

**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:

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

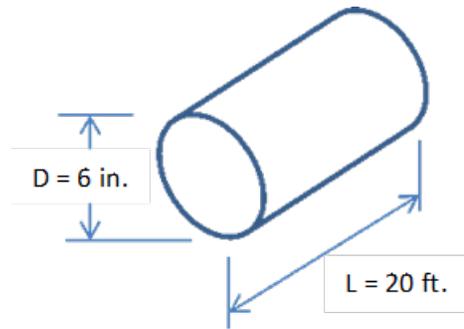
Where:

- 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

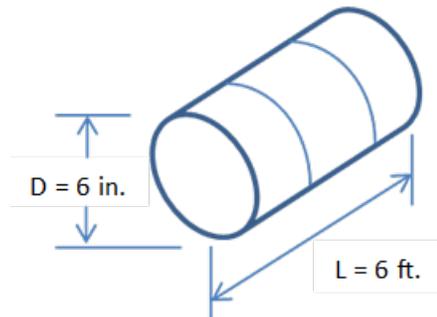
$$A = \frac{3.14 \times 20 \times 6}{12} = 31.4 \text{ ft}^2$$



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, disjuncting, 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.

AMO:jl
08/09/17