
11. Lyon	81	43
12. Mineral	unreported	5
13. Nye	25	6
14. Pershing	5	0
15. Storey	Unreported	Unreported
16. Washoe	492	116
17. White Pine	Unreported	4
18. State Charters	44	12

Question 14:

NRS 618.765 Regulations of Division: Standards and procedures.

1. Not later than 60 days after June 28, 1989, the Division shall adopt regulations establishing standards and procedures for the licensure of each occupation which are at least as stringent as those contained in the Model Contractor Accreditation Plan for States set out in Appendix C of Subpart E of Part 763 of Title 40 of the Code of Federal Regulations, as it existed on January 1, 1989. The regulations must include standards for:

- (a) Courses which provide initial training;
- (b) Courses which provide a review of the initial training;
- (c) Examinations;
- (d) Qualifications;
- (e) Renewal of licensure; and
- (f) Revocation of licensure.

2. After consultation with the Division of Public and Behavioral Health of the Department of Health and Human Services, the Division of Environmental Protection of the State Department of Conservation and Natural Resources and the county air pollution control agencies designated pursuant to NRS 445B.500, the Division shall adopt standards for:

- (a) Projects for the control of asbestos;
- (b) Specifying the amount of asbestos within a material which must be present to qualify the material as a "material containing asbestos" for the purposes of NRS 618.750 to 618.850, inclusive;
- (c) Laboratories which analyze building materials for the presence of asbestos;
- (d) Laboratories which collect or analyze air samples for those projects; and
- (e) The assessment of the exposure of occupants of a building at the completion of a project for the control of asbestos.

3. The Division shall by regulation adopt a standard for the assessment of the exposure of the occupants of a building to airborne asbestos. The standard:

- (a) Must be set according to a time-weighted average concentration of asbestos fibers in the air, measured under normal occupancy conditions; and
- (b) Must be at least as stringent as the corresponding federal standard, if one has been adopted.

4. The standard adopted pursuant to subsection 3 may be used:

- (a) To assess the need to respond to the presence of asbestos in a building; or
- (b) To determine which buildings or structures are most in need of such response.

↪ The standard does not require the monitoring of the air of any building or structure, or create a duty for the Division to inspect any building or structure, except in connection with the enforcement of this chapter.

(Added to NRS by 1989, 1276; A 1993, 1886)

Question 15:

NRS 618.790 License required. A person shall not engage in a project for the control of asbestos unless the person holds a valid license issued by the Division.

(Added to NRS by 1989, 1277; A 1993, 1887)

NRS 618.795 Issuance of licenses by Division.

1. The Division shall issue licenses to qualified applicants in each occupation.
2. The Division may adopt regulations to include within the definition of "occupation" any discipline deemed necessary, including that of instructor in the control of asbestos.

(Added to NRS by 1989, 1277; A 1993, 1887)

NRS 618.800 Application for license: Requirements and procedures. A person applying for a license in an occupation must:

1. Submit an application on a form prescribed and furnished by the Division, accompanied by a fee prescribed by the Division;
2. Successfully complete a course of training in the control of asbestos approved or administered by the Division for that occupation;
3. Pass an examination approved or administered by the Division for that occupation;
4. If the person is a contractor, present proof satisfactory to the Division that the person is insured to the extent determined necessary by the Administrator for the appropriate activities for the control of asbestos permitted under the requested license, for the effective period of the license; and
5. Meet any additional requirement established by the Division.

(Added to NRS by 1989, 1277; A 1993, 1887)

Question 16:

AHERA's definition of a contractor is limited in scope. In NRS 618.790, Nevada requires abatement supervisors, abatement workers, and asbestos consultants to hold a valid license issued by the Division of Industrial Relations. If caught without the proper licensure, a contractor will receive a regulatory citation (\$1000.00) along with any other citations for violations associated with the asbestos standards set for by Federal Codes for occupational safety and health. As for improper disposal, the entity in violation would be under the jurisdiction of the State Environmental Commission and OSHA (618.775 & 618.780).