



Air Pollution Control Board  
Brian P. Bilbray District 1  
George F. Bailey District 2  
Susan Golding District 3  
Leon L. Williams District 4  
John MacDonald District 5

Air Pollution Control Officer  
R. J. Sommerville

DATE: October 6, 1992  
TO: Air Pollution Control Board  
SUBJECT: Adoption of New Rule 1204 - Surfacing Applications for Serpentine Materials Containing Asbestos

### **SUMMARY:**

Rule 1204 (Surfacing Applications for Serpentine Materials Containing Asbestos) is a new rule developed to regulate serpentine material containing asbestos used for surface applications. Serpentine is a rock composed almost entirely of asbestos. It is mined in some California mountains and used as a surfacing material on unpaved gravel roads, parking lots and drive-ways. Asbestos is a known human carcinogen for which there is no safe exposure level. Currently, no one is using serpentine material in San Diego County.

Rule 1204 will prohibit the use, sale, supply or application of such material as a surface covering unless it has been tested and determined to have an asbestos content of five percent or less. The rule requires documentation of asbestos content and specifies the test method for its determination. It parallels the Airborne Toxic Control Measure adopted by the Air Resources Board. Adoption of Rule 1204 locally is necessary to meet the requirements of the Health and Safety Code for toxic air contaminants.

### **Issue**

Should the Board adopt Rule 1204 (Surfacing Applications for Serpentine Materials Containing Asbestos) to regulate the use of serpentine materials containing asbestos to meet the requirements of state law?

### **Recommendation**

#### **AIR POLLUTION CONTROL OFFICER**

1. Set November 17, 1992, at 2:00 p.m., as the date and time for public hearing to consider the resolution to adopt Rule 1204 into the Rules and Regulations of the San Diego County Air Pollution Control District.
2. Direct the Clerk of the Board to notice the hearing pursuant to Section 40725 of the State Health and Safety Code.
3. Following the hearing: (a) adopt the resolution adopting Rule 1204, and (b) make appropriate finding of necessity, authority, clarity, consistency, nonduplication and reference as required by Section 40727 of the State Health and Safety Code.

### **Advisory Statement**

The Air Pollution Control District Advisory Committee recommended adopting the proposed Rule 1204 at its November 27, 1991, meeting.

**SUBJECT:** Adoption of Rule 1204 (Surfacing Applications for Serpentine Materials Containing Asbestos)

### **Fiscal Impact**

Adopting the proposed rule will have no fiscal impact on the District.

### **Alternatives**

Not adopt the proposed Rule 1204. This would allow potential future emissions of asbestos from serpentine materials, and would be inconsistent with the requirements of the State Health and Safety Code. As a result, the Air Resources Board may adopt a similar rule for the District.

### **BACKGROUND INFORMATION:**

State law requires the Air Resources Board to identify and adopt regulations to control toxic air contaminants. Air pollution control districts must then adopt regulations that are at least as stringent. Asbestos has been determined to be a toxic compound and human carcinogen. Rule 1204 parallels the statewide Air Toxic Control Measure for serpentine materials and is being proposed for adoption to meet the requirements of Health and Safety Code Section 39666.

Serpentine materials are typically used to cover surfaces used for pedestrian, vehicle, or non-vehicle travel such as roads, streets, alleys, driveways, parking lots, playgrounds, trails and fairgrounds. Serpentine materials contain asbestos. This material may break down over time due to wear and release inhalable asbestos fibers into the air.

Proposed Rule 1204 regulates the use of serpentine material for surfacing applications by prohibiting the use, sale, supply or application of such material as a surface covering in San Diego County unless it has been tested and determined to have an asbestos content of five percent or less. The rule requires documentation of asbestos content and specifies the test method to be used.

Currently, there are no known existing sources using or mining this material in San Diego County.


Section 40728.5 of the State Health and Safety Code requires the Air Pollution Control Board to consider the socioeconomic impacts of regulations and make a good faith effort to minimize adverse socioeconomic impacts. Since there are no known sources in San Diego County which would be affected by this rule, there are no known or anticipated economic impacts.

A public workshop on the proposed rule was held on August 28, 1991. The workshop report is attached.

Concurrence:

Respectfully submitted,

DAVID E. JANSSEN  
Chief Administrative Officer

  
R. J. SOMMERVILLE  
Air Pollution Control Officer

**AIR POLLUTION CONTROL BOARD  
AGENDA ITEM  
INFORMATION SHEET**

**SUBJECT:** Adoption of New Rule 1204 (Surfacing Applications for Serpentine Materials Containing Asbestos)

**SUPV DIST.:** All

**COUNTY COUNSEL APPROVAL:** Form and Legality ☒ Yes ☐ N/A  
☐ Standard Form ☐ Ordinance ☒ Resolution

**AUDITOR APPROVAL:** ☒ N/A ☐ Yes **4 VOTES:** ☐ Yes ☒ No

**FINANCIAL MANAGEMENT REVIEW:** ☐ Yes ☐ No

**CONTRACT REVIEW PANEL:** ☐ Approved \_\_\_\_\_ ☒ N/A

**CONTRACT NUMBER(S):** N/A

**PREVIOUS RELEVANT BOARD ACTION:** N/A

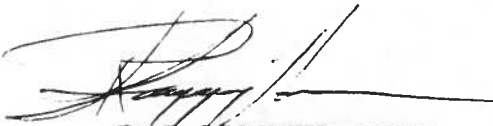
**BOARD POLICIES APPLICABLE:** N/A

**CITIZEN COMMITTEE STATEMENT:** The Air Pollution Control District Advisory Committee recommended adopting the proposed Rule 1204 at its November 27, 1991 meeting.

**CONCURRENCES:** N/A

**ORIGINATING DEPARTMENT:** Air Pollution Control District

**CONTACT PERSON:** Richard J. Smith, Deputy Director 730-3303 MS: 0-176



**R. J. SOMMERVILLE**  
DEPARTMENT AUTHORIZED REPRESENTATIVE

**OCTOBER 6, 1992**  
MEETING DATE

FINDINGS OF THE SAN DIEGO COUNTY AIR POLLUTION  
CONTROL BOARD IN RESPECT TO ADOPTION OF  
NEW RULE 1204

A. Pursuant to section 40727 of the Health and Safety Code, the Air Pollution Control Board of the San Diego County Air Pollution Control District makes the following findings:

1. (Necessity) The adoption of the proposed new District Rule 1204 is necessary for the District to satisfy the requirements of California Health and Safety Code section 39666 for adoption of airborne toxic control measures.
2. (Authority) The adoption of the new proposed rule is required by Health and Safety Code section 39666.
3. (Clarity) The proposed rule is written so that its meaning can be easily understood by persons directly affected by it.
4. (Consistency) The proposed rule is in harmony with, and not in conflict with or contrary to, existing statutes, court decisions, and State law and Federal regulations.
5. (Nonduplication) The proposed rule is necessary and proper to execute the powers and duties granted to and imposed upon the District.
6. (Reference) The adoption of the proposed rule implements Health and Safety Code section 39666 and California Code of Regulations, title 17, section 93106 et seq. (the state's asbestos airborne toxic control measure for asbestos-containing serpentine).

B. The Air Pollution Control Board further finds that the adoption of the proposed rule does not require the District to perform an assessment of socioeconomic impacts pursuant to Health and Safety Code section 40728.5 because there are no known persons or businesses in San Diego County using or mining serpentine materials containing asbestos, so that the rule will not significantly affect air quality or emissions limitations.

C. The Air Pollution Control Board further finds that the adoption of the proposed amendments is categorically exempt from the provisions of the California Environmental Quality Act pursuant to California Code of Regulations, title 14, sections 15300 and 15308, as an action taken to assure the protection of the environment which will not have a significant effect on the environment and where the regulatory process involves procedures for protection of the environment.

APCD Meeting 11/3/92  
Agenda Item #2

**OFFICIAL RECORD**

Clerk of the Board of Supervisors

Exhibit No. \_\_\_\_\_ Agenda No. APCB 2

Meeting Date 11/17/92 APCB 2

Presented by County Counsel

Document No. 753283

THOMAS J. PASTUSZKA  
Clerk of the Board of Supervisors

THE BOARD OF THE SAN DIEGO COUNTY AIR POLLUTION  
CONTROL DISTRICT IN RESPONSE TO REQUEST FOR  
NEW RULE 111

1. The Board of the San Diego County Air Pollution Control District, hereinafter referred to as the Board, has considered the request for new rule 111 and has determined that the Board should adopt the following rule:

2. The Board hereby adopts the following rule, which shall be known as Rule 111, and which shall be effective on the date of adoption of this rule.

3. The Board hereby adopts the following rule, which shall be known as Rule 112, and which shall be effective on the date of adoption of this rule.

4. The Board hereby adopts the following rule, which shall be known as Rule 113, and which shall be effective on the date of adoption of this rule.

5. The Board hereby adopts the following rule, which shall be known as Rule 114, and which shall be effective on the date of adoption of this rule.

6. The Board hereby adopts the following rule, which shall be known as Rule 115, and which shall be effective on the date of adoption of this rule.

7. The Board hereby adopts the following rule, which shall be known as Rule 116, and which shall be effective on the date of adoption of this rule.

8. The Board hereby adopts the following rule, which shall be known as Rule 117, and which shall be effective on the date of adoption of this rule.

9. The Board hereby adopts the following rule, which shall be known as Rule 118, and which shall be effective on the date of adoption of this rule.

I, Thomas J. Pastuszka Clerk of the Air  
Pollution Control Board of San Diego  
County, Air Pollution District, State of  
California, hereby certify this is a true and  
correct copy of the original document now  
on file in my office.  
Witness my hand this 30th  
November, 1992  
Thomas J. Pastuszka  
Clerk of the Air Pollution Control Board

**NEW ADDED RULE**

Re Rules and Regulations of the)  
Air Pollution Control District )  
of San Diego County . . . . .)

**RESOLUTION ADDING RULE 1204  
TO REGULATION XII  
OF THE RULES AND REGULATIONS OF THE  
SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT**

On motion of Member Bilbray, seconded by Member MacDonald the following resolution is adopted:

**WHEREAS**, the San Diego County Air Pollution Control Board, pursuant to Section 40702 of the Health and Safety Code, adopted Rules and Regulations of the Air Pollution Control District of San Diego County; and

**WHEREAS**, said Board now desires to amend said Rules and Regulations; and

**WHEREAS**, notice has been given and a public hearing has been had relating to the amendment of said Rules and Regulations pursuant to Section 40725 of the Health and Safety Code.

**NOW THEREFORE IT IS RESOLVED AND ORDERED** by the San Diego County Air Pollution Control Board that the Rules and Regulations of the Air Pollution Control District of San Diego County be and hereby are amended as follows:

Proposed Rule 1204 is added to Regulation XII to read as follows.

**RULE 1204: SURFACING APPLICATIONS FOR SERPENTINE  
MATERIALS CONTAINING ASBESTOS**

**(a) APPLICABILITY**

This rule is applicable to any person who uses, applies, sells, supplies, or offers for sale serpentine material containing asbestos.

**(b) EXEMPTIONS**

The provisions of Section (d) shall not apply to the following:

- (1) Sand and gravel operations;
- (2) Roads located at serpentine quarries, asbestos mines, or mines located in serpentine deposits;

(3) Maintenance operations on any existing road surfaces, or to the construction of new roads in serpentine deposits, as long as no additional serpentine materials containing asbestos is applied to the road surface;

(4) Bituminous and concrete products which have serpentine material as an integral part of the bituminous concrete, portland cement concrete, bituminous surface, or other similar cemented materials; and

(5) Landfill operations other than the surfacing of public-access roads used by vehicular traffic.

**(c) DEFINITIONS**

(1) **"Aggregate"** means a mixture of mineral fragments, sand, gravel, rocks, or similar minerals.

(2) **"Alluvial Deposit"** means any deposit of sediments laid down by running water including but not limited to streams and rivers.

(3) **"Asbestos"** means asbestiforms of the following hydrated minerals: chrysotile (fibrous serpentine), crocidolite (fibrous riebeckite), amosite (fibrous cummingtonite - grunerite), fibrous tremolite, fibrous actinolite, and fibrous anthophyllite.

(4) **"Receipt"** means any written acknowledgement that a specified amount of serpentine material was received, delivered, or purchased. Receipts include, but are not limited to, bills of sale, bills of lading, and notices of transfer.

(5) **"Road Surface"** means the traveled way of a road and any shoulder which extends up to 10 feet from the edge of the traveled way.

(6) **"Sand and Gravel Operation"** means any aggregate-producing facility operating in alluvial deposits.

(7) **"Serpentine"** means any form of hydrous magnesium silicate minerals - including, but not limited to, antigorite, lizardite, and chrysotile.

(8) **"Serpentine Material"** means any material that contains at least ten percent (10%) serpentine as determined by a registered geologist. The registered geologist must document precisely how the serpentine content of the material in question was determined.

(9) **"Serpentine Materials Containing Asbestos"** means serpentine material that has an asbestos content greater than five percent (5%).

(10) **"Surfacing"** means the act of covering any surface used for purposes of pedestrian, vehicular, or non-vehicular travel including, but not limited to, roads, road shoulders, streets, alleys, lanes, driveways, parking lots, playgrounds, trails, squares, plazas, and fairgrounds.

**(d) STANDARDS**

(1) No person shall use or apply serpentine material for surfacing in San Diego County unless the material has been tested and determined to have an asbestos content of five percent (5%) or less.

(2) No person shall sell, supply or offer for sale serpentine material for surfacing in San Diego County unless the serpentine material has been tested and determined to have an asbestos content of five percent (5%) or less. Any person who sells, supplies, or offers for sale serpentine material that he or she represents, either orally or in writing, to be suitable for surfacing or to have an asbestos content that is five percent (5%) or less, shall provide to each purchaser or person receiving the serpentine material a written receipt which specifies the following information: the amount of serpentine material sold or supplied, the dates that the serpentine material was produced, sampled, tested, and supplied or sold, and the asbestos content of the serpentine material. A copy of the receipt must, at all times, remain with the serpentine material during transit and surfacing.

**(e) RECORDKEEPING**

A written receipt or other record documenting the asbestos content shall be retained by any person who uses or applies serpentine material, for a period of at least seven (7) years from the date of use or application, and shall be provided to the Air Pollution Control Officer upon request.

Any person who sells, supplies or offers for sale serpentine material in San Diego County shall:

(i) Provide with each sale or supply a written receipt containing the following statement: *"Serpentine material may have an asbestos content greater than five percent (5%). It is unlawful to use serpentine material for surfacing unless the material has been tested and found to contain less than or equal to five percent (5%) asbestos. All tests for asbestos content must use California ARB Test Method 435, and a written record document. The tests results must be retained for at least seven (7) years if the material is used for surfacing";* and

(ii) Retain for a period of at least seven (7) years from the date of sale or supply, copies of all receipts and analytical test results from asbestos content testing of serpentine material. All receipts and test results shall be provided to the Air Pollution Control Officer upon request.

**(f) TEST METHODS**

Measurements of the asbestos content of serpentine material pursuant to Section (d) of this rule shall be conducted in accordance with California Air Resources Board (ARB) Test Method 435, Title 17, California Code of Regulations, Section 94147.

If two or more tests were performed on any one volume of serpentine material, whether by the same or a different person, the arithmetic average of these test results shall be used to determine the asbestos content of the serpentine material.



**IT IS FURTHER RESOLVED AND ORDERED** that the subject addition of Rule 1204 to Regulation XII, take effect upon adoption.

**PASSED AND ADOPTED** by the Air Pollution Control Board of the San Diego County Air Pollution Control District, State of California, this 17th day of November, 1992 by the following votes:

**AYES:** Members Bilbray, Bailey, and MacDonald

**NOES:** Members None

**ABSENT:** Members Golding and Williams

APPROVED AS TO FORM AND LEGALITY  
COUNTY COUNSEL

BY L. Dutton  
DEPUTY

STATE OF CALIFORNIA)ss  
County of San Diego)

I, THOMAS J. PASTUSZKA, Clerk of the Air Pollution Control District, County of San Diego, State of California, hereby certify that I have compared the foregoing copy with the original resolution passed and adopted by said Board at a regular meeting thereof, at the time and by the vote therein stated, which original resolution is now on file in my office; that the same contains a full, true and correct transcript therefrom and of the whole thereof.

Witness my hand and the seal of the Air Pollution Control District, County of San Diego, State of California, this 25th day of November, 1992.

THOMAS J. PASTUSZKA  
Clerk of the Air Pollution Control District

By Maria A. Tiscareño  
Maria A. Tiscareño, Deputy

## **RULE 1204 - SURFACE APPLICATIONS FOR ASBESTOS-CONTAINING SERPENTINE ROCK**

### **WORKSHOP REPORT**

A workshop notice was mailed to each company known to have a potential for use of asbestos-containing serpentine rock. Notices were also mailed to mineral and rock producing companies, the U. S. Environmental Protection Agency (EPA), the California Air Resources Board (ARB) and other interested parties. In addition, a notice was published in two local newspapers. A workshop was held on August 28, 1991. Written comment was received from ARB. The comment and District response are as follows.

#### **ARB COMMENT**

The draft rule refers to the asbestos content of serpentine as a weight percent when the method specified in the rule, Method 435, can only provide a numerical percent via a point count. The use of the phrase "... by weight" creates a discrepancy that would essentially make the rule unenforceable. Simply removing the phrase "... by weight" will make the rule approvable.

#### **DISTRICT RESPONSE**

The phrase "... by weight" has been removed, as recommended.

#### **ARB COMMENT**

In Section (a) under applicability, the text of the rule states, "This rule is applicable to any person who uses, applies, sells, supplies, or offers for sale serpentine material which contains more than five percent asbestos (5%)". The Board-approved air toxic control measure (ATCM) requires any person be subject to the rule regardless of the asbestos content of the serpentine material.

When serpentine aggregate is sold for surfacing purposes, there must be a way to determine if the material was sold and used in accordance with the regulation. The rule should apply to all parties in case there is a need to trace the serpentine material back to where it originated. This will allow for assurance that the material was not misrepresented at the point of sale or used incorrectly as surfacing material. Without these requirements, there would be no way, especially for material designated less than five percent asbestos, to determine if the material was used in accordance with the regulation. To make this rule consistent with ARB's asbestos ATCM, we recommend that the District strike the phrase "... which contains more than five percent asbestos (5%)." from the applicability section of the rule.

#### **DISTRICT RESPONSE**

The phrase "... which contains more than five percent asbestos (5%)." has been removed, as recommended.