

MONTEREY BAY UNIFIED AIR POLLUTION CONTROL DISTRICT

RULE 306 - ASBESTOS NESHAP FEES

(Adopted 5-13-92; Revised 6-21-95; 6-17-98; 6-16-99; 6-21-00 6-20-01; 6-19-02, and 6-18-03.)

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PART 1 GENERAL

1.1 Purpose

This Rule provides the fee requirements for persons subject to Rule 424, Section 4 Subpart M, National Emission Standards for Asbestos.

1.2 Applicability

This Rule applies to any person subject to Rule 424, Section 4 Subpart M, National Emission Standards for Asbestos (40 CFR 61 Subpart M), who is required by that rule to submit a written Notification of Demolition and Renovation to the District, including:

- 1.2.1 any owner or operator of any demolition activity, regardless of whether any asbestos is present in the facility to be demolished; and
- 1.2.2 any owner or operator of a renovation activity where the total amount of Regulated Asbestos-Containing Material (RACM) to be stripped, removed or otherwise disturbed is at least 260 linear feet on pipes, 160 square feet on other facility components or 35 cubic feet if off of facility components.

1.3 Exemptions

The following demolition and renovation activities, for which 40 CFR 61 Subpart M requires the submission of the Notification of Demolition and Renovation, are exempt from the fee requirements of this Rule:

- 1.3.1 activities at public schools (K through 12) which are subject to the Asbestos Hazards Emergency Response Act (AHERA); and
- 1.3.2 demolitions of structures which are located in unincorporated areas for which the following conditions exist:
 - 1.3.2.1 the inspection which is required by 40 CFR 61.145 (a) finds that there are no asbestos-containing materials, including Category I and Category II nonfriable asbestos-containing materials, and
 - 1.3.2.2 the total floor area of the structure to be demolished is less than 500 square feet.

1.4 Effective Date

This Rule as most recently revised is effective July 1, 2003.

1.5 References and Related Rules

The provisions of this Rule derive from: Title 40 of the Code of Federal Regulations (CFR), Part 61, Subpart M, National Emissions Standards for Asbestos; from California Health and Safety Code (HSC) Sections 42300 *et seq.*; and HSC Sections 42311 *et seq.* Related or referenced District Rules include 200 (Permits Required) and 424 (National Emission Standards for Hazardous Air Pollutants).

PART 2 DEFINITIONS

2.1 Category I Nonfriable ACM

Asbestos-containing packings, gaskets, resilient floor covering, and asphalt roofing products containing more than 1 percent asbestos as determined using the method specified in Appendix A, Subpart F, 40 CFR Part 763, Section 1, Polarized Light Microscopy (PLM).

2.2 Category II Nonfriable ACM

Any material, excluding Category I nonfriable asbestos-containing material, containing more than 1 percent asbestos as determined using the method specified in Appendix A, Subpart F, 40 CFR Part 763, Section 1, PLM that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

2.3 Demolition

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.

2.4 Facility

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 the 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.

2.5 Facility Component

Any part of a facility including equipment.

2.6 Friable Asbestos Material

Any material, containing more than 1 percent asbestos as determined using the method specified in Appendix A, Subpart F, 40 CFR Part 763, Section 1, PLM that, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure. If it is intended to leave material in place during a demolition, PLM point counting is the method to be used to verify it contains no more than 1% RACM, if the material has been identified as containing any asbestos.

2.7 Regulated Asbestos-Containing Material (RACM)

Means (a) friable asbestos material, (b) category I nonfriable ACM that has become friable, (c) category I nonfriable ACM that will be or has been subjected to sanding, grinding, cutting, or abrading, or (d) category II nonfriable ACM 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.

2.8 Renovation

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.

PART 3 ADMINISTRATIVE REQUIREMENTS

3.1 Fee Determination for Single Notification

Upon receipt of the Notification required by Rule 424, the District shall determine the appropriate fee(s) pursuant to the Schedule of Fees in Section 4.5.

3.2 Fee Determination for Annual Notification

Upon receipt of an annual Notification of nonscheduled renovations operations pursuant to 40 CFR 61.145 (b)(3)(ii), the District shall determine the fee(s) by applying the aggregate of all estimated unscheduled renovation amounts based on the Schedule of Fees in Section 4.5

3.3 Billing Statement

After determination of the appropriate fee(s), the District shall generate a billing statement for the Asbestos NESHAP fee(s) and transmit it to the appropriate party. This Asbestos NESHAP bill shall be due and payable 30 days after the statement is issued by the District. In the event that all or part of the fee prescribed in the statement is not paid in accordance with these provisions within this 30-day period, the provisions of Section 5.1 of this Rule shall apply.

PART 4 FEE DETERMINATION

4.1 Explanation of Terms Used in Determining the Fee

For the purpose of determining the appropriate fee required by this Rule, "Type of Project" in the Schedule of Fees in Section 4.5 refers to the amount of RACM which could be removed or disturbed in a demolition and/or renovation project, and includes the following meanings:

- 4.1.1 Linear feet refers to asbestos material covering pipes.
- 4.1.2 Square feet refers to the surface area of asbestos-containing material on other facility components.
- 4.1.3 Cubic feet refers to the volume of asbestos-containing material which has been removed from facility components and for which the linear footage and/or square footage cannot be determined.

4.2 Demolition Project With No Asbestos Present

If a written Notification of Demolition and Renovation is required to be submitted to the District, a Fee of \$251 will be charged for the demolition of a structure where no asbestos is present.

4.3 Demolition Project Involving Asbestos Removal

Where a demolition project includes the removal of asbestos-containing material from the facility prior to the wrecking of the structure, the removal is treated as a separate renovation project for purposes of determining the fees. Therefore, a separate fee is charged for the demolition project and for the renovation project, although both project types may be included in a single Notification.

4.4 Demolition or Renovation Projects Involving Multiple Structures

- 4.4.1 Where a demolition project includes multiple structures, each independent structure is treated as a separate project for purposes of determining the fees. Therefore a

separate fee is charged for the demolition of each structure, although a single Notification may include all the structures.

4.4.2 Where a renovation project includes multiple structures, the aggregate of all RACM is used in determining the fees.

4.5 Schedule of Fees

| <u>Type of Project</u> | <u>Fee</u> |
|--|------------|
| 4.5.1 Demolitions of structures involving: less than 160 sq. ft. RACM, or less than 260 linear ft. RACM less than 35 cubic ft. RACM (including where no asbestos is present) | \$251 |
| 4.5.2 Demolitions or Renovations involving: between 160 and 999 sq. ft. RACM, or between 260 and 499 linear ft. RACM 35 cubic ft. or greater RACM | \$439 |
| 4.5.3 Demolitions or Renovations involving: between 1000 and 1499 sq. ft. RACM, or between 500 and 749 linear ft. RACM | \$564 |
| 4.5.4 Demolitions or Renovations involving: between 1500 and 1999 sq. ft. RACM, or between 750 and 999 linear ft. RACM | \$690 |
| 4.5.5 Demolitions or Renovations involving: between 2000 and 4000 sq. ft. RACM, or between 1000 and 2000 linear ft. RACM | \$814 |
| 4.5.6 Demolitions or Renovations involving: greater than 4000 sq. ft. RACM, or greater than 2000 linear ft. RACM | \$940 |

PART 5 DELINQUENCY PENALTIES

5.1 Asbestos NESHAP Fee Penalties

If any fee payment required pursuant to Part 3 of this Rule is not submitted within 30 days of the issuance date of the District's billing statement, it shall be considered delinquent, and penalties for the delinquency shall be imposed as set forth below.

5.1.1 For purposes of this Part any fee payment shall be considered to be timely if it is postmarked on or before the 30th day following the statement issuance date. If the 30th day falls on a Saturday, Sunday, or holiday, the fee payment may be postmarked on the next business day with the same effect as if it had been postmarked on the 30th day.

- 5.1.2 If no fee payment is submitted within the time prescribed by Section 5.1.1, a delinquency penalty of 50 percent of the amount of the billed fee, to a maximum of \$5,000, shall be added to the amount of the fee due, and the appropriate party shall thereupon be notified by mail of the increased fee.
- 5.1.3 If a fee payment is timely paid, but the tendered amount is less than the amount due, the payment shall not be accepted, and the time for proper payment continues to run.
- 5.1.4 If a fee payment is delinquent and the fee plus the delinquency penalty is not received within 30 days of the District's notification pursuant to Section 5.1.2, the delinquency penalty shall be increased to 75 percent of the original amount due, to a maximum of \$7,500, and the appropriate party shall thereupon be notified by mail of the increased fee.
- 5.1.5 If, in the case of a failure to pay Asbestos NESHAP fees required pursuant to Part 3, the delinquent fee plus penalties assessed pursuant to Section 5.1.4 are not submitted within 30 days of the date of the District's notification, the appropriate party shall be considered to be in default of its Asbestos NESHAP fee obligation and in violation of this Rule. This fee plus penalties constitutes a legal obligation owing to the District for work done in furtherance of the project for which notification was issued to the District, and may be recovered in any appropriate civil action.

5.2 Extension of Payment Period by the APCO

The 30-day payment period for fee payment required pursuant to Part 3 of this Rule may be extended for extraordinary circumstances at the discretion of the Air Pollution Control Officer (APCO). The adequacy of cause to extend the period shall be decided on a case-by-case basis by the APCO.

5.3 Waiver of Penalty by the APCO

The penalty for fee delinquency may be waived for extraordinary circumstances at the discretion of the APCO, provided that there have been no prior delinquencies. The adequacy of cause to waive the penalty shall be decided on a case-by-case basis by the APCO.

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