



# Representative Reggie Joule

Alaska State Legislature

District 40

## HB 258 Use of Naturally Occurring Asbestos

### CSHB(FIN) v.G

### Sectional Analysis

<u>Section</u>	<u>Statute</u>	<u>Change</u>	<u>Purpose or Effect</u>
1	Uncodified Law	Add new section	Legislative Findings and Purpose
2	AS 09.65	Add new section AS 09.65.245	<b><u>Liability Immunity</u></b> Creates immunity on civil action or claims for civil damages for alleged asbestos related death, injury, illness or disability in specific circumstances to certain persons and the State  Liability Immunity is provided for Gravel pit owners.  Liability Immunity is provided to persons exacting, supplying, transporting or using gravel or aggregate material containing NOA if the following apply:  <ol style="list-style-type: none"><li>1) Gravel or aggregate material contains 0.25 % by mass.</li><li>2) The use of gravel was in compliance with Department's SOP</li></ol> If not in compliance, lawsuits can only be brought against those that have direct control or responsibility for the compliance requirements  A lawsuit cannot be brought against the State for the approval of plan
3	AS 18.31	Add New section AS 18.31.250	<b><u>The use of NOA material in private construction projects</u></b>  The use of NOA material must:  <ol style="list-style-type: none"><li>1) Is 0.25% by mass tested using bulk test method prescribed by Department of Transportation and Public Facilities</li><li>2) In order for a private contractor to use NOA and the project is not state project the principal contractor/person of legal</li></ol>

			<p>authority for the project must:</p> <ol style="list-style-type: none"> <li>a. Prepare and submit specific plans demonstrating compliance with DOT&amp;PF SOP</li> <li>b. Approval by DOT&amp;PF must be granted before the extraction and use of gravel occurs</li> </ol>
	18.31	Add new section AS 18.31.260	<p><b><u>Presence of naturally occurring asbestos</u></b></p> <p>.25% by mass the minimum detectable amount as the baseline for the presence of NOA according to the testing using CARB 435</p>
4	44.42	Add new section AS 44.42.400	<p><b><u>Use of Materials – Administration</u></b></p> <ol style="list-style-type: none"> <li>1) The Department of Transportation shall designate one employee in the Commissioner’s Office to oversee the duties in AS 44.42.400 – 44.42.430 and be the point of contact for all projects using NOA gravel. The individual</li> <li>2) A NOA Delineation Zone will be established by the following: <ol style="list-style-type: none"> <li>a. Community/ municipality request</li> <li>b. State delineation in absence of a community</li> </ol> </li> <li>3) The State is required to review application, testing results and collect public input before delineating a zone. The State can also require additional information as necessary to make a determination.</li> <li>4) After the delineation zone is created DOT is required to notify, to include signage, affected person in the area.</li> </ol>
	44.42	Add new section AS 44.42.410	<p><b><u>Use of Materials – Site Specific Use</u></b></p> <p>A contractor that intends to use identified and tested NOA gravel shall submit a site specific plan to DOT&amp;PF to include the following:</p> <ol style="list-style-type: none"> <li>1) Describe the manner in the contractor’s plan conforms to the standards adopted by DOT&amp;PF</li> <li>2) Demonstrate how the contractor’s plan</li> </ol>

			<p>of construction and maintenance practices comply and meets all laws applicable for handling NOA gravel</p> <ol style="list-style-type: none"> <li>3) Outlines the long term maintenance on the completed project and dedicated responsibility of ensuring human health and air quality are not compromised by the use of NOA gravel</li> <li>4) Describe how NOA gravel will used and contained underneath or buried under the project so asbestos fibers cannot become airborne or transferred outside the project area</li> <li>5) If requirements in complying with previous subsection (4) are economically unreasonable, plan will describe how the NOA gravel will be used and sealed from the surface including chip sealed or mixed with asphalt to prevent fibers from become airborne or transferred outside the project area</li> <li>6) If requirements in complying with previous subsections (4) and (5) are economically unreasonable, plan will describe how the NOA gravel will be used to prevent fibers from become airborne or transferred outside the project area, to include the transference through vehicle traffic.</li> </ol> <p>DOTP&amp;F in its operating procedures applicable to a project that is defined by AS 35.95.100 and intends to use NOA gravel shall:</p> <ol style="list-style-type: none"> <li>1) The contractor responsible for the project prepare and submit a plan conforms to the standards and requirements adopted by DOT&amp;PF developed under AS 44.42.420</li> <li>2) The plan must be approved before extraction of NOA gravel</li> </ol> <p>The use of NOA gravel is only approved through a submitted construction plan when it is determined that it is economically unreasonable to use NOA free gravel</p> <p>After the contractor has submitted the site specific plan to</p>
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			<p>DOT&amp;PF and the plan has been approved through regulations and standards adopted by DOT&amp;PF with consultation from DEC, DHSS, and DLWF DOTP, DOL, DNR will return a monitoring and mitigation plan with the site specific plan to the contractor. To qualify for the immunity provided in AS 09.65.245 the party that has direct control or responsibility for the project will have comply with mitigation and monitoring plan developed by DOTP&amp;F.</p> <p>On approval of the site specific plan DOT&amp;PF will do the following:</p> <ol style="list-style-type: none"> <li>1) Return a copy of the approved plan to the contractor including; <ol style="list-style-type: none"> <li>a. The monitoring and mitigation plan under AS 44.42.410 (d)</li> <li>b. Recommend methods for reducing exposure to airborne fibers</li> <li>c. Copies of the US OSHA Mine Safety and Health Administration &amp; EPA recommended practices for handling and use of gravel material containing NOA</li> </ol> </li> </ol> <p>After construction is complete the contractor will record on the title of the construction project land title a recording of the project.</p> <p>The contractor shall submit to the department the results of any testing performed in accordance with the site specific plan and any mitigation measures undertaken</p>
	44.42	Add new section AS 44.42.420	<p><b><u>Regulations</u></b> DOTP&amp;F will consult with DEC, DHSS, DLWF, DOL, DNR to develop, implement, and revise statewide standards to regulate the use of NOA gravel in transportation projects and public facilities</p> <p>DOT&amp;PF are required to follow the Administrative Procedure Act to implement regulations and SOP's</p>
	44.42	Add new section AS 44.42.430	<p><b><u>Definitions</u></b> "Contractor" "Naturally Occurring Asbestos"</p>
5	Uncodified Law	Add new section	<p><b><u>Interim Project Authorization</u></b> Authorizes that certain areas be delineates NOA zones during the Interim</p>

			<p>Authorizes certain projects to move forward on projects with a site specific plan approved by interim standards established by DOT&amp;PF with consultation from DEC, DHSS, DLWF, DOL, DNR</p> <p>Interim Project Authorization ends December 31, 2013</p>
6	Uncodified Law	Add new section	<p><b><u>Interim Standards for Bulk Testing</u></b></p> <p>Until DOTP&amp;F adopts and prescribes a method of testing the department shall use California Air Resources Board Method 435</p>
7	AS 01.10.70	Effective Date	<b><u>Immediately</u></b>