HB 258

<TARGET><BILL>HB 258</BILL><SUBJECT>HB 258</SUBJECT><COMM>HFIN27</COMM></TARGET>

Adopted 3/28/12

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Nauman
3/27/12

CS FOR HOUSE BILL NO. 258(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVE JOULE

A BILL

FOR AN ACT ENTITLED

"An Act directing the Department of Transportation and Public Facilities to develop and implement standards and operating procedures, to evaluate site-specific use plans, and to designate project areas concerning gravel or other aggregate material containing naturally occurring asbestos; authorizing use on an interim basis of gravel or other aggregate material containing naturally occurring asbestos for certain transportation projects and public facilities; providing immunity for the state and for landowners, extractors, suppliers, transporters, and contractors for certain actions or claims arising in connection with the use of gravel or aggregate material containing naturally occurring asbestos in certain areas; requiring contractors to report certain asbestos-related data to the Department of Transportation and Public Facilities; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section to read:

LEGISLATIVE FINDINGS AND PURPOSE. (a) The legislature finds that

(1) gravel or similar aggregate material is constantly in demand for major construction and maintenance of state and local transportation projects and public facilities and for all types of construction by public and private entities;

(2) naturally occurring asbestos may be found in sources of gravel and similar aggregate material throughout the state;

(3) while airborne asbestos fibers are a significant threat to workplace safety and public health and are subject to close regulation by federal and state authorities under 42 U.S.C. 7401 - 7671q (Clean Air Act) and 15 U.S.C. 2601 - 2692 (Toxic Substances Control Act), use of materials containing naturally occurring asbestos in construction projects may be regulated by states;

(4) in communities that do not have sources of gravel or similar aggregate material that is free of naturally occurring asbestos, costs of construction are substantially increased because of the necessity of locating alternative sources of gravel or similar aggregate material and transporting that material to distant construction and maintenance sites; and

(5) a recent study suggests that, with careful use and close adherence to appropriate control strategies, state and local transportation projects and public facilities may be safely completed using sources of gravel or similar aggregate material that contains naturally occurring asbestos; the study recommends that the Department of Transportation and Public Facilities establish standards and operating procedures through a statewide process that will apply to the use of gravel and aggregate material that contains asbestos by the department and by any public or private entity.

(b) It is the purpose of this Act

(1) to authorize and direct the Department of Transportation and Public Facilities to develop, implement, and, as circumstances may require or indicate, modify standards and operating procedures to allow the use in the construction and maintenance of transportation projects and public facilities in certain areas of the state of gravel or aggregate material that contains naturally occurring asbestos, with the expectation that use of that

material in a manner that is consistent with those standards and procedures may avoid significant risk to human health and eliminate significantly higher costs of construction and maintenance of projects and facilities associated with using only construction material that is free of asbestos;

(2) to establish that a person that uses gravel that contains naturally occurring asbestos in certain areas of the state may prepare specific project plans that conform to the requirements of this Act and the department's standards and operating procedures; and

(3) to shield persons and the state, including its agencies, officers, and employees, under certain conditions, from liability based on exposure to naturally occurring asbestos.

(c) This Act creates a voluntary program in certain areas of the state and provides civil immunity for the use of gravel or other aggregate material that contains naturally occurring asbestos for contractors meeting the requirements of the program; nothing in this Act mandates a contractor to submit a site-specific plan or to adhere to the requirements of a plan approved by the department.

(d) Because neither the state nor the federal government has established a scale assigning a specific risk level to a corresponding amount of naturally occurring asbestos, this Act accepts 0.25 percent by mass, the minimum detectable amount of asbestos under the California Air Resources Board Method 435, as the baseline for the presence of naturally occurring asbestos in gravel or other aggregate material. Health risks resulting from asbestos exposure vary according to the level, type, and duration of exposure. While exposure to very small concentrations of asbestos may pose some health risk, there is not a practical way to prevent all exposure to asbestos for residents in close proximity to deposits that contain naturally occurring asbestos. The intent of this act is to establish a sensible analytical threshold for detection of naturally occurring asbestos in gravel or other aggregate material and to establish appropriate exceptions for the use of gravel or other aggregate material that contains naturally occurring asbestos for certain public facilities and transportation projects involving unusual circumstances, including projects in remote locations or in regions where gravel or other aggregate material free from naturally occurring asbestos is not reasonably available.

*** Sec. 2.** AS 09.65 is amended by adding a new section to read:

Sec. 09.65.245. Immunity for certain persons supplying or using gravel or other aggregate material; limitations on asbestos-related actions against defendants. (a) Notwithstanding AS 09.50.250, a civil action or claim for damages or costs alleging a death, injury, illness, disability, property damage, or any other damages resulting from the use of gravel or other aggregate material that contains naturally occurring asbestos may not be brought against a defendant, including a contractor meeting the requirements of the program or the state and its agencies, officers, and employees,

(1) based on the ownership of land within an area designated by the Department of Transportation and Public Facilities under AS 44.42.400(b) or (c) from which gravel or other aggregate material is extracted that, when tested using a bulk method prescribed by the Department of Transportation and Public Facilities by regulation, is determined to have a content equal to or greater than 0.25 percent naturally occurring asbestos by mass; or

(2) for an act or omission occurring in the course of extracting, supplying, transporting, or using gravel or other aggregate material containing naturally occurring asbestos within an area designated by the Department of Transportation and Public Facilities under AS 44.42.400(b) or (c) when the act or omission was in compliance with the requirements of AS 18.31.250 or AS 44.42.410(b), as applicable, and AS 44.42.410(a) and (d) and applicable regulations developed under AS 44.42.420.

(b) A civil action or claim based on noncompliance with the requirements of AS 18.31.250 or AS 44.42.410(b), as applicable, and AS 44.42.410(a) and (e) and applicable regulations developed under AS 44.42.420 for damages or costs alleging an asbestos-related death, injury, illness, or disability or alleging asbestos-related property damage or any other asbestos-related damages may only be brought against a defendant that has direct control over or responsibility for compliance with the requirements of AS 18.31.250 or AS 44.42.410(b), as applicable, and AS 44.42.410(a) and (e) and applicable regulations developed under AS 44.42.420.

(c) Notwithstanding AS 09.50.250, a civil action or claim for damages or costs alleging an asbestos-related death, injury, illness, or disability or alleging asbestos-

related property damage or any other asbestos-related damages may not be brought against any state agency or officer or employee of the state for an act or omission occurring in the course of designating a project area under AS 44.42.400(a) or (b), approving a site-specific use plan, or developing or approving a monitoring plan or a mitigation plan under AS 44.42.410.

(d) In this section, "naturally occurring asbestos" has the meaning given in AS 44.42.430.

* **Sec. 3.** AS 18.31 is amended by adding new sections to read:

Article 2A. Naturally occurring asbestos.

Sec. 18.31.250. Use of materials containing naturally occurring asbestos. (a) A principal construction contractor or, in the absence of an identified principal construction contractor, person having legal authority for the design and construction of a project may qualify for immunity in a civil action under AS 09.65.245(a)(2) for the use of gravel or other aggregate material that, when tested using a bulk test method prescribed by the Department of Transportation and Public Facilities by regulation, is determined to have a content equal to or greater than 0.25 percent of naturally occurring asbestos by mass.

(b) To qualify for the immunity provided under AS 09.65.245(a)(2), before initiating a construction project not subject to AS 44.42.410(b) that is within an area designated by the Department of Transportation and Public Facilities under AS 44.42.400(b) or (c) and that will use gravel or other aggregate material that contains naturally occurring asbestos, the principal construction contractor or, in the absence of an identified principal construction contractor, the person having legal authority for the design and construction of the project, shall prepare and submit to the Department of Transportation and Public Facilities specific project plans demonstrating compliance with the standards adopted by the department under AS 44.42.420 and the requirements of the site-specific use plan under AS 44.42.410. Before extraction of gravel or other aggregate material may begin, the plan must be approved and returned to the contractor by the department.

(c) To preserve the immunity provided under AS 09.65.245(a)(2), the principal construction contractor or, in the absence of an identified principal

construction contractor, the person having legal authority for the design and construction of the project, shall adhere to the site-specific use plan approved by the department and the monitoring and mitigation plan created by the department.

Sec. 18.31.260. Presence of naturally occurring asbestos. The state shall consider 0.25 percent by mass, the minimum detectable amount of asbestos under the California Air Resources Board Method 435, as the baseline for the presence of naturally occurring asbestos in gravel or other aggregate material.

*** Sec. 4.** AS 44.42 is amended by adding new sections to read:

Article 3A. Use of Materials Containing Naturally Occurring Asbestos.

Sec. 44.42.400. Administration. (a) The department shall designate a single employee who reports to the commissioner to oversee the duties assigned to the department in AS 44.42.400 - 44.42.430 and to serve as the point of contact for inquiries related to projects using gravel or other aggregate material containing naturally occurring asbestos.

(b) An area that includes land within a municipality or community may be designated by the department as an area in which certain landowners and contractors are granted immunity under AS 09.65.245(a) for causing asbestos-related injuries only if the municipality or community requests that designation. A municipality or community may request to become an area designated by the department under this subsection by submitting an application to the department. The department may approve an application received under this subsection only after reviewing tests documenting the presence of naturally occurring asbestos in that area, analyzing the effect of the presence of naturally occurring asbestos on construction projects in the area, considering the availability of gravel or other aggregate material free from naturally occurring asbestos in the area, and soliciting public input from residents in the affected municipality or community. The department may require a municipality or community that applies to become a designated area to provide the department with tests documenting the presence of naturally occurring asbestos, information related to the effect of the presence of naturally occurring asbestos on construction projects in the area, information related to availability of gravel or other aggregate material free from naturally occurring asbestos, and other information relevant to the application.

After designating an area after approval of an application under this subsection, the department shall notify potentially affected persons that the area has been designated as an area where immunity may be granted under AS 09.65.245(a) for certain landowners and contractors causing asbestos-related injuries.

(c) In places that do not include a municipality or community, the department may designate an area in which certain landowners and contractors are granted immunity under AS 09.65.245(a) for causing asbestos-related injuries. Before designating an area under this subsection, the department shall document the presence of naturally occurring asbestos in that area, analyze the effect of the presence of naturally occurring asbestos on construction projects in the area, consider the availability of gravel or other aggregate material free from naturally occurring asbestos in the area, and solicit public input from potentially affected persons. After designating an area under this subsection, the department shall notify potentially affected persons that the area has been designated as an area where immunity may be granted under AS 09.65.245(a) for certain landowners and contractors causing asbestos-related injuries.

(d) In this section, "community" means a place in the unorganized borough, in a borough, or in a unified municipality that is not incorporated as a municipality, that is not a reserve, and in which 25 or more individuals reside as a social unit.

Sec. 44.42.410. Site-specific use plan. (a) To qualify for the immunity provided under AS 09.65.245(a)(2), a contractor intending to use, within an area designated by the department under AS 44.42.400(b) or (c), gravel or other aggregate material that, when tested using a bulk test method prescribed by the department in regulation, is determined to have a content equal to or greater than 0.25 percent of naturally occurring asbestos by mass, shall, after consulting with the owner of the land on which the gravel or other aggregate material containing naturally occurring asbestos will be placed, submit a site-specific use plan to the department that

(1) describes the manner in which the proposed use of gravel or other aggregate material that contains naturally occurring asbestos conforms to the standards adopted under AS 44.42.420(b);

(2) demonstrates how the proposed construction operation and

maintenance practices comply with those that are required and those that are minimally acceptable, as described in AS 44.42.420(b)(5), and otherwise meet requirements of law applicable to the handling of compounds that contain asbestos;

(3) outlines the efforts that will be made, as a component of long-term maintenance on the completed project or facility, to ensure that human health and air quality are not compromised by the use of the gravel or other aggregate material that contains naturally occurring asbestos;

(4) describes how the gravel or other aggregate material to be used can be contained underneath the project or buried so that asbestos fibers cannot become airborne or otherwise transferred outside of the project area, except as provided in (5) and (6) of this subsection;

(5) if the requirements in (4) of this subsection are economically unreasonable, describes how the gravel or other aggregate material to be used will be sealed, including chip sealing or mixing with asphalt, in order to prevent asbestos fibers from becoming airborne or otherwise transferred outside of the project area, except as provided in (6) of this subsection; and

(6) if the requirements under (4) and (5) of this subsection are economically unreasonable, describes how the gravel or other aggregate material will be used in order to prevent asbestos from becoming airborne or otherwise transferred outside of the project area, including how the gravel or other aggregate material will be used in order to prevent asbestos from becoming airborne because of vehicle traffic, road maintenance, or grading, if applicable.

(b) To qualify for and preserve the immunity provided under AS 09.65.245(a)(2), the department, in its operating procedures applicable to a project that is a transportation facility, including a public highway, airport, or pipeline or railroad track bed, or a public work, as that term is defined in AS 35.95.100, and for which the contractor intends to use, within an area designated by the department under AS.44.42.400(b) or (c), gravel or other aggregate material that, when tested using a bulk testing method prescribed by the department in regulation, is determined to have a content equal to or greater than 0.25 percent of naturally occurring asbestos by mass, shall require that

(1) the contractor submit a plan that details the use of gravel or other aggregate material in the construction or maintenance of the transportation project or public facility in accordance with the requirements of (a) of this section and regulations developed under AS 44.42.420;

(2) before the extraction of the gravel or aggregate material containing naturally occurring asbestos may begin, the plan be approved and returned to the contractor by the department;

(3) the contractor adhere to the monitoring, mitigation, and site-specific use plans.

(c) The department shall review each submitted site-specific use plan and shall work toward approving or disapproving the plan, taking into consideration the construction season in the project location.

(d) The department may not approve a plan for construction with gravel or other aggregate material determined to have a content equal to or greater than 0.25 percent of naturally occurring asbestos by mass unless the department determines that it is economically unreasonable to undertake the construction project with gravel or other aggregate material free from naturally occurring asbestos.

(e) On receiving a plan that meets the requirements of (a) and (d) of this section and the regulations adopted under AS 44.42.420, the department, in consultation with the Department of Environmental Conservation, the Department of Health and Social Services, the Department of Natural Resources, the Department of Law, and the Department of Labor and Workforce Development, shall develop a monitoring and mitigation plan for the project. If the site-specific use plan is approved, the monitoring and mitigation plan developed by the department shall be attached to the site-specific use plan. To qualify for the immunity provided in AS 09.65.245(a)(2), the party that has direct control over or responsibility for the monitoring or mitigation shall comply with the monitoring or mitigation plan developed by the department.

(f) On approval of a site-specific use plan, the department

(1) shall provide to the contractor a copy of the approved site-specific use plan that includes

(A) the monitoring and mitigation plan developed under (e) of

this section;

(B) a requirement that all asbestos-related data collected by the contractor during or after construction be submitted to the department; and

(C) recommended methods for reducing exposure to airborne asbestos fibers;

(2) shall provide a copy of the site-specific use plan, including the monitoring and mitigation plan, to the mayor or manager of a municipality affected by the use of gravel or other aggregate material containing asbestos; and

(3) may provide to the contractor copies of the United States Occupational Safety and Health Administration, United States Mine Safety and Health Administration, and United States Environmental Protection Agency recommended practices for handling and use of gravel or other aggregate material containing naturally occurring asbestos.

(g) Within 60 days after completing a project in accordance with a site-specific plan approved by the department, the contractor shall record in the recording district where the property is located a document that includes a description of the affected property, a reference to the most recent recorded conveyance of that property, and a notice indicating the presence of naturally occurring asbestos, and stating that subsequent interest holders may have legal obligations with respect to preventing the naturally occurring asbestos from becoming airborne or otherwise transferred outside of the project area. The contractor shall provide written notification to the department and the landowner that the document has been recorded.

(h) The contractor shall submit to the department the results of any monitoring or testing performed in accordance with the site-specific use plan and any mitigation measures undertaken.

Sec. 44.42.420. Regulations. (a) The department, after consultation with the Department of Environmental Conservation, the Department of Health and Social Services, the Department of Natural Resources, the Department of Law, and the Department of Labor and Workforce Development, shall prescribe in regulation a bulk testing method for gravel or other aggregate material containing naturally occurring asbestos.

(b) The department, after consultation with the Department of Environmental Conservation, the Department of Health and Social Services, the Department of Natural Resources, the Department of Law, and the Department of Labor and Workforce Development, may adopt regulations under AS 44.62 (Administrative Procedure Act) to implement AS 44.42.400 - 44.42.430, including regulations revising statewide standards on the use in the construction and maintenance of transportation projects and public facilities of gravel or aggregate material that, when tested using a bulk test method prescribed by the department by regulation, is determined to have a content equal to or greater than 0.25 percent of naturally occurring asbestos by mass. The regulations adopted under this subsection must include

(1) procedures for completing site investigations and characterizations of proposed projects, including the development and description of appropriate laboratory practices;

(2) procedures for reviewing design alternatives and preparing and evaluating appropriate comparative cost analyses that consider the use of gravel or other aggregate material that does not contain naturally occurring asbestos;

(3) procedures for evaluating human health concerns arising out of gravel or other aggregate material that contains naturally occurring asbestos and documentation of methods and means to be used during periods of handling of the gravel or other aggregate material to ensure compliance with appropriate workplace safety and air quality standards relating to the project and to ensure the health and safety of communities affected by construction projects that use gravel or other aggregate material containing naturally occurring asbestos;

(4) procedures for preparing designs and design specifications for facilities involving use of gravel or other aggregate material that contains naturally occurring asbestos;

(5) procedures for outlining construction operation and maintenance practices that are required and those that are minimally acceptable to meet requirements of law applicable to the handling of compounds that contain asbestos;

(6) procedures for processing, reviewing, and approving or disapproving site-specific use plans and area designation requests received under

AS 44.42.400(b) in a uniform manner;

(7) guidelines to analyze the cost of a project;

(8) guidelines for determining whether the cost associated with the use of gravel or other aggregate material free from naturally occurring asbestos under AS 44.42.410(d) is economically unreasonable;

(9) guidelines for determining whether the cost associated with burying or sealing gravel or other aggregate material containing naturally occurring asbestos under AS 44.42.410(a)(2) and (3) is economically unreasonable;

(10) guidelines for establishing areas designated under AS 44.42.400(b) or (c) that take into account the effect on human health in and around the designated area and environmental factors affecting the transfer of asbestos fibers within and outside of a designated area.

Sec. 44.42.430. Definitions. In AS 44.42.400 - 44.42.430,

(1) "contractor" means the principal construction contractor, or in absence of an identified principal construction contractor, the person having legal authority for the design and construction of the project;

(2) "naturally occurring asbestos" means chrysotile, amosite, crocidolite, fibrous tremolite, fibrous anthophyllite, and fibrous actinolite asbestos-containing material that has not been processed in an asbestos mill and that, when tested using a bulk method prescribed by the Department of Transportation and Public Facilities by regulation, is determined to have a content equal to or greater than 0.25 percent naturally occurring asbestos by mass.

* **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to read:

INTERIM PROJECT AUTHORIZATION. (a) Notwithstanding AS 44.42.400(a) and (b), added by sec. 3 of this Act, to ensure early application of the policy described in sec. 1 of this Act, the Department of Transportation and Public Facilities may, on a temporary basis, designate a limited number of areas in the state in which certain landowners and contractors are granted immunity under AS 09.65.245(a) for causing asbestos-related injuries where an inability to complete construction projects has been demonstrated because of lack of gravel or other aggregate material free from naturally occurring asbestos. After designating an area on a

temporary basis, the department shall notify potentially affected persons that the area has been designated as an area in which immunity may be granted under AS 09.65.245(a) for certain landowners and contractors causing asbestos-related injuries. Notwithstanding AS 18.31.250, added by sec. 3 of this Act, the Department of Transportation and Public Facilities may approve a limited number of appropriate construction projects until the development and implementation of initial standards under AS 44.42.420 and the administrative requirements of AS 44.42.400, added by sec. 4 of this Act, for projects not subject to AS 44.42.410(b), if, under (b) of this section, the Department of Transportation and Public Facilities prepares and adopts interim standards and requires its contractors to prepare site-specific plans for the use of gravel or other aggregate material that, when tested using the bulk method prescribed in sec. 6 of this Act, is determined to have a content equal to or greater than 0.25 percent naturally occurring asbestos by mass in transportation projects and public facilities. The department shall apply the standards developed under (b) of this section to a person described in AS 18.31.250 for a project that is not subject to AS 44.42.410(b).

(b) Notwithstanding AS 44.42.400(a) and (b), added by sec. 3 of this Act, to ensure early application of the policy described in sec. 1 of this Act, the Department of Transportation and Public Facilities may, on a temporary basis, designate a limited number of areas in the state in which certain landowners and contractors are granted immunity under AS 09.65.245(a) for causing asbestos-related injuries where an inability to complete construction projects has been demonstrated because of lack of gravel or other aggregate material free from naturally occurring asbestos. After designating an area on a temporary basis, the department shall notify potentially affected persons that the area has been designated as an area where immunity may be granted under AS 09.65.245(a) for certain landowners and contractors causing asbestos-related injuries. Notwithstanding AS 44.42.410(b), added by sec. 4 of this Act, the Department of Transportation and Public Facilities may approve a limited number of appropriate transportation projects and public facilities until the development and implementation of initial standards under AS 44.42.420 and the administrative requirements of AS 44.42.400, after consultation with the Department of Environmental Conservation, the Department of Health and Social Services, the Department of Labor and Workforce Development, and appropriate federal agencies. The Department of Transportation and Public Facilities may prepare and adopt interim standards

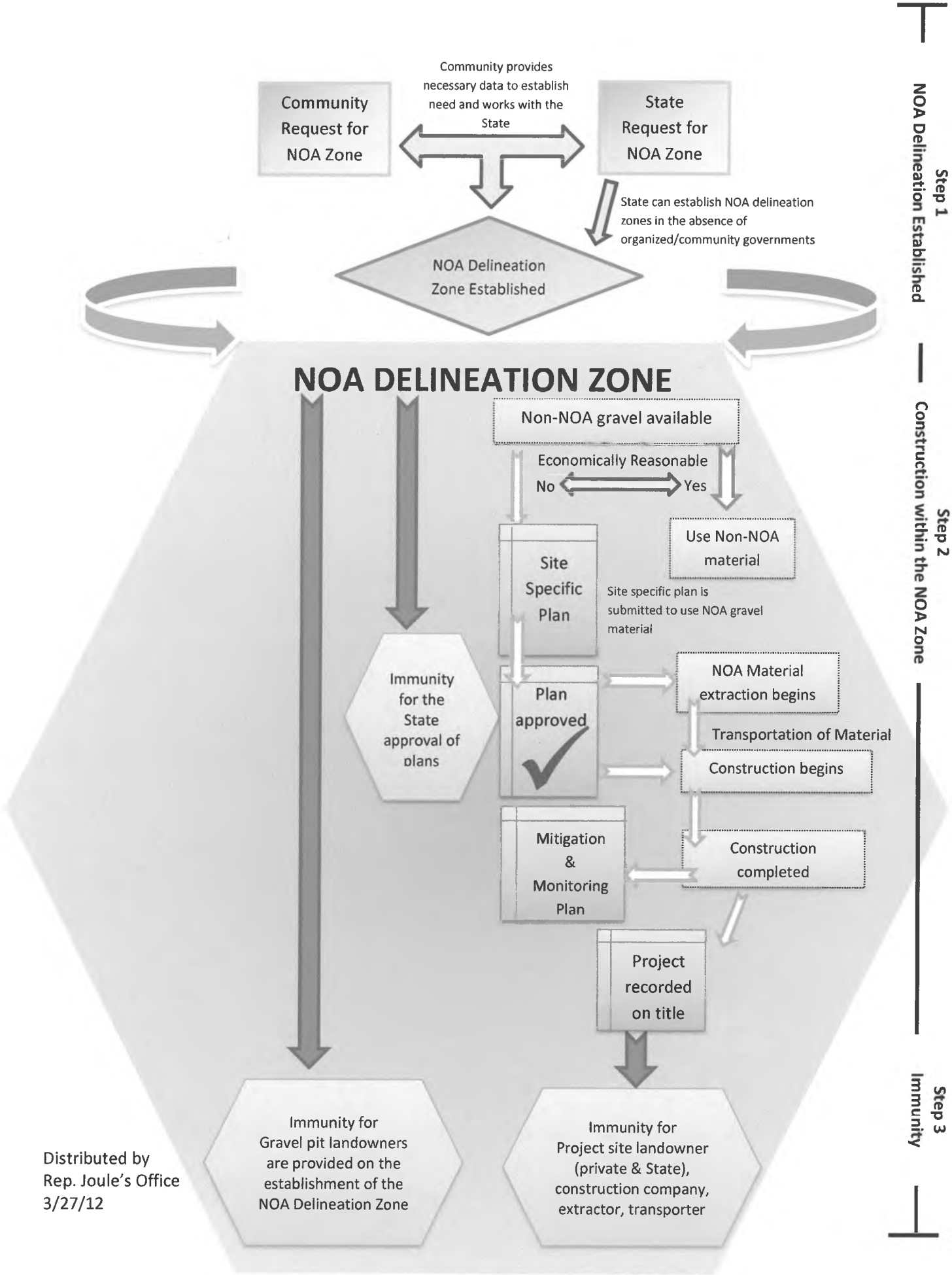
and operating procedures and may require of its contractors the preparation of site-specific plans for the use of gravel or other aggregate material that when tested using the bulk method prescribed in sec. 6 of this Act, is determined to have a content equal to or greater than 0.25 percent naturally occurring asbestos by mass.

(c) The authority granted by (a) and (b) of this section expires December 31, 2013.

* **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to read:

INTERIM STANDARDS FOR APPLICATION OF ASBESTOS BULK TESTING. Until the Department of Transportation and Public Facilities adopts and prescribes a method of bulk testing under AS 44.42.420(a), added by sec. 4 of this Act, the department shall use California Air Resources Board Method 435, Determination of Asbestos Content of Serpentine Aggregate, adopted on June 6, 1991, as that standard has effect on the effective date of this Act, as the basis for determining the asbestos content of a bulk sample or for interim use as authorized by sec. 5 of this Act.

* **Sec. 7.** This Act takes effect immediately under AS 01.10.070(c).



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Asbestos Exposure – Ambler
Public Health Evaluation and Assessment
Interim Report

May 20, 2005

John P. Middaugh, M.D.
Scott Arnold, Ph.D.

Introduction

Many individuals, agencies, and stakeholders have been working together to evaluate the significance of the discovery in the fall of 2003 of naturally occurring asbestos in the gravel pit at Ambler. Several meetings have been hosted by the Northwest Arctic Borough to share information and identify steps needed to develop recommendations for the community.

Public Health Findings

The Alaska Division of Public Health has been working with the Maniilaq Health Center, Maniilaq Association, the Alaska Native Tribal Health Consortium, and several national asbestos experts to obtain information on the medical and public health significance of the presence of asbestos in Ambler.

Inhalation of asbestos fibers is the primary route of human exposure. The likelihood of developing asbestos-related diseases is related to the length of exposure and the concentration of asbestos.

We performed a medical records search to determine if any asbestos-related diseases have ever been identified in residents of Ambler, Kobuk, Shungnak, and Kiana.

- We reviewed all death certificates from 1980 to the present to see if there were any residents of Maniilaq villages who had died with any asbestos-related diagnosis. There were no residents with any asbestos-related diagnoses on the death certificate.

- We reviewed the State Cancer Registry and the Alaska Native Tumor Registry to see if there were any asbestos-related cancers that had been diagnosed and reported from any residents of Ambler, Kobuk, Shungnak, and Kiana. There were no residents who had been diagnosed with mesothelioma from any of these villages dating back to 1970. There were no reported cases of lung cancer from Ambler, Kobuk, or Shungnak dating back to 1970. There were 5 reported cases of lung cancer, all from the village of Kiana. These 5 cases occurred from 1984 to 2003, and they included 4 different cell types of lung cancer.

- We reviewed computerized medical records in the RPMS medical record system. There were no residents of the 4 villages who ever had been diagnosed with any asbestos-related disease.

- We reviewed existing chest x-rays from 128 residents from the 4 villages who were 50 years and older – 28 of these residents were from Ambler. Because of the past epidemics of tuberculosis and other common pulmonary diseases, there were many abnormalities. An expert, certified nationally as a chest x-ray reader for asbestos-related disease, reviewed these x-rays on behalf of the Maniilaq Association and the Alaska Division of Public Health.
  - Of the 28 residents of Ambler whose chest x-rays were reviewed, 2 had pleural changes that were probably caused by prior exposure to asbestos.
  - Of the 100 residents of Kobuk, Shungnak, and Kiana whose chest x-rays were reviewed, 7 had pleural changes that might have been caused by prior exposure to asbestos.
  - The asbestos-related changes were in the form of pleural plaques, and their appearance suggests that they were due to asbestos exposure many years ago, possibly due to occupational exposure.

- After receiving the information from reading the chest x-rays, a medical epidemiologist from the Section of Epidemiology visited Maniilaq, reviewed all available medical records, and with the help of a local interpreter, interviewed the patients who were still living and who agreed to be interviewed.
  - Several of the residents described past employment working in mines.
  - Many of the residents worked in mining many years ago, and they were unable to provide detailed information that would enable specific characterization of exposure to asbestos.
  - Of the 9 people with pleural plaques suspicious for asbestos exposure, 1 recalled working in an asbestos mine, 1 worked with asbestos as a construction worker, 1 was repeatedly exposed to high levels of mine dust while washing her husband's clothing, 1 refused interview, 2 had other medical conditions not-related to asbestos that definitively explained the x-ray findings, and the results for the remaining 3 were inconclusive because they had non-asbestos related lung diseases but these diseases did not definitively account for the x-ray changes.
- There are no medical tests to determine the amount of asbestos a person has been exposed to during their lifetime.
- There are no medical tests that are uniquely specific to identifying asbestos-related disease, but general clinical tests of lung function and chest x-rays are used to diagnose the disease and its impact. It is particularly difficult to identify mild cases.
- Persons who are exposed to asbestos have a greatly increased risk of developing asbestos-related disease if they smoke tobacco.

Asbestos Deposits in the Kobuk River Area

- Asbestos has been documented to be naturally present in the Kobuk valley for at least one century, and archaeologists have evidence that asbestos has been used by Alaska Natives for hundreds of years.

- Twelve asbestos deposits have been identified in the Ambler/Shungnak/Kobuk area.
- Asbestos mining occurred near Shungnak in the 1940s. Approximately 45 tons of tremolite asbestos was mined from Asbestos Mountain near the head of Dahl Creek in the 1940s.
- Approximately one ton of chrysotile asbestos was removed near Dahl Creek in 1945.
- Limited development of asbestos deposits on Bismark Mountain, Jade Mountain, and Cosmos Creek also occurred in the 1940s.
- Local Alaska Natives were employed to mine and develop these asbestos deposits in the 1940s.

Environmental Sampling Near Ambler

Since the discovery of naturally occurring asbestos in the Ambler gravel pit during the fall of 2003, several sampling efforts have occurred (Table 1). Gravel from the Ambler gravel pit has been used throughout Ambler for roads, housing and building pads, and the airport runway for 30 to 40 years.

- The unprocessed soil from the easternmost portion of the gravel pit contains trace amounts of asbestos (<1%). The sieved processed soil remaining in the gravel pit contains 5% to 10% asbestos. Pure chysotile asbestos has also been identified in the gravel pit.
- Chrysotile asbestos has been detected in air samples within the school at 0.01 fibers/cubic centimeter. For comparison, the OSHA standard based on an 8-hour time weighted average is 0.1 fibers/cubic centimeter.
- Asbestos concentrations ranged from trace amounts (<1%) to 5% in samples of gravel used for construction that came from the Ambler gravel pit.
- Chrysotile asbestos was found in soil used to cover the gravel at the new Ambler school, although in very low levels.
- Asbestos was not detected in three ambient air samples collected last year near the road in Ambler.
- In an effort to locate a new, asbestos-free gravel pit site, the Alaska Department of Transportation and Public Facilities investigated 7 candidate material sites adjacent to the Ambler and Kobuk Rivers over an approximately 10 mile area. Of the 40 soil samples collected from the proposed new material site, 17 contained trace amounts (<1%) of asbestos. Of the 30 samples collected from the other 6 candidate sites, 12 samples contained trace amounts to 1% asbestos.

Planned Construction Activities

- Several major construction projects important to the village have been on hold until the extent of asbestos could be determined and its significance assessed:
  - Runway repairs at the airport
  - New sewage lagoon
  - New washeteria with underground piping to the new sewage lagoon

- The Alaska Native Tribal Health Consortium (ANTHC) engineers are proceeding with construction planning, including provisions to protect workers from asbestos exposure in accordance with Occupational Safety and Health Administration (OSHA) requirements.

- Based upon the characteristics of the planned construction projects, ANTHC believes that all of the construction projects can be accomplished within OSHA standards for worker protection.

Summary and Public Health Recommendations

- Additional public health medical record and chest x-ray reviews will be needed, but they will not provide much additional information to assist in deciding on construction this summer.
- There would be minimal increase in risk to residents from marginal exposure to asbestos as a result of any of the proposed construction activities if they were to proceed this summer. The asbestos that is present has been present for decades, and now that it is known to be present, construction projects can take precautions to minimize airborne dust and worker exposure can be controlled to OSHA standards.
- Deferring the construction projects carries risks to the community. The community needs to have a sound airport runway, a functioning sewage lagoon, and a working water and sewer system.
- With use of personal air monitors, worker safety and health can be protected if the proposed construction proceeds.
- Ambient air monitoring during construction will enable monitoring of community exposures.
- Additional soil testing in Ambler is essential to determine if asbestos is present other than from past use of gravel from the Ambler gravel pit.
- Soil testing in Kobuk, Shungnak, and Kiana should be done to determine if asbestos is present in the villages.
- Given the long history of use of gravel from the gravel pit, it is unlikely that Ambler will ever be asbestos-free in the future. However, the low concentrations of asbestos to which the residents will be exposed are unlikely to pose a significant threat to the public's health. The Alaska Division of Public Health will continue to assist the community to assess the extent of past, present, and future health hazards and, if necessary, develop practical risk management approaches.

Table 1. Recent Sampling for Asbestos in the Ambler area.

Agency	Year	Sample location	Number of samples	Amount of asbestos
Alaska Department of Transportation and Public Facilities	2003	Ambler gravel pit	3	1 to 10%
Department of Labor and Workforce Development	2003	Under school-original soil	2	not detected
		Near school from gravel originating from the gravel pit	3	< 1%
		Gravel pit	2	<1%
		Gravel pit	1	pure chrysotile mineral
		Wipe samples inside of school	3	asbestos detected
		Air sample	1	0.01 fibers/cc
NANA (prepared by Stevens Exploration Management Corp.)	2004	Ambler gravel pit	visual examination of screened reject	5 to 10 % asbestos
		Gravel pit-easternmost portion	3	<1%
Alaska Native Tribal Health Consortium	2004	Lagoon test hole	2 composite	not detected
		Sand/gravel from the Redstone Ave stockpile,WTP and washeteria pad, and lift station	3	0.75% to 5%
		WTP and washeteria pad	1 composite	1.7%
		Ambler borrow pit	1 composite	1.46%
Alaska Department of Environmental Conservation	2004	Air samples collected July and August for Total Suspended Particulates (TSP)	The 3 filters with the highest TSP	not detected
		Soil sample from the school yard	1	asbestos detected
Alaska Department of Transportation and Public Facilities	2005	Seven material sites were investigated	Proposed site-40 samples	17/40 samples-asbestos detected at <1%
			Six other sites-five samples each	12/30 samples-asbestos detected <1% to 1%

withdrawn

new

AMENDMENT #3

OFFERED IN THE HOUSE FINANCE COMMITTEE REPRESENTATIVE LES GARA

TO: CSHB 258, Version LS0400\Y

Page 6, line 25:
Insert after the word "area" as follows:
" while, if economic, shall be used instead of material containing naturally occurring asbestos,"

Page 7, Line 10:
Insert after the word "area", as follows:
" while, if economic, shall be used instead of material containing naturally occurring asbestos,"

Delete

P. 6 line 19 insert "after at least 2 public hearings," after "request."

Adopted 3/28/12

4

Bill version Y

27-LS0400\L.2
Nauman
3/27/12

AMENDMENT

OFFERED IN THE HOUSE BY REPRESENTATIVE GARA

TO: CSHB 258(FIN), Draft Version "L"

Page 10, line 3:

Delete "and"

Page 10, line 5, following "fibers":

Insert "; and

(D) a requirement that the contractor post conspicuously located and easily readable warning signs that notify residents of an affected area and persons travelling through an affected area that potentially dangerous airborne asbestos may be present because of the extraction, transportation, or use in a construction project of gravel or other aggregate material containing naturally occurring asbestos"

at p 7 line 2, after "notify",

and at p. 13 line 22, after "notify",

insert ", including through signage,"

Withdrawn

27-LS0400\L.2
Nauman
3/27/12

AMENDMENT #2

OFFERED IN THE HOUSE BY REPRESENTATIVE GARA

TO: CSHB 258(FIN), Draft Version "L"

Page 10, line 3:

Delete "and"

Page 10, line 5, following "fibers":

Insert "; and

(D) a requirement that the contractor post conspicuously located and easily readable warning signs that notify residents of an affected area and persons travelling through an affected area that potentially dangerous airborne asbestos may be present because of the extraction, transportation, or use in a construction project of gravel or other aggregate material containing naturally occurring asbestos"

not offered

27-LS0400\L.1
Nauman
3/27/12

AMENDMENT #1

OFFERED IN THE HOUSE BY REPRESENTATIVE GARA

TO: CSHB 258(FIN), Draft Version "L"

Page 1, line 6:

Delete "**for the state and for**"

Insert "**from class action lawsuits and barring a claim for punitive damages against the state and**"

Page 1, lines 7 - 8:

Delete "**or claims arising in connection with**"

Insert "**related to**"

Page 1, line 10, following "**Facilities;**":

Insert "**amending Rule 23, Alaska Rules of Civil Procedure;**"

Page 3, line 9:

Delete "liability"

Insert "class action lawsuits and claims for punitive damages"

Page 3, line 12:

Delete "civil immunity"

Insert "protection from a class action lawsuit and bars a claim for punitive damages"

Page 4, line 3:

Delete "civil"

Insert "class"

Page 4, lines 3 - 4:
Delete "damages or costs"
Insert "punitive damages"

Page 4, line 22:
Delete "civil"
Insert "class"
Following "claim":
Insert "for punitive damages"

Page 4, line 30:
Delete "civil"
Insert "class"
Delete "damages or costs"
Insert "punitive damages"

Page 5, line 13:
Delete "immunity in a civil action"
Insert "the immunity provided"

Page 12, following line 22:
Insert a new bill section to read:

"* **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to read:

INDIRECT COURT RULE CHANGE. AS 09.65.245, added by sec. 2 of this Act, has the effect of amending Rule 23, Alaska Rules of Civil Procedure, by prohibiting a class action lawsuit against a state or private party in certain circumstances."

Renumber the following bill sections accordingly.

Page 13, line 11:

Delete "sec. 6"

Insert "sec. 7"

Page 14, line 3:

Delete "sec. 6"

Insert "sec. 7"

Page 14, line 14:

Delete "sec. 5"

Insert "sec. 6"

Page 14, following line 14:

Insert a new bill section to read:

"*** Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to read:

CONDITIONAL EFFECT. Sections 1 - 3 of this Act, AS 44.42.400(b) and (c), and AS 44.42.410, added by sec. 4 of this Act, and sec. 5 of this Act take effect only if sec. 5 of this Act receives the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska."

Renumber the following bill section accordingly.

Alaska Native Tribal Health Consortium

Division of Community Health Services • 4000 Ambassador Drive, 4th Floor • Anchorage, Alaska 99508 • Phone: (907) 729-3648 • Fax: (907) 729-3652 • www.anthc.org

Representative Reggie Joule
State Capitol
Juneau, Alaska 99801

Re: HB 358 – Naturally Occurring Asbestos

Dear Representative Joule:

The benefits of clean water and sanitation to a community's health have been demonstrated world-wide, and among them are the reduction of illness and death from gastrointestinal infection, especially among children and elderly residents. In rural Alaska Native residents, the Center for Disease Control (CDC) and the Alaska Native Tribal Health Consortium (ANTHC) have clearly shown a reduction in hospitalization for lower respiratory infection in infants residing in villages with piped water. This is especially significant in Alaska, where rural Alaska Native infants have one of the highest rates of hospitalization for severe respiratory infection in the US.

The presence of trained village-based providers, Community Health Aides, in village clinics, has greatly contributed to a steady reduction in early recognition of complicated pregnancy, ability to stabilize ill and injured residents, timely immunizations in infants and children, and follow-up of the chronically ill, allowing more people with serious medical conditions to live in their villages. All of these advantages have greatly contributed to a steady reduction in maternal and infant mortality, death from injury, and increased life expectancy among Alaska Natives.

The health hazards of naturally occurring asbestos in dust from construction activities in village in Alaska has never been quantified. The signature disease, malignant mesothelioma, has not been seen in any Alaska Native, in the 43 year record of the Alaska Native Tumor Registry. In a review of chest x-rays of individuals residing in the Kobuk Valley villages, age 50 or more in 2005, 21 of 130 chest x-rays had evidence of possible asbestosis. Interviews were conducted with those still alive at that time, and a number had an occupational history of exposure, and others could not exclude that possibility. No death certificate of any resident of the region had an asbestosis or mesothelioma diagnosis.

In summary, the Public Health evaluation of NOA in Ambler in 2005 concluded that disease caused by NOA could not be definitely established or excluded. The establishment of effective environmental control mechanisms, monitoring, and training with adequate protective equipment for workers should reduce the theoretic risk from dust and disturbed geologic deposits to levels that meet OSHA standards, and enable the community to take advantage of the well-established risk reduction that piped water, adequate sewage management, and modern CHA clinics can provide.

If you have specific questions I can be reached at 907-729-3640

Sincerely,

James E. Berner, MD
Senior Director for Science, Division of Community Health Services

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version: **HB258**
Fiscal Note Number:
Publish Date:

Identifier (file name): HB258CS-DOT-STWD-3-22-12
Title: Naturally Occurring Asbestos
Sponsor: Representative Joule
Requester: H (FIN)

Dept. Affected: DOT&PF
Appropriation: Design, Engineering & Construction
Allocation: Stwd Design & Engineering Services
OMB Component Number: 2357

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	**FY13**	**FY13**	**FY14**	**FY15**	**FY16**	**FY17**	**FY18**
Personal Services	117.6		117.6	117.6	117.6	117.6	117.6
Travel	15.0		15.0	10.0	10.0	5.0	5.0
Services	50.0		52.5	52.5	2.5	2.5	2.5
Commodities	7.5		0.5	0.5	0.5	0.5	0.5
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	**190.1**	**0.0**	**185.6**	**180.6**	**130.6**	**125.6**	**125.6**

FUND SOURCE		(Thousands of Dollars)						
1002	Federal Receipts							
1003	GF Match							
1004	GF	190.1		185.6	180.6	130.6	125.6	125.6
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
TOTAL		**190.1**	**0.0**	**185.6**	**180.6**	**130.6**	**125.6**	**125.6**

POSITIONS							
Full-time	**1.0**		1	1	1	1	1
Part-time							
Temporary							

CHANGE IN REVENUES							

Estimated SUPPLEMENTAL (FY12) operating costs _____ *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs _____ *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Initial version

Prepared by: Brenda Hewitt, Legislative Liaison — Phone: 465-4772
Division: Department of Transportation and Public Facilities — Date/Time: 3/22/12 2:56 PM
Approved by: Marc Luiken — Date: 3/22/2012
Commissioner

(Revised 8/17/2011 OMB)

FISCAL NOTE

STATE OF ALASKA **BILL NO.** HB258
2012 LEGISLATIVE SESSION

Analysis

This act requires the Department of Transportation and Public Facilities (DOT&PF) to develop and implement standards on a project-by-project basis for the use of gravel containing naturally occurring asbestos (NOA) when there is no economically reasonable alternative source of "clean" gravel. The Department is also required to develop testing methodologies and procedures for indemnification.

Additionally, DOT&PF is to approve private contractor plans for the use of naturally occurring asbestos in construction projects in Alaska. DOT&PF will only approve the plans. Liability rests with the contractor to comply with the DOT&PF plan if they seek future immunity, under certain circumstances, from illnesses that may arise from worker exposure to limited amounts of naturally occurring asbestos. The bill refers to the retention of testing records that DOT&PF presumes will be recorded with the property deed.

The Department will hire an Engineer/Architect I to oversee contractors, work with other departments on the development of regulations, policies, procedures and laboratory methodology as well review project plans to insure they are in compliance with appropriate policies, standards and that all applicable analysis is also in compliance with the newly developed analytical methodologies. Travel is necessary to attend meetings, work with other agencies, laboratories and consultants and travel to sites as necessary. ($15.0)

The initial set up costs for a new staff is $7.5. Ongoing costs of $2.5 for core departmental services and $0.5 for supplies.

The Department will contract with technical and regulatory consultants with NOA expertise to develop the standards, procedures, and testing methodologies ($50.0/year for FYs 13, 14, 15). The Department assumes all NOA testing will be done by the contractors or material site owners.

First Year

Personal Services		
	Salary and benefits for Engineer/Architect I range 22	117.6
Travel		15.0
Services		50.0
	Consultants (NOA specialists)	
Commodities		7.5
TOTAL first year		$190.1

AMENDMENT #3

OFFERED IN THE HOUSE FINANCE COMMITTEE REPRESENTATIVE LES GARA

TO: CSHB 258, Version LS0400\Y

Page 6, line 25:

Insert after the word "area" as follows:

" while, if economic, shall be used instead of material containing naturally occurring asbestos,"

Page 7, Line 10:

Insert after the word "area", as follows:

" while, if economic, shall be used instead of material containing naturally occurring asbestos,"

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version: **HB258CS**
Fiscal Note Number:
() Publish Date:

Identifier (file name): HB258CS(FIN)-DNR-MLW-03-20-12
Title: NATURALLY OCCURRING ASBESTOS
Sponsor: Rep. Joule
Requester: (H) FIN

Dept. Affected: Dept. of Natural Resources
Appropriation: Land & Water Resources
Allocation: Mining, Land & Water
OMB Component Number: 3002

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	**FY13**	**FY13**	**FY14**	**FY15**	**FY16**	**FY17**	**FY18**
Personal Services	4.4						
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	**4.4**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

FUND SOURCE		(Thousands of Dollars)						
1002	Federal Receipts							
1003	GF Match							
1004	GF	4.4						
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
TOTAL		**4.4**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

POSITIONS							
Full-time							
Part-time							
Temporary							

CHANGE IN REVENUES							

Estimated SUPPLEMENTAL (FY12) operating costs 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Initial Version

Prepared by: Brent Goodrum, Director — Phone: 907-269-8625
Division: Mining, Land & Water — Date/Time: 3/20/12 5:00 PM
Approved by: Daniel S. Sullivan, Commissioner — Date: 3/20/2012
Department of Natural Resources

(Revised 1/17/2012 OMB)

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

BILL NO. HB258CS

Analysis

This legislation requires the Department of Transportation and Public Facilities (DOTPF) to develop and implement standards and operating procedures, and evaluate site-specific use plans. Section 4 of the bill requires DOTPF to develop and maintain an information database(in cooperation with DNR) that includes locations of gravel or other aggregate material that contains naturally occurring asbestos, gravel or other aggregate material free from naturally occurring asbestos, and suggests locations to stockpile gravel or other aggregate material free from naturally occurring asbestos, and communities that have reported that they do not have reasonable access to asbestos-free gravel and aggregate.

This Fiscal Note assumes that DOTPF would be the agency responsible for performing all associated data gathering and any required research or studies needed to perform this function. DNR/MLW would only be responsible for the development and maintenance of this data base where the data is compiled and made available to the public through a dedicated web page. DNR would create the database from information provided to it from DOTPF, its contractors or the public per the requirements of the bill.

In this role, DNR would be tasked with coordinating with DOTPF in the establishment and maintaining lists of sites in the state known to contain naturally occurring asbestos; known sources of gravel or other aggregate material free from naturally occurring asbestos within reasonable proximity to known sites of naturally occurring asbestos; known sources of gravel or other aggregate material free from naturally occurring asbestos within 25 miles of a community for all known projects the state or a municipality intends to undertake within 25 miles of the community in the next five years where the state or municipality intends to use gravel or other aggregate material containing naturally occurring asbestos; known communities that do not have reasonable access to gravel or other aggregate material free from naturally occurring asbestos; and all data collected under the requirements of AS 44.42.410(f)(1)(B), by project.

Creation of the database and associated web page(s) would require no more than two weeks of a GIS Analyst IV (range 21) at $2.2/ week = $4.4. Ongoing updates and maintenance of the data base and web pages would be minimal.

Representative Reggie Joule
Alaska State Legislature District 40

Sponsor Statement for HB 258
Naturally Occurring Asbestos in Gravel

HB 258 authorizes and regulates the use of gravel or aggregate material that contains naturally occurring asbestos (NOA). There are documented cases of NOA being found in several areas of the state, including Juneau, along the Dalton Highway and Ambler. Discovery of NOA in local gravel pits has delayed and, in Ambler's case, halted construction projects. The use of NOA in construction projects may be regulated by states. Virginia and California have been regulating NOA for many years. With the passage of HB 258, the discovery of NOA in local gravel sources and the cost of transporting non-NOA gravel and material will not impact the success and completion of construction projects and important future state infrastructure in Rural Alaska.

Several large projects are on the state's horizon that will require the use of large amounts of gravel. These large projects are in mineral rich areas of the state critical to the future development of Alaska. Most notably, it is estimated that the gas pipeline alone may use 50 to 60 million cubic yards of new gravel. Many miles of the Dalton Highway will be reconstructed in support of the project, requiring additional gravel. In Rural Alaska, almost all airport construction and upgrades require material from local gravel sources; a new small airport can use up to 25,000 cubic yards of gravel. The use of NOA gravel and materials should be resolved before it becomes an issue during the actual construction process of any of these large future projects.

HB 258 directs the Department of Transportation and Public Facilities to develop and implement statewide regulations and standard operating procedures (SOP) to allow for the use of NOA for both State and private construction projects. HB 258 will balance the needs of moving Alaska forward; building critical infrastructure, completing construction projects while protecting the health of Alaskan workers and communities.

Alaska Native
Tribal Health Consortium

Administration · 4000 Ambassador Drive · Anchorage, Alaska 99508 · Phone: (907) 729-1900 · Fax: (907) 729-1901 · www.anthc.org

POSITION PAPER

CONTACT: Valerie Davidson, Senior Director
Legal and Intergovernmental Affairs
Through Pat Jackson, State Liaison for Alaska Native Health
523-0363 – pajackson@anthc.org

DATE: March 28, 2012

RE: HB 258 Naturally Occurring Asbestos

POSITION: Support

The benefits of clean water and sanitation to a community's health have been demonstrated world-wide, and among them are the reduction of illness and death from gastrointestinal infection, especially among children and elderly residents. In rural Alaska Native residents, the Center for Disease Control (CDC) and the Alaska Native Tribal Health Consortium (ANTHC) have clearly shown a reduction in hospitalization for lower respiratory infection in infants residing in villages with piped water. This is especially significant in Alaska, where rural Alaska Native infants have one of the highest rates of hospitalization for severe respiratory infection in the US.

The presence of trained village-based providers, Community Health Aides, in village clinics, has greatly contributed to a steady reduction in early recognition of complicated pregnancy, ability to stabilize ill and injured residents, timely immunizations in infants and children, and follow-up of the chronically ill, allowing more people with serious medical conditions to live in their villages. All of these advantages have greatly contributed to a steady reduction in maternal and infant mortality, death from injury, and increased life expectancy among Alaska Natives.

The health hazards of naturally occurring asbestos in dust from construction activities in village in Alaska has never been quantified. The signature disease, malignant mesothelioma, has not been seen in any Alaska Native, in the 43 year record of the Alaska Native Tumor Registry. In a review of chest x-rays of individuals residing in the Kobuk Valley villages, age 50 or more in 2005, 21 of 130 chest x-rays had evidence of possible asbestosis. Interviews were conducted with those still alive at that time, and a number had an occupational history of exposure, and others could not exclude that possibility. No death certificate of any resident of the region had an asbestosis or mesothelioma diagnosis.

In summary, the Public Health evaluation of NOA in Ambler in 2005 concluded that disease caused by NOA could not be definitely established or excluded. The establishment of effective environmental control mechanisms, monitoring, and training with adequate protective equipment for workers should reduce the theoretic risk from dust and disturbed geologic deposits to levels that meet OSHA standards, and enable the community to take advantage of the well-established risk reduction that piped water, adequate sewage management, and modern CHA clinics can provide.

ANTHC supports passage of HB 258.

Representative Reggie Joule
Alaska State Legislature District 40

Department of Law & Department Labor and Workforce Development Answers on Worker's Compensations Claims and HB 258 Immunity

From: Scavera, Paula D (DOL)
Sent: Tuesday, March 20, 2012 9:59 AM
To: Badgley, Cori M (LAW); Brodie Anderson
Cc: Anjilvel, Saritha R (LAW)
Subject: RE: HB 258 (naturally occurring asbestos) - Immunity and Work

After reviewing HB 258 within the Department (including the Workers' Compensation Division), the Department agrees with the Department of Law's assessment of the bill. Thank you. Paula Scavera

---

From: Badgley, Cori M (LAW)
Sent: Tuesday, March 20, 2012 7:43 AM
To: Anderson, Brodie (LAA)
Cc: Anjilvel, Saritha R (LAW); Scavera, Paula D (DOL)
Subject: HB 258 (naturally occurring asbestos) - Immunity and Work

Brodie,

Per our discussion, we asked our immunity experts about worker's compensation, and it turns out that as worker's compensation is considered a benefit rather than a claim, it is typically NOT affected by immunity statutes. We are looking into this further with the specific immunity language in the bill in mind, but I wanted to let you know that this is our initial conclusion.

Department of Labor might also have some thoughts on worker's compensation from an administration and policy point of view.

Thanks!

Cori Badgley
Assistant Attorney General
Legislation and Regulations Section
Department of Law
P.O. Box 110300
Juneau, Alaska 99811
cori.badgley@alaska.gov
(907) 465-2132

Representative Reggie Joule
Alaska State Legislature District 40

Ambler Major Construction Projects Delayed/On Hold due to Naturally Occurring Asbestos

1. **Airport Extension ***
2. **Replace Grizzly Bridge ***
3. **Solid Waste Site ***
4. Riverbank Erosion in of front of town
    a. Impacting power lines AVEC/OTZ
5. North and South Loop Replacements
6. Existing Roads maintenance
7. School playground
8. Future home sites

(*)Reflects Legislative Priority for Ambler

AIP Project Schedule
2011-2013
FAA Airports Division, Alaskan Region
(Last saved: August 15, 2011)

http://www.faa.gov/airports/alaskan/aip/media/aip_project_list.pdf

STATE OF ALASKA - NORTHERN REGION

AMBLER AFM

Project: Extend primary and crosswind runways, clear runway visibility zone, expand runway safety areas, construct new apron, construct new SREB, and relocate airport access road. Project delayed until a suitable material source can be found that does not contain asbestos.

Construction Start: 2014

Likely Completion Date: 2015

Sponsor/POC: AKDOT Ryan Anderson 451-5129

Airports POC: Matt Freeman, 271-5455

ATO POC: Ed Vey, 271-3056

FAA Flight Procedures POC: Kyle Christiansen, 271-5187

NAS Impacts: Existing VASI's.

AVN Impacts: Update all IAP's. Need new runway data by end of 2006.

Naturally Occurring Asbestos in Alaska and Experiences and Policy of Other States Regarding its Use

A joint project
By
Dr. Robert A. Perkins, PE
Institute of Northern Engineering
University of Alaska Fairbanks
And
John Hargesheimer, PE, CIH
Aaron Winterfeld, CHMM
Nortech

September 2009

Institute of Northern Engineering

University of Alaska Fairbanks
Fairbanks, Alaska 99775
www.uaf.edu/ine /

APPENDEXICES

1. California Regulation
    a. ATCM I
    b. ATCM II
2. Virginia Regulation
    a. Directive I
    b. Directive II
3. Excel file with USGS 2009 Alaska Resource Data File is available electronically from the authors.

The key conclusion is that NOA can be used in many projects, but precautions are needed, especially a plan for its use. Considering the importance of NOA to ADOT's mission we recommend that the ADOT take the lead in a statewide effort to develop an appropriate NOA policy and program by coordinating a stakeholders working group effort. NOA programs in other states were developed with input from industry, public health, environmental and state organizations and agencies. The outputs of the NOA programs included source characterization, geologic mapping, standardized operating procedures (SOP), program exemption procedures, and local authority. Successful implementation of a NOA program will require significant commitment and change in industry, operational, management, design and construction practices for use of NOA materials. To insure comprehensive input and facilitate stakeholder "buy in," the statewide working group should include federal and state, and local government, as well as industry, community and public health interested parties.

Here we assume that in order for projects that must use NOA to proceed, the ADOT must have a standard or SOP that contains the goals and guidelines that the ADOT must follow in order to use NOA safely. The SOP in turn would require a specific action plan for each project. Of course other project owners could use the ADOT's SOP. Thus, the ADOT's goal with the NOA working group is to develop an SOP that is directed towards ADOT projects, but also satisfies the goals the various stakeholders. We note here that protecting the public health and safety is the overarching goal the ADOT's operations, but the ADOT's approach via building safe roads and airports is different than, for example, the EPA's approach of limiting public exposure to carcinogens. The goals and charges of all the agencies can be reconciled into a workable SOP, but the coordination effort should not be underestimated.

Here is a putative outline of the SOP required for safe use of NOA and the steps likely required to garner wide stakeholder approval of the SOP.

1. The SOP includes
    a. site investigation and characterizations
        i. Laboratory practices
    b. review of design alternates to use non-NOA materials
        i. Cost analysis
    c. evaluation of human health concerns and agency involvement
    d. designs that use NOA
        i. typical drawings and specifications
    e. acceptable construction practices
        i. typical contract provisions
        ii. QA/QC
    f. acceptable and required O&M practices
        i. State forces
        ii. Local forces
    g. O&M and other issues related to in-place NOA

INTRODUCTION

Asbestos is a term for naturally occurring silicate minerals with long, thin fibrous crystals that were historically mined and utilized in a wide-variety of manufactured products because of favorable chemical and physical properties. By the 1980s inhalation of asbestos fibers was found to be a human carcinogen responsible for diseases such as asbestosis, mesothelioma and lung cancer and the mining and use of asbestos in manufactured products was banned. While mining and manufacturing has since ended in the United States, Naturally Occurring Asbestos (NOA) is a constituent of some rocks and soils existing in varying types and quantities in several locations throughout the nation including Alaska. The United States Occupational Safety and Health Administration (OSHA) regulates asbestos exposure in the workplace; however, federal regulations do not address non-occupational exposure from NOA. Due to the lack of regulatory guidance associated with NOA, some states with substantial NOA concerns, such as California, have implemented state-wide regulations controlling the use of soils with NOA.

Due to geography, land mass, limited road systems and relatively sparse and scattered population centers within Alaska, NOA has not been a historical concern for the state. However, over the past several years NOA has been encountered in Alaska and has impacted state projects (e.g. Dalton Highway, Ambler, etc). Meanwhile the Alaska Department of Transportation & Public Facilities (ADOT) has an ever-increasing demand for gravel and rock to construct and repair the state's roads and airports. Large construction projects such as the proposed gas line or railroad extension will require gravel and rock source development.

The ADOT contracted with the Institute of Northern Engineering (INE) of the University of Alaska Fairbanks through the Alaska University Transportation Center to report on the available background information in Alaska and a literature search of information from other states that have similar NOA issues. INE contracted with Nortech Environmental, an Alaska consulting firm, to provide expertise in asbestos issues in Alaska, and to perform the literature search and consultations with other states.

This paper reviews NOA background, analytical issues, policies and regulations that have been considered and/or implemented by other authorities involved with NOA and who have developed NOA policy options. Identified NOA control strategies and technologies are evaluated and analyzed according to their effectiveness, enforcement, affordability and consistency with emerging US standards and ADOT programs. The literature is clear that NOA gravels can be used safety with proper workforce training, understanding and implementation of appropriate control strategies and technology. Implementation of effective Alaskan NOA policies, including development of any SOP to deal with NOA,

BACKGROUND

Asbestos History

The word 'asbestos' is of Greek origin and has the meaning "inextinguishable" or "indestructible." Today asbestos is the commercial term for a group of silicate minerals consisting of magnesium, calcium and iron all with fibrous tendencies. The favorable properties of asbestos were known and utilized by the ancient Greeks and Romans, Europeans throughout the Middle Ages, and most of the industrial world by the modern era. Asbestos was added in manufactured material for thermal and electrical insulation as well as for strength and chemical stability. These favorable traits lead to the continued use of asbestos in manufactured products through the industrial expansion of the 20th Century. By mid-1960 a high frequency of respiratory disease within the asbestos mining, manufacturing, shipbuilding and construction industries began to gain the attention of medical researchers.

Asbestos is naturally occurring in many parts of the world and was historically mined as raw ore. After the ore was segregated, the asbestos was broken down into fibers and fiber bundles during a milling process, and then further refined depending on the use. Asbestos was included in the manufacture of thermal piping insulation and spray-applied fireproofing as well as resilient floor coverings, acoustical materials, gaskets, plaster, vermiculite, joint compound, wall board, roofing products, industrial mastics, textile and friction productions such as automotive brakes.

In mineralogy, the word 'asbestos' describes a series of magnesium silicate minerals that naturally occur in fibrous form or 'asbestiform.' The six varieties of recognized asbestos minerals comprise two mineralogical groups: serpentines and amphiboles. The only variety of serpentine asbestos is chrysotile or 'white asbestos,' while the amphibole group has five mineral varieties: amosite or 'brown asbestos' (cummingtonite-grunerite asbestos), crocidolite or 'blue asbestos' (riebeckite asbestos), anthophyllite asbestos, tremolite asbestos and actinolite asbestos. Amosite and crocidolite are the trade names used for the asbestos varieties of the cummingtonite-grunerite and riebeckite series respectively. The name 'Amosite' originated as an acronym for "Asbestos Mines of South Africa."

Chrysotile is the predominant asbestos variety used commercially in the United States. Chrysotile has a crystal structure of a sheet of silicate rolled into a straw-like, hollow tube. The property creates a hydrophilic or 'water loving' tendency, and therefore water is often used to reduce airborne chrysotile fiber concentrations during processing and removal activities. Crocidolite and Amosite are the two additional asbestos varieties exclusively mined and intentionally added to commercial products. The other three forms of amphibole asbestos are generally found in trace amounts and are often described as a contaminant in mining operations. The crystal structure of amphiboles is a chain structure of

are exposed to asbestos to be provided information packets on smoking cessation programs and to ban smoking in all workplaces where any asbestos exposure is possible.

Asbestos Regulations

Although NOA is not regulated per se, here we review the most important asbestos regulations. The EPA regulates asbestos products primarily under three laws:

- Clean Air Act (CAA), at 40 CFR 61 Subpart M – National Emission Standard for a Hazardous Air Pollutant – Asbestos (NESHAP);
- Toxic Substances Control Act (TSCA), at 40 CFR 763 Asbestos; and
- Asbestos Hazard Emergency Response Act (AHERA) which amended TSCA in 1986.

Asbestos is further regulated by several federal agencies and some Alaska agencies.

NESHAP

The asbestos NESHAP regulates the emission of asbestos from the workplace into ambient air primarily during removal activities, building renovation/demolition and associated waste disposal operations. The NESHAP allows no visible emission of asbestos from the workplace during any regulated activity.

Three key NESHAP concepts are 'asbestos-containing material' (ACM), 'friable' material, and 'Regulated ACM' (RACM). A material is defined as ACM if it contains more than 1% asbestos as determined by polarized light microscopy (PLM) analysis. Untested materials identified as suspect by an accredited inspector must be Presumed ACM (PACM). Friable is defined as a material that, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure. Nonfriable materials are subdivided into Category I nonfriable (packings, gaskets, asphalt roofing products and resilient floor covering) and Category II nonfriable (such as wallboard, cement asbestos products, asbestos-containing plasters, and any nonfriable ACM not listed in Category I). Category II nonfriable ACM are materials that may become friable during handling or disposal.

RACM includes all friable ACM, nonfriable ACM that has become friable, Category II materials that will be made friable by the proposed activity and all Category I materials that will be subjected to operations causing fibers to become airborne. Prior to the demolition or renovation of any non-exempt structure in the United States, the owner or operator of the facility must inspect for the presence of asbestos, including Category I and II non friable ACM. NESHAP requires building owners and operators to notify the EPA (or a designated state agency) before demolishing any non-exempt structure. In addition, it requires a ten day advance notification if scheduled activities will disturb equal or greater than (≥) 260 linear feet on pipes, ≥160 square feet on surfaces and ≥35 cubic feet of debris of RACM. The NESHAP standard also prohibits emissions of asbestos to the outside air and requires emission control procedures and appropriate work

standard would apply to workers handling NOA if exposures were above the PELs. The shipyard standard, 29 CFR 1915.100, applies to asbestos exposure in all shipyard work and the construction standard, 29 CFR 1926.1101, applies to asbestos exposure in all construction work, including demolition and building maintenance.

All three standards are similar, with each standard setting two permissible exposure limits (PEL), the time-weighted average (TWA) and the excursion limit (EL). The TWA is 0.1 fiber per cubic centimeter of air (f/cc) averaged over an eight-hour period, while the EL is 1.0 f/cc averaged over a 30-minute period where exposure is likely to be the greatest. Each standard specifies training, medical monitoring and recordkeeping requirements for employers of workers who are exposed to asbestos. Differences exist primarily in the areas of effective dates for worker training, medical monitoring, and in work practices specific to the industry. The construction standard is the most detailed and divides asbestos work into classes, I-IV, based on the type of the material, the work being performed, how the material will be impacted, and the amount of ACM involved in the work. For all construction work scheduled to impact PACM or ACM, a competent person must conduct an initial exposure assessment to determine employee worst-case exposure and to establish the engineering controls, work practices, and personal protective equipment that may be required. The standard also supplements the OSHA Hazard Communication Standard (29CFR 1910.1200 and 29 CFR 1926.59) by requiring building and facility owners to notify prospective contractors and subcontractors, tenants, and the owner's own employees about the presence, location and amount of PACM and ACM in the building. This standard requires owners to conduct asbestos inspection or surveys so that the necessary information is available for compliance with notification requirements. The General Industry Standards would apply to workers handling NOA if there exposure were over the PEL.

DOT

The U.S. Department of Transportation (DOT) regulates the transportation of hazardous materials including friable asbestos under the Hazardous Materials Transportation Act (HTMA). DOT's hazardous materials regulations (HMR) are found at 49 CFR 171-180. These regulations require the proper packaging, labeling, shipping manifests, marking, placarding and trained employees associated with shipping of ACM and waste. Proper shipping papers must accompany asbestos-containing shipments with packages properly marked and labeled with the Class 9 diamond. The markings must include the North American identification number, NA2212, and the proper DOT descriptive name (RQ, Asbestos 9, NA2212, PG III). Laboratory samples in shipment are exempt from the regulations, except for the packaging requirements of 49 CFR 173.4.

MSHA

As of April 29, 2008, the U.S. Department's of Labor Mine Safety and Health Administration (MSHA) revised exposure limits on asbestos for miners. The

The mineralogical community uses the term "asbestiform" to describe the morphology of a mineral which has longitudinal parting and can be split into individual fibers. Not all asbestiform minerals are regulated varieties of asbestos; however, all regulated asbestos are asbestiform. Asbestiform minerals consist of fibers that grow almost exclusively in one dimension, are easily bent and occur as bundles of smaller fibers which are called fibrils. This bundling effect of asbestiform minerals is used as a unique distinguishing feature. Asbestiform minerals are long and thin, with aspect ratios of typically 20:1 to 100:1 or greater. Most asbestiform fibers are less than 0.1 microns in width, and nearly all are less than 0.5 micron. Individual asbestiform fibers are visible only with the aid of a microscope. It is important to note these forms became regulated due mainly to their presence in commercial products and several other asbestiform minerals exist, in addition to the six regulated forms, and may be encountered in natural deposits and pose heath hazards similar to that of the regulated varieties.

Geologic Occurrence of Asbestos Minerals

Metamorphic rocks are the result of the transformation of a protolith (existing rock) in a process called metamorphism during which the protolith is subjected to heat and pressure causing profound physical and/or chemical change. Prior to the transformation, the protolith may begin as sedimentary rock, igneous rock or another older metamorphic rock. A large portion of the Earth's crust is composed of metamorphic rocks which are classified by texture and by chemical and mineral assemblage. They may be formed simply by being deep beneath the Earth's surface, subjected to high temperatures and the great pressure of the rock layers above it. They can be formed by tectonic processes such as continental collisions which cause horizontal pressure, friction and distortion or when rock is heated up by hot molten rock, magma, from the Earth's interior, later referred to as igneous intrusion.

Serpentines (Chrysotile) are a magnesium silicate, while amphiboles are generally iron-magnesium silicates with varying amounts of sodium and calcium. If the protolith contains these chemical components asbestos formation is more likely than those that do not. All rocks which have this chemical composition have the potential to contain amphibole asbestos or serpentine asbestos; however, the non-asbestiform varieties of these minerals considerably more dominant than asbestiform.[2]

Asbestos minerals are generally associated with ultramafic rocks and their metamorphic protolith, including serpentinite (serpentine rock). Ultramafic rocks are those igneous rocks composed mainly of iron-magnesium silicate minerals, such as olivine and pyroxene. They include the rock types dunite, peridotite, pyroxenite, and hornblendite. Ultramafic rocks form in high-temperature and high-pressure environments deep beneath the earth's surface. By the time they are exposed at the earth's surface, ultramafic rocks have typically undergone a type of metamorphism known as serpentinization, a process that alters the

site at http://tin.er.usgs.gov/mrds[6]. The sites on these maps give an indication of the major areas of concern, which are most particularly located along the Appalachian and Rocky Mountains as well as in the Western Cordillera. In some of these areas, such as California and Virginia, the NOA issue has been known for some time and local agencies have responded in a variety of ways such as implementing state and local policies and regulations for testing and handling suspect and known NOA. The health risks associated with NOA are based on the potential for exposure. The exposure pathway of greatest concern is through inhalation, which requires the asbestos to become airborne. Experts believe that natural factors such as wind erosion pose little threat to human exposure, but rather disturbance of NOA-containing rock and soil under dry conditions. Because of this health risks are generally quantified though activity-based sampling on a site-specific basis. Below is a list of some areas in the US where NOA has been identified, and local responses to the occurrence:

Virginia

In 1987 the presence of NOA in Fairfax County, Virginia, was brought to the attention of the Fairfax County Air Pollution Control Division (Fairfax APCD) during the construction of an underground parking garage. As a result from the NOA-containing rock being drilled and crushed with no mitigation controls in place, the entire construction project was reportedly covered with NOA-containing dust. Several drill operators experienced itching and skin irritation which through subsequent medical and geological investigations was determined to be caused by tremolite asbestos fibers. The Fairfax County Soil Science Office later performed sampling and found a vein of asbestiform actinolite and tremolite comprising 10.9 square miles. Since the NOA discovery, Fairfax County has implemented NOA-specific policies regarding construction project that will impact soil.[7]

California

Serpentinite is California's official state rock and the source of much of the NOA found there. El Dorado Hills, a community in the Sierra foothills near Sacramento is a community that has had ongoing NOA issues associated with fibrous amphiboles in bedrock and soils since 1999. Reports have indicated that airborne concentrations of asbestos regularly reach levels of concern through non-construction activities such has recreation and gardening. In February 2002, during a construction project at a local school, veins of asbestos-containing minerals were discovered. The school soil was remediated that summer, but in September 2003, the EPA carried out activity-based sampling which involved measuring NOA in the breathing zone during recreational activities around the school which yielded varying results of airborne asbestos concentrations. Results underwent criticism for analysis methods and definition of asbestiform vs non-asbestiform minerals; however, a generally consensus was reached that a potential health risk existed for asbestos exposure existed in the area.[8]

Montana

Libby is a small town located in the northwest corner of Montana approximately 35 miles East of Idaho and 65 miles south of Canada. In the 1880's, gold miners discovered vermiculite near Libby, and by 1920 the Zonolite Company had formed and began mining the vermiculite. Vermiculite is used in many common commercial products, including attic insulation, fireproofing materials, masonry fill, and as an additive to potting soils and fertilizers. In 1963, W.R. Grace purchased the Zonolite mining operation which remained in production until 1990.[9] In the fall of 1999, a series of newspaper articles state the ore deposit contained small amounts of asbestiform amphiboles. In response to these articles, the EPA sent an Emergency Response Team to Libby in November 1999 to address the asbestos concerns. The vermiculite ore mined from Libby was contaminated with fibrous amphiboles consisting of tremolite and the asbestiform amphiboles winchite and richterite. [8]Tremolite is a regulated form of asbestos; however, papers by Meeker[10] and Gunter[11] concluded that tremolite made up less than 10% of the amphibole population suggesting the winchite and richterite likely contributed to the increase in asbestos related illness affecting the former Libby miners. Multiple studies yielded results illustrating that rates of lung cancer, asbestosis and mesothelioma were about 2.5 times higher in the Libby miners than expected. [8]

EPA implemented a program to inspect all Libby properties for elevated asbestos levels. Between 2002 and 2003, approximately 3500 properties were inspected, with 12,000 soil samples being collected. As of 2009, the EPA has completed cleanups at over 1100 properties including the vermiculite processing plants and other "highly contaminated" public areas with an estimated 100 large property cleanups scheduled for the 2009 constructed season.[9]

Analytical Methods for Quantifying Asbestos in Soils

Various types of microscopic analysis are used to determine the amount of asbestos present in soils. The most common forms are discussed below. Additionally, variations exist for each method depending on sample preparation and counting methods utilized.

Polarized Light Microscopy (PLM)

PLM analysis is the standard method used to test for the presence or absence of asbestos in building materials. PLM results report a visual estimation of the weight percentage of asbestos in a sample. PLM analysis typically begins by viewing a sample under a stereoscope at 10X – 50X magnification; fibrous sub-samples are then selected to be viewed under a light microscope at 100X – 500X magnification. By correctly interpreting light interactions, analysts can accurately distinguish asbestos from non-asbestos materials (glass, cellulose) as well as

Scanning Electron Microscopy (SEM)

SEM is primarily used for asbestos analysis for air and dust samples with the asbestos fibers being identified using their chemical composition and appearance. Asbestos fibers too small to be detected using light microscopy can be seen.[14] SEM can be used to observe particle down to approximately 0.1 µm. SEM has not historically been heavily used for regulatory purposes; however, recently it has become more popular for studying amphiboles in their natural setting.[15]

CARB Method 435

The California Air Resources Board (CARB) adopted a NOA-specific testing method in 1990 known as CARB Method 435. (M435 or CARB 435) California currently requires this method for the analysis of gravels or mineralized soils to detect the presence of asbestos. In this method, the soil/aggregate sample is weighed, dried, milled (crushed to fine powder) and then analyzed by PLM or TEM. The CARB method is designed to detect "loose" asbestos fibers, unlike sieving methods which are used to analyze ACM mixed in soil.[16]

PLM analysis utilizes either a 400 or 1000 point count to obtain a level of detection of 0.25% and 0.1% respectively. The PLM resolution is only accurate down to 0.25 µm; asbestos fibers/bundles smaller than that (specifically amphiboles) will not be detected using PLM. For the CARB 435 TEM Method the sample is weighed, dried, milled, put into suspension and analyzed. Results are given in percent asbestos by mass with sensitivities down to 0.001%.[17]

CARB 435 results are considered representative of the worst case conditions when the NOA aggregate becomes pulverized due to handling, use application or natural conditions.

EPA Region 1 Proprietary Soil Characterization

This is a proprietary method that separates and analyzes the different portions of the sample. PLM or TEM analysis may be used for the final analysis but the method includes observations of the fractions of materials present, classification by particle size and source categories, including organic, man-made, geological and asbestos materials. Since this method does not alter the materials present for analysis, results represents the materials as they exist in their natural setting. EPA Region 1 Soil Characterization provides a visual estimation of the weight percentage.[18]

Analytical Methods for Quantifying Asbestos in Air

Typically asbestos air samples are collected by "pulling" a known rate of air through a 25mm cassette by either an electric or battery operated vacuum pump. The air is forced through either a 0.45 micron (µm) (TEM) or 0.8 µm (PCM) mixed cellulose ester (MCE) filter which is then analyzed for asbestos fibers/structures

conditions, specifically indoors. This method is used to identify the amount of respirable fibers present within a soil sample.[18]

such as PPE for workers and the use of wet methods. In addition, attempts were made to focus mining efforts on portions of the quarry which yielded the lowest concentrations of NOA. Material from this mine is currently only used on projects where it will not remain exposed after completion; such as paved road construction. The City of Juneau originally was researching the possibility of implementing local NOA regulations; however, as of yet no regulations have be made.

Dalton Highway

As described by Perkins et al[5] the Dalton Highway (formerly known as the Haul Road) was constructed in the early 1970's and runs adjacent to the Trans-Alaska Pipeline connecting the Prudhoe Bay oil fields of Alaska's North Slope to the state highway system near Fairbanks. Most of the Dalton Highway is unpaved and is primarily utilized by pipeline employees and truckers supplying the oil fields.

In 2000, the Alaska Department of Transportation & Public Facilities (ADOT) awarded a contract to replace culverts and bridge abutments and to add surfacing material to approximately 20 miles of gravel road from Milepost (MP) 90 to 111 on the Dalton Highway. The project utilized surfacing gravel from a material site (MS) located at MP 105. The project contractor constructed a 1 to 2 foot thick gravel pad at MP 107 for a project staging area and temporary housing site since the closest permanent habitation was located approximately 70 miles away. An estimated 30 truckloads of gravel had been removed from MS 105 before workers noticed several large pieces of fibrous material suspected to be asbestos, after which aggregate extraction from this site was terminated.

After ultramafic rock containing actinolite and tremolite asbestos was confirmed at MS 105, concerns about worker exposure on the project site, as well as potential exposure in the temporary living quarters due to cross-contamination arose. Furthermore, questions were raised on how to safely complete the project, as well as address public health concerns for driving on the Dalton Highway. The project contractor retained a consultant to assess the problem, recommend work plan modifications, provide necessary worker training, perform exposure monitoring and reporting.

Results from the assessment included close to 700 breathing zone air samples collected from workers; 3% of which had asbestos fiber concentrations at or near 0.1f/cc per the NIOSH 7400 PCM[19] method. 36 of those samples were additionally analyzed via NIOSH 7402[21] (modified TEM analysis) which illustrated approximately 40% of the fibers observes were asbestos. Results concluded that workers who impacted the material the greatest, such as bulldozer and grader operators, were at the highest risk of exposure. Asbestos fiber release from rock crushing operations would have presumably been higher. Samples for potential motorist exposure were collected under conditions simulating "worse case scenario" - driving with windows open while following heavy equipment

community road surfaces, during summer months. In 2007, the Agency for Toxic Substances and Disease Registry (ATSDR) performed an exposure investigation[35] primarily focused on ATV generated dust and potential asbestos exposure for both ATV riders and the general public. The assessment concluded that exposure to visible dust generated from the Ambler roadways created a higher than average health risk concerning asbestos.

In addition to the asbestos related health concerns, several community projects which require the use of the gravel aggregate have subsequently been put on hold or cancelled. In 2004, a multi- year effort was undertaken by R&M Consultants to locate an aggregate source free of NOA. However, no location within a reasonable distance (15-25 miles) was identified that would definitively yield non-NOA aggregate.[36] Since the NOA discovery in 2003, the gravel pit has been restricted from use. Due to the inability to use gravel for regular maintenance, the Ambler runway began to dilapidate until the crown had lost its vertical rise and ruts and potholes became increasingly prevalent and obnoxious due to lack of drainage and replenishing aggregate. The runway was also a major source of dust emissions from the airplanes prop wash during take off and landing. The runway was operated by ADOT that concluded runway repairs were required to continue safe operations. ADOT also decided due to the NOA concern in the community they would apply a dust-suppressing poly synthetic palliative called Durasoil to the surface of the runway after the repairs were complete. ADOT had experienced positive results using this form, and variety, of dust suppressant in other remote areas of Alaska to control fugitive dust. Since no non-NOA containing aggregate sites were available, the known NOA-containing quarry was utilized as the aggregate source for the runway repairs. A consultant was retained to assist with a Ambler public meeting, the development of NOA project work plan, training of project workers, community relations during construction while oversight, monitoring and project reporting. Monitoring documented a Negative Exposure Assessment (NEA) with no air sampling results exceeding the OSHA PEL at any point during the project.[37]

Since the discovery of chrysotile in the Ambler gravel pit, the following NOA-related investigative efforts have been performed to date:

- **Asbestos at Ambler Material Pit Preliminary Assessment**.[38] Alaska Department of Health & Social Services, Division of Public Health, Section of Epidemiology, October 23, 2003.
    - Chrysotile asbestos discovered in Ambler quarry during routine soil testing.
    - Quarry was closed indefinitely.
- **Limited Health Survey**.[39] Alaska Department of Labor and Workforce Development, Occupational Safety & Health Labor Standards and Safety Division, November 2003.
    - School area soil, interior dust and air samples confirmed Chrysotile NOA

- **Federal Aviation Administration, Ambler Airfield, Alaska Summer Exposure Assessment**[44] ***NORTECH*** Environmental Engineering, Health & Safety. August 2008 Report.
    - FAA technician tasks were performed while personal and area air samples were running. Results indicated area fiber concentrations were below 0.01 f/cc while the personal TWA was below 0.10 f/cc. Area samples were also collected while planes landed/took off with all results below 0.01 f/cc.
    - Frequent cleaning of facilities was recommended.
- **Ambler Airport Dust Suppression**.[37] ***NORTECH*** Environmental Engineering, Health & Safety in association with R&M Consultants. November, 2008 Report.
    - Utilized NOA-containing gravel to resurface runway using "wet methods" as needed. Palliative applied to runway surface for dust suppression.
    - Personal and area air monitoring illustrated the PEL and clearance concentrations were not exceeded.

In addition to the studies listed above, a *Naturally Occurring Asbestos Dust Control Working Group* has been established as a result of the Ambler NOA. This working group is a consortium of federal, state and local groups who help to manage and oversee NOA-related projects and concerns in Ambler in the interest of public safety. The group consists of the City of Amber, ANTHC, ATSDR, USRD, HIS, Maniilaq, DOH and ADOT.

Ambler is located between the Jade Mountains and the Cosmos Hills; small mountain ranges along the southern slopes of the Brooks Range. The rocks in these mountains are mineral-rich and contain large ore deposits. Bornite, reportedly one of the world's richest copper deposits, exists within these ranges and major jade deposits are found in the Jade Mountains. Serpentine rocks, commonly containing asbestos, have been mapped in both these ranges.[45, 46] An asbestos mine was temporarily operated at Asbestos Mountain in the Cosmos Hills near Kobuk. The asbestos has apparently been eroded from these rocks and transported throughout the area by glaciers, water and wind. Sedimentary deposits have been found with varying concentrations of asbestos throughout the area.[36]

The NOA found in Ambler poses many issues not previously encountered in Alaska. Ambler requires the use of gravel to maintain the limited road system, runway, public utilities and local projects. With no apparent asbestos-free gravel sources within a reasonable distance and only year round air travel access identifying methods to use NOA safety are significant to the regional corporation source owner and local community. ADOT held public meetings in Ambler to obtain feedback, report progress and provide information regarding NOA, asbestos health hazards, risk and effective methods to reduce exposure (avoidance of visible dust clouds, road watering, regular household cleaning to

it may involve a longer haul distance. Generally, these sources have not been checked for NOA. New sources are needed for the routine maintenance (M&O) activities and routine construction projects. DOT Northern Region used 2 million CY from 64 different material sites in 2007 and 1.6 million CY from 40 different materials sites in 2008.[23] The DOT generally has enough material for maintenance and operations (M&O) and new projects, although most new projects are improvements to existing roads. The large rocks used to armor stream banks and other hydraulic structures is known as "rip rap" and rocks large enough for rip rap are usually scarce.

The Trans Alaska Pipeline System (TAPS) and future 48"Gas Pipeline

The TAPS project used 73 million CY of gravel, total. The workpad required 32 million CY. [24] Of that, the Dalton Highway (Haul Road) required about 13 million CY for its prism. Many access roads to material sites were required for Haul Road construction, and may have been counted in either the Haul Road number or not. Certainly the 225 access roads were counted in the 73 million CY. Thus, if the Haul Road and its material sites were counted in, the TAPS project would have required 50 to 60 million CY of gravel without the Haul Road. The most likely route of the proposed gas line will follow the Dalton Highway and the Alaska Highway, there will not be a major new highway. However we do not believe that Alyeska will allow the gas pipeline to use Alyeska's workpad or construct close to TAPS, therefore new workpads and many new access roads will be required. There will be new camp pads, airports, and compressor stations. Not counting the DOT upgrade work, we estimate that the gas line will need to mine 50 to 60 million CY of new gravel. (Referring the annual DOT usage, the new pipeline will require 25-fold the annual DOT requirement, and most of that in the first year or two of construction).

Special highway construction

If the gas line is built, AK DOT will need to reconstruct many miles of substandard road. Large sections of the Dalton Highway need reconstruction.

Airports

Virtually all airport construction and upgrades require material from local sources. In some locations material is barged in from long distances, but this is expensive. There are about 256 bush airports owned by the ADOT.[25] A new small airport may require 25,000 CY of gravel. In addition, gravel is needed for access roads and maintenance of both the runway and the access roads.

Railroad Extension

There is currently a study regarding extending the Alaska Railroad from Fairbanks to Delta (90 miles) and from Delta through Canada (200 miles).[26] A rough estimate for that yields 14 million CY of fill, gravel, and ballast for the main line. Much of the line would be close to the Alaska Highway. However access roads, camps, and ancillary structures – there will be many bridges – may require another 5 million CY.

fibrous or asbestiform habit,[27] such as winchite, richterite[30] and fluoro-edenite,[29,28] but usually they have not been specifically listed in the asbestos regulations. The many different ways that asbestos and asbestiform and other related terms have been described are summarized in Lowers and Meeker.[30]

The geological conditions necessary for the formation of NOA have been reviewed and the rock types known to host NOA include serpentinites, altered **ultramafic** and some **mafic** rocks, dolomitic marbles and metamorphosed dolostones, metamorphosed iron formations, and alkalic intrusions and carbonatites.[31] In summary, there are many types of minerals that might contain asbestos, and these include rock types very common in Alaska.

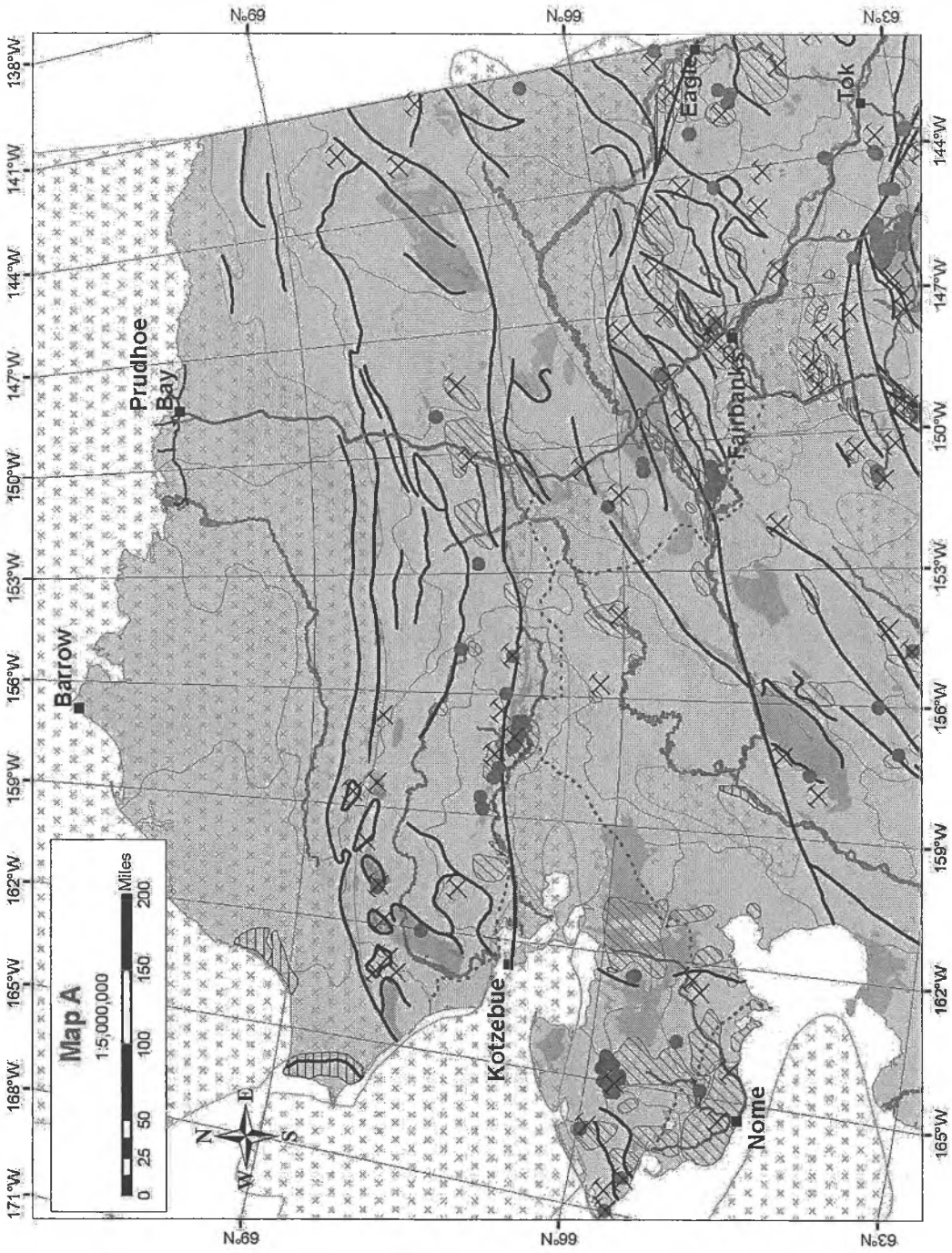
Map of mineral occurrences that may contain NOA and their location with respect to transportation corridors

Next follows some maps that show the regions of Alaska that may contain asbestos, based on the mineral type. The mineral types are taken from the above reference sources, and the mineral locations are based on the USGS map, *Geologic map of Alaska, U.S. Geological Survey Special Map, by H. M. Beikman, 1980.* In addition, in Appendix 3, is the USGS database of all geological exploration and mining that identified asbestos. These have been mapped along with the transportation corridors identified by ADOT planning. Note the northern region had more detailed planning maps.

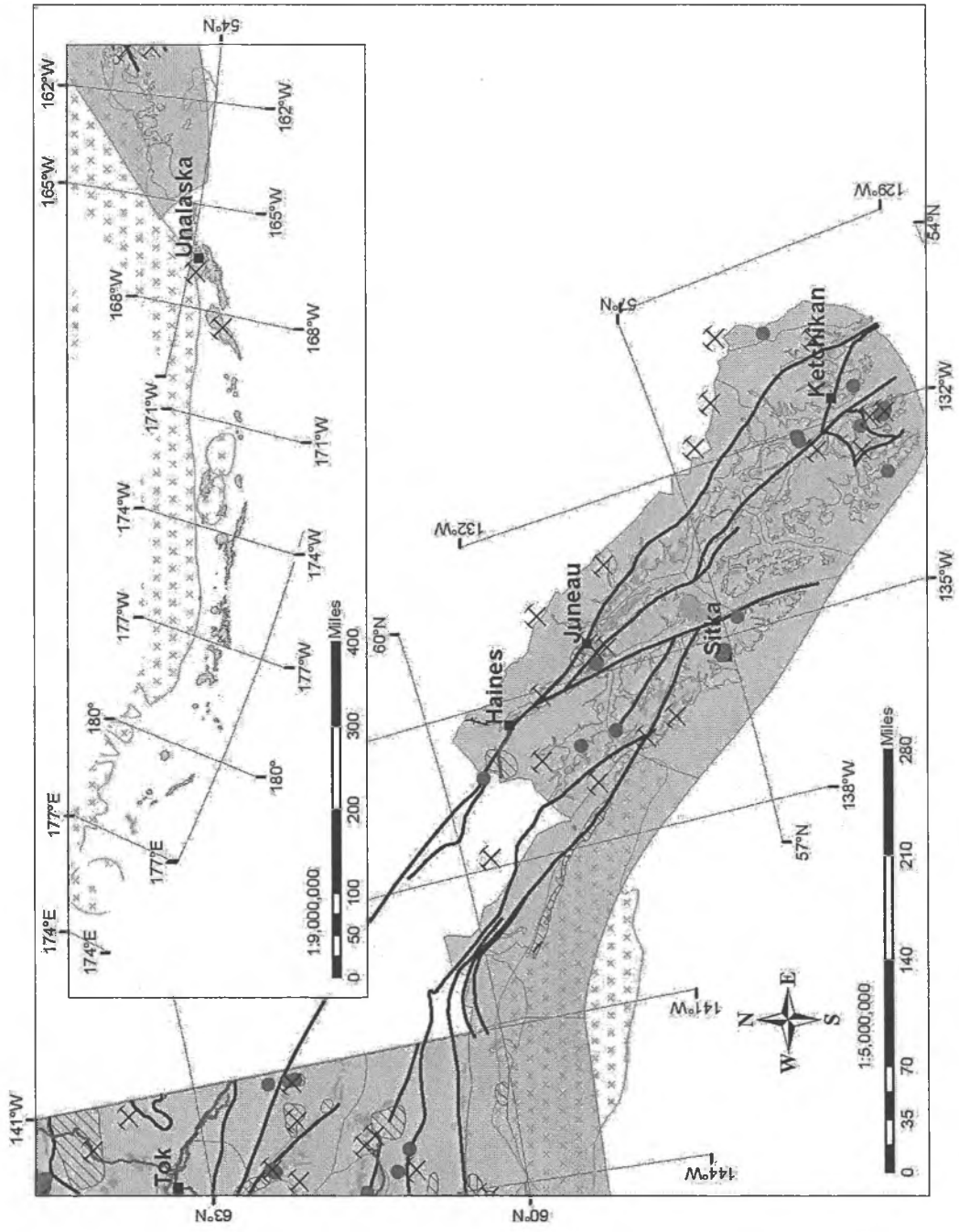
It is important to realize that the map is of the bedrock, or parent material. If the rock erodes, it will move down-gradient via colluvial or alluvial transport. Thus asbestos might be found in sites distant from the origins.

The first map is an index, and the following three maps show greater detail.

Acknowledgement
The work of Kyle Obermiller, an undergraduate student in UAF's Geological Engineering program on the geological mapping was appreciated and is hereby acknowledged.



Map A, Northern Alaska



Map C, Southeast and panhandle

Footnote to Chapter
Summary of Asbestos Minerals

Table 1 Summary of minerals where fibrous crystal form or cleavage has generated concern (not an exhaustive list) Mineral Asbestiform or fibrous probability Remarks Serpentine minerals Chrysotile Always Most common type of asbestos; almost the only form mined today Antigorite Rare Amphibole minerals Riebeckite Probable (crocidolite) Previously mined as asbestos in South Africa, Australia and Russia, but not common elsewhere Cummingtonite-grunerite Probable (amosite) Previously mined as asbestos in South Africa. Non-asbestiform habit is common Tremolite-actinolite Probable Widespread occurrence both as asbestiform and non-asbestiform habits, but only rarely mined as abestos Winchite-richterite Probable Rarely encountered Anthophyllite Probable Previously mined as asbestos in Finland and in the eastern USA. Often associated with talc. Arfvedsonite, fluor-edenite, etc. Possible Rarely encountered Zeolites Erionite, mordenite Almost always fibrous Not considered as asbestos, rarely encountered Clay minerals Palygorskite, sepiolite Fibrous habit possible or common Not considered as asbestos, rarely encountered Others Brucite, wollastonite, talc, balangeroite Fibrous habit possible or common Not considered as asbestos, and, except for talc, rarely encountered

Table 1 Summary of minerals where fibrous crystal form or cleavage has generated concern (not an exhaustive list)

Mineral	Asbestiform or fibrous probability	Remarks
Serpentine minerals		
Chrysotile	Always	Most common type of asbestos; almost the only form mined today
Antigorite	Rare	
Amphibole minerals		
Riebeckite	Probable (crocidolite)	Previously mined as asbestos in South Africa, Australia and Russia, but not common elsewhere
Cummingtonite-grunerite	Probable (amosite)	Previously mined as asbestos in South Africa. Non-asbestiform habit is common
Tremolite-actinolite	Probable	Widespread occurrence both as asbestiform and non-asbestiform habits, but only rarely mined as abestos
Winchite-richterite	Probable	Rarely encountered
Anthophyllite	Probable	Previously mined as asbestos in Finland and in the eastern USA. Often associated with talc.
Arfvedsonite, fluor-edenite, etc.	Possible	Rarely encountered
Zeolites		
Erionite, mordenite	Almost always fibrous	Not considered as asbestos, rarely encountered
Clay minerals		
Palygorskite, sepiolite	Fibrous habit possible or common	Not considered as asbestos, rarely encountered
Others		
Brucite, wollastonite, talc, balangeroite	Fibrous habit possible or common	Not considered as asbestos, and, except for talc, rarely encountered

1. Monitoring requirements
    a. The monitoring and sample analysis will be conducted by competent personnel and closely supervised by an experienced individual certified with NIOSH 582 course training or equivalent [we should expound on that]
    b. Air monitoring samples will be collected.
    c. Project Reports of the perimeter, area, and personal monitoring results will be submitted to the Fairfax County Health Department.

2. Project Reporting Requirements
    a. A written description of the work activities.
    b. Diagram of the Construction Project.
    c. Air Monitoring Results.
    d. Violations to Directive 1 detected by air monitoring

3. A 24-hour average standard for asbestos ambient air concentrations is calculated

John Yetman was interviewed on the effectiveness of Fairfax County's NOA program, as well as public and commercial response. Mr. Yetman is a Senior Environmental Health Specialist with the Fairfax County Health Department, and has managed the county's NOA program for over 20 years. The NOA program described above has been in effect in Fairfax County since 1993. The NOA found in Fairfax County is typically beneath several feet of clay, so the program is designed exclusively for excavation and soil impacting activities. The soils of Fairfax County have been mapped, with known NOA encompassing 11 square miles of the 400+ square mile county. The geological maps are reportedly accurate to +/- 500 feet. If excavation/soil impacting activities are to occurring within this 11 square mile area, the contractor is required to submit a compliance plan as mentioned above.

The compliance plan describes location and activities associated with the project, dust control methods and worker and public safety controls. If the project is located within the NOA area per the soil map, the contractor is required to have a compliance plan approved through the county health department. If the project site is located within 500 feet of the mapped boundary, the contractor may submit a limited compliance plan which outlines the same requirements as the full plan; however, implementation of the plan is only required if suspect NOA is discovered.

Dust control consists primarily of applying water and/or slowing operations so that no visible dust is present. Air monitoring is required at all times soil impacting activity is occurring which consist of both area and personal sampling using PCM cassettes and analysis. The area monitoring is performed at several points on the perimeter of the "work zone", a term used to describe the area of

ATCM prohibits the sale or use of restricted material for unpaved surfacing unless it has been tested and found to have an asbestos content that is less than 0.25 percent. The ATCM defines restricted materials as aggregate material extracted from an ultramafic (or ultrabasic) rock unit as shown on referenced geologic maps; ultramafic rock including serpentine; or aggregate material shown to have an asbestos content of 0.25 percent or more; or any mixture containing 10% ultramafic/serpentine materials.

The test method required to determine the asbestos content is either CARB Method 435 or a method approved by the CARB's Executive Officer. If restricted material is being sold or supplied for surfacing purposes, the producer of the material (quarry operator) is required to provide the recipient the following information: the amount of material sold or supplied; the dates the material was sold or supplied, sampled and tested; and a statement verifying that the asbestos content of the material is less than 0.25 percent. Anyone who sells or supplies restricted material, but did not extract the material from the ground, must provide all of the above information with the exception of the date that the material was sampled and tested. If restricted material is being sold or supplied for non-surfacing purposes the supplier must notify the recipient with a warning statement that the material may contain asbestos.

The amended ATCM contains the following surfacing exemptions:

- sand and gravel operations;
- roads located at quarries and mines;
- maintenance operations on existing roads;
- emergency road repairs;
- asphalt and concrete materials;
- landfill operations;
- results of a geologic evaluation;
- steep surfaces with limited access;
- surfacing applications in remote locations;
- roads located at construction sites; and
- riprap (material placed along water course or shoreline to prevent erosion)

The amended ATCM also allows the district authority to require geologic evaluation for the presence of rocks that may contain asbestos and the authority to require testing of any aggregate material for its asbestos content. This authority would typically be exercised if there is credible evidence indicating the potential presence of asbestos outside of an ultramafic rock unit.

There are two possibilities for the regions with mapped mafic or ultramafic rock, either the asbestos content is ≥0.25% or the asbestos content is <0.25. If the asbestos content is <0.25%, the material can be used for surfacing or any other use, if the material has ≥0.25% asbestos, its use is restricted. Minerals taken from mapped areas are restricted and must be tested and certified prior to use. In addition to mapped restricted areas the program includes a number of

construction and maintenance differ somewhat from those for general construction and grading (e.g., development of a shopping center). Other requirements of the proposed ATCM address post-construction stabilization of disturbed areas. These areas must be revegetated, paved, or covered with at least three inches of non-asbestos-containing material. NOA-containing material may be transported if the loads are adequately wetted or covered with tarps.

According to the CARB's Regulatory Advisory: Asbestos Airborne Toxic Control Measure for Construction, Grading, Quarrying and Surface Mining[48], the second California ATCM applies to road construction and maintenance, construction and grading operations, and quarries and surface mines when the activity occurs in an area where naturally-occurring asbestos is likely to be present according to currently published NOA maps. Areas are subject to the regulation if they are identified on maps published by the department of Conservation as ultramafic rock units or if the Air Pollution Control Officer (APCO) or owner/operator has knowledge of the presence of ultramafic rock, serpentine, or naturally-occurring asbestos on the site. The ATCM also applies if ultramafic rock, serpentine, or asbestos is discovered during any operation or activity.

Road construction and maintenance operations are required to use dust control measures for a specified set of emission sources and prevent visible emissions from crossing the project boundaries. California has local air pollution control or air quality management districts which must also be notified before any work begins. For construction and grading projects that will disturb one acre or less, the regulation requires several specific actions to minimize emissions of dust such as vehicle speed limitations, application of water prior to and during the ground disturbance, keeping storage piles wet or covered, and track-out prevention and removal. Construction projects that will disturb more than one acre must prepare and obtain district approval for an asbestos dust mitigation plan. The plan must specify how the operation will minimize emissions and must address specific emission sources. Regardless of the size of the disturbance, activities must not result in emissions that are visible crossing the property line. Quarries and surface mines must also obtain district approval for an asbestos dust mitigation plan which must address specific emission sources. In addition, they must meet specific opacity standards for certain types of equipment and ensure that there are no emissions visibly crossing the property line.

Records related to the applicability of the regulation or compliance with the specific provisions of the regulation or the asbestos dust mitigation plan must be kept for seven years. The results of any air monitoring or bulk sampling required by the district, any bulk sampling to document the applicability of, or compliance with, the regulation, and any other records specified in the dust mitigation plan must be reported to the district.

The second ATCM has the following exemptions:

- Homeowners and tenants working on their own residential property

After discussing NOA in Alaska, Mr. Clinkenbeard referenced Airborne Visual Inferred Spectroscopy (AVIRIS) as a possible geological mapping option. Imaging spectroscopy is a new tool that can be used to map specific materials by detecting specific chemical bonds. As a result it is an excellent tool for environmental assessments, mineral mapping and exploration, vegetation communities/species and health studies, and general land management studies.[49] The AVIRIS technology is aircraft-mounted and can collect data at a rate of 2 square kilometers per second. While this technology may not be feasible for Alaska's entire landmass, project specific uses may prove to be beneficial.

Jeff Wright with the CARB was contacted regarding M435 asbestos testing. The M435 method was developed in 1990 and was designed to detect serpentine asbestos in gravel/soil. The ATCM's requirements result in a large quantity of soil and gravel being tested for the presence of asbestos per M435; therefore, many testing laboratories throughout the state perform this analysis. CARB performed an interlaboratory study of California laboratories which offered the M435 testing. Samples were "spiked" with a known amount of asbestos and sent to the labs for analysis. The results of the study indicated vast discrepancies in the sample results.[50] All the laboratories included in the study were national accredited to analyze asbestos, however; M435 is unique from other test methods and while all the labs where adhering to M435 protocol, several different varieties of milling and homogenizing equipment was used. Mr. Wright explained that increased sample pulverization has been known to decrease asbestos concentrations via PLM analysis because the fibers are reduced in size to the point where they no longer meet the definition of a fiber; in contrast, asbestos concentration results per TEM analysis tend to increase. Because NOA is typically not uniform in samples, after the material has been milled sample homogenization should occur. PLM analysis examines only a small fraction of the sample, and TEM examines approximately one millionth of that, making homogenizing the samples an extremely important process.

Mr. Wright explained that California is in the process of undergoing several changes to M435. The proposed changes are as followed:

- Sampling
    - Bias field sampling per the discretion of the C.P.G.
        - Perform "target sampling" which focuses on areas or materials most likely to contain NOA opposed to "random" sampling in which the NOA may not be sampled
- Processing
    - Formulate a M435 accreditation for testing laboratories
        - California is working with NVLAB to develop an M435 accreditation

NOA CONTROL STRATEGIES AND TECHNOLOGIES

The following are a number of NOA control strategies and technologies that can be used to ameliorate asbestos release from NOA and NOA-containing material. After presenting some general information generated by the federal EPA, the items are divided into manage-in-place, dust suppression methods, covering or capping, and road maintenance. Finally, long term maintenance requires some public education.

EPA Facts Sheet: Methods for Reducing NOA Exposure[51]

Below is a list of methods recommended by the EPA to reduce asbestos exposure resulting from NOA. These are general methods, and must be applied on a project-specific basis:

- *Wet road surfaces with water using trucks, hoses, or sprinklers*
- *Wet piles of excavated material and cover them with tarps, plastic sheeting, or other items*
- *Continuously mist the work area*
- *Install wind barriers around the work area*
- *Clean or decontaminate equipment and vehicles to ensure that no equipment or workers track soil out of the work area (a gravel pad, tire shaker, or wheel wash system may be used to clear soil from vehicles)*
- *Wet the work area using a spray system attached directly to rock cutting or drilling equipment, such as a fine-mist sprayer or a variable-rate fogger nozzle*
- *Excavate utility trenches to an adequate depth and backfill them with clean soil so that future repair work will not need excavation into potential NOA-containing materials*
- *When transporting NOA-containing materials, avoid overloading trucks; keep the material below the top of each truck compartment and cover material with a tarp*
- *Limit personnel and vehicle access to the work area*
- *Identify NOA-containing areas with signs*
- *Reduce driving speed*
- *Reduce drilling or excavating speeds*
- *Excavate during periods of calm or low winds*

Roads and Parking with NOA in place and for unpaved roads and parking areas:

- *Cover roads with non-NOA-containing rock, chemical sealants or dust suppressants, chip seals, limestone aggregate, petroleum sealants, or asphalt cement paving*

Dust Suppression

If NOA material is required to be disturbed, dust generating activities should be limited at all times. The most common engineering control used to reduce dust levels, hence airborne asbestos exposure, is the use of water and/or wet methods during NOA-related activities. The following is a list produced by the EPA of engineering and work practices that reduce exposure to NOA on excavation, grading, or utility work at construction sites.[51]

Reducing Vehicle Traffic and/or Speed

Dust emissions from unpaved road surfaces are directly proportional to the number of vehicles traveling on it, thus, reducing the amount of traffic will in turn reduce the amount of dust generated. By implementing weight or use restrictions on vehicles traversing the unpaved road could significantly limit the amount of traffic on a NOA-containing unpaved road and in some circumstances it may be possible to remove an unpaved road, or section of road, from service to the general public. An example of this type of control was recently imposed by the City of Kotzebue, in an effort to reduce particulate matter smaller than 10 microns in diameter (PM_{10}) emissions, where anyone under the age of 14 is prohibited from operating off road vehicles on city streets unless accompanied by an adult on the same vehicle.[52]

The rate at which a vehicle travels on an unpaved surface is also proportional to the amount of dust generated[53] meaning the efficiency of speed reduction as a dust control measure increases as the speed is reduced. For example, if the base speed is 40 miles per hour, a reduction to 20 miles per hour results in a 65% reduction in dust emissions; a further reduction to 15 miles per hour results in an 80% reduction in dust emissions. [54] Vehicular speed reduction can be achieved through posted signage coupled with enforcement and/or roadway manipulation such as speed bumps. The initial implementation of both these methods would be minimal, with immediate results. Major costs associated with these methods include increased travel time and additional law enforcement. While enforcement of these methods may be difficult in some rural Alaska communities, it may be a very practical, enforceable and effective for reducing airborne asbestos at quarries, construction sites and more densely populated areas.

In a best case scenario, at optimal conditions, both of these control methods would still not address the issue of exposed NOA on the roadway. Substantial amounts of dust would still be produced during dry conditions and natural elements such as wind would continue to make asbestos airborne. In most situations, these methods should be either approached as interim responses, or used in combination with other methods.

thaw damage. Additionally, salts applied for dust suppression initially penetrate the roads surface several centimeters, followed by a gradual rise to the surface by capillarity action, making them susceptible to being washed off by rain. Prolonged rainfall will leach the salts from the roadway, potentially impact groundwater and surface water quality, and attract wildlife potentially causing safety concerns. Typically if the proper buffer zone exists between the water and the treated area, water quality impacts will remain minimal.[54] The practical utility of an application of one of these salts is no more than one year.[53] Sodium chlorides generally considered less effective than either calcium or magnesium chloride. Application of these materials is generally required 1-2 times per season.

Several locations in Alaska have utilized calcium chloride for dust control in recent years including Kotzebue, Teck Cominco's Red Dog Mine, and Haines, among other locations.[53] Environmental impacts of chlorides include metal corrosion, and degradation to nearby vegetation, surface, groundwater, and aquatic species.[53] In addition, because calcium chloride can substantially lower the freezing temperature of water, concentrations of the palliative in road soils can change the thermal stability of these soils.[53] This could potentially create issues in areas where extremely heavy loads are forced to wait until the road has completely frozen in order to supply adequate reinforcement such as on the Dalton Highway.

Covering or Capping of Installed NOA

Another common engineering control is to place a cover system (or cap) over the NOA. These materials may include non-NOA soil or rock, concrete, chemical sealants or dust suppressants, chip seals, limestone aggregate, petroleum sealants, asphalt paving, geotextiles, wood chips, mulch, sand, pea gravel, shredded rubber, rubber mats, and vegetation. Several factors, including cover material properties and site characteristics, affect the type of cover system appropriate for a particular area.

Palliatives

The majority of palliatives used on unpaved roads and airfields consist of chemicals designed to bind soil particulates together, formeing larger particles less likely to become airborne. Petroleum-based binders, organic nonpetroleum dust suppressants (lignins), electrochemical stabilizers, synthetic polymer products and pozzuolannic minerals comprise the main palliatives and our discussed further below:

Petroleum-based binders used as capping materials for dust suppression include emulsified asphalts, cutback asphalt (liquid asphalt), dust oils and modified asphalt emulsions.[55] These products are applied to the surface soil as a thin layer of asphalt which binds the soil particles together, consequently

work. The synthetic polymer products "Durasoil" was used as the dust suppressant in Ambler, as well as many other unpaved runways throughout northwest Alaska.[37] Synthetic polymer treatments are generally required once every 3-5 years.

Pozzolanic minerals, such as lime and cement, are typically added to non-plastic road surface material to produce a thin crust by agglomerating with fine dust particles. These stabilizers must be field mixed into the road material and compacted. These surfaces do increase the dry strength of material under dry conditions; however, once hardened it cannot re-harden if disturbed by abrasive forces, such as some off road vehicles and grading. Generally treatment with this method is applied once every ten years.

Gravel Replenishment

Asbestos-containing dust emissions from unpaved surfaces can be reduced by the addition of several inches of non-NOA containing gravel. This action would reduce the concentration of NOA on the surface; therefore, reduce the rate at which asbestos is allowed to become airborne.[57] Gravel provides a hard-wearing surface that shields underlying NOA from the abrasive forces of vehicle wheels. Traffic causes abrasion between the NOA and non-NOA aggregates, however, which over time creates fine dust. The degradation is somewhat dependent upon the hardness of the aggregate. Newly applied gravel will not reduce the strength of vortex airflows behind passing vehicles from entraining loose soil particles into the air. If the road-base is not well-constructed using crushed aggregate, surface gravel will be pushed down into the road surface by traffic, especially during wet conditions. If the road surface does not contain enough fine material of high cohesion to hold surface gravel in place, traffic can also cause surface gravel to be expelled laterally from the road's driving lanes. To be effective over more than a short period of time, new gravel applied to a road should be anchored to the road surface by incorporation into a cohesive surface layer through either well-graded aggregate mixes or by the use of soil adhesives (i.e., palliatives).[53]

In the event the newly applied gravel is lost to the roadway surface through vertical migration into non-cohesive soils, the use of geotextile fabrics may be of benefit. These fabrics are constructed of polymer threads that are very high in tensile strength, and are available in designs that either form.

Paving

Paving includes a variety of surfacing materials with the three general types being bituminous concrete, concrete and chip seals.

The most effective, and expensive, method currently available to control dust emissions from unpaved surfaces is the application of pavement or other durable materials to the road surfaces. Bituminous or Portland concrete provide durable

the potential to saturate the road sub-base, resulting in structural failure as evidenced by potholes. Aggregate in a roadway surface reduces tire forces on fine materials that increases the release of dust from a roadway. The loss of fines in the roadway surface leaves the aggregate unanchored and vulnerable to being pushed to the side of the road by tire forces. The success of palliatives to reduce dust depends on the repair and maintenance of good drainage on and adjacent to the road.[53]

Control Strategies for long term management of in place NOA.

Education

In rural communities throughout Alaska, the availability of law enforcement to assist in applicable dust suppressing methods is likely to be limited or non-existent. Imposing speed limits and vehicle use restrictions in these communities will be most effective if the residents of the community understand their purpose. Education about NOA and its potential health effects is a vital step in obtaining local support for any control method used. Education techniques for NOA-affected areas may include advertising, public meetings, information packets and making available NOA-knowledgeable experts. If residents understand the reasons for implemented controlled methods in their communities, a positive local response can result in social pressure applied throughout to adhere to new policies for the well-being of the community as a whole.

Residents in areas with geology favorable for NOA formation should be educated in basic NOA knowledge. In rural communities with a known NOA issue, such as Ambler, where airborne asbestos fibers from NOA are likely to be present, NOA general housekeeping and personal hygiene techniques should be implemented which requires specific education efforts. Education efforts could be carried out through State agencies or consulting firms with knowledge and experience with NOA. The cost for this effort would include travel to the subject community, preparation of materials (information packets) and potentially on-going assistance as new issues develop; however, these costs will be minimal considering many control methods are dependent on community support. If residents are unwilling to comply with newly imposed policies, any control method is likely to fail or have minimal effect.

Workers and the general public need to be properly educated regarding general housekeeping and persona hygiene practices appropriate for locals with NOA exposure potential. This control technologies include:

- Routine hand and clothes washing
- Boot/shoe removal at work and home
- Wet wiping and/or HEPA vacuum of visible dust accumulations as they develop
- Wet methods
- Controlling or avoiding visible NOA dust

competitive work plans for safely utilizing NOA materials on project specific basis. For both companies and citizens in affected areas these changes include learning about the hazards and taking personal responsibility for controlling or avoiding activities creating airborne visible dust as well as implementing life style and work practice changes involving life style modifications such as housing/office boot/shoe removal, utilization of wet methods and HEPA filtration for routine cleaning of visible dust accumulations.

Liability

The liability of ADOT and suppliers of NOA materials may be divided into three:

1. Tort liability to individuals and organizations,
2. Contractors have additional liability to protect their workers and the public from the contractor's operations, and
3. Legal liability to agencies for failure to follow applicable laws and regulations.

Tort

If the ADOT's use of NOA damages an individual or organization, ADOT may incur tort liability. For example, if a resident of a village downwind from an ADOT airport that used NOA in the runway were to die of a disease known to be caused by asbestos exposure, the victims family might sue the ADOT. Although it takes years of heavy asbestos exposure to cause those diseases, and for most asbestos diseases asbestos is a "risk factor" not the sole cause, there are other causes, most notably smoking, sympathetic juries frequently find for the plaintiff, almost regardless of fault. Due to the tort reform movement, Alaska's current tort laws have reduced the windfall aspects of such suits, but they are certainly possible. Here we can suggest little except developing good standards for use of NOA, having review by all agencies concerned with health and environmental safety, then strictly documenting conformance. Such defensive practices will not make such suits impossible, but will make their defense much easier.

The owners of NOA materials sites face essentially the same tort issues as the ADOT. The question if this liability can be handed off from the owner to the ADOT is one that requires legal advice. California has a system of notification and paperwork that would seem to hand that liability off to the purchaser of the materials. We do not know if this has been tested in court. We doubt the CARB has the legal authority to change the state's tort laws. However, as above, conforming to established procedures is often a strong defense.

Contractors' liability

The contractors' liability to follow the state's labor laws regarding occupation health and safety are fairly straight-forward, if the NOA is mentioned in the project bid documents. The contractor's liability to third parties, such as the public, may be more complicated. The contractor's general liability insurance will defend them; however the contractor's insurance company will then try to recover

already have been filed against NOA resource owners for the sale and use of NOA materials. This is a real concern that if not properly understood and addressed will impact the safe use of NOA materials and create unnecessary project costs. CERCLA Section 9604 provides for resource owner protection against naturally occurring hazards. Liability for resource processors and/or contractors can be addressed through their compliance with NOA program requirements. It is not possible to prevent all lawsuits and particularly frivolous filed cases. Therefore the effectiveness of the recommended NOA program to be developed will likely be tested legally and provide court interpretation and resolution of liability concerns.

Ambler, for example, is a unique case which would not completely comply with any of the existing 11 surfacing exemptions or the Construction, Grading, Quarrying and Surface Mining ATCM for California. While California's state NOA regulations are undoubtedly the most developed in the United States, it is unlikely the drafters/authors were required to take into account communities such as this. Had similar circumstances existed, certainly specific exemptions would have been established to address this. Alaska can look to, and even adopt, the California NOA regulations; however, scenarios exist in Alaska unlike anywhere else in the United States, and special provisions and/or exemptions will be a necessity of this future rule.

Examples of Liability

In the Swift Creek Washington case where NOA-containing Sumas Mountains would periodically experience landslides which flowed into the Swift Creek River where the material was dredged and staged along the shoreline to prevent flooding. There was no organization deemed the Responsible Party, and several federal, state and local agencies are currently involved in the Swift Creek NOA concern. It was determined that the EPA Superfund program had limitations on spending money on this type of cleanup because the material of concern was naturally-occurring. This makes NOA sites exempt by law from the EPA Superfund program, except where the material was moved by unnatural forces (ie construction, dredging). This caveat allowed the EPA to use funding to assist in the Swift Creek NOA concern.[60]

Libby, Montana, which has been declared an EPA Superfund site, has had ongoing federal cleanup efforts since 1999. In this case, processing mined vermiculite constituted the majority of the contamination; consequently, the asbestos was not viewed as naturally-occurring. In 2003, in a ruling issued by the District Court of Montana, the court said the mining company, W.R. Grace, was liable for costs related to the investigation and cleanup of asbestos contamination in Libby and ruled that the EPA's revised method for calculating indirect, or overhead, costs is appropriate and that those costs may be recovered from W.R. Grace. The ruling meant W.R. Grace was responsible to pay all of the $54.5 million in costs that the EPA incurred through December 31, 2001. Costs incurred after that date were to be resolved in future proceedings if disputed by

NOA in place - control technologies

NOA control methods should start with the least expensive options first. In general terms there are four control methods: education, wetting, palliatives, and capping.

By itself and together will all the other control methods educational outreach to the staff, industry and general public regarding the hazards and methods of controlling or avoiding airborne dust is almost always advised. Outreach such as encouraging implementing speed controls and restrictions on vehicle use in sensitive areas (i.e., near schools, hospitals, and residential areas) and modifying life style habits to reduce personal exposure are all worthy of consideration.

If a road base lacks adequate drainage, the embankment will be weak and the effectiveness of dust control measures will be limited. Reconstructing unpaved roads to provide good drainage and a solid base is needed for dust palliatives, capping with clean material, or paving to be effective. If the road soils are of poor quality, geotextiles may be a feasible option to add support to the road surface. According to Succarieh,[54] expert professional advice about the road is often needed. The ADOT Local Technical Assistance Program (LTAP) may assist As part of the educational program it is recommended that the ADOT LTAP enhance their NOA knowledge and resources for distribution.

If sufficient equipment and manpower is available, watering roads during high dust periods should be performed; however, this is a short-term effective method of dust control and more long-term control methods should be investigated. Historical monitoring data illustrates that high dust generation rates are greatest during the two-month period following breakup, therefore, short term control measures like watering can provide limited benefits if impacted communities have access to watering equipment.[54]

Another control technology is application of dust palliatives. In order to obtain the greatest benefits from the application of dust palliatives, site-specific investigations of local traffic and soil is required. Investigations should begin with an assessment of the soils used to construct and surface the unpaved roads. The ADOT's LTAP, may assist rural communities with technical assistance and/or training on proper techniques for soil analyses useful in the palliative selection process. [54]

Some deliquescent salts and/or synthetic polymer products may provide adequate levels of dust control on unpaved roads. Again this depends heavily on the soil and traffic conditions in the respective community. These products have been tested in several locations in Alaska and have been demonstrated to provide varying control of dust emissions. Because the successful use of these products is dependent upon a number of factors that vary from community to

To date the Alaskan documented experiences in Juneau, Dalton and Ambler all involved transportation projects. Fortunately, once identified they were handled appropriately with additional assessment, training and work practice and product use modifications, each demonstrating once it is known, the NOA material can be safely used. However, while the experiences may not have resulted in any significant human exposures, the late identification resulted in changed conditions and costly non-competitive contract modifications. While NOA encounters in Alaska have been comparatively limited, the need for implementation of a state-wide NOA policy is reinforced by the lengthy, problematic and consequently expensive circumstances that have occurred due to lack of standard operating procedure and/or regulatory guidance. Road and pipeline pad construction and maintenance have and will be the largest future use of gravel resources. For these reasons it is recommended and appropriate for ADOT to take the lead in the further evaluation and development of NOA strategy alternatives and program development. It is anticipated and recommended that ADOT develop internal NOA operations and maintenance (O&M) and design standards for ADOT projects. For maximum effectiveness the department's internal policies and SOP for NOA should reflect a statewide, industry and regulatory consensus. These NOA standards will involve awareness education, resource characterization, acquisition, use as well as required training and development of design requirements, contractor's work practices and O&M practices.

It is readily apparent that the NOA concerns go well beyond the ADOT areas of responsibility involving all aspects of the local people, resource use and community. As demonstrated by other states moving to address NOA issues, a more holistic approach to NOA should involve public health, worker, community and environmental protection advocacy. The existing Alaskan "dust working group" comprised of regulatory and government stakeholders appears as a natural technical committee that could be expanded to include industry and be instrumental for the technical information exchange, development of a statewide NOA strategy(s) consensus and facilitate with the implementation of a successful statewide program.

Clearly the ADOT needs an SOP that that tells ADOT planners, designers and operators how to handle NOA, and this SOP will certainly call for a specific plan for each project. However in order for the SOP to be successful, it must be acceptable to all relevant state and federal agencies, and acceptable to all other stakeholders, such a contractors, materials site owners, and affected communities. Thus the first step is for the ADOT to formulate a NOA Action Plan to solicit comments and advice from all stakeholders, develop drafts of the SOP, circulate drafts to all stakeholders, and present the drafts to all stakeholders.

Working Group

Through the development of the NOA Action Plan (AP) the professional and technical issues can be resolved by the stakeholders working group and applied

How to begin

The California regulations and EPA guidance are a good beginning to any NOA SOP. With some cut and paste and modification for remote projects and Alaskan conditions, those documents could form a draft of the SOP. However caution is needed to not present these or any document to the agencies as a fait accompli. Rather, all stakeholders, especially the relevant agencies, need to help ADOT define the issues and insure the final SOP does not conflict with the charge of any of those agencies

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NANA
REGIONAL CORPORATION, INC.

The Honorable Reggie Joule
House of Representatives
Alaska State Capitol
Juneau, AK 99801-1182

February 14, 2012

NANA Regional Corporation, Inc. (NANA) writes in support of HCR 23, which would establish the Alaska Arctic Policy Commission. As you know, NANA was established pursuant to the Alaska Native Claims Settlement Act of 1971. Our region is comprised of 38,000 square miles of land (roughly the size of Indiana) mostly above the Arctic Circle. Our land encompasses eleven villages of primarily Inupiat residents. Our mission is:

> "We improve the quality of life for our people by maximizing economic growth, protecting and enhancing our lands, and promoting healthy communities with decisions, actions, and behaviors inspired by our Inupiat Ilitqusiat values consistent with our core principles."

Our core principles are, "Honesty and integrity will govern our activities. Commitments made will be fulfilled. Everyone will be treated with dignity and respect."

NANA appreciates the work you did in 2010 to create the Alaska Northern Waters Task Force (NWTF). The work of the NWTF has been of vital importance to the State of Alaska and to Alaskan communities. The NWTF recognized that the rapid changing of the Arctic is profoundly impacting our communities, which rely on the fruits of the land, sea and air to meet cultural and nutritional needs. The influx of increased activities from outside parties, including new shipping routes, oil and gas exploration, commercial fisheries and tourism, creates new challenges, but also new opportunities. NANA believes that these challenges and opportunities must be met head-on by Alaskans. Through this Commission, the State of Alaska would continue to take a leadership role on Arctic policy issues, which is especially important as the United States prepares for its 2015-2017 chairmanship of the Arctic Council.

The Arctic Policy Commission as proposed would include a variety of stakeholders. We encourage you to consider adding a representative of an ANCSA corporation to the Commission, as such a representative would contribute a unique perspective to the dialog. Again, quyaanaqpak for your work on the NWTF and for working toward passage of HCR 23.

Sincerely,

Elizabeth Saagulik Hensley
Corporate & Public Policy Liaison

Representative Reggie Joule
Alaska State Legislature District 40

HB 258 Use of Naturally Occurring Asbestos

CSHB(TRANS) v.T Sectional Analysis

Section	Statute	Change	Purpose or Effect
1	Uncodified Law	Add new section	Legislative Findings and Purpose
2	AS 09.65	Add new section AS 09.65.245	**Liability Immunity** 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: 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	**The use of NOA material in private construction projects** The use of NOA material must: 1) Is 0.25% by mass tested using bulk test method prescribed by Department of Transportation and Public Facilities 2) 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: a. Prepare and submit specific plans demonstrating compliance with DOT&PF SOP b. Approval by DOT&PF must be granted before the extraction and use of gravel occurs
4	44.42	Add new	**Use of Materials - Administration**

		section AS 44.42.400	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: 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 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, DOTP&F, DEC, DHSS, DLWF for projects with active plans
	44.42	Add new section AS 44.42.410	**<u>Use of Materials – Site Specific Use</u>** A contractor that intends to use identified and tested NOA gravel shall submit a site specific plan to DOT&PF to include the following: 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

			the use of NOA gravel 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 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: 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 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 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

			mitigation and monitoring plan developed by DOTP&F. On approval of the site specific plan DOT&PF will do the following: 1)Return a copy of the plan to the contractor including; a. The monitoring and mitigation plan under AS 44.42.410 (d) b. Recommend methods for reducing exposure to airborne fibers c. Copies of the US OSHA Mine Safety and Health Administration & EPA recommended practices for handling and use of gravel material containing NOA 2) A of the construction plan to the mayor of manager of municipality affected by the use of NOA 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
	44.42	Add new section AS 44.42.420	**Regulations** 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
	44.42	Add new section AS 44.42.430	**Definitions** "Asbestos" "Contractor"
5	Uncodified Law	Add new section	**Interim Project Authorization** 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
6	Uncodified Law	Add new section	**Interim Standards for Bulk Testing** Until DOTP&F adopts and prescribes a method of testing the department shall use California Air Resources Board Method 435
7	AS 01.10.70	Effective Date	**Immediately**

NWALT Northwest Arctic Leadership Team

The Honorable Reggie Joule
House of Representatives
Alaska State Capitol
Juneau, AK 99801-1182

January 31, 2012

Dear Representative Joule:

The Northwest Arctic Leadership Team (NWALT) writes in support of House Bill 258. As you know, NWALT is a partnership of the Northwest Arctic Borough, Maniilaq Association, the Northwest Arctic Borough School District and NANA Regional Corporation. It is our charge to maximize resources and reduce duplication of efforts to address issues affecting the people of Northwest Alaska while honoring and perpetuating our Iñupiat cultural heritage.

Enactment of HB 258 is essential for completion of long-needed construction and public works projects in the Upper Kobuk Valley, most of which have been put on hold for over a decade due to naturally occurring asbestos (NOA) in the local gravel sources. Projects delayed in Ambler add up to over $10 million and include:

1. Airport runway extension and upgrades to Grizzly Bridge, which are necessary to reach the airport (the last improvement to the airport was in 1991 and to Grizzly Bridge was in 1976)
2. Upgrades to water and sewer services (last improvements in 1973 and 1982 respectively)
3. Building of new homes (last new homes completed in 1991 by the Northwest Inupiat Housing Authority)
4. Upgrades to existing dumpsite (opened in 1976 with no improvements since)
5. To secure the embankment protecting homes from river erosion

In Kobuk, a necessary addition to the school to accommodate students attending high school in the village has been delayed since grades 9-12 were made available in the village five years ago.

The use of NOA-containing material in construction and public works projects in the Upper Kobuk is necessary to the maintenance and improvement of local infrastructure so that residents may have the opportunity to enjoy a quality of life similar to that of residents who have the benefit of NOA-free gravel sources. Additionally, this legislation is a crucial part of the long-term solution to an important issue affecting rural Alaskans across the State, as well as proposed development projects such as the Ambler Mining District Access Project.

We thank you for your advocacy on this important issue.

NWALT Northwest Arctic Leadership Team

Sincerely,

Siikauraq Martha Whiting
NWALT Co-Chair
Mayor
Northwest Arctic Borough

Marie N. Greene
NWALT Co-Chair
President/CEO
NANA Regional Corporation

Ian Erlich
President/CEO
Maniilaq Association

Norm Eck, Ph.D.
Superintendent of Schools
Northwest Arctic Borough School District

27-LS0400\S
Nauman
3/16/12

Adopted 3/19/12

CS FOR HOUSE BILL NO. 258(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVE JOULE

A BILL

FOR AN ACT ENTITLED

"An Act directing the Department of Transportation and Public Facilities to develop and implement standards and operating procedures, evaluate site-specific use plans, develop and maintain an information database that includes locations of gravel or other aggregate material that contains naturally occurring asbestos and gravel or other aggregate material free from naturally occurring asbestos, and suggests locations to stockpile gravel or other aggregate material free from naturally occurring asbestos, and transmit reports related to the use in the construction and maintenance of transportation projects and public facilities and in the construction of projects by public and private entities of gravel or aggregate material that contains naturally occurring asbestos, and authorizing use on an interim basis of that material for certain transportation projects and public facilities; providing immunity for the state and for landowners, extractors, suppliers, transporters, and contractors for certain actions or

claims arising in connection with the use of gravel or aggregate material containing naturally occurring asbestos; requiring contractors to report certain asbestos-related data to the Department of Transportation and Public Facilities; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

*** Section 1.** The uncodified law of the State of Alaska is amended by adding a new section to read:

LEGISLATIVE FINDINGS AND PURPOSE. (a) The legislature finds that

(1) gravel or similar aggregate material is constantly in demand for major construction and maintenance of state and local transportation projects and public facilities and for all types of construction by public and private entities;

(2) naturally occurring asbestos may be found in sources of gravel and similar aggregate material throughout the state;

(3) while airborne asbestos fibers are a significant threat to workplace safety and public health and are subject to close regulation by federal and state authorities under 42 U.S.C. 7401 - 7671q (Clean Air Act) and 15 U.S.C. 2601 - 2692 (Toxic Substances Control Act), use of materials containing naturally occurring asbestos in construction projects may be regulated by states;

(4) in communities that do not have sources of gravel or similar aggregate material that is free of naturally occurring asbestos, costs of construction are substantially increased because of the necessity of locating alternative sources of gravel or similar aggregate material and transporting that material to distant construction and maintenance sites; and

(5) a recent study suggests that, with careful use and close adherence to appropriate control strategies, state and local transportation projects and public facilities may be safely completed using sources of gravel or similar aggregate material that contains naturally occurring asbestos; the study recommends that the Department of Transportation and Public Facilities establish standards and operating procedures through a statewide process that will apply to the use of gravel and aggregate material that contains asbestos by the

department and by any public or private entity.

(b) It is the purpose of this Act

(1) to authorize and direct the Department of Transportation and Public Facilities to develop, implement, and, as circumstances may require or indicate, modify standards and operating procedures to allow the use in the construction and maintenance of transportation projects and public facilities of gravel or aggregate material that contains naturally occurring asbestos, with the expectation that use of that material in a manner that is consistent with those standards and procedures may avoid significant risk to human health and eliminate significantly higher costs of construction and maintenance of projects and facilities associated with using only construction material that is free of asbestos;

(2) to establish that a person that uses gravel that contains naturally occurring asbestos may prepare specific project plans that conform to the requirements of this Act and the department's standards and operating procedures; and

(3) to shield persons and the state, including its agencies, officers, and employees, under certain conditions, from liability based on exposure to naturally occurring asbestos.

(c) This Act creates a voluntary program and provides civil immunity for the use of gravel or other aggregate material that contains naturally occurring asbestos for contractors meeting the requirements of the program; nothing in this Act mandates a contractor to submit a site-specific plan or to adhere to the requirements of a plan approved by the department.

(d) Because neither the state nor the federal government has established a scale assigning a specific risk level to a corresponding amount of naturally occurring asbestos, this Act accepts 0.25 percent by mass, the minimum detectable amount of asbestos under the California Air Resources Board Method 435, as the baseline for the presence of naturally occurring asbestos in gravel or other aggregate material. Health risks resulting from asbestos exposure vary according to the level, type, and duration of exposure. While exposure to very small concentrations of asbestos may pose some health risk, there is not a practical way to prevent all exposure to asbestos for residents in close proximity to deposits that contain naturally occurring asbestos. The intent of this act is to establish a sensible analytical threshold for detection of naturally occurring asbestos in gravel or other aggregate material and to establish appropriate exceptions for the use of gravel or other aggregate material that

contains naturally occurring asbestos for certain public facilities and transportation projects involving unusual circumstances, including projects in remote locations or in regions where gravel or other aggregate material free from naturally occurring asbestos is not reasonably available.

*** Sec. 2.** AS 09.65 is amended by adding a new section to read:

Sec. 09.65.245. Immunity for certain persons supplying or using gravel or other aggregate material; limitations on asbestos-related actions against defendants. (a) Notwithstanding AS 09.50.250, a civil action or claim for damages or costs alleging a death, injury, illness, disability, property damage, or any other damages resulting from the use of gravel or other aggregate material that contains naturally occurring asbestos may not be brought against a defendant, including a contractor meeting the requirements of the program or the state and its agencies, officers, and employees,

(1) based on the ownership of land from which gravel or other aggregate material is extracted that, when tested using a bulk method prescribed by the Department of Transportation and Public Facilities by regulation, is determined to have a content equal to or greater than 0.25 percent naturally occurring asbestos by mass; or

(2) for an act or omission occurring in the course of extracting, supplying, transporting, or using gravel or other aggregate material containing naturally occurring asbestos when the act or omission was in compliance with the requirements of AS 18.31.250 or AS 44.42.410(b), as applicable, and AS 44.42.410(a) and (d) and applicable regulations developed under AS 44.42.420.

(b) A civil action or claim based on noncompliance with the requirements of AS 18.31.250 or AS 44.42.410(b), as applicable, and AS 44.42.410(a) and (e) and applicable regulations developed under AS 44.42.420 for damages or costs alleging an asbestos-related death, injury, illness, or disability or alleging asbestos-related property damage or any other asbestos-related damages may only be brought against a defendant that has direct control over or responsibility for compliance with the requirements of AS 18.31.250 or AS 44.42.410(b), as applicable, and AS 44.42.410(a) and (e) and applicable regulations developed under AS 44.42.420.

(c) Notwithstanding AS 09.50.250, a civil action or claim for damages or costs alleging an asbestos-related death, injury, illness, or disability or alleging asbestos-related property damage or any other asbestos-related damages may not be brought against any state agency or officer or employee of the state for an act or omission occurring in the course of approving a site-specific use plan or in the course of developing or approving a monitoring plan or a mitigation plan under AS 44.42.410.

(d) In this section,

(1) "asbestos" has the meaning given in AS 18.31.500;

(2) "naturally occurring asbestos" means asbestos-containing material that has not been processed in an asbestos mill.

*** Sec. 3.** AS 18.31 is amended by adding a new section to read:

Article 2A. Use of materials containing naturally occurring asbestos.

Sec. 18.31.250. Use of materials containing naturally occurring asbestos. (a) A principal construction contractor or, in the absence of an identified principal construction contractor, person having legal authority for the design and construction of a project may qualify for immunity in a civil action under AS 09.65.245(a)(2) for the use of gravel or other aggregate material that, when tested using a bulk test method prescribed by the Department of Transportation and Public Facilities by regulation, is determined to have a content equal to or greater than 0.25 percent of naturally occurring asbestos by mass.

(b) To qualify for the immunity provided under AS 09.65.245(a)(2), before initiating a construction project not subject to AS 44.42.410(b) that will use gravel or other aggregate material that contains naturally occurring asbestos, the principal construction contractor or, in the absence of an identified principal construction contractor, the person having legal authority for the design and construction of the project, shall prepare and submit to the Department of Transportation and Public Facilities specific project plans demonstrating compliance with the standards adopted by the department under AS 44.42.420 and the requirements of the site-specific use plan under AS 44.42.410. Before extraction of gravel or other aggregate material may begin, the plan must be approved and returned to the contractor by the department.

(c) To preserve the immunity provided under AS 09.65.245(a)(2), the

principal construction contractor or, in the absence of an identified principal construction contractor, the person having legal authority for the design and construction of the project, shall adhere to the site-specific use plan approved by the department and the monitoring and mitigation plan created by the department.

*** Sec. 4.** AS 44.42 is amended by adding new sections to read:

Article 3A. Use of Materials Containing Naturally Occurring Asbestos.

Sec. 44.42.400. Administration. The department shall

(1) designate a single employee who reports to the commissioner to oversee the duties assigned to the department in AS 44.42.400 - 44.42.430 and to serve as the point of contact for inquiries related to projects using gravel or other aggregate material containing naturally occurring asbestos;

(2) coordinate with the Department of Natural Resources to establish and maintain a database of

(A) sites in the state for which the department has acquired or received information indicating that the sites contain naturally occurring asbestos;

(B) sources of gravel or other aggregate material that, according to information available to the department from reasonably reliable sources, are free from naturally occurring asbestos within reasonable proximity to known sites of naturally occurring asbestos;

(C) sources of gravel or other aggregate material for all known projects the state or a municipality intends to undertake within 25 miles of a community in the next five years where the state or municipality intends to use gravel or other aggregate material containing naturally occurring asbestos that, according to information available to the department from reasonably reliable sources, are free from naturally occurring asbestos; the database must include all sources of gravel or other aggregate material within 25 miles of the community;

(D) communities that have reported to the department that they do not have reasonable access to gravel or other aggregate material free from naturally occurring asbestos; and

(E) all data collected under the requirements of AS 44.42.410(f)(1)(B), by project;

(3) annually transmit to the commissioner and publish on the department's Internet website a report containing

(A) a listing of all current projects for which a plan has been submitted under AS 18.31.250 or AS 44.42.410(b);

(B) a listing of all known projects intended to be undertaken by the state or a municipality in the next five years where the state or municipality intends to use gravel or aggregate material containing naturally occurring asbestos;

(C) suggestions for potential locations to stockpile gravel or other aggregate material free from naturally occurring asbestos for use in future projects and an estimate of the cost of stockpiling that gravel; and

(D) suggestions for potential locations, in coordination with ongoing state and municipal construction projects, to stockpile gravel or other aggregate material free from naturally occurring asbestos for future projects and an estimate of the cost of stockpiling that gravel; and

(4) annually provide a report on the monitoring and mitigation data transmitted by contractors to the department under AS 44.42.410(h) and the results of site monitoring performed by the department to the Department of Environmental Conservation, the Department of Health and Social Services, and the Department of Labor and Workforce Development.

Sec. 44.42.410. Site-specific use plan. (a) To qualify for the immunity provided under AS 09.65.245(a)(2), a contractor intending to use gravel or other aggregate material that, when tested using a bulk test method prescribed by the department in regulation, is determined to have a content equal to or greater than 0.25 percent of naturally occurring asbestos by mass shall, after consulting with the owner of the land on which the gravel or other aggregate material containing naturally occurring asbestos will be placed, shall submit a site-specific use plan to the department that

(1) describes the manner in which the proposed use of gravel or other

aggregate material that contains naturally occurring asbestos conforms to the standards adopted under AS 44.42.420(b);

(2) demonstrates how the proposed construction operation and maintenance practices comply with those that are required and those that are minimally acceptable, as described in AS 44.42.420(b)(5), and otherwise meet requirements of law applicable to the handling of compounds that contain asbestos;

(3) outlines the efforts that will be made, as a component of long-term maintenance on the completed project or facility, to ensure that human health and air quality are not compromised by the use of the gravel or other aggregate material that contains naturally occurring asbestos;

(4) describes how the gravel or other aggregate material to be used can be contained underneath the project or buried so that asbestos fibers cannot become airborne or otherwise transferred outside of the project area, except as provided in (5) and (6) of this subsection;

(5) if the requirements in (4) of this subsection are economically unreasonable, describes how the gravel or other aggregate material to be used will be sealed, including chip sealing or mixing with asphalt, in order to prevent asbestos fibers from becoming airborne or otherwise transferred outside of the project area, except as provided in (6) of this subsection; and

(6) if the requirements under (4) and (5) of this subsection are economically unreasonable, describes how the gravel or other aggregate material will be used in order to prevent asbestos from becoming airborne or otherwise transferred outside of the project area.

(b) To qualify for and preserve the immunity provided under AS 09.65.245(a)(2), the department, in its operating procedures applicable to a project that is a transportation facility, including a public highway, airport, or pipeline or railroad track bed, or a public work, as that term is defined in AS 35.95.100, and for which the contractor intends to use gravel or other aggregate material that, when tested using a bulk testing method prescribed by the department in regulation, is determined to have a content equal to or greater than 0.25 percent of naturally occurring asbestos by mass, shall require that

(1) the contractor submit a plan that details the use of gravel or other aggregate material in the construction or maintenance of the transportation project or public facility in accordance with the requirements of (a) of this section and regulations developed under AS 44.42.420;

(2) before the extraction of the gravel or aggregate material containing naturally occurring asbestos may begin, the plan be approved and returned to the contractor by the department;

(3) the contractor adhere to the monitoring, mitigation, and site-specific use plans.

(c) The department shall review each submitted site-specific use plan and shall work toward approving or disapproving the plan, taking into consideration the construction season in the project location.

(d) The department may not approve a plan for construction with gravel or other aggregate material determined to have a content equal to or greater than 0.25 percent of naturally occurring asbestos by mass unless the department determines that it is economically unreasonable to undertake the construction project with gravel or other aggregate material free from naturally occurring asbestos.

(e) On receiving a plan that meets the requirements of (a) and (d) of this section and the regulations adopted under AS 44.42.420, the department, in consultation with the Department of Environmental Conservation, the Department of Health and Social Services, and the Department of Labor and Workforce Development, shall develop a monitoring and mitigation plan for the project. If the site-specific use plan is approved, the monitoring and mitigation plan developed by the department shall be attached to the site-specific use plan. To qualify for the immunity provided in AS 09.65.245(a)(2), the party that has direct control over or responsibility for the monitoring or mitigation shall comply with the monitoring or mitigation plan developed by the department.

(f) On approval of a site-specific use plan, the department

(1) shall provide to the contractor a copy of the approved site-specific use plan that includes

(A) the monitoring and mitigation plan developed under (e) of

this section;

(B) a requirement that all asbestos-related data collected by the contractor during or after construction be submitted to the department; and

(C) recommended methods for reducing exposure to airborne asbestos fibers;

(2) shall provide a copy of the site-specific use plan, including the monitoring and mitigation plan, to the mayor or manager of a municipality affected by the use of gravel or other aggregate material containing asbestos; and

(3) may provide to the contractor copies of the United States Occupational Safety and Health Administration, United States Mine Safety and Health Administration, and United States Environmental Protection Agency recommended practices for handling and use of gravel or other aggregate material containing naturally occurring asbestos.

(g) Within 60 days after completing a project in accordance with a site-specific plan approved by the department, the contractor shall record in the recording district where the property is located a document that includes a description of the affected property, a reference to the most recent recorded conveyance of that property, and a notice indicating the presence of naturally occurring asbestos, and stating that subsequent interest holders may have legal obligations with respect to preventing the naturally occurring asbestos from becoming airborne or otherwise transferred. The contractor shall provide written notification to the department and the landowner that the document has been recorded.

(h) The contractor shall submit to the department the results of any monitoring or testing performed in accordance with the site-specific use plan and any mitigation measures undertaken.

Sec. 44.42.420. Regulations. (a) The department, after consultation with the Department of Environmental Conservation, Department of Health and Social Services, and Department of Labor and Workforce Development, shall prescribe in regulation a bulk testing method for gravel or other aggregate material containing naturally occurring asbestos.

(b) The department, after consultation with the Department of Environmental

Conservation, Department of Health and Social Services, and Department of Labor and Workforce Development, may adopt regulations under AS 44.62 (Administrative Procedure Act) to implement AS 44.42.400 - 44.42.430, including regulations revising statewide standards on the use in the construction and maintenance of transportation projects and public facilities of gravel or aggregate material that, when tested using a bulk test method prescribed by the department by regulation, is determined to have a content equal to or greater than 0.25 percent of naturally occurring asbestos by mass. The regulations adopted under this subsection must include procedures for

(1) completing site investigations and characterizations of proposed projects, including the development and description of appropriate laboratory practices;

(2) reviewing design alternatives and preparing and evaluating appropriate comparative cost analyses that consider the use of gravel or other aggregate material that does not contain naturally occurring asbestos;

(3) evaluating human health concerns arising out of gravel or other aggregate material that contains naturally occurring asbestos and documentation of methods and means to be used during periods of handling of the gravel or other aggregate material to ensure compliance with appropriate workplace safety and air quality standards relating to the project;

(4) preparing designs and design specifications for facilities involving use of gravel or other aggregate material that contains naturally occurring asbestos;

(5) outlining construction operation and maintenance practices that are required and those that are minimally acceptable to meet requirements of law applicable to the handling of compounds that contain asbestos;

(6) processing, reviewing, and approving or disapproving site-specific use plans in a uniform manner.

Sec. 44.42.430. Definitions. In AS 44.42.400 - 44.42.430,

(1) "asbestos" has the meaning given in AS 18.31.500;

(2) "contractor" means the principal construction contractor, or in absence of an identified principal construction contractor, the person having legal authority for the design and construction of the project;

(3) "naturally occurring asbestos" means asbestos-containing material that has not been processed in an asbestos mill.

*** Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to read:

INTERIM PROJECT AUTHORIZATION. (a) Notwithstanding AS 18.31.250, added by sec. 3 of this Act, to ensure early application of the policy described in sec. 1 of this Act to a limited number of appropriate construction projects until the development and implementation of initial standards under AS 44.42.420 and the administrative requirements of AS 44.42.400, added by sec. 4 of this Act, for projects not subject to AS 44.42.410(b), if, under (b) of this section, the Department of Transportation and Public Facilities prepares and adopts interim standards and requires its contractors to prepare site-specific plans for the use of gravel or other aggregate material that, when tested using the bulk method prescribed in sec. 6 of this Act, is determined to have a content equal to or greater than 0.25 percent naturally occurring asbestos by mass in transportation projects and public facilities, the department shall apply those standards to a person described in AS 18.31.250 for a project that is not subject to AS 44.42.410(b).

(b) Notwithstanding AS 44.42.410(b), added by sec. 4 of this Act, to ensure early application of the policy described in sec. 1 of this Act to a limited number of appropriate transportation projects and public facilities until the development and implementation of initial standards under AS 44.42.420 and the administrative requirements of AS 44.42.400, after consultation with the Department of Environmental Conservation, Department of Health and Social Services, Department of Labor and Workforce Development, and appropriate federal agencies, the Department of Transportation and Public Facilities may prepare and adopt interim standards and operating procedures and may require of its contractors the preparation of site-specific plans for the use of gravel or other aggregate material that when tested using the bulk method prescribed in sec. 6 of this Act, is determined to have a content equal to or greater than 0.25 percent naturally occurring asbestos by mass.

(c) The authority granted by (a) and (b) of this section expires December 31, 2013.

*** Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to read:

INTERIM STANDARDS FOR APPLICATION OF ASBESTOS BULK TESTING.

Until the Department of Transportation and Public Facilities adopts and prescribes a method of bulk testing under AS 44.42.420(a), added by sec. 4 of this Act, the department shall use California Air Resources Board Method 435, Determination of Asbestos Content of Serpentine Aggregate, adopted on June 6, 1991, as that standard has effect on the effective date of this Act, as the basis for determining the asbestos content of a bulk sample or for interim use as authorized by sec. 5 of this Act.

*** Sec. 7.** This Act takes effect immediately under AS 01.10.070(c).

Representative Reggie Joule
Alaska State Legislature District 40

Changes Between HB258(TRA) 27-LS0400\T & HB258 (FIN) LS-0400\S

- **Page 3 Lines 14-16**
  - Intent languages describing the state immunity to include agencies, officers and employees

- **Page 3 Lines 21-31 & Page 4 Lines 1-4**
  - Intent languages that establishes an analytical threshold at .25% by mass volume as naturally occurring asbestos(NOA) gravel and intent language offered by DHSS on exposure to NOA and public health

- **Page 4 Lines 8-13**
  - Clarifies the scope of immunity provided

- **Page 4 Lines 12-13**
  - Describes the state immunity to include agencies, officers and employees

- **Page 5 Lines 4-5**
  - Describes the state immunity to include agencies, officers and employees

- **Page 5 Line 16 & Line 21**
  - Provides separate immunity for gravel pit landowners while removing them from the immunity provided by the adherence to the site specific plan by the contractors of the construction projects
- **Page 6 Lines 12-13**
  - Includes Department of Natural Resources in the coordination of the database on mineral and gravel sources

- **Page 9 Line 29**
  - Requires DOT&PF to send the approved site specific plan not just the received site specific plan

- **Page 10 Line 9**
  - Allows the option for DOT&PF to send the copies of certain material instead of requiring DOT&PF to send material

- **Page 10 Line 31 & Page 11 Lines 1-8**
  - Provides DOTP&F required regulatory authority provided under the Administrative Procedure Act to write the necessary regulations

- **Page 11 Lines 25-26**
  - Requires DOTP&F to establish regulations that include specific components of the site specific plan

- **Page 12 Line 28**
  - Changes the expiration date for the interim projects to Dec. 31, 2013 so DOT&PF can have enough time for the regulatory process

HOUSE COMMITTEE REPORT

(11)

Date **Referred to Committee: March 2, 2012** **FURTHER REFERRALS:**

Date of Committee Action: 3/28/12

The FINANCE Committee considered: **HB 258**

HOUSE BILL NO. 258

"An Act directing the Department of Transportation and Public Facilities to develop and implement standards and operating procedures allowing for the use in the construction and maintenance of transportation projects and public facilities and in the construction of projects by public and private entities of gravel or aggregate materials that contain a limited amount of naturally occurring asbestos, and authorizing use on an interim basis of those materials for certain transportation projects and public facilities; relating to certain claims arising out of or in connection with the use of gravel or aggregate materials containing a limited amount of naturally occurring asbestos; and providing for an effective date."

HB 258-NATURALLY OCCURRING ASBESTOS

Recommends it be replaced with [ ] HCS *or* [✓] CS *for* HB 258 (FIN)

For Senate Bills with new title: [ ] Technical Title [ ] New Title: HCR _____ **[ ] Same Title [✓] New Title**

[ ] attach amendments
[ ] add new referral to _____Committee
[ ] Letter of Intent_____Committee

List of Abbrev for Depts.:
ADM
CED
COR
CRT
EED
DEC
DFG
GOV
DHS
LWF
LAW
LEG
MVA
DNR
DPS
REV
DOT
UA

NEW FISCAL NOTES
*FN# is assigned by Chief Clerk's Office

*FN#	List by Dept(s):	Fiscal	Indet.	Zero
	DOT	✓		
	DNR			✓
	LAW			✓
	DEC	✓		

PREVIOUS FISCAL NOTES

FN#	List by Dept(s):	Fiscal	Indet.	Zero
1	LWF			✓
3	DHS	✓		

Signing with recommendations	Printed Last Name	DP	DNP	NR	AM
Mike Doogan	DOOGAN	✓			
Anna Fairclough	FAIRCLOUGH				✓
Gara	Gara				✓
Tammie Wilson	T. Wilson	✓			
	Seaton	✓			
	Kelly	✓			
Bill Edgmon	Edgmon	✓			
Peggy Wilson	COSTELLO			✓	
Chair:				✓	
Chair:	Thomas	✓			

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version: **CSHB 258(TRA)**
Fiscal Note Number: **1**
(H) Publish Date: **3/2/12**

Identifier (file name): HB258-DOLWD-LSS-2-17-12
Title: Naturally Occurring Asbestos
Sponsor: Representative Joule
Requester: House Transportation

Dept. Affected: Labor and Workforce Development
Appropriation: Labor Standards and Safety
Allocation: Occupational Safety and Health
OMB Component Number: 970

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	**FY13**	**FY13**	**FY14**	**FY15**	**FY16**	**FY17**	**FY18**
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

FUND SOURCE (Thousands of Dollars)								
1002	Federal Receipts							
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
TOTAL		**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

POSITIONS							
Full-time							
Part-time							
Temporary							

CHANGE IN REVENUES							

Estimated SUPPLEMENTAL (FY12) operating costs _____ *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs _____ *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Not applicable, initial version.

Prepared by: Grey Mitchell, Director — Phone: 465-4855
Division: Labor Standards and Safety — Date/Time: 2/17/12 2:36 PM
Approved by: Click Bishop, Commissioner — Date: 2/17/2012
Department of Labor and Workforce Development

(Revised 1/17/2012 OMB)

FISCAL NOTE #1

STATE OF ALASKA
2012 LEGISLATIVE SESSION

BILL NO. CSHB 258(TRA)

Analysis

The proposed legislation intends to require the Alaska Department of Transportation and Public Facilities to establish standards and operating procedures in connection with public construction and maintenance projects to allow for the use of gravel or aggregate containing a limited amount of naturally occurring asbestos in a manner that avoids significant human health risks while mitigating significantly higher costs associated with using only gravel or aggregate that is 100 percent free of asbestos. The proposed legislation also intends to require users of gravel or aggregate containing a limited amount of naturally occurring asbestos to prepare project plans that demonstrate conformance with established standards and to shield providers of gravel or aggregate containing a limited amount of asbestos from liability under certain conditions.

There is no anticipated financial impact to the department as a result of this legislation. Existing resources would be used to provide consultative assistance to the Department of Transportation and Public Facilities in establishing and implementing standards for the use of aggregate or gravel that contains a limited amount of naturally occurring asbestos. Electronic means of communication will be utilized to avoid the need for travel.

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version: **CSHB 258(TRA)**
Fiscal Note Number: **3**
(H) Publish Date: **3/2/12**

Identifier (file name): HB258-DHSS-EPI-02-21-12
Title: Naturally Occurring Asbestos
Sponsor: Representative Joule
Requester: House Transportation Committee

Dept. Affected: Health and Social Services
Appropriation: Public Health
Allocation: Epidemiology
OMB Component Number: 296

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	**FY13**	**FY13**	**FY14**	**FY15**	**FY16**	**FY17**	**FY18**
Personal Services	15.0		15.0				
Travel	2.6		1.4				
Services	3.5		3.5				
Commodities	0.2		0.2				
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	**21.3**	**0.0**	**20.1**	**0.0**	**0.0**	**0.0**	**0.0**

FUND SOURCE		(Thousands of Dollars)						
1002	Federal Receipts							
1003	GF Match							
1004	GF	21.3		20.1				
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
TOTAL		**21.3**	**0.0**	**20.1**	**0.0**	**0.0**	**0.0**	**0.0**

POSITIONS							
Full-time							
Part-time							
Temporary							

CHANGE IN REVENUES							

Estimated SUPPLEMENTAL (FY12) operating costs 0.0 *(separate supplemental appropriation required;*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Not applicable. Initial version.

Prepared by: Ward B. Hurlburt, M.D., MPH /Chief Medical Officer-Director — Phone 269-6680
Division: Public Health — Date/Time 2/21/12 11:00 AM
Approved by: Nancy Rolfzen, Assistant Commissioner — Date 2/21/2012
DHSS Finance & Management Services

(Revised 11/18/2011 OMB)

FISCAL NOTE #3

STATE OF ALASKA
2012 LEGISLATIVE SESSION

BILL NO. CSHB 258(TRA)

Analysis

The purposes of the bill include: A) a mandate for the Department of Transportation and Public Facilities (DOT & PF) to develop and implement standards and operating procedures that would allow the use of aggregate materials that contain naturally occurring asbestos; B) a requirement that users of material that contains naturally occurring asbestos should conform to the standards and procedures established by DOT & PF; and C) a shelter from liability based on exposure to naturally occurring asbestos. In addition to procedure development, the bill directs the DOT & PF to adopt a soil based standard of 0.25 percent asbestos by weight for materials not free of naturally occurring asbestos.

Section 4 of this bill adds a new section AS 44.42.022 requiring the Department of Transportation & Public Facilities to consult with the Department of Health and Social Services to develop and implement standards to regulate the use of gravel conrtaining naturally occurring asbestos for use in construction, transportation, and public facility projects. The Department of Health and Social Services has provided and will continue to play a supportive and consultative role in this discussion through technical review of scientific studies and a review of previous epidemiological and toxicological work in the state. This environmental health consultation will require 0.1 FTE Health Program Manager III. The Division will use an existing position to fulfill this work. Additional costs are for office supplies, administrative overhead, and in-state travel (more in Year 1 than Year 2).

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version **HB258**
Fiscal Note Number
Publish Date

Identifier (file name) HB258CS-DOT-STWD-3-27-12
Title Naturally Occurring Asbestos
Sponsor Representative Joule
Requester H (FIN)

Dept. Affected DOT&PF
Appropriation Design, Engineering & Construction
Allocation Stwd Design & Engineering Services
OMB Component Number 2357

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	**FY13**	**FY13**	**FY14**	**FY15**	**FY16**	**FY17**	**FY18**
Personal Services	117.6		117.6	58.8	58.8	23.5	23.5
Travel	35.0		20.0	10.0	5.0	5.0	5.0
Services	50.0		52.5	52.5	2.5	2.5	2.5
Commodities	7.5		0.5	0.5	0.5	0.5	0.5
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	**210.1**	**0.0**	**190.6**	**121.8**	**66.8**	**31.5**	**31.5**

FUND SOURCE		(Thousands of Dollars)						
1002	Federal Receipts							
1003	GF Match							
1004	GF	210.1		190.6	121.8	66.8	31.5	31.5
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
TOTAL		**210.1**	**0.0**	**190.6**	**121.8**	**66.8**	**31.5**	**31.5**

POSITIONS							
Full-time	**1.0**		1	0.5	0.5	0.2	0.2
Part-time							
Temporary							

CHANGE IN REVENUES							

Estimated SUPPLEMENTAL (FY12) operating costs _____ *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs _____ *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

updated to reflect loss of database requirement, more travel in the intial years and lower personnel costs in the future.

Prepared by Brenda Hewitt, Legislative Liaison — Phone 465-4772
Division Department of Transportation and Public Facilities — Date/Time 3/27/12 11:00 AM
Approved by Marc Luiken — Date 3/27/2012
Commissioner

(Revised 8/17/2011 OMB)

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

BILL NO. HB258

Analysis

This act requires the Department of Transportation and Public Facilities (DOT&PF) to develop and implement standards on a project-by-project basis for the use of gravel containing naturally occurring asbestos (NOA) when there is no economically reasonable alternative source of "clean" gravel. The Department is also required to develop testing methodologies and procedures for indemnification.

Additionally, DOT&PF is to approve private contractor plans for the use of naturally occurring asbestos in construction projects in Alaska. DOT&PF will only approve the plans. Liability rests with the contractor to comply with the DOT&PF plan if they seek future immunity, under certain circumstances, from illnesses that may arise from worker exposure to limited amounts of naturally occurring asbestos.

The Department will hire an Engineer/Architect I to oversee contractors, work with other departments on the development of regulations, policies, procedures and laboratory methodology as well review project plans to insure they are in compliance with appropriate policies, standards and that all applicable analysis is also in compliance with the newly developed analytical methodologies. Travel is necessary to attend meetings, work with other agencies, laboratories and consultants and travel to sites. ($35.0)

The initial set up costs for a new staff is $7.5. Ongoing costs of $2.5 for core departmental services and $0.5 for supplies.

The Department will contract with technical and regulatory consultants with NOA expertise to develop the regulations, standards, procedures, and testing methodologies ($50.0/year for FYs 13, 14, 15). The Department assumes all NOA testing will be done by the contractors or material site owners.

First Year

Personal Services		
	Salary and benefits for Engineer/Architect I range 22	117.6
Travel		35.0
Services		50.0
	Consultants (NOA specialists)	
Commodities		7.5
TOTAL first year		$210.1

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version: **HB258CS (FIN)\ Y**
Fiscal Note Number:
() Publish Date:

Identifier (file name): HB258CS(FIN)-DNR-MLW-03-28-12
Title: NATURALLY OCCURRING ASBESTOS
Sponsor: Rep. Joule
Requester: (H) FIN

Dept. Affected: Dept. of Natural Resources
Appropriation: Land & Water Resources
Allocation: Mining, Land & Water
OMB Component Number: 3002

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	**FY13**	**FY13**	**FY14**	**FY15**	**FY16**	**FY17**	**FY18**
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

FUND SOURCE		(Thousands of Dollars)						
1002	Federal Receipts							
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
TOTAL		**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

POSITIONS							
Full-time							
Part-time							
Temporary							

CHANGE IN REVENUES							

Estimated SUPPLEMENTAL (FY12) operating costs 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

This fiscal note has been revised to reflect a zero fiscal impact due to changes made in House Finance. Instead of a database monitoring system, DNR's role is now to consult with DOT/PF on regulations relating to naturally occuring asbestos in gravel.

Prepared by: Brent Goodrum, Director — Phone: 907-269-8625
Division: Mining, Land & Water — Date/Time: 3/28/12 1:00 PM
Approved by: Daniel S. Sullivan, Commissioner — Date: 3/28/2012
Department of Natural Resources

(Revised 1/17/2012 OMB)

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

BILL NO. HB258CS (FIN)\ Y

Analysis

This legislation requires the Department of Transportation and Public Facilities (DOTPF) to work in consultation with DNR and other Departments to develop monitoring and mitigation plans for projects, that are for a transportation facility, including a public highway, airport, or pipeline or railroad track bed, or a public work in response to a Plan of Operation submitted by an applicant for immunity under this legislation. This legislation also requires the Department of Transportation and Public Facilities (DOTPF) to work in consultation with DNR and other departments to develop implementing regulations for this program.

DNR anticipates that it will use existing staff to provide support to DOTPF and does not anticipate any financial or resource impacts from this legislation.

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version: **CSHB258**
Fiscal Note Number:
() Publish Date:

Identifier (file name): HB258CS(FIN)-LAW-CIV-03-28-12
Title: Naturally Occurring Asbestos
Sponsor: Representative (s) Joule
Requester: (H) Finance

Dept. Affected: Law
Appropriation: Civil
Allocation: Transportation Section
OMB Component Number: 2214

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	**FY13**	**FY13**	**FY14**	**FY15**	**FY16**	**FY17**	**FY18**
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

FUND SOURCE		(Thousands of Dollars)						
1002	Federal Receipts							
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
TOTAL		**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

POSITIONS							
Full-time							
Part-time							
Temporary							

CHANGE IN REVENUES							

Estimated SUPPLEMENTAL (FY12) operating costs _____ *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs _____ *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Not applicable, initial version.

Prepared by: Sheila Bugbee, Administrative Officer — Phone: 465-3675
Division: Administrative Services — Date/Time: 3/28/12 1:00 PM
Approved by: Michael C. Geraghty, Attorney General — Date: 3/28/2012
Department of Law

(Revised 1/17/2012 OMB)

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

BILL NO. CSHB258

Analysis

CSHB 258(FIN) directs Department of Transportation and Public Facilities to develop and implement standards for the use of gravel and other aggregate materials containing a defined level of naturally occurring asbestos as well as defining project areas where it may be economically unreasonable to use gravel and other materials that do not contain naturally occurring asbestos. The bill also provides immunity from suit to certain landowners and contractors who transport and use this material in the defined project areas, provided they have site specific plans concerning that use which are approved by Department of Transportation and Public Facilities in accordance with regulations promulgated by Department of Transportation and Public Facilities and after consultation with the Department of Health and Social Services, the Department of Natural Resources, the Department of Labor and Workforce Development and the Department of Law. The Department of Law will be tasked to assist in the drafting of a regulatory framework to carry out the provisions of CSHB 258(FIN).

The fiscal impact for the Department of Law will be zero.

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version: **CS HB 258(FIN)**
Fiscal Note Number:
() Publish Date:

Identifier (file name): HB258CS(FIN)-DEC-AQ-03-28-12
Title: Naturally Occurring Asbestos
Sponsor: Representative Joule
Requester: House Finance Committee

Dept. Affected: Environmental Conservation
Appropriation: Environmental Health
Allocation: Air Quality
OMB Component Number: 2061

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	**FY13**	**FY13**	**FY14**	**FY15**	**FY16**	**FY17**	**FY18**
Personal Services	0.0		0.0	0.0	0.0	0.0	0.0
Travel	7.8		8.2	0.7	0.7	0.7	0.7
Services	20.0		20.0	10.0	10.0	10.0	10.0
Commodities	0.0		0.0	0.0	0.0	0.0	0.0
Capital Outlay	0.0		0.0	0.0	0.0	0.0	0.0
Grants, Benefits	0.0		0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0		0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	**27.8**	**0.0**	**28.2**	**10.7**	**10.7**	**10.7**	**10.7**
FUND SOURCE			(Thousands of Dollars)				
1002 Federal Receipts	0.0		0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0		0.0	0.0	0.0	0.0	0.0
1004 GF	27.8		28.2	10.7	10.7	10.7	10.7
1005 GF/Prgm (DGF)	0.0		0.0	0.0	0.0	0.0	0.0
1037 GF/MH (UGF)	0.0		0.0	0.0	0.0	0.0	0.0
1178 temp code (UGF)	0.0		0.0	0.0	0.0	0.0	0.0
TOTAL	**27.8**	**0.0**	**28.2**	**10.7**	**10.7**	**10.7**	**10.7**
POSITIONS							
Full-time	**0**		**0**	**0**	**0**	**0**	**0**
Part-time	**0**		**0**	**0**	**0**	**0**	**0**
Temporary	**0**		**0**	**0**	**0**	**0**	**0**
CHANGE IN REVENUES	**0.0**		**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimated SUPPLEMENTAL (FY12) operating costs 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Additional contractual costs associated with CS HB 258(FIN) for consultation on project monitoring and mitigation plans were added.

Prepared by: Alice Edwards, Director — Phone: (907) 465-5109
Division: Air Quality — Date/Time: 3/28/12 11:53 AM
Approved by: Lynn Kent, Deputy Commissioner — Date: 3/28/2012

(Revised 1/17/2012 OMB)

FISCAL NOTE

STATE OF ALASKA **BILL NO.** CS HB 258(FIN)
2012 LEGISLATIVE SESSION

Analysis

The Department of Environmental Conservation (DEC) is tasked with consulting with the Department of Transportation & Public Facilities (DOT&PF) on the development of standards and operating procedures to allow the use of gravel or aggregate material that contains naturally occurring asbestos in transportation and public facilities construction projects.

Travel:
The Division of Air Quality will assign staff to consult with DOT&PF and other listed agencies to establish interim standards and develop standard operating procedures. Membership will require travel to multiple planning and public meetings during FY2013 and FY2014, with annual meetings occurring thereafter.

Contractual:
The Division will use contractual services to review and provide input to DOT&PF on site specific monitoring and mitigation plans required under Section 4, Article 3A of the bill. Contractual costs are based on ten plan reviews during the first two years and five plan reviews each year thereafter. Given that several years worth of projects have been on hold in the Northwest Arctic region, DEC assumes there will be more work in the first two years of the program to catch up those projects with a lower number of projects in future years.

CS FOR HOUSE BILL NO. 258(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVE JOULE

A BILL

FOR AN ACT ENTITLED

"An Act directing the Department of Transportation and Public Facilities to develop and implement standards and operating procedures, to evaluate site-specific use plans, and to designate project areas concerning gravel or other aggregate material containing naturally occurring asbestos; authorizing use on an interim basis of gravel or other aggregate material containing naturally occurring asbestos for certain transportation projects and public facilities; providing immunity for the state and for landowners, extractors, suppliers, transporters, and contractors for certain actions or claims arising in connection with the use of gravel or aggregate material containing naturally occurring asbestos in certain areas; requiring contractors to report certain asbestos-related data to the Department of Transportation and Public Facilities; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section to read:

LEGISLATIVE FINDINGS AND PURPOSE. (a) The legislature finds that

(1) gravel or similar aggregate material is constantly in demand for major construction and maintenance of state and local transportation projects and public facilities and for all types of construction by public and private entities;

(2) naturally occurring asbestos may be found in sources of gravel and similar aggregate material throughout the state;

(3) while airborne asbestos fibers are a significant threat to workplace safety and public health and are subject to close regulation by federal and state authorities under 42 U.S.C. 7401 - 7671q (Clean Air Act) and 15 U.S.C. 2601 - 2692 (Toxic Substances Control Act), use of materials containing naturally occurring asbestos in construction projects may be regulated by states;

(4) in communities that do not have sources of gravel or similar aggregate material that is free of naturally occurring asbestos, costs of construction are substantially increased because of the necessity of locating alternative sources of gravel or similar aggregate material and transporting that material to distant construction and maintenance sites; and

(5) a recent study suggests that, with careful use and close adherence to appropriate control strategies, state and local transportation projects and public facilities may be safely completed using sources of gravel or similar aggregate material that contains naturally occurring asbestos; the study recommends that the Department of Transportation and Public Facilities establish standards and operating procedures through a statewide process that will apply to the use of gravel and aggregate material that contains asbestos by the department and by any public or private entity.

(b) It is the purpose of this Act

(1) to authorize and direct the Department of Transportation and Public Facilities to develop, implement, and, as circumstances may require or indicate, modify standards and operating procedures to allow the use in the construction and maintenance of transportation projects and public facilities in certain areas of the state of gravel or aggregate material that contains naturally occurring asbestos, with the expectation that use of that

material in a manner that is consistent with those standards and procedures may avoid significant risk to human health and eliminate significantly higher costs of construction and maintenance of projects and facilities associated with using only construction material that is free of asbestos;

(2) to establish that a person that uses gravel that contains naturally occurring asbestos in certain areas of the state may prepare specific project plans that conform to the requirements of this Act and the department's standards and operating procedures; and

(3) to shield persons and the state, including its agencies, officers, and employees, under certain conditions, from liability based on exposure to naturally occurring asbestos.

(c) This Act creates a voluntary program in certain areas of the state and provides civil immunity for the use of gravel or other aggregate material that contains naturally occurring asbestos for contractors meeting the requirements of the program; nothing in this Act mandates a contractor to submit a site-specific plan or to adhere to the requirements of a plan approved by the department.

(d) Because neither the state nor the federal government has established a scale assigning a specific risk level to a corresponding amount of naturally occurring asbestos, this Act accepts 0.25 percent by mass, the minimum detectable amount of asbestos under the California Air Resources Board Method 435, as the baseline for the presence of naturally occurring asbestos in gravel or other aggregate material. Health risks resulting from asbestos exposure vary according to the level, type, and duration of exposure. While exposure to very small concentrations of asbestos may pose some health risk, there is not a practical way to prevent all exposure to asbestos for residents in close proximity to deposits that contain naturally occurring asbestos. The intent of this act is to establish a sensible analytical threshold for detection of naturally occurring asbestos in gravel or other aggregate material and to establish appropriate exceptions for the use of gravel or other aggregate material that contains naturally occurring asbestos for certain public facilities and transportation projects involving unusual circumstances, including projects in remote locations or in regions where gravel or other aggregate material free from naturally occurring asbestos is not reasonably available.

* **Sec. 2.** AS 09.65 is amended by adding a new section to read:

Sec. 09.65.245. Immunity for certain persons supplying or using gravel or other aggregate material; limitations on asbestos-related actions against defendants. (a) Notwithstanding AS 09.50.250, a civil action or claim for damages or costs alleging a death, injury, illness, disability, property damage, or any other damages resulting from the use of gravel or other aggregate material that contains naturally occurring asbestos may not be brought against a defendant, including a contractor meeting the requirements of the program or the state and its agencies, officers, and employees,

(1) based on the ownership of land within an area designated by the Department of Transportation and Public Facilities under AS 44.42.400(b) or (c) from which gravel or other aggregate material is extracted that, when tested using a bulk method prescribed by the Department of Transportation and Public Facilities by regulation, is determined to have a content equal to or greater than 0.25 percent naturally occurring asbestos by mass; or

(2) for an act or omission occurring in the course of extracting, supplying, transporting, or using gravel or other aggregate material containing naturally occurring asbestos within an area designated by the Department of Transportation and Public Facilities under AS 44.42.400(b) or (c) when the act or omission was in compliance with the requirements of AS 18.31.250 or AS 44.42.410(b), as applicable, and AS 44.42.410(a) and (d) and applicable regulations developed under AS 44.42.420.

(b) A civil action or claim based on noncompliance with the requirements of AS 18.31.250 or AS 44.42.410(b), as applicable, and AS 44.42.410(a) and (e) and applicable regulations developed under AS 44.42.420 for damages or costs alleging an asbestos-related death, injury, illness, or disability or alleging asbestos-related property damage or any other asbestos-related damages may only be brought against a defendant that has direct control over or responsibility for compliance with the requirements of AS 18.31.250 or AS 44.42.410(b), as applicable, and AS 44.42.410(a) and (e) and applicable regulations developed under AS 44.42.420.

(c) Notwithstanding AS 09.50.250, a civil action or claim for damages or costs alleging an asbestos-related death, injury, illness, or disability or alleging asbestos-

related property damage or any other asbestos-related damages may not be brought against any state agency or officer or employee of the state for an act or omission occurring in the course of designating a project area under AS 44.42.400(a) or (b), approving a site-specific use plan, or developing or approving a monitoring plan or a mitigation plan under AS 44.42.410.

(d) In this section, "naturally occurring asbestos" has the meaning given in AS 44.42.430.

*** Sec. 3.** AS 18.31 is amended by adding new sections to read:

Article 2A. Naturally occurring asbestos.

Sec. 18.31.250. Use of materials containing naturally occurring asbestos. (a) A principal construction contractor or, in the absence of an identified principal construction contractor, person having legal authority for the design and construction of a project may qualify for immunity in a civil action under AS 09.65.245(a)(2) for the use of gravel or other aggregate material that, when tested using a bulk test method prescribed by the Department of Transportation and Public Facilities by regulation, is determined to have a content equal to or greater than 0.25 percent of naturally occurring asbestos by mass.

(b) To qualify for the immunity provided under AS 09.65.245(a)(2), before initiating a construction project not subject to AS 44.42.410(b) that is within an area designated by the Department of Transportation and Public Facilities under AS 44.42.400(b) or (c) and that will use gravel or other aggregate material that contains naturally occurring asbestos, the principal construction contractor or, in the absence of an identified principal construction contractor, the person having legal authority for the design and construction of the project, shall prepare and submit to the Department of Transportation and Public Facilities specific project plans demonstrating compliance with the standards adopted by the department under AS 44.42.420 and the requirements of the site-specific use plan under AS 44.42.410. Before extraction of gravel or other aggregate material may begin, the plan must be approved and returned to the contractor by the department.

(c) To preserve the immunity provided under AS 09.65.245(a)(2), the principal construction contractor or, in the absence of an identified principal

construction contractor, the person having legal authority for the design and construction of the project, shall adhere to the site-specific use plan approved by the department and the monitoring and mitigation plan created by the department.

Sec. 18.31.260. Presence of naturally occurring asbestos. The state shall consider 0.25 percent by mass, the minimum detectable amount of asbestos under the California Air Resources Board Method 435, as the baseline for the presence of naturally occurring asbestos in gravel or other aggregate material.

* **Sec. 4.** AS 44.42 is amended by adding new sections to read:

Article 3A. Use of Materials Containing Naturally Occurring Asbestos.

Sec. 44.42.400. Administration. (a) The department shall designate a single employee who reports to the commissioner to oversee the duties assigned to the department in AS 44.42.400 - 44.42.430 and to serve as the point of contact for inquiries related to projects using gravel or other aggregate material containing naturally occurring asbestos.

(b) An area that includes land within a municipality or community may be designated by the department as an area in which certain landowners and contractors are granted immunity under AS 09.65.245(a) for causing asbestos-related injuries only if the municipality or community requests that designation. A municipality or community may request to become an area designated by the department under this subsection by submitting an application to the department. The department may approve an application received under this subsection only after reviewing tests documenting the presence of naturally occurring asbestos in that area, analyzing the effect of the presence of naturally occurring asbestos on construction projects in the area, considering the availability of gravel or other aggregate material free from naturally occurring asbestos in the area, and soliciting public input from residents in the affected municipality or community. The department may require a municipality or community that applies to become a designated area to provide the department with tests documenting the presence of naturally occurring asbestos, information related to the effect of the presence of naturally occurring asbestos on construction projects in the area, information related to availability of gravel or other aggregate material free from naturally occurring asbestos, and other information relevant to the application.

After designating an area after approval of an application under this subsection, the department shall notify, including through signage, potentially affected persons that the area has been designated as an area where immunity may be granted under AS 09.65.245(a) for certain landowners and contractors causing asbestos-related injuries.

(c) In places that do not include a municipality or community, the department may designate an area in which certain landowners and contractors are granted immunity under AS 09.65.245(a) for causing asbestos-related injuries. Before designating an area under this subsection, the department shall document the presence of naturally occurring asbestos in that area, analyze the effect of the presence of naturally occurring asbestos on construction projects in the area, consider the availability of gravel or other aggregate material free from naturally occurring asbestos in the area, and solicit public input from potentially affected persons. After designating an area under this subsection, the department shall notify, including through signage, potentially affected persons that the area has been designated as an area where immunity may be granted under AS 09.65.245(a) for certain landowners and contractors causing asbestos-related injuries.

(d) In this section, "community" means a place in the unorganized borough, in a borough, or in a unified municipality that is not incorporated as a municipality, that is not a reserve, and in which 25 or more individuals reside as a social unit.

Sec. 44.42.410. Site-specific use plan. (a) To qualify for the immunity provided under AS 09.65.245(a)(2), a contractor intending to use, within an area designated by the department under AS 44.42.400(b) or (c), gravel or other aggregate material that, when tested using a bulk test method prescribed by the department in regulation, is determined to have a content equal to or greater than 0.25 percent of naturally occurring asbestos by mass, shall, after consulting with the owner of the land on which the gravel or other aggregate material containing naturally occurring asbestos will be placed, submit a site-specific use plan to the department that

(1) describes the manner in which the proposed use of gravel or other aggregate material that contains naturally occurring asbestos conforms to the standards adopted under AS 44.42.420(b);

(2) demonstrates how the proposed construction operation and maintenance practices comply with those that are required and those that are minimally acceptable, as described in AS 44.42.420(b)(5), and otherwise meet requirements of law applicable to the handling of compounds that contain asbestos;

(3) outlines the efforts that will be made, as a component of long-term maintenance on the completed project or facility, to ensure that human health and air quality are not compromised by the use of the gravel or other aggregate material that contains naturally occurring asbestos;

(4) describes how the gravel or other aggregate material to be used can be contained underneath the project or buried so that asbestos fibers cannot become airborne or otherwise transferred outside of the project area, except as provided in (5) and (6) of this subsection;

(5) if the requirements in (4) of this subsection are economically unreasonable, describes how the gravel or other aggregate material to be used will be sealed, including chip sealing or mixing with asphalt, in order to prevent asbestos fibers from becoming airborne or otherwise transferred outside of the project area, except as provided in (6) of this subsection; and

(6) if the requirements under (4) and (5) of this subsection are economically unreasonable, describes how the gravel or other aggregate material will be used in order to prevent asbestos from becoming airborne or otherwise transferred outside of the project area, including how the gravel or other aggregate material will be used in order to prevent asbestos from becoming airborne because of vehicle traffic, road maintenance, or grading, if applicable.

(b) To qualify for and preserve the immunity provided under AS 09.65.245(a)(2), the department, in its operating procedures applicable to a project that is a transportation facility, including a public highway, airport, or pipeline or railroad track bed, or a public work, as that term is defined in AS 35.95.100, and for which the contractor intends to use, within an area designated by the department under AS 44.42.400(b) or (c), gravel or other aggregate material that, when tested using a bulk testing method prescribed by the department in regulation, is determined to have a content equal to or greater than 0.25 percent of naturally occurring asbestos by mass,

shall require that

(1) the contractor submit a plan that details the use of gravel or other aggregate material in the construction or maintenance of the transportation project or public facility in accordance with the requirements of (a) of this section and regulations developed under AS 44.42.420;

(2) before the extraction of the gravel or aggregate material containing naturally occurring asbestos may begin, the plan be approved and returned to the contractor by the department;

(3) the contractor adhere to the monitoring, mitigation, and site-specific use plans.

(c) The department shall review each submitted site-specific use plan and shall work toward approving or disapproving the plan, taking into consideration the construction season in the project location.

(d) The department may not approve a plan for construction with gravel or other aggregate material determined to have a content equal to or greater than 0.25 percent of naturally occurring asbestos by mass unless the department determines that it is economically unreasonable to undertake the construction project with gravel or other aggregate material free from naturally occurring asbestos.

(e) On receiving a plan that meets the requirements of (a) and (d) of this section and the regulations adopted under AS 44.42.420, the department, in consultation with the Department of Environmental Conservation, the Department of Health and Social Services, the Department of Natural Resources, the Department of Law, and the Department of Labor and Workforce Development, shall develop a monitoring and mitigation plan for the project. If the site-specific use plan is approved, the monitoring and mitigation plan developed by the department shall be attached to the site-specific use plan. To qualify for the immunity provided in AS 09.65.245(a)(2), the party that has direct control over or responsibility for the monitoring or mitigation shall comply with the monitoring or mitigation plan developed by the department.

(f) On approval of a site-specific use plan, the department

(1) shall provide to the contractor a copy of the approved site-specific use plan that includes

(A) the monitoring and mitigation plan developed under (e) of this section;

(B) a requirement that all asbestos-related data collected by the contractor during or after construction be submitted to the department; and

(C) recommended methods for reducing exposure to airborne asbestos fibers;

(2) shall provide a copy of the site-specific use plan, including the monitoring and mitigation plan, to the mayor or manager of a municipality affected by the use of gravel or other aggregate material containing asbestos; and

(3) may provide to the contractor copies of the United States Occupational Safety and Health Administration, United States Mine Safety and Health Administration, and United States Environmental Protection Agency recommended practices for handling and use of gravel or other aggregate material containing naturally occurring asbestos.

(g) Within 60 days after completing a project in accordance with a site-specific plan approved by the department, the contractor shall record in the recording district where the property is located a document that includes a description of the affected property, a reference to the most recent recorded conveyance of that property, and a notice indicating the presence of naturally occurring asbestos, and stating that subsequent interest holders may have legal obligations with respect to preventing the naturally occurring asbestos from becoming airborne or otherwise transferred outside of the project area. The contractor shall provide written notification to the department and the landowner that the document has been recorded.

(h) The contractor shall submit to the department the results of any monitoring or testing performed in accordance with the site-specific use plan and any mitigation measures undertaken.

Sec. 44.42.420. Regulations. (a) The department, after consultation with the Department of Environmental Conservation, the Department of Health and Social Services, the Department of Natural Resources, the Department of Law, and the Department of Labor and Workforce Development, shall prescribe in regulation a bulk testing method for gravel or other aggregate material containing naturally occurring

asbestos.

(b) The department, after consultation with the Department of Environmental Conservation, the Department of Health and Social Services, the Department of Natural Resources, the Department of Law, and the Department of Labor and Workforce Development, may adopt regulations under AS 44.62 (Administrative Procedure Act) to implement AS 44.42.400 - 44.42.430, including regulations revising statewide standards on the use in the construction and maintenance of transportation projects and public facilities of gravel or aggregate material that, when tested using a bulk test method prescribed by the department by regulation, is determined to have a content equal to or greater than 0.25 percent of naturally occurring asbestos by mass. The regulations adopted under this subsection must include

(1) procedures for completing site investigations and characterizations of proposed projects, including the development and description of appropriate laboratory practices;

(2) procedures for reviewing design alternatives and preparing and evaluating appropriate comparative cost analyses that consider the use of gravel or other aggregate material that does not contain naturally occurring asbestos;

(3) procedures for evaluating human health concerns arising out of gravel or other aggregate material that contains naturally occurring asbestos and documentation of methods and means to be used during periods of handling of the gravel or other aggregate material to ensure compliance with appropriate workplace safety and air quality standards relating to the project and to ensure the health and safety of communities affected by construction projects that use gravel or other aggregate material containing naturally occurring asbestos;

(4) procedures for preparing designs and design specifications for facilities involving use of gravel or other aggregate material that contains naturally occurring asbestos;

(5) procedures for outlining construction operation and maintenance practices that are required and those that are minimally acceptable to meet requirements of law applicable to the handling of compounds that contain asbestos;

(6) procedures for processing, reviewing, and approving or

disapproving site-specific use plans and area designation requests received under AS 44.42.400(b) in a uniform manner;

(7) guidelines to analyze the cost of a project;

(8) guidelines for determining whether the cost associated with the use of gravel or other aggregate material free from naturally occurring asbestos under AS 44.42.410(d) is economically unreasonable;

(9) guidelines for determining whether the cost associated with burying or sealing gravel or other aggregate material containing naturally occurring asbestos under AS 44.42.410(a)(2) and (3) is economically unreasonable;

(10) guidelines for establishing areas designated under AS 44.42.400(b) or (c) that take into account the effect on human health in and around the designated area and environmental factors affecting the transfer of asbestos fibers within and outside of a designated area.

Sec. 44.42.430. Definitions. In AS 44.42.400 - 44.42.430,

(1) "contractor" means the principal construction contractor, or in absence of an identified principal construction contractor, the person having legal authority for the design and construction of the project;

(2) "naturally occurring asbestos" means chrysotile, amosite, crocidolite, fibrous tremolite, fibrous anthophyllite, and fibrous actinolite asbestos-containing material that has not been processed in an asbestos mill and that, when tested using a bulk method prescribed by the Department of Transportation and Public Facilities by regulation, is determined to have a content equal to or greater than 0.25 percent naturally occurring asbestos by mass.

* **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to read:

INTERIM PROJECT AUTHORIZATION. (a) Notwithstanding AS 44.42.400(a) and (b), added by sec. 3 of this Act, to ensure early application of the policy described in sec. 1 of this Act, the Department of Transportation and Public Facilities may, on a temporary basis, designate a limited number of areas in the state in which certain landowners and contractors are granted immunity under AS 09.65.245(a) for causing asbestos-related injuries where an inability to complete construction projects has been demonstrated because of lack of gravel or

other aggregate material free from naturally occurring asbestos. After designating an area on a temporary basis, the department shall notify, including through signage, potentially affected persons that the area has been designated as an area in which immunity may be granted under AS 09.65.245(a) for certain landowners and contractors causing asbestos-related injuries. Notwithstanding AS 18.31.250, added by sec. 3 of this Act, the Department of Transportation and Public Facilities may approve a limited number of appropriate construction projects until the development and implementation of initial standards under AS 44.42.420 and the administrative requirements of AS 44.42.400, added by sec. 4 of this Act, for projects not subject to AS 44.42.410(b), if, under (b) of this section, the Department of Transportation and Public Facilities prepares and adopts interim standards and requires its contractors to prepare site-specific plans for the use of gravel or other aggregate material that, when tested using the bulk method prescribed in sec. 6 of this Act, is determined to have a content equal to or greater than 0.25 percent naturally occurring asbestos by mass in transportation projects and public facilities. The department shall apply the standards developed under (b) of this section to a person described in AS 18.31.250 for a project that is not subject to AS 44.42.410(b).

(b) Notwithstanding AS 44.42.400(a) and (b), added by sec. 3 of this Act, to ensure early application of the policy described in sec. 1 of this Act, the Department of Transportation and Public Facilities may, on a temporary basis, designate a limited number of areas in the state in which certain landowners and contractors are granted immunity under AS 09.65.245(a) for causing asbestos-related injuries where an inability to complete construction projects has been demonstrated because of lack of gravel or other aggregate material free from naturally occurring asbestos. After designating an area on a temporary basis, the department shall notify, including through signage, potentially affected persons that the area has been designated as an area where immunity may be granted under AS 09.65.245(a) for certain landowners and contractors causing asbestos-related injuries. Notwithstanding AS 44.42.410(b), added by sec. 4 of this Act, the Department of Transportation and Public Facilities may approve a limited number of appropriate transportation projects and public facilities until the development and implementation of initial standards under AS 44.42.420 and the administrative requirements of AS 44.42.400, after consultation with the Department of Environmental Conservation, the Department of Health and Social Services, the Department of Labor and Workforce Development, and

appropriate federal agencies. The Department of Transportation and Public Facilities may prepare and adopt interim standards and operating procedures and may require of its contractors the preparation of site-specific plans for the use of gravel or other aggregate material that when tested using the bulk method prescribed in sec. 6 of this Act, is determined to have a content equal to or greater than 0.25 percent naturally occurring asbestos by mass.

(c) The authority granted by (a) and (b) of this section expires December 31, 2013.

*** Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to read:

INTERIM STANDARDS FOR APPLICATION OF ASBESTOS BULK TESTING. Until the Department of Transportation and Public Facilities adopts and prescribes a method of bulk testing under AS 44.42.420(a), added by sec. 4 of this Act, the department shall use California Air Resources Board Method 435, Determination of Asbestos Content of Serpentine Aggregate, adopted on June 6, 1991, as that standard has effect on the effective date of this Act, as the basis for determining the asbestos content of a bulk sample or for interim use as authorized by sec. 5 of this Act.

*** Sec. 7.** This Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version	**CSHB 258(TRA)**
Fiscal Note Number	**2**
(H) Publish Date	**3/2/12**

Identifier (file name)	HB258-DEC-AQ-02-16-12	Dept. Affected	Environmental Conserv
Title	Naturally Occurring Asbestos	Appropriation	Environmental Health
		Allocation	Air Quality
Sponsor	Representative Joule		
Requester	House Transportation Committee	OMB Component Number	2061

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	**FY13**	**FY13**	**FY14**	**FY15**	**FY16**	**FY17**	**FY18**
Personal Services	0.0		0.0	0.0	0.0	0.0	0.0
Travel	7.8		8.2	0.7	0.7	0.7	0.7
Services	0.0		0.0	0.0	0.0	0.0	0.0
Commodities	0.0		0.0	0.0	0.0	0.0	0.0
Capital Outlay	0.0		0.0	0.0	0.0	0.0	0.0
Grants, Benefits	0.0		0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0		0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	**7.8**	**0.0**	**8.2**	**0.7**	**0.7**	**0.7**	**0.7**
FUND SOURCE			(Thousands of Dollars)				
1002 Federal Receipts	0.0		0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0		0.0	0.0	0.0	0.0	0.0
1004 GF	7.8		8.2	0.7	0.7	0.7	0.7
1005 GF/Prgm (DGF)	0.0		0.0	0.0	0.0	0.0	0.0
1037 GF/MH (UGF)	0.0		0.0	0.0	0.0	0.0	0.0
1178 temp code (UGF)	0.0		0.0	0.0	0.0	0.0	0.0
TOTAL	**7.8**	**0.0**	**8.2**	**0.7**	**0.7**	**0.7**	**0.7**
POSITIONS							
Full-time	0		0	0	0	0	0
Part-time	0		0	0	0	0	0
Temporary	0		0	0	0	0	0
CHANGE IN REVENUES	**0.0**		**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimated SUPPLEMENTAL (FY12) operating costs 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Not applicable, initial version.

Prepared by	Alice Edwards, Director	Phone	(907) 465-5109
Division	Air Quality	Date/Time	2/16/2012 4:55PM
Approved by	Lynn Kent	Date	2/18/2012
	Deputy Commissioner		

(Revised 1/17/2012 OMB)

FISCAL NOTE #2

STATE OF ALASKA
2012 LEGISLATIVE SESSION

BILL NO. CSHB 258(TRA)

Analysis

The Department of Environmental Conservation is tasked with consulting with the Department of Transportation & Public Facilities on the development of standards and operating procedures to allow the use of gravel or aggregate material that contains naturally occurring asbestos in transportation and public facilities construction projects.

Travel:
This fiscal note assumes Air Quality will assign staff to membership on an inter-agency task force(s) to establish interim standards and develop standard operating procedures. Membership will require travel to multiple planning and public meetings during FY2013 and FY2014, with annual meetings occurring thereafter.