



FROM: S. M. ANDERSON

TO: MEMORANDUM

File: Asbestos-State Regs
(6)

1989 February 8

RE: NEW YORK ASBESTOS REGULATION

The attached article from the New York State Business Council's Capital Journal summarizes the State's asbestos regulation.

S. M. ANDERSON

SMA:af1

Attachment

Copies To:

T. S. Mock	--	1
M. L. Cooper	--	2
L. E. Tate	--	303
W. R. Duso	--	9
S. R. Barr	--	60
W. J. Boyea	--	73
R. K. Morrow	--	60
R. M. Overbey/D. R. Wilson	--	8
J. M. Shaw	--	60
L. L. Rippey, Pittsburgh Office	--	6

PLAINTIFF'S
EXHIBIT
AL-888

Asbestos Work Rules Labeled A Failure

After a year's experience with new state work rules for asbestos abatement projects, businesses that work with the substance are calling for significant reforms in what The Business Council has labeled a "failing program."

New York State implemented new regulations for asbestos abatement programs in 1988, largely to provide increased public protection from exposure to fibers during asbestos removal. At that time, The Business Council warned that the restrictive regulations would produce delays and increase costs for asbestos projects in industrial settings.

Now, the Council's Asbestos Working Group has filed detailed reform recommendations with the Department of Labor's Code Rule 56 Revision Task Force and has shared its concerns with the Senate and Assembly Labor Committees.

"We fully recognize the need to effectively control the asbestos industry through a licensing and certification program, and to assure worker and public safety," said Ken Pokalsky, manager of government programs for the Council. "Yet current regulations result in extensive delays in asbestos projects, and the cost of abatement projects for member companies has increased on average by 50 percent — making many projects prohibitively expensive. But the real issue is that these rigid work rules do not add appreciably to public safety."

Specific areas of concern identified by the Business Council working group include:

Friable vs. non-friable asbestos

Friable asbestos, which is in a crumbled, powdered or exposed condition and is capable of releasing fibers into the air under hand pressure, poses a significant health concern. However, non-friable asbestos — in the form of floor tiles, asbestos cement and roofing felts — is generally recognized by health, engineering and construction experts as not presenting an exposure hazard if handled in a way that does not generate dust. Despite their drastically different risk levels, both friable and non-friable asbestos are now covered by the same rigid work rules.

Distinct work rules should be established for non-friable asbestos, according to the working group. The group also said that Article 30 of the Labor Law should be amended to provide the Department of Labor with clear authority to distinguish between friable and non-friable asbestos in its abatement regulations.

Glovebags

Under current New York State rules, the use of glovebags is restricted to projects involving no more than 10 square feet or 25 linear feet of asbestos material. (Glovebags are large enclosures which allow workers access to asbestos through protective

gloves.) The working group said this "seemingly arbitrary restriction" poses real problems in projects where, for example, a business is removing asbestos from pipes that are hundreds or thousands of feet in length. The glovebag technology is recognized as safe by the federal Occupational Safety and Health Administration and Environmental Protection Agency, and is used in virtually every other jurisdiction in the country. The New York City Department of Environmental Protection, for example, allows glovebags for projects of up to 1,000 linear feet.

"The state's restrictions on glovebagging have imposed a tremendous burden on industry in terms of both cost and time," Pokalsky said. "Eliminating this restriction would in no way compromise on safety and would make the rules far more appropriate for industrial settings."

In-plant operations

Present rules exempt minor projects done by in-house employees from licensing and certification requirements. These exemptions should be expanded to include all in-plant repairs and routine maintenance operations, the working group said. These projects are regulated under existing OSHA rules which protect the public, including non-asbestos workers in the plant.

Council
Calendar

Small
Business
Albany
Presentation

February
27-28

Albany
Hilton