

State of California
AIR RESOURCES BOARD

**Notice of Public Availability of Modified Text and
Availability of Additional Documents and Information**

PUBLIC HEARING TO CONSIDER THE ADOPTION OF PROPOSED AMENDMENTS
TO THE ASBESTOS AIRBORNE TOXIC CONTROL MEASURE

Public Hearing Date:	July 20, 2000
Public Availability Date:	October 5, 2000
Deadline for Public Comment:	October 20, 2000

At a public hearing held on July 20, 2000, the California Air Resources Board (the Board) considered amendments to the Asbestos Airborne Toxic Control Measure ("Asbestos ATCM": section 93106, title 17, California Code of Regulations (CCR)). The proposed amendments are described in detail in the Initial Statement of Reasons released to the public on June 2, 2000.

At the hearing, the Board approved the amendments to the Asbestos ATCM, with certain modifications to both the language and the organization of the amendments. Following is a summary of the more significant modifications:

- A subsection was added to clarify when the requirements of the amendments would be implemented and enforced.
- An applicability section was added which specifies that the Asbestos ATCM is applicable to any person who sells, supplies, or uses any aggregate material that is:
 - Extracted from an ultramafic rock unit shown on geologic maps;
 - Evaluated at the request of the air pollution control officer (APCO) and found to be ultramafic rock;
 - Tested at the request of the APCO and found to have an asbestos content of 0.25 percent or greater; or
 - Determined by the owner/operator to be ultramafic rock or to have an asbestos content of 0.25 percent or greater. These materials could not be sold or used for surfacing unless one of the exemptions applies that are specified in the ATCM.
- The originally proposed amendments prohibited the sale or use of serpentine rock for surfacing. A modification was made to allow particular batches of serpentine rock to be sold or used for surfacing if the rock has been tested and determined to have an asbestos content that is less than 0.25 percent.
- The exemption for maintenance of existing unpaved surfaces, which was in the 1990 Asbestos ATCM and removed from the June 2, 2000 proposed amendments, was reinstated.
- The criteria for granting a geologic exemption were clarified, and additional criteria were added.

- The remote location exemption was modified to add additional criteria for granting the exemption and to limit the potential asbestos content of any material used under this exemption to one percent or less.
 - However, if material with an asbestos content of one percent or less is not reasonably available, the APCO may allow the use of material with an asbestos content up to five percent.
 - Also, the exemption was limited to a duration of three years after which the proponent must reapply for the exemption and demonstrate that the criteria are met.
 - The exemption would also allow for the use of material with an asbestos content of greater than one percent in specific circumstances, where a roadway system is privately owned and maintained and in sparsely populated areas.
- An exemption was added to allow the use of restricted material for temporary unpaved roads located at an ongoing construction sites, provided the roads are not used for public use.
- A modification was made to allow the averaging of the results from multiple sampling and testing of a single volume of aggregate material. This modification reinstates a provision from the 1990 Asbestos ATCM.
- Authority for the APCO to reduce the required sampling frequency for materials to be tested for asbestos, under certain circumstances, was added.

In the interests of completeness, staff has also added to the rulemaking record and invites comments on the following additional documents and information:

Initial Statement of Reasons for Proposed Rulemaking – Public Hearing to Consider the Adoption of a Regulatory Amendment Identifying Asbestos as a Toxic Air Contaminant, March 27, 1986;

Final Statement of Reasons for Rulemaking Including Summary of Comments and Agency Responses – Public Hearing to Consider the Adoption of an Airborne Toxic Control Measure for Asbestos-Containing Serpentine Rock in Surfacing Applications, February 14, 1991;

Method 435 – Determination of Asbestos Content of Serpentine Aggregate, Adopted: June 6, 1991;

SRP findings letter on the identification of asbestos as a toxic air contaminant from Dr. Emil R. Mrak, Chairman, Scientific Review Panel, to Mr. James D. Boyd, Executive Officer, ARB, January 15, 1986; and

Public Consultation Meeting Notice to Discuss Revisions to the Airborne Toxic Control Measure for Naturally-Occurring Asbestos and Attached Fact Sheet, January 10, 2000.

By this notice, the modified regulations and additional documents and information are being made available for public comment prior to final action by the Board's Executive Officer. Attached to this notice is Board Resolution 00-27 (Enclosure 1), which approves the regulatory action. The text of the modified regulatory language is appended to the resolution as Enclosure 2. The originally proposed amendments are shown in ~~single strike-out~~ to indicate deletions and single underline to indicate additions to the 1990 Asbestos ATCM. The modifications to the ARB staff's original proposal are shown in ~~double strike-out~~ to indicate deletions and double underline to indicate additions. Because this version of the amendments is somewhat difficult to read, Enclosure 3 contains a plain text version of the modified regulatory language in its final form, without the underlines, ~~strike-out~~, or other features to indicate the modifications.

In accordance with section 11346.8 of the Government Code, the Board directed the Executive Officer to adopt the amendments to section 93106, title 17, CCR, after making the modified regulatory language available for a supplemental written comment period of at least fifteen (15) days, provided that the Executive Officer consider such written comments as may be submitted during the period, make such modifications as may be appropriate in light of the comments received, and present the regulations to the Board for further consideration if he determines that this is warranted.

Written and e-mail comments on the proposed modifications shown in Enclosure 2 (or on the additional documents and information) must be received no later than the deadline for public comment October 20, 2000, in order to be considered by the Executive Officer prior to final action. Written comments must be addressed to the Clerk of the Board, Air Resources Board, P.O. Box 2815, Sacramento, California 95812. E-mail comments must be addressed to asbestos@listserv.arb.ca.gov.

Enclosures