



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

January 14, 2014

The Honorable Tara Sad, Chair
House Environment and Agriculture Committee
Legislative Office Building, Room 303
Concord, NH 03301

Re: HB 1305, An Act relative to the definition of asbestos abatement

Dear Chair Sad and Members of the Committee:

Thank you for the opportunity to testify on HB 1305. This bill would amend the definition of asbestos abatement that is currently in RSA 141-E:2, II. The Department of Environmental Services (DES) cannot support this bill as written.

RSA 141-E, *Asbestos Management and Control*, recognizes the threat to public health from exposure to asbestos fibers and provides DES with the authority to adopt rules to implement a comprehensive program of training, licensure, inspection, and work practice standards to control the release of asbestos fibers to the ambient air. Asbestos is commonly found in insulation materials on heating systems, and in walls, flooring, roofing, and siding materials. The existence of asbestos in these materials is often not obvious to the untrained eye. When asbestos is disturbed, it can break down into microscopic fibers that may become airborne. Once airborne, these fibers can be inhaled and trapped in the lungs, posing a health threat. Breathing asbestos can cause respiratory diseases, including asbestosis, lung cancer, and mesothelioma, a cancer of the chest cavity lining.

In RSA 141-E:1, II(a), the Legislature found that the "[a]batement of asbestos from workplaces, schools, public facilities, and dwelling, which is carried out to reduce the exposure to the public to this health threat, further jeopardizes public health when the abatement is done without adequate safeguards and by unqualified individuals..." Consistent with this finding, under the current rules, an inspection for the presence of asbestos containing material is required to be conducted prior to undertaking any renovation or demolition work. If the results of the inspection determine that asbestos is present, then it must be abated prior to demolishing or renovating the structure to prevent the release of fibers to the ambient air. If an inspection is not conducted, and asbestos is present, the workers at the site could be exposed to asbestos fibers, as could the workers at the waste disposal site where the resulting demolition debris is taken. Further, if asbestos is present and not abated prior to demolition, the entire resulting debris could become contaminated, thereby increasing the overall disposal costs.

In addition, an asbestos survey is required by the U.S. Environmental Protection Agency (EPA) in rules designed to implement the National Emission Standards for Hazardous Air Pollutants. EPA regularly delegates the implementation of certain federal programs to state agencies. This provides regulated entities with someone in the state that can be contacted who will answer their questions, provide compliance assistance, and ensures a common sense and consistent approach

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to implementing the rules. The EPA has delegated its authority to implement and enforce the asbestos program to DES, since the current program is consistent with the federal requirements.

HB 1305 seeks to exclude "projects" involving construction after 1994, as well as "projects" that are less than 750 square feet in size, from the asbestos inspection requirements. While DES supports carving out a de minimis level of review whereby an inspection may not be necessary, HB 1305 is inconsistent with the federal requirements, and could result in EPA withdrawing its delegation of the federal program, and for that reason, DES cannot support this bill as written.

Thank you for your consideration in this matter. If you have questions or need additional information, please contact either Craig A. Wright, Director, Air Resources Division (Craig.Wright@des.nh.gov, 271-1088) or Pamela Monroe, Compliance Bureau Administrator (Pamela.Monroe@des.nh.gov, 271-0882).

Sincerely,


for

Thomas S. Burack
Commissioner
Department of Environmental Services

cc: Sponsors of HB 1305