

PUBLIC HEARING REPORT AND BASIS
FOR PROMULGATION

N.J.A.C. 7:27-17

Control and Prohibition of Air Pollution
from Asbestos Surface Coatings

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I. INTRODUCTION

On March 14, 1977, the New Jersey Department of Environmental Protection, hereinafter referred to as the Department, held a public hearing to receive comments on a proposed regulation for the control of air pollution from asbestos. Seventeen witnesses appeared at the public hearing and twelve written statements were received. The hearing record was closed on March 21, 1977.

The Department received strong support for the concept of eliminating and preventing the use of friable, spray-on, asbestos-containing, surface coatings from New Jersey's buildings and structures. Several persons suggested modifications to the proposed rule, especially where it concerned the use of asbestos-containing sprays for automobile undercoatings and for exterior asphalt roofing on commercial and industrial buildings.

The Department intends to study these issues in greater depth before finally concluding this rulemaking. Therefore, further regulations may be adopted as a result of the Department's continuing review of the issues raised in this hearing record.

In response to the public testimony received, several changes from the original proposal were made. These are discussed in Part III, EVALUATION OF TESTIMONY, of this report.

II. COMMENTS RECEIVED

The following persons and organizations by their representatives appeared at the March 14, 1977 public hearing and presented statements: City of Newark (John H. Weber); United States Environmental Protection Agency (Marcus E. Kantz); New Jersey Department of Health (Frank J. Marshall); Johns-Manville Corporation (William B. Reitze); Philadelphia Air Management Services (Norman Glazer); Graduate students class in the Environmental Science Curriculum, Cook College, Rutgers University (Thomas Hundt); Sierra Club (Diane Graves); Delaware-Raritan Lung Association (Marie Dunleavy); Asbestos Information Association/North America (Harrison B. Rhodes); Asbestos Workers Local 32, Newark (James W. Manning); Rossnagel and Associates (William B. Rossnagel); Robert M. Sawyer, M.D.; E. R. Squibb & Sons (Richard E. Rosfjord); Francine Haselkorn; Monsey Products Company (Joseph T. Mooney); Robert B. Feuchthaum, Esq.; New Jersey Citizens for Clean Air (Betty Greenberg).

In addition, the Department received written comments from the following: Insulation Contractors of New Jersey; The Flintkote Company; GAF Corporation; Barry I. Castleman; United States Mineral Products Company; General Motors Corporation; Ford Motor Company; Township of Mt. Olive, New Jersey; City of Elizabeth, New Jersey; Monsanto Industrial Chemicals Company; United States Environmental Protection Agency.

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III. EVALUATION OF TESTIMONY

Nearly all those who appeared at the March 14, 1977 public hearing, as well as those who submitted written comments, generally supported the concept of the Department's proposed ban on spray-on asbestos-containing surface coatings.

Similarly, most of the persons who testified or commented in writing expressed concern over the seriously adverse health consequences of exposure to asbestos and agreed that unnecessary exposure should be prevented and eliminated.

Several witnesses indicated that the potential health consequences from asbestos exposure included asbestosis, a non-malignant but potentially fatal scarring of the lung; mesothelioma, a cancer directly associated with asbestos exposure; and increased risk of lung and intestinal cancer. One witness included psychiatric disorders caused by knowledge of exposure.

One witness indicated that asbestos exposure from ceiling coatings occurs in three ways, in addition to the spraying operation: fiber fallout - caused, for example, by building vibration or air movement; impact release - caused by direct contact with the surface; and re-entrainment of accumulated fiber fallout from prior releases of fiber.

Following is a discussion of the four main issues of concern to the persons who commented on the proposal.

A. Existing Asbestos Surface Coatings

Numerous witnesses expressed concern that while this regulation was an encouraging step and while it would prevent the spray-on application of asbestos and asbestos-containing materials on ceilings and walls in the future, by itself it would be insufficient to prevent continued exposure to asbestos for those persons who live, work or study in buildings where such coatings had been utilized in the past. Several persons suggested that a regulation which requires removal under certain circumstances was in order. Testimony was received which supported an indoor ambient air standard for asbestos as an appropriate criterion to govern removal decisions.

The Department is engaged in two studies. One, commissioned by the federal government and being carried out by the Mount Sinai School of Medicine Environmental Sciences Laboratory, will attempt to quantify asbestos exposure levels in New Jersey school buildings. The second, also being carried out by Mount Sinai, will study asbestos exposure in a residential setting. These studies will provide much useful technical information and may lead to a regulation which requires corrective action for existing sprayed-on asbestos ceilings.

would be premature. The regulation adopted herewith is, in the Department's opinion, a logical first step toward preventing unnecessary exposure to asbestos. Amendments to this rule, or other regulations, may be adopted as further information becomes available.

B. Scope of the Regulation

The Department received several comments from manufacturers of spray-on coatings, who indicated that certain applications of asbestos-containing materials should not be included in the proposed ban. These included asphalt-base materials used for automotive undercoatings and sound deadeners, commercial and industrial roofing materials and foundation coatings. The manufacturers indicated that the asbestos in their products was generally so firmly bound as to be effectively immobilized and accordingly, in their opinion, did not constitute a risk to human health. This testimony was supported by that of manufacturers of new motor vehicles who, along with the coatings producers, indicated that no commercially available substitutes were obtainable at this time.

In developing the proposed regulation, the Department was attempting to deal with the use of asbestos as an interior surface coating in buildings and structures. The Department had become involved in two situations, one involving New Jersey school buildings and the second a residential building, where interior surfaces had been covered with a friable asbestos material. The potential for adverse health consequences in those cases led to this regulation.

Since the additional uses of asbestos-containing asphalt-base products were first addressed during this public hearing, further evaluation of those materials is needed. In response to the comments received, the Department has modified the proposed rule. The term "friable material" has been used to describe the type of spray-on coating banned by this rule and to distinguish such material from the products in which asbestos is firmly bound.

It should be noted, however, that the Department intends to study coatings of other types and their methods of application to determine if they should be regulated. Accordingly, amendments modifying the rule as adopted herewith may be promulgated.

C. Testing Requirements

Several manufacturers of surface coatings suggested that the provision of the proposed rule which permitted the Department to require a test report on any material being used in New Jersey was overly broad. Some of those supplying information on this point indicated their belief that a specification sheet from the material manufacturer would suffice.

The Department, after considering this testimony, has adopted a provision which would allow for the use of a manufacturer's certification where the Department determines such certification is an acceptable alternative to actual testing.

D. Exemption for Trace Amounts of Asbestos

Some witnesses suggested that a total ban on asbestos-containing materials without some allowance for asbestos impurities in products such as paints was overly burdensome and may, in fact, be impossible to achieve. The United States Environmental Protection Agency suggested its limitation of 1.0% (by weight). Other persons suggested that 1.0% was far too high an impurity standard when dealing with a carcinogen. It was recommended that the Department adopt a "zero engineering" standard. One person pointed out that asbestos quantities as low as 0.1% (by weight) was a specified ingredient in certain materials.

After reviewing this issue, the Department agrees that some maximum asbestos content should be permitted in surface coatings in order to accommodate trace impurities which may be found in some cases. However, after considering the testimony and reviewing similar rules in effect in other states, it was concluded that the 1.0% standard suggested by EPA was excessive. Hence, this regulation excludes only those coatings in which the asbestos content is less than 0.25% by weight. (See, for example, California Health and Safety Code, Section 25910, Chapter 10.3.)

IV. CONCLUSIONS

The changes discussed above as well as the addition of a definition of asbestos, will provide the Department with an initial mechanism for dealing with the complex and many-faceted asbestos exposure problem.

By controlling the use of asbestos and reducing the public's exposure, this rule and the regulations which may follow as a result of the various studies prompted by this rulemaking proceeding will begin to mitigate the health hazards associated with asbestos exposure for New Jersey's citizens.