

SAN JOAQUIN VALLEY UNIFIED AIR POLLUTION CONTROL DISTRICT

**RULE 7050 -- ASBESTOS-CONTAINING MATERIAL FOR SURFACING APPLICATIONS**  
*(Adopted December 15, 1994) (Amended March 21, 2002.)*

1.0 Purpose

The purpose of this rule is to control airborne emissions of asbestos containing rock. Compliance schedule, recordkeeping, and test methods are specified. This rule incorporates provisions of the California Code of Regulations section 93106.

2.0 Applicability

The provisions of this rule shall apply to any person who produces, sells, supplies, offers for sale or supply, uses, applies or transports any restricted material as defined in section 3.19.

3.0 Definitions

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

- 3.1 Aggregate: a mixture of mineral fragments, sand, gravel, cobbles, rocks, stones, or similar minerals that may or may not be crushed or screened. "Aggregate" does not include elemental metals, gemstones, petroleum products, organic materials, or mineral ore to be processed offsite of the property from which it was extracted.
- 3.2 Alluvial Deposit: any deposit of sediments laid down by running water including, but not limited to, streams and rivers.
- 3.3 APCO: the Air Pollution Control Officer as defined in Rule 1020 (Definitions).
- 3.4 ARB: the California Air Resources Board
- 3.5 ARB Test Method 435: the test method specified in Title 17, California Code of Regulations, Section 94147.
- 3.6 Asbestos: any asbestiforms of the following minerals; chrysotile (fibrous serpentine), crocidolite (fibrous riebeckite), amosite (fibrous cummingtonite--grunerite), fibrous tremolite, fibrous actinolite, and fibrous anthophyllite.
- 3.7 Decoration/landscaping: the application or use of aggregate materials for aesthetic purposes.
- 3.8 Geographic ultramafic rock unit: a geographic area that is designated as an ultramafic rock unit or ultrabasic rock unit, including the unit boundary line, on any of the maps referenced in Appendix A of the Asbestos Airborne Toxic Control Measure for Surfacing Applications (Title 17, CCR, section 93106).

- 3.9 Geologic evaluation: an evaluation of a property, as specified in 4.7, to determine the presence of various rock types, including ultramafic rock, serpentinite, or other metamorphic derivatives of ultramafic rock.
- 3.10 Limited access surface: any surface not subject to vehicular travel or pedestrian access that has an incline greater than twenty (20) percent.
- 3.11 Non-surfacing applications: any application of aggregate material that will not remain a part of the uppermost layer, such as fill, base rock, or drain rock.
- 3.12 Owner/operator or person: includes, but is not limited to:
- 3.12.1 An individual, trust, firm, joint stock company, business concern, partnership, limited liability company, association, or corporation including, but not limited to, a government corporation;
  - 3.12.2 Any city, county, district, commission, the state or any department, agency, or political subdivision thereof, any interstate body, and the federal government or any department or agency thereof to the extent permitted by law; or
  - 3.12.3 A project proponent and any of its contractors or subcontractors.
- 3.13 Producer: any person that extracts and processes aggregate material from the ground.
- 3.14 Property: any real property including, but not limited to, any contiguous parcel or parcels of land and anything attached to, or erected on it.
- 3.15 Quarry: a facility or operation that obtains stone from the earth by means of cutting, digging, excavating, or blasting.
- 3.16 Receipt: any written acknowledgement that a specified amount of restricted material was received, delivered, or purchased. Receipts include, but are not limited to, bills of sale, bills of lading, and notices of transfer.
- 3.17 Registered geologist: an individual that is currently licensed as a geologist with the State of California, Department of Consumer Affairs, Board of Geology and Geophysicists.
- 3.18 Remote location: any location that is at least one (1.0) mile from the location of the receptor. "Receptor" includes, but is not limited to, any hospital, school, day care center, work site, business, residence, and permanent campground. The distance to the nearest receptor is to be measured from the outermost limit of the area to be disturbed or road surface, whichever is closer.
- 3.19 Restricted material: any of the following:

- 3.19.1 Aggregate material extracted from property where any portion of the property is located in a geographic ultramafic rock unit (as defined in 3.8); and
- 3.19.2 Aggregate material extracted from property that is not located in a geographic ultramafic rock unit (as defined in 3.8) if the material has been:
  - 3.19.2.1 Evaluated at the request of the Air Pollution Control Officer (APCO) and determined to be ultramafic rock or serpentine;
  - 3.19.2.2 Tested at the request of the APCO and determined to have an asbestos content of 0.25 percent or greater; or
  - 3.19.2.3 Determined by the owner/operator of a facility to be ultramafic rock, serpentine, or aggregate material that has an asbestos content of 0.25 percent or greater.
- 3.19.3 Any mixture of aggregate material that contains ten percent (10%) or more of any of the materials listed in 3.19.1 or 3.19.2, or any combination thereof, shall also be considered “restricted material.”
- 3.20 Riprap: material used to construct a loose assemblage of stones along a water course or shoreline to prevent erosion or provide stability.
- 3.21 Road Surface: the traveled way of a road and any shoulder which extends up to ten (10) feet from the edge of the traveled way.
- 3.22 Sand and Gravel Operation: any aggregate producing facility operating in alluvial deposits.
- 3.23 Serpentine: any form of the following hydrous magnesium silicate minerals: antigorite, lizardite, and chrysotile.
- 3.24 Serpentinite: a rock consisting almost entirely of serpentine, although small amounts of other minerals such as magnetite, chromite, talc, brucite, and tremolite-actinolite may also be present. Serpentinite is a metamorphic derivative of the ultramafic rocks, peridotite, pyroxenite, or dunite.
- 3.25 Surfacing: the act of providing or creating a temporary or permanent covering for a surface used for pedestrians, motor vehicles, non-motor vehicles, decoration, landscaping, soil stabilization, or erosion control. Examples of surfaces include, but not are not limited to, roads, road shoulders, streets, access roads, alleys, lanes, driveways, parking lots, playgrounds, trails, squares, plazas, and fairgrounds. For the purposes of this section, surfacing does not include creating a covering composed of asphalt concrete or portland cement concrete.
- 3.26 Ultrabasic rock: ultramafic rock.

3.27 Ultramafic rock: an igneous rock composed of 90 percent or greater of one or a combination of the following iron/magnesium-rich, dark-colored silicate minerals: olivine, pyroxene, or more rarely amphibole. For the purposes of this section, ultramafic rock includes the following rock types: dunite, and peridotite; and their metamorphic derivatives.

#### 4.0 Exemptions

4.1 Sand and Gravel Operations: The requirements of subsections 5.1, 6.2, and 6.3 shall not apply to aggregate material extracted from a sand and gravel operation. A sand and gravel operation means any aggregate-producing facility operating in alluvial deposits.

4.2 Roads Located at Quarries or Mines: The requirements of subsection 5.1 shall not apply to roads at quarries or mines that are located in a geographic ultramafic rock unit, an ultramafic rock deposit, or a serpentine deposit, provided that the aggregate material was obtained on site from a quarry or mine property.

4.3 Maintenance Operations on Existing Roads: The requirements of 5.1, 6.2, and 6.3 shall not apply to maintenance operations on any existing road surface if no additional restricted material is applied to the road surface.

4.4 Emergency Road Repairs: The APCO may issue a temporary exemption from the requirements of 5.1, 6.2, and 6.3 to an applicant who demonstrates that a road repair is necessary due to a landslide, flood, or other emergency, and that the use of aggregate material other than restricted material is not feasible for this repair. The APCO shall specify the time during which such exemption shall be effective; however, no exemption shall remain in effect longer than 90 days.

4.5 Asphalt and Concrete Materials: The requirements of 5.1, 6.2, and 6.3 shall not apply to restricted material that is an integral part of the production of asphalt concrete, portland cement concrete, or other similar cemented materials; or construction of an asphalt or a portland cement concrete surface, as long as all of the restricted material is incorporated into or completely covered by the asphalt or portland cement concrete.

4.6 Landfill Operations: The use and application requirements of 5.1 shall not apply to landfill operations, except for the surfacing of public access roads used by vehicular traffic.

4.7 Geologic Evaluation: The APCO may provide an exemption from 5.1, 6.2, and 6.3 for aggregate material extracted from within a geographic ultramafic rock unit if a registered geologist has conducted a geologic evaluation of the property from which the aggregate material is obtained and determined that serpentine or ultramafic rock is not likely to be found on the property. Before an exemption can be granted, the

owner/operator must provide a copy of a report detailing the geologic evaluation to the APCO for his or her consideration.

4.7.1 At minimum, the geologic evaluation must include:

4.7.1.1 A general description of the property and the proposed use;

4.7.1.2 A detailed site characterization, which may include:

4.7.1.2.1 A physical site inspection;

4.7.1.2.2 Offsite geologic evaluation of adjacent property;

4.7.1.2.3 Evaluation of existing geologic maps and studies of the site and surrounding area;

4.7.1.2.4 Development of geologic maps of the site and vicinity;

4.7.1.2.5 Identification and description of geologic units, rock and soil types, and features that could be related to the presence of ultramafic rocks, serpentine, or asbestos mineralization;

4.7.1.2.6 A subsurface investigation to evaluate the nature and extent of geologic materials in the subsurface where extensive vertical excavation is planned; methods of subsurface investigation may include, but are not limited to borings, test pits, trenching, and geophysical surveys;

4.7.1.3 A classification of rock types found must conform to the nomenclature based on the International Union of Geological Science System;

4.7.1.4 A description of the sampling procedures used:

4.7.1.5 A description of the analytical procedures used, which may include mineralogical analyses, petrographic analyses, chemical analyses, or analyses for asbestos content;

4.7.1.6 An archive of collected rock samples for third party examination; and

4.7.1.7 A geologic evaluation report documenting observations, methods, data, and findings; the format and content of the report should follow the Guidelines for Engineering Geologic Reports issued by the State Board of Registration for Geologists and Geophysicists.

- 4.7.2 The APCO shall respond to a request for an exemption within 90 days of the receipt of the application.
- 4.7.3 If the request for an exemption is denied, the APCO shall provide written reasons for the denial.
- 4.7.4 Expiration of the Geologic Exemption: If the owner/operator discovers any ultramafic rock or serpentine on the property after the exemption is granted, then:
  - 4.7.4.1 The owner/operator must comply with the requirements of 5.1, 6.2 and 6.3 immediately following the discovery; and
  - 4.7.4.2 The owner/operator must report the discovery of ultramafic rock or serpentine to the APCO within 24 hours; and
  - 4.7.4.3 The exemption under 4.7 shall expire and cease to be effective.
- 4.8 Limited Access Surfaces: The APCO may provide an exemption from the requirements of 5.1 for the use of restricted material on limited access surface, if the owner/operator can demonstrate that:
  - 4.8.1 No alternative aggregate materials are reasonably available; and
  - 4.8.2 The surface is not located in an area zoned or identified in a land use plan for residential, recreational, or commercial use.
  - 4.8.3 The APCO shall respond to a request for an exemption within 90 days of the receipt of the application.
  - 4.8.4 If the request for an exemption is denied, the APCO shall provide written reasons for the denial.
- 4.9 Surfacing Applications in Remote Locations:
  - 4.9.1 The APCO may provide an exemption from the requirements of 5.1 if the owner/operator can demonstrate that:
    - 4.9.1.1 The surface is in a remote location (as defined in subsection 3.18); and
    - 4.9.1.2 No alternative aggregate materials are reasonably available; and

- 4.9.1.3 All aggregate material used for surfacing has been tested according to an approved asbestos bulk test method and determined to have an asbestos content of one (1.0) percent or less; except that the APCO may allow the use of restricted material with an asbestos content up to five (5.0) percent if the owner/operator can demonstrate that the restricted material with an asbestos content of one (1.0) percent or less is not reasonably available.
- 4.9.2 Before providing the exemption, the APCO shall:
  - 4.9.2.1 Consider the following information: county use plans, the current use of the surrounding land, and the current and anticipated zoning designations;
  - 4.9.2.2 Provide public notice and solicit comments for a 30-day period;
  - 4.9.2.3 Require that any surface exempted pursuant to this subsection be posted with a permanent sign alerting the public to potential asbestos exposures; and
  - 4.9.2.4 Require that any exemption shall be valid for no longer than three years; but if the owner/operator cannot demonstrate that all the criteria listed in 4.9.1 are met at the time of reapplication, the exemption shall not be renewed.
- 4.9.3 The APCO may grant an exemption when the distance from the road or other surface to the nearest receptor is less than one mile if ALL of the following criteria are met:
  - 4.9.3.1 The criteria listed in 4.9.1.2, 4.9.1.3, and 4.9.2 must be met;
  - 4.9.3.2 Any receptor located within one mile from the road or other surface must NOT be any of the following:
    - 4.9.3.2.1 A permanent resident (i.e., a person that resides at the receptor point for six months or more in a year), or
    - 4.9.3.2.2 A permanent business (i.e., a business that operates at the receptor point for six months or more in a year), or
    - 4.9.3.2.3 A school or daycare center;
  - 4.9.3.3 The road or other surface must be located on private property;
  - 4.9.3.4 The entrance points to the road or other surface from any public thoroughfare must be gated and posted with a sign as required in 4.9.2.3;

- 4.9.3.5 The applicant for the exemption must provide to the APCO an estimate of the average traffic volume on the road or other surface and the methodology used to make the estimate; and
- 4.9.3.6 Whenever the traffic volume exceeds or is anticipated to exceed 20 vehicle passes per day, the owner/operator must:
  - 4.9.3.6.1 Treat the road or other surface with a dust control method that is at least 70 percent effective; and
  - 4.9.3.6.2 Maintain records of the application and type of the dust control method for a minimum period of seven years; and
  - 4.9.3.6.3 Provide the records of the applications of dust control method to the APCO upon request.
- 4.9.4 The APCO shall respond to any application for an exemption within 90 days of the receipt of the application.
- 4.9.5 If the request for an exemption is denied, the APCO shall provide written reasons for the denial.
- 4.10 Roads Located at Construction Sites: The requirements of 5.1, 6.2, and 6.3 shall not apply to restricted material used for the construction of temporary road surfaces located on-going construction sites where vehicle traffic is limited to construction personnel and equipment. This exemption does not apply to the use of restricted material for temporary roads for public use.
- 4.11 Riprap: The requirements of 5.1, 6.2, and 6.3 shall not apply to restricted material used for riprap.
- 5.0 Requirements
  - 5.1 Unless one of the exemptions in 4.0 applies, no person shall use, apply, sell, supply, or offer for sale or supply any restricted material (as defined in 3.19) for surfacing, unless it has been tested using an approved asbestos bulk test method and determined to have an asbestos content that is less than 0.25 percent.
  - 5.2 Pursuant to the requirements of Health and Safety Code section 41511, the APCO or the Executive Officer of the ARB may require an owner/operator to perform:
    - 5.2.1 A geologic evaluation for the presence of ultramafic rock or serpentine on any property from which aggregate material is extracted; or

- 5.2.2 Testing for the asbestos content of any aggregate material sold, supplied, offered for sale or supply, or used for surfacing.

## 6.0 Administrative Requirements

### 6.1 Test Methods

- 6.1.1 Ultramafic Rock: The ultramafic rock composition of any material shall be determined using a standard analysis technique including, but not limited to, color index assessment, microscopic examination, petrographic analysis or rock thin sections, or chemical analysis techniques, such as X-ray fluorescence spectrometry or inductively coupled plasma analysis.
- 6.1.2 Asbestos Testing: ARB Test Method 435 or an alternative asbestos bulk test method approved in writing by the Executive Officer of the Air Resources Board shall be used to determine compliance with this section. For the purposes of determining compliance with this section, references in ARB Test Method 435 to “serpentine aggregate” shall mean “aggregate material.”
- 6.1.3 Averaging of Test Results: If ARB Test Method 435 or an alternative approved asbestos bulk test method has been used to perform two or more tests on any one volume of aggregate material, whether by the same or a different person, the arithmetic average of these test results shall be used to determine the asbestos content of the aggregate material.
- 6.1.4 Sampling Frequency: For the purposes of this section, the sampling frequency required for determining the asbestos content of any aggregate material shall be no less than one composite sample per 1000 tons of aggregate material processed, as specified in ARB Test Method 435, unless the APCO approves an alternative sampling frequency as follows:
  - 6.1.4.1 The APCO may approve an alternative sampling frequency after reviewing and verifying the authenticity of the following information, which shall be provided by the owner/operator of the quarry:
    - 6.1.4.1.1 An established history of analytical test results demonstrating that no aggregate material sampled and tested in accordance with an approved asbestos bulk test method had an asbestos content that was 0.25 percent or greater;
    - 6.1.4.1.2 The established history of the analytical test results must include:

- 6.1.4.1.2.1 Test results from ten percent of the expected total yield over the life of the quarry, as stated in any permit issued pursuant to the California Surface Mining and Reclamation Act, Public Resources Code, Division 2, Chapter 9, Section 2710 et seq.; or
- 6.1.4.1.2.2 Test results that cover at least two years of production of surfacing material; this production amount must be verified with sales receipts and testing results as required in subsection 6.3.3.
- 6.1.4.1.3 A geologic evaluation of the quarry has been conducted in accordance with the provisions in subsection 4.7;
- 6.1.4.1.4 Any permits issued pursuant to the California Surface Mining and Reclamation Act, Public Resources Code, Division 2, Chapter 9, Section 2710 et seq.;
- 6.1.4.1.5 Sales receipts retained by the quarry pursuant to subsections 6.2 and 6.3.3.
- 6.1.4.2 The APCO shall not approve any alternative sampling frequency that requires less than one test per 100,000 tons of aggregate material processed for surfacing.
- 6.1.4.3 If any of the aggregate material tested is determined to have an asbestos content of 0.25 percent or greater using an alternative sampling frequency approved by the APCO, the owner/operator must:
  - 6.1.4.3.1 Resume the sampling frequency specified in ARB Test Method 435 immediately after receiving the test results; and
  - 6.1.4.3.2 Report the detection of asbestos and provide a copy of the analytical test results to the APCO within 48 hours after receiving the test results.

## 6.2 Noticing

- 6.2.1 Any producer who sells, supplies, or offers for sale or supply restricted material for surfacing that has been tested using an approved asbestos bulk test method and determined to have an asbestos content that is less than 0.25

percent must provide to the recipient of the restricted material a written receipt that contains the following information:

6.2.1.1 The amount of restricted material that was sold or supplied;

6.2.1.2 The date that the restricted material was sold or supplied;

6.2.1.3 The dates that the restricted material was sampled and tested, or verification that the material is exempt under 4.7; and

6.2.1.4 A statement that the asbestos content of the restricted material is less than 0.25 percent.

6.2.2 Any person, other than a producer, who sells, supplies, or offers for sale or supply restricted material for surfacing must provide to the recipient of the material a written receipt which specifies the following information:

6.2.2.1 The amount of restricted material that was sold or supplied;

6.2.2.2 The date that restricted material was sold or supplied; and

6.2.2.3 A statement that the asbestos content of the restricted material is less than 0.25 percent.

6.2.3 Any person who sells or supplies, offers for sale or supply restricted material for non-surfacing applications must provide a written receipt containing the following statement:

“WARNING!

This material may contain asbestos.

It is unlawful to use this material for surfacing or any application in which it would remain exposed and subject to possible disturbances.

Extreme care should be taken when handling this material to minimize the generation of dust.”

### 6.3 Recordkeeping

6.3.1 Any person who uses or applies restricted material for surfacing must retain any written receipt or other record verifying that the material has an asbestos content of less than 0.25 percent for a minimum period of seven years from the date of use or application.

- 6.3.2 Any person who transports restricted material must maintain a copy of all receipts or records required by subsection 6.2 with the material at all times during transit and application.
- 6.3.3 Any person who sells, supplies, or offers restricted material for sale or supply must retain copies of all receipts or records required by subsection 6.2 for a minimum period of seven years from the date of sale or supply.
- 6.3.4 Any person who uses restricted material for surfacing, sells, supplies, or offers restricted material for sale or supply must provide receipts and test results to the APCO for review upon request.