PERFORMANCE AUDIT REPORT

Asbestos Inspections in Kansas

A Report to the Legislative Post Audit Committee
By the Legislative Division of Post Audit
State of Kansas
March 1985

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OBTAINING AUDIT INFORMATION

This audit was conducted by Ron Green, Senior Auditor, and Allan Foster and Rick Riggs, Auditors, of the Division's staff. If you need any additional information about the audit's findings, please contact Mr. Green at the Division's offices.

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Summary of Legislative Post Audit's Findings

Among its other duties, the Kansas Department of Human Resources conducts asbestos inspections in Kansas. Although there are no federal or State laws requiring any State agency to take specific steps to deal with asbestos, the Department has established a voluntary program to identify the material in public buildings and schools. This effort is carried out by the Department's Industrial Safety and Health Program as part of its overall safety inspection duties.

For fiscal year 1986, the Governor has proposed an enhanced Asbestos Control Program in the Department of Health and Environment. This audit was conducted to answer several questions about the current program in the Department of Human Resources and about the proposed program at the Department of Health and Environment.

What authority, duties, and responsibilities are assigned to the Department of Human Resources' Industrial Safety and Health Program? Under State law, the Secretary of Human Resources is given broad authority to enforce worker protection laws and to inspect workplaces for any hazardous conditions. The Department's Industrial Safety and Health Program has 20 permanent employees, 15 of whom conduct various types of inspections and consultations. Three of these inspector positions are assigned to check schools and other public buildings for electrical, chemical, or physical dangers. Upon request, these three inspectors also check for the presence of materials containing asbestos.

To what extent are asbestos inspections carried out under the Department's Industrial Safety and Health Program? In fiscal year 1984, the three State-funded inspectors conducted 2,139 safety and health inspections of schools and public buildings. Of these, 100 inspections were conducted primarily to detect asbestos. An additional 28 asbestos exposure assessments were conducted, which involved thorough searching for asbestos and taking samples for laboratory analysis.

To what extent would a new asbestos program at the Department of Health and Environment duplicate the existing program at the Department of Human Resources? Under the Governor's proposal, the Department of Health and Environment would become the lead agency for asbestos inspections and control in the State. The enhanced program would add three new positions and related equipment, at a total cost of $126,000 in fiscal year 1986. An agreement signed by the two agencies would apparently minimize any duplication of asbestos inspection efforts. If asbestos functions are to be consolidated in one agency, the Department of Health and Environment appears to be the logical choice.

ASBESTOS INSPECTIONS IN KANSAS

Among its other duties, the Kansas Department of Human Resources is responsible for asbestos inspections in the State. Asbestos is a fibrous mineral that was used for many years in building materials as fireproofing and insulation. It is present in some form in most public buildings and schools. As asbestos-containing materials age or are disturbed, they can release dust and microscopic particles into the air. If breathed, these particles can cause a variety of lung diseases, including cancer. The problems are greatest among children and people who smoke. The dangers associated with asbestos have spawned a number of federal laws and programs designed to minimize the risks of exposure.

Most current asbestos-control activities in Kansas are carried out by the Department's Industrial Safety and Health Program, which inspects public and private buildings for a variety of hazards. For fiscal year 1986, the Governor has proposed moving some of the activities concerning asbestos control to a new program within the Department of Health and Environment. This proposal has prompted concern among some legislators that the proposed program would duplicate or overlap the functions of the one now in place within the Department of Human Resources.

On February 25, 1985, the Legislative Post Audit Committee directed the Legislative Division of Post Audit to conduct a performance audit of the Department of Human Resources' asbestos inspection function, and to answer the following questions:

1. What authority, duties, and responsibilities are assigned to the Department of Human Resources' Industrial Safety and Health Program?
2. To what extent are asbestos inspections carried out under the Department's Industrial Safety and Health Program?
3. To what extent would a new asbestos program at the Department of Health and Environment duplicate the existing program at the Department of Human Resources?

To answer these questions, the auditors interviewed officials at both agencies and reviewed statutes, budget documents, and inspection records. They also contacted inspection officials in other states, as well as officials of the Environmental Protection Agency and the Occupational Safety and Health Administration.

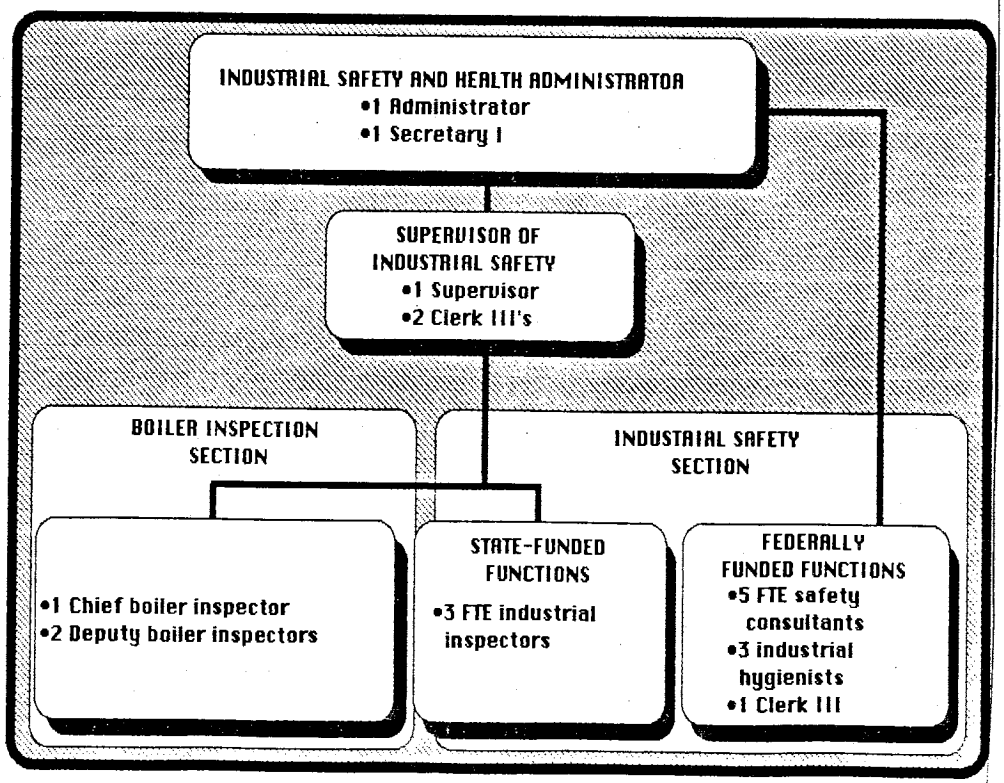
What Authority, Duties, and Responsibilities Are Assigned to the Department of Human Resources' Industrial Safety and Health Program?

The Secretary of Human Resources is given broad authority to perform workplace inspection activities by K.S.A. 44-634 and K.S.A. 44-636 et seq.

These statutes authorize the Secretary to enter into any business, factory, State agency, or other place where labor is performed to gather facts and statistics or to inspect for hazardous conditions, including the presence of asbestos or other threats to workers' health. The Secretary is generally empowered to enforce any laws enacted for protection of the worker.

Departmental activities in these areas are carried out under the Industrial Safety and Health Program, whose employees perform a number of inspection functions concerned with the welfare of workers. The following chart illustrates how the program is organized.

ORGANIZATION OF THE INDUSTRIAL SAFETY AND HEALTH PROGRAM



Of the 20 permanant employees in the Industrial Safety and Health Program of the Department of Human Resources, only three full-time industrial inspector positions (which are funded from the State General Fund) are now performing asbestos inspections. The safety consultant and industrial hygienist positions are funded 90 percent by the federal Occupational Safety and Health Administration, and normally perform only federally mandated work.

Most of the Industrial Safety and Health Program's Responsibilities Relate to Inspections of Public and Private Workplaces to Ensure Worker Safety

The Industrial Safety and Health Program is divided into two sections: Boiler Inspection and Industrial Safety. The Boiler Inspection Section is responsible for inspecting the estimated 25,000 boilers in operation in Kansas.

As allowed by law, many of these inspections are actually carried out by insurance company inspectors. The inspectors issue certificates for boilers that are considered safe to operate. According to Department budget documents, the program's three boiler inspectors checked 4,315 boilers in fiscal year 1984.

The Industrial Safety Section inspects and consults with both public sector and private sector employers to enforce worker safety requirements. For public workplaces, it has three full-time equivalent industrial inspector positions that visit State and local government buildings, schools, and other public buildings, generally at the request of building officials. The inspectors generally check for electrical, chemical, or physical dangers such as inadequate ventilation and poor fire prevention practices. If building officials request it, the industrial inspectors will include as part of their inspection activities checks for materials containing asbestos. Within the Department, these are the only three positions that have direct responsibility for any asbestos inspections. (Two of these positions are full-time inspectors assigned to the Kansas City and Belleville areas. The third full-time equivalent position is actually one-fourth of four inspectors' time. These inspectors are stationed in Topeka, El Dorado, and Meriden. They spend the rest of their time performing federally funded work.) According to Department officials, in fiscal year 1984 the three State-funded industrial inspector positions inspected 134 State government facilities, 951 school buildings, and 1,054 other local government buildings, at an annual salary cost of $78,551.

The Industrial Safety Section has eight other full-time equivalent professional positions, which are funded primarily with federal funds. Employees in these positions normally perform only federally mandated work relating to worker safety in the private sector. The five full-time equivalent safety consultant positions and three industrial hygienist positions are funded through a contract with the federal Department of Labor's Occupational Safety and Health Administration. The safety consultants assist the employers in understanding Department of Labor laws and regulations, recognizing safety and health hazards in private sector buildings, instituting control procedures to eliminate hazards, and meeting State and federal recordkeeping requirements. According to Department officials, 655 consultations were conducted in fiscal year 1984 at a cost of about $250,000 in federal dollars, matched by about $25,000 (10 percent) in State General Fund dollars.

Other major activities of the Industrial Safety Section include providing services for dealing with hazardous substances in the workplace and providing education and training programs. The Department provides three specific services connected with hazardous substances: sampling for known chemical, biological, or physical hazards in private industry; identifying and controlling or removing old, toxic, or explosive chemicals found in such places as schools or hospital laboratories; and identifying and providing technical assistance regarding asbestos in schools and other public buildings. According to Department officials, 58 educational and training programs were conducted in fiscal year 1984. Of these, 27 were for State agencies, 28 for local units of government, and three for private industry. Depending on whether the recipients of these services are in the public or private sectors, they are funded by either State or federal dollars.

To What Extent Are Asbestos Inspections Carried Out Under the Department of Human Resources' Industrial Safety and Health Program?

The health risks of asbestos first became generally known about 10 years ago. At that time, the Environmental Protection Agency asked the states for assistance in controlling the substance. This request eventually led Kansas to establish the inspection procedures that exist today. The following section reviews the background of the State's asbestos program and its current operations.

The Asbestos Inspection Program In Kansas Developed After Requests from the Environmental Protection Agency

In March 1979, the Governor's Office received a letter from the Environmental Protection Agency saying that the agency was initiating a control program to reduce the hazard of sprayed-on asbestos materials in schools. The letter sought the Governor's "much-needed involvement in a voluntary State and local effort to remedy the problem." The thrust of the Agency's original program was to provide technical assistance and advice to State and local officials in inspecting buildings for asbestos, and taking and analyzing samples. The Agency asked that a liaison person be appointed to aid in future communication.

Controlling Asbestos Exposure

Asbestos is a mineral that has been mined for many years for its heat-resistance and insulation properties. Because of its fibrous nature, it is also used as a strengthener in mortar, spackling compound, floor tile, and many other products. In fact, two-thirds of the more than 3,000 products containing asbestos are used in the construction industry. As they age, some of these products may deteriorate to the point that they can be easily crumbled or reduced to an airborn dust. Also, sawing or crushing some asbestos materials can produce these tiny, airborn fibers that represent the most serious health risk. Forms of the material that can be easily changed in to this dusty, breathable state are referred to as "friable" asbestos. In August 1984, the Environment Protection Agency estimated that 700,000 buildings and 100,000 to 200,000 private homes may contain some form of friable asbestos.

Between 1940 and 1973, asbestos was sprayed on ceilings and other areas in schools and buildings. Asbestos ceiling tiles have also been widely used in many buildings because of the material's sound-deadening properties, and boilers and pipes have almost always--until a few years ago--been insulated with asbestos batting. While the material is still used for many applications, it has generally been removed from those products most likely to cause excessive exposure.

The fact that asbestos is present in so many places, and in such large amounts, is not in itself a risk. The condition of the material, and the amount of fibers in the air, determine a person's degree of exposure. In fact, many health officials warn that the biggest risk is improper removal. It is far better to leave the asbestos in place than to rip the material from pipes and ceilings, filling the air with asbestos particles. The Environmental Protection Agency sets the minimum safe exposure to airborn asbestos as 0.2 fibers per cubic centimeter; the clouds of dust raised during demolition or improper asbestos removal can cause much higher concentrations.

There are four basic ways to minimize the asbestos threat in a building: **Removal** is initially more expensive and complex, and potentially dangerous, but it eliminates the chance of future exposure. **Enclosure** of areas containing asbestos involves constructing a barrier that isolates the contaiminated areas from the rest of the building. This is considered to be only a temporary solution, since future renovation or repair may cause the barrier to be disturbed. **Encapsulation** means the spraying of the asbestos-containing material with paint or other material that prevents the fibers from escaping into the air. **Special operations and maintenance** is an option when the asbestos is in good condition. It is a program of cleanup, maintenance, and periodic reinspections.

The Governor originally appointed a Department of Health and Environment official to the task. However, it soon became apparent that the Department of Human Resources, which already had a program in place in State schools and public buildings to inspect for health and safety risks for the worker, was better equipped to coordinate the Environmental Protection Agency program. The Governor subsequently made an official of the Industrial Safety and Health Program the asbestos liaison.

Because of the ongoing school inspection activity, the Program's administrators agreed to include a check for asbestos as a routine addition to the inspection activities. The added time was negligible, and adding the asbestos check enabled the inspectors to call school officials' attention to the problem. The Environmental Protection Agency provided the inspectors with training and advice in detecting asbestos, and provided manuals and other written materials to the schools.

Asbestos control is taking more time than originally expected. In recent years, the inspections and assistance provided on a voluntary basis by the State through the Industrial Safety and Health Program have increased dramatically. There are no federal or State requirements for asbestos inspections or clean up efforts in any school or public building. But the Environmental Protection Agency issued regulations in 1982 requiring all schools in the country to sample for asbestos, and then notify all employees and parents of the results. It was hoped that such notification requirements would put pressure on school administrators, parents, or elected officials to deal with any asbestos-related problems in the schools.

Most inspections of schools and other public buildings are conducted by local officials, insurance company inspectors, and the like. But after the notification rules went into effect, the Industrial Safety Section staff began receiving a large volume of calls from school and other local officials asking for inspections, information, and assistance. Program officials report that at one point in the summer of 1984 they were receiving about 60 calls a day related to asbestos. (Since then, the number of calls has tapered off to the current rate of about three to four per day.) The Industrial Safety Section has scheduled inspectors to visit the localities requesting help in regard to asbestos in public buildings.

Another federal requirement affecting schools is the School Hazard Abatement Act. The program mandated by this federal law makes grants and loans available to school districts for the "abatement" (removal or covering) of asbestos. This Environmental Protection Agency program is operated in Kansas through the State Department of Education, and requires school districts applying for the federal funds to inspect their schools and report the results in their applications. The schools are responsible for making their own inspections, although many call on the Industrial Safety and Health Program for assistance. The federal agency ranks all the applications and makes the grant awards.

The State's Current Asbestos Inspection Program Includes Three Types of Inspections

Most asbestos-control activities in Kansas are carried out under the Department of Human Resources' Industrial Safety and Health Program. As

Asbestos Activities in Surrounding States

To determine how asbestos is handled in other states, the auditors contacted officials in Nebraska, Iowa, Oklahoma, and Missouri. In each of those states, the agency with major responsibility for asbestos in public buildings is the State Department of Health. Iowa and Nebraska have no funding for asbestos positions; in these states, the assigned staff persons do asbestos work only when it can be fit in around other duties. Missouri and Oklahoma have staff assigned to asbestos-control duties as part of their job descriptions.

The Oklahoma program is similar to the proposed Asbestos Control Program in the Kansas Department of Health and Environment. Three staff members of the Special Hazards Division of the Oklahoma Department of Health are responsible for asbestos in public buildings. Most of their work with asbestos takes the form of technical assistance and laboratory analysis. They do little field work.

Of the surrounding states, Oklahoma has the most asbestos-related activity. In December 1984, the Governor ordered all buildings used or owned by the state to be inspected and sampled for asbestos, and ordered all schools to be reinspected. After the initial inspection, any building with a positive asbestos sample must have a hazard assessment completed by an assessment team. The final report, due in March 1985, will contain a prioritized listing of all buildings with asbestos hazards. Since December 1984, the Oklahoma Department of Health has processed 11,000 asbestos samples and over 400 people have participated in the inspections.

None of these states currently fund any asbestos abatement activities, although legislation is pending in Missouri that would establish an abatement fund for schools. Both Iowa and Nebraska allow school districts to pass mill levies to fund the control or removal of asbestos.

explained earlier, three full-time equivalent industrial inspector positions are assigned the responsibility of making routine inspections of public buildings in the State. Among other things, these inspectors check for the presence of asbestos. Depending on the nature of the inspection request by building officials and on the amount of asbestos present, an industrial inspector may give more or less emphasis to asbestos in relation to the other potential hazards which may exist in a building. The three types of inspections conducted by State-funded inspectors are detailed below.

The safety and health inspection. In this procedure, the inspector checks all or most of the likely hazard areas for electrical, chemical, or physical dangers such as deteriorated wiring, inadequate ventilation, poor fire prevention practices, and unsafe storage of chemicals. Since the addition of the asbestos check, the inspector also identifies and notes any occurrences of asbestos. The final inspection report will note, for example, that an asbestos-like material was wrapped on overhead pipes in the school cafeteria.

According to program officials, these inspections are scheduled on a weekly basis, according to the number of official requests or employee complaints received. The inspections are also scheduled so that each facility is inspected approximately every two years. If a particular area of the State needs more attention in one week than one inspector can provide, another inspector will be sent in to assist.

The completed inspection reports are filed in Topeka. The records of suspected asbestos are not immediately used for anything; rather, they are kept on file in the event that a school administrator, other public official, or parent inquires about the asbestos hazard in the facility.

In fiscal year 1984, according to Department officials, the three inspectors performed 134 inspections of State buildings, 951 school buildings, and 1,054 facilities of local governmental units, for a total of 2,139 inspections during the period. This works out to 713 inspections per position, or about three inspections per day each. These figures include both the regular safety and health inspections and the more specialized asbestos inspections.

The asbestos inspection. The second type of check conducted by the industrial inspectors is called an asbestos inspection. In this case, the

inspection is usually scheduled as the result of either a request from a local official or a complaint from an employee or the public. Similar in form to the safety inspection, the asbestos inspection focuses mostly on finding asbestos exposed in the building. It does not usually involve air monitoring, sampling, or other in-depth testing; it is primarily a means of acquainting building officials with the amount of asbestos present and the degree of possible risk. In fiscal year 1984, there were 100 inspections conducted primarily to detect asbestos.

The asbestos exposure assessment. Making a more definitive evaluation of building occupants' risk of exposure takes a greater amount of time and expertise. Of the staff of the Industrial Safety and Health Program, only the industrial safety supervisor is skilled at making these assessments of exposure. All of the 28 exposure assessments conducted in fiscal year 1984 were done by the supervisor. In this procedure, the supervisor visits the facility and conducts a thorough search for asbestos material while wearing protective clothing and breathing equipment. The inspection procedure includes taking samples of the suspected asbestos materials.

These samples are prepared for analysis and sent to the laboratory at the Department of Health and Environment for a determination of the material's asbestos content. While the Industrial Safety and Health Program does have some laboratory facilities, the available equipment is only suitable for preparation of samples.

The Department of Health and Environment Also Conducts Some Asbestos Inspections

While the Department of Human Resources conducts routine inspections of public buildings, the Department of Health and Environment also conducts some checks in public facilities. According to Department officials, these checks are usually conducted on an emergency basis. Most such visits involve taking air samples or making other checks that require laboratory support. According to a list supplied by a Department official, the Department of Health and Environment conducted 18 asbestos-related field investigations and three seminars on asbestos-related subjects in calendar year 1984.

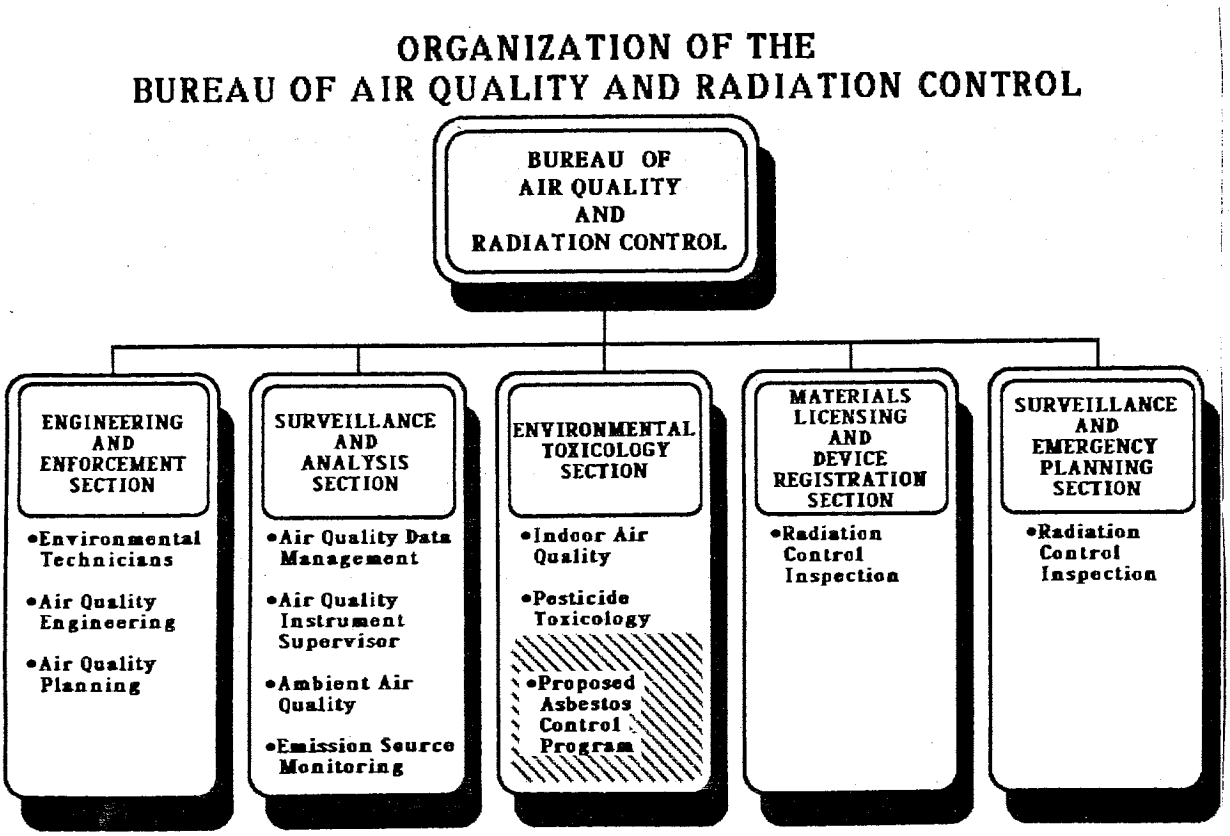
To What Extent Would A New Asbestos Program At the Department of Health and Environment Duplicate the Existing Program at the Department of Human Resources?

In his fiscal year 1986 budget, the Governor recommended the development of an Asbestos Control Program in the Department of Health and Environment. To determine if this program would result in duplication of effort within State government, the auditors interviewed officials of both Departments and examined budget documents and other pertinent records. They found that the Governor's proposal would make the Department of Health and Environment the lead agency in asbestos control in public buildings, and that the two agencies have worked out an agreement minimizing any potential duplication of effort. These findings are explained in the following sections.

Under the Governor's Proposal the Department of Health and Environment Would Become the Lead Agency for Asbestos Inspections and Control in the State

In his budget message to the 1985 Legislature, the Governor stated that neither the Department of Human Resources nor the Department of Health and Environment currently has the staff to adequately meet the needs of the State regarding asbestos in public buildings. The message said that creation of the Asbestos Control Program in the Department of Health and Environment would enable the State to respond in a more timely manner to the many asbestos-related requests for assistance.

The proposed Asbestos Control Program would become a part of the Environmental Toxicology Section in the Bureau of Air Quality and Radiation Control. The Environmental Toxicology Section is responsible for responding to problems regarding human exposure to potentially hazardous chemical and physical agents in the workplace and in other community environments. The accompanying figure outlines the general responsibilities of the Bureau of Air Quality and Radiation Control.



The Bureau of Air Quality and Radiation Control comprises five sections concerned with emvironmental matters. The new asbestos control program proposed by the Governor would be located in the Environmental Toxicology Section.

The Asbestos Control Program proposed by the Governor would be staffed by two environmental engineers in the Environmental Toxicology Section and one chemist in Laboratory Services and Research. The proposed fiscal year 1986 budget for the program is $126,000, mostly for salaries and equipment. The staff members in the Department of Human Resources who currently conduct asbestos inspections would remain in that agency and resume their previous duties.

The proposed program is an enhanced version of the asbestos program in the Department of Human Resources, but emphasizes training and technical assistance over inspections. Officials at the Department of Health and Environment told the auditors that the proposed new staff members would take over the duties currently assumed by the Department of Human Resources, but would also fill other needs not currently being adequately met. The needs mentioned by the officials were technical assistance, training, and the development of a State plan.

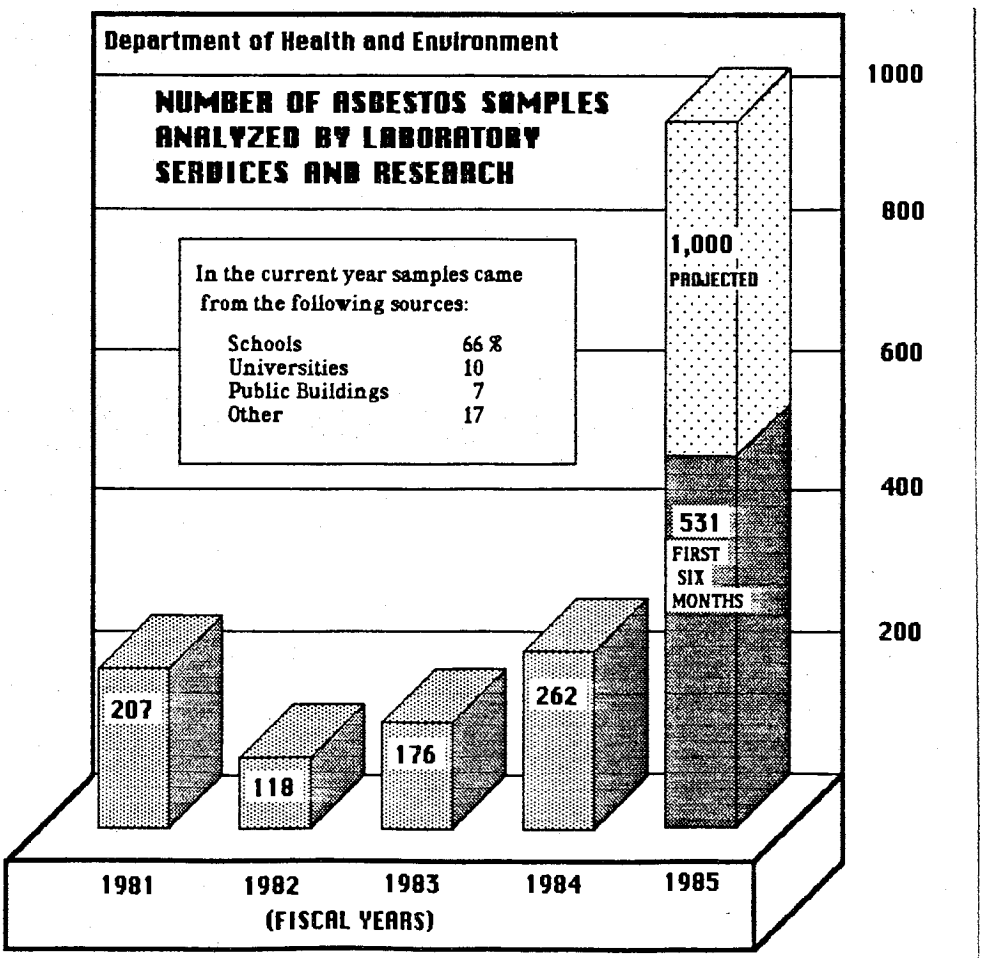
Department of Health and Environment officials say that one of the three proposed staff members would provide technical assistance. With the possible exception of a scheduled State building inspection program, this person would not conduct scheduled inspections. That responsibility would remain at the local level. For the most part, school officials have already identified the asbestos present in their schools. The current need is for technical assistance in assessing the actual health risk and determining what to do about it. The new staff member would provide this assistance. In addition, the staff person would be available to help write bid specifications and monitor the actual removal or covering of the asbestos so that school officials could be assured that contractors properly handled the hazardous material. Although regular inspections would not be emphasized, the staff person would be available upon request to conduct inspections and do sampling such as that currently done by the Department of Human Resources.

The second staff member's job would be to develop and implement a State plan on asbestos in public buildings and to develop a training program for people in State buildings on how to deal with asbestos. Department officials say that a State plan is needed to establish a system for identifying asbestos in State buildings, to establish a State policy on how to address the problem, and to coordinate State activities. At present, no State or federal program requires the identification of asbestos in any public buildings except for schools.

To meet the training needs of employees in public buildings, the new staff member would develop the necessary training program and conduct the training. Some training may be arranged with the Asbestos Center at the University of Kansas. Formed in September 1984, the Asbestos Center is one of three asbestos training centers funded by grants from the Environmental Protection Agency. Although its emphasis is on training for the private sector, such as contractors and architects, the Center will conduct seminars for school employees and the general public. Its training consists of intensive one-to-two week training sessions on identification and safe handling of asbestos. The Center was established with a grant for $225,000 and is staffed by four part-time continuing education professionals. The actual training is conducted by experts brought in by the Center.

The third proposed new staff member would work in Laboratory Services and Research and analyze asbestos samples. The lab has been conducting asbestos analysis since 1978, but Department officials say they can no longer absorb the asbestos load with their current personnel.

Because of increased public awareness, the number of samples received for analysis has grown rapidly in the last year. The following figure illustrates this growth. In fiscal year 1984, 262 samples were analyzed. About one-third of these samples came from the Department of Human Resources. In the first six months of fiscal year 1985, more than 500 samples have been analyzed. Department officials project that over 1,000 will be analyzed during fiscal year 1985.



As the chart shows, the number of samples has increased greatly in fiscal year 1985. Agency officials estimate that 1,000 samples will be analyzed by the end of the year.

In the fiscal year 1986 budget, the Governor also recommended increased funding of $45,000 for fiscal year 1985 for two temporary positions to enable the program to begin operating this year. The temporary employees would start helping schools comply with the Environmental Protection Agency asbestos reporting requirements.

An Agreement Signed By the Two Agencies Would Apparently Minimize Any Duplication of Asbestos Inspection Efforts

If the Asbestos Control Program were funded for the Department of Health and Environment and the Department of Human Resources continued to conduct asbestos inspections, there would be duplication in the activities of the two agencies. In his budget message, the Governor stated that he had directed the agencies to arrange a cooperative agreement on asbestos inspections. This agreement has been made. A memorandum of understanding was signed by both agencies and became effective March 6, 1985. This agreement can be found in Appendix A. It provides for all school and public building asbestos-related responsibilities to be transferred to the Department of Health and Environment, contingent upon the funding of the Asbestos Control Program. These activities include the asbestos inspections and the asbestos risk assessments discussed earlier in the report. All staff now conducting asbestos inspections for the Department of Human Resources would remain with that agency. If the proposed Asbestos Control Program is not funded, the agreement will become void.

The Department of Human Resources would continue to conduct safety inspections of private and public buildings. In the course of these inspections, the inspectors would note the presence of asbestos when it was observed. However, the Department's industrial inspectors would no longer look for asbestos as part of their regular safety inspections.

The High Cost of Controlling Asbestos: The Case of the Missouri State Office Building

Kansas is not the only state concerned with controlling asbestos. In 1981, Missouri's Division of Design and Construction asked for funding to remove asbestos from the state's largest office building, located in Kansas City. Because of Missouri's budgetary problems at the time, no funds were appropriated.

In the spring of 1984, legislators from the Kansas City area again supported a move to fund the removal of asbestos from the building. During summer hearings in Kansas City, a legislative committee heard many state workers complain that not enough was being done to protect their health. The Director of the Missouri Division of Health testified that there was "risk--serious health risk--and death in that office building."

Faced with mounting concern by the General Assembly and state workers, the Missouri governor issued an executive order to agencies in the building to move to other quarters. The order instructed administrators to make the move within existing appropriations. This order received mixed reviews among legislators, some of whom advised the governor that he should not count on any emergency appropriations to assist with the move. The reason for the legislators' reluctance was understandable: the office building cost about $6.8 million to build 18 years ago, and estimates of the cost of removing the asbestos range from $6 million to $11 million. Because of the high cost of making the building safe, it could be cheaper in the long run to simply sell it and build a new facility.

In the meantime, finding quarters for the building's current tenants is proving difficult and costly. One agency is even considering renovating a warehouse, at a cost of about $1 million, to house the agency for the year the asbestos removal is expected to take.

With the Missouri General Assembly now in session, the fate of the Kansas City State Office Buiding is still in doubt. But no one doubts that the eventual solution will be expensive.

If the Asbestos Functions Are To Be Consolidated in One Agency, The Department of Health and Environment Appears To Be the Logical Choice

As stated earlier in the report, the Department of Human Resources is responsible for protecting workers in public buildings in Kansas. The Department of Health and Environment is responsible for supervising the health of the people of Kansas and investigating causes of disease and mortality. The asbestos problem is one of a danger to the health of school children and the general public, as opposed to a problem only for workers in the State. Therefore, the function of an asbes-

tos control program would appear to fit more logically into the Department of Health and Environment.

That agency also has a broader base of technological expertise. Staff of the Bureau of Air Quality and Radiation Control conduct inspections of all air contaminant emission sources, conduct long-term atmospheric air sampling, investigate local air pollution problems, inspect and control all radiation sources, and examine levels and sources of hazardous chemicals and agents affecting indoor air quality.

Conclusion

There are no federal or State laws requiring any State agency to take specific steps to deal with asbestos. Because of the dangers associated with asbestos, the Department of Human Resources established a voluntary program for helping to identify the material in public buildings and schools. The Department's Industrial Safety and Health Program includes three inspectors who look for and report asbestos as part of their overall safety inspection duties.

For fiscal year 1986, the Governor has proposed an enhanced Asbestos Control Program in the Department of Health and Environment. Under a memorandum of understanding, the Department of Health and Environment would assume all of the asbestos inspections and asbestos exposure assessments now being provided by the Department of Human Resources. This agreement appears to minimize any duplication of effort between the two agencies. The Department of Human Resources would continue to inspect public buildings for a broad range of hazards (except asbestos) at the same level of staffing. The proposed Asbestos Control Program would appear to fit better with the mission and expertise of the Department of Health and Environment. If funded by the Legislature, this program would put Kansas ahead of most surrounding states in beginning to deal with the serious problems posed by asbestos in public buildings.

APPENDIX A

Memorandum of Understanding

MEMORANDUM OF UNDERSTANDING

Between

Kansas Department of Health and Environment

and the

Kansas Department of Human Resources

on

KANSAS ASBESTOS CONTROL PROGRAM RESPONSIBILITIES

I. Purpose:

This agreement between the Kansas Department of Health and Environment (KDHE) and the Kansas Department of Human Resources (KDHR) is intended to define the respective responsibilities of each agency in regard to the control of asbestos hazards in the state and to provide for the orderly transfer of activities that are presently carried out by KDHR, as the designated state liaison agency with the U.S. Environmental Protection Agency (EPA) in relation to that agency's Asbestos-in Schools 1979 Technical Assistance Program (TAP), to the KDHE. This transfer is to be completed by July 1, 1985. Final transfer of responsibility for these latter activities, which consist of providing consultation to Kansas school systems in relation to the identification and control of asbestos exposure problems, from KDHR to KDHE will be contingent upon the 1985 legislature's appropriation of funds to KDHE for this purpose.

II. Responsibilities:

The agencies hereby agree that:

A. The KDHR will:

1. Continue to remain responsible for responding to requests received from Kansas school systems and state institutions concerning control measures that may be taken to reduce potential exposures to friable asbestos containing materials that have been identified in the schools and institutions until the Governor has officially designated the KDHE as the TAP liaison agency, in writing, to the EPA.

2. Continue to provide consultation and assistance to school systems and state institutions in relation to the development of work specifications for the removal, encapsulation or enclosure of friable asbestos materials that is to be conducted by public employees or private contractors, until KDHE has been officially designated as the TAP liaison by the governor. KDHR will also

continue to maintain a listing of contractors that are experienced in the removal of asbestos from such buildings and provide this information to the responsible administrators during this time period.

3. Continue to respond to direct requests from school system administrators for information concerning actions necessary to comply with the EPA school asbestos identification and notification regulations (40 CFR Part 763, Subpart F) until the KDHE has initiated the special inspection and consultation program that is prescribed by section II.B.4 of this agreement.

4. Continue to provide Occupational Safety and Health consultation and monitoring services, as the agency deems appropriate, for the protection of private employees who are engaged in asbestos removal and handling activities.

5. Provide special training and consultation to designated staff of the KDHE in regard to the selection of appropriate measures for correcting potential problems associated with friable asbestos containing materials that have been found in individual school buildings and institutions. This consultation and training is intended to be provided during the normal inspectional activities that will continue to be carried out by KDHR until the TAP liaison responsibilities are officially transferred to the KDHE.

B. The KDHE will:

1. Continue to refer requests for assistance in regard to the recommendation of procedures that should be used for the control of friable asbestos problems in schools and state institutions to the KDHR, until TAP liaison responsbilities are officially transferred to the KDHE.

2. Continue to provide laboratory services for the analysis of asbestos in bulk samples of friable materials that are collected from schools and institutions as a result of the KDHR consultation program activities.

3. Continue to provide consultation and field investigations in regard to evaluating any potential health problems to the general public that may be associated with exposure to asbestos containing materials within publically or privately-owned buildings.

4. Initiate a special school inspection and consultation program to assist school administrators in establishing and maintaining records required by the EPA school asbestos identification and notification regulations (40 CFR Part 763, Subpart F) as soon as additional staff can be provided for this purpose, utilizing special funding allocations that are anticipated to be made available to KDHE during the remainder of the 1985 fiscal year.

5. Assume responsibility for the KDHR inspection and consultation activities in regard to recommending measures and work procedures for the control of asbestos exposures in schools and state institutions as soon as staff are employed for this purpose using 1986 fiscal year funds anticipated to be appropriated to KDHE by the 1985 legislature. At this time the KDHE will also initiate a request

to the governor that it be designated as the official liaison agency with the EPA for the TAP activities.

III. Amendment:

A. The transfer of responsibility for school asbestos related inspection and consultation services, that are now being provided by the KDHR under the EPA TAP agreement, to the KDHE will be contingent upon the state legislature's allocation of additional funds to the KDHE for this purpose. If these allocations are not made, this agreement will become void and a new agreement will be developed to prescribe the respective responsibilties assigned to the two agencies.

B. Individual items included in the agreement may be amended at any time by mutual agreement of the KDHE and KDHR. The amendments may be developed by either agency and a copy of them shall be signed by a designated representative of both agency's and filed with this agreement before the amendment becomes effective.

IV. Effective Date:

This agreement shall become effective upon the latest date of signature of either party.

Barbara J. Sabol, Secretary
Kansas Department of Health & Environment

2/22/85
Date

Larry E. Wolgast, Ed. D. Secretary
Kansas Department of Human Resources

3/6/85
Date

APPENDIX B

Agency Responses