



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amendments and determinations to improve and clarify the federal regulation, resulting in the District rules becoming outdated.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.

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)

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

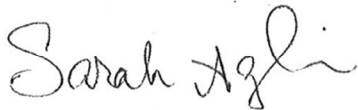
The California Environmental Quality Act (CEQA) requires environmental review of certain actions. District staff conducted a review of whether CEQA applies to proposed new Rule 1206, amended Rule 40, and the repeal of existing Rules 361.140-361.156. These actions are intended to clarify and facilitate 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.

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)

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

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