



Air Pollution Control Board

Greg Cox	District 1
Dianne Jacob	District 2
Pam Slater	District 3
Ron Roberts	District 4
Bill Horn	District 5

DATE: September 25, 2002

TO: San Diego County Air Pollution Control Board

SUBJECT: REPEAL OF RULE 1204 – SURFACING APPLICATIONS FOR
SERPENTINE MATERIAL CONTAINING ASBESTOS (District: All)

SUMMARY:

Overview

Rule 1204 was adopted on November 17, 1992 (APCB #2), to regulate asbestos content in serpentine material used for surfacing applications, such as unpaved roads. Serpentine is rock composed almost entirely from asbestos, a known human carcinogen with no safe exposure level. Rule 1204 was consistent with the Air Resources Board statewide Asbestos Airborne Toxic Control Measure in effect at the time.

In July 2000, the Air Resources Board amended the Asbestos Airborne Toxic Control Measure to further reduce public exposure to asbestos emissions. This revised Airborne Toxic Control Measure superseded the requirements of Rule 1204, therefore, Rule 1204 is no longer needed and is proposed to be repealed. The Air Pollution Control District will instead implement and enforce the state Airborne Toxic Control Measure, without formally adopting it, as allowed by the California Health and Safety Code and procedures approved by Air Pollution Control Board.

Currently, no businesses or locations are known to be using restricted material containing asbestos for surfacing applications in San Diego County.

A public workshop to discuss the repeal of Rule 1204 and the implementation of the new Airborne Toxic Control Measure was held on July 22, 2002.

Recommendation(s)

AIR POLLUTION CONTROL OFFICER

Adopt the resolution repealing Rule 1204 of the Air Pollution Control District Rules and Regulations and make appropriate findings:

- (i) of necessity, authority, clarity, consistency, non-duplication and reference as required by Section 40727 of the State Health and Safety Code;

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- (ii) that repealing Rule 1204 and implementing the amended statewide Airborne Toxic Control Measure will alleviate a problem and will promote attainment of ambient air quality standards (Section 40001 of the State Health and Safety Code);
- (iii) that an assessment of the socioeconomic impact is not required by Section 40728.5 of the State Health and Safety Code because repealing Rule 1204 and implementing the statewide Airborne Toxic Control Measure will not significantly affect air quality or emission limitations; and
- (iv) that it is certain there is no possibility that repealing Rule 1204 and implementing the amended statewide Airborne Toxic Control Measure may have a significant adverse effect on the environment, and this action is exempt from the provisions of the California Environmental Quality Act pursuant to California Code of Regulations, Title 14, Section 15061(b)(3).

Fiscal Impact

The recommended action will have no fiscal impact on the Air Pollution Control District.

Business Impact Statement

There are no businesses in San Diego County currently subject to Rule 1204, nor is it likely there are businesses that are affected by the amended Airborne Toxic Control Measure. Therefore, there is no expected impact on the business community associated with the repeal of Rule 1204.

Advisory Board Statement

There was no quorum at the Air Pollution Control District Advisory Committee. The members present recommended repealing Rule 1204 and implementing the amended Airborne Toxic Control Measure instead at its August 14, 2002, meeting.

BACKGROUND:

Rule 1204 (Surfacing Applications for Serpentine Materials Containing Asbestos) was adopted in 1992 to regulate asbestos content in serpentine material. Asbestos is a known human carcinogen with no safe exposure level. The rule imposed an asbestos limit of five percent for serpentine material (rock composed almost entirely of asbestos) used for surfacing of unpaved roads, driveways, playgrounds, etc. This material may break down over time due to wear and release inhalable asbestos fibers into the air. At the time of Rule 1204 adoption, no businesses in San Diego County were using serpentine material for road surfacing or related operations.

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Rule 1204 was consistent with the statewide Airborne Toxic Control Measure for Surfacing Applications (Asbestos ATCM) adopted by the Air Resources Board (ARB) in 1990. Since then, ARB developed new information indicating a potential for significant exposure and risk for individuals living near unpaved roads surfaced with serpentine material meeting the five percent asbestos limit. In July 2000, ARB amended the Asbestos ATCM to further reduce public exposure to asbestos by lowering allowable asbestos content to 0.25 percent and prohibiting the use, sale, or supply of any material with an asbestos content of 0.25 percent or more for surfacing applications.

As allowed by the California Health and Safety Code and in accordance with procedures approved by the Air Pollution Control Board on July 25, 1995 (APCB #2), the Air Pollution Control District (District) will implement and enforce the amended Asbestos ATCM without formally adopting it. Therefore, Rule 1204 is no longer needed and is proposed to be repealed.

According to District information, no one is currently using any material containing asbestos for surfacing applications in San Diego County.

Socioeconomic Impact Assessment

Section 40728.5 of the State Health and Safety Code requires the District to perform a socioeconomic impact assessment for new and revised rules and regulations significantly affecting air quality or emission limitations. Repealing Rule 1204 will not affect air quality or emission limitations because the District will instead directly implement and enforce the current statewide Asbestos Airborne Toxic Control Measure already in effect. Therefore, a socioeconomic impact assessment is not required.

Compliance with Board Policy on Adopting New Rules

On February 2, 1993 (APCB #2), the Board directed that, with the exception of a regulation requested by business or a regulation for which a socioeconomic impact assessment is not required, no new or revised regulation shall be implemented unless specifically required by federal or state law. The proposed repeal of Rule 1204 is consistent with this Board directive.

California Environmental Quality Act

The California Environmental Quality Act requires an environmental review for certain actions. The District has conducted a preliminary review of whether the California Environmental Quality Act applies to the proposed repeal of Rule 1204. It is certain there is no possibility that repealing Rule 1204 and, instead, implementing the current Asbestos Airborne Toxic Control Measure will have a significant adverse effect on the environment. Therefore, repeal of Rule 1204 is exempt from the provisions of the California Environmental Quality Act pursuant to California Code of Regulations, Title 14, Section 15061(b)(3).

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Strategic Initiatives

The environmental initiative within the county's five-year Strategic Plan includes a vision to preserve and enhance our natural environment and quality of life in the county. The repeal of Rule 1204 and the implementation of the more stringent statewide Asbestos Airborne Toxic Control Measure provide a mechanism to reduce the potential emissions of harmful pollutants into the air and thus will protect air quality and public health for county residents.

Respectfully submitted,



ROBERT R. COPPER
Deputy Chief Administrative Officer

RICHARD J. SMITH
Air Pollution Control Officer (Acting)

Attachments

- A. Resolution Repealing Rule 1204 of Regulation XII of the Rules and Regulations
- B. Workshop Report for Rule 1204

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AGENDA ITEM INFORMATION SHEET

CONCURRENCE(S)

COUNTY COUNSEL REVIEW

Written disclosure per County Charter
Section 1000.1 required

☒ Yes 11 9/3/02

☐ Yes ☒ No

GROUP/AGENCY FINANCE DIRECTOR

☐ Yes ☒ N/A

CHIEF FINANCIAL OFFICER

Requires Four Votes

☐ Yes ☒ N/A

☐ Yes ☒ No

**GROUP/AGENCY INFORMATION
TECHNOLOGY DIRECTOR**

☐ Yes ☒ N/A

CHIEF TECHNOLOGY OFFICER

☐ Yes ☒ N/A

DEPARTMENT OF HUMAN RESOURCES

☐ Yes ☒ N/A

Other Concurrence(s): N/A

ORIGINATING DEPARTMENT: Air Pollution Control District County of San Diego

CONTACT PERSON(S):

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AUTHORIZED REPRESENTATIVE:

Richard J. Smith
Richard J. Smith, Air Pollution Control Officer (Acting)

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AGENDA ITEM INFORMATION SHEET
(continued)

PREVIOUS RELEVANT BOARD ACTIONS:

July 25, 1995 (APCB #2), Change in Adoption Procedure for State Airborne Toxic Control Measures and National Emission Standards for Hazardous Air Pollutants;
February 2, 1993 (APCB #2), Delay Implementation of New and Revised Regulations;
November 17, 1992 (APCB #2), Approved Adoption of New Rule 1204.

BOARD POLICIES APPLICABLE:

N/A

BOARD POLICY STATEMENTS:

N/A

CONTRACT NUMBER(S):

N/A

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

On motion of Member Slater, seconded by Member Jacob,
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; and

WHEREAS, the California Air Resources Board has adopted an amended Air Toxic Control Measure relating to surfacing applications for serpentine material containing asbestos; and

WHEREAS, the Air Pollution Control District implements and enforces that Air Toxic Control Measure directly pursuant to Health and Safety Code Section 39666.

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:

Rule 1204. Surfacing Applications for Serpentine Material Containing Asbestos is repealed in its entirety.

IT IS FURTHER RESOLVED AND ORDERED that the subject repeal of Rule 1204 of Regulation XII shall 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 25th day of September, 2002, by the following votes:

I HAVE READ AND UNDERSTOOD THE CONTENTS OF THIS RESOLUTION AND I AGREE TO SIGN IT.
BY G. Dutton
SENIOR DEPUTY

AYES: Cox, Jacob, Slater
ABSENT: Roberts, Horn

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STATE OF CALIFORNIA)
County of San Diego)^{ss}

I hereby certify that the foregoing is a full, true and correct copy of the Original Resolution entered in the Minutes of the Air Pollution Control Board.

THOMAS J. PASTUSZKA
Clerk of the Air Pollution Control Board

By: *Denise McClendon*
Denise McClendon, Deputy



No. 02-329
9/25/02 (APCD 1)

**REPEAL OF DISTRICT RULE 1204 – SURFACING APPLICATIONS
FOR SERPENTINE MATERIALS CONTAINING ASBESTOS
AND IMPLEMENTATION OF THE STATEWIDE ASBESTOS AIRBORNE
TOXIC CONTROL MEASURE FOR SURFACING APPLICATIONS**

WORKSHOP REPORT

A workshop notice was mailed to each company known to have a potential for use of ultramafic, serpentine or asbestos-containing 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.

Currently, surfacing applications of asbestos containing materials are regulated by District Rule 1204 which, when adopted in 1992, was consistent with the statewide Asbestos Airborne Toxic Control Measure for Surfacing Applications (Asbestos Surfacing ATCM). On July 20, 2000, ARB amended the ATCM to further reduce public exposure to asbestos emissions. The District will implement and enforce the amended ATCM without formally adopting it, as allowed by state law and in accordance with the procedure approved by the Air Pollution Control Board on July 25, 1995 (APCB #2).

The workshop to discuss the repeal of Rule 1204 and the amended ATCM implementation was held on July 22, 2002. There were no attendees at the workshop and the District did not receive any public comments. There were also no comments received from ARB or EPA.

07/24/02
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