

## **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.

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

**RULE 1204: SURFACING APPLICATIONS FOR ASBESTOS -  
CONTAINING SERPENTINE ROCK**

**(a) APPLICABILITY**

This rule is applicable to any person who uses, applies, sells, supplies, or offers for sale serpentine material which contains more than five percent ~~by weight~~ asbestos (5%).

**(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 asbestos-containing serpentine material 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) **"Asbestos-containing Serpentine Material"** means serpentine material that has an asbestos content greater than five percent (5%) ~~by weight~~.

(5) **"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.

(6) **"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.

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

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

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

(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, ~~by weight~~.

(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, ~~by weight~~. 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, ~~by weight~~, 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.