



Air Pollution Control Board

San Diego County Air Pollution Control District

GOVERNING BODY

GREG COX
First District

DIANNE JACOB
Second District

KRISTIN GASPAR
Third District

RON ROBERTS
Fourth District

BILL HORN
Fifth District

AGENDA ITEM

DATE: November 15, 2017

AP01

TO: Air Pollution Control Board

SUBJECT

NOTICED PUBLIC HEARING – ADOPTION OF PROPOSED NEW RULE 1206 – ASBESTOS REMOVAL, RENOVATION, AND DEMOLITION, RELATED AMENDMENTS TO RULE 40 – PERMIT AND OTHER FEES, AND REPEAL OF EXISTING DISTRICT SUBPART M – NATIONAL EMISSION STANDARDS FOR ASBESTOS (RULES 361.140-361.156) (DISTRICTS: ALL)

OVERVIEW

This is a request for the Air Pollution Control Board to adopt proposed new Rule 1206 (Asbestos Removal, Renovation, and Demolition) which would improve overall clarity and consistency with current federal requirements. Additionally, a related proposed amendment to Rule 40 (Permit and Other Fees) is being requested to ensure that the rule's language is aligned with Rule 1206 in regard to the rule applicability thresholds.

Asbestos is a naturally occurring fibrous mineral used in building materials such as sprayed-on surface materials, pipe insulation, resilient floor tiles, and roofing materials. Disturbance of asbestos-containing materials during building demolition or renovation activities can release asbestos fibers into the air, risking public health. This is because the inhalation of these asbestos fibers, a known carcinogen, can cause serious health problems including chronic lung disease and cancer. There is no known safe level of exposure to asbestos and its safe handling is vitally important to protect workers and the public from its ill effects.

Asbestos is federally regulated through the National Emissions Standards for Hazardous Air Pollutants (NESHAP), which requires the identification and removal of asbestos-containing materials under controlled conditions prior to demolition or renovation activities so that asbestos fibers are not released into the air. The U.S. Environmental Protection Agency (EPA) has delegated the authority to implement the NESHAP to the Air Pollution Control District (District). The District enforces this federal regulation through existing Rules 361.140-361.156, adopted over 22 years ago (February 1, 1995 (AP01)). Since then, the EPA has made numerous amendments and determinations to improve and clarify the federal regulation, resulting in the District rules becoming outdated. The District has developed proposed new Rule 1206 to incorporate these federal updates and enhance rule clarity. These changes will result in a better

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understanding of the requirements by the regulated community, thereby improving compliance rates and reducing worker and public exposure to asbestos.

Proposed Rule 1206 more clearly defines terms, better explains inspection and reporting requirements, clarifies when a renovation or demolition is subject to the requirements, and specifies work practice requirements to limit asbestos exposure. Additionally, to better protect public health, the rule applicability threshold would decrease from 160 square feet of surface area or 260 linear feet of pipe to 100 square feet of regulated asbestos-containing material to be removed. The lower threshold is already in place in similar rules throughout most of California, is well accepted, and has proven beneficial in reducing the risk of worker and public exposure to harmful asbestos fibers.

A related minor amendment to existing Rule 40 (Permit and Other Fees) for asbestos notification fees is also proposed so as to lower the fee applicability threshold from 160 square feet to 100 square feet of regulated asbestos-containing material to be removed, consistent with proposed new Rule 1206. If adopted, new Rule 1206 and amended Rule 40 will take effect immediately and existing Rules 361.140-361.156 will be repealed.

Proposed Rule 1206 was developed in collaboration with the EPA and the California Air Resources Board along with extensive outreach to the District's stakeholders. All known issues have been addressed and the proposed rule is supported by the Air Pollution Control District Advisory Committee. If the proposed rule is adopted, staff will conduct additional outreach that will include the distribution of an informational advisory and cost-free training about the new rule to further inform and educate potentially affected sources.

RECOMMENDATION(S)

AIR POLLUTION CONTROL OFFICER

1. Find that the adoption of new Rule 1206 and amended Rule 40 and the repeal of existing Rules 361.140–361.156 are categorically exempt from the provisions of the California Environmental Quality Act pursuant to California Code of Regulations, Title 14, Section 15061(b)(3), since it can be seen with certainty that there is no possibility that the activities in question may have a significant adverse effect on the environment.
2. Adopt the Resolution entitled RESOLUTION ADOPTING NEW RULE 1206 – ASBESTOS REMOVAL, RENOVATION, AND DEMOLITION OF REGULATION XII, RELATED AMENDMENTS TO RULE 40 – PERMIT AND OTHER FEES OF REGULATION III, AND REPEALING EXISTING DISTRICT SUBPART M – NATIONAL EMISSION STANDARDS FOR ASBESTOS (RULES 361.140-361.156) OF REGULATION XI OF THE RULES AND REGULATIONS OF THE SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT.

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FISCAL IMPACT

Funds for this request are included in the Fiscal Year 2017-18 Operational Plan for the Air Pollution Control District. The recommended actions would result in additional estimated costs and revenue of \$31,570, funded by customers providing notification of asbestos renovation or demolition operations. There will be no change in net General Fund cost and no additional staff years are required

BUSINESS IMPACT STATEMENT

If approved, these recommendations will have a positive impact on the business community by increasing the clarity of the asbestos regulatory requirements. Furthermore, it is expected that compliance with the rule will improve, potentially reducing worker and public exposure to asbestos fibers. The proposed lowering of the rule applicability threshold from 160 square feet to 100 square feet of regulated asbestos-containing material to be removed will result in an estimated 70 additional asbestos notifications per year region-wide and will not significantly impact the business community.

ADVISORY BOARD STATEMENT

The Air Pollution Control District Advisory Committee voted in support of the staff's recommendations at their meeting on September 13, 2017.

BACKGROUND

Asbestos is a naturally occurring mineral fiber that is resistant to heat and fire and has been used extensively in building construction materials such as sprayed-on surface materials, pipe insulation, resilient floor tiles, and roofing materials. If not properly controlled, asbestos fibers can be released into the air when asbestos-containing materials are disturbed during building demolition or renovation activities. Inhalation of the airborne asbestos fibers can cause serious health problems including chronic lung disease and cancer. In fact, there is no known safe level of exposure to asbestos.

In response to these health risks, in 1971 the U.S. Environmental Protection Agency (EPA) identified asbestos as a hazardous air pollutant and subsequently instituted a partial ban on its use, prohibiting the manufacture of certain products containing more than one percent asbestos. However, asbestos is still allowed in the manufacture of many construction materials today and even new buildings may contain asbestos-bearing materials. Therefore, federal and Air Pollution Control District (District) requirements are in place to limit the public's exposure to asbestos fibers during renovation and demolition of buildings, regardless of their age.

Asbestos is federally regulated through the National Emissions Standards for Hazardous Air Pollutants (NESHAP). Pursuant to the NESHAP, building materials that are suspected to contain asbestos must be sampled and laboratory tested prior to renovation or demolition activities. Laboratory testing is required because the presence of asbestos cannot be detected visually by the unaided eye and it may be excluded from material safety data sheets under certain

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conditions. If identified, regulated asbestos-containing materials must be removed under controlled conditions prior to demolition or renovation activities so that asbestos fibers are not released into the air.

The federal regulation is administered locally by the District through existing Rules 361.140-361.156 (National Emissions Standards for Asbestos), adopted in 1995. Since then, the EPA has made numerous amendments and determinations to clarify the federal regulation, resulting in the District rules becoming outdated. Proposed new Rule 1206 was developed to reflect these federal updates in a clear and comprehensive manner. These changes should result in a better understanding of the requirements by the regulated community, thereby improving compliance rates and reducing worker and public exposure to asbestos.

Proposed Rule 1206 more clearly defines terms, better explains inspection and reporting requirements, clarifies when a renovation or demolition is subject to the regulation, requires the asbestos survey results to be readily available, and specifies work practice requirements to limit asbestos exposure. Additionally, to better protect public health, the rule applicability threshold would decrease from 160 square feet to 100 square feet of regulated asbestos-containing material to be removed. The proposed lower threshold is consistent with similar rules throughout most of California. A related minor amendment to existing Rule 40 (Permit and Other Fees) is also proposed to incorporate this same threshold change for asbestos notification fees. If adopted, proposed new Rule 1206 and amended Rule 40 will take effect immediately and existing Rules 361.140-361.156 will be repealed.

Proposed Rule 1206 was developed in collaboration with EPA and the California Air Resources Board along with extensive outreach to the District's stakeholders. The proposed rule is supported by the Air Pollution Control District Advisory Board. If the proposed new rule is adopted, staff will conduct additional outreach that will include distributing an informational advisory and providing cost-free training about the new rule to ensure its requirements are understood.

ENVIRONMENTAL STATEMENT

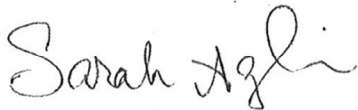
The California Environmental Quality Act (CEQA) requires environmental review of certain actions. District staff conducted a review of whether CEQA applies to proposed new Rule 1206, amended Rule 40, and the repeal of existing Rules 361.140-361.156. These actions are intended to clarify and facilitate compliance with existing requirements and will not result in the relaxation of existing air pollution control requirements. Additionally, to better protect public health, the rule applicability threshold would decrease from 160 square feet to 100 square feet of regulated asbestos-containing material to be removed. Therefore, the rulemaking is exempt from the provisions of CEQA pursuant to California Code of Regulations, Title 14, Section 15061(b)(3), since it can be seen with certainty that there is no possibility that the activities in question may have a significant adverse effect on the environment.

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LINKAGE TO THE COUNTY OF SAN DIEGO STRATEGIC PLAN

Today's proposed actions support the Sustainable Environments Initiative in the County of San Diego's 2017-2022 Strategic Plan with an objective to enhance the quality of the environment by focusing on pollution prevention. Proposed Rule 1206 will reduce hazardous air pollutant emissions, protect public health, and advance the County's *Live Well San Diego* vision

Respectfully submitted,



SARAH E. AGHASSI
Deputy Chief Administrative Officer



ROBERT J. KARD
Air Pollution Control Officer

ATTACHMENT(S)

Attachment A – Resolution adopting new Rule 1206 – Asbestos Removal, Renovation, and Demolition of Regulation XII, related amendments to Rule 40 – Permit and Other Fees of Regulation III, and repealing existing District Subpart M – National Emission Standards for Asbestos (Rules 361.140-361.156) of Regulation XI of the Rules and Regulations of the San Diego County Air Pollution Control District

Attachment B – Comparative Analysis

Attachment C – Workshop Reports

Attachment D – Rule 40 Change Copy

Attachment E – Rules 361.140-361.156 Repeal

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AGENDA ITEM INFORMATION SHEET

REQUIRES FOUR VOTES: ☐ Yes ☐ No

WRITTEN DISCLOSURE PER COUNTY CHARTER SECTION 1000.1 REQUIRED

☐ Yes ☐ No

PREVIOUS RELEVANT BOARD ACTIONS:

March 15, 2017 (AP01), Adopt Amendments to Rule 40 – Permit and Other Fees and Rule 42 – Hearing Board Fees; December 7, 2011 (AP01), Amendments to Rule 40 – Permit and Other Fees; February 1, 1995 (AP01), Repealing Existing Subpart M and Adding New Subpart M – National Emissions Standards for Asbestos to Regulation XI – National Emissions Standards for Hazardous Air Pollutants (NESHAP)

BOARD POLICIES APPLICABLE:

Policy B-29: Fees, Grants, Revenue Contracts – Department Responsibility for Cost Recovery

BOARD POLICY STATEMENTS:

N/A

MANDATORY COMPLIANCE:

N/A

ORACLE AWARD NUMBER(S) AND CONTRACT AND/OR REQUISITION NUMBER(S):

N/A

ORIGINATING DEPARTMENT: AIR POLLUTION CONTROL DISTRICT

OTHER CONCURRENCE(S): N/A

CONTACT PERSON(S):

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**RESOLUTION ADOPTING NEW RULE 1206 – ASBESTOS REMOVAL,
RENOVATION, AND DEMOLITION OF REGULATION XII,
RELATED AMENDMENTS TO RULE 40 – PERMIT AND OTHER FEES OF
REGULATION III, AND REPEALING DISTRICT SUBPART M – NATIONAL
EMISSION STANDARDS FOR ASBESTOS (RULES 361.140-361.156) OF
REGULATION XI OF THE RULES AND REGULATIONS OF THE
SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT**

WHEREAS, the San Diego County Air Pollution Control Board (Board), pursuant to Section 40702 of the Health and Safety Code, adopted Rules and Regulations of the Air Pollution Control District (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 held relating to the amendment of said Rules and Regulations pursuant to Section 40725 of the Health and Safety Code and Section 51.102 of the Code of Federal Regulations; and

WHEREAS, pursuant to Section 40727 of the Health and Safety Code, the Board makes the following findings:

- (1) (Necessity) The adoption of proposed new Rule 1206, amended Rule 40, and the repeal of existing Rules 361.140-361.156 are necessary in order to implement federal requirements for the National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Asbestos, and to improve clarity of requirements for those affected;
- (2) (Authority) The adoption of proposed new Rule 1206, amended Rule 40, and the repeal of existing Rules 361.140-361.156 are authorized by Health and Safety Code Section 40702;
- (3) (Clarity) Proposed new Rule 1206, amended Rule 40, and the repeal of existing Rules 361.140-361.156 can be easily understood by persons directly affected by them;
- (4) (Consistency) The adoption of proposed new Rule 1206, amended Rule 40, and the repeal of existing Rules 361.140-361.156 are in harmony with, and not in conflict with or contrary to, existing statutes, court decisions, and state and federal regulations;
- (5) (Non-duplication) The adoption of proposed new Rule 1206, amended Rule 40, and the repeal of existing Rules 361.140-361.156 will not duplicate existing District or state requirements but will duplicate federal requirements in order to properly execute the powers and duties granted to, and imposed upon, the District;

- (6) (Reference) The adoption of proposed new Rule 1206, amended Rule 40, and the repeal of existing Rules 361.140-361.156 are necessary to comply with federal law.

WHEREAS, the Board further finds pursuant to Health and Safety Code Section 40001 that adoption of proposed new Rule 1206, amended Rule 40, and the repeal of existing Rules 361.140-361.156 will protect public health; and

WHEREAS, the Board further finds that existing Rules 361.140-361.156 are now duplicative of proposed new Rule 1206, and will be rendered obsolete immediately upon the adoption of proposed new Rule 1206, at which time affected individuals are required to comply with the new requirements; and

WHEREAS, the Board further finds that an analysis comparing proposed new Rule 1206 with applicable requirements of federal and local regulations has been prepared and considered pursuant to Health and Safety Code Section 40727.2 and is available to the public upon request; and

WHEREAS, the Board further finds that an assessment of the socioeconomic impacts of the proposed new Rule 1206, amended Rule 40, and the repeal of existing Rules 361.140-361.156 is not required pursuant to Health and Safety Code Section 40728.5, as proposed new Rule 1206 will not significantly impact air quality or emissions limitations.

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:

1. Proposed new Rule 1206 is to read as follows:

RULE 1206. ASBESTOS REMOVAL, RENOVATION, AND DEMOLITION
(Adopted & Effective *(date of adoption)*)

(a) **APPLICABILITY**

Except as otherwise provided in Section (b), this rule is applicable to owners and operators of any renovation or demolition operation.

(b) **EXEMPTIONS**

- (1) The provisions of this rule shall not apply to:

- (i) The renovation of a facility involving the disturbance of any combination of building materials in any consecutive 365-day period totaling less than 100 square feet on facility components, and less than 20 cubic feet for materials removed from facility components where the area could not be measured prior to removal, stripping, or disturbance.

- (ii) Renovation or demolition operations conducted:

(A) at a residential building or structure that contain four or fewer dwelling units.

(B) at a single mobile, manufactured, or modular home. The relocation of one residential mobile, manufactured, or modular home by its owner and resident is not considered a demolition operation.

Subsection (b)(1)(ii) does not apply to: 1) a group of residential structures meeting the definition of an installation, even when there are four or fewer dwelling units in each building; or 2) a residential structure(s), including mobile, manufactured, or modular structures, used for any institutional, commercial, public, or industrial purpose.

(iii) Renovation or demolition operations conducted on recreational vehicles.

(iv) The movement or relocation of mobile, manufactured, or modular structures that are immediately ready for road travel, when they can be easily relocated or moved without disturbance of a structural member.

(2) The provisions of Subsection (d)(1) and (d)(3) shall not apply to any renovation or demolition operation where suspect materials are presumed to be regulated asbestos-containing material (RACM) and handled and disposed of as RACM.

(3) The provisions of Subsections (d)(1) and (f)(1) through (f)(7) shall not apply to emergency demolition operations.

(4) The provisions of Sections (e), (f) and (g) shall not apply to renovation operations in which the amounts of RACM, as documented in the facility survey, to be removed, stripped, or disturbed at a facility in any one consecutive 365-day period measure (or will measure during a calendar year, for planned renovations) less than 100 square feet on facility components, and less than 20 cubic feet removed from facility components where the area could not be measured prior to removal, stripping, or disturbance.

(5) The provisions of Sections (f) and (g) shall not apply to demolition operations in which the amounts of RACM, as documented in the facility survey, to be removed, stripped, or disturbed at a facility in any one consecutive 365-day period measure less than 100 square feet on facility components, and less than 20 cubic feet removed from facility components where the area could not be measured prior to removal, stripping, or disturbance.

(c) **DEFINITIONS**

For the purposes of this rule, the following definitions shall apply:

(1) “**Abrading**” means to rub or wear away by means of mechanical action or friction.

(2) **“Adequately Wet”** means sufficiently mixed with a liquid or penetrated by a liquid to prevent the release of particulate matter. If visible emissions are observed coming from RACM, then the RACM has not been adequately wet. However, the absence of visible emissions coming from RACM is not sufficient evidence of being adequately wet.

(3) **“Asbestos”** means the asbestiform variety of six naturally occurring hydrated silicate minerals; these include chrysotile, the asbestiform member of the serpentine group, and five minerals of the amphibole group: (1) crocidolite, the asbestiform variety of riebeckite, (2) amosite, the asbestiform variety of cummingtonite-grunerite, (3) anthophyllite asbestos, (4) actinolite asbestos, and (5) tremolite asbestos.

(4) **“Asbestos-Containing Materials (ACM)”** means any material that contains more than one percent asbestos including Friable ACM, Category I Nonfriable ACM and Category II Nonfriable ACM.

(5) **“Asbestos-Containing Waste Material (ACWM)”** means any waste that contains or is contaminated with RACM generated by a facility subject to this rule. ACWM includes, but is not limited to, RACM stripped or removed from a facility or a facility component, any materials, soils, and/or debris contaminated with RACM including equipment and clothing, RACM waste and filters from control devices, particulate asbestos material, RACM slurries, bags, packages and containers that previously contained RACM.

(6) **“ACWM Disposal Site”** means any location where ACWM has been abandoned, buried, covered, deposited, or stored. This term includes locations with ACWM where the original source and date of generation cannot be determined.

(7) **“Category I Nonfriable ACM”** means asbestos-containing packings, gaskets, resilient floor coverings, and asphalt roofing products, that when dry cannot be crumbled, or reduced to powder by hand pressure, and that contain more than one percent asbestos.

(8) **“Category II Nonfriable ACM”** means any material, excluding Category I Nonfriable ACM, that when dry cannot be crumbled, pulverized, or reduced to powder by hand pressure, and that contains more than one percent asbestos.

(9) **“Clear Leak-Tight Wrapping”** means a clear or translucent bag that allows for visual confirmation that the RACM inside a bag is kept adequately wet in situations where wetting is required.

(10) **“Cutting”** means to penetrate with a sharp-edged instrument and includes sawing, but does not include shearing, slicing, or punching.

(11) **“Demolition Operation”** means the wrecking or taking out of any load-supporting structural member of a facility, together with any related handling operations, or the intentional burning of any facility.

(12) **“District”** means the San Diego County Air Pollution Control District.

(13) **“Emergency Demolition Operation”** means any demolition under order of a federal, state, or local government agency when such order is issued for a structurally unsound facility in danger of imminent collapse.

(14) **“Emergency Renovation Operation”** means an unplanned renovation operation resulting from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard. This includes, but is not limited to:

- (i) Renovations due to fire, water, or earthquake damage; or
- (ii) An unanticipated discovery of RACM during renovation, demolition, or construction activity; or
- (iii) The conversion of previously nonfriable asbestos containing material to friable material during the course of a renovation; or
- (iv) Operations necessary to protect equipment from damage.

(15) **“EPA”** means the United States Environmental Protection Agency.

(16) **“Facility”** means any institutional, commercial, public, industrial or residential structure, installation, or building (including any structure, installation, or building containing condominiums or individual dwelling units operated as a residential cooperative, but excluding residential buildings having four or fewer dwelling units); any ship; and any ACWM disposal site.

(17) **“Facility Component”** means any part of a facility and includes equipment located at a facility.

(18) **“Facility Survey”** means a thorough inspection for asbestos of the affected facility or part of a facility where the renovation or demolition operation will occur.

(19) **“Friable ACM”** means any material that, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure and that contains more than one percent asbestos.

(20) **“Glove-Bag System”** means asbestos removal bags designed to form a leak-tight enclosure around ACM being removed. The system includes internal sleeves for arms and hands for workers removing ACM.

(21) **“Grinding”** means to reduce to powder or small fragments and includes mechanical chipping or drilling.

(22) **“Group”** means more than one.

(23) **“Installation”** means any group of buildings or structures (including mobile, manufactured or modular structures) that are under the control of a common owner or operator that are:

- (i) on a contiguous parcel of land; or
 - (ii) not on the same contiguous parcel of land when they are involved in a coordinated project.
- (24) **“Leak-tight”** means that solids, dust, or liquids cannot escape or leak out.
- (25) **“Locked”** means securely closed and able to be opened only with a key, biometric access, or access code.
- (26) **“Mobile Home”** or **“Manufactured Home”** means a residential structure that is:
- (i) transportable in one or more sections,
 - (ii) built on a permanent chassis, and
 - (iii) designed to be used as a single-family dwelling with or without a foundation system when connected to the required utilities, and contains one or more of the following: plumbing, heating, air conditioning, or electrical systems.
- (27) **“Mobile, Manufactured, and Modular Structures”** means any institutional, commercial, public, industrial or residential structure, installation, or building that:
- (i) is transportable in one or more sections,
 - (ii) has a permanent chassis, a foundation, or any other load supporting structure, and
 - (iii) contains one or more of the following required utilities: plumbing, heating, air conditioning, or electrical systems.
- (28) **“Modular Home”** means a mobile or manufactured home that is prefabricated and that is not built on a permanent chassis.
- (29) **“Nonscheduled Renovation Operation”** means a renovation operation necessitated by the routine failure of equipment or facility components associated with a planned renovation, which is expected to occur within a calendar year based on past operating experience, but for which an exact date cannot be predicted.
- (30) **“Outside Air”** means the air outside of containment areas, buildings or structures.
- (31) **“Owner or Operator”** means any person, business, association, organization, or entity that owns, leases, operates, controls, or supervises the facility being renovated or demolished; or any person, business, association, organization, or entity that conducts, controls, or supervises the renovation or demolition operation; or both.

(32) **“Particulate Asbestos Material”** means finely divided particles of asbestos or a material containing asbestos.

(33) **“Planned Renovation Operation”** means a renovation, or a number of such operations, in which the amount of RACM that will be removed or stripped within a calendar year can be predicted. Individual nonscheduled renovations are included if a number of such operations can be predicted to occur during a calendar year based on operating experience.

(34) **“Poor Condition”** means the binding of a material is losing its integrity. Evidence of being in poor condition includes, but is not limited to, peeling, cracking, exfoliating, fragmenting, weathering, being broken into smaller pieces, or crumbling of the material.

(35) **“Recreational Vehicles”** means a motor home, travel trailer, truck camper, or camping trailer, with or without motive power, designed for human habitation for recreational, emergency, or other occupancy that is built on a single chassis and is immediately ready for road travel by being self-propelled, truck-mounted, or permanently towable on the highways without a permit.

(36) **“Regulated Asbestos-Containing Material (RACM)”** means:

- (i) Friable ACM;
- (ii) Category I Nonfriable ACM that is in poor condition or has become friable;
- (iii) Category I Nonfriable ACM that will be or has been subjected to sanding, grinding, cutting, or abrading;
- (iv) Category II Nonfriable ACM that is in poor condition, or has a probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material while onsite at the facility where the renovation or demolition operations occur; or
- (v) Any ACM that contains more than one percent asbestos and has been damaged by fire.

(37) **“Related Handling Operations”** means any cutting, disjointing, stripping or removal of any suspect material associated with the wrecking or taking out of any load supporting structural member associated with a demolition.

(38) **“Remove”** means to take out ACM or facility components that contain or are covered with ACM from a facility.

(39) **“Renovation Operation”** means altering a facility or any facility components in any way, including the stripping or removal of RACM from a facility or facility component, or the removal of ACWM from a facility.

(40) **“Resilient Floor Covering”** means asbestos containing floor tile, including, but not limited to, asphalt and vinyl floor tile, and sheet vinyl floor covering.

(41) **“Start Date”** means, for a renovation operation, the first date that RACM is removed or when operations or site preparation work begins that would break up, dislodge, or similarly disturb RACM. The start date of a demolition operation is the first day that a load bearing structural member of a facility is wrecked or taken out, including the intentional burning of a facility, along with any related handling operations.

(42) **“Strip”** means to take RACM off any part of a facility or facility component.

(43) **“Structural Member”** means any load-supporting member of a facility including, but not limited to, beams, load supporting walls, headers, joists, posts, rafters, or any non-load supporting members including, but not limited to, ceilings and non-load supporting walls.

(44) **“Suspect Material”** means any material with a propensity to contain:

- (i) RACM;
- (ii) Category I Nonfriable ACM;
- (iii) Category II Nonfriable ACM; or

(iv) Building materials that have a history of manufacture involving asbestos, including, but not limited to: floor tiles, floor mastics and adhesives, linoleum, sheet vinyl flooring, paper backing on sheet vinyl flooring, thermal paper products, roofing materials (tiles, asphalt, putty, felts, mastics), fireproofing, siding and siding shingles, furnace and boiler components, furnace and stove vents, walls and floors and ceilings around furnaces and boilers, air ducts and air duct connections, duct wrap, insulating materials, packings, gaskets, wallboard materials (including tape, joint compounds, and texturing compounds), plaster, stucco, ceiling tiles, acoustic tiles, spray on acoustic ceiling material, concrete pipes, and pipe insulation.

(45) **“Visible Emissions”** means any emission, or evidence of emissions, including, but not limited to: dust, debris, particles, or fibers coming from any RACM or ACWM that are visually detectable without the aid of instruments. Visible emissions include, but are not limited to, any RACM or ACWM found outside of contained work areas or outside the containers specified by Subsection (g)(4).

(46) **“Waste Generator”** means any owner or operator of a facility covered by this rule whose act or process produces ACWM.

(47) **“Waste Shipment Record”** means the shipping document, required to be originated and signed by the waste generator, used to track and substantiate the disposition of ACWM.

(48) **“Working Day”** means Monday through Friday and includes holidays that fall on any of the days Monday through Friday.

(49) **“Wrecking Operation”** means any disturbance of building materials associated with an emergency demolition.

(50) **“Wrecking or Taking Out”** means the removal of a facility structural member with the intent to destroy a facility or facility structural member. Altering or re-supporting a facility structural member is not considered wrecking or taking out.

(d) FACILITY SURVEY REQUIREMENTS

(1) Except as provided in Subsection (d)(3) below, prior to commencement of renovation or demolition operations and prior to submitting the notifications required by Section (e), a facility survey shall be performed to determine the presence or absence of ACM, regardless of the age of the facility. Suspect materials that will be removed, stripped, or disturbed by the renovation or demolition operations shall be sampled and analyzed for asbestos content. Once the renovation or demolition notification has been submitted, the facility survey shall be made immediately available to the District upon request.

(2) A complete copy of the facility survey shall be maintained onsite for the duration of the renovation and/or demolition operation, and shall be made available to the District upon request. An electronic version of the facility survey is acceptable.

(3) For emergency demolition operations, a facility survey to determine the presence or absence of ACM shall be completed prior to the removal of any debris and within two working days of when the structure is no longer in danger of imminent collapse. The Air Pollution Control Officer may grant an extension on a case by case basis, provided the extension request is received by the District prior to the removal of any debris. All suspect materials shall be sampled and analyzed for asbestos content, or shall be assumed to be RACM. The facility survey shall be maintained onsite for the duration of the emergency demolition operation and shall be made available to the District upon request.

(4) Persons conducting facility surveys shall have taken and passed a current EPA-approved Building Inspector Course.

(5) The facility survey shall be documented in writing with the following information:

(i) Facility information including the name of the building (if any), the building address and the building owner’s address and telephone number;

(ii) Information about the person conducting the facility survey including his/her name and title, the name, address and telephone number of the company the person works for, and a written statement of the qualifications of the person who conducted the facility survey demonstrating compliance with Subsection (d)(4);

(iii) The date(s) that the facility survey was conducted;

(iv) A listing, location, and percent content of asbestos of all suspect materials sampled and analyzed or assumed to be RACM;

(v) The name, address and telephone number of the laboratory performing analyses of the samples for asbestos content;

(vi) A statement of the qualifications of the laboratory that conducted the analyses, demonstrating compliance with Section (h);

(vii) A list of the test methods used to determine asbestos content, demonstrating compliance with Section (h).

(e) NOTIFICATION REQUIREMENTS

(1) Notifications. Each owner or operator of a renovation or demolition operation to which this rule applies shall notify the District, in writing, with District-approved notification forms. The notification forms shall be filled out completely and accurately. Notification forms that are inaccurate or missing information are invalid and will be rejected.

(2) Submittal of Notifications. Notifications shall be electronically received, postmarked, or delivered at the District office.

(3) Effective Date of Notifications. The effective date of the notification is the date of receipt of the notification at the District office, or the date of the notification postmark if the notification is received by the District no later than three working days from the postmark date.

(4) Payment. All notifications shall be fully paid in accordance with District Rule 40 – Permit and Other Fees, within one working day of the effective date of the notification. If payment is not received prior to the close of business of the next working day after the effective date of the notification, the notification will be invalid and shall be rejected.

(5) Timing of Notifications

(i) Renovation or Demolition Operation. Unless otherwise stated in Subsections (e)(5)(ii) and (e)(5)(iii) below, notification forms shall be submitted no later than 10 working days prior to the start of the renovation or demolition operation. Work may begin on the eleventh day after 10 working days have passed from the effective date of the notification.

(ii) Planned Renovation – Annual Notification. Notifications shall be submitted by December 17 of the year preceding the calendar year for which notice is being given for planned renovation activities where the amount of RACM to be removed, stripped or disturbed totals 100 square feet or more on facility components, or 20 cubic feet or more from facility components where the area could not be measured prior to removal, stripping, or disturbance.

(iii) Emergency Renovation or Emergency Demolition. Notifications shall be submitted and approved by the District prior to the close of business of the next working day after the start of any emergency renovation or emergency demolition.

(6) Cancellations. A cancellation notice shall be received by the District by noon on the working day prior to the notification start date of the renovation or demolition operation. Refunds of asbestos notification fees shall be issued, less a \$60 cancellation fee, only if a cancellation notice is received by the District by noon on the working day prior to the notification start date of the renovation or demolition operation. A refund will not be issued if the notice of cancellation is received by the District on or after the notification start date.

(7) Notification Information Requirements. All notifications shall include, at a minimum, the following information:

- (i) The name and company of the person completing the notification form.
- (ii) The type of notice (i.e., whether the notice is an original notification, a revision to an existing notification, including the type of revision, or a cancellation of an existing notification).
- (iii) Type of operation (i.e., whether the operation(s) is a renovation, demolition, emergency renovation, emergency demolition, or planned renovation).
- (iv) The facility name, address, building number, suite number, room number, city, state, and zip code.
- (v) The facility owner's name, address, city, state, zip code, contact person and title, and phone number.
- (vi) The removal contractor's name, address, city, state, zip code, contractor's license number, contact person and title, and phone number.
- (vii) The demolition contractor's name, address, city, state, zip code, contractor's license number, contact person and title, and phone number.
- (viii) A description of the facility, including the number of floors, the number of dwelling units, age of the facility, and the past and present use of the facility.

(ix) Scheduled start and completion dates of renovation operations and/or of demolition operations.

(x) The work practices, equipment, and engineering controls to be used in demolition operations.

(xi) Description of procedures to be followed in the event that unexpected RACM is found or any Category I Nonfriable ACM or Category II Nonfriable ACM becomes crumbled, pulverized, broken into smaller pieces, or reduced to powder.

(xii) The name, address, city, state, zip code, contact person and title, and phone number of the waste transporter for all demolition debris containing no asbestos.

(xiii) The name, address, city, state, zip code, and phone number of the waste disposal site for all demolition debris containing no asbestos.

(xiv) For emergency demolition operations, the name, title, and authority of the federal, state or local government representative who has ordered the demolition, the date the order was issued, and the date on which the demolition was ordered to begin. A copy of the order shall be attached to the notification.

(xv) For emergency renovation operations, the date and hour that the emergency occurred, a description and photos of the sudden unexpected event, and an explanation of how the event caused an unsafe condition, or would cause equipment damage.

(xvi) A certification that at least one person trained in accordance with Subsection (f)(8) will supervise the stripping and removal described by this notification.

(xvii) Information about the individual conducting the facility survey including: name, company, title, mailing address and phone number, and the certification number for the EPA-approved Building Inspector Course passed by the individual.

(xviii) The condition of each ACM identified by the facility survey to be removed, stripped, or disturbed, or a statement that no ACM to be disturbed by renovation or demolition operations has been identified at the facility.

(xix) The procedure(s), including analytical methods, used to detect the presence of RACM, Category I Nonfriable ACM, and Category II Nonfriable ACM.

(xx) For all ACM to be removed, stripped, or disturbed, the categorization of each material containing more than one percent asbestos as friable ACM, Category I Nonfriable ACM, or Category II Nonfriable ACM.

(xxi) A description of the facility components containing ACM to be removed, stripped, or disturbed.

(xxii) An estimate for the total amount of ACM to be removed, stripped, or disturbed from the facility including the surface area in square feet on other facility components, or volume in cubic feet if square footage cannot be established in the course of renovation or demolition operations regulated by this rule.

(xxiii) The specific work practices, equipment, and engineering controls that will be used to remove each ACM.

(xxiv) The name, address, city, state, zip code, contact person and title, and phone number of the waste transporter for all ACWM.

(xxv) The name, address, city, state, zip code, and phone number of the waste disposal site for all ACWM.

(8) Expirations of Notifications for Renovation and Demolition Projects. Notifications for renovation and demolition projects shall expire within 365 days from the effective date of the original notification. If a renovation or demolition project is to exceed 365 days, a new notification must be submitted to the District no later than 10 working days prior to expiration, in accordance with the requirements in this section.

(9) Revisions to Current Notifications. A revised notification form, along with associated fees, shall be received by the District when any of the following conditions arise:

(i) Change in Quantity of Asbestos. An increase in the quantity of RACM by 20 percent or more from the notified amount (including planned renovation notifications) shall be reported to the District. A revised notification shall be received before the removal of RACM exceeds 20 percent of the amount originally notified to be removed.

(ii) Postponed Start Date. A delay in the start date of any renovation or demolition operation shall be reported to the District by a revised written notification as soon as the information becomes available and before the original start date.

(iii) Earlier Start Date. A change in the start date of any renovation or demolition operation to an earlier start date shall be reported to the District, in writing, no later than 10 working days prior to the start of any renovation or demolition operation.

(f) PROCEDURES FOR ASBESTOS EMISSION CONTROL

Each owner or operator of a renovation or demolition operation to which this rule applies shall comply with the following procedures:

(1) Remove all RACM from a facility being renovated or demolished before starting any activity that would break up, dislodge, or similarly disturb the material or preclude access to the material for subsequent removal. For a demolition operation, cementitious based Category II Nonfriable ACM shall be removed. RACM does not need to be removed before demolition if:

(i) The RACM is Category I Nonfriable ACM that is not in poor condition and is not friable; or

(ii) The RACM is Category II Nonfriable ACM that is not in poor condition and will not become crumbled, pulverized, or reduced to powder. This includes, but is not limited to, paint or electric wire insulation; or

(iii) It is on a facility component that is encased in concrete or other similarly hard material, and the materials will not become crumbled, pulverized, or reduced to powder, and the material is adequately wet whenever exposed during demolition; or

(iv) It was not accessible for testing and was, therefore, not discovered until after demolition began and, as a result of the demolition, the material cannot be safely removed. If not removed for safety reasons, the exposed RACM and any asbestos-contaminated debris must be treated as ACWM and kept adequately wet at all times until disposed of.

(2) When a facility component that contains, is covered with or is coated with RACM is being taken out of the facility as a unit or in sections:

(i) All RACM exposed during cutting or disjoining operations shall be adequately wet; and

(ii) Each unit or section must be carefully lowered to the floor or to ground level by not dropping, throwing, sliding, or otherwise damaging or disturbing the RACM.

(3) When RACM is stripped from a facility component while it remains in place at the facility, the RACM must be kept adequately wet during the stripping operation.

(i) In renovation operations, wetting is not required if:

(A) The owner or operator has obtained prior written approval from the District based on a written application that wetting to comply with this paragraph would unavoidably damage equipment or present a safety hazard. A copy of the District's written approval shall be kept at the worksite and made available for inspection; and

(B) The owner or operator uses one of the following emission control methods:

(1) A local exhaust ventilation and collection system designed and operated to capture the particulate asbestos material produced by the stripping and removal of the asbestos materials. The system must exhibit no visible emissions to the outside air and be designed and operated in accordance with the requirements in 40 CFR, Part 61, Section 61.152; or

(2) A glove-bag system designed and operated to contain the particulate asbestos material produced by the stripping of the asbestos materials; or

(3) All RACM is contained by clear leak-tight wrapping prior to dismantlement.

(ii) In renovation operations where wetting would result in equipment damage or a safety hazard, and the methods allowed in Subsection (f)(3)(i)(B) cannot be used, another method may be used after obtaining written approval from the District based upon a determination that it is equivalent to wetting in controlling emissions or to the methods allowed in Subsection (f)(3)(i)(B). A copy of the District's written approval shall be kept at the worksite and made available for inspection.

(4) After a facility component covered with, coated with, or containing RACM has been taken out of the facility as a unit or in sections pursuant to Subsection (f)(2), it shall be stripped or contained in clear leak-tight wrapping, except as described in Subsection (f)(5). If stripped, either:

(i) The RACM must be kept adequately wet during stripping while carefully lowering each section to the floor and to the ground level, while not dropping, throwing, sliding, or otherwise damaging or disturbing the RACM that would exhibit visible emissions; or

(ii) A local exhaust ventilation and collection system designed and operated to capture the particulate asbestos material produced by the stripping shall be used. The system shall not exhibit any visible emissions to the outside air and shall be designed and operated in accordance with the requirements in 40 CFR, Part 61, Section 61.152.

(5) For large facility components such as reactor vessels, large tanks and steam generators, but not beams (which must be handled in accordance with Subsections (f)(2) thru (f)(4)), the RACM is not required to be stripped if the following requirements are met:

(i) The component is removed, transported, stored, disposed of, or reused without disturbing or damaging the RACM; and

(ii) The component is encased in a clear leak-tight wrapping; and

(iii) The clear leak-tight wrapping is labeled according to Subsection (g)(5) during all loading and unloading operations and during storage.

(6) For all RACM, including material that has been removed or stripped:

(i) The material must be kept adequately wet until collected and contained or treated in preparation for disposal in accordance with Section (g).

(ii) RACM contained in clear leak-tight wrapping that has been removed in accordance with Subsections (f)(3)(i)(B)(3) and (f)(4) need not be wetted.

(iii) The material must be carefully lowered to the ground and floor by not dropping, throwing, sliding, or otherwise damaging or disturbing the material.

(iv) The material must be transported to the ground in clear leak-tight wrapping via leak-tight chutes or containers if it has been removed or stripped more than 50 feet above ground level and was not removed as units or in sections. The receptacle (e.g., truck bed or dumpster) and the connection to the leak-tight chutes must also be made leak-tight.

(7) When the temperature at the point of wetting is below 32°F (0°C), as determined by a documented calibrated thermometer:

(i) The owner or operator need not comply with Subsections (f)(2)(i) and (f)(3).

(ii) The owner or operator shall remove facility components containing, coated with, or covered with RACM as units or in sections to the maximum extent possible pursuant to Subsection (f)(2)(ii).

(iii) During periods when wetting operations are suspended due to freezing temperatures, the owner or operator must record the temperature in the area containing the facility components at the beginning, middle, and end of each workday and keep daily temperature records available for inspection by the District during normal business hours at the renovation or demolition site. The owner or operator shall retain the temperature records for at least three years.

(8) No RACM shall be stripped, removed, or otherwise handled or disturbed at a facility regulated by this rule unless:

(i) At least one onsite representative (such as a supervisor, a management-level person, or other authorized representative) has successfully completed and passed an EPA-approved Asbestos Contractor Supervisor Course pursuant to the Asbestos Hazard Emergency Response Act (AHERA).

(ii) Annually, the trained onsite representative shall successfully complete an EPA-approved Asbestos Contractor Supervisor Refresher Course. Evidence that the required training has been completed and is current shall be posted and made available to the District upon request at the renovation or demolition site. An electronic version of the current certificate of completion is acceptable, provided that it is made available during the inspection.

(iii) The trained onsite representative shall have a federal or state government issued photo identification card onsite, which shall be made available for inspection upon request by the District.

(9) During emergency demolitions, all portions of the facility that may contain suspect materials shall be kept adequately wet during the wrecking operation.

(10) If a facility is to be demolished by intentional burning, all ACM shall be removed in accordance with this rule prior to burning.

(11) All asbestos renovation operation containment areas shall have transparent view ports installed, with at least one on each wall side that faces an open area or window, to allow clear viewing of the asbestos removal operations from outside the containment area. A view port is not required if the containment area is located where the only open area is through a three stage decontamination.

(g) WASTE HANDLING AND DISPOSAL

(1) All ACWM shall be kept adequately wet until sealed in leak-tight containers or clear leak-tight wrapping.

(2) Asbestos waste from control devices shall be mixed thoroughly with water to form a slurry.

(3) No visible emissions shall be discharged to the outside air from collection, mixing, wetting, and handling of ACWM.

(4) After wetting, all ACWM shall be sealed in leak-tight containers or clear leak-tight wrapping and must remain adequately wet. Materials that will not fit into containers without additional breaking shall be placed into clear leak-tight wrapping.

(5) The containers or wrapping specified in Subsection (g)(4) shall be labeled using warning labels specified by federal OSHA or Cal/OSHA under 29 CFR 1926.1101(k)(8)(iii) or 8 CCR 1529(k)(8)(C), respectively, printed in letters of sufficient size and contrast so as to be readily visible and legible.

(6) Containers and wrapping specified in Subsection (g)(4) shall be kept in secured areas such that the public cannot come into contact with ACWM. A secured area includes, but is not limited, to fully enclosed and locked storage containers or similar enclosures. Areas marked with only warning signs around containers and wrapping specified in Subsection (g)(4) are not considered secure areas.

(7) ACWM in containers or wrapping to be transported off the facility site must be properly labeled with the name and address of the waste generator and the location at which the waste was generated.

(8) For facilities demolished where the ACM is not removed prior to demolition according to Subsections (f)(1)(i) through (iv), or for emergency demolitions, ACWM shall

be kept adequately wet at all times after demolition and kept wet during handling and loading for transport to a disposal site. ACWM covered by this paragraph does not have to be sealed in leak-tight containers or clear leak-tight wrapping for transport off site.

(9) All ACWM shall be deposited as soon as is practical by the waste generator at:

(i) A waste disposal site operated in accordance with the provisions of 40 CFR, Part 61, Section 61.154; or

(ii) An EPA-approved site that converts RACM and ACWM into non-asbestos (asbestos-free) material according to the provisions of 40 CFR, Part 61, Section 61.155.

(10) Vehicles used to transport ACWM during the loading and unloading of waste shall be marked so that the signs are visible and comply with requirements of all agencies having jurisdiction, including federal OSHA and Cal/OSHA. The signs must be displayed in such a manner and location so as to be readily visible and legible.

(11) Waste shipment records shall be maintained for all ACWM transported off the facility site. Such records shall include all of the following information:

(i) The name, address, and telephone number of the waste generator;

(ii) The name and address of the District;

(iii) The approximate quantity of ACWM in cubic yards;

(iv) The name and telephone number of the disposal site operator;

(v) The name and physical site location of the disposal site;

(vi) The date transported;

(vii) The name(s), address(es), and telephone number(s) of the transporter(s);
and,

(viii) A certification that the contents of the consignment are fully and accurately described by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway according to applicable international and government regulations.

(12) A copy of the waste shipment record, described in Subsection (g)(11), shall be provided to the disposal site owners or operators at the same time as the ACWM is delivered to the disposal site.

(13) For waste shipments where a copy of the waste shipment record, signed by the owner or operator of the designated disposal site, is not received by the waste generator within 35 days of the date the waste was accepted by the initial transporter, the waste

generator shall contact the transporter and/or the owner or operator of the designated disposal site to determine the status of the waste shipment.

(14) The waste generator shall report in writing to the District if a copy of the waste shipment record, signed by the owner or operator of the designated waste disposal site, is not received by the waste generator within 45 days of the date the waste was accepted by the initial transporter. The report shall include the following information:

(i) A copy of the waste shipment record for which a confirmation of delivery was not received; and

(ii) A cover letter signed by the waste generator explaining the efforts taken to locate the asbestos waste shipment and the results of those efforts.

(15) A copy of all waste shipment records, including a copy of the waste shipment record signed by the owner or operator of the designated waste disposal site, shall be retained by the waste generator for at least three years.

(16) All records required by this Section (g) shall be made available to the District within five working days of a request.

(h) TEST METHODS

(1) The asbestos content shall be analyzed by a laboratory certified by the National Voluntary Laboratory Accreditation Program (NVLAP). The asbestos content analysis, referenced in Subsections (d)(1) and (d)(3), shall be conducted in accordance with methods specified in Appendix E, Subpart E, 40 CFR, Part 763 – “Interim Method for the Determination of Asbestos in Bulk Insulation Samples” (EPA-600/M4-82-020 Dec. 1982) as modified by “Method for the Determination of Asbestos in Bulk Building Materials” (EPA/600/R-93/116 July 1993). In addition, the following requirements shall apply:

(i) For layered systems, except drywall tape and joint compound used to cover joints, nail holes, and cracks, each distinct layer shall be analyzed as a separate material for determining compliance with this rule. Joint compound used as a skim coat for texturing is an add-on material and shall be treated as a separate material.

(ii) If the material in the layered system has deteriorated such that the layers are indistinguishable and can no longer be sampled or tested separately, a bulk or composite sample shall be used.

(2) Other test methods which are determined to be equivalent to the test methods specified in this rule and approved, in writing, by the Air Pollution Control Officer and EPA may be used in place of the test methods specified in this rule.

2. Proposed amended Rule 40 to read as follows:

RULE 40. PERMIT AND OTHER FEES (Adopted March 15, 2017 & Eff. July 1, 2017;
Revised (*date of adoption*))

(a) APPLICABILITY

(1) Notwithstanding any other provision of these rules, this rule shall be used to determine all fees charged by the Air Pollution Control District (District), as authorized by the Air Pollution Control Board, except for those specified in Rule 42 - Hearing Board Fees. These include, but are not limited to, fees for: applications, permits, portable equipment registrations, renewals, source testing, asbestos demolition or renovation notifications, cooling towers, emergency episode plans, grid searches, technical consultations, new or modified power plants, Toxic Hot Spots, Title V Operating Permits, and Synthetic Minor Source Permits, and reviews, analyses, documents and procedures required or requested pursuant to the California Environmental Quality Act (CEQA).

(2) This rule shall be used to determine refunds, forfeitures and insufficient payment of fees, if applicable.

(b) DEFINITIONS

The following definitions shall apply for terms used in this rule:

(1) **“Annual Operating Fee”** means all fees related to a permit that are paid on an annual basis. These include, but are not limited to, the following: Site Identification (ID) Processing and Handling Fee, Permit Processing Fee, Emission Unit Renewal Fee, Air Contaminant Emissions Fee, District and State Air Toxic Hot Spots Fee, and Annual Source Test Fee.

(2) **“Applicant”** means the owner of the emission unit or operation, or an agent specified by the owner.

(3) **“Initial Application Fee”** means all fees related to an application. These include, but are not limited to, a Non-refundable Processing Fee, Initial Evaluation Fee, Air Contaminant Emissions Fee, and if applicable, an Additional Engineering Evaluation Fee and/or Source Test Fee.

(4) **“Location”** means the same as “Stationary Source” as defined in Rule 2.

(5) **“Permit to Operate”** or **“permit”** means any District authority to operate, such as a Permit to Operate, Certificate of Registration, Title V or Synthetic Minor Source permit, unless otherwise specified.

(6) **“T+M”** means time and material costs.

(7) **“T+RN”** means time and material costs plus renewal fees.

(8) **“Valid Permit or Valid Authority to Construct”** means a Permit or Authority to Construct for which all fees are current.

All other terms mean the same as defined in Rule 2 – Definitions unless otherwise defined by an applicable rule or regulation.

(c) GENERAL PROVISIONS

(1) No application shall be considered received unless accompanied by the completed application and associated supplemental forms (if available) and the appropriate Initial Evaluation Fees.

(2) All time and material (T+M) and time and renewal (T+RN) costs shall be determined using the labor rates specified in Fee Schedule 94.

(3) If the Air Pollution Control Officer determines that the activities of any one company would cause an increase of at least 10 percent in any one Emission Unit Fee Schedule, the Air Pollution Control Officer may delete the costs attributed to that company from the cost data used to determine that type of Emission Unit Fee Schedule. The costs from such a company shall be recovered by development of a source-specific Emission Unit Fee Schedule. The specific Emission Unit Fee Schedules shall be submitted to the Air Pollution Control Board for consideration and adoption.

(4) If the Air Pollution Control Officer determines that a person has under-reported material usage, emissions or other information necessary for calculating an emissions inventory, and such under-reporting has led to an Air Contaminant Emissions Fee less than what would have been due if correct usage, emissions or other information had been reported, then the person shall pay the difference between the original and corrected Air Contaminant Emissions Fee plus a charge equal to 30 percent of the difference. Such charge shall not apply if the permittee demonstrates to the Air Pollution Control Officer's satisfaction that the under-reporting was the result of inadvertent error or omission which the permittee took all reasonable steps to avoid. Required fees not paid within 30 days of the due date shall be assessed a late fee in the amount prescribed in Section (g).

(5) Credit card payments for fees will be assessed a processing fee of 2.2% of the amount paid by credit card. This processing fee covers only costs assessed to the District by credit card providers. Payments made using the online application submittal system will not be assessed a processing fee but will be subject to fees charged by the online submittal system vendor for the service. These convenience fees are not remitted to the District.

(d) AUTHORITY TO CONSTRUCT AND PERMIT TO OPERATE FEES

(1) General Provisions

(i) Every applicant for an Authority to Construct/Permit to Operate for any article, machine, equipment or other contrivance shall pay the applicable fees as specified in Section (d) for each emission unit.

(ii) A \$104 Non-refundable Processing Fee shall be submitted with each application for an Authority to Construct/Permit to Operate, Change of Location, Change to an Existing Permit Unit, Like-Kind Replacement or Banking Emission

Reduction Credits. This fee does not apply to applications for a Change of Ownership, Identical Replacement, or Fee Schedules 49(a) or 49(b).

(iii) When additional evaluation fees are required, the applicant shall deposit the amount estimated to cover the evaluation costs upon receipt of such an invoice. The District may stop work on the application until the invoiced amount is fully paid.

(iv) Initial Evaluation Fees and Emission Unit Renewal Fees shall be determined using the amounts listed in Columns (1) and (2) respectively, of the Fee Schedules provided within this rule.

(2) Initial Application Fees for an Authority to Construct/Permit to Operate

The Initial Application Fees for an Authority to Construct/Permit to Operate application shall include a Non-refundable Processing Fee, Initial Evaluation Fee, Air Contaminant Emissions Fee, and if applicable, an Additional Engineering Evaluation Fee and/or Source Test Fee.

Calculation Worksheet for Initial Application Fees

Non-refundable Processing Fee	\$104
Initial Evaluation Fee ¹	
Air Contaminant Emissions Fee ²	
Additional Engineering Evaluation Fees ³	
Source Test Fee ⁴	
Total: \$ _____	

Notes:

1. See Fee Schedule. If T+M or T+RN fee is indicated, call the District for a fee estimate.
2. See Subsection (d)(4) to determine applicable fee, based on total facility emissions.
3. See Subsection (d)(5) to determine if additional fees are required, or call the District for a fee estimate.
4. Call the District for a Source Test Fee estimate.

(3) Initial Evaluation Fee

The Initial Evaluation Fee shall be determined based on the specific type of equipment, process or operation for which an application is submitted, as listed in Column (1) of the Fee Schedules provided within this rule.

(i) Where the fee specified in Column (1) is T+RN, the fee shall be the actual evaluation cost incurred by the District and either the specified Emission Unit Renewal Fee (Column (2)) or an estimated T+M renewal fee for the first year of operation. The applicant shall deposit the amount estimated to cover the actual evaluation cost at the time of application submittal.

(ii) If the equipment, process or operation for which an application is submitted is not listed in the Fee Schedules, the Initial Evaluation Fee shall be on a T+M basis, including the Emission Unit Renewal Fee, as specified in Fee Schedule 91.

(iii) If the equipment, process, or operation for which an application is required solely due to a change in Rule 11 – Exemptions from Rule 10 Permit Requirements, the evaluation fee shall be based on the actual evaluation cost incurred by the District, not to exceed the Initial Evaluation Fee minus the Emission Unit Renewal Fee (Column (1) minus (2)), except as provided under Subsection (d)(5).

(4) Air Contaminant Emissions Fees

The Air Contaminant Emissions Fee is an annual fee based on total air contaminant emissions from the stationary source. This fee shall also apply to portable equipment permitted or registered under these Rules and Regulations. For purposes of this subsection, the term “facility” means either the stationary source, or collection of portable equipment permitted or registered under a single site ID.

(i) For existing facilities, an Air Contaminant Emissions Fee shall not be collected as part of an Initial Application Fee, if the Air Contaminant Emissions Fee was paid as part of the most recent Annual Operating Fees.

(ii) For new facilities, the Air Contaminant Emissions Fee shall be paid with the first permit application filed for the new facility and based upon actual expected air contaminant emissions from the facility, as estimated by the District, for the calendar year in which the Permit to Operate is issued, as specified below. This fee shall remain unchanged until revised to reflect the most recent District approved emissions inventory report.

(A) If the actual expected annual emissions of carbon monoxide (CO), oxides of nitrogen (NO_x), oxides of sulfur, particulate matter (PM₁₀) or volatile organic compounds (VOC) equal or exceed five tons, then the Air Contaminant Emissions Fee shall be based on the total expected emissions of all these contaminants for that calendar year, multiplied by an air contaminant emissions fee rate of \$116 per ton.

(B) For all other new facilities, a single Air Contaminant Emissions Fee shall be paid based on the following table using the Fee Schedule that is most representative of the nature of the activities at the stationary source:

<u>Fee Schedule</u>	<u>Source Category Description</u>	<u>Annual Emissions Fee</u>
26(a)	VOC dispensing facility - Phase I and Phase II controls required	\$9*
28 (k and l)	Contract service solvent cleaning units (for contract companies with 100 or more units)	\$7 per cleaning unit
28(f)	Facilities with only remote reservoir units and no other permits at the facility	\$7 per cleaning unit
27(e)	Industrial surface coating applications	\$580
27(k)	Metal parts and aerospace coating applications	\$580
27(m)	Wood product coating applications	\$580

27(v)	Adhesive application operations	\$580
Various	All other stationary sources	\$116

* The total Annual Emissions Fee for these units is calculated by multiplying the indicated fee.
(Emissions Fee = indicated fee x number of nozzles)

If the most representative nature of the activities cannot be determined for facilities with more than one source category description or fee schedule, the highest applicable annual emissions fee shall apply.

(5) Additional Evaluation and Processing Fees for New or Revised Applications

If an application requires the District to evaluate the emission unit for compliance with Rule 51 – Nuisance, Rule 1200 – Toxic Air Contaminants-New Source Review, Rules 20.1 through 20.8 (New Source Review), Rules 26.0 through 26.10 (Emission Reduction Credits), pre-backfill inspections for gasoline dispensing facilities, Regulation X – New Source Performance Standards, Regulation XI – National Emission Standards for Hazardous Air Pollutants, Regulation XII – Toxic Air Contaminants, federal Prevention of Significant Deterioration (PSD) requirements, a federal National Emission Standard for Hazardous Air Pollutants (NESHAP), State Airborne Toxic Control Measure (ATCM), CEQA, or to conduct additional application processing procedures in accordance with Health and Safety Code Section 42301 or 42301.6, the applicant shall pay the actual cost incurred by the District for such evaluation and processing procedures, and any additional fees specified by this rule. The applicant shall deposit the amount estimated to cover the actual evaluation cost at the time of application submittal or upon request by the District.

(6) Fees for Revisions to Valid Permits

The owner of a valid permit, or his agent, may submit an application to propose the types of changes listed below. The evaluation fee for a revision shall be based on the actual evaluation cost incurred by the District, not to exceed the Initial Evaluation Fee minus the Emission Unit Renewal Fee (Column (1) minus (2)), except as provided under Subsections (d)(5), (d)(6)(v), and (d)(6)(vi). The applicant shall deposit the amount estimated to cover the actual cost of evaluating the proposed change at the time of application submittal.

Calculation Worksheet for Modified Equipment Fees

Non-refundable Processing Fee	\$104
Initial Evaluation Fee ¹	
Additional Engineering Evaluation Fees ²	

Total: \$ _____

Notes:

1. See Fee Schedules, use Column (1) – (2). If T+M or T+RN fee is indicated, call the District for a fee estimate.
2. See Subsection (d)(5) to determine if additional fees are required, or call the District for a fee estimate.

(i) Operational Change: An application which proposes an operational change of a valid permit.

(ii) Condition Change: An application which proposes a condition change of a valid permit.

(iii) Additions, Alterations and Replacement of Equipment: An application which proposes an addition, alteration or replacement of an emission unit described in a valid permit.

(iv) Review for a Change of Location: An application which proposes a change of location for an emission unit with a valid permit. An application is not required for any change of location within a stationary source or for a portable emission unit.

(v) Ownership Change: An application which proposes an ownership change for a valid permit shall pay an administrative fee of \$104. The applicant shall demonstrate to the District's satisfaction proof of entitlement to the Permit to Operate at the time of application submittal. Prior to an ownership change application being processed, payment of all outstanding charges that are normally due and associated with that permit must be paid.

(vi) Like-Kind Replacement Units per Rule 11 – Exemptions from Rule 10 Permit Requirements, Subsection (d)(5): An application for a permit change to reflect an eligible like-kind replacement emission unit pursuant to Rule 11 (d)(5)(ii), shall pay a fee of \$374, in addition to the Non-refundable Processing Fee.

(7) Fees for Revisions to Valid Authorities to Construct

The owner of a valid Authority to Construct, or his agent, may submit an application to propose the types of changes listed in Subsections (d)(6)(i thru v). The evaluation fee for a revision shall be based on the actual evaluation cost incurred by the District, not to exceed the Initial Evaluation Fee minus the Emission Unit Renewal Fee (Column (1) minus (2)), except as provided under Subsection (d)(5). The applicant shall deposit the amount estimated to cover the actual cost of evaluating the proposed change at the time of application submittal.

(8) Special Application Processing Provisions

(i) Reduced Fees for Similar Emission Units at a Single Stationary Source

If more than one application for an Authority to Construct/Permit to Operate is submitted at the same time for similar emission units at the same stationary source location, then the first emission unit shall be charged the Initial Application Fee as specified in Subsection (d)(2). Each additional emission unit shall be charged the Emission Unit Renewal Fee and the actual T+M costs incurred by the District to evaluate the emission unit and act upon the applications. The total cost for each additional emission unit shall not exceed the Initial Evaluation Fee (Column (1)), except as provided under Subsection (d)(5).

This provision only applies to the extent that each emission unit will be operated independently, and the evaluation for an Authority to Construct for the first emission unit can be applied to the additional units because of similarity in design and operation, and each emission unit can be evaluated and inspected for a Permit to Operate at the same time. The provisions of this subsection shall not apply to Fee Schedules 3 and 26.

(ii) Reinspection Fees

If during an inspection for a Permit to Operate, an emission unit cannot be evaluated due to circumstances beyond the control of the District, the applicant shall pay the actual time and material costs of performing a reinspection. An estimated reinspection fee, as determined by the District, may be required to be deposited with the District prior to reinspection of the emission unit.

(iii) Split Fee Payments for Applications

An applicant may request a split payment of evaluation fees due to financial hardship. This request must be made in writing. The first payment, plus an administrative fee of \$75, must be deposited with the application. The second payment is due no later than 60 days after filing the application.

(iv) Fees for Expedited Application Processing

If an applicant requests expedited processing of an application and the District determines that such expedited processing is available through voluntary overtime work, the applicant shall pay an application fee equal to one and one-quarter times that which is otherwise specified by this rule, except that the Non-refundable Processing Fee and any applicable air contaminant emission fee shall be not more than that specified by this rule. At the time of submittal of the application, the applicant shall deposit a fee equal to that otherwise specified by this rule. If the application receives expedited processing, no final action shall be taken on the application until the applicant has paid the remainder of the fees required by this paragraph.

(v) Requirement for Defense and Indemnification Agreement

On a case-by-case basis, where significant risk to the District is identified in connection with the processing of an application, the Air Pollution Control Officer may require a defense and indemnification agreement from the applicant. The agreement shall be in a form approved by the Air Pollution Control Officer.

On a case-by-case basis, the Air Pollution Control Officer may determine to require security from the applicant. A determination to require security shall only be made by the Air Pollution Control Officer, and shall not be delegable. The Air Pollution Control Officer shall establish the form and amount of the security, as well as the time the security is to be provided to the District.

(vi) Indemnification

Each applicant, to the extent the applicant is at fault in causing liability to the District, shall indemnify the District, its agents, officers and employees (collectively "District Parties") from any claim, action, liability, or proceeding against the District Parties to attack, set aside, void or annul the applicant's project or any of the proceedings, acts or determinations taken, done or made as a result of District's processing and/or approval of the project, as specified below. Each applicant's obligation to indemnify shall apply to any lawsuit or challenge against the District Parties alleging failure to comply with the requirements of any federal, state, or local laws, including, but not limited to, requirements of these Rules and Regulations. This indemnification requirement shall be included in the application form provided to all applicants.

Each applicant's obligation to indemnify the District Parties shall include, but not be limited to, payment of all court costs and attorneys' fees, costs of any judgments or awards against the District, damages, and/or settlement costs, which arise out of District's processing and/or approval of the applicant's project, except that an applicant shall only be responsible for indemnifying the District Parties in the amount of liability which is equal to the proportion of fault caused by the applicant, as determined by a court. Where any court action results in a ruling for the plaintiff/petitioner, the applicant and the District shall request a determination on the percentage contribution of fault from the court which adjudicated the underlying challenge to the applicant's project.

Notwithstanding this subsection, when a defense and indemnification agreement is required for a project under Subsection (d)(8)(v) above, the provisions of the defense and indemnification agreement shall apply to the applicant and not the provisions of this subsection.

(vii) Fees for Previously Permitted Emission Units Operating Without Valid Permits

In addition to the fees otherwise specified by this Section (d), a person who is applying for an Authority to Construct and/or Permit to Operate for a previously permitted emission unit that was operated after the applicable permit expired, and is no longer eligible for reinstatement, shall pay the annual operating and late fees specified in Sections (e), (f), and (g) that would have otherwise been due. Such payment shall not negate any fines and penalties that may be assessed for violations of the requirement to operate with a valid permit.

(e) ANNUAL OPERATING FEES

(1) General Provisions

(i) Annual Operating Fees are due on an annual basis and shall be paid by any person who is required to maintain a Permit to Operate or Temporary Authorization pursuant to Rule 10 – Permits Required, Section (b).

(ii) Annual Operating Fees are due by 5 PM Pacific Time on the date the permit expires. Permits expire on the last day of the renewal month. Payments received after the permit expiration date are subject to the late fee provisions of Section (g).

(2) Annual Operating Fees

The following applicable fees shall be paid as part of the Annual Operating Fees: Site ID Processing and Handling Fee, Permit Processing Fee, Emission Unit Renewal Fee, Air Contaminant Emissions Fee, and if applicable, District and State Air Toxic Hot Spots Fee and Annual Source Test Fee.

Calculation Worksheet for Annual Operating Fees

Site ID Processing and Handling Fee	\$35
Permit Processing Fee (\$25 x number of permitted units)	
Emission Unit Renewal Fee (See (iii) below)	
Air Contaminant Emissions Fee (See (iv) below)	
District and State Air Toxic Hot Spots Fee (See (v) below)	
Annual Source Test Fee (See (vi) below)	

Total: \$ _____

(i) Site ID Processing and Handling Fee: A site ID processing and handling fee of \$35 per facility.

(ii) Permit Processing Fee: A permit processing fee of \$25 per Permit to Operate.

(iii) Emission Unit Renewal Fee: An annual renewal fee, for each specific type of emission unit, as specified in the Fee Schedules (Column (2)).

(iv) Air Contaminant Emissions Fee: An annual Air Contaminant Emissions Fee based on total emissions from the stationary source. This fee shall also apply to portable equipment permitted or registered under these Rules and Regulations. For purposes of this subsection, the term "facility" means either the stationary source, or collection of portable equipment permitted or registered under a single site ID.

(A) For facilities with annual emissions of either carbon monoxide (CO), oxides of nitrogen (NO_x), oxides of sulfur, particulate matter (PM₁₀) or volatile organic compounds (VOC) that equal or exceed five tons, as indicated by the most recent District approved emission inventory report or an initial evaluation made pursuant to Subsection (d)(4)(ii), the Air Contaminant Emissions Fee shall be based on the total calendar year emissions of all these contaminants, multiplied by an air contaminant emissions fee rate of \$116 per ton.

(B) For all other facilities, a single Air Contaminant Emissions Fee shall be paid based on the following table using the Fee Schedule that is most representative of the nature of the activities at the stationary source:

<u>Fee Schedule</u>	<u>Source Category Description</u>	<u>Annual Emissions Fee</u>
26(a)	VOC dispensing facility - Phase I and Phase II controls required	\$9*
28 (k and l)	Contract service solvent cleaning units (for contract companies with 100 or more units)	\$7 per cleaning unit
28(f)	Facilities with only remote reservoir units and no other permits at the facility	\$7 per cleaning unit
27(e)	Industrial surface coating applications	\$580
27(k)	Metal parts and aerospace coating applications	\$580
27(m)	Wood product coating applications	\$580
27(v)	Adhesive application operations	\$580
Various	All other stationary sources	\$116

* The total annual Emissions Fee for these units is calculated by multiplying the indicated fee and the number of nozzles.
(Emissions Fee = indicated fee x number of nozzles)

If the most representative nature of the activities cannot be determined for facilities with more than one source category description or fee schedule, the highest applicable annual emissions fee shall apply.

(v) District and State Air Toxic Hot Spots Fee: If applicable, the stationary source-specific fee required under the Air Toxics “Hot Spots” Information and Assessment Act. See Subsection (f)(7).

(vi) Annual Source Test Fee: If a periodic source test is required, the applicable source test fee, as specified in Fee Schedules 92 and/or 93.

(3) Staggered Renewal Dates

The District may initiate, or the owner of a Permit to Operate may request in writing, to change the renewal month of all permits located at a single facility. When the established renewal month for a facility is changed to a new renewal month, the amount due for each permit shall be prorated to reflect the new renewal month. Revised permits will be issued after the prorated amount has been paid.

(4) Split Payment of Annual Operating Fees

Owners or operators may request a split payment of the Annual Operating Fees due to financial hardship. This request must be made in writing at least one day prior to the due date. The first payment, plus an administrative fee of \$75, must be deposited by 5 PM Pacific Time on the date the permit expires. The second payment is due no later than 60 days after the date the permit expires. Permits expire on the last day of the renewal month. The renewed permit will be issued after the second payment is made.

(5) Inactive Status Permits

A person who holds a valid permit who desires to have that permit placed on inactive status pursuant to Rule 10 – Permits Required shall submit an application requesting such change and shall pay the Initial Evaluation Fee specified in Fee Schedule 49(a)(Column (1)). If such request is received at the time of annual renewal of the permit, the person shall also pay the annual Emission Unit Renewal Fee specified in Fee Schedule 49(a)(Column (2)). Thereafter, the annual Emission Unit Renewal Fee for the inactive status permit shall be as specified in Fee Schedule 49(a)(Column (2)). When a person who holds a valid inactive status permit applies, in accordance with Rule 10, for the condition prohibiting operation to be removed and the permit returned to active status, the owner or operator shall pay the Initial Evaluation Fee specified in Fee Schedule 49(b)(Column (1)), any Additional Engineering Evaluation Fees required pursuant to Subsection (d)(5), and the applicable Annual Operating Fee specified in Section (e) for that category of emission unit with an active status permit, prorated for the portion of the permit renewal year remaining.

(f) SPECIFIC PROGRAM FEES

(1) General Provisions

For all of the applicable programs listed below, a late fee as described in Section (g) shall be assessed if the required fees are not paid within 30 days after the due date.

(2) Asbestos Demolition or Renovation Notification (*date of revision*)

For each asbestos demolition or renovation notification subject to Rule 1206 – Asbestos Removal, Renovation, and Demolition, the owner or operator shall pay the applicable fees specified below. For projects where one notification is submitted for both renovation and demolition operations, the owner or operator shall pay both applicable renovation and demolition fees. Fees are due at the time a notification is submitted. Notifications or revisions thereof will not be considered received unless accompanied with the required fees. The terms used below are defined in Rule 1206.

<u>TYPE OF OPERATION</u>	<u>Fee</u>
1. Renovation Operations (excluding residential buildings having four or fewer dwelling units)	
≥100 sq. ft. to 500 sq. ft.	\$451
501 to 2,000 sq. ft.	\$529
2,001 to 5,000 sq. ft.	\$609
5,001 to 10,000 sq. ft.	\$671
>10,000 sq. ft.	\$746
2. Planned (Annual) Renovation Operations (add to appropriate renovation operation fee listed above)	\$90
3. Emergency Renovation Operations (add to appropriate renovation operation fee listed above)	\$90
4. Demolition Operations Regulated Asbestos Containing Material (RACM) sites or Non-RACM sites or sites with no asbestos present	\$535

- | | |
|---|------|
| 5. Emergency Demolition Operations
(add to demolition operation fee listed above) | \$90 |
| 6. Revised Notification Fee for Renovations, Demolitions, Planned
Renovations, and Emergency Operations (NOTE: a revision is
defined as a change in the original start date or when the amount
of asbestos changes by greater than or equal to 20%.) | \$44 |

Additional fees may be required if the revised amount of asbestos to be removed increases to a higher category. The additional fee will be the difference between the fee paid and the fee required for the new category.

(3) Cooling Towers

The owner or operator of any cooling tower(s) shall submit a compliance plan for the tower(s) to the District with the applicable fees. Circulating water test results shall also be submitted with the compliance plan if required by Rule 1202 – Hexavalent Chromium-Cooling Towers.

Plan Fee per facility	\$37
Each cooling tower	\$21

(4) Air Pollution Emergency Episode Plan Fee

The owner or operator of a facility for which a plan or a plan update is required by District Regulation VIII – San Diego Air Pollution Emergency Plan shall pay a \$147 evaluation fee for each plan or plan update, at the time the plan is submitted for review.

(5) Grid Search

Any school district, individual, business or agency that submits a request for the District to conduct a grid search to identify all facilities with the potential to emit hazardous air contaminants (pollutants) shall deposit an initial fee of \$362 at the time the grid search is requested. If the actual costs incurred are greater than the amount deposited, the school district, individual, business or agency that made the request shall submit an additional amount as specified by the District to recover the remaining actual costs of performing the grid search.

(6) New or Modified Power Plants

Any source subject to the requirements of Rule 20.5 - Power Plants, shall reimburse the District for the actual costs incurred in order to comply with the provisions of Rule 20.5. The applicant shall deposit the amount estimated to cover the actual cost at the time of application submittal.

(7) Toxic Hot Spots

The owner or operator of a facility who has been identified by the District as being subject to the requirements of Health and Safety Code Section 44300 et seq. (the Air Toxics “Hot Spots” Information and Assessment Act), shall pay the applicable fees specified below to the District within 30 days of receipt of an invoice for the required fees.

(i) The owner or operator of a facility identified by the District as subject to any of the site-specific program requirements listed below shall pay an annual site-specific program fee. The amount of the site-specific program fee shall be equal to the actual costs incurred by the District associated with the site-specific program requirements for each affected facility.

(A) Toxic air contaminant emissions source testing when necessary to determine emissions for inclusion in a toxic air contaminant emissions inventory.

(B) Public health risk assessment or updated public health risk assessment pursuant to Health and Safety Code Section 44360 et seq. or Rule 1210 – Toxic Air Contaminant Public Health Risks-Public Notification and Risk Reduction.

(C) Public notification of public health risks pursuant to Health and Safety Code Section 44362 or Rule 1210 – Toxic Air Contaminant Public Health Risks-Public Notification and Risk Reduction.

(D) Facility toxic air contaminant risk reduction audit and plan pursuant to Health and Safety Code Section 44390 or Rule 1210 – Toxic Air Contaminant Public Health Risks-Public Notification and Risk Reduction.

(ii) In addition to the fee specified in Subsection (f)(7)(i), the owner or operator of a facility subject to the requirements of Health and Safety Code Section 44300 et seq. shall pay an annual fee for the recovery of State program costs. The amount of the annual State program fee for each facility shall be that specified by the ARB in accordance with the State Air Toxics “Hot Spots” Fee Regulation contained in Title 17, California Code of Regulations, Section 90700 et seq.

(8) California Clean Air Act

The owner or operator of a stationary source who is required by Title 17, California Code of Regulations, Section 90800, et seq., to pay a fee adopted by the Air Resources Board shall pay the required fee to the District within 30 days of receipt of an invoice for the required fees.

(9) Title V Operating Permit

The owner or operator of a stationary source subject to the requirements of Regulation XIV – Title V Operating Permits, shall pay the actual time and materials costs incurred by the District to review and act upon an application for initial permit, permit modification, administrative permit amendment, Section 502(b)(10) change, enhanced Authority to Construct and/or Title V operating permit renewal; to evaluate such source for compliance with Regulation XIV and the terms and conditions of a Title V operating permit, including, but not limited to, the costs incurred to document such evaluation, to prepare reports, and to

take any actions necessary in cases of noncompliance; to reopen an existing Title V operating permit; and to cancel a Title V operating permit.

(10) Synthetic Minor Source Permit

The owner or operator of a stationary source that submits an application to obtain a Synthetic Minor Source (SMS) Permit pursuant to Rule 60.2 - Limiting Potential to Emit-Synthetic Minor Sources, shall pay the fees specified below to recover the actual costs incurred by the District to review and act upon an application for initial permit, permit modification and/or permit renewal.

Application evaluation fee (new or modified permits)	T+M
SMS permit renewal fee	T+RN

(11) Determination of Exemption

The owner or operator of any emission unit or process requesting a determination of exemption pursuant to Rule 11 - Exemptions from Rule 10 Permit Requirements, Subsection (d)(19), shall pay an evaluation fee based on T+M (with an initial deposit of \$410) to recover the actual costs incurred by the District to evaluate the emission unit or process.

(12) California Environmental Quality Act

Whenever the District is requested or required to conduct analyses, review or prepare documents, or conduct and/or participate in administrative procedures, meetings or hearings pursuant to CEQA, the District costs shall be paid by the persons requesting and/or receiving such services. District staff costs shall be determined using the labor rates specified in Fee Schedule 94. Costs to the District resulting from the activities of other agencies or consultants to the District necessary to provide such services shall be included in the total District costs. Persons requesting and/or receiving such services shall be charged the estimated cost of providing those services and shall deposit such amount to the District in advance of the service, unless prior arrangements for payment have been approved by the District. If the actual costs incurred are greater than the amounts deposited, the persons requesting and/or receiving the services shall deposit additional amounts as specified by the District to recover the remaining actual costs. Any funds deposited in excess of actual costs incurred shall be refunded.

(g) LATE FEES

(1) Late fees for Annual Operating Fees due to the District shall apply as follows:

(i) A late fee of 30 percent of the Annual Operating Fees due or \$250, whichever is less, shall be added for fees paid later than the last day of the renewal month.

(ii) An additional late fee of 10 percent of the Annual Operating Fees due shall be added for each additional month or portion thereof that the fees remain unpaid.

(iii) In no case shall the late fees exceed 100 percent of the total Annual Operating Fees.

(2) Late fees for any payments due to the District, except Annual Operating Fees, shall apply as follows:

(i) A late fee of 30 percent of the amount due shall be added for payments made more than 30 days after the due date.

(ii) An additional late fee of 10 percent of the amount due shall be added for each additional month or portion thereof that the payment is not received.

(iii) In no case shall the late fees exceed 100 percent of the amount due.

(h) RENEWAL OF EXPIRED PERMIT(S) & REINSTATEMENT OF RETIRED PERMIT(S)

(1) General Provisions

In addition to the Annual Operating Fees due for renewing an expired permit or reinstating a retired permit, any applicable fees pursuant to Subsection (d)(6), such as an ownership change, change of location, or modification, shall be paid concurrently.

New owners seeking to renew or reinstate a retired permit are responsible for payment of all outstanding charges that are normally due and associated with that retired or expired permit.

(2) Renewal of Expired Permit(s) to Operate

An expired permit can be renewed within six months of the expiration date by paying the applicable Annual Operating Fees and the late fees as specified in Section (g).

(3) Reinstatement of Retired Permit(s) to Operate

A retired permit can be reinstated within six months of the retirement date by submitting a written request, and paying the applicable Annual Operating Fees, a reinstatement fee of \$75 and the late fees as specified in Section (g).

(i) REFUNDS, INSUFFICIENT PAYMENT OF FEES AND CANCELLATIONS

(1) General Provisions

(i) No refunds shall be issued for amounts of less than \$25.

(ii) If an applicant does not sign, date and return a refund claim form within six months after receipt of the form, all rights to a refund shall be forfeited.

(2) Application Fee Refunds

(i) If an application for an Authority to Construct/Permit to Operate is withdrawn by the applicant:

(A) before the engineering evaluation has begun, the District will refund the entire Initial Application Fee, less the \$104 Non-refundable Processing Fee.

(B) after the engineering evaluation has begun, the District will refund the Initial Application Fee, less the \$104 non-refundable processing fee, and all costs incurred by the District to evaluate the application.

(ii) If an application for an Authority to Construct/Permit to Operate is denied or cancelled, the District will refund the Initial Application Fee, less the \$104 Non-refundable Processing Fee, the Initial Evaluation Fee (if a dollar amount is listed in Column (1), and not T+M or T+RN), and all other costs incurred by the District to evaluate the application.

(iii) Certificate of Registration Refunds: If an application for a Certificate of Registration is withdrawn by the applicant after the engineering evaluation has begun, or withdrawn seven days after the date of receipt, or the application is denied or cancelled, the District will refund the Initial Application Fee, less the \$104 Non-refundable Processing Fee, the Initial Evaluation Fee, and all other costs incurred by the District to evaluate the application.

(iv) Refund Due to Overpayment of T+M or T+RN Initial Evaluation Fees or Additional Engineering Evaluation Fees: If the total cost incurred by the District to evaluate an application for an Authority to Construct/Permit to Operate is less than the Initial Evaluation Fee and/or Additional Engineering Evaluation Fees deposited by the applicant, the District will refund any overage beyond its actual evaluation costs and less the \$104 Non-refundable Processing Fee. This provision does not apply to Initial Evaluation Fees for which a fixed amount is established in the Fee Schedules.

(v) Exempt Equipment Refunds: If the District determines that the article, machine equipment or other contrivance for which the application was submitted is not within the purview of state law or these Rules and Regulations, a full refund of the fees paid will be issued to the applicant. If a request for a determination of exemption is withdrawn by the applicant before the engineering evaluation has begun, the District will refund the entire deposit and any other fees paid. If a request for a determination of exemption is withdrawn by the applicant after the engineering evaluation has begun, the District will refund the entire deposit and any other fees paid, less any costs incurred by the District to evaluate the request.

(3) Annual Operating Fee Refunds

A refund of the Annual Operating Fees shall not be issued unless the fees for the upcoming year are paid prior to the Permit to Operate renewal date and the request for a refund of these fees is made prior to the Permit to Operate renewal date. No refunds will be made for fees or late payments made after the due date.

(4) Air Contaminant Emissions Fee Refunds

(i) New Facilities: The Air Contaminant Emissions Fee portion of the Initial Application Fee shall only be refunded if the application is withdrawn or cancelled prior to the issuance of a Startup Authorization or Permit to Operate.

(ii) Existing Facilities: Air Contaminant Emissions Fees paid by existing facilities as part of their Annual Operating Fee or an Initial Application Fee shall not be refundable, unless all Permit(s) to Operate at the facility are retired.

(5) Other Fees

Asbestos Notifications: Refunds of asbestos notification fees shall be issued only if a cancellation notice is received by the District prior to the notification start date. A refund will not be issued if the notice of cancellation is received by the District on or after the notification start date.

(6) Cancellation Fees - Source Testing and Test Witnessing

Substitution of another facility for a scheduled test shall be considered a cancellation subject to the provisions listed below.

(i) Fee Schedule 92(a): If a source test cancellation notice is not received at least two working days prior to a scheduled source test date a cancellation fee of \$500 shall be charged.

(ii) Fee Schedules 92(b-z) and 93: If a source test or test witnessing cancellation notice is not received at least two working days prior to a scheduled source test date a cancellation fee of \$250 shall be charged.

(iii) Vapor Recovery (Phase I, II): If a VOC vapor recovery system test witness cancellation notice is not received at least two working days prior to a scheduled test date a cancellation fee of \$250 shall be charged.

(7) Insufficient Payment of Fees

(i) If the fees deposited by an applicant to cover the cost of evaluating an application for an Authority to Construct/Permit to Operate or other District evaluation is insufficient to complete the work in progress, the applicant shall deposit an amount deemed sufficient by the District to complete the work, except if the amount is \$25 or less.

(ii) The Air Pollution Control Officer may cancel an application when an applicant fails or refuses to deposit such amount within 45 days of demand or fails or

refuses to deposit such amount by the date required by Rule 18 – Action on Applications for action to be taken on the application, whichever date is sooner.

(iii) If the applicant fails or refuses to deposit such amount upon demand, the District may recover the same through a collection agency or by action in any court of competent jurisdiction, including small claims court. Until such amount is paid in full, the District shall not further process the application unless the Air Pollution Control Officer determines that it is in the best interest of all parties concerned to proceed.

(iv) Returned Checks: Any person who issues a check to the District, which is returned by the bank upon which it is drawn without payment, shall pay a returned check fee of \$25.

(v) The Air Pollution Control Officer may refuse to process an application and/or refuse to renew a Permit to Operate if the applicant has any unpaid invoices more than 60 days overdue or has any late fees or outstanding court judgments which are owed to the District. The Air Pollution Control Officer may refuse to process an application if a prior applicant for the equipment or project which is the subject of the application has unpaid invoices or late fees related to that equipment or project.

In the event that processing of an application is stopped pursuant to this provision, the timelines for taking action on an application specified in Rule 18 – Action on Applications shall no longer apply to that application.

ALPHABETICAL LIST OF FEE SCHEDULES BY EMISSION UNIT TYPE

Abrasive Blasting Cabinets, Rooms and Booths	Schedule 2
Abrasive Blasting Equipment - Excluding Rooms and Booths	Schedule 1
Acid Chemical Milling	Schedule 32
Adhesive Manufacturing	Schedule 38
Adhesive Materials Application Operations	Schedule 27
Air Stripping Equipment	Schedule 52
Anodizing Tanks	Schedule 55
Application of Materials Containing Organic Solvents (includes coatings, adhesives, and other materials containing volatile organic compounds (VOC))	Schedule 27
Asbestos Control Equipment	Schedule 59
Asphalt Pavement Heaters/Recyclers	Schedule 40
Asphalt Roofing Kettles and Tankers used to Store, Heat, Transport, and Transfer Hot Asphalt	Schedule 3
Automotive Refinishing Operations	Schedule 27
Bakeries	Schedule 58
Boilers and Heaters	Schedule 13
Bulk Flour, Powdered Sugar Storage System	Schedule 35
Bulk Plants and Terminals (Volatile Organic Compounds)	Schedule 25
Bulk Terminal Grain Transfer and Storage Facility Equipment	Schedule 23
Burn Out Ovens	Schedule 15
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Categorized List Of Fee Schedules By Emission Unit Type - continued

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FEE SCHEDULES

The Fee Schedules shall be used in determining the Initial Evaluation Fees and Emission Unit Renewal Fees using the amounts listed in Columns (1) and (2) respectively for each emission unit. The fees specified below do not include all applicable fees. See Sections (c), (d), (e), (f), (g), (h), and (i) for other required fees.

SCHEDULE 1: Abrasive Blasting Equipment Excluding Rooms and Booths

Any permit unit consisting of air hoses, with or without water lines, with a single pot rated at 100 pounds capacity or more of sand regardless of abrasive used, and a nozzle or nozzles. (Equipment not operated solely in Schedule 2 facilities).

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) Each Pot 100 pounds capacity or larger with no Peripheral Equipment	\$595	\$261
(b) Each Pot 100 pounds capacity or larger loaded Pneumatically or from Storage Hoppers	\$1334	\$238
(c) Each Bulk Abrasive Blasting Material Storage System	\$1728	\$216
(d) Each Spent Abrasive Handling System	\$1334	\$191
(x) Each Portable Abrasive Blasting Unit, Registered Under Rule 12.1	\$410	\$160

SCHEDULE 2: Abrasive Blasting Cabinets, Rooms and Booths

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) Each Abrasive Blasting Cabinet, Room or Booth	\$3563	\$334
(b) Each Cabinet, Room, or Booth with an Abrasive Transfer or Recycle System	\$4117	\$362

SCHEDULE 3: Asphalt Roofing Kettles and Tankers used to Store, Heat, Transport, and Transfer Hot Asphalt

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) Each Kettle or Tanker with capacity greater than 85 gallons	\$1062	\$240
(w) Each Kettle or Tanker, Registered Under Rule 12	\$276	\$158

SCHEDULE 4: Hot-Mix Asphalt Paving Batch Plant

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) Each Hot-Mix Asphalt Paving Batch Plant	T+RN	\$1130

SCHEDULE 5: Rock Drills

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(w) Each Drill, Registered Under Rule 12	\$464	\$150

**SCHEDULE 6: Sand, Rock, Aggregate Screens, and Other Screening Operations,
when not used in Conjunction with other Permit Items in these Schedules**

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) Each Screen Set	\$3338	\$432
(x) Each Portable Sand and Gravel Screen Set, Registered Under Rule 12.1	\$477	\$275

SCHEDULE 7: Sand, Rock, and Aggregate Plants

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) Each Crusher System (involves one or more primary crushers forming a primary crushing system or, one or more secondary crushers forming a secondary crusher system and each serving a single process line)	T+RN	\$637
(b) Each Screening System (involves all screens serving a given primary or secondary crusher system)	T+RN	\$224
(c) Each Loadout System (a loadout system is a set of conveyors chutes and hoppers used to load any single rail or road delivery container at any one time)	T+RN	\$253
(x) Each Portable Rock Crushing System, Registered Under Rule 12.1	\$477	\$246

**SCHEDULE 8: Concrete Batch Plants, Concrete Mixers over One Cubic Yard Capacity
and Separate Cement Silo Systems**

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) Each Concrete Batch Plant (including Cement-Treated Base Plants)	T+RN	\$515
(b) Each Mixer over one cubic yard capacity	T+RN	\$312
(c) Each Cement or Fly Ash Silo System not part of another system requiring a Permit	T+RN	\$322
(d) Expo Builders Supply (ID #APCD1976-SITE-00634)*	T+RN	\$702
(x) Each Portable Concrete Batch Plant, Registered Under Rule 12.1	\$528	\$238

*Pursuant to Subsection (c)(3)

SCHEDULE 9: Concrete Product Manufacturing Plants

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) Each Plant	T+RN	\$365
Resolution – Rules 1206 & 40, Subpart M		A - 44

SCHEDULE 10: RESERVED**SCHEDULE 11: RESERVED****SCHEDULE 12: RESERVED****SCHEDULE 13: Boilers and Heaters**

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) Each 1 MM BTU/HR up to but not including 50 MM BTU/HR input	\$2306	\$330
(b) Each 50 MM BTU/HR up to but not including 250 MM BTU/HR	T+RN	\$665
(c) RESERVED		
(d) Each 100 Megawatt output or greater (based on an average boiler efficiency of 32.5%)	T+RN	\$703
(e) RESERVED		
(f) Each 1 MM BTU/HR up to but not including 50 MM BTU/HR input at a single site where more than 5 such units are located	\$2230	\$180
(g) Each 250 MM BTU/HR up to 1050 MM BTU/HR input or up to but not including 100 Megawatt gross output, whichever is greater, where a Notice of Intention has been filed with the California Energy Commission	T+RN	T+M
(h) Each 100 Megawatt gross output or greater where a Notice of Intention has been filed with the California Energy Commission	T+RN	T+M

SCHEDULE 14: Non-Municipal Incinerators

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) Crematory or waste incinerator burning capacity up to and including 100 lbs/hr*	T+RN	\$501
(b) Crematory or waste incinerator burning capacity greater than 100 lbs/hr	T+RN	\$1958
(c) Burning capacity up to and including 50 lbs/hr used exclusively for the incineration or cremation of animals	T+RN	\$199

*Excluding units of 50 lbs/hr capacity or less used exclusively for incineration or cremation of animals.

SCHEDULE 15: Burn-Out Ovens

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) Each Electric Motor/Armature Refurbishing Oven	T+RN	\$254
(b) RESERVED		
(c) Each IC Engine Parts Refurbishing Unit	T+RN	\$444
(d) USN SIMA (ID #APCD1981-SITE-02798)*	T+RN	\$325

*Pursuant to Subsection (c)(3)

SCHEDULE 16: RESERVED**SCHEDULE 17: RESERVED****SCHEDULE 18: Metal Melting Devices**

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) RESERVED		
(b) RESERVED		
(c) Each Pit or Stationary Crucible	T+RN	\$481
(d) Each Pot Furnace	\$2547	\$333

SCHEDULE 19: Oil Quenching and Salt Baths

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) Each Tank	T+RN	\$224

SCHEDULE 20: Gas Turbine Engines, Test Cells and Test Stands

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
GAS TURBINE, TURBOSHAFT, TURBOJET AND TURBOFAN ENGINE TEST CELLS AND STANDS		
(a) Each Aircraft Propulsion Turbine, Turboshift, Turbojet or Turbofan Engine Test Cell or Stand	T+RN	\$471
(b) Each Aircraft Propulsion Test Cell or Stand at a facility where more than one such unit is located	T+RN	\$354
(c) Each Non-Aircraft Turbine Test Cell or Stand	T+RN	\$344
GAS TURBINE ENGINES		
(d) Each Non-Aircraft Turbine Engine 1 MM BTU/HR up to but not including 50 MM BTU/HR input	T+RN	\$868
(e) Each Non-Aircraft Turbine Engine 50 MM BTU/HR up to but not including 250 MM BTU/HR input	T+RN	\$1732
(f) Each Non-Aircraft Turbine Engine 250 MM BTU/HR or greater input	T+RN	\$3020
(g) Each Unit used solely for Peak Load Electric Generation	T+RN	\$511
(h) Each Standby Gas Turbine used for Emergency Power Generation	T+RN	\$258

SCHEDULE 21: Waste Disposal and Reclamation Units

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) Each Paper or Wood Shredder or Hammermill Grinder	T+RN	\$330

SCHEDULE 22: Feed and Grain Mills and Kelp Processing Plants

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) Each Receiving System (includes Silos)	T+RN	\$330
(b) Each Grinder, Cracker, or Roll Mill	T+RN	\$338
(c) Each Shaker Stack, Screen Set, Pelletizer System, Grain Cleaner, or Hammermill	T+RN	\$267
(d) Each Mixer System	T+RN	\$842
(e) Each Truck or Rail Loading System	T+RN	\$83
(f) CP Kelco: Shaker, Screen, Pelletizer, Cleaner, Hammermill (ID #APCD1976-SITE-00116)*	T+RN	\$215

*Pursuant to Subsection (c)(3)

SCHEDULE 23: Bulk Terminal Grain and Dry Chemical Transfer and Storage Facility Equipment

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) Each Receiving System (Railroad, Ship and Truck Unloading)	T+RN	\$572
(b) Each Storage Silo System	\$1446	\$295
(c) Each Loadout Station System	T+RN	\$256
(d) Each Belt Transfer Station	T+RN	\$256

SCHEDULE 24: Dry Chemical Mixing

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) RESERVED		
(b) RESERVED		
(c) Each Dry Chemical Mixer with capacity over one-half cubic yard	T+RN	\$433

SCHEDULE 25: Volatile Organic Compound Terminals, Bulk Plants and Intermediate Refueler Facilities

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
1. Bulk Plants and Bulk Terminals equipped with or proposed to be equipped with a vapor processor:		
(a) Per Tank	T+RN	\$370
(b) Tank Rim Seal Replacement	T+RN	N/A
(c) Per Truck Loading Head	T+RN	\$1197
(d) Per Vapor Processor	T+RN	\$388
(g) NAVY REGION SW (ID#APCD1980-SITE-02754)*	T+RN	\$669

*Pursuant to Subsection (c)(3)

SCHEDULE 25: Volatile Organic Compound Terminals, Bulk Plants and Intermediate Refueler Facilities – continued

2. Bulk Plants not equipped with or not proposed to be equipped with a vapor processor:
 - (e) Per Tank T+RN \$367
 - (f) Per Truck Loading Head T+RN \$296

“Vapor Processor” means a device which recovers or transforms volatile organic compounds by condensation, refrigeration, adsorption, absorption, incineration, or any combination thereof.
3. Facilities fueling intermediate refuelers (IR’s) for subsequent fueling of motor vehicles, boats, or aircraft:
 - (h) Per IR Loading Connector T+RN \$377

If a facility falls into Parts 1, 2, or 3 above and is equipped with dispensing nozzles for which Phase II vapor controls are required, additional fees equivalent to the “per nozzle” fees for Schedule 26(a) shall be assessed for each dispensing nozzle.

**SCHEDULE 26: Non-Bulk Volatile Organic Compound Dispensing Facilities
Subject to District Rules 61.0 through 61.6**

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) Facilities where Phase I and Phase II controls are required (includes Phase I fee) Renewal Fee: Fee x number of nozzles	\$2326 +RN	\$173
(b) RESERVED		
(c) Facilities where only Phase I controls are required (includes tank replacement) Fee Per Facility	\$2162	\$541
(d) RESERVED		
(e) Non-retail facilities with 260-550 gallon tanks and no other non-bulk gasoline dispensing permits Fee Per Facility	\$673	\$480

SCHEDULE 27: Application of Materials Containing Organic Solvents (includes coatings, adhesives, and other materials containing volatile organic compounds (VOC))

PART 1 - MARINE COATINGS

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) Each Marine Coating application operation, except where Fee Schedule 27(t) applies	\$2568	\$761
(b) RESERVED		
(c) RESERVED		
(t) Each Marine Coating application operation at facilities where combined coating and cleaning solvent usage is < 3 gallons/day and < 100 gallons/year	\$1156	\$632
(x) RESERVED		
(y) RESERVED		
(z) NASSCO (ID #APCD1976-SITE-00145)*	T+RN	\$970

*Pursuant to Subsection (c)(3)

SCHEDULE 27: Application of Materials Containing Organic Solvents (includes coatings, adhesives, and other materials containing volatile organic compounds (VOC)) – continued

PART 2 - INDUSTRIAL MATERIAL APPLICATIONS AND MANUFACTURING

(Includes application stations for coatings such as paint spraying and dip tanks, printing, and manufacturing products with materials which contain VOCs, etc.)

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(d) Each Surface Coating Application Station w/o control equipment and not covered by other fee schedules at facilities using > 1 gallon/day of surface coatings and emitting ≤ 5 tons/year of VOC from equipment in this fee schedule	\$2212	\$532
(e) Each Surface Coating Application Station w/o control equipment and not covered by other fee schedules at facilities emitting > 5 tons/year of VOC from equipment in this fee schedule	T+RN	\$547
(f) Each Fiberglass, Plastic or Foam Product Process Line	\$3532	\$610
(g) RESERVED		
(h) RESERVED		
(i) Each Surface Coating Application Station requiring Control Equipment	T+RN	\$785
(j) Each Surface Coating Application Station subject to Rule 67.3 or 67.9 w/o Control Equipment at facilities emitting ≤ 5 tons/year of VOC from equipment in this fee schedule	\$4782	\$607
(k) Each Surface Coating Application Station subject to Rule 67.3 or 67.9 w/o Control Equipment at facilities emitting > 5 tons/year of VOC from equipment in this fee schedule	T+RN	\$753
(l) Each Wood Products Coating Application Station w/o Control Equipment at facilities using > 500 gallons/year of wood products coatings and emitting ≤ 5 tons/year of VOC from Wood Products Coating Operations	\$3284	\$699
(m) Each Wood Products Coating Application Station w/o Control Equipment at facilities emitting > 5 tons/ year of VOC from Wood Products Coating Operations	\$2874	\$881
(n) Each Press or Operation at a Printing or Graphic Arts facility subject to Rule 67.16	\$1784	\$377
(o) RESERVED		
(p) Each Surface Coating Application Station w/o control equipment (except automotive painting) where combined coating, and cleaning solvent usage is < 1 gallon/day or < 50 gallons/year	\$2212	\$394
(q) Each Wood Products Coating Application Station of coatings and stripper w/o control equipment at a facility using < 500 gallons/year for Wood Products Coating Operations	\$3284	\$637

PART 3 – MOTOR VEHICLE AND MOBILE EQUIPMENT REFINISHING OPERATIONS

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(r) Each facility applying Coating Materials subject to Rule 67.20 (as applied or sprayed)	\$2763	\$856
(s) RESERVED		

SCHEDULE 27: Application of Materials Containing Organic Solvents (includes coatings, adhesives, and other materials containing volatile organic compounds (VOC)) – continued

PART 4 - ADHESIVE MATERIALS APPLICATION OPERATIONS

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(u) Each Adhesive Materials Application Station w/o control equipment at facilities emitting ≤ 5 tons/year of VOC from equipment in this fee schedule	\$1734	\$433
(v) Each Adhesive Materials Application Station w/o control equipment at facilities emitting > 5 tons/year of VOC from equipment in this fee schedule	\$1734	\$862
(w) Each Adhesive Materials Application Station w/o control equipment where adhesive materials usage is < 55 gallons/year	\$1734	\$555

SCHEDULE 28: Vapor and Cold Solvent Cleaning Operations and Metal Inspection Tanks

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) Each Vapor Degreaser with an Air Vapor Interfacial area > 5 square feet	T+RN	\$401
(b) Each Cold Solvent Degreaser with liquid surface area > 5 square feet	\$1527	\$319
(c) RESERVED		
(d) Each Paint Stripping Tank	\$1929	\$327
(e) RESERVED		
(f) Remote Reservoir Cleaners	\$676	\$294
(g) RESERVED		
(h) Vapor Degreaser with an Air-Vapor Interfacial area ≤ 5 square feet	\$589	\$313
(i) Cold Solvent Degreaser with a liquid surface area ≤ 5 square feet	\$434	\$281
(j) Metal Inspection Tanks	\$1190	\$262
(k) Contract Service Remote Reservoir Cleaners with > 100 units	T+RN	\$29
(l) Contract Service Cold Degreasers with a liquid surface area of ≤ 5 square feet	T+RN	\$12
(m) Each facility-wide Solvent Application Operation	T+RN	T+M

SCHEDULE 29: Automated Soldering Equipment

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) Each Solder Leveler	\$2685	\$335

SCHEDULE 30: Solvent and Extract Dryers

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
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(a)	Kelp and Biogum Products Solvent Dryer	T+RN	\$1813
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SCHEDULE 31: Dry Cleaning Facilities

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) Each Facility using Halogenated Hydrocarbon Solvents required to install Control Equipment	\$1220	\$589
(b) Each Facility using Petroleum Based Solvents	T+RN	\$375

SCHEDULE 32: Acid Chemical Milling, Copper Etching and Hot Dip Galvanizing

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) Each Copper Etching Tank	T+RN	\$530
(b) Each Acid Chemical Milling Tank	T+RN	\$460
(c) Each Hot Dip Galvanizing Tank	T+RN	\$367

SCHEDULE 33: Can and Coil Manufacturing and Coating Operations

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) RESERVED		

SCHEDULE 34: Piston Type Internal Combustion Engines

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) Each Cogeneration Engine with in-stack Emission Controls	T+RN	\$690
(b) Each Cogeneration Engine with Engine Design Emission Controls	T+RN	\$699
(c) Each Emergency Standby Engine (for electrical or fuel interruptions beyond control of Permittee)	\$2938	\$334
(d) Each Engine for Non-Emergency and Non-Cogeneration Operation	T+RN	\$492
(e) Each Grouping of Engines for Dredging or Crane Operation with total engine horsepower > 200 HP	T+RN	\$484
(f) Each Diesel Pile-Driving Hammer	T+RN	\$214
(g) Each Engine for Non-Emergency and Non-Cogeneration Operation < 200 horsepower	\$2407	\$355
(h) Each California Certified Emergency Standby Engine (for electrical or fuel interruptions beyond control of Permittee)	\$2138	\$334
(i) Each Internal Combustion Engine Test Cell and Test Stand	T+RN	\$883
(w) Each Specified Eligible Engine, Registered Under Rule 12	\$313	\$198
(x) Each Specified Eligible Portable Engine, Registered Under Rule 12.1	\$515	\$201
(z) Each Specified Eligible Engine, Registered Under Rule 12, Conversion from Valid Permit	\$343	N/A

SCHEDULE 35: Bulk Flour, Powdered Sugar and Dry Chemical Storage Systems

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) Each System	T+RN	\$368

SCHEDULE 36: Grinding Booths and Rooms

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) Each Booth or Room	\$2138	\$350

SCHEDULE 37: Plasma Electric and Ceramic Deposition Spray Booths

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) Each Application Station	T+RN	\$677
(c) Flame Spray (ID #APCD1976-SITE-00274)*	T+RN	\$622

*Pursuant to Subsection (c)(3)

SCHEDULE 38: Paint, Adhesive, Stain, Ink, Solder Paste, and Dielectric Paste Manufacturing

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) Each Process Line for Paint, Adhesive, Stain, or Ink Manufacturing at facilities producing > 10,000 gallons per year	T+RN	\$237
(b) Each Can Filling Line	T+RN	\$357
(c) Each Process Line for Solder Paste or Dielectric Paste Manufacturing	T+RN	\$456
(d) Each Paint, Adhesive, Stain or Ink Manufacturing facility producing <10,000 gallons per year	T+RN	\$795
(f) Ferro Electronic Material Systems (ID #APCD2001-SITE-04439)*	T+RN	\$539

*Pursuant to Subsection (c)(3)

SCHEDULE 39: Precious Metals Refining

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) Each Process Line	T+RN	\$282

SCHEDULE 40: Asphalt Pavement Heaters/Recyclers

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(x) Each Portable Unheated Pavement Crushing and Recycling System, Registration Under Rule 12.1	\$545	\$172

SCHEDULE 41: Perlite Processing

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) Each Process Line	T+RN	\$606
(b) Aztec Perlite (ID #APCD1978-SITE-01598)*	T+RN	\$773

*Pursuant to Subsection (c)(3)

SCHEDULE 42: Electronic Component Manufacturing

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) Each Process Line	T+RN	\$1002
(b) Each Screen Printing Operation	T+RN	\$448
(c) Each Coating/Maskant Application Operation, excluding Conformal Operation	T+RN	\$432
(d) Each Conformal Coating Operation	T+RN	\$574

SCHEDULE 43: Ceramic Slip Casting

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) Each Process Line	T+RN	\$535

SCHEDULE 44: Evaporators, Dryers, & Stills Processing Organic Materials

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) Evaporators and Dryers [other than those referenced in Fee Schedule 30 (a)] processing materials containing volatile organic compounds	T+RN	\$364
(b) Solvent Recovery Stills, on-site, batch-type, solvent usage > 350 gallons per day	\$1963	\$345

SCHEDULE 45: RESERVED**SCHEDULE 46: Filtration Membrane Manufacturing**

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) Each Process Line	T+RN	\$576

SCHEDULE 47: Organic Gas Sterilizers

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) Each Organic Gas Sterilizer requiring control	T+RN	\$572

(b) Each Stand Alone Organic Gas Aerator requiring control	T+RN	T+M
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SCHEDULE 48: Municipal Waste Storage and Processing

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) Each Waste Disposal Site not equipped with Emission Collection and Control System	T+RN	\$3212
(b) RESERVED		
(c) Each Waste Disposal Site/Landfill equipped with Emission Collection and Control System(s)	T+RN	\$4351

SCHEDULE 49: Non-Operational Status Equipment

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) Non-Operational Status Equipment	\$206	\$252
(b) Activating Non-Operational Status Equipment	\$185	N/A

SCHEDULE 50: Coffee Roasters

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) Each Coffee Roaster	\$2632	\$418

SCHEDULE 51: Industrial Waste Water Treatment

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) Each On-site Processing Line	\$2235	\$491
(b) RESERVED		
(c) USN Air Station NORIS Public Works (ID #APCD1986-SITE-02755)*	T+RN	\$697

*Pursuant to Subsection (c)(3)

SCHEDULE 52: Air Stripping and Soil Remediation Equipment

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) Air Stripping Equipment	T+RN	\$622
(b) Soil Remediation Equipment - On-site (In situ Only)	T+RN	\$784

SCHEDULE 53: RESERVED

SCHEDULE 54: Pharmaceutical Manufacturing

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) Each Pharmaceutical Manufacturing Process Line	T+RN	\$659

SCHEDULE 55: Hexavalent Chromium Plating and Anodizing Tanks

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) Each Hard or Decorative Chrome Plating and/or Anodizing Tank or Group of Tanks Served by an Emission Control System	T+RN	\$1656
(b) Each Decorative Plating Tank without Add-on Emission Controls	T+RN	\$518

SCHEDULE 56: Sewage Treatment Facilities

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) Each Wastewater Treatment Facility, or Each Water Reclamation Facility	T+RN	\$1473
(b) Each Wastewater Pump Station	T+RN	\$673

SCHEDULE 57: RESERVED**SCHEDULE 58: Bakeries**

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) Bakery Ovens at Facilities with Emission Controls Pursuant to Rule 67.24	T+RN	\$561

SCHEDULE 59: Asbestos Control Equipment

Fee Unit	(1) Initial Evaluation Fee	(2) Emission Unit Renewal Fee
(a) RESERVED		
(b) RESERVED		
(c) Portable Asbestos Mastic Removal Application Station	\$1630	\$338

SCHEDULES 60 THROUGH 90 RESERVED

SCHEDULE 91: Miscellaneous - Hourly Rates

The evaluation fee for an application for an Authority to Construct/Permit to Operate for equipment/processes not specified in the Fee Schedules shall be based on the actual costs incurred by the District for evaluating the application and an estimated Emission Unit Renewal Fee which will cover the costs related to an annual compliance inspection of the equipment. The applicant shall deposit the amount estimated to cover the actual cost of evaluation and the estimated renewal fee at the time of application submittal.

SCHEDULE 92: Source Testing Performed by the District

The owner or operator of an emission unit which requires source testing to determine compliance shall pay the applicable source test fee(s) listed below if the source testing is performed by the District or a District contractor. If the source test requires significantly more on-site time than is provided by the fixed fees specified below (e.g. tall stacks), the additional costs incurred by the District shall be determined using the labor rates specified in Schedule 94 and related material and other costs. The owner or operator shall pay such fees upon notification from the District that such fees are required.

<u>Fee Unit</u>	<u>Fee</u>
(a) Each Particulate Matter Source Test	\$7523
(b) Annual Fee for each 5-Year Test Cycle for Incinerator Particulate Matter Source Test with Waste Burning Capacity of < 100 lbs Per Hour	\$1635
(c) Each Sulfur Oxides Source Test	T+M
(d) Annual Fee for each Biennial Cycle Test for NOx and CO (1/2 the cost of one test)	\$1254
(e) Each Ethylene Oxide Source Test	T+M
(f) Each Carbon Monoxide and Nitrogen Oxides Source Test	\$2508
(g) Each Nitrogen Oxides Source Test	\$2454
(h) Each Incinerator Particulate Matter Source Test with Waste Burning Capacity of > 100 lbs Per Hour	T+M
(i) Each Ammonia Source Test	\$1255
(j) Continuous Emission Monitor System Evaluation	T+M
(k) Incinerator Particulate Matter Source Test with Waste Burning Capacity of < 100 lbs Per Hour	T+M
(l) RESERVED	
(m) Each Mass Emissions Source Test	T+M
(n) RESERVED	
(o) Each Multiple Metals Source Test	T+M
(p) Each Chromium Source Test	T+M
(q) Each VOC Onsite Analysis	\$4525
(r) Each VOC Offsite Analysis	\$819
(s) Each Hydrogen Sulfide Source Test	T+M

(t) Each Acid Gas Source Test	T+M
(u) Annual Fee for each 5-Year Test Cycle for Particulate Matter Source Testing at Perlite Plants, (1/5 the cost of one test)	\$1788
(v) Annual Fee for Optional Source Test Pilot Study	T+M
(z) Miscellaneous Source Test (Special Tests not Listed)	T+M

SCHEDULE 93: Witness of Source Tests Performed by Independent Contractors

The owner or operator of an emission unit which requires source testing to determine compliance for the purpose of quantifying emissions to determine whether a Permit to Operate shall be issued or if the emission unit is in compliance, and chooses to have the testing performed by an independent contractor, shall pay the actual T+M costs incurred by the District to observe such testing and review the resulting source test report.

Any person, company, agency that requests review of a test procedure shall pay the actual T+M costs incurred by the District to review such test procedures. Such requests shall be accompanied by an amount estimated to cover actual District costs.

Fee Unit	Fee
(a) Test Witness and Report Review	T+M
(b) RESERVED	
(c) Test Procedure Review	T+M
(d) Each VOC Bulk Terminal Test Witness	\$2181
(e) Each Ethylene Oxide Test Witness Day	\$1800

SCHEDULE 94: Time and Material (T+M) Labor Rates

Employee Classification (Fee Unit)	Hourly Rate
Air Pollution Test Technician (94m)	\$84
Air Quality Inspector I (94o)	\$107
Air Quality Inspector II (94e)	\$151
Air Quality Inspector III (94f)	\$179
Air Quality Specialist (94z)	\$88
Assistant Air Resources Specialist (94s)	\$116
Assistant Chemist (94i)	\$100
Assistant Engineer (94b)	\$129
Assistant Meteorologist (94g)	\$88
Associate Air Resources Specialist (94q)	\$148
Associate Chemist (94j)	\$109
Associate Engineer (94c)	\$168
Associate Meteorologist (94r)	\$102
Instrument Technician I (94l)	\$74
Instrument Technician II (94n)	\$84

Junior Chemist (94v)	\$81
Junior Engineer (94a)	\$101
Senior Chemist (94k)	\$111
Senior Engineer (94d)	\$203
Senior Meteorologist (94h)	\$100
Supervising Instrument Technician (94t)	\$99
Supervising Air Resource Specialist (94y)	\$109

SCHEDULE 95: Sampling and Analysis

When the District determines a sample and/or analysis is needed for the purpose of determining potential emissions and/or determining compliance with District Rules and Regulations, the actual T+M costs incurred by the District for collection and analysis of samples, including preparing the reports, shall be paid by the permittee, applicant or other persons for activities for which a Permit is not required.

SCHEDULE 96: Additional Costs Incurred by the District for Sources Not in Compliance

Whenever the District is requested or required to provide consultation, testing or inspection to any person or facility, beyond the consultation testing and inspection covered by the permit fees, or related to a Notice of Violation and/or Notice to Comply, the person or facility shall pay the actual T+M costs incurred by the District for the cost of such services.

SCHEDULE 97: Other Charges

Whenever the District is requested or required to provide consultation, legally required testimony, testing, inspection, engineering or services, the cost of such services shall be determined using the labor rates specified in Fee Schedule 94. Persons requesting and/or receiving such services shall be charged the estimated cost of providing such services and shall deposit such amount to the District in advance of the service, unless prior arrangements for payment have been approved by the District. In the case of consultations requested prior to filing an application, any funds deposited in excess of actual costs incurred for such consultations shall be refunded or applied as a credit against required application fees.


3. Existing Subpart M – National Emission Standards for Asbestos (Rules 361.140-361.156) is to be repealed in its entirety.

IT IS FURTHER RESOLVED AND ORDERED that proposed new Rule 1206 of Regulation XII shall take effect *(date of adoption)*.

IT IS FURTHER RESOLVED AND ORDERED that related proposed amendments to Rule 40 of Regulation III shall take effect *(date of adoption)*.

IT IS FURTHER RESOLVED AND ORDERED that the repeal of Subpart M – National Emission Standards for Asbestos (Rules 361.140-361.156) of Regulation XII shall take effect *(date of adoption)*.

PASSED AND ADOPTED by the Air Pollution Control Board of the San Diego County Air Pollution Control District, State of California, this 15 day of November, 2017, by the following votes:

APPROVED AS TO FORM AND LEGALITY COUNTY COUNSEL
BY: 
SENIOR DEPUTY

ON MOTION of Member Roberts, seconded by Member Horn, the foregoing Resolution was passed and adopted by the Air Pollution Control District, County of San Diego, State of California, on this 15th day of November, 2017, by the following vote:

AYES: Cox, Jacob, Gaspar, Roberts, Horn

- - -

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 San Diego County Air Pollution Control Board.

DAVID HALL
Clerk of the Air Pollution Control Board

By: D. Lopez
Diana Lopez, Deputy



Resolution No. : 17-172
Meeting Date: 11/15/17 (AP1)

COMPARATIVE ANALYSIS

PROPOSED NEW RULE 1206 – ASBESTOS REMOVAL, RENOVATION, AND DEMOLITION

Statutory Requirements

Prior to adopting, amending, or repealing a rule or regulation, California Health and Safety Code Section 40727 requires findings of necessity, authority, clarity, consistency, non-duplication, and reference, as defined therein. As part of the consistency finding and to ensure proposed rule requirements do not conflict with or contradict other Air Pollution Control District (District) or federal regulations, Health and Safety Code Section 40727.2(a) requires the District to perform a written analysis identifying and comparing the air pollution control standards and other provisions of proposed new Rule 1206 with existing or proposed District rules and guidelines and existing federal rules, requirements, and guidelines applying to the same source category.

Analysis

Proposed new Rule 1206 applies to owners and operators of any renovation or demolition operation. Its intent is to minimize asbestos fiber exposure from renovation and demolition activities. The rule is based on the federal Asbestos National Emissions Standards for Hazardous Air Pollutants (NESHAP).

The federal regulation is administered locally by the District through existing Rules 361.140-361.156 (National Emissions Standards for Asbestos), adopted in 1995. Since then, the EPA has made numerous amendments and determinations to clarify the federal regulation, resulting in the District rules becoming outdated. Proposed new Rule 1206 was developed to reflect these federal updates in a clear and comprehensive manner. The proposed new rule will replace existing Rules 361.140-361.156, which apply to the same operations. As a result, there will be no conflict with proposed Rule 1206 and either federal regulations or other District rules.

Proposed new Rule 1206 more clearly defines terms, better explains inspection and reporting requirements, clarifies when a renovation or demolition is subject to the requirements, and specifies work practice requirements to limit asbestos exposure. Additionally, to better protect public health, the applicability threshold would decrease from 160 square feet to 100 square feet of regulated asbestos-containing material to be removed.

**AIR POLLUTION CONTROL DISTRICT
COUNTY OF SAN DIEGO**

**PROPOSED NEW DRAFT
RULE 1206 – ASBESTOS REMOVAL, RENOVATION, AND DEMOLITION**

WORKSHOP REPORT

A workshop notice on proposed new draft Rule 1206 – Asbestos Removal, Renovation, and Demolition, was mailed to asbestos consultants and site surveillance technicians, City and County planning and development departments, national and regional realtors, landfills, registered transporters, testing labs, demolition contractors, training consultants, and multi-family residential facilities. Notices were also mailed to all economic development corporations and chambers of commerce in San Diego County, the U.S. Environmental Protection Agency (EPA), the California Air Resources Board (CARB), and other interested parties.

The workshop was held on February 23, 2017, and was attended by 79 people. Oral and written comments were received before, during, and after the workshop. A summary of the comments and the Air Pollution Control District’s (District) responses to these comments are as follows:

(a) APPLICABILITY

1. WORKSHOP COMMENT

Proposed new draft Rule 1206 applies to owners and operators of any renovation or demolition operation. If there is no asbestos present in a given renovation or demolition project, is notification required?

DISTRICT RESPONSE

Notification is not required for the renovation of a facility when asbestos is not present. However, notification is required for the demolition of a facility, regardless of the presence of asbestos. These notification requirements are consistent with the existing District Asbestos Rules (Rules 361.140 through 361.156) and the federal Asbestos National Emission Standards for Hazardous Air Pollutants (NESHAP).

(b) EXEMPTIONS

2. WORKSHOP COMMENT

The District should add an exemption to Section (b) for the military as follows: “Construction activities on military bases performed during a declared war, or for a national security purpose, as authorized by the Installation Commander in writing.” If America is fighting a war, it is important that the mission is accomplished rather than be delayed to comply with local asbestos rules. Otherwise, military installations should and will do their best to comply with local air rules. This policy argument is consistent with the national security exemption discussed at 42 USC 7418.

DISTRICT RESPONSE

The District disagrees. The suggested language would make the proposed rule less stringent than the NESHAP, which is not allowed by CARB or EPA. In the event the federal, state or local government declares a state of emergency, the District will review enforcement of the regulations under its jurisdiction as appropriate.

3. WORKSHOP COMMENT

The District should clarify the term “dwelling units” found in Subsection (b)(1)(ii)(A) to explain that the proposed rule does not apply to residential buildings or structures with four or fewer units.

DISTRICT RESPONSE

The District disagrees. The exemption in Subsection (b)(1)(ii)(A) is consistent with the District Asbestos Rules. The term “dwelling” is commonly defined (in most dictionaries) as “a place where a person lives.” In addition, Subsection (b)(1)(ii) also outlines the circumstances under which residential buildings or structures with four or fewer units would not be exempt from the proposed rule.

4. WORKSHOP COMMENT

The District should add language to Subsection (b)(1)(ii)(A) to exempt military owned residential buildings and structures. It is important to treat military families residing on and off base the same as any other family in San Diego County.

DISTRICT RESPONSE

The District disagrees. Pursuant to EPA Letters of Determination, military owned residential buildings and structures that are on or off a military base are regulated facilities and thus they would not be exempt from the proposed rule.

5. WORKSHOP COMMENT

Proposed Subsections (b)(1)(ii)(B) specifies when mobile, manufactured or modular homes are exempt. Will the proposed rule apply to a mobile, manufactured or modular home on the same lot or with the same address as another home?

DISTRICT RESPONSE

The two homes would be subject to the proposed rule if they meet the definition of an “Installation,” as defined in new Subsection (c)(22) (i.e., they are under the control of a common owner or operator and they are on a contiguous parcel of land). This is consistent with EPA Letters of Determination.

6. WORKSHOP COMMENT

Will the proposed rule apply to a construction trailer that is being moved on and off site? Would this activity require a demolition notification?

DISTRICT RESPONSE

A construction trailer that is immediately ready for road travel and can be easily relocated or moved without disturbance of a structural member, does not require a notification and is not subject to the proposed rule.

7. WORKSHOP COMMENT

New Subsection (b)(4) exempts renovation operations from specific requirements of the rule (i.e., Notification, Emission Control, and Waste Handling) if the amount of regulated asbestos-containing material (RACM) to be removed, stripped, or disturbed at a facility in one consecutive 365-day period measures less than 100 square feet.

Does this mean that removing 75 square feet of acoustic ceiling asbestos-containing material would be exempt from notification, emission control, and waste handling requirements?

DISTRICT RESPONSE

Yes. If the total amount of RACM disturbed in any one consecutive 365-day period is less than 100 square feet on facility components, then Sections (e), (f), and (g) of the proposed rule would not apply. See also the District Response to Comment No. 38.

However, even if a renovation operation is exempt from Sections (e), (f), and (g) of the proposed rule, any operation that removes asbestos in such a manner that potentially exposes the public to asbestos, may be subject to District Rule 51 – Nuisance. Additionally, the waste handling procedures of the Department of Environmental Health may still apply regardless of any exemption to this proposed rule.

8. WORKSHOP COMMENT

The new draft rule proposes an exemption threshold of less than 100 square feet of RACM on facility components (including pipes). The exemption threshold in the NESHAP is less than 260 linear feet of RACM on pipes. What is the compliance value or the public health value of lowering the exemption threshold from less than 260 linear feet to less than 100 square feet?

DISTRICT RESPONSE

Under the NESHAP, the exemption for RACM on pipes that are less than 260 linear feet is based on length only and does not include the surface area of a pipe. Some pipes may be less than 260 linear feet long but are very large, being many feet in diameter and could potentially contain hundreds of square feet of RACM that, if mishandled, may place the public's health at considerable risk. As such, this proposed small change in the rule may result in far greater protection of public health.

For context, the 100 square foot of RACM exemption threshold is consistent with the longstanding threshold exemption in South Coast Air Quality Management District (SCAQMD) Rule 1403 – Asbestos Emissions from Demolition/Renovation Activities.

(c) DEFINITIONS

9. WORKSHOP COMMENT

The District should add a new definition for “Annual Notification” and define it as: “the notice given for a planned renovation operation or a number of such operations that will take place at a facility over a calendar year, and which when added up exceed the exempt amounts of RACM listed in Subsection (b)(4). Renovation operations covered by an annual notification are not subject to any further requirements of Section (e), except that any individual renovation that exceeds the amounts of RACM listed in Subsection (b)(4) will be subject to separate individual notification.”

The annual notifications would cover all the smaller activities at the facility. Large renovations would still get separate notice. This clarifies a perceived problem where currently every asbestos renovation no matter how small would be subject to an individual notification.

DISTRICT RESPONSE

The District disagrees that a new definition is needed. “Planned Renovation Operation” is already defined in new Subsection (c)(32). However, Subsection (e)(5)(ii) has been revised to clarify that annual notifications for planned renovations are required if the amount of RACM to be disturbed exceeds the exemption thresholds as specified in new Subsection (b)(4) of the proposed rule.

The District agrees that any smaller individual renovation activity (less than 100 square feet of RACM) not covered by the annual notification does not need individual notification. However, if all the smaller individual renovation activities total more than 20 percent of the notified amount of RACM, a revised notification should be submitted to the District. Any individual renovation activity not covered by the annual notification, that is 100 square feet or more of RACM, will be subject to separate individual notification.

10. WORKSHOP COMMENT

The District should add the quantitative value of “more than one percent” to the definition of “Asbestos-Containing Materials (ACM)” found in Subsection (c)(4), to be consistent with the NESHAP.

DISTRICT RESPONSE

The District agrees and has added the recommended language to Subsection (c)(4).

11. WORKSHOP COMMENT

Does the District consider drywall, joint compound, and exterior stucco to be Category I Nonfriable ACM as defined in new Subsection (c)(7)?

DISTRICT RESPONSE

The District considers asbestos containing drywall and joint compound to be Friable ACM when removed, and exterior stucco to be Category II Nonfriable ACM.

12. WORKSHOP COMMENT

Why is nonfriable ACM divided and defined into two separate categories? If, instead, the types of nonfriable materials are not specified and the word “pulverized” is added, would that encompass both definitions?

DISTRICT RESPONSE

The definitions of “Category I Nonfriable ACM” and “Category II Nonfriable ACM” in new Subsections (c)(7) and (c)(8), respectively, are consistent with the District Asbestos Rules. The two categories are in place to differentiate the level of resilience that, depending on the method of removal, would render it friable. These categories also differentiate what can remain in place during a demolition.

13. WORKSHOP COMMENT

The District should add the following language to the definition of “Emergency Demolition Operation” in new Subsection (c)(12): “Emergency Demolition Operation also includes an order issued by a military commanding officer.” Orders of commanding officers have the effect of law in the military.

DISTRICT RESPONSE

The District disagrees. The additional language is not necessary because the current definition of “Emergency Demolition Operation” allows for orders issued by a government agency. A military commanding officer is part of a government agency.

14. WORKSHOP COMMENT

The District should add language to the definition of “Emergency Renovation Operation” in new Subsection (c)(13) to clarify that there may be other emergency renovation operations that are not covered by the specified items.

DISTRICT RESPONSE

The District agrees and has added language to the definition in new Subsection (c)(13) that allows emergency renovation operations to include other possible emergency situations.

15. WORKSHOP COMMENT

Does “Facility,” as defined in new Subsection (c)(15), apply to either a community of homes (e.g., retirement community) or to a neighborhood that has a Homeowners Association (HOA)?

DISTRICT RESPONSE

Yes. If a community of homes or a neighborhood HOA is operated as a residential cooperative, and acts as the owner or operator of the renovation or demolition, then it meets the definition of a “Facility” and is subject to the proposed rule.

16. WORKSHOP COMMENT

Does “Facility,” as defined in new Subsection (c)(15), apply to single family dwellings with a Zero Property Line (two homes share the same driveway)?

DISTRICT RESPONSE

If the single family dwellings meet the definition of “Installation,” as defined in new Subsection (c)(22) (i.e., they are under the control of a common owner or operator and they are on a contiguous parcel of land), they would fall within the definition of a “Facility.”

17. WORKSHOP COMMENT

Does the District consider mechanical removal, such as bobcat equipment with a blade to remove floor tile and mastic, to be equivalent to “sanding, grinding, cutting, or abrading”, therefore meeting the definition of “Regulated Asbestos Containing Material (RACM)” found in new Subsection (c)(35)(iii)?

DISTRICT RESPONSE

Yes. Materials removed by mechanical means, such as with a bobcat that sands, grinds, cuts, or abrades and renders the Category I Nonfriable ACM friable, would meet the definition of RACM.

18. WORKSHOP COMMENT

A renovation or demolition operation is being performed on a large building that can take up to four days to set up the asbestos abatement containment. If Day 1 and 2 are strictly set-up days and no asbestos removal is performed until Day 3, would Day 1 be considered the start date?

DISTRICT RESPONSE

Per the definition of “Start Date” in new Subsection (c)(40):

Day 1 would be considered the start date, for a renovation, only if the process of setting up disturbs or would disturb asbestos containing materials (e.g., acoustic ceiling materials). Otherwise, Day 3 would be considered the start date of the renovation operation. An inspector would expect to see some removal or disturbance of RACM occurring on the start date.

For a demolition, the start date is the first date that a load bearing structural member of a facility is wrecked or taken out, including the intentional burning of a facility, along with any related handling operations.

19. WORKSHOP COMMENT

Would the District consider putting poly sheeting on the wall for acoustic ceiling removal as the start date for a renovation or demolition operation? Would District inspectors expect to see a bag on the ground full of ACM on the start date?

DISTRICT RESPONSE

See District Response to Workshop Comment No 18.

20. WORKSHOP COMMENT

The District should replace the definition of “Suspect Material” in new Subsection (c)(43) with “any material with a propensity to contain asbestos.”

DISTRICT RESPONSE

The District disagrees. The definition of “Suspect Material” specifically lists RACM, Category I and II Nonfriable ACM, as well as examples of some building materials that have a history of manufacture involving asbestos. This definition is necessary to clarify which materials are regulated.

21. WORKSHOP COMMENT

The District should revise the definition of “Suspect Material” in new Subsection (c)(43) to exclude non-cement pipe. Plastic and metal pipe do not contain asbestos.

DISTRICT RESPONSE

The District agrees and has added language to the definition to clarify that only concrete pipes may be suspect materials.

22. WORKSHOP COMMENT

The District should remove “paint” from the definition of “Suspect Material” found in new Subsection (c)(43)(iv). All paints should not be categorized as suspect materials. Asbestos was used in paint for very specific purposes and categorizing all paint as suspect materials would require the hiring of asbestos consultants to address paint that does not contain any asbestos.

DISTRICT RESPONSE

The District agrees and has removed the word “paint” from new Subsection (c)(43)(iv). There are paints and coatings that have a propensity to contain asbestos (e.g., those used in military applications) and are considered by the District to be a suspect material and should be surveyed at a regulated facility.

(d) FACILITY SURVEY REQUIREMENTS

23. WORKSHOP COMMENT

The District should clarify whether a plumber needs to perform a facility survey for asbestos when required to disconnect the union in order to fix a backed up sink at a cafeteria.

DISTRICT RESPONSE

A facility survey is not required when conducting a plumbing project that disturbs less than 100 square feet of building materials in total at a given facility in any consecutive 365-day period. Such minor plumbing work would be exempt from the entire rule under Subsection (b)(1)(i).

24. WORKSHOP COMMENT

The facility survey report could be a very lengthy document (several inches thick). Submitting the facility survey report with the renovation or demolition notification, pursuant to Subsection (d)(1), would be burdensome. The District should require these reports to be submitted only upon request.

DISTRICT RESPONSE

The District agrees and has revised Subsection (d)(1) to state that the facility survey shall be made immediately available to the District upon request.

25. WORKSHOP COMMENT

Subsection (d)(1) requires a facility survey to be performed prior to the commencement of a renovation or demolition operation. At times, for large projects (e.g., for hospitals or universities), a facility survey may be performed years before the actual start of the renovation or demolition operation. At other times, a simple facility survey may be performed as part of a real estate transaction, potentially years before any renovation or demolition work is performed. What is an acceptable timeline from the time the survey is conducted to the time the renovation or demolition work begins?

DISTRICT RESPONSE

Facility surveys performed within three years of the start of a renovation or demolition operation will be accepted. Subsection (d)(1) has been amended accordingly.

All facility surveys conducted must be thorough and performed according to the procedures outlined in the EPA-approved Building Inspector Course, and should take into account any recent changes to the facility that may render the previous facility survey void or in need of an update.

26. WORKSHOP COMMENT

The requirement to perform a facility survey prior to the commencement of a renovation or demolition operation is more stringent than the NESHAP, which only requires a thorough inspection and the testing of Friable ACM, Category I Nonfriable ACM, and Category II Nonfriable ACM.

The District should provide more guidance as to how the facility survey should be performed and what information should be included in the facility survey report.

DISTRICT RESPONSE

The EPA-approved Building Inspector Course outlines procedures on performing facility surveys. At a minimum, the information specified in Subsection (d)(6) shall be documented in the facility survey report. In addition, the District will update its Asbestos Program webpage to include a list of available contractors who provide an EPA-approved Building Inspector Course training class.

The District is proposing these additional requirements due to a number of incomplete and improperly conducted facility inspections that resulted in asbestos related violations and associated risks to public health. For context, the proposed facility survey requirement is consistent with asbestos regulations in other California air districts, such as SCAQMD and the Sacramento Metropolitan Air Quality Management District (SMAQMD).

27. WORKSHOP COMMENT

The Asbestos Hazard Emergency Response Act (AHERA) allows the use of a letter from a project manager or architect stating that there is no asbestos present at a school. Will the District allow the use of these letters in place of a facility survey?

DISTRICT RESPONSE

No. A letter from a project manager or architect would not meet the requirement for a facility survey to be performed by a person who completed and passed an EPA-approved Building Inspector Course.

28. WORKSHOP COMMENT

AHERA only requires the sampling of asbestos-containing building material (ACBM) which includes materials used in the interior construction of a school. Does the NESHAP apply to only these interior building materials?

DISTRICT RESPONSE

No. While AHERA worker requirements apply to interior components of schools, the NESHAP and the proposed rule apply to both interior and exterior building components.

29. WORKSHOP COMMENT

Subsection (d)(2) allows for an electronic version of the facility survey to be made available to the District upon request. What electronic version is acceptable? Is the District capable of viewing CAD reports, PDF, Word, Word Perfect, and other software formats?

DISTRICT RESPONSE

The District is currently capable of viewing PDF and Word electronic document formats and submissions should be in one of those formats.

30. WORKSHOP COMMENT

Subsection (d)(3) requires the owner or operator of the renovation or demolition operation to maintain a copy of the facility survey for a period of three years, and make that copy available to the District upon request. Does the owner or operator refer to the facility owner or the contractor?

DISTRICT RESPONSE

The facility owner and/or the contractor could be considered the “Owner or Operator” as defined in new Subsection (c)(30). The definition of “Owner or Operator” has been revised to clarify that the Owner or Operator is any person, business, association, organization, or entity that owns, leases, operates, controls, or supervises the facility being renovated or demolished; or any person, business, association, organization, or entity that conducts, controls, or supervises the renovation or demolition operation; or both.

31. WORKSHOP COMMENT

Subsection (d)(4) requires, for emergency demolition operations, that a facility survey be completed prior to the removal of any debris and within two working days of when the structure is no longer in danger of imminent collapse.

The District should revise this requirement because two working days is not enough time to complete a survey, get samples to the lab, get results from the lab, write the report, and return to the owner, and the short timeframe may lead to incomplete and erroneous results.

DISTRICT RESPONSE

The District agrees. Subsection (d)(4) has been revised to allow for extensions on a case-by-case basis, as approved by the Air Pollution Control Officer. In addition, a new exemption was added, as new Subsection (b)(2), to clarify that the facility survey requirement does not apply to any renovation or demolition operation where suspect materials are handled and disposed of as RACM.

32. WORKSHOP COMMENT

Subsection (d)(5) requires all persons conducting facility surveys to be certified. The District should remove this requirement. The Division of Occupational Safety and Health (Cal/OSHA) and AHERA state that an employee of an entity can do their own survey with the satisfactory completion of the EPA-approved Building Inspector Course.

Schools, federal facilities, universities, and other large institutions have their own employees trained in accordance with AHERA for surveys and other asbestos related work.

DISTRICT RESPONSE

The District agrees and has revised Subsection (d)(5) to remove the Cal/OSHA certification requirement. Persons conducting facility surveys must have taken and passed an EPA-approved Building Inspector Course.

33. WORKSHOP COMMENT

Why does the District need a written statement of the qualifications of the person who conducted the facility survey to be included in the facility survey report? Would the District accept copies of the training certificates instead of a written statement?

DISTRICT RESPONSE

The District needs the qualifications of the person conducting the facility survey to verify the validity of the report and compliance with the rule requirements. This includes verifying that an EPA-approved Building Inspector Course has been taken and passed by the person conducting the facility survey. A copy of the training certificate will be acceptable.

34. WORKSHOP COMMENT

Subsection (d)(6)(iv) requires the facility survey report to include a listing of all suspect materials sampled and analyzed or assumed to be ACM, a sketch of the location(s) of each suspect material, and the location of each sample taken. The District should remove the requirement to provide a sketch of each suspect material location because it significantly increases the scope of the facility survey report.

DISTRICT RESPONSE

The District agrees. Subsection (d)(6)(iv) has been revised as suggested. Subsection (d)(6)(iv) was further amended to now require the listing, location, and percent content of asbestos of all suspect materials sampled and analyzed or assumed to be RACM.

35. WORKSHOP COMMENT

Why is a statement of the qualifications of the laboratory that conducted the analyses required with the facility survey report? Would the District accept a copy of the certification or accreditation instead of a written statement?

DISTRICT RESPONSE

The District is requiring the qualification statement as verification that the laboratory meets the requirements for certification by the National Voluntary Laboratory Accreditation Program (NVLAP). A copy of the certification or accreditation will be acceptable.

36. WORKSHOP COMMENT

The District should remove Subsection (d)(6)(ix) from the proposed rule. The person conducting the facility survey should not be required to categorize materials either as friable ACM, Category I Nonfriable ACM, or Category II Nonfriable ACM. The requirement in the NESHAP to categorize materials in such a manner is found within the NESHAP's notification requirements.

DISTRICT RESPONSE

The District agrees and has removed Subsection (d)(6)(ix) from the proposed rule.

37. WORKSHOP COMMENT

Subsection (d)(6)(x) requires a general description of the condition of the facility to be included in the facility survey report, including any known fire or structural damage. Many asbestos inspectors are not licensed or qualified to say if there is structural damage, or make a determination on building systems (e.g., HVAC, electrical, plumbing, etc.).

DISTRICT RESPONSE

The District agrees and has removed Subsection (d)(6)(x) from the proposed rule. A general description of the condition of the facility is only required in the notification for an emergency renovation or emergency demolition.

(e) NOTIFICATION REQUIREMENTS

38. WORKSHOP COMMENT

If a renovation or demolition operation at a facility exceeds the 100 square foot of RACM exemption threshold, would all further RACM removals, regardless of amount of asbestos, need to be notified?

DISTRICT RESPONSE

Yes. After the exemption threshold has been exceeded at a facility for any consecutive 365-day period, any additional RACM removed from each individual project will require a separate notification, regardless of the amount of RACM removed.

39. WORKSHOP COMMENT

Is the District planning on revising the current renovation or demolition notification form?

DISTRICT RESPONSE

If the proposed rule is adopted, the District will revise the notification form to conform to the latest requirements. Additionally, the District plans on developing an electronic notification form to enable online submittal of notifications and payments.

40. WORKSHOP COMMENT

Is there a way to verify that the contractor's notification submittal, pursuant to Subsection (e)(2), was accepted without the contractor having to call or e-mail the District? Can other individuals verify that a notification submittal has been made and accepted? Can individuals call the District to get a copy of the notifications?

DISTRICT RESPONSE

The District currently offers a service, Citizen Access, that allows online access to the records that are submitted to the District and users can designate other users to allow them to view the records. Citizen Access can be found at the following link:
<https://publicservices.sdcounty.ca.gov/citizenaccess/>.

Additionally, a notification is public record and can be requested via a "public records request" to the District. The District plans to develop an electronic notification form that would generate an automatic e-mail to the sender that confirms the District has received the notification.

41. WORKSHOP COMMENT

The District should exempt federal, state, and local government agencies from paying notification fees as required in Subsection (e)(4), or alternatively, give planned notifications a flat fee of \$500.

Planned notifications cannot be precise as to the particulars of many small actions. Therefore, the District is not able to come out to witness them. As such, charging variable fees for variable amounts of asbestos does not seem reasonable.

DISTRICT RESPONSE

The District disagrees. The District inspects planned renovation operations and is required to recover its costs for all services provided. The fees for the Asbestos Program are specified in District Rule 40 – Permit and Other Fees. The most recent amendments to Rule 40, which take effect on July 1, 2017, lower the overall notification fee for planned (annual) renovation operations.

42. WORKSHOP COMMENT

Will the District accept payments electronically? If so, what credit cards will the District accept? Will there be a service fee for using a credit card?

DISTRICT RESPONSE

Credit card transactions can presently only be processed in person or over the phone with an American Express or Discover card. However, effective July 1, 2017, the District will be able to accept other types of credit cards and online payments. Credit card payments made in person or over the phone will be assessed a processing fee of 2.2% of the amount paid. Payments made online will be subject to fees charged by the online submittal system vendor for the service.

43. WORKSHOP COMMENT

The proposed rule requires that payment be received by the District within one working day of the effective date of the notification. Currently, when notifications are faxed and payment made with a credit card, the District may take weeks to process the payment. Will the District consider the payment as received even if it has not been processed by the District?

DISTRICT RESPONSE

Yes. If the credit card payment is successfully processed by the District (meaning the credit card is valid and the charge was successful), the District will consider the date of submittal as the payment received date.

44. WORKSHOP COMMENT

Does the District require a 10-day notice prior to asbestos abatement or a demolition of a regulated facility?

DISTRICT RESPONSE

Yes, a completed notification is required 10 working days prior to the start date.

45. WORKSHOP COMMENT

The District should revise Subsection (e)(5)(ii) to include a specific deadline for the annual submittal of Planned Renovations instead of the 10 working days prior to the start of the calendar year.

DISTRICT RESPONSE

The District agrees and has revised Subsection (e)(5)(ii) to specify that notifications shall be submitted by December 17 of the year preceding the calendar year for which notice is being given.

46. WORKSHOP COMMENT

Subsection (e)(5)(iii) requires that for emergency renovations or emergency demolitions, notification be submitted and approved within one working day after the start of any emergency renovation or emergency demolition. The District should clarify that "within one working day" means "within 24 hours" or "by the close of business."

DISTRICT RESPONSE

The District agrees and has revised Subsection (e)(5)(iii) to clarify that the notifications should be submitted prior to the close of business of the next working day after the start of any emergency renovation or emergency demolition.

47. WORKSHOP COMMENT

What if the District decides that a renovation or demolition is not an emergency after the notification is submitted?

DISTRICT RESPONSE

If the District determines that a renovation or demolition is not an emergency and RACM has been removed, the owner or operator will be subject to compliance action.

48. WORKSHOP COMMENT

If a renovation or demolition notification is cancelled on the start date or the day after, can the notification fees be refunded?

DISTRICT RESPONSE

No. Notification fees can be refunded, less a \$60 cancellation fee, only if a cancellation notice is received by the District by noon on the working day prior to the notification start date.

49. WORKSHOP COMMENT

The notification forms are required to be signed and certified to the accuracy of the information provided. When the notification form is signed by the Owner/Operator, who does the signature represent?

DISTRICT RESPONSE

Whoever signs the renovation or demolition notification form claims responsibility for the content in the notification and represents the company they are employed by.

50. WORKSHOP COMMENT

The District should revise Subsection (e)(7)(xi) to include Category I Nonfriable ACM, in addition to RACM and Category II Nonfriable ACM.

DISTRICT RESPONSE

The District agrees and has revised Subsection (e)(7)(xi) as suggested.

51. WORKSHOP COMMENT

Does the proposed rule require the written analytical procedure used by the laboratories for analysis to be specified in the notification form?

DISTRICT RESPONSE

Yes, this requirement is specified in Subsection (e)(7)(xix).

52. WORKSHOP COMMENT

The District should remove the requirement on the notification form to identify both Category I and Category II Nonfriable ACM in Subsection (e)(7)(xx). The requirement should be to identify only Nonfriable ACM, which is the main concern.

DISTRICT RESPONSE

The District disagrees. The two categories differentiate the level of resilience that, depending on the method of removal, would render ACM friable. These categories also differentiate what can remain in place during a demolition, and thus are needed in the notification form.

53. WORKSHOP COMMENT

Subsection (e)(7)(xxi) specifies that the notification form should include a description of the facility components containing ACM to be removed, stripped, or disturbed. Does the District mean a list of facility components?

DISTRICT RESPONSE

Yes, a list of facility components shall be specified in the notification (e.g., acoustic ceiling, floor mastic, ceiling tiles, etc.).

(f) PROCEDURES FOR ASBESTOS EMISSION CONTROL

54. WORKSHOP COMMENT

An asbestos violation in the SCAQMD is called a P5 designation. What is an asbestos violation called in San Diego County? Does the District have a set penalty amount for asbestos violations?

DISTRICT RESPONSE

The District does not have a specific designation for asbestos violations nor a specific penalty amount for these violations. The District issues a “Notice of Violation” for violations of the existing District Asbestos Rules and the NESHAP, and these violations are assessed penalties in accordance with the Health and Safety Code. Information about the “Notice of Violation” process is available on the District website at:

http://www.sdapcd.org/content/sdc/apcd/en/compliance-programs/Violation_Information.html

55. WORKSHOP COMMENT

Does the District believe a building can be demolished with the roof in place without asbestos being disturbed?

DISTRICT RESPONSE

Category I Nonfriable ACM roofing material (e.g., asphalt tiles) in good condition can remain in place during a demolition as these materials exhibit physical characteristics that make them unlikely to be rendered friable during the demolition process. Cementitious based Category II Nonfriable ACM based roofing material (e.g., transite roof tiles) must be removed prior to a demolition. All Category I and II Nonfriable ACM that are in poor condition must be removed before a demolition. EPA has determined that these materials have a tendency to become friable during a demolition.

56. WORKSHOP COMMENT

Subsection (f)(1)(i) specifies that RACM does not need to be removed before demolition if it is Category I Nonfriable ACM and the material is not in poor condition and is not friable. Why would the District allow ACM to remain in the facility during demolition if it could have been removed?

DISTRICT RESPONSE

The EPA has determined that Category I Nonfriable ACM that is not in poor condition and is not friable can remain in a facility that will be demolished because these materials exhibit physical characteristics that make them unlikely to be rendered friable during the demolition process. If a mechanical removal method is employed and it renders such materials friable, then the owner or operator may be cited. The language in Subsection (f)(1)(i) is consistent with EPA Letters of Determination.

57. WORKSHOP COMMENT

The District should rewrite Subsections (f)(1)(i) and (ii) to correct the terminology and make it consistent with how the terms are defined in the proposed rule. For example, a Category I Nonfriable ACM that is not in poor condition (meaning good condition) and that has not become friable is not RACM as defined in new Subsection (c)(35).

DISTRICT RESPONSE

The District agrees and has revised Subsections (f)(1)(i) and (ii) to make the language consistent with the definition of RACM defined in new Subsection (c)(35).

58. WORKSHOP COMMENT

Keeping RACM adequately wet from the moment it is uncovered until it is removed could prove prohibitively expensive and/or result in damage to the facility. The District should add “or otherwise contain” to allow other reasonable options that would be equally effective to isolate the material, especially in the event utilities are inaccessible for continuous use.

DISTRICT RESPONSE

The District disagrees. The suggested language would make the proposed rule less stringent than the NESHAP, which is not allowed by CARB or EPA.

59. WORKSHOP COMMENT

The District should clarify Subsection (f)(10) by replacing “...all RACM, Category I, and Category II Nonfriable ACM...” with “...all ACM...”

DISTRICT RESPONSE

The District agrees and has revised Subsection (f)(10) as suggested.

60. WORKSHOP COMMENT

Subsection (f)(11) requires all asbestos renovation operation containment areas to install transparent viewports. If the containment areas are offices inside of other offices, how could transparent viewports be installed?

DISTRICT RESPONSE

Subsection (f)(11) requires a transparent viewport to be installed wherever there is an open area. If containment is located where the only open area is through a three stage decontamination, then a viewport would not be required.

(g) WASTE HANDLING AND DISPOSAL

61. WORKSHOP COMMENT

Does Section (g) apply to Miramar Landfill or to Sycamore Landfill?

DISTRICT RESPONSE

No. Section (g) applies to the waste handling and disposal of Asbestos-Containing Waste Material (ACWM), and Miramar Landfill and Sycamore Landfill do not accept ACWM.

62. WORKSHOP COMMENT

Subsection (g)(2) requires that a slurry be formed from the asbestos waste off of control devices by mixing that waste with water. How does the District recommend that slurry be made from a HEPA filter from a negative air machine or filters from HEPA vacuums?

DISTRICT RESPONSE

The addition of water or soapy water onto the filters prior to removal and ultimate disposal is sufficient to create a slurry (fiber and water/soapy water mixture).

63. WORKSHOP COMMENT

Asbestos danger signs are required to be posted at all the entrances to a containment area. Do these asbestos warning signs have to be put up during set-up or as soon as the poly sheeting is put up?

DISTRICT RESPONSE

The proposed rule and the NESHAP do not require that asbestos danger signs be put up around poly sheeting containment areas. However, federal OSHA and Cal/OSHA specify the requirements for these asbestos danger signs under 29 CFR 1926.1101(k)(7) and 8 CCR 1529(k)(7), respectively.

64. WORKSHOP COMMENT

What kind of certification does the District require pursuant to Subsection (g)(11)(viii)?

DISTRICT RESPONSE

Subsection (g)(11)(viii) requires a signed declaration, from the waste generator, that the waste shipment records are accurate.

65. WORKSHOP COMMENT

Subsections (g)(12) and (g)(13) are contradictory. Subsection (g)(12) specifies that the waste shipment record shall be provided at point of disposal, while Subsection (g)(13) gives up to 35 days. The District should delete Subsection (g)(13) from the proposed rule.

DISTRICT RESPONSE

The District disagrees. It is common practice for a waste transporter to store ACWM received from a waste generator at a contained facility until enough ACWM is accumulated to economically justify delivering the waste to a certified landfill. Subsection (g)(13) requires the waste generator to track ACWM once it is delivered to a waste transporter to ensure that the waste is delivered to a certified landfill within 35 days of the date the ACWM was accepted by the initial transporter.

66. WORKSHOP COMMENT

Is it the District's intention that Subsections (g)(13) and (g)(14) cover waste shipping requirements for nonfriable asbestos as well as friable asbestos? Are these requirements new?

DISTRICT RESPONSE

The requirements specified in Subsections (g)(13) and (g)(14) for waste handling and disposal are consistent with language in the District Asbestos Rules. These are not new requirements.

Section (g) applies to the waste handling and disposal of RACM. In cases where nonfriable ACM is in poor condition or is rendered friable in the renovation or demolition process, the ACWM are considered regulated. If the waste consists of RACM, then the waste shipment requirements of Section (g) apply. If the ACWM is nonfriable, and does not have a potential to become friable, then Section (g) will not apply.

(h) TEST METHODS

67. WORKSHOP COMMENT

Is Transmission Electron Microscopy (TEM) an acceptable test method to analyze asbestos containing tiles?

DISTRICT RESPONSE

Yes, TEM is an acceptable test method.

68. WORKSHOP COMMENT

If the TEM test method is used, does the Polarized Light Microscopy (PLM) test method need to be performed first?

DISTRICT RESPONSE

No. PLM is not required to be performed prior to conducting TEM.

69. WORKSHOP COMMENT

The District should add language to Subsection (h)(1) to allow the asbestos content to be analyzed by a Department of Defense (DoD) equivalent laboratory or a DoD-contracted laboratory for work performed on U.S. military bases. This will help ensure consistency across the U.S. military and common federal standards.

DISTRICT RESPONSE

Additional language is not required because the use of a DoD equivalent laboratory is acceptable, provided it is certified by the NVLAP and asbestos content is analyzed per the test methods specified in Section (h).

70. WORKSHOP COMMENT

Subsection (h)(1)(i) should be revised to add a comma between the words “drywall” and “tape.”

DISTRICT RESPONSE

The District disagrees. The use of the comma as suggested is not appropriate since this provision was intended to address drywall tape and joint compound when used to cover joints, nail holes, and cracks.

71. WORKSHOP COMMENT

Does the District want bulk samples of drywall and associated joint compound to be analyzed as a composite sample pursuant to Subsection (h)(1)(i)?

DISTRICT RESPONSE

No. As stated in Subsection (h)(1)(i), for layered systems, each distinct layer shall be analyzed as a separate material for determining compliance with the rule. A composite sample is appropriate for drywall tape and joint compound when used to cover joints, nail holes, and cracks.

72. WORKSHOP COMMENT

Is the point counting technique verification required for asbestos material that is assumed to be RACM and will be disposed of as RACM?

DISTRICT RESPONSE

No. The point counting verification is not required. Subsection (h)(1)(iii) has been deleted from the proposed rule.

73. WORKSHOP COMMENT

Please consider slowing down the rule development process and forming a workgroup involving the affected industry and asbestos-knowledgeable professionals to develop the revised rule.

DISTRICT RESPONSE

The District will hold a second workshop in June 2017 to present, discuss, and receive input on the proposed rule. The District will be accepting additional comments at this workshop and will publish a second workshop report. Additionally, the District is available to further meet with stakeholders to discuss specific concerns regarding the proposed rule.

74. WORKSHOP COMMENT

Proposed new draft Rule 1206 should be consistent with the NESHAP. The NESHAP is well-established and any deviations should be clearly justified. There are a number of guidance materials available to help facilities comply with the requirements.

DISTRICT RESPONSE

The proposed rule was developed to further protect the public from the health risks associated with asbestos exposure. The proposed rule clarifies requirements from the NESHAP and incorporates associated standards from EPA Letters of Determination to ensure stakeholders know what is required to comply with existing standards.

The District is proposing some additional requirements than those found in the NESHAP to address a number of asbestos related violations. Other new requirements were added for consistency with asbestos regulations adopted by other air districts in California, such as SCAQMD, SMAQMD, Bay Area Air Quality Management District, and Yolo Solano Air Quality Management District.

75. CALIFORNIA AIR RESOURCES BOARD COMMENTS

CARB has no official comments at this time.

AMO:jl
04/14/17

**AIR POLLUTION CONTROL DISTRICT
COUNTY OF SAN DIEGO**

**REVISED DRAFT RULE 1206 –
ASBESTOS REMOVAL, RENOVATION, AND DEMOLITION**

WORKSHOP REPORT

A workshop notice on revised draft Rule 1206 – Asbestos Removal, Renovation, and Demolition, was mailed to asbestos consultants and site surveillance technicians, City and County planning and development departments, national and regional realtors, landfills, registered transporters, testing labs, demolition contractors, training consultants, and multi-family residential facilities. Notices were also mailed to all economic development corporations and chambers of commerce in San Diego County, the U.S. Environmental Protection Agency (EPA), the California Air Resources Board (CARB), and other interested parties.

An initial workshop was held on February 23, 2017. Oral and written comments on proposed draft Rule 1206 were received before, during, and after the workshop. A workshop report was issued on April 20, 2017, which addressed comments received prior to that point.

A second workshop was held to discuss revised draft Rule 1206 on June 1, 2017, and was attended by 80 people. Oral and written comments were received before, during, and after the workshop. A summary of the comments and the Air Pollution Control District's (District) responses to these comments are as follows:

(b) EXEMPTIONS

1. WORKSHOP COMMENT

Please clarify how to estimate the square footage of asbestos-containing pipe and asbestos-containing pipe insulation when determining applicability with the proposed rule.

DISTRICT RESPONSE

To determine if the removal of asbestos-containing pipe or asbestos-containing pipe insulation is regulated under the proposed rule, the square footage of pipe or insulation that will be disturbed shall be measured as follows:

$$A = \frac{3.14 \times L \times D}{12}$$

Where:

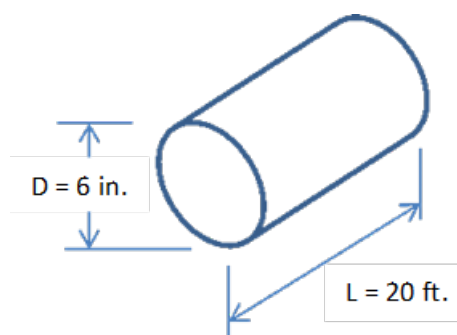
- A = Area in square feet
- L = Linear length of piping or the total length of insulation (wrap) to be cut, in feet
- D = Outside diameter of asbestos-containing pipe or pipe insulation (wrap), in inches

Example #1: pipe insulation (wrap) or when entire length of transite pipe being disturbed:

L = 20 feet of pipe insulation wrap/pipe

D = outside diameter of insulation wrap/pipe is 6 inches

$$A = \frac{3.14 \times 20 \times 6}{12} = 31.4 \text{ ft}^2$$

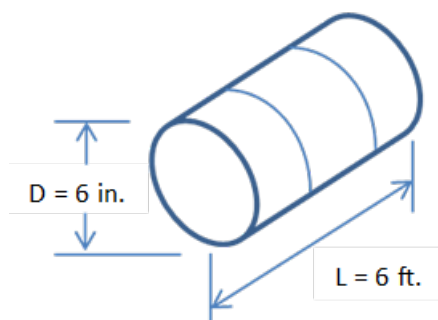


Example #2: partial section of 20 feet transite pipe being disturbed:

L = 3 cuts with a length of 2 feet each = 6 total feet being cut out of a 20 ft. transite pipe

D = outside diameter of transite pipe is 6 inches

$$A = \frac{3.14 \times 6 \times 6}{12} = 9.4 \text{ ft}^2$$



(c) DEFINITIONS

2. WORKSHOP COMMENT

Why did the District remove “flooring mastics” and “adhesives” from the definition of “Category I Nonfriable ACM” found in Subsection (c)(7)? Do these materials need to be removed prior to a demolition like other Category II nonfriables? Are other materials (e.g., materials found behind mirrors, under counter tops, under ceiling tiles, or behind wallpaper or other wall coverings) considered Category II nonfriable materials?

DISTRICT RESPONSE

The EPA has issued a series of determinations to clarify how the federal Asbestos National Emission Standards for Hazardous Air Pollutants (Asbestos NESHAP) applies to certain activities or situations. Floor mastics and adhesives were removed from the definition of “Category I Nonfriable ACM” in the proposed rule for consistency with EPA’s determination that all asbestos-containing mastics and adhesives are considered Category II Nonfriable Asbestos-Containing Materials (ACM).

Category II Nonfriable ACM is required to be removed from a facility prior to a renovation or demolition when it is in poor condition, or has a probability of becoming or will become crumbled, pulverized, or reduced to powder. All mastics and adhesives containing asbestos that are not in

poor condition and not likely to become crumbled, pulverized, or reduced to powder during the renovation or demolition operation are not required to be removed from a facility being renovated or demolished.

3. WORKSHOP COMMENT

Do concrete/asphalt parking lots, driveways, runways, walkways, loading docks, streets, and bridges fall under the definition of a “facility” found in Subsection (c)(16)?

DISTRICT RESPONSE

Yes. The proposed rule defines “facility” as “any institutional, commercial, public, industrial or residential structure....” EPA has determined that a bridge is a facility. Concrete/asphalt parking lots, driveways, runways, walkways, loading docks, and streets are considered facility components and regulated by the proposed rule when located on contiguous, attached or adjacent facility property.

4. WORKSHOP COMMENT

Please revise the definition of “Nonscheduled Renovation Operation” found in Subsection (c)(29) as follows: “a renovation operation, which is expected to occur within a given period based on past operating experience, but for which an exact date cannot be predicted.”

It is not clear why the nonscheduled renovation operation must be associated with the planned renovation. Also, it is not clear why “routine failure” is required. In Navy terms, it could be necessitated by a component that is worn but indefinitely serviceable, such as floor tiles, but that just becomes feasible due to funding.

DISTRICT RESPONSE

The District disagrees with the requested revision. Individual nonscheduled renovations are included in the annual notification for planned renovation if a number of such operations can be predicted to occur during a calendar year based on operating experience.

Any individual renovation activity not covered by the annual notification that is 100 square feet or more of Regulated Asbestos-Containing Material (RACM) will be subject to separate individual notification. Any smaller individual renovation activity (less than 100 square feet of RACM), not covered by the annual notification, does not need individual notification. However, if all the smaller individual renovation activities total more than 20 percent of the notified amount of RACM, a revised notification shall be submitted to the District.

A routine failure, as found in the definition of “Nonscheduled Renovation Operation,” refers to the failure of equipment (e.g., old water pipes in a ceiling bursting and leaking into an apartment unit, deteriorating ceiling tiles, boiler malfunctions, etc.) which may result in the need for RACM to be removed to address the routine failure.

5. WORKSHOP COMMENT

Please revise the definition of “Renovation Operation” found in Subsection (c)(39) as follows: “Renovation Operation” means the process of remodeling or upgrading an existing structure. This process includes the selective interior demolition and possibly some exterior demolition of a structure as the first step before renovation begins.”

DISTRICT RESPONSE

The District disagrees with the requested revision. The definition of “Renovation Operation” is consistent with the definition in the federal Asbestos NESHAP and accurately describes the asbestos removal operations that are regulated.

6. WORKSHOP COMMENT

Please explain how the proposed rule defines the “start date” of a demolition as found in Subsection (c)(41).

DISTRICT RESPONSE

The “start date” of a demolition operation is the first day that a load bearing structural member of a facility is wrecked or taken out, including the intentional burning of a facility, along with any related handling operations. For purposes of this proposed rule, related handling operations means any cutting, disjoining, stripping or removal of any suspect material associated with the wrecking or taking out of any load supporting structural member associated with a demolition.

The “start date” of a renovation operation is the first date that RACM is removed or when operations or site preparation work begins that would break up, dislodge, or similarly disturb RACM.

7. WORKSHOP COMMENT

The definition of “Suspect Material” found in Subsection (c)(44)(iv) has been amended to remove paint from the list of building materials that have a history of manufacture involving asbestos. We disagree with the District’s response to Workshop Comment No. 22 found in the previous workshop report (dated 4/14/17). The District’s response states that paints used in military application have a propensity to contain asbestos, are considered by the District to be a suspect

material, and should be surveyed at a regulated facility. The Navy has not seen any evidence that substantiates this statement. Most military paint is asbestos free as documented in the United States Military Standards (MILSPECs). We request that the District retract this statement to avoid any misunderstanding during future inspections and rule enforcement.

DISTRICT RESPONSE

The District agrees that military paint does not have a propensity to contain asbestos. Accordingly, this response supersedes the District's response to Workshop Comment No. 22 found in the previous workshop report (dated 4/14/17).

Although military paints do not typically contain asbestos and would not normally be sampled, if any paint is suspected of containing asbestos, then it should be sampled and analyzed for the presence of asbestos.

8. WORKSHOP COMMENT

Would the definition of "Suspect Material" in Subsection (c)(44)(iv) include materials made with concrete/asphalt, but not limited to walls, ceilings, floors, cementitious texture coats, parking lots, driveways, runways, walkways, stairs, stairwells, porches, loading docks, streets, and bridges?

DISTRICT RESPONSE

The definition of "Suspect Material" lists the most common examples of building materials that have a history of manufacture involving asbestos. Although asbestos is not commonly found in materials made with concrete and asphalt, the District has observed concrete and asphalt materials in the past that contained asbestos. It is the responsibility of the owner/operator of a facility to sample and analyze any materials suspected of containing asbestos in accordance with the test methods specified in Section (h) of the proposed rule.

(d) FACILITY SURVEY REQUIREMENTS

9. WORKSHOP COMMENT

Does the proposed rule require a "Procedure 5 Work Plan" and/or a facility survey to be completed prior to the removal of asbestos-containing pipe?

DISTRICT RESPONSE

A facility survey is required to determine the presence of asbestos on or in the pipes prior to removing them. However, if the pipes are presumed to contain RACM, asbestos sampling of the materials on or in the pipe is not required provided the facility survey documents that the pipes are presumed to contain RACM, a notification is submitted, and the pipes are removed and disposed

of as RACM in accordance with the proposed rule. The proposed rule does not require a specific work plan for asbestos renovations or demolitions.

10. WORKSHOP COMMENT

Are there manufacturers that provide asbestos-free certification of materials that would be adequate to meet the facility survey requirements?

DISTRICT RESPONSE

No, the presence of asbestos in suspect materials can only be determined by sampling and analyzing them in accordance with the test methods specified in Section (h) of the proposed rule. The EPA has issued several determinations reaffirming this requirement.

11. WORKSHOP COMMENT

We have new buildings certified as energy efficient. What is required to certify a building as asbestos-free? Can information from the developer and architect saying they obtained and used asbestos-free materials in the building be enough to certify the building as asbestos-free?

DISTRICT RESPONSE

See District Response to Workshop Comment No. 10 above.

12. WORKSHOP COMMENT

Would a facility survey be required if a job only consisted of removing building components such as drywall, cabinets, flooring, etc. (no load-bearing structures)?

DISTRICT RESPONSE

Yes, a facility survey is required provided the amount of RACM disturbed, as a result of the above work, exceeds the exemption thresholds stated in Section (b) of the proposed rule.

13. WORKSHOP COMMENT

Please add the following language to the end of Subsection (d)(1): “If a facility survey, performed after the renovation or demolition activity, demonstrates that no ACM is present, the facility is deemed to be in compliance with the rule and no notice of violation will be issued.”

The purpose of the requested change is to address potential situations where the inspector and the facility disagree over the presence of a suspect material, which ultimately is proven to be asbestos-free. Because the definition of “Suspect Material” is broad and subject to interpretation, it is possible that the facility may proceed with a survey that inadvertently leaves out a specific material. If that material is later tested and proved to be asbestos-free, there should be no cause for enforcement or NOV, since there was no harm to public health.

DISTRICT RESPONSE

The District disagrees with the requested language as it is not consistent with federal requirements. However, no enforcement action will be taken if a material that is not listed as a “suspect material” per Subsection (c)(44) is not surveyed prior to a renovation or demolition and is later found to not contain asbestos.

If the facility owner/operator has any questions regarding a specific material, they can either consult with the District or sample and analyze the material for the presence of asbestos in accordance with the test methods specified in Section (h) of the proposed rule.

14. WORKSHOP COMMENT

Please revise Subsection (d)(1) to state that, “a facility survey needs only to be conducted on the area to be disturbed, as opposed to the entire building if the entire building will not be disturbed.”

DISTRICT RESPONSE

The District disagrees that the requested wording is necessary. Subsection (d)(1) already states only “suspect materials that will be removed, stripped, or disturbed by the renovation or demolition operations shall be sampled and analyzed for asbestos content.” Accordingly, a facility survey is not required of suspect materials in a facility if there is no renovation or demolition.

15. WORKSHOP COMMENT

Please remove the language in Subsection (d)(1) that requires facility surveys to be no older than three years. The cost to pay for surveys every three years is exorbitant and unnecessary. As long as the survey covers the material being demolished/renovated and no major changes to the structure have occurred since the survey was completed, the survey should be valid and relevant.

DISTRICT RESPONSE

The District agrees and has deleted the proposed three year limitation for facility surveys.

16. WORKSHOP COMMENT

Subsection (d)(3) should be revised as follows: “For emergency demolition operations, a facility survey shall be required to determine the presence or absence of ACM prior to the removal of any debris.”

DISTRICT RESPONSE

The District disagrees. Pursuant to federal requirements, the District requires that a facility survey be conducted of all facilities prior to a demolition. However, emergency demolition operations are unique operations where demolition work must begin immediately to avoid public safety or health hazards for a structurally unsound facility in danger of imminent collapse. As a result, the District provides a different timeline to submit notifications and conduct the facility surveys for these emergency demolition operations.

17. WORKSHOP COMMENT

Subsection (d)(4) should require individuals conducting facility surveys to maintain a valid and *current* EPA-approved Building Inspector Course certificate.

DISTRICT RESPONSE

The District agrees and has revised Subsection (d)(4) as recommended.

18. WORKSHOP COMMENT

The California Division of Occupational Safety and Health (Cal/OSHA) requires that a Certified Asbestos Consultant (CAC) be involved when there is over 100 square feet of material being sampled for asbestos. Can the proposed rule specify when an individual conducting a facility survey is required to be a CAC or required to take and pass an EPA-approved Building Inspector Course?

DISTRICT RESPONSE

The proposed rule requires persons conducting facility surveys to have taken and passed a current EPA-approved Building Inspector Course.

The District is responsible for enforcing the federal Asbestos NESHAP but has no jurisdiction over and does not enforce Cal/OSHA requirements. It is the responsibility of an owner/operator to comply with all other applicable regulations that are enforced by other regulatory agencies (e.g., Department of Environmental Health, Cal/OSHA, etc.).

19. WORKSHOP COMMENT

If you have a certified building inspector conducting a facility survey and is taking samples of suspect materials from multiple apartment units, would the inspector have to sample the same material in each apartment unit even if the material is homogeneous?

DISTRICT RESPONSE

No. Individuals conducting a facility survey will be required to take representative samples of each type of homogenous suspect material located at a facility. Each unit does not have to be sampled if it contains the same types of homogenous materials.

(e) NOTIFICATION REQUIREMENTS

20. WORKSHOP COMMENT

Would the removal of asbestos-containing pipe require a notification if the asbestos-containing pipe is nonfriable and is not likely to be rendered friable during its removal?

DISTRICT RESPONSE

A notification is not required for the removal of the asbestos-containing pipe if it is not in poor condition and does not have a probability of becoming or has not become pulverized, or reduced to powder by the forces expected to act on the pipe during the renovation or demolition operation.

21. WORKSHOP COMMENT

Can the requirement to submit notifications 10 working days in advance be waived for an emergency demolition?

DISTRICT RESPONSE

Yes. Emergency demolitions and renovations, as defined per Subsections (c)(13) and (c)(14), respectively, are not subject to the 10 working day notification requirement. Instead, Subsection (e)(5)(iii) specifies the timing of these notification submittals.

22. WORKSHOP COMMENT

May a single notification form be submitted for a combined renovation and demolition project?

DISTRICT RESPONSE

Yes. The District prefers receiving a single notification form whenever renovation and demolition operations occur at the same facility because it expedites notification processing. Nevertheless, the owner/operator may submit separate notifications for combined renovation and demolition projects if preferred.

23. WORKSHOP COMMENT

If you have material presumed to be nonfriable ACM, is a facility survey (sampling) and notification for the presence and removal of asbestos required?

DISTRICT RESPONSE

Sampling of materials presumed to contain RACM is not required for any renovation or demolition operation provided the facility survey documents that the materials are presumed to contain RACM, a notification is submitted, and the materials are removed and disposed of as RACM in accordance with the proposed rule.

24. WORKSHOP COMMENT

What if there was a fire or other natural disaster that affected a structure and the owner did not do anything with the structure for a while? Is this facility regulated by the proposed rule?

DISTRICT RESPONSE

If the fire or other natural disaster did not result in the complete destruction of the structure and a demolition of the remaining structure must take place, then the proposed rule would apply. However, if the fire or other natural disaster resulted in the complete destruction of the structure, then the proposed rule would not apply.

Please be aware that even where complete destruction of the structure has occurred, building debris determined to contain asbestos, and posing a threat to the public, may be subject to District Rule 51 – Nuisance. The owner/operator must properly remove the asbestos-containing debris according to the applicable requirements of other regulatory agencies.

25. WORKSHOP COMMENT

The proposed notification requirements specified in Subsection (e)(7), as they apply to planned renovations, are not practical, and in some cases not possible to comply with for a military facility. Although many military facility Asbestos Program Managers know from experience that their bases will have multiple nonscheduled renovations, they usually do not have sufficient specificity a year in advance to prepare an annual notice that complies with all the provisions of Subsection

(e)(7). We are requesting streamlined notification requirements for small nonscheduled planned renovations.

DISTRICT RESPONSE

The District understands that information submitted in a planned notification may change during the course of a calendar year. For planned renovation operations, the notification form should be completed based on prior operating experience and with the most accurate information available at the time of submittal. If there are any updates (e.g., related to the start/end dates, quantity of regulated asbestos to be removed, removal/renovation contractor, work practice, engineering controls, etc.) after the notification is submitted, then the facility must submit notification updates or a revision.

Please be aware that the proposed rule only requires a revised notification when there is a change in the start date or if the amount of RACM to be removed increases by at least 20 percent. Further, any individual scheduled renovation of 100 square feet or more of RACM that is not covered by a planned renovation notification will require a separate notification.

Additionally, the District is developing a service for submitting electronic asbestos notifications and online payments, which can make the notification process more convenient for regulated facilities.

(f) PROCEDURES FOR ASBESTOS EMISSION CONTROL

26. WORKSHOP COMMENT

Subsection (f)(1) specifies conditions under which RACM does not have to be removed prior to a demolition. According to the definition of “Regulated Asbestos-Containing Material (RACM)”, the specified conditions would not qualify as RACM. The District should replace RACM with ACM in Subsection (f)(1).

DISTRICT RESPONSE

The District disagrees. The language is consistent with that found in the federal Asbestos NESHAP.

27. WORKSHOP COMMENT

Subsections (f)(1)(i) and (f)(1)(ii) specify when Category I Nonfriable ACM and Category II Nonfriable ACM do not need to be removed from a facility prior to a demolition. If a wrecking ball or bulldozer hits the side of a building, would that be considered a mechanical removal that would render the above mentioned ACM regulated?

DISTRICT RESPONSE

Yes, a wrecking ball or a bulldozer is considered a mechanical removal and is likely to render Category I Nonfriable ACM and Category II Nonfriable ACM regulated.

28. WORKSHOP COMMENT

Under what circumstances could ACM be left in place during a demolition?

DISTRICT RESPONSE

All Category I Nonfriable ACM and non-cementitious Category II Nonfriable ACM not in poor condition can remain in place during a demolition because these materials exhibit physical characteristics that make them unlikely to be rendered friable. For example, Category I Nonfriable ACM roofing material (e.g., asphalt tiles) in good condition can remain in place during a demolition. By contrast, cementitious based Category II Nonfriable ACM roofing material (e.g., transite roof tiles) must be removed prior to a demolition. Similarly, all Category I and II Nonfriable ACM that are in poor condition must be removed before a demolition. EPA has determined that these materials have a tendency to become friable during a demolition.

29. WORKSHOP COMMENT

The District should allow the use of translucent leak-tight wrapping to be used for asbestos emission control. Navy instructions require that asbestos waste bags be color coded for easy recognition of hazards. Currently, the Navy uses translucent blue asbestos waste bags not just locally, but worldwide.

DISTRICT RESPONSE

The purpose of requiring clear bags is to allow the inspector to determine that the RACM inside a bag is kept adequately wet. Translucent (semi-transparent) bags will be allowed as long as the inspectors can verify that the contents of the bag are adequately wet in situations where wetting is required. A definition for “Clear Leak-Tight Wrapping” has been added in proposed Subsection (c)(9) to clarify.

30. WORKSHOP COMMENT

The District should add a requirement that a competent person trained with a 5-day Asbestos Hazard Emergency Response Act (AHERA) Contractor Supervisor Course be on site during demolition activities. This may help resolve the problem of how to properly respond when additional suspect material is uncovered during a renovation or demolition.

DISTRICT RESPONSE

A trained onsite supervisor as specified in Subsection (f)(8) is only required during the removal of RACM. An owner/operator may choose to have trained personnel onsite during other renovation or demolition activities if there is a likelihood that additional suspect materials will be uncovered. Please be aware that it is the owner/operator's responsibility to ensure that a thorough facility survey is conducted to determine the presence of asbestos and to ensure that all RACM is removed prior to a renovation or demolition.

(h) TEST METHODS

31. WORKSHOP COMMENT

Can the point counting technique be used for all materials?

DISTRICT RESPONSE

Yes. The point counting technique may be used to determine or verify the presence of asbestos in any material.

GENERAL QUESTIONS

32. WORKSHOP COMMENT

During the workshop, the District stated that additional meetings will take place after the rule is adopted to further educate owners/operators. Will notifications for these meetings be sent out via e-mail, or will they be available through the website?

DISTRICT RESPONSE

If the Air Pollution Control Board adopts the proposed rule, then the District will set up additional training sessions to assist the public in complying with the rule. Notification of these training sessions will be e-mailed to all workshop participants and will also be available on the District's website.

Additionally, District staff is available to conduct training sessions at a facility's site. Onsite training sessions can be arranged by contacting Matthew Allison at (858) 586-2678 or matthew.allison@sdcounty.ca.gov.

33. WORKSHOP COMMENT

Is there a transition plan for renovation and demolition projects that are already entering in the design or construction phase while the proposed rule is in the approval process?

DISTRICT RESPONSE

Presently, all renovations and demolitions are subject to the existing District Asbestos Rules (Rules 361.140 through 361.156) and the federal Asbestos NESHAP. If the proposed new rule is adopted, all renovations and demolitions for which notifications are submitted on or after the date of rule adoption will be subject to the new rule.

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08/09/17

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RULE 40. PERMIT AND OTHER FEES (Adopted March 15, 2017 & Eff. July 1, 2017;
Revised (date of adoption))**(f) SPECIFIC PROGRAM FEES****(1) General Provisions**

For all of the applicable programs listed below, a late fee as described in Section (g) shall be assessed if the required fees are not paid within 30 days after the due date.

(2) Asbestos Demolition or Renovation Notification (date of adoption)

For each asbestos demolition or renovation notification subject to ~~Regulation XI Subpart M (NESHAP)~~ **Rule 1206 – Asbestos Removal, Renovation, and Demolition**, the owner or operator shall pay the applicable fees specified below. For projects where one notification is submitted for both renovation and demolition operations, the owner or operator shall pay both applicable renovation and demolition fees. Fees are due at the time a notification is submitted. Notifications or revisions thereof will not be considered received unless accompanied with the required fees. The terms used below are defined in ~~Regulation XI Subpart M~~ **Rule 1206**.

<u>TYPE OF OPERATION</u>	<u>Fee</u>
1. Renovation Operations (excluding residential buildings having four or fewer dwelling units)	
>160 sq. ft. or >260 linear (ln). ft. to 500 sq. or ln. ft. ≥100 sq. ft. to 500 sq. ft.	\$451
501 to 2,000 sq. or ln. ft.	\$529
2,001 to 5,000 sq. or ln. ft.	\$609
5,001 to 10,000 sq. or ln. ft.	\$671
>10,000 sq. or ln. ft.	\$746
2. Planned (Annual) Renovation Operations (add to appropriate renovation operation fee listed above)	\$90
3. Emergency Renovation Operations (add to appropriate renovation operation fee listed above)	\$90
4. Demolition Operations Regulated Asbestos Containing Material (RACM) sites or Non-RACM sites or sites with no asbestos present	\$535
5. Emergency Demolition Operations (add to demolition operation fee listed above)	\$90
6. Revised Notification Fee for Renovations, Demolitions, Planned Renovations, and Emergency Operations (NOTE: a revision is defined as a change in the original start date or when the amount of asbestos changes by greater than or equal to 20%.)	\$44

Additional fees may be required if the revised amount of asbestos to be removed increases to a higher category. The additional fee will be the difference between the fee paid and the fee required for the new category.

SUBPART M - NATIONAL EMISSION STANDARDS FOR ASBESTOS

(EPA Delegation Effective 7/18/89; Adopted and Effective 2/1/95)

*TO BE REPEALED (date of repeal)***RULE 361.140 APPLICABILITY**

The provisions of this subpart are applicable to those sources specified in Rules 361.142 through 361.151, 361.154 and 361.155.

RULE 361.141 DEFINITIONS

All terms that are used in this subpart and are not defined below are given the same meaning as in the Act and in Subpart A of this Regulation.

- (a) **"Active Waste Disposal Site"** means any disposal site, other than an inactive site.
- (b) **"Adequately Wet"** means sufficiently mix or penetrate with liquid to prevent the release of particulates. If visible emissions are observed coming from regulated asbestos-containing material, then that material has not been adequately wetted. However, the absence of visible emissions is not sufficient evidence of being adequately wet.
- (c) **"Asbestos"** means the asbestos-form varieties of serpentinite (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite (amosite), anthophyllite, and actinolite-tremolite.
- (d) **"Asbestos-Containing Waste Materials"** means mill tailings or any waste that contains commercial asbestos and is generated by a source subject to the provisions of this subpart. This term includes filters from control devices, friable asbestos waste material, and bags or other similar packaging contaminated with commercial asbestos. As applied to demolition and renovation operations, this term also includes regulated asbestos-containing material waste and materials contaminated with asbestos including disposable equipment and clothing.
- (e) **"Asbestos Mill"** means any facility engaged in converting, or in any intermediate step in converting, asbestos ore into commercial asbestos. Outside storage of asbestos material is not considered a part of the asbestos mill.
- (f) **"Asbestos Tailings"** means any solid waste that contains asbestos and is a product of asbestos mining or milling operations.
- (g) **"Asbestos Waste from Control Devices"** means any waste material that contains asbestos and is collected by a pollution control device.
- (h) **"Category I Nonfriable Asbestos-Containing Material"** means asbestos-containing packings, gaskets, resilient floor covering, and asphalt roofing products containing more than one percent asbestos as determined using the method specified in Appendix A, Subpart F, 40 CFR Part 763, Section 1, Polarized Light Microscopy.

(i) **"Category II Nonfriable Asbestos-Containing Material"** means any material, excluding Category I nonfriable Asbestos-Containing Material, containing more than one percent asbestos as determined using the methods specified in Appendix A, Subpart F, 40 CFR Part 763, Section 1, Polarized Light Microscopy that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

(j) **"Competent Person"** means a person who is a foreman, manager, supervisor, or other authorized representative who has successfully completed the training requirements of Rule 361.145, Subsection (d)(8).

(k) **"Commercial Asbestos"** means any material containing asbestos that is extracted from ore and has value because of its asbestos content.

(l) **"Cutting"** means to penetrate with a sharp-edged instrument and includes sawing, but does not include shearing, slicing, or punching.

(m) **"Demolition"** means the wrecking or taking out of any load-supporting structural member of a facility together with any related handling operations or the intentional burning of any such structure or facility.

(n) **"Emergency Demolition"** means any demolition under order of a federal, state or local governmental agency when such an order is issued for a structurally unsound facility in danger of imminent collapse.

(o) **"Emergency Renovation Operation"** means a renovation operation that was not planned but results from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard, is necessary to protect equipment from damage, or is necessary to avoid imposing an unreasonable financial burden. This term includes operations necessitated by non-routine failures of equipment.

(p) **"Fabricating"** means any processing (e.g., cutting sawing, drilling) of a manufactured product that contains commercial asbestos, with the exception of processing at temporary sites (field fabricating) for the construction or restoration of facilities. In the case of friction products, fabricating includes bonding, debonding, grinding, sawing, drilling, or other similar operations performed as part of fabricating.

(q) **"Facility"** means any institutional, commercial, public, industrial or residential structure, installation, or building (including any structure, installation, or building containing condominiums or individual dwelling units operated as a residential cooperative, but excluding residential buildings having four or fewer dwelling units); any ship; and any active or inactive waste disposal site. For purposes of this definition, any building, structure, or installation that contains a loft used as a dwelling is not considered a residential structure, installation, or building. Any structure, installation or building that was previously subject to this subpart is not excluded, regardless of its current use or function.

(r) **"Facility Component"** means any part of a facility including equipment.

(s) **"Friable Asbestos Material"** means any material containing more than one percent asbestos as determined using the method specified in Appendix A, Subpart F, 40 CFR Part 763 Section 1, Polarized Light Microscopy, that, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure. If the asbestos content is less than 10 percent as determined by a method other than point counting by polarized light microscopy (PLM), then the asbestos content shall be verified by point counting using PLM.

(t) **"Fugitive Source"** means any source of emissions not controlled by an air pollution control device.

(u) **"Glove Bag"** means a sealed compartment with attached inner gloves used for the handling of asbestos-containing materials. Information of glove bag installation and work practice requirements is contained in the Occupational Safety and Health Administration's (OSHA's) final rule on occupational exposure to asbestos (Appendix G to 29 CFR 1926.58).

(v) **"Grinding"** means to reduce to powder or small fragments and includes mechanical chipping or drilling.

(w) **"High Efficiency Particulate Air (HEPA) Filter"** is a filter capable of trapping and retaining at least 99.97 percent of all monodispersed particles of 0.3 micrometers in diameter or larger.

(x) **"In Poor Condition"** means the binding of the material is losing its integrity as indicated by peeling, cracking, or crumbling of the material.

(y) **"Inactive Waste Disposal Site"** means any disposal site or portion of the disposal site where additional asbestos-containing waste material has not been deposited within the past year.

(z) **"Installation"** means any building or structure or any group of buildings or structures at a single demolition or renovation site that are under the control of the same owner or operator (or owner or operator under common control).

(aa) **"Leak-tight"** means that solids or liquids cannot escape or spill out. It also means dust-tight.

(bb) **"Malfunction"** means any sudden and unavoidable failure of air pollution control equipment or process equipment or of a process to operate in a normal or usual manner so that emissions of asbestos are increased. Failures of equipment shall not be considered malfunctions if they are caused in any way by poor maintenance, careless operation, or any other preventable upset conditions, equipment breakdown, or process failure.

(cc) **"Manufacturing"** means the combining of commercial asbestos - or, in the case of woven friction products, the combining of textiles containing commercial asbestos - with any other material(s), including commercial asbestos, and the processing of this combination into a product. The use of asbestos diaphragms in chlorine production is considered a part of manufacturing.

(dd) **"Natural Barrier"** means a natural object that effectively precludes or deters access. Natural barriers include physical obstacles such as cliffs, lakes or other large bodies of water, deep and wide ravines, and mountains. Remoteness by itself is not a natural barrier.

(ee) **"Nonfriable Asbestos-Containing Material"** means any material containing more than one percent asbestos as determined using the method specified in Appendix A, Subpart F, 40 CFR Part 763, Section 1, Polarized Light Microscopy, that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

(ff) **"Nonscheduled Renovation Operation"** means a renovation operation necessitated by the routine failure of equipment, which is expected to occur within a given period based on past operating experience, but for which an exact date cannot be predicted.

(gg) **"Outside Air"** means the air outside buildings and structures, including, but not limited to, the air under a bridge or in an open air ferry dock.

(hh) **"Owner or Operator of a Demolition or Renovation Activity"** means any person who owns, leases, operates, controls, or supervises the facility being demolished or renovated or any person who owns, leases, operates, controls, or supervises the demolition or renovation operation, or both.

(ii) **"Particulate Asbestos Material"** means finely divided particles of asbestos or material containing asbestos.

(jj) **"Planned Renovation Operations"** means a renovation operation, or a number of such operations, in which some RACM will be removed or stripped within a given period of time and that can be predicted. Individual nonscheduled operations are included if a number of such operations can be predicted to occur during a given period of time based on operating experience.

(kk) **"Regulated Asbestos-Containing Material (RACM)"** means (a) Friable asbestos material, (b) Category I nonfriable Asbestos-Containing Material that has become friable, (c) Category I nonfriable Asbestos-Containing Material that will be or has been subjected to sanding, grinding, cutting or abrading, or (d) Category II nonfriable Asbestos-Containing Material that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations regulated by this subpart.

(ll) **"Remove"** means to take out RACM or facility components that contain or are covered with RACM from any facility.

(mm) **"Renovation"** means altering a facility or one or more facility components in any way, including the stripping or removal of RACM from a facility component. Operations in which load-supporting structural members are wrecked or taken out are demolitions.

(nn) **"Resilient Floor Covering"** means asbestos-containing floor tile, including asphalt and vinyl floor tile, and sheet vinyl floor covering containing more than one percent asbestos as determined using polarized light microscopy according to the method specified in Appendix A, Subpart F, 40 CFR Part 763, Section 1, Polarized Light Microscopy.

(oo) **"Roadways"** means surfaces on which vehicles travel. This term includes public and private highways, roads, streets, parking areas, and driveways.

(pp) **"Strip"** means to take off RACM from any part of a facility or facility components.

(qq) **"Structural Member"** means any load-supporting member of a facility, such as beams and load supporting walls; or any nonload-supporting member, such as ceilings and nonload-supporting walls.

(rr) **"Visible Emissions"** means any emissions, which are visually detectable without the aid of instruments, coming from RACM or asbestos-containing waste material, or from any asbestos milling, manufacturing, or fabricating operation. This does not include condensed, uncombined water vapor.

(ss) **"Waste Generator"** means any owner or operator of a source covered by this subpart whose act or process produces asbestos-containing waste material.

(tt) **"Waste Shipment Record"** means the shipping document, required to be originated and signed by the waste generator, used to track and substantiate the disposition of asbestos-containing waste material.

(uu) **"Working Day"** means Monday through Friday including holidays that fall on any of the days Monday through Friday.

RULE 361.142 STANDARD FOR ASBESTOS MILLS

(a) Each owner or operator of an asbestos mill shall either discharge no visible emissions to the outside air from that asbestos mill, including fugitive sources, or use the methods specified by Rule 361.152 to clean emissions containing particulate asbestos material before they escape to, or are vented to, the outside air.

(b) Each owner or operator of an asbestos mill shall meet the following requirements:

(1) Monitor each potential source of asbestos emissions from any part of the mill facility, including air cleaning devices, process equipment, and buildings that house equipment for material processing and handling, at least once each day, during daylight hours, for visible emissions to the outside air during periods of operation. The monitoring shall be by visual observation of at least 15 seconds duration per source of emissions.

(2) Inspect each air cleaning device at least once each week for proper operation and for changes that signal the potential for malfunction, including, to the maximum extent possible without dismantling other than opening the device, the presence of tears, holes, and abrasions in filter bags and for dust deposits on the clean side of bags. For air cleaning devices that cannot be inspected on a weekly basis according to this paragraph, submit to the Control Officer, and revise as necessary, a written maintenance plan to include, at a minimum, the following:

- (i) Maintenance schedule.
 - (ii) Recordkeeping plan.
- (3) Maintain records of the results of visible emissions monitoring and air cleaning device inspections using a format similar to that shown in Figures 1 and 2 and include the following:
- (i) Date and time of each inspection.
 - (ii) Presence or absence of visible emissions.
 - (iii) Condition of fabric filters, including presence of any tears, holes, and abrasions.
 - (iv) Presence of dust deposits on clean side of fabric filters.
 - (v) Brief description of corrective actions taken, including date and time.
 - (vi) Daily hours of operation for each air cleaning device.
- (4) Furnish upon request, and make available at the affected facility during normal business hours for inspection by the Control Officer, all records required under this rule.
- (5) Retain a copy of all monitoring and inspection records for at least two years.
- (6) Submit quarterly a copy of visible emission monitoring records to the Control Officer if visible emissions occurred during the report period. Quarterly reports shall be postmarked by the 30th day following the end of the calendar quarter.

RULE 361.143 STANDARD FOR ROADWAYS

No person may construct or maintain a roadway with asbestos tailings or asbestos-containing waste material on that roadway, unless, for asbestos tailings:

- (a) It is a temporary roadway on an area of asbestos ore deposits (asbestos mine); or
- (b) It is a temporary roadway at an active asbestos mill site and is encapsulated with a resinous or bituminous binder. The encapsulated road surface must be maintained at a minimum frequency of once per year to prevent dust emissions; or
- (c) It is encapsulated in asphalt concrete meeting the specifications contained in Section 401 of Standard Specifications for Construction of Roads and Bridges on Federal Highway Projects, FP-85, 1985, or their equivalent.

FIGURE 1. Record of Visible Emission Monitoring

Date of inspection (mo/day/yr)	Time of inspection (a.m./p.m.)	Air cleaning device or fugitive source designation or number	Visible emission observed (yes/no), corrective action taken	Daily operating hours	Inspector's initials

FIGURE 2. Air Cleaning Device Inspection Checklist

1. Air cleaning device designation or number _____
2. Date of inspection _____
3. Time of inspection _____
4. Is air cleaning device operating properly (yes/no) _____
5. Tears, holes, or abrasions in fabric filter (yes/no) _____
6. Dust on clean side of fabric filters (yes/no) _____
7. Other signs of malfunctions or potential malfunctions (yes/no) _____
8. Describe other malfunctions or signs of potential malfunctions. _____

9. Describe corrective action(s) taken. _____

10. Date and time corrective action taken. _____
11. Inspected by:

_____ (Print/Type Name)	_____ (Title)
_____ (Signature)	_____ (Date)
_____ (Print/Type Name)	_____ (Title)
_____ (Signature)	_____ (Date)

RULE 361.144 STANDARD FOR MANUFACTURING

(a) APPLICABILITY

This rule applies to the following manufacturing operations using commercial asbestos:

- (1) The manufacture of cloth, cord, wicks, tubing, tape, twine, rope, thread, yarn, roving, lap, or other textile materials.
- (2) The manufacture of cement products.
- (3) The manufacture of fireproofing and insulating materials.
- (4) The manufacture of friction products.
- (5) The manufacture of paper, millboard, and felt.
- (6) The manufacture of floor tile.
- (7) The manufacture of paints, coatings, caulks, adhesives, and sealants.
- (8) The manufacture of plastics and rubber materials.
- (9) The manufacture of chlorine utilizing asbestos diaphragm technology.
- (10) The manufacture of shotgun shell wads.
- (11) The manufacture of asphalt concrete.

(b) STANDARD

(1) Each owner or operator of any of the manufacturing operations to which this rule applies shall either:

- (i) Discharge no visible emissions to the outside air from these operations or from any building or structure in which they are conducted or from any other fugitive sources; or
 - (ii) Use the methods specified by Rule 361.152 to clean emissions from these operations containing particulate asbestos material before they escape to, or are vented to, the outside air.
- (2) Each owner or operator of any of the manufacturing operations to which this section applies shall:

(i) Monitor each potential source of asbestos emissions from any part of the manufacturing facility, including air cleaning devices, process equipment, and buildings housing material processing and handling equipment, at least once each day during daylight hours for visible emissions to the outside air during periods of operation. The monitoring shall be by visual observation of at least 15 seconds duration per source of emissions.

(ii) Inspect each air cleaning device at least once each week for proper operation and for changes that signal the potential for malfunctions, including, to the maximum extent possible without dismantling other than opening the device, the presence of tears, holes, and abrasions in filter bags and for dust deposits on the clean side of bags. For air cleaning devices that cannot be inspected on a weekly basis according to this paragraph, submit to the Control Officer, and revise as necessary, a written maintenance plan to include, at a minimum, the following:

(A) Maintenance schedule.

(B) Recordkeeping plan.

(iii) Maintain records of the results of visible emission monitoring and air cleaning device inspections using a format similar to that shown in Figures 1 and 2 and include the following:

(A) Date and time of each inspection.

(B) Presence or absence of visible emissions.

(C) Condition of fabric filters, including presence of any tears, holes and abrasions.

(D) Presence of dust deposits on clean side of fabric filters.

(E) Brief description of corrective actions taken, including date and time.

(F) Daily hours of operation for each air cleaning device.

(iv) Furnish upon request, and make available at the affected facility during normal business hours for inspection by the Control Officer, all records required under this rule.

(v) Retain a copy of all monitoring and inspection records for at least two years.

(vi) Submit quarterly a copy of the visible emission monitoring records to the Control Officer if visible emissions occurred during the report period. Quarterly reports shall be postmarked by the 30th day following the end of the calendar quarter.

RULE 361.145 STANDARD FOR DEMOLITION AND RENOVATION

(a) APPLICABILITY

Except as provided in Section (b) below, this rule applies to demolition and renovation operations involving the presence of regulated asbestos-containing material (RACM).

(b) EXEMPTIONS

(1) Renovation of a facility in which the combined amount of RACM to be removed or stripped or similarly disturbed measures (or will measure during a calendar year, for planned renovations) less than 80 linear meters (260 linear feet) on pipes and less than 15 square meters (160 square feet) on other facility components, and less than 1 cubic meter (35 cubic feet) off facility components where the length or area could not be measured previously, is exempt from the requirements of this rule.

(2) Emergency demolition operations, that are subject to an order of the federal, state or local government agency that describes the facility as structurally unsound and in danger of imminent collapse, are exempt from the notification requirements of Subsections (c)(1) and (c)(2) and the work practice procedures of Subsections (d)(1) through (d)(3).

(3) Demolition of a facility in which the combined amount of RACM measures less than 80 linear meters (260 linear feet) on pipes and less than 15 square meters (160 square feet) on other facility components, and less than 1 cubic meter (35 cubic feet) off facility components where the length or area could not be measured previously or there is no asbestos, is exempt from the requirements of Subsections (c)(1)(v), (c)(2)(viii) and (c)(2)(xvii), and of Section (d).

(4) Owners or operators of demolition and renovation operations are exempt from the requirements of Rules 361.05(a), 361.07, and 361.09 of NESHAPS Subpart A-General Provisions.

(c) NOTIFICATION REQUIREMENTS

(1) Except as provided in Section (b) above, each owner or operator of a demolition or renovation activity to which this rule applies shall provide, using a form similar to that shown in Figure 3, notification as follows:

(i) Provide the Control Officer with written notice of intention to demolish or renovate and associated fees pursuant to District Rule 40. Delivery of the notice by U.S. Postal Service, commercial delivery service, or hand delivery is acceptable.

(ii) Postmark or deliver the notice at least ten working days before asbestos stripping or removal work or any other activity begins (such as site preparation that would break up, dislodge or similarly disturb asbestos material).

(iii) Provide the Control Officer with a new notice whenever there is a change in the starting date for stripping or removal work or whenever the amount of asbestos affected changes by at least 20 percent. If the asbestos stripping or removal or demolition will begin after the original start date, notify the Control Officer of the new start date by telephone as soon as possible before the original start date, and provide the Control Officer with a new written notice of the new start date as soon as possible, but no later than, the original start date. If stripping or removal or demolition will begin earlier than the original start date, provide the Control Officer with a written notice at least 10 working days before the stripping or removal or demolition will begin. The associated fees required by District Rule 40 shall accompany the new notice.

(iv) For planned renovation operations involving individual nonscheduled operations, predict, and include in the notification, the combined additive amount of RACM to be removed or stripped during a calendar year of January 1 through December 31. Provide the District notice in accordance with Subsections c(1)(i), (ii) and (iii) above at least 10 working days before the end of the calendar year.

(v) For an emergency renovation or emergency demolition operation, the owner or operator shall postmark or deliver the information required in Subsections (c)(1)(i) and (c)(2) (except (c)(2)(viii) for emergency demolitions), in writing, to the District's Compliance Division as soon as possible before, but not later than, the following working day. Associated fees required by District Rule 40 shall be submitted with the information required by this section.

(2) The written notifications required in this section shall be submitted with the associated fees required by District Rule 40. Except as provided above, the following shall be included in the written notifications required by this section:

- (i) An indication of whether the notice is the original or a revised notification.
- (ii) Name, address, and telephone number of both the facility owner and operator and the asbestos removal contractor owner or operator.
- (iii) Type of operation: demolition or renovation.
- (iv) Description of the facility or affected part of the facility including the size, area, number of floors, age, and present and prior use of the facility.
- (v) Procedure, including analytical methods, employed to detect the presence of RACM and Category I and Category II nonfriable Asbestos-Containing Material.
- (vi) Estimate of the approximate amount of RACM to be removed from the facility in terms of length of pipe in linear meters (linear feet) and from other facility components in terms of surface area in square meters (square feet) or volume in cubic meters (cubic feet). Also, estimate the approximate amount of Category I and Category II nonfriable Asbestos-Containing Material in the affected part of the facility that will not be removed before demolition.

(vii) Location and street address (including building number, or name and floor or room number, if appropriate), city, county, and state, of the facility being demolished or renovated.

(viii) Scheduled starting and completion dates of asbestos removal work (or any other activity, such as site preparation that would break up, dislodge, or similarly disturb asbestos material) in a demolition or renovation; planned renovation operations involving individual nonscheduled operations shall only include the beginning and ending dates of the report period as described in Subsection (c)(1)(iv) of this rule.

(ix) Scheduled starting and completion dates of demolition or renovation.

(x) Description of planned demolition or renovation work to be performed and method(s) to be employed, including demolition or renovation techniques to be used and description of affected facility components.

(xi) Description of work practices and engineering controls to be used to comply with the requirements of this subpart, including asbestos removal and waste-handling emission control procedures.

(xii) Name and location of the waste disposal site where the asbestos-containing waste material will be deposited.

(xiii) A certification that at least one person trained as required by Subsection (d)(8) of this rule will supervise the stripping and removal described by this notification.

(xiv) For emergency demolition operations, the name, title, and authority of the federal, state or local government representative who has ordered the demolition, the date that the order was issued, and the date on which the demolition was ordered to begin. A copy of the order shall be attached to the notification.

(xv) For emergency renovation operations, the date and hour that the emergency occurred, a description of the sudden unexpected event, and an explanation of how the event caused an unsafe condition, or would cause equipment damage or an unreasonable financial burden.

(xvi) Description of procedures to be followed in the event that unexpected RACM is found or Category II nonfriable Asbestos-Containing Material becomes crumbled, pulverized, or reduced to powder.

(xvii) Name, address, and telephone number of the waste transporter.

NOTIFICATION OF DEMOLITION AND RENOVATION

Operator Project #	Postmark	Date Received	Notification #	
1. Type of notification (O=Original R=Revised C=Cancelled):				
2. Facility information (Identify owner, removal contractor, and other operator)				
Owner name:				
Address:				
City:	State:	Zip:		
Contact	Telephone #:			
Removal contractor:				
Address:				
City:	State:	Zip:		
Contact	Telephone #:			
other operator:				
Address:				
City:	State:	Zip:		
Contact	Telephone #:			
3. Type of operation (D=Demo O=Ordered Demo R=Renovation E=Emer. Renovation):				
4. Is asbestos present? (yes/no)				
5. Facility Description (Include building name, number and floor or room number)				
Bldg. Name:				
Address:				
City:	State:	Zip:		
Site Location:				
Building Size:	# of Floors:	Age in Years:		
Present Use:		Prior Use:		
6. Procedure, including analytical method, if appropriate, used to detect the presence of asbestos material:				
7. Approximate amount of asbestos material: a. Regulated ACM to be removed b. Category I ACM not removed c. Category II ACM not removed	RACM to be removed	Nonfriable Asbestos Material not to be removed		Indicate Unit of Measurement Below
		Cat I	Cat II	Unit
Pipes				LnFt: Ln m:
Surface Area				SqFt: Sq m:
Vol RACM off Facility Component				CuFt: Cu m:
8. Scheduled dates asbestos removal (mm/dd/yy) Start: Complete:				
9. Scheduled dates demo/renovation (mm/dd/yy) Start: Complete:				

FIGURE 3

NOTIFICATION OF DEMOLITION AND RENOVATION (continued)

10. Description of planned demolition or renovation work, and method(s) to be used:		
11. Description of work practices & engineering controls to be used to prevent emissions of asbestos at the demolition and renovation site:		
12. Waste Transporter #1		
Name:		
Address:		
City:	State:	Zip:
Contact Person:	Telephone #:	
Waste Transporter #2:		
Name:		
Address:		
City:	State:	Zip:
Contact Person	Telephone #:	
13. Waste Disposal Site		
Name:		
Location:		
City:	State:	Zip:
Contact	Telephone #:	
14. If demolition ordered by a government agency, please identify the agency below:		
Name	Title:	
Authority:		
Date of Order (mm/dd/yy):	Date Ordered to Begin (mm/dd/yy):	
15. For Emergency Renovations		
Date and Hour of Emergency (mm/dd/yy):		
Description of the Sudden, Unexpected Event:		
Explanation of how the event caused unsafe conditions, or would cause equipment damage or an unreasonable financial burden:		
16. Description of procedures to be followed in the event that unexpected asbestos is found or previously nonfriable asbestos material becomes crumbled, pulverized, or reduced to powder.		
17. I certify that an individual trained in the provisions of this regulation (40 CFR Part 61, Subpart M) will be onsite during the demolition or renovation & evidence that the required training has been accomplished by this person will be available for inspection during normal business hours.		
_____		_____
(Signature of Owner/Operator)		(Date)
18. I certify that the above information is correct:		
_____		_____
(Signature of Owner/Operator)		(Date)
FIGURE 3		

(d) PROCEDURES FOR ASBESTOS EMISSION CONTROL

Each owner or operator of a demolition or renovation activity to which this rule applies, shall:

(1) Remove all RACM from the facility being demolished or renovated before any activity begins that would break up, dislodge, or similarly disturb the material or preclude access to the material for subsequent removal. RACM need not be removed before demolition if:

(i) The RACM is Category I nonfriable Asbestos-Containing Material that is not in poor condition and is not friable, or

(ii) The RACM is on a facility component that is encased in concrete or other similarly hard material and is adequately wet whenever exposed during demolition, or

(iii) The RACM was not accessible for testing and was, therefore, not discovered until after demolition began and, as a result of the demolition, the material cannot be safely removed. If not removed for safety reasons, the exposed RACM and any asbestos-contaminated debris must be treated as asbestos-containing waste material and adequately wet at all times until disposed of, or

(iv) The RACM is Category II nonfriable Asbestos-Containing Material and the probability is low that the materials will become crumbled, pulverized, or reduced to powder during demolition.

(2) When a facility component that contains, is covered with, or is coated with RACM is being taken out of the facility as a unit or in sections:

(i) Adequately wet all RACM exposed during cutting or disjoining operations; and

(ii) Carefully lower each unit or section to the floor and to ground level, not dropping, throwing, sliding, or otherwise damaging or disturbing the RACM.

(3) When RACM is stripped from a facility component while it remains in place in the facility, adequately wet the RACM during the stripping operation.

(i) In renovation operations, wetting is not required if:

(A) The owner or operator has obtained prior written approval from the Administrator, based on a written application, that wetting to comply with this section would unavoidably damage equipment or present a safety hazard; and

(B) The owner or operator uses the following emission control methods:

(1) A local exhaust ventilation and collection system designed and operated to capture the particulate asbestos material produced by the stripping and removal of the asbestos materials. The system must exhibit no visible emissions to the outside air or be designed and operated in accordance with the requirements in Rule 361.152.

(2) A glove-bag system designed and operated to contain the particulate asbestos material produced by the stripping of the asbestos materials.

(3) Leak-tight wrapping to contain all RACM prior to dismantlement.

(ii) In renovation operations where wetting would result in equipment damage or a safety hazard, and the methods allowed in Subsection (d)(3)(i) of this rule cannot be used, another method may be used after obtaining written approval from the Administrator based upon a determination that it is equivalent to wetting in controlling emissions or to the methods allowed in Subsection (d)(3)(i) of this rule.

(iii) A copy of the Administrator's written approval shall be kept at the work-site and made available for inspection.

(4) After a facility component covered with, coated with, or containing RACM has been taken out of the facility as a unit or in sections pursuant to Subsection (d)(2) of this rule, it shall be stripped or contained in leak-tight wrapping, except as described in Subsection (d)(5) of this rule. If stripped, the owner or operator shall either:

(i) Adequately wet the RACM during stripping; or

(ii) Use a local exhaust ventilation and collection system designed and operated to capture the particulate asbestos material produced by the stripping. The system must exhibit no visible emissions to the outside air or be designed and operated in accordance with the requirements in Rule 361.152.

(5) For large facility components such as reactor vessels, large tanks, and steam generators, but not beams (which must be handled in accordance with Subsections (d)(2), (3), and (4) of this rule), the RACM is not required to be stripped if all of the following requirements are met:

(i) The component is removed, transported, stored, disposed of, or reused without disturbing or damaging the RACM.

(ii) The component is encased in a leak-tight wrapping.

(iii) The leak-tight wrapping is labeled according to Rule 361.149(d)(1)(i), (ii), and (iii) during loading and unloading operations and during storage.

(6) For all RACM, including material that has been removed or stripped, the owner or operator shall:

(i) Adequately wet the material and ensure that it remains wet until collected and contained or treated in preparation for disposal in accordance with Rule 361.150 (the RACM contained in leak-tight wrapping that has been removed in accordance with Subsections (d)(4) and (d)(3)(i)(B)(3) of this rule need not be wetted), and

(ii) Carefully lower the material to the ground and floor, not dropping, throwing, sliding, or otherwise damaging or disturbing the material; or if the RACM has been removed or stripped more than 50 feet above ground level and was not removed as units or in sections, transport the material to the ground via leak-tight chutes or containers.

(7) When the temperature at the point of wetting is below 0°C (32°F):

(i) The owner or operator need not comply with Subsection (d)(2)(i) and the wetting provisions of Subsection (d)(3) of this rule.

(ii) The owner or operator shall remove facility components containing, coated with, or covered with RACM as units or in sections to the maximum extent possible.

(iii) During periods when wetting operations are suspended due to freezing temperatures, the owner or operator must record the temperature in the area containing the facility components at the beginning, middle, and end of each workday and keep daily temperature records available for inspection by the Control Officer during normal business hours at the demolition or renovation site. The owner or operator shall retain the temperature records for at least two years.

(8) No RACM shall be stripped, removed, or otherwise handled or disturbed at a facility regulated by this rule unless at least one onsite representative, trained as a Competent Person, is present. The training required to qualify as a Competent Person shall include, as a minimum, training in the following categories:

(i) Applicability of this rule,

(ii) Notification requirements,

(iii) Material identification techniques,

(iv) Control procedures for removals including, at least, wetting, local exhaust ventilation, negative pressure enclosures, glove-bag procedures, and High Efficiency Particulate Air (HEPA) filters,

(v) Waste disposal work practices,

(vi) Reporting and recordkeeping, and

- (vii) Asbestos hazards and worker protection.

To remain qualified as a Competent Person, the trained representative shall receive refresher training at least once every two years in the categories listed above.

Evidence that the required training has been completed shall be posted and made available for inspection by the Control Officer at the demolition or renovation site.

(9) For emergency demolitions, adequately wet the portion of the facility that contains RACM during the wrecking operation.

(10) If a facility is demolished by intentional burning, all RACM including Category I and Category II nonfriable Asbestos-Containing Material must be removed in accordance with this subpart before burning.

RULE 361.146 STANDARD FOR SPRAYING

The owner or operator of an operation in which asbestos-containing materials are spray applied shall comply with the following requirements:

(a) For spray-on application on buildings, structures, pipes, and conduits, do not use material containing more than one percent asbestos as determined using the method specified in Appendix A, Subpart F, 40 CFR Part 763, Section 1, Polarized Light Microscopy, except as provided in Section (c) of this rule.

(b) For spray-on application of materials that contain more than one percent asbestos as determined using the method specified in Appendix A, Subpart F, 40 CFR Part 763, Section 1, Polarized Light Microscopy, on equipment and machinery, except as provided in Section (c) of this rule:

(1) Notify the Control Officer at least 20 days before beginning the spraying operation. Include the following information in the notice:

- (i) Name and address of owner or operator;
- (ii) Location of spraying operation; and
- (iii) Procedures to be followed to meet the requirements of this rule.

(2) Discharge no visible emissions to the outside air from the spray-on application of the asbestos-containing material or use the methods specified by Rule 361.152 to clean emissions containing particulate asbestos material before they escape to, or are vented to, the outside air.

(c) The requirements of Sections (a) and (b) of this rule do not apply to the spray-on application of materials where the asbestos fibers in the materials are encapsulated with a bituminous or resinous binder during spraying and the materials are not friable after drying.

(d) Owners or operators of sources subject to this rule are exempt from the requirements of Rules 361.05(a), 361.07, and 361.09.

RULE 361.147 STANDARD FOR FABRICATING

(a) APPLICABILITY

This rule applies to the following fabricating operations using commercial asbestos:

- (1) The fabrication of cement building products.
- (2) The fabrication of friction products, except those operations that primarily install asbestos friction materials on motor vehicles.
- (3) The fabrication of cement or silicate board for ventilation hoods; ovens; electrical panels; laboratory furniture, bulkheads, partitions, and ceilings for marine construction; and flow control devices for the molten metal industry.

(b) STANDARDS

Each owner or operator of any of the fabricating operations to which this rule applies shall either:

- (1) Discharge no visible emissions to the outside air from any of the operations or from any building or structure in which they are conducted or from any other fugitive sources; or
- (2) Use the methods specified by Rule 361.152 to clean emissions containing particulate asbestos material before they escape to, or are vented to, the outside air.
- (3) Monitor each potential source of asbestos emissions from any part of the fabricating facility, including air cleaning devices, process equipment, and buildings that house equipment for material processing and handling, at least once each day, during daylight hours, for visible emissions to the outside air during periods of operation. The monitoring shall be by visual observation of at least 15 seconds duration per source of emissions.
- (4) Inspect each air cleaning device at least once each week for proper operation and for changes that signal the potential for malfunctions, including, to the the maximum extent possible without dismantling other than opening the device, the presence of tears, holes, and abrasions in filter bags and for dust deposits on the clean side of bags. For air cleaning devices that cannot be inspected on a weekly basis according to this paragraph, submit to the Control Officer, and revise as necessary, a written maintenance plan to include, at a minimum, the following:
 - (i) Maintenance schedule.
 - (ii) Recordkeeping plan.

(5) Maintain records of the results of visible emission monitoring and air cleaning device inspections using a format similar to that shown in Figures 1 and 2 and include the following.

- (i) Date and time of each inspection.
- (ii) Presence or absence of visible emissions.
- (iii) Condition of fabric filters, including presence of any tears, holes and abrasions.
- (iv) Presence of dust deposits on clean side of fabric filters.
- (v) Brief description of corrective actions taken, including date and time.
- (vi) Daily hours of operation for each air cleaning device.

(6) Furnish upon request, and make available at the affected facility during normal business hours for inspection by the Control Officer, all records required under this rule.

(7) Retain a copy of all monitoring and inspection records for at least two years.

(8) Submit quarterly a copy of the visible emission monitoring records to the Control Officer if visible emissions occurred during the report period. Quarterly reports shall be postmarked by the 30th day following the end of the calendar quarter.

RULE 361.148 STANDARD FOR INSULATING MATERIALS

No owner or operator of a facility may install or reinstall on a facility component any insulating materials that contain commercial asbestos if the materials are either molded and friable or wet-applied and friable after drying. The provisions of this rule do not apply to spray-applied insulating materials regulated under Rule 361.146.

RULE 361.149 STANDARD FOR WASTE DISPOSAL FOR ASBESTOS MILLS

Each owner or operator of any source covered under the provisions of Rule 361.142 shall:

(a) Deposit all asbestos-containing waste material at waste disposal sites operated in accordance with the provisions of Rule 361.154; and

(b) Discharge no visible emissions to the outside air from the transfer of control device asbestos waste to the tailings conveyor, or use the methods specified by Rule 361.152 to clean emissions containing particulate asbestos material before they escape to, or are vented to, the outside air. Dispose of the asbestos waste from control devices in accordance with Rule 361.150(a) or Section (c) of this rule; and

(c) Discharge no visible emissions to the outside air during the collection, processing, packaging, or onsite transporting of any asbestos-containing waste material, or use one of the disposal methods specified in Subsections (c)(1) or (2) of this section as follows:

(1) Use a wetting agent as follows:

(i) Adequately mix all asbestos-containing waste material with a wetting agent recommended by the manufacturer of the agent to effectively wet dust and tailings, before depositing the material at a waste disposal site. Use the agent as recommended for the particular dust by the manufacturer of the agent.

(ii) Discharge no visible emissions to the outside air from the wetting operation or use the methods specified by Rule 361.152 to clean emissions containing particulate asbestos material before they escape to, or are vented to, the outside air.

(iii) Wetting may be suspended when the ambient temperature at the waste disposal site is less than -9.5°C (15°F), as determined by an appropriate measurement method with an accuracy of $\pm 1^{\circ}\text{C}$ ($\pm 2^{\circ}\text{F}$). During periods when wetting operations are suspended, the temperature must be recorded at least at hourly intervals, and records must be retained for at least two years in a form suitable for inspection.

(2) Use an alternative emission control and waste treatment method that has received prior written approval by the Administrator. To obtain approval for an alternative method, a written application must be submitted to the Administrator demonstrating that the following criteria are met:

(i) The alternative method will control asbestos emissions equivalent to currently required methods.

(ii) The suitability of the alternative method for the intended application.

(iii) The alternative method will not violate other regulations.

(iv) The alternative method will not result in increased water pollution, land pollution, or occupational hazards.

(d) When waste is transported by vehicle to a disposal site:

(1) Mark vehicles used to transport asbestos-containing waste material during the loading and unloading of the waste so that the signs are visible. The markings must:

(i) Be displayed in such a manner and location that a person can easily read the legend.

(ii) Conform to the requirements for 51 cm x 36 cm (20 in x 14 in) upright format signs specified in 29 CFR 1910.145(d)(4) and this paragraph; and

(iii) Display the following legend in the lower panel with letter sizes and styles of a visibility at least equal to those specified in this paragraph.

Legend
DANGER
ASBESTOS DUST HAZARD
CANCER AND LUNG DISEASE HAZARD
Authorized Personnel Only
Notation
2.5 cm (1 inch) Sans Serif, Gothic or Block
2.5 cm (1 inch) Sans Serif, Gothic or Block
1.9 cm (3/4 inch) Sans Serif, Gothic or Block
14 Point Gothic

Spacing between any two lines must be at least equal to the height of the upper of the two lines.

(2) For offsite disposal, provide a copy of the waste shipment record, described in Subsection (e)(1) of this rule, to the disposal site owner or operator at the same time as the asbestos-containing waste material is delivered to the disposal site.

(e) For all asbestos-containing waste material transported off the facility site:

(1) Maintain asbestos waste shipment records, using a form similar to that shown in Figure 4, and include the following information:

(i) The name, address, and telephone number of the waste generator.

(ii) The name and address of the local, State, or Environmental Protection Agency (EPA) Regional agency responsible for administering the asbestos NESHAPS program.

(iii) The quantity of the asbestos-containing waste material in cubic meters (cubic yards).

(iv) The name and telephone number of the disposal site operator.

(v) The name and physical site location of the disposal site.

(vi) The date transported.

(vii) The name, address, and telephone number of the transporter(s).

(viii) A certification that the contents of this consignment are fully and accurately described by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway according to applicable international and government regulations.

(2) For waste shipments where a copy of the waste shipment record, signed by the owner or operator of the designated disposal site, is not received by the waste generator within 35 days of the date the waste was accepted by the initial transporter, contact the transporter and/or the owner or operator of the designated disposal site to determine the status of the waste shipment.

(3) Report in writing to the local, State, or EPA Regional office responsible for administering the asbestos NESHAPS program for the waste generator if a copy of the waste shipment record, signed by the owner or operator of the designated waste disposal site, is not received by the waste generator within 45 days of the date the waste was accepted by the initial transporter. Include in the report the following information:

(i) A copy of the waste shipment record for which a confirmation of delivery was not received, and

(ii) A cover letter signed by the waste generator explaining the efforts taken to locate the asbestos waste shipment and the results of those efforts.

(4) Retain a copy of all waste shipment records, including a copy of the waste shipment record signed by the owner or operator of the designated waste disposal site, for at least two years.

(f) Furnish upon request, and make available for inspection by the Control Officer, all records required under this rule.

WASTE SHIPMENT RECORD

GENERATOR

1. Work site name and mailing address:	Owner's Name	Owner's Phone #
2. Operator's name and address		Operator's Phone #
3. Waste disposal site (WDS) name, mailing address, and physical site location:		WDS Phone #
4. Name and address of responsible agency:		
5. Description of materials:	6. Containers # Type	7. Total quantity m ³ (yd ³)
8. Special handling instructions and additional information		
9. OPERATOR'S CERTIFICATION: I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway according to applicable international and government regulations.		
Print/type name & title	Signature	Month Day Year

TRANSPORTER

10. Transporter #1 (Acknowledgement of receipt of materials)			
Print/type name & title		Signature	Month Day Year
Address	City	State Zip	Telephone #
11. Transporter #2 (Acknowledgement of receipt of materials)			
Print/type name & title		Signature	Month Day Year
Address	City	State Zip	Telephone #

FIGURE 4

WASTE SHIPMENT RECORD (continued)

DISPOSAL SITE

12. Discrepancy indication space		
13. Waste disposal site owner or operator:		Certification of receipt of asbestos materials covered by this manifest except as noted in Item 12.
Print/type name & title	Signature	Month Day Year

INSTRUCTIONS

WASTE GENERATOR SECTION (Items 1-9)

1. Enter the name of the facility at which asbestos waste is generated and the address where the facility is located. In the appropriate spaces, also enter the name of the owner of the facility and the owner's phone number.
2. If a demolition or renovation, enter the name and address of the company and authorized agent responsible for performing the asbestos removal. In the appropriate spaces, also enter the phone number of the operator.
3. Enter the name, address, and physical site location of the waste disposal site (WDS) that will be receiving the asbestos materials. In the appropriate spaces, also enter the phone number of the WDS. Enter "onsite" if the waste will be disposed of on the generator's property.
4. Provide the name and address of the local, State, or EPA Regional office responsible for administering the asbestos NESHAP program.
5. Indicate the types of asbestos waste materials generated. If from a demolition or renovation, indicate the amount of asbestos that is:
 - Friable asbestos material
 - Nonfriable asbestos material
6. Enter the number of containers used to transport the asbestos materials listed in Item 5. Also enter one of the following container codes used in transporting each type of asbestos material (specify any other type of container used if not listed below):
 - DM - Metal drums, barrels
 - DP - Plastic drums, barrels
 - BA - 6 mil plastic bags or wrapping

FIGURE 4

WASTE SHIPMENT RECORD (continued)

7. Enter the quantities of each type of asbestos material removed in units of cubic meters (cubic yards).
8. Use this space to indicate special transportation, treatment, storage or disposal or Bill of Lading information. If an alternate waste disposal site is designated, note it here. Emergency response telephone numbers or similar information may be included here.
9. The authorized agent of the waste generator must read and then sign and date this certification. The date is the date of receipt by transporter.

NOTE: The waste generator must retain a copy of this form.

TRANSPORTER SECTION (Items 10 & 11)

10. & 11. Enter name, address, and telephone number of each transporter used, if applicable. Print or type the full name and title of person accepting responsibility and acknowledging receipt of materials as listed on this waste shipment record for transport. Enter date of receipt and signature.

NOTE: The transporter must retain a copy of this form.

DISPOSAL SITE SECTION (Items 12 & 13)

12. The authorized representative of the WDS must note in this space any discrepancy between waste described on this manifest and waste actually received as well as any improperly enclosed or contained waste. Any rejected materials should be listed and destination of those materials provided. A site that converts asbestos-containing waste material to nonasbestos material is considered a WDS.
13. The signature (by hand) of the authorized WDS agent indicates acceptance and agreement with statements on this manifest except as noted in Item 12. The date is the date of signature and receipt of shipment.

NOTE: The WDS must retain a completed copy of this form. The WDS must also send a completed copy to the operator listed in Item 2.

FIGURE 4

**RULE 361.150 STANDARD FOR WASTE DISPOSAL FOR
MANUFACTURING, FABRICATING, DEMOLITION,
RENOVATION, AND SPRAYING OPERATIONS**

Each owner or operator of any source covered under the provisions of Rules 361.144 - 361.147 shall:

(a) Discharge no visible emissions to the outside air during the collection, processing (including incineration), packaging, or transporting of any asbestos-containing waste material generated by the source, or use one of the following emission control and waste treatment methods:

(1) The owner or operator shall adequately wet asbestos containing material as follows:

(i) Mix asbestos waste from control devices to form a slurry; adequately wet other asbestos-containing waste material; and

(ii) Discharge no visible emissions to the outside air from collection, mixing, and wetting, and handling operations, or use the methods specified by Rule 361.152 to clean emissions containing particulate asbestos material before they escape to, or are vented to, the outside air; and

(iii) After wetting, seal all asbestos-containing waste material in leak-tight containers while wet; or, for materials that will not fit into containers without additional breaking, put materials into leak-tight wrapping; and

(iv) Label the containers or wrapped materials specified in Subsection (a)(1)(iii) of this rule using warning labels specified by Occupational Safety and Health Standards of the Department of Labor, Occupational Safety and Health Administration (OSHA) under 29 CFR 1910.1001(j)(2) or 1926.58(k)(2)(iii). The labels shall be printed in letters of sufficient size and contrast so as to be readily visible and legible; and

(v) For asbestos-containing waste material to be transported off the facility site, label containers or wrapped materials with the name of the waste generator and the location at which the waste was generated.

(2) The owner or operator shall process asbestos-containing waste material into nonfriable forms as follows:

(i) Form all asbestos-containing waste material into nonfriable pellets or other shapes; and

(ii) Discharge no visible emissions to the outside air from collection and processing operations, including incineration, and use the methods specified by Rule 361.152 to clean emissions containing particulate asbestos material before they escape to, or are vented to, the outside air.

(3) For facilities demolished where the RACM is not removed prior to demolition according to Rule 361.145(d)(1)(i), (ii), (iii), and (iv) or for facilities demolished according to Rule 361.145(d)(9), the owner or operator shall adequately wet asbestos-containing waste material at all times after demolition and keep wet during handling and loading for transport to a disposal site. Asbestos-containing waste materials covered by this subsection do not have to be sealed in leak-tight containers or wrapping but may be transported and disposed of in bulk.

(4) The owner or operator may use an alternative emission control and waste treatment method that has received prior approval by the Administrator according to the procedure described in Rule 361.149(c)(2).

(5) As applied to demolition and renovation, the requirements of Section (a) of this rule do not apply to Category I nonfriable Asbestos-Containing Material waste and Category II nonfriable Asbestos-Containing Material waste that did not become crumbled, pulverized, or reduced to powder.

(b) All asbestos-containing waste material shall be deposited as soon as is practical by the waste generator at:

(1) A waste disposal site operated in accordance with the provisions of Rule 361.154, or

(2) An EPA-approved site that converts RACM and asbestos-containing waste material into nonasbestos (asbestos-free) material according to the provisions of Rule 361.155.

(3) The requirements of Section (b) of this rule do not apply to Category I nonfriable Asbestos-Containing Material that is not RACM.

(c) Mark vehicles used to transport asbestos-containing waste material during the loading and unloading of waste so that the signs are visible. The markings must conform to the requirements of Rule 361.149(d)(1)(i), (ii), and (iii).

(d) For all asbestos-containing waste material transported off the facility site:

(1) Maintain waste shipment records, using a form similar to that shown in Figure 4, and include the following information:

(i) The name, address, and telephone number of the waste generator.

(ii) The name and address of the local, State, or EPA Regional office responsible for administering the asbestos NESHAPS program.

(iii) The approximate quantity in cubic meters (cubic yards).

(iv) The name and telephone number of the disposal site operator.

- (v) The name and physical site location of the disposal site.
- (vi) The date transported.
- (vii) The name, address, and telephone number of the transporter(s).

(viii) A certification that the contents of this consignment are fully and accurately described by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway according to applicable international and government regulations.

(2) Provide a copy of the waste shipment record, described in Subsection (d)(1) of this rule, to the disposal site owners or operators at the same time as the asbestos-containing waste material is delivered to the disposal site.

(3) For waste shipments where a copy of the waste shipment record, signed by the owner or operator of the designated disposal site, is not received by the waste generator within 35 days of the date the waste was accepted by the initial transporter, contact the transporter and/or the owner or operator of the designated disposal site to determine the status of the waste shipment.

(4) Report in writing to the local, State, or EPA Regional office responsible for administering the asbestos NESHAPS program of the waste generator if a copy of the waste shipment record, signed by the owner or operator for the designated waste disposal site, is not received by the waste generator within 45 days of the date the waste was accepted by the initial transporter. Include in the report the following information:

(i) A copy of the waste shipment record for which a confirmation of delivery was not received, and

(ii) A cover letter signed by the waste generator explaining the efforts taken to locate the asbestos waste shipment and the results of those efforts.

(5) Retain a copy of all waste shipment records, including a copy of the waste shipment record signed by the owner or operator of the designated waste disposal site, for at least two years.

(e) Furnish upon request, and make available for inspection by the Control Officer all records required under this rule.

**RULE 361.151 STANDARD FOR INACTIVE WASTE DISPOSAL SITES
FOR ASBESTOS MILLS AND MANUFACTURING AND
FABRICATING OPERATIONS**

Each owner or operator of any inactive waste disposal site that was operated by sources covered under Rules 361.142, 361.144, or 361.147 and received deposits of asbestos-containing waste material generated by the sources, shall

(a) Comply with one of the following:

(1) Either discharge no visible emissions to the outside air from an inactive waste disposal site subject to this rule; or

(2) Cover the asbestos-containing waste material with at least 15 centimeters (6 inches) of compacted nonasbestos-containing material, and grow and maintain a cover of vegetation on the area adequate to prevent exposure of the asbestos-containing waste material. In desert areas where vegetation would be difficult to maintain, at least 8 additional centimeters (3 inches) of well-graded, nonasbestos crushed rock may be placed on top of the final cover instead of vegetation and maintained to prevent emissions; or

(3) Cover the asbestos-containing waste material with at least 60 centimeters (2 feet) of compacted nonasbestos-containing material, and maintain it to prevent exposure of the asbestos-containing waste; or

(4) For inactive waste disposal sites for asbestos tailings, a resinous or petroleum-based dust suppression agent that effectively binds dust to control surface air emissions may be used instead of the methods in Subsections (a)(1), (2), and (3) of this rule. Use the agent in the manner and frequency recommended for the particular asbestos tailings by the manufacturer of the dust suppression agent to achieve and maintain dust control. Obtain prior written approval of the Control Officer to use other equally effective dust suppression agents. For purposes of this rule, any used, spent, or other waste oil is not considered a dust suppression agent.

(b) Unless a natural barrier adequately deters access by the general public, install and maintain warning signs and fencing as follows, or comply with Subsection (a)(2) or (a)(3) of this rule.

(1) Display warning signs at all entrances and at intervals of 100 m (330 feet) or less along the property line of the site or along the perimeter of the sections of the site where asbestos-containing waste material was deposited. The warning signs must:

(i) Be posted in such a manner and location that a person can easily read the legend; and

(ii) Conform to the requirements for 51 cm x 36 cm (20" x 14") upright format signs specified in 29 CFR 1910.145(d)(4) and this rule; and

(iii) Display the following legend in the lower panel with letter sizes and styles of a visibility at least equal to those specified below:

Legend	Notation
Asbestos Waste Disposal Station	2.5 cm (1 inch) Sans Serif, Gothic or Block
Do Not Create Dust	1.9 cm (3/4 inch) Sans Serif, Gothic or Block
Breathing Asbestos is Hazardous to Your Health	14 Point Gothic

Spacing between any two lines must be at least equal to the height of the upper of the two lines.

(2) Fence the perimeter of the site in a manner adequate to deter access by the general public.

(3) When requesting a determination on whether a natural barrier adequately deters public access, supply information enabling the Administrator to determine whether a fence or a natural barrier adequately deters access by the general public.

(c) The owner or operator may use an alternative control method that has received prior approval of the Administrator rather than comply with the requirements of Sections (a) or (b) of this rule.

(d) Notify the Control Officer in writing at least 45 days prior to excavating or otherwise disturbing any asbestos-containing waste material that has been deposited at a waste disposal site under this rule, and follow the procedures specified in the notification. If the excavation will begin on a date other than the one contained in the original notice, notice of the new start date must be provided to the Control Officer at least ten working days before excavation begins and in no event shall excavation begin earlier than the date specified in the original notification. Include the following information in the notice:

(1) Scheduled starting and completion dates.

(2) Reason for disturbing the waste.

(3) Procedures to be used to control emissions during the excavation, storage, transport, and ultimate disposal of the excavated asbestos-containing waste material. If deemed necessary, the Administrator may require changes in the emission control procedures to be used.

(4) Location of any temporary storage site and the final disposal site.

(e) Within 60 days of a site becoming inactive and after the effective date of this subpart, record, in accordance with State law, a notation on the deed to the facility property and on any other instrument that would normally be examined during a title search; this notation will in perpetuity notify any potential purchaser of the property that:

- (1) The land has been used for the disposal of asbestos-containing waste material;
- (2) The survey plot and record of the location and quantity of asbestos-containing waste disposed of within the disposal site required in Rule 361.154(f) have been filed with the Administrator; and
- (3) The site is subject to 40 CFR Part 61, Subpart M.

RULE 361.152 AIR-CLEANING

(a) The owner or operator of a demolition or renovation activity who uses air-cleaning, as specified in this NESHAPS (Subpart M) shall:

(1) Use fabric filter collection devices, except as noted in Section (b) of this rule, doing all of the following:

(i) Ensuring that the airflow permeability, as determined by ASTM Method D737-75, does not exceed $9 \text{ m}^3/\text{min}/\text{m}^2$ ($30 \text{ ft}^3/\text{min}/\text{ft}^2$) for woven fabrics or $11 \text{ m}^3/\text{min}/\text{m}^2$ ($35 \text{ ft}^3/\text{min}/\text{ft}^2$) for felted fabrics, except that $12 \text{ m}^3/\text{min}/\text{m}^2$ ($40 \text{ ft}^3/\text{min}/\text{ft}^2$) for woven and $14 \text{ m}^3/\text{min}/\text{m}^2$ ($45 \text{ ft}^3/\text{min}/\text{ft}^2$) for felted fabrics is allowed for filtering air from asbestos ore dryers; and

(ii) Ensuring that felted fabric weighs at least 475 grams per square meter (14 ounces per square yard) and is at least 1.6 millimeters (one-sixteenth inch) thick throughout; and

(iii) Avoiding the use of synthetic fabrics that contain fill yarn other than that which is spun.

(2) Properly install, use, operate, and maintain all air-cleaning equipment authorized by this rule. Bypass devices may be used only during upset or emergency conditions and then only for so long as it takes to shut down the operation generating the particulate asbestos material.

(3) For fabric filter collection devices installed after January 10, 1989, provide for easy inspection for faulty bags.

(b) The following are exceptions to Subsection (a)(1):

(1) After January 10, 1989, if the use of fabric creates a fire or explosion hazard, or the Administrator determines that a fabric filter is not feasible, the Administrator may authorize as a substitute the use of wet collectors designed to operate with a unit contacting energy of at least 9.95 kilopascals (40 inches water gage pressure).

(2) Use a HEPA filter that is certified to be at least 99.97 percent efficient for 0.3 micron particles.

(3) The Administrator may authorize the use of filtering equipment other than described in Subsections (a)(1), and (b)(1) and (2) of this rule if the owner or operator demonstrates to the Administrator's satisfaction that it is equivalent to the described equipment in filtering particulate asbestos material.

RULE 361.153 REPORTING

(a) Any new source to which this subpart applies (with the exception of sources subject to Rules 361.143, 361.145, 361.146, and 361.148), which has an initial startup date preceding the effective date of this revision, shall provide the following information to the Control Officer postmarked or delivered within 90 days of the effective date. In the case of a new source that does not have an initial startup date preceding the effective date, the information shall be provided, postmarked or delivered, within 90 days of the initial startup date. Any owner or operator of an existing source shall provide the following information to the Control Officer within 90 days of the effective date of this subpart unless the owner or operator of the existing source has previously provided this information to the Control Officer. Any changes in the information provided by any existing source shall be provided to the Control Officer, postmarked or delivered, within 30 days after the change.

(1) A description of the emission control equipment used for each process; and

(2) If a fabric filter device is used to control emissions:

(i) The airflow permeability in $\text{m}^3/\text{min}/\text{m}^2$ ($\text{ft}^3/\text{min}/\text{ft}^2$) if the fabric filter device uses a woven fabric, and if the fabric is synthetic, whether the fill yarn is spun or not spun; and

(ii) If the fabric filter device uses a felted fabric, the density in g/m^2 (oz/yd^2), the minimum thickness in millimeters (inches), and the airflow permeability in $\text{m}^3/\text{min}/\text{m}^2$ ($\text{ft}^3/\text{min}/\text{ft}^2$).

(3) If a HEPA filter is used to control emissions, the certified efficiency.

(4) For sources subject to Rules 361.149 and 361.150:

(i) A brief description of each process that generates asbestos-containing waste material; and

- (ii) The average volume of asbestos-containing waste material disposed of, measured in m³/day (yd³/day); and
 - (iii) The emission control methods used in all stages of waste disposal; and
 - (iv) The type of disposal site or incineration site used for ultimate disposal, the name of the site operator, and the name and location of the disposal site.
- (5) For sources subject to Rules 361.151 and 361.154:
- (i) A brief description of the site; and
 - (ii) The method or methods used to comply with the standard, or alternative procedures to be used.

(b) The information required by Section (a) of this rule must accompany the information required by Rule 361.10. Active waste disposal sites subject to Rule 361.154 shall also comply with this provision. Roadways, demolition and renovation, spraying, and insulating materials are exempted from the requirements of Rule 361.10(a). The information described in this rule must be reported using the format of Appendix A of 40 CFR Part 61 as a guide.

RULE 361.154 STANDARD FOR ACTIVE WASTE DISPOSAL SITES

Each owner or operator of an active waste disposal site that receives asbestos-containing waste material from a source covered under Rules 361.149, 361.150, or 361.155 shall meet the requirements of this rule.

(a) Either there must be no visible emissions to the outside air from any active waste disposal site where asbestos-containing waste material has been deposited, or the requirements of Sections (c) or (d) of this rule must be met.

(b) Unless a natural barrier adequately deters access by the general public, either warning signs and fencing must be installed and maintained as follows, or the requirements of Subsection (c)(1) of this rule must be met.

(1) Warning signs must be displayed at all entrances and at intervals of 100 m (330 ft) or less along the property line of the site or along the perimeter of the sections of the site where asbestos-containing waste material is deposited. The warning signs must:

- (i) Be posted in such a manner and location that a person can easily read the legend; and
- (ii) Conform to the requirements for 51 cm x 36 cm (20" x 14") upright format signs specified in 29 CFR 1910.145(d)(4) and this rule; and

(iii) Display the following legend in the lower panel with letter sizes and styles of a visibility at least equal to those specified below:

Legend	Notation
Asbestos Waste Disposal Site	2.5 cm (1 inch) Sans Serif, Gothic or Block
Do Not Create Dust	1.9 cm (3/4 inch) Sans Serif, Gothic or Block
Breathing Asbestos is Hazardous to Your Health	14 Point Gothic

Spacing between any two lines must be at least equal to the height of the upper of the two lines.

(2) The perimeter of the disposal site must be fenced in a manner adequate to deter access by the general public.

(3) Upon request and supply of appropriate information, the Control Officer will determine whether a fence or a natural barrier adequately deters access by the general public.

(c) Rather than meet the no visible emission requirement of Section (a) of this rule, at the end of each operating day, or at least once every 24-hour period while the site is in continuous operation, the asbestos-containing waste material that has been deposited at the site during the operating day or previous 24-hour period shall:

(1) Be covered with at least 15 centimeters (6 inches) of compacted nonasbestos-containing material, or

(2) Be covered with a resinous or petroleum-based dust suppression agent that effectively binds dust and controls wind erosion. Such an agent shall be used in the manner and frequency recommended for the particular dust by the dust suppression agent manufacturer to achieve and maintain dust control. Other equally effective dust suppression agents may be used upon prior approval by the Control Officer. For purposes of this section, any used, spent, or other waste oil is not considered a dust suppression agent.

(d) Rather than meet the no visible emission requirement of Section (a) of this rule, use an alternative emissions control method that has received prior written approval by the Administrator according to the procedures described in Rule 361.149(c)(2).

(e) For all asbestos-containing waste material received, the owner or operator of the active waste disposal site shall:

(1) Maintain waste shipment records using a form similar to that shown in Figure 4, and include the following information:

- (i) The name, address, and telephone number of the waste generator.
- (ii) The name, address, and telephone number of the transporter(s).
- (iii) The quantity of the asbestos-containing waste material in cubic meters (cubic yards).
- (iv) The presence of improperly enclosed or uncovered waste, or any asbestos-containing waste material not sealed in leak-tight containers. Report in writing to the local, state, or EPA Regional office responsible for administering the asbestos NESHAPS program for the waste generator (identified in the waste shipment record), and if different, the local, State, or EPA Regional office responsible for administering the asbestos NESHAPS program for the disposal site, by the following working day, the presence of a significant amount of improperly enclosed or uncovered waste. Submit a copy of the waste shipment record along with the report.
- (v) The date of the receipt.

(2) As soon as possible and no longer than 30 days after receipt of the waste, send a copy of the signed waste shipment record to the waste generator.

(3) Upon discovering a discrepancy between the quantity of waste designated on the waste shipment records and the quantity actually received, attempt to reconcile the discrepancy with the waste generator. If the discrepancy is not resolved within 15 days after receiving the waste, immediately report in writing to the local, State, or EPA Regional office responsible for administering the asbestos NESHAPS program for the waste generator (identified in the waste shipment record), and, if different, the local, State, or EPA Regional Office responsible for administering the asbestos NESHAPS program for the disposal site. Describe the discrepancy and attempts to reconcile it, and submit a copy of the waste shipment record along with the report.

(4) Retain a copy of all records and reports required by this section for at least two years.

(f) Maintain, until closure, records of the location, depth and area, and quantity in cubic meters (cubic yards) of asbestos-containing waste material within the disposal site on a map or diagram of the disposal area.

(g) Upon closure, comply with all the provisions of Rule 361.151.

(h) Submit to the Control Officer, upon closure of the facility, a copy of records of asbestos waste disposal locations and quantities.

(i) Furnish upon request, and make available during normal business hours for inspection by the Control Officer, all records required under this rule.

(j) Notify the Control Officer in writing at least 45 days prior to excavating or otherwise disturbing any asbestos-containing waste material that has been deposited at a waste disposal site and is covered. If the excavation will begin on a date other than the one contained in the original notice, notice of the new start date must be provided to the Control Officer at least ten working days before excavation begins and in no event shall excavation begin earlier than the date specified in the original notification. Include the following information in the notice:

- (1) Scheduled starting and completion dates.
- (2) Reason for disturbing the waste.
- (3) Procedures to be used to control emissions during the excavation, storage, transport, and ultimate disposal of the excavated asbestos-containing waste material. If deemed necessary, the Control Officer may require changes in the emission control procedures to be used.
- (4) Location of any temporary storage site and the final disposal site.

**RULE 361.155 STANDARD FOR OPERATIONS THAT CONVERT
ASBESTOS-CONTAINING WASTE MATERIAL INTO
NONASBESTOS (ASBESTOS-FREE) MATERIAL**

Each owner or operator of an operation that converts RACM and asbestos-containing waste material into nonasbestos (asbestos-free) material shall:

(a) Obtain prior written approval of the Administrator to construct the facility. To obtain approval, the owner or operator shall provide the Administrator with the following information:

- (1) Application to construct pursuant to Rule 361.07.
- (2) In addition to the information requirements of Rule 361.07(b)(3), a
 - (i) Description of waste feed handling and temporary storage.
 - (ii) Description of process operating conditions.
 - (iii) Description of the handling and temporary storage of the end product.
 - (iv) Description of the protocol to be followed when analyzing output materials by transmission electron microscopy.
- (3) Performance test protocol, including provisions for obtaining information required under Section (b) of this rule.
- (4) The Administrator may require that a demonstration of the process be performed prior to approval for the application to construct.

(b) Conduct a startup performance test. Test results shall include:

(1) A detailed description of the types and quantities of nonasbestos material, RACM, and asbestos-containing waste material processed, e.g., asbestos cement products, friable asbestos insulation, plaster, wood, plastic, wire, etc. Test feed is to include the full range of materials that will be encountered in actual operation of the process.

(2) Results of analyses, using polarized light microscopy, that document the asbestos content of the wastes processed.

(3) Results of analyses, using transmission electron microscopy, that document that the output materials are free of asbestos. Samples for analysis are to be collected as eight-hour composite samples (one 200-gram [7-ounce] sample per hour), beginning with the initial introduction of RACM or asbestos-containing waste material and continuing until the end of the performance test.

(4) A description of operating parameters, such as temperature and residence time, defining the full range over which the process is expected to operate to produce non-asbestos (asbestos-free) materials. Specify the limits for each operating parameter within which the process will produce nonasbestos (asbestos-free) materials.

(5) The length of the test.

(c) During the initial 90 days of operation:

(1) Continuously monitor and log the operating parameters identified during startup performance tests that are intended to ensure the production of nonasbestos (asbestos-free) output material.

(2) Monitor input materials to ensure that they are consistent with the test feed materials described during startup performance tests in Subsection (b)(1) of this rule.

(3) Collect and analyze samples, taken as ten-day composite samples (one 200-gram [7-ounce] sample collected every eight hours of operation) of all output material for the presence of asbestos. Composite samples may be for fewer than ten days. Transmission electron microscopy (TEM) shall be used to analyze the output material for the presence of asbestos. During the initial 90-day period, all output materials must be stored onsite until analysis shows the material to be asbestos-free or disposed of as asbestos-containing waste material according to Rule 361.150.

(d) After the initial 90 days of operation:

(1) Continuously monitor and record the operating parameters identified during startup performance testing and any subsequent performance testing. Any output produced during a period of deviation from the range of operation conditions established to ensure the production of nonasbestos (asbestos-free) output materials shall be:

(i) Disposed of as asbestos-containing waste material according to Rule 361.150, or

(ii) Recycled as waste feed during process operation within the established range of operating conditions, or

(iii) Stored temporarily onsite in a leak-tight container until analyzed for asbestos content. Any product material that is not asbestos-free shall be either disposed of as asbestos-containing waste material or recycled as waste feed to the process.

(2) Collect and analyze monthly composite samples (one 200-gram [7-ounce] sample collected every eight hours of operation) of the output material. Transmission electron microscopy shall be used to analyze the output material for the presence of asbestos.

(e) Discharge no visible emissions to the outside air from any part of the operation, or use the methods specified by Rule 361.152 to clean emissions containing particulate asbestos material before they escape to, or are vented to, the outside air.

(f) Maintain records onsite and include the following information:

(1) Results of startup performance testing and all subsequent performance testing, including operating parameters, feed characteristic, and analyses of output materials.

(2) Results of the composite analyses required during the initial 90 days of operation under Rule 361.155(c);

(3) Results of the monthly composite analyses required under Rule 361.155(d);

(4) Results of continuous monitoring and logs of process operating parameters required under Rule 361.155(c) and (d);

(5) The information on waste shipments received as required in Rule 361.154(e);

(6) For output materials where no analyses were performed to determine the presence of asbestos, record the name and location of the purchaser or disposal site to which the output materials were sold or deposited, and the date of sale or disposal; and

(7) Retain records required by Section (f) of this rule for at least two years.

(g) Submit the following reports to the Administrator:

(1) A report for each analysis of product composite samples performed during the initial 90 days of operation.

(2) A quarterly report, including the following information concerning activities during each consecutive 3-month period:

- (i) Results of analyses of monthly product composite samples;
 - (ii) A description of any deviation from the operating parameters established during performance testing, the duration of the deviation, and steps taken to correct the deviation;
 - (iii) Disposition of any product produced during a period of deviation, including whether it was recycled, disposed of as asbestos-containing waste material, or stored temporarily onsite until analyzed for asbestos content; and
 - (iv) The information on waste disposal activities as required in Rule 361.154(f).
- (h) Nonasbestos (asbestos-free) output material is not subject to any of the provisions of this subpart. Output materials in which asbestos is detected, or output materials produced when the operating parameters deviated from those established during the startup performance testing, unless shown by TEM analysis to be asbestos-free, shall be considered to be asbestos-containing waste and shall be handled and disposed of according to Rules 361.150 and 361.154 or reprocessed while all of the established operating parameters are being met.

RULE 361.156 CROSS-REFERENCE TO OTHER ASBESTOS REGULATIONS

In addition to this subpart, the regulations referenced in Table 1 also apply to asbestos and may be applicable to those sources specified in Rules 361.142 through 361.151, 361.154, and 361.155 of this subpart. These cross-references are presented for the reader's information and to promote compliance with the cited regulations.

TABLE 1. CROSS REFERENCE TO OTHER ASBESTOS REGULATIONS

Agency	CFR Citation	Comment
EPA	40 CFR 763, Subpart E, F	Requires schools to inspect for asbestos and implement response actions and submit asbestos management plans to States. Specifies use of accredited inspectors, air sampling methods, and waste disposal procedures.
	40 CFR 427	Effluent standards for asbestos manufacturing source categories.
	40 CFR 763, Subpart G	Protects public employees performing asbestos abatement work in States not covered by OSHA asbestos standard.
OSHA	29 CFR 1910.1001	Worker protection measures--engineering controls, worker training, labeling, respiratory protection, bagging of waste, 0.2 f/cc permissible exposure level.
	29 CFR 1926.58	Worker protection measures for all construction work involving asbestos, including demolition and renovation--work practices, worker training, bagging of waste, 0.2 f/cc permissible exposure level.
MSHA	30 CFR 56, Subpart D	Specifies exposures limits, engineering controls, and respiratory protection measures for workers in surface mines.
	30 CFR 57, Subpart D	Specifies exposure limits, engineering controls, and respiratory protection measures for workers in underground mines.
DOT	49 CFR 171 and 172	Regulates the transportation of asbestos-containing waste material. Requires waste containment and shipping papers.