



Representative Reggie Joule

Alaska State Legislature

District 40

HB 258 Use of Naturally Occurring Asbestos

CSHB(TRANS) v.T 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 | <u>Liability Immunity</u> Creates immunity on civil action or claims for civil damages based alleged asbestos related death, injury, illness or disability in specific circumstances certain persons and the State Liability Immunity is provided to persons owning, exacting, supplying, transporting or using gravel or aggregate material containing NOA if the following apply: <ol style="list-style-type: none">1) Gravel or aggregate material contains 0.25 % by mass.2) The use of gravel was in compliance with Department's SOP 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 | <u>The use of NOA material in private construction projects</u> The use of NOA material must: <ol style="list-style-type: none">1) Is 0.25% by mass tested using bulk test method prescribed by Department of Transportation and Public Facilities2) In order for a private contractor to use NOA and the project is not state project the principal contractor/person of legal authority for the project must:<ol style="list-style-type: none">a. Prepare and submit specific plans demonstrating compliance with DOT&PF SOPb. Approval by DOT&PF must be granted before the extraction and use of gravel occurs |
| 4 | 44.42 | Add new | <u>Use of Materials - Administration</u> |

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| | | section AS 44.42.400 | <p>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 shall:</p> <ol style="list-style-type: none"> 1) Maintain a database of state known sites containing NOA 2) Known sites free from NOA gravel within reasonable proximity to known NOA gravel sites 3) Sites a NOA free gravel with 25 miles of a community that has a proposed project 4) A list of community with NOA gravel occurrences 5) Annually transmit and publish to the commissioner and Department website all current projects for which a plan has been submitted for using NOA gravel. 6) A list of all known projects intended to be undertaken by the state and municipalities in the next 5 years that intends to use NOA gravel <ol style="list-style-type: none"> a. The list will contain suggestions for potential locations to stockpile NOA free gravel for future use in future projects and estimated costs 7) Annually provide a report on all monitoring and mitigation results from project's contractors, DOT&PF, DEC, DHSS, DLWF for projects with active plans |
| | 44.42 | Add new section AS 44.42.410 | <p><u>Use of Materials – Site Specific Use</u></p> <p>A contractor that intends to use identified and tested NOA gravel shall submit a site specific plan to DOT&PF to include the following:</p> <ol style="list-style-type: none"> 1) Describe the manner in the contractor's plan conforms to the standards adopted by DOT&PF 2) Demonstrate how the contractor's plan of construction and maintenance practices comply and meets all laws applicable for handling NOA gravel 3) Outlines the long term maintenance on the completed project and dedicated responsibility of ensuring human health and air quality are not compromised by |

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| | | | <p>the use of NOA gravel</p> <ol style="list-style-type: none"> 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 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 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 <p>DOTP&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"> 1) The contractor responsible for the project prepare and submit a plan conforms to the standards and requirements adopted by DOT&PF developed under AS 44.42.420 2) The plan must be approved before extraction of NOA gravel <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 DOT&PF and the plan has been approved through regulations and standards adopted by DOT&PF with consultation from DEC, DHSS, and DLWF DOTP&F 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</p> |
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| | | | <p>mitigation and monitoring plan developed by DOTP&F.</p> <p>On approval of the site specific plan DOT&PF will do the following:</p> <p>1)Return a copy of the plan to the contractor including;</p> <ol style="list-style-type: none"> The monitoring and mitigation plan under AS 44.42.410 (d) Recommend methods for reducing exposure to airborne fibers Copies of the US OSHA Mine Safety and Health Administration & EPA recommended practices for handling and use of gravel material containing NOA <p>2) A of the construction plan to the mayor of manager of municipality affected by the use of NOA</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><u>Regulations</u> DOTP&F will consult with DEC, DHSS, DLWF to develop, implement, and revise statewide standards to regulate the use of NOA gravel in transportation projects and public facilities</p> |
| | 44.42 | Add new section AS 44.42.430 | <p><u>Definitions</u> "Asbestos" "Contractor"</p> |
| 5 | Uncodified Law | Add new section | <p><u>Interim Project Authorization</u> Authorizes certain projects to move forward on projects with a site specific plan approved by interim standards established by DOT&PF with consultation from DEC, DHSS, DLWF Interim Project Authorization ends December 31, 2012</p> |
| 6 | Uncodified Law | Add new section | <p><u>Interim Standards for Bulk Testing</u> Until DOTP&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 | <p><u>Immediately</u></p> |