

**SACRAMENTO METROPOLITAN
AIR QUALITY MANAGEMENT DISTRICT**

STAFF REPORT

Proposed Amendments to

Rule 902 – Asbestos

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INTRODUCTION

Rule 902, Asbestos, protects the public by minimizing the release of asbestos fibers during activities involving the processing, handling and disposal of asbestos-containing material. The rule specifies work practices and other requirements that owners and operators must follow to limit the emissions of asbestos fibers from building renovation, demolition, and other asbestos handling activities.

Staff is proposing to amend Rule 902 to be specific about which demolition and renovation requirements apply to asbestos consultants and asbestos abatement contractors. Additionally, the amendments clarify that asbestos consultants are responsible for the advice they give to owners or operators regarding compliance with Rule 902. Consistent with current practices, the amendments specify acceptable techniques for removing regulated asbestos containing material (RACM) when standard containment procedures cannot be applied. These methods include the glove bag technique, the wrap and cut/chop technique, and the open air abatement technique. Staff is also proposing to include sampling provisions that are consistent with the District's current survey form. Finally, there are several proposed amendments that will restructure some of the rule language to clarify the requirements and make them consistent with federal requirements. These changes were made to help make the rule easier to understand for those affected by the requirements.

The amendments are consistent with the District's current implementation and enforcement practices and do not impose new requirements.

BACKGROUND

Asbestos is a class of naturally occurring mineral fibers that includes actinolite, amosite, anthophyllite, chrysotile, crocidolite, and tremolite. Asbestos has been used in a variety of materials because of its high tensile strength, insulation properties, and heat and chemical resistance. Examples of asbestos-containing products include pipe insulation, building materials (e.g., roofing shingles, ceiling and floor tiles, "popcorn" ceiling material and asbestos cement products), heat-resistant fabrics, and friction products such as automobile clutches and brakes.

Human exposure to asbestos through inhalation presents a serious health risk and may lead to diseases of the lung and other parts of the body¹. Asbestos fibers can scar the lungs and cause a chronic, progressive disease known as asbestosis, which is characterized by shortness of breath, coughing, and impaired respiratory function. Asbestos can also cause lung cancer as well as mesothelioma, a rare form of cancer found in the thin lining of the lung, chest, abdomen, and heart. Almost all cases of mesothelioma are linked to asbestos exposure.

The Environmental Protection Agency (EPA) initially promulgated emission requirements for asbestos in 1973² as part of the National Emission Standards for Hazardous Air Pollutants (NESHAP) program under Section 112 of the federal Clean Air Act (CAA). District Rule 902, Asbestos, was adopted on June 2, 1975, to limit the emission of asbestos to the atmosphere

¹ U.S. EPA, Asbestos Health Effects, <http://www.epa.gov/asbestos/pubs/help.html#health> (accessed November 22, 2011).

² "Emission Standards for Asbestos, Beryllium, and Mercury," Federal Register Vol. 38 (April 6, 1973) p. 8820.

from asbestos related activities, including the removal and associated disturbance of asbestos-containing materials, as well as the storage and disposal of asbestos-containing waste material generated or handled by these activities. EPA has delegated to the District the authority to implement and enforce the asbestos NESHAP through Rule 902.

EPA repromulgated the NESHAP for asbestos in 1990³. Rule 902 was amended in 1992 and 1995 for consistency with the revised NESHAP. Rule 902 was amended again in 1998 to require surveys for certain facilities in order to determine exempt status.

Staff began the public process for amending Rule 902 by holding a workshop on May 8th, 2012. On July 26, 2012, Staff proposed amendments to Rule 902 at a public hearing. Staff discussed five comment letters that were received from asbestos consultants immediately prior to the hearing, raising new issues with the proposed amendments. The Board of Directors directed Staff to reconsider the proposed amendments in light of these comments and continue the public process.

LEGAL MANDATES

Federal Mandates:

NESHAP Delegation: Asbestos has been listed as a federal hazardous air pollutant (HAP) under Section 112 of the Clean Air Act. Pursuant to Section 112 of the CAA, EPA promulgated a NESHAP⁴ for asbestos to reduce public exposure to asbestos during asbestos operations (demolitions, renovations, milling, conversion, fabrication, and manufacture, including associated removal, storage and disposal). EPA has delegated⁵ to the District the authority to implement and enforce the asbestos NESHAP. The District implements NESHAP requirements through Rule 902. For the District to properly carry out this delegated authority, Rule 902 must be at least as stringent as the NESHAP. Rule 902 satisfies the federal mandates. However, if a requirement in Rule 902 is determined to be less stringent than the NESHAP, then the NESHAP requirement will be enforced. Rule 902 meets this requirement and satisfies the federal mandates.

State Mandates:

Toxic Air Contaminants: State law⁶ establishes a program for identification and regulation of toxic air contaminants (TACs) by the California Air Resources Board (CARB) and the districts. Asbestos is deemed to be a TAC because of its listing as a federal HAP⁷. When a substance is identified as a TAC, CARB is required to establish an airborne toxic control measure (ATCM)⁸. CARB may adopt a new regulation or may choose to rely on the federal NESHAP. For asbestos, there is no CARB-adopted measure and therefore the NESHAP is also the ATCM.

After an ATCM has been adopted or implemented by CARB, districts must implement and enforce the ATCM or adopt measures which are equally effective or more stringent than the

³ "Asbestos NESHAP revision," Federal Register Vol. 55 (November 20, 1990) p. 48406.

⁴ 40 CFR Part 61, Subpart M.

⁵ 40 CFR Part 61, Subpart A, Section 61.04(c)(9)(ii)(F).

⁶ HSC §§ 39656 & 39659.

⁷ HSC § 39657.

⁸ HSC § 39658.

ATCM⁹. District Rule 902 is equally effective or more stringent than the ATCM (the NESHAP) and therefore meets this requirement.

SUMMARY OF RULE AMENDMENTS

Many of the asbestos renovation and demolition definitions and requirements have been amended to address questions and enforcement issues that Staff faces in implementing Rule 902. The changes generally reflect existing enforcement policies and practices, although some may be adjusted consistent with the NESHAP requirements.

Owners and operators of demolition and renovation projects are responsible for compliance with all Rule 902 requirements. The new definition for “operator of a demolition or renovation” specifies who might be classified as an operator – building contractors (or sub-contractors), architects, property managers – as anyone responsible for on-site activities.

The proposed amendments to Rule 902 will make specific which demolition and renovation requirements apply to asbestos consultants and asbestos abatement contractors. In general, consultants and contractors share compliance responsibility with the owner or operator for compliance for specific activities that they are hired to perform. In addition, when a consultant is engaged to provide guidance to the owner or operator concerning the requirements for specific activities, the consultant shares responsibility for compliance with those requirements. It has long been a District policy, in evaluating violations, to consider each party’s level of control.

Definitions have been added for “asbestos consultant” and “asbestos abatement contractor,” consistent with their typical roles in the demolition and renovation industry, and rule amendments specify the requirements associated with their typical responsibilities. However, we recognize that occasionally parties are engaged to perform duties outside their traditional role, e.g., owners may engage a consultant to oversee the on-site removal of asbestos – a function typically performed by an asbestos abatement contractor. Rule 902 amendments clarify that under those circumstances, the consultant would also be responsible for compliance requirements applicable to asbestos abatement contractors, e.g., ensuring compliance with the wetting requirements of Section 301.4.

The definition of “facility” is updated to reflect increasingly common mixed use buildings that combine residences with commercial/manufacturing functions to clearly indicate that demolition and renovation activities in these buildings are not exempt by the residential structure exemption (Section 110.1). The amendments clarify that a building is only exempt from the rule requirements if both its past and future use is solely residential with four or fewer dwelling units. Residential buildings demolished as part of a firefighting training exercise are also not exempt from Rule 902.

In certain asbestos abatement projects traditional asbestos containment measures are either not possible (for example, roofing projects) or are unnecessary (for example, when the glove bag technique is used). Staff is proposing to amend the work environment requirements to include alternatives to traditional containment requirements. Requirements are specified for each of the alternatives so that RACM is contained and properly handled. An owner or operator may also submit a written request to use another alternative method.

⁹ HSC § 39666(d).

Several of the proposed amendments will restructure the existing language. These changes help clarify the requirements and maintain consistency among the rule, the NESHAP, and District enforcement policies.

The main amendments for Rule 902 are summarized below. A detailed discussion of each change is included in Appendix A.

Demolition and Renovation Related Changes

- Specified that single family units that are intentionally burned for purposes of firefighting training are subject to the rule requirements. This change is consistent with the NESHAP.
- Clarified that emergency renovations and nonscheduled renovations are exempt when the amount of suspect material (as opposed to RACM)¹⁰ is less than specified thresholds.
- Clarified the requirements to perform a survey to establish that the amount of RACM is less than the threshold amounts in order to qualify for a partial rule exemption.
- Added a definition of “asbestos abatement contractor” as any person engaged by the owner or operator of a demolition or renovation to remove or contain asbestos-containing material.
- Added definitions of “asbestos consultant” and “site surveillance technician,” consistent with the California Business and Professions Code Sections 7181 and 7182, respectively.
- Throughout the rule, the terms “removing” and “stripping” were replaced with “disturb.” The term “disturb” includes actions with the potential to release asbestos fibers into the air that were previously included in the separate definitions of “removing and stripping,” which were largely redundant.
- Updated the definition for “facility” to reflect mixed use buildings that combine residences with commercial/manufacturing functions.
- Changed the definition of “friable asbestos-containing material” to a definition of “friable” and made it consistent with the federal Asbestos Hazard Emergency Response Act (AHERA) definition. “Friable” includes previously nonfriable material that has been damaged to the extent that it may be crumbled, pulverized, or reduced to powder by hand pressure when dry.
- Added a definition for “open air abatement technique,” which is typically used where containments are not feasible, such as roof abatements, soil abatements, removal of fire debris, and demolishing of buildings that pose a safety hazard.
- The definition of “owner or operator of a demolition or renovation” has been split into separate definitions for “owner of a demolition or renovation” and “operator of a demolition or renovation.” Individually defining owner and operator will help clarify the applicability of the rule requirements depending on the roles of each entity. Positions that are included in the definition of operator are supervisors, contractors, property managers, and architects as these roles have a level of control over the construction site.
- Added a definition for “regulated area” that applies to projects that use an open air abatement technique.

¹⁰ Suspect material includes materials that have the propensity to contain asbestos based on past practices in their manufacture and use. RACM includes only materials that actually contain more than 1% asbestos.

- Added “cement pipes and flues” to the list of examples in the definition of “suspect material.”
- Specified that the term “visible emissions” includes RACM debris found outside of the regulated area.
- Added requirements that apply when three alternatives to containment are used: the glove bag technique, the wrap and cut/chop technique, and the open air abatement technique. These procedures minimize releases of asbestos fibers and are consistent with current industry practices. Also, defined “wrap and cut/chop technique,” a method commonly used to remove a section of piping or similar facility component that is encased in RACM.
- Added language for labeling in Section 301.5(c)(3) that is consistent with current enforcement practices. Also added an option to use labels specified by OSHA.
- Included emergency demolitions under Section 301.7, which originally only applied to emergency renovations.
- Throughout the rule, added language that clarifies which requirements apply to asbestos abatement contractors and asbestos consultants when they are engaged to perform specific functions. Language applicable to asbestos abatement contractors has been added to the sections pertaining to:
 - Work environments
 - Wetting
 - Posting of warning signs
 - Waste handling
 - Reports
 - Notifications

Language applicable to asbestos consultants has been added to sections pertaining to:

- Asbestos surveys
- Reports
- Notifications

Language has also been added to clarify that when an asbestos consultant has been engaged by the owner or operator to provide guidance on the requirements for specific activities or to supervise or direct those activities, the asbestos consultant shares responsibility for compliance with those requirements.

- Specified the minimum number of samples to be collected from each homogeneous friable surfacing material, consistent with the District’s current survey form. A new table (Table 3) shows the minimum number of samples based on the square footage of the area to be sampled. The amendment will require that the area be thoroughly surveyed, but the number of samples may not be less than the minimum numbers. In the current version of the rule, the minimum number of samples to be collected is not specified; there is only the requirement that the procedure conform to the procedure outlined in an “EPA approved Building Inspector course” (Section 401.3a). Because there are multiple building inspector courses, this leads to ambiguity in the number of samples to be collected. EPA has published two guidance documents on asbestos sampling in buildings^{11,12} and has promulgated a regulation for asbestos-containing materials in schools¹³ pursuant to AHERA. District inspectors have been trained using the AHERA

¹¹ U.S. Environmental Protection Agency. Asbestos in buildings: simplified sampling scheme for friable surfacing materials. October 1985, a.k.a. “The Pink Book.”

¹² U.S. Environmental Protection Agency. Guidance for Controlling Asbestos-Containing Materials in Buildings. June 1985, a.k.a. “The Purple Book.”

¹³ U.S. Environmental Protection Agency. 40 CFR 763, Subpart E, Asbestos-Containing Materials in Schools.

protocol. The number of samples specified in Table 3 for surfacing materials is consistent with the AHERA protocol and the guidelines. Appendix C includes a comparison of the proposed sample requirements with the EPA guidance as well as the NESHAP.

- In the current version of the rule, if there is a change to the completion date in the plan, Section 404.1c requires the owner or operator to notify the District on or before the original planned completion date. The revisions specify that the District be notified of a change in the completion date of a project “no later than the actual project completion date” to ensure projects can be inspected before they are completed.

Other Changes

- Added an applicability section that lists types of entities subject to the rule.
- Definitions such as “fabricating,” “facility,” and “facility component” have been made consistent with those definitions in the NESHAP.
- Amended Section 306.3 regarding the spray-on application of asbestos to make the section consistent with the NESHAP.

EMISSIONS IMPACT

The proposed changes will facilitate compliance for those responsible for asbestos abatement and others who work with asbestos and will simplify enforcement. There may be a small but unquantifiable decrease in emissions due to improved compliance.

COST

The amendments do not impose new requirements or additional compliance costs. The rule changes are consistent with procedures currently being implemented and enforced and may also be required by the NESHAP.

SOCIOECONOMIC IMPACT

Health and Safety Code Section 40728.5 requires a district to perform a socioeconomic impact assessment before adopting, amending, or repealing a rule that will significantly affect air quality or emission limitations. The proposed amendments to Rule 902 clarify its provisions to facilitate compliance and enforcement. The amendments do not significantly affect air quality or emission limitations because the changes either reflect the current NESHAP requirements, are consistent with current enforcement practices, or both. Therefore, HSC Section 40728.5 does not apply.

Nevertheless, Staff evaluated the individual amendments and discusses below the rationale for concluding that there is no impact.

- Adding an applicability section clarifies who is subject to the rule and does not create any new requirements; therefore, there is no impact.

- The exemption for residential facilities was amended to exclude intentional burning for the purpose of firefighting training. According to an EPA advisory¹⁴, the NESHAP applies to training burns even if there are four or fewer residential units. Because they were already subject to the NESHAP, and the District historically enforced the NESHAP requirement, there is no impact by making them subject to Rule 902.
- Exempting emergency renovations and nonscheduled renovations where the amount of suspect material (as opposed to RACM) is under the thresholds of Table 1 in the rule is consistent with the NESHAP and District enforcement of the NESHAP; therefore, there is no impact.
- Adding language to clarify that a survey must be done to establish that the amount of RACM is less than the threshold amount for exemption is consistent with current practice; therefore, there is no impact.
- Added definitions for “asbestos abatement contractor,” “asbestos consultant,” and “site surveillance technician.” These definitions are consistent with the general understanding of what the terms mean and adding the definitions has no impact.
- Definitions for “fabricating,” “facility,” and “facility component” were amended for consistency with the NESHAP and District enforcement of the NESHAP; therefore, there is no impact.
- Replaced the terms “removing” and “stripping” with “disturb.” Disturb is defined to include both remove and strip, therefore these amendments have no impact.
- Changed the definition of “friable asbestos-containing material” to “friable.” This definition is consistent with AHERA and District enforcement practices; therefore, the clarification has no impact.
- Adding the definition for “open air abatement technique” gives a definition for an abatement technique previously unspecified in the rule but used in current practice; therefore, there is no impact.
- Changing the definition of “owner or operator of a demolition or renovation” into separate definitions for “owner of a demolition or renovation” and “operator of a demolition or renovation” was done to clarify applicability; therefore, there is no impact.
- Added the term “regulated area” and its corresponding definition. This term refers to the area where asbestos may be located when containment is not possible, such as a roofing project, and is consistent with current industry and enforcement practices; therefore, there is no impact.
- Added “cement pipes and flues” to the list of examples in the definition of “suspect material.” These materials were not specifically listed among the examples of suspect materials; however, they have the potential to contain asbestos and their treatment as suspect materials is consistent with current District enforcement practices. Therefore, there is no impact.
- Specifying that visible emissions include debris found outside of the regulated area is consistent with current enforcement practice; therefore, there is no impact.
- Clarifying that asbestos consultants and asbestos abatement contractors are subject to specific requirements of the rule is consistent with current enforcement practices; therefore, there is no impact.
- The addition of Section 301.3(c), Alternatives to Containment, outlines options owners or operators of a demolition or renovation have in lieu of containment. Because this section only provides additional alternatives, including a provision for other alternatives

¹⁴ U.S. Environmental Protection Agency, “U.S. Environmental Protection Agency Applicability Determination Index, Control Index: A930007.” December 3, 1992.

not listed as approved by the APCO, it does not restrict current practices; therefore, there is no impact.

- Language for labels added under Section 301.5(c)(3) is consistent with current practice and gives an additional alternative to use labels specified by OSHA. This amendment has no impact.
- The inclusion of emergency demolitions under Section 301.7 is consistent with current practice; therefore, the amendment has no impact.
- Section 306.3 allows for spray-on application of materials where the asbestos fibers in the materials are encapsulated with a bituminous or resinous binder during spraying and the materials are not friable after drying. This provision is consistent with the NESHAP; therefore, there is no impact.
- The addition of Section 313, which makes asbestos consultants accountable for the advice they give, is consistent with current enforcement practices; therefore, it has no impact.
- Adding new Table 3 in Section 401 of the draft rule specifies the minimum number of samples to be collected from each homogeneous friable surfacing material. These numbers are consistent with EPA and AHERA guidance and the District's current survey form; therefore, there is no impact.
- The amendment to notify the district "no later than the actual project completion date" for a change in the completion date insures that projects can be inspected before they are completed. This is an administrative change and there is no impact.

PUBLIC COMMENTS

On November 18th, 2014, Staff held a public workshop to discuss the proposed amendments. The noticing for the workshop included:

- A display ad of the public notice in the Our Region section of the Sacramento Bee;
- A notice posted on the District's website;
- U.S. Mail or e-mail notices to:
 - 729 businesses, including building owners, contractors, and consultants who have had previous contact with the District through asbestos notifications;
 - 385 contractors registered with Cal/OSHA's Asbestos Contractors' Registration Unit;
 - 1,287 consultants and site surveillance technicians certified by Cal/OSHA; and
 - 1,332 persons who have requested to receive District rulemaking notices.

The proposed rule revisions and staff report were made available for public review at that time.

Staff received comments and questions concerning the proposed changes to Rule 902 at the public workshop and received a written comment from a certified asbestos consultant. All comments and responses are included in Appendix D.

ENVIRONMENTAL REVIEW AND COMPLIANCE

California Public Resources Code Section 21159 requires an environmental analysis of the reasonably foreseeable methods of compliance. The proposed amendments to Rule 902 do not establish new provisions that would require any affected owner or operator to modify operations to comply with the rule. The amendments are intended to clarify existing provisions and facilitate compliance with the rule. There may be a small but unquantifiable decrease in emissions of asbestos due to improved compliance.

Staff finds that the proposed rule is exempt from the California Environmental Quality Act as an action by a regulatory agency for protection of the environment¹⁵ and because it can be seen with certainty that there is no possibility that the activity in question may have a significant adverse effect on the environment¹⁶.

FINDINGS

The California Health and Safety Code (HSC), Division 26, Air Resources, requires local districts to comply with a rule adoption protocol as set forth in Section 40727 of the Code. This section contains six findings that the District must make when adopting, amending, or repealing a rule. The findings for the rule and their statutory definitions are listed in the following table.

Finding Required	Finding for Rule 902
Authority: The District must find that a provision of law or of a state or federal regulation permits or requires the District to adopt, amend, or repeal the rule.	The District is authorized to adopt and amend Rule 902 by California Health and Safety Code (HSC) §§ 39659, 39666(d), 40001, 40702, 41010, and 41013. [HSC § 40727(b)(2)]
Necessity: The District must find that the rulemaking demonstrates a need for the rule, or for its amendment or repeal.	The rule amendment is needed to facilitate compliance and enforcement by clarifying and simplifying the rule. [HSC § 40727(b)(1)]
Clarity: The District must find that the rule is written or displayed so that its meaning can easily be understood by the persons directly affected by it.	Staff has reviewed the proposed amendments to the rule and determined that the rule can be understood by the affected parties. In addition, the record contains no evidence that people directly affected by the rule cannot understand the rule. [HSC § 40727(b)(3)]
Consistency: The rule is in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or state or federal regulations.	The proposed amendments to the rule do not conflict with, and are not contradictory to, existing statutes, court decisions, or state or federal regulations. [HSC § 40727(b)(4)]

¹⁵ State CEQA Guidelines, Section 15308, Class 8 Categorical Exemption.

¹⁶ State CEQA Guidelines, Section 15061(b)(3).

Finding Required	Finding for Rule 902
<p>Non-Duplication: The District must find that either: 1) The rule does not impose the same requirements as an existing state or federal regulation; or (2) that the duplicative requirements are necessary or proper to execute the powers and duties granted to, and imposed upon the District.</p>	<p>Rule 902 duplicates provisions in the federal asbestos NESHAP (40 CFR Part 61, Subpart M). However, the District has been delegated the authority to implement and enforce the NESHAP. In addition, state law (HSC § 39666(d)) requires implementation of the NESHAP as an ATCM. Rule 902 is necessary and proper to execute these powers and duties. [HSC § 40727(b)(5)]</p>
<p>Reference: The District must refer to any statute, court decision, or other provision of law that the District implements, interprets, or makes specific by adopting, amending or repealing the rule.</p>	<p>In adopting the proposed amendment to Rule 902, the District implements federal Clean Air Act § 112 (Hazardous Air Pollutants), and HSC §§ 39656, 39659, and 39666. [HSC § 40727(b)(6)]</p>
<p>Additional Informational Requirements: In complying with HSC Section 40727.2, the District must identify all federal requirements and District rules that apply to the same equipment or source type as the proposed rule or amendments.</p>	<p>Appendix B includes a comparison of the requirements of Rule 902 with the federal asbestos NESHAP requirements. [HSC § 40727.2]</p>

REFERENCES

U.S. Environmental Protection Agency. *Guidance for Controlling Asbestos-Containing Materials in Buildings* (“Purple Book”), EPA 560/5-85-024. June 1985.

U.S. Environmental Protection Agency. *Asbestos in buildings: simplified sampling scheme for friable surfacing materials* (“Pink Book”), EPA 560/5-85-030a. October 1985.

U.S. Environmental Protection Agency. “Asbestos-Containing Materials in Schools,” 40 CFR Part 763, Subpart E (“AHERA”).

U.S. Environmental Protection Agency, “U.S. Environmental Protection Agency Applicability Determination Index, Control Index: A930007.” December 3, 1992.

U.S. Environmental Protection Agency. “National Emission Standard for Asbestos,” 40 CFR Part 61, Subpart M, as amended July 20, 2004.

U.S. Environmental Protection Agency. *Air Toxics Web Site: Asbestos*, <http://www.epa.gov/ttn/atw/hlthef/asbestos.html>, accessed November 22, 2011.

U.S. Environmental Protection Agency. *Pollution Prevention & Toxics: Asbestos*, <http://www.epa.gov/asbestos/index.html>, accessed November 22, 2011.

Appendix A

LIST OF CHANGES TO RULE

Rule 902, Asbestos

NEW SECTION NUMBER	EXISTING SECTION NUMBER	PROPOSED CHANGES
Index 222	N/A	Added "Facility" to the index. This index entry had been omitted.
N/A	Index 220	Removed "Glove Bag Project" from the index. This index entry had been left in the index after the section was removed in a previous amendment.
102	N/A	Added an applicability section to specify who is subject to the requirements of the rule.
110.1	Same	Fixed grammatical errors. Specified that residential facilities intentionally burned for firefighting training are subject to the rule, consistent with the intent of the NESHAP ¹⁷ , even if there are four or fewer dwelling units.
110.2	Same	Restructured rule to place the threshold quantities of suspect material into a table (Table 1). These same threshold quantities are included in various sections throughout the rule and for simplicity, Table 1 may be referenced. Replaced "removed from" with "disturbed at" because the new definition of "disturb" encompasses the former definitions of "removing" and "stripping." Removed "including RACM" because it is redundant and creates confusion between RACM and suspect material. The rule does not apply if the amount of "suspect material" is less than Table 1 thresholds even without surveys (Section 401) to determine the presence of RACM.
110.3	N/A	Added an exemption from the entire rule for emergency renovation operations where the amount of suspect material being disturbed is less than the threshold quantities listed in Table 1. The NESHAP (40 CFR 61.145(a)(4)(iv)) includes a similar exemption, but for <u>RACM</u> instead of <u>suspect material</u> . Because the amount of RACM is less than or equal to the amount of suspect material, this exemption is more stringent than the NESHAP. Staff has been implementing requirements for emergency renovations in this manner; the addition of this section makes the exemption explicit in Rule 902.

¹⁷ U.S. Environmental Protection Agency, "U.S. Environmental Protection Agency Applicability Determination Index, Control Index: A930007." December 3, 1992.

NEW SECTION NUMBER	EXISTING SECTION NUMBER	PROPOSED CHANGES
110.4	110.3	This exempts nonscheduled renovation projects from Section 401 (and all other rule requirements) if the amount of suspect material is below the thresholds. Facilities that anticipate disturbing asbestos during the year may file a single annual plan, rather than an individual plan for each renovation. These renovations are referred to as "nonscheduled". Changed "RACM" to "suspect material" because a Section 401 survey is needed to confirm RACM amounts. Took out the term "removed" because it has been incorporated into the definition of "disturb." Replaced Sections 110.3(a) through (c) with a reference to the amounts listed in Table 1.
111.1	Same	Reworded section to clarify that if the survey amount of RACM is less than the amounts listed in Table 2, the operation is exempt from non-survey requirements. Moved RACM threshold quantities in subsections a. – c. to Table 2. These same threshold quantities are included in various sections throughout the rule and for simplicity, Table 2 may be referenced.
111.2	N/A	Added exemption from the non-survey requirements where a survey has established that the amount of RACM disturbed is less than the threshold quantities listed in Table 2. This exemption is consistent with the NESHAP (40 CFR 61.145(a)(4)(iv)), except that the NESHAP does not require a survey to be performed. Staff has already been implementing requirements for emergency renovations in this manner; the addition of this section makes the exemption scope explicit in Rule 902. The language was made consistent with Section 111.1.
111.3	N/A	Added exemption from the non-survey requirements for nonscheduled renovations where a survey has established that the amount of RACM disturbed from all nonscheduled renovations within the calendar year is less than the threshold quantities listed in Table 2. This exemption is consistent with the NESHAP (40 CFR 61.145(a)(4)(iv)), except that the NESHAP does not require a survey to be performed. Staff has already been implementing requirements for nonscheduled renovations in this manner; the addition of this section makes the exemption scope explicit in Rule 902. The language was made consistent with Section 111.1.
111.4	111.2	Reworded section for clarity and replaced RACM threshold quantities with a reference to Table 2. Added Section 404 to the list of sections not included in the exemption. Section 404 requires that the District be notified of any changes to the initial notification required by Section 402; its omission was an error.

NEW SECTION NUMBER	EXISTING SECTION NUMBER	PROPOSED CHANGES
111.5	111.3	Added “the survey requirement in” as a brief description of Section 401. Also, added “demolition or renovation” after “owner or operator”, consistent with the new definitions. Added Section 404 to the list of sections not included in the exemption. Section 404 requires that the District be notified of any changes to the initial notification required by Section 402; its omission was an error.
204	N/A	Added definition of “asbestos abatement contractor” as any person engaged by the owner or operator of a demolition or renovation to disturb asbestos from a demolition or renovation or to supervise or direct those activities. If the asbestos abatement contractor performs the duties of an asbestos consultant then that person is deemed to be an asbestos consultant while performing those duties.
205	N/A	Added definition of “asbestos consultant” consistent with the California Business and Professions Code Section 7181. Added other clarifications to indicate that asbestos consultants perform surveys. It was also clarified that an asbestos consultant may supervise or direct another performing the duties listed in the definition. If the asbestos consultant performs the duties of an asbestos abatement contractor then that person is deemed to be an asbestos abatement contractor while performing those duties.
206	204	Section renumbered
207.1	205.1	Clarified that <u>waste</u> from control devices is asbestos-containing waste material.
207.2	205.2	Fixed a grammatical error by replacing “and” with “or.” Added rags and containment materials to the list of materials that are considered to be contaminated with asbestos.
208 – 210	206 – 208	Sections renumbered
211	209	Deleted “and in its present form” to make the definition consistent with the NESHAP definition.
212	210	Section renumbered
213	211	Replaced “removing or stripping” with “disturbing” because stripping and removing have been incorporated into the definition of disturb. Clarified that the completion date is also when all asbestos-containing <u>material</u> , not just <u>waste</u> , has been removed from the project. Deleted the sentence “This includes, but is not limited to, polyurethane plastic sheeting contaminated with visible emissions” because plastic sheeting has already been added to the definition of Asbestos-Containing Waste Material. Added a sentence to clarify that the completion date for demolitions with RACM less than the thresholds in Table 2 is when all structural members and facility components have been wrecked or taken out.
214 – 216	212 – 214	Sections renumbered.

NEW SECTION NUMBER	EXISTING SECTION NUMBER	PROPOSED CHANGES
217	N/A	Defined “debris” as the remains of something broken down, destroyed, or disturbed. Also specified that any material that asbestos-containing material has come in contact with, including soil, is also debris. This ensures that such material will be treated as potentially contaminated with asbestos.
218	215	Clarified that only <u>intentional</u> burning, not accidental burning, is considered to be a demolition. Added “together with any related handling operations” for consistency with the NESHAP definition. Clarified that the handling of material after an accidental fire is part of a demolition.
219	N/A	Defined “disturb” as a combination of the previous definitions of “removing” and “stripping.” Used the term “suspect material” instead of RACM, to make the definition more general. Disturb will replace removing and/or stripping throughout the rule.
N/A	216	Removed the definition of “element” because it is redundant with the definition of “facility component.”
220	217	Changed the term to “emergency <u>demolition or renovation</u> ” to include the possibility of a building being demolished due to an emergency as listed in this definition, which is consistent with current practices. Changed “that applies” to “and that is limited” to make clear that non-emergency demolitions or renovations are subject to normal notification and other requirements. Used the word “either” to specify that any one of the conditions in Sections 220.1 through 220.3 is sufficient to qualify the project as an “emergency”. Deleted the sentence “Ultimate approval of the use of this provision is left to the discretion of the Air Pollution Control Officer” as this is specified elsewhere (e.g., Section 301.7(a)) in the rule. Restructured last sentence for clarity.
221	218	Changed the definition of “fabricating” to be identical to the NESHAP definition.
222	219	Changed the definition of “facility” to be consistent with the NESHAP definition. Staff excluded the part of the NESHAP definition related to “lofts” but specified that the exemption for residential buildings applies only to <u>strictly</u> residential buildings having for or fewer dwelling units.
223	N/A	Added definition of “facility component” identical to the NESHAP definition.
224	220	Changed the definition of “friable asbestos-containing material” to “friable” for consistency with other rule language. The definition of friable is consistent with the 40 CFR Section 763.83 definitions of friable and damaged friable miscellaneous ACM.
225	N/A	Added definition of “fugitive source” identical to the definition in the NESHAP.

NEW SECTION NUMBER	EXISTING SECTION NUMBER	PROPOSED CHANGES
226	221	Reworded the definition of “glove bag technique” to clarify and match with the proposed requirements for the glove bag technique in Section 301.3(e).
227	222	Section renumbered.
228	223	Added the condition that in order for a waste disposal site to be inactive there must not have been asbestos-containing waste material deposited at the site within the past year. This addition is consistent with the NESHAP definition.
229	224	Replaced “owner or operator (or owner or operator under common control)” with language from the Rule 202 definition of Stationary Source to clarify meaning.
230 – 232	225 – 227	Sections renumbered.
233	N/A	Defined “non-porous material or debris” consistent with the definition for “non-porous material” in Rule 460.
234	228	Clarified that nonscheduled renovation operations may include a number of individual renovations. Replaced the term “equipment” with “facility component” for clarity and because facility component is already defined. Specified that the renovations occur within a given period of time.
235	N/A	Added the definition of “open air abatement technique.” This technique is used on projects such as roof abatement, soil abatement, removing fire debris, and demolishing buildings that pose a safety hazard. This technique involves setting up a regulated area instead of a containment.
236	N/A	Added the definition of “operator of a demolition or renovation.” This definition was added because the definition of “owner or operator of a demolition or renovation” was removed. For clarity, separate definitions of “owner” and “operator” are proposed. The definition of “operator of a demolition or renovation” includes property managers, contractors, architects, or supervisors or any other person who manages, supervises, controls, or directs operation of a demolition or renovation.
237 – 238	229 – 230	Sections renumbered.
N/A	231	Removed the definition of “owner or operator of a demolition or renovation” because the definitions of “owner” and “operator” have been split into separate definitions.
239	N/A	Added the definition of “owner of a demolition or renovation.” This definition was added because the definition of “owner or operator of a demolition or renovation” was removed. For clarity, separate definitions of “owner” and “operator” are proposed. The definition of “owner of a demolition or renovation” is any person who owns, rents, or leases a facility being demolished or renovated.
240	232	Amended the definition of “particulate asbestos material” to match the NESHAP definition.

NEW SECTION NUMBER	EXISTING SECTION NUMBER	PROPOSED CHANGES
241	233	Replaced the reference to “nonscheduled renovation operations” with “a number of related operations” to avoid potential misinterpretation or confusion with the term defined in Section 234 and its associated requirements. Replaced “removed or stripped” with “disturbed” because the definitions of these terms have been incorporated into the definition of disturb.
N/A	234	Removed the definition of “removing” because it has been replaced with “disturb” in the rule language.
242	N/A	Defined “regulated area” as a work area demarcated by the asbestos abatement contractor that may contain asbestos.
243	235	Section renumbered.
244	236	Amended the definition of “renovation” to be consistent with the NESHAP definition.
245 – 247	237 – 239	Sections renumbered.
248	N/A	Added definition of “site surveillance technician” from the California Business and Professions Code Section 7182.
249	240	Removed “active removal, or stripping” in the definition of “start date” because removing and stripping have been incorporated into the definition of “disturb.”
N/A	241	Removed the definition of “stripping” because it is now included under the definition of “disturb.”
250	242	Added “of a facility” for clarification.
251.1	243.1	Reworded section for clarification.
251.2	243.2	Added acoustic ceiling material, cement pipes and flues, and ceiling or wall texture material as examples of suspect material.
252	244	Added language for consistency with the NESHAP definition. Added the sentence “This includes, but is not limited to, asbestos debris found outside the regulated area at a facility.” This sentence is based on the BAAQMD Rule 11-2, Asbestos Demolition, Renovation and Manufacturing, definition of visible emissions.
253	245	Section renumbered.
254	246	Removed “by the Air Pollution Control Officer” because it incorrectly implies APCO discretion.
255	247	Section renumbered.
256	N/A	Added a definition of “wrap and cut/chop technique.” This technique involves removing a section of pipe or similar facility component that is encased in RACM. In this technique, glove bags are used around the area where the component is cut and the section to be removed between the cuts is covered in leak-tight wrapping (which conforms to the NESHAP). Requirements for the wrap and cut/chop technique have been added to Section 301.3(c).
257	248	Section renumbered.

NEW SECTION NUMBER	EXISTING SECTION NUMBER	PROPOSED CHANGES
301	Same	Removed "REMOVAL OF RACM PRIOR TO RENOVATION OR DEMOLITION" from the title because not every subsection is related to removal of RACM prior to renovation or demolition.
301.1	Same	Titled the section "SURVEYS." Clarified language to say that an owner or operator of a renovation or demolition must conduct a survey. Simplified the language in Subsection (a). Added that any asbestos consultant or asbestos abatement contractor engaged by the owner or operator to perform the survey is responsible for compliance.
301.2	Same	Titled the section "REMOVAL OF RACM PRIOR TO RENOVATION OR DEMOLITION."
301.2(b)	Same	Replaced "similar structural material" with "similarly hard material" for clarification.
N/A	301.2(c)	Removed section because the requirements of Sections 301.7 and 303 are already applicable.
301.2(c)	N/A	Specified that any asbestos abatement contractor engaged to perform RACM removal must comply with requirements of Sections 301.2(a) and (b).
301.3	Same	Clarified that it is the responsibility of the owner or operator of a demolition or renovation to insure that the requirements of this section are followed for any area where RACM is being disturbed. Replaced "stripped or removed" with "disturbed" because the definitions of stripping and removing have been incorporated into the definition of disturb.
301.3(a)	N/A	Moved Section 301.5 POSTING here because the posting of warning signs is part of the work environment. Replaced "immediately prior to any entrance/exit into" with "directly leading to." The intent of this section is to prevent the public from entering areas where they could be exposed to asbestos, and this change was made to avoid confusion about where signs must be posted. Also, clarified that OSHA-compliant signs may be used as an alternative.
301.3(b)	301.3(a)	Section renumbered.
301.3(b)(1)	301.3(b)	Made a subsection of CONTAINMENT since viewing ports are part of the containment. Removed "as determined by the Air Pollution Control Officer" as it is already implied. Changed "barrier" to "containment area" for consistency. Changed "stripping and removing" to "disturbance." Added "demolition or renovation after "owner or operator".
301.3(b)(1)(b)	301.3(b)(2)	Clarified that the interior is the containment interior.
301.3(b)(2)	301.3(c)	Made a subsection of CONTAINMENT since the pressure differential is a component of the containment. Replaced "barrier" with "containment area" for consistency. Added "demolition or renovation" after "owner or operator".

NEW SECTION NUMBER	EXISTING SECTION NUMBER	PROPOSED CHANGES
301.3(b)(3)	301.3(d)	Made a subsection of CONTAINMENT since the exhaust ventilation is a component of the containment. Changed "isolated area" to "containment area" for consistency.
301.3(c)	N/A	Added a section for alternatives to containment as described in Section 301.3(b). There are techniques to protect against the release of asbestos fibers during RACM removal such as the glove bag technique, the wrap and cut/chop technique, or the open air abatement technique. An owner or operator may use one of the techniques in this section in lieu of the containment requirements of Section 301.3(a). These are acceptable methods under the NESHAP.
301.3(c)(1)	N/A	Specified requirements for the glove bag technique based on Staff's expertise.
301.3(c)(2)	N/A	Specified requirements for the wrap and cut/chop technique based on Staff's expertise.
301.3(c)(3)	N/A	Roof abatement, soil abatement, removal of fire debris, and demolishing buildings that pose a safety hazard are projects that cannot feasibly be enclosed in an asbestos containment structure. In these cases an open air abatement technique may be used. The open air abatement technique requires establishing a regulated area as defined in Section 240. Note that, consistent with the NESHAP, the wetting requirements of Section 301.4 also apply.
301.3(c)(4)	N/A	Other alternative methods to containment may be approved in writing by the APCO.
301.3(d)	N/A	Specified that the owner or operator of a demolition or renovation and any asbestos abatement contractor engaged to perform RACM removal each must comply with the requirements of Sections 301.3(a) through (c).
301.4(a)	301.4	Clarified that the wetting requirements apply to the owner or operator of a demolition or renovation. Replaced "stripping or removing" with "disturbance" because disturb incorporates both stripping and removing.
301.4(a)(1)	301.4(a)	Replaced "element" with "facility component" for consistency with the NESHAP. Removed the last sentence because it contradicts the first sentence of the paragraph and is inconsistent with the NESHAP (40 CFR 61.145(c)(7)).
301.4(a)(2)	301.4(b)	Added "demolition or renovation" after "owner or operator".
301.4(a)(3)	301.4(c)	Specified that a written determination will be issued regarding damage to equipment from wetting. The determination will state whether wetting may be suspended.
301.4(b)	N/A	Specified that the owner or operator of a demolition or renovation and any asbestos abatement contractor engaged to perform RACM removal each must comply with the requirements of Sections 301.4(a).
N/A	301.5	Moved language to Section 301.3(a).
N/A	301.6	Deleted section and replaced it with Section 301.3(c)(1).

NEW SECTION NUMBER	EXISTING SECTION NUMBER	PROPOSED CHANGES
301.5	301.7	Clarified that the RACM waste handling requirements apply to the owner or operator of a demolition or renovation. Replaced “removed or stripped” with “disturbed” because the definitions of removing and stripping are encompassed by the definition of disturb.
301.5(b)	301.7(b)	Replaced “removed or stripped” with “disturbed” because the definitions of removing and stripping are encompassed by the definition of disturb.
301.5(c)(3)	301.7(c)(3)	Added a labeling requirement consistent with the requirement in Section 303.4(a)(2) to ensure that all containers with asbestos-containing waste material have the proper warning labels.
301.5(e)	N/A	Specified that the owner or operator of a demolition or renovation and any asbestos abatement contractor engaged to perform RACM removal each must comply with the requirements of Sections 301.5(a) through (d)
301.6(a)	301.8	Specified that the owner and operator of a demolition or renovation must ensure that the on-site-representative requirements of this section are followed. Replaced “shall be stripped or removed” with “is disturbed” because the definitions of removing and stripping are encompassed by the definition of disturb. Replaced “certifies that he or she is familiar with” with “has reviewed” to simplify language. Added “on-site representative must complete” for clarity. Clarified that the on-site representative’s training certification must be kept at the project site.
301.6(b)	N/A	Added that if the owner or operator of a demolition or renovation engages any asbestos abatement contractor or asbestos consultant to be an on-site representative, then the contractor or consultant is also responsible for the requirements of Section 301.6(a).
301.7	301.9	Added “DEMOLITION OR” to the title to clarify that this section applies to emergency demolitions as well as emergency renovations, which is consistent with current practices.
301.7(a)	301.9	Clarified the language to say the APCO may grant emergency renovation or demolition approval (via an authorization number). Moved limitation on work to the definition in Section 220.
301.7(b)	N/A	Added that if the owner or operator of a demolition or renovation engages any asbestos abatement contractor to perform RACM removal then the contractor is also responsible for compliance with Section 301.7(a).
302	Same	Changed “SPECIAL” to “ADDITIONAL” so the title is clearer that these requirements are in addition to the requirements of Section 301. Specified that the owner or operator of a demolition is responsible for the requirements of this section.

NEW SECTION NUMBER	EXISTING SECTION NUMBER	PROPOSED CHANGES
302.2(a)	Same	Simplified language.
302.2(d)	Same	Specified that non-porous debris and materials that do not contain asbestos and have been decontaminated do not need to be treated as asbestos containing waste material. This change clarifies the prior rule language and is consistent with current practices.
302.4	Same	Added "BEGINS" to the end of the section title for clarification. Specified that if the RACM can be isolated then only the isolated RACM must be treated as asbestos-containing waste material.
302.5	N/A	Specified that if the owner or operator of a demolition or renovation engages any asbestos abatement contractor to perform RACM removal then the contractor must comply with requirements of Sections 302.1 through 302.4.
303	Same	Added that the owner or operator of a demolition or renovation subject to Sections 301 or 302 must comply with the requirements of this section.
303.1	N/A	Moved Section 303.5 to Section 303.1 to emphasize the importance of this section.
303.2	303.1	Section renumbered.
303.3	303.2	Section renumbered.
303.4	303.3	Deleted "An owner or operator may elect to use" and instead added "may be used" to the end of the paragraph to simplify language. Specified that in order to use an alternate disposal method a written request must be submitted to the APCO.
N/A	303.3(b)	Deleted because language is unnecessary due to deletion of Section 303.4(b)(2).
303.4(b)	303.3(b)(1)	Deleted language redundant with Section 303.3.
N/A	303.3(b)(2)	Deleted language redundant with Section 207.
303.4(c)(2)	303.3(c)(2)	Specified that the owner or operator must meet the requirements of this section. Added "are discharged" for clarification.
303.5	303.4	Amended language for clarification purposes.
N/A	303.5	Moved language to Section 303.1.
303.6(c)	Same	Put the sign legend and notation into a table format so it is easier to understand. Also, made notation requirements consistent with the NESHAP and referenced OSHA requirements in 29 CFR 1910.145(d)(4).
303.7(b)	Same	Added language to clarify that the owner or operator must ensure the waste transporter provides a copy of the waste shipment record to the disposal site.
303.8	N/A	Specified that if the owner or operator of a demolition or renovation engages any asbestos abatement contractor to perform RACM removal subject to Sections 301 or 302 the contractor must comply with requirements of Sections 303.1-303.7.
304	Same	Amended language consistent with the NESHAP.

NEW SECTION NUMBER	EXISTING SECTION NUMBER	PROPOSED CHANGES
305	Same	Amended language consistent with the NESHAP.
305.1	Same	Removed “the fabrication of” due to language being redundant.
305.2	Same	Removed “the fabrication of” due to language being redundant.
305.3	Same	Removed “the fabrication of” due to language being redundant.
306.1	306	In order to clarify requirements the section was split into three parts. This section deals with spraying on equipment or machinery. The addition of the exemption of 306.3 is consistent with the NESHAP.
306.2	306	The section was split into three parts. This section deals with spraying on buildings, structures, pipes, and conduits. The addition of the exemption of 306.3 is consistent with the NESHAP.
306.3	N/A	Added a provision, consistent with the NESHAP, for the spray-on application of materials where the asbestos fibers are encapsulated with a bituminous or resinous binder during spraying and the materials are not friable after drying. Materials applied in this fashion are not subject to the visible emissions requirement of Section 306.1 or the asbestos content limit of Section 306.2.
307	Same	Amended section to clarify that the owner or operator is responsible for meeting the insulation requirements.
309	Same	Amended language for clarity.
310.1	N/A	Moved from prior Section 310.2 for consistency with the NESHAP.
310.2	N/A	Moved from prior Section 310.3(a) for consistency with the NESHAP.
310.3	310.1	Amended section for consistency with the NESHAP.
310.4	310.3	Amended section for consistency with the NESHAP.
N/A	310.3(a)	Moved to Section 310.1.
310.4(a)(3)	310.3(b)	Changed 0 °C (32 °F) to -9.5 °C (15 °F) for consistency with the NESHAP. This should not affect operations since temperatures rarely get below 0 °C in Sacramento County. These low temperatures typically are at night when operations have ceased. This change should not impact businesses.
310.4(b)	310.3(c)	Specified that approval by the APCO of a written request is required to use an alternative control method. Added Section 310.4(b)(4) for consistency with the NESHAP.
310.5 – 310.6	310.4 – 310.5	Sections renumbered.
311	Same	Specified that approval by the APCO of a written request is required to use an alternative control method.
311.2	Same	Reorganized the sign requirements into subsections for clarity. Arranged the legend and notation of warning signs into a table format to make it easier to understand.
311.5	Same	Amended section for consistency with the NESHAP.

NEW SECTION NUMBER	EXISTING SECTION NUMBER	PROPOSED CHANGES
311.6	Same	Specified that to use an alternative control method, prior written approval by the APCO must be received. Restructured section to remove redundant language from prior subsection (b). Added language for consistency with the NESHAP.
312.1	Same	Added "of a demolition or renovation or of any other facility subject to the visible emission requirements of Sections 303, 304, 305, 306, 309, or 310" after "owner or operator". Also, specified that to use an alternative control method as specified in Sections 312.1(b) and 312.1(d), a written request shall be submitted to the APCO.
312.1(a)	Same	Divided language into subsections to help clarify requirements.
312.1(b)	Same	Replaced "authorize" with "issue a prior written approval to" to clarify that written approval must be received to use wet collectors.
312.1(d)	Same	Replaced "authorize" with "issue a prior written approval to" to clarify that written approval must be received to use other filtering equipment. Specified that the owner or operator is that of a renovation or demolition or an owner or operator of any other facility regulated by this rule.
312.2	N/A	Specified that if the owner or operator of a demolition or renovation engages any asbestos abatement contractor to remove or dispose of RACM then the contractor is responsible for requirements of Section 312.1.
313	N/A	Added section to clarify the District's policy that asbestos consultants are responsible for ensuring that the guidance given to owners or operators of demolitions or renovations pursuant to sections 301, 302, 303, and 312 meets the rule requirements. This provision is consistent with current practices by the District.
314	NA	Added section to specify that where more than one party is responsible for compliance, then compliance by one party satisfies the requirement for all parties. This provision is consistent with current practices by the District.
401	Same	Changed "owner or operator of a renovation or demolition" to "owner or operator of a demolition or renovation" to be consistent with definitions.
401.1	Same	Replaced "for ordered demolitions" with "as provided in Section 401.2" for clarity. Removed "the owner or operator shall thoroughly survey" for language consistency with the lead in to Section 401.
401.1(a)	401.1	Added this section to state the facility or a portion thereof shall be thoroughly surveyed.

NEW SECTION NUMBER	EXISTING SECTION NUMBER	PROPOSED CHANGES
401.1(b)	401.1	<p>Added section to specify the minimum number of samples to be collected from each homogeneous friable spray or trowel applied surfacing material. Note that more than the minimum number of samples may be needed to meet the requirement to “thoroughly survey.” Added Table 3 to show the minimum number of samples based on the square footage of the area to be sampled, with a note that more than the minimum number may be necessary. Currently, the minimum number of samples to be collected is not specified in the rule; the only requirement that the procedure conform to the procedure outlined in an “EPA approved Building Inspector course” (Section 401.3a). There are multiple building inspector courses, leading to ambiguity in the minimum number of samples required to be collected. EPA has published two guidance documents on asbestos sampling in buildings and has promulgated a regulation for asbestos-containing materials in schools (AHERA Regulation, 40 CFR Part 763, Subpart E). District inspectors have been trained using the AHERA protocol. Staff is currently requiring sample collection as specified in the District’s Survey Form. The minimum number of samples specified in Table 3 for surfacing materials is consistent with the AHERA protocol and the District’s Survey Form; therefore, this is not a change from current practice. Additionally, Table 3 is noted that more samples than 3, 5, or 7 may be necessary to adequately test for the presence of asbestos. Appendix C includes a comparison of the proposed sample requirements with the EPA guidance as well as the NESHAP and AHERA requirements.</p>
401.2	Same	<p>Replaced “must” with “may” because the survey may be done prior to demolition. Removed the phrase “unless the survey already has been completed” to eliminate redundancy.</p>
401.3(a)	Same	<p>Specified that the surveyor must comply with the procedures outlined in the EPA Building Inspector course. Add language “except when otherwise specified in this rule.” This ensures building inspectors will both conform to their course certification and also meet the rule requirements to thoroughly survey and to collect at least the minimum number of samples specified in Table 3 of this rule.</p>
401.3(b)	Same	<p>Added “demolition or renovation” after “owner or operator.” Removed the word “building” for consistency with the added language. Replaced “shall contract with a person” with “may engage only a person” to be consistent with language elsewhere in the rule and specify that only a person with the required certification may be engaged. Changed licensed consultant to certified asbestos consultant for clarity and consistency with rule language.</p>

NEW SECTION NUMBER	EXISTING SECTION NUMBER	PROPOSED CHANGES
401.6	Same	Specified that if the owner or operator of a demolition or renovation engages any asbestos consultant to perform a survey then the consultant is also responsible for compliance with requirements of Sections 401.1 through 401.5.
402.1	Same	Replaced “any source regulated by this rule” with “a demolition or renovation” because the section only applies to demolitions or renovations. Added “meet the following requirements” for clarity.
402.1(a)(3)	Same	Replaced RACM threshold quantities with a reference to Table 2.
402.1(a)(4)	Same	Deleted “Each glove bag project” since glove bag project is no longer defined and replaced it with “all facility components in which the glove bag or wrap and chop/cut technique is used” which is consistent with definitions. Staff only requires one notification for all glove bag or wrap and chop/cut related renovations at a facility done during a given period of time.
402.1(a)(6)	Same	Added language to clarify the intent of this section. All buildings or structures at a facility that are to be demolished and have no RACM can be submitted under one notification.
402.1(b)(13)	Same	Replaced “stripping and removing” with “disturbance of RACM.” Updated section references.
402.1(b)(15)	Same	Specified emergency demolitions are included in this provision and updated section references.
402.1(c)(1)	Same	Included electronic media as a method for delivery.
402.1(c)(1)(c)	Same	Replaced “as soon as” with “Within 24 hours after” to be more specific. Specified that an emergency demolition authorization can also be issued as defined in Section 220 and required by Section 301.7.
402.1(c)(1)(e)	Same	Reworded section to clarify requirements for notifying nonscheduled renovations, consistent with current practices.
402.2	Same	Added “demolition or renovation” after “owner or operator.”
402.3	N/A	Added language so if the owner or operator engages any asbestos abatement contractor or any asbestos consultant to perform initial notifications then those parties are also responsible for compliance with the requirements of Sections 402.1 and 402.2.
403	Same	Added “demolition or renovation” after “owner or operator.” Clarified language to state that the annual notifications are in lieu of complying with Section 402.
403.3	403.4	Corrected section numbering error.
403.4	403.5	Corrected section numbering error.
403.5	N/A	Added language stating that if the owner or operator engages any asbestos abatement contractor or any asbestos consultant to prepare annual notifications, then those parties are also responsible for compliance with the requirements of Sections 403.1 through 403.4.
404.1	Same	Added “demolition or renovation” after “owner or operator”.

NEW SECTION NUMBER	EXISTING SECTION NUMBER	PROPOSED CHANGES
404.1(a)	Same	Replaced “stripping or removal” with “disturbing” for consistency with definitions. Removed subsection numbering. Added “demolition or renovation” after “owner or operator”. Specified that a written notice must be delivered to the APCO. Updated the delivery methods to account for electronic media and to be consistent with other sections of the rule.
404.1(b)	Same	Replaced “stripping or removal” with “disturbance.” Added “demolition or renovation” after “owner or operator”. Updated the delivery methods to include electronic media and to be consistent with other sections of the rule.
404.1(c)	Same	Updated the delivery methods to include electronic media and to be consistent with other sections of the rule. Specified that delivery must be “no later than one working day prior to the actual project completion date.” This ensures the District will be notified in a timely manner of any projects that are complete earlier than their plan date.
404.2(a)	Same	Specified that the owner or operator of a demolition or renovation must notify the APCO. Delete “in” to correct grammatical error.
404.2(b)	Same	Specified that the owner or operator of a demolition or renovation is responsible for revising the annual notification.
404.3	N/A	Added language so if the owner or operator engages any asbestos abatement contractor or any asbestos consultant to prepare plan revisions then the contractor or consultant is also responsible for the requirements of Sections 404.1 and 404.2.
405	Same	Added “demolition or renovation” after “owner or operator”.
405.2(b)	Same	Reworded for clarity. Change is consistent with requirements in Section 312, because previous language could have suggested (wrongly) that a filter with non-spun fill yarn could be used.
405.3	N/A	Added language so if an owner or operator of a demolition or renovation engages any asbestos abatement contractor or any asbestos consultant engaged to report on emission control equipment pursuant to Section 405 then those parties must also comply with Sections 405.1 and 405.2.
406	406	Added language to clarify that the owner or operator of a demolition or renovation shall provide the information as outlined in this section to the APCO.
406.7	N/A	Added language so if the owner or operator of a demolition or renovation engages any asbestos abatement contractor or any asbestos consultant engaged to report on waste disposal operations those parties must also comply with Sections 406.1 through 406.6.

NEW SECTION NUMBER	EXISTING SECTION NUMBER	PROPOSED CHANGES
408.1	408	Provided an exception to reporting of spray operations where asbestos fibers are encapsulated in a bituminous or resinous binder and are not friable after drying. This was added for consistency with the NESHAP. Also clarified that the requirements for spraying are specified in Section 306.
408.1(a) – 408.1(d)	408.1 – 408.4	Sections renumbered.
408.2	N/A	Provided an exception to reporting of spray operations where asbestos fibers are encapsulated in a bituminous or resinous binder and are not friable after drying. This was added for consistency with the NESHAP.
410	Same	Updated section reference.
501	Same	Corrected grammatical error. Updated section reference.
501.2	Same	Fixed an incorrect reference to the CFR.
501.3	Same	Added a reference to the EPA's Method for the Determination of Asbestos in Bulk Building Materials, EPA/600/R-93/116, July 1993. Removed the reference to NIST approved TEM method because NIST only approves labs to perform TEM and does not have a specific approved method.

APPENDIX B

40727.2 Matrix for Proposed Amendments to Rule 902, Asbestos

Elements of comparison	Specific Provisions	Rule 902	Asbestos NESHAP (40 CFR 61 Subpart M)
Applicability		<ul style="list-style-type: none"> - Asbestos Mills - Roadways - Manufacturing - Demolition and Renovations - Spraying - Fabricating - Insulating Materials - Waste Disposal sites for Asbestos Mills - Waste Disposal for manufacturing, fabricating, demolition, renovation, and spraying operations - Inactive waste disposal sites for asbestos mills and manufacturing and fabricating operations - Active waste disposal sites - Conversion facilities 	Same as Rule 902.
Exemptions	Exemption from the entire rule, Section 110.1	Exempts facilities with four or less dwelling units.	Same as Rule 902.

Elements of comparison	Specific Provisions	Rule 902	Asbestos NESHAP (40 CFR 61 Subpart M)
	Exemption from the entire rule, Section 110.2	Exempts planned renovation operations where the amount of suspect material being disturbed is less than 260 lineal feet off of pipes, 160 ft ² off of other facility components, or 35 ft ³ of material where the length or area could not be measured previously.	<p>Exempts planned and unplanned renovations where the amount of <u>RACM</u> is less than 260 lineal feet off of pipes, 160 ft² off of other facility components, or 35 ft³ of material that could not otherwise be measured. The NESHAP has no similar provision regarding suspect material.</p> <p>Because the amount of suspect material is always greater than or equal to the amount of RACM, <u>Rule 902 is more stringent than the NESHAP</u>. This requirement has not changed from the existing rule.</p>
	Exemption from the entire rule, Section 110.3	Exempts emergency renovation operations if the amount of suspect material disturbed is less than 260 lineal feet off of pipes, 160 ft ² off of other facility components, or 35 ft ³ of material where the length or area could not be measured previously.	<p>Same as Rule 902, except it applies to RACM only. Because the amount of suspect material is always greater than or equal to the amount of RACM, <u>Rule 902 is more stringent than the NESHAP</u>.</p>
	Exemption from the entire rule, Section 110.4	Exempts nonscheduled renovation operations if the amount of suspect material disturbed during a calendar year is less than 260 lineal feet off of pipes, 160 ft ² off of other facility components, or 35 ft ³ of material where the length or area could not be measured previously.	<p>Same as Rule 902, except it applies to RACM only. Because the amount of suspect material is always greater than or equal to the amount of RACM, <u>Rule 902 is more stringent than the NESHAP</u>.</p>
	Partial Exemptions, Section 111.1	Exempts planned renovation operations from the rule, except for the survey requirement, if the amount of RACM disturbed is less than 260 lineal feet off of pipes, 160 ft ² off of other facility components, or 35 ft ³ of material where the length or area could not be measured previously.	<p>No similar partial exemption. NESHAP has full exemption (see above). Rule 902 is more stringent than the NESHAP. This requirement has not changed from the existing rule.</p>
	Partial Exemptions, Section 111.2	Exempts emergency renovation operations from the rule, except for the survey requirement, if the amount of RACM disturbed is less than 260 lineal feet off of pipes, 160 ft ² off of other facility components, or 35 ft ³ of material where the length or area could not be measured previously.	<p>Same as Rule 902, except the survey is not required by the NESHAP. Therefore, <u>Rule 902 is more stringent than the NESHAP</u>.</p>

Elements of comparison	Specific Provisions	Rule 902	Asbestos NESHAP (40 CFR 61 Subpart M)
	Partial Exemptions, Section 111.3	Exempts nonscheduled renovation operations from the rule, except for the survey requirement, if the amount of RACM disturbed in a calendar year is less than 260 lineal feet off of pipes, 160 ft ² off of other facility components, or 35 ft ³ of material where the length or area could not be measured previously.	Same as Rule 902, except the survey is not required by the NESHAP. Therefore, <u>Rule 902 is more stringent than the NESHAP.</u>
	Partial Exemptions, Section 111.4	Exempts demolition operations from the rule, except for the survey and notification requirement, if the combined amount of suspect material, including RACM, is less than 260 lineal feet off of pipes, 160 ft ² off of other facility components, or 35 ft ³ of material where the length or area could not be measured previously.	Exempts demolition operations where the amount of RACM is less than 260 lineal feet off of pipes, 160 ft ² off of other facility components, or 35 ft ³ of material that could not otherwise be measured. This provision applies to <u>RACM</u> as opposed to <u>suspect material</u> . Because the amount of suspect material is always greater than or equal to the amount of RACM, Rule 902 is more stringent than the NESHAP. This requirement has not changed from the existing rule.
	Partial Exemptions, Section 111.5	Exempts demolition or renovation operations from the survey requirement of the rule if the owner/operator presumes that all the suspect material is RACM and the operation is notified and materials removed and disposed of in accordance with the rule.	The NESHAP has no similar exemption. The exemption in Rule 902 allows the owner/operator to presume all suspect material instead of surveying to determine the amount of suspect material that is RACM. However, to use this exemption, the owner/operator must handle all suspect material as RACM. <u>Rule 902 is more stringent than the NESHAP.</u> This requirement has not changed from the existing rule.

Elements of comparison	Specific Provisions	Rule 902	Asbestos NESHAP (40 CFR 61 Subpart M)
Work Practices	Renovations and Demolitions	<p>Requires compliance with the survey and notification provisions prior to disturbing RACM.</p> <p>Requires RACM to be removed prior to any work commencing or disturbance, except for ordered demolitions.</p> <p>Requires RACM to be kept adequately wet during stripping or removal unless in freezing temperatures or if wetting becomes a safety hazard or damages equipment.</p> <p>Requires waste to be kept wet, to be transported to the ground in leak-tight containers, to be stored in transparent, leak-tight and labeled containers.</p> <p>Requires waste to be stored in a secured area.</p> <p>Requires a properly trained representative to be on-site during removal.</p> <p>Requires all debris from an ordered demolition be disposed of as ACM if any debris tests positive for asbestos.</p> <p>Requires all RACM, Category I and Category II asbestos containing material to be removed from a facility before it is demolished by burning.</p> <p>Requires all contaminated debris from an ordered demolition to be disposed of as asbestos containing waste material if RACM is discovered after demolition begins and cannot be safely removed.</p>	Same as Rule 902.

Elements of comparison	Specific Provisions	Rule 902	Asbestos NESHAP (40 CFR 61 Subpart M)
		<p>Requires containment of the work area with viewing ports and negative air pressure with exhaust ventilation.</p>	<p>Local exhaust ventilation and collection system is not required by NESHAP, but may be used as an alternative when wetting would damage equipment or present a safety hazard. <u>Rule 902 is more stringent than the NESHAP.</u> This requirement has not changed from the existing rule.</p>
		<p>Requires signs to be posted at the entrances and exits of the work areas.</p>	<p>No similar requirement. <u>Rule 902 is more stringent than the NESHAP.</u> This requirement has not changed from the existing rule.</p>
		<p>Allows the use of a glove bag technique, wrap and chop/cut technique, or the open air abatement technique instead of containment and ventilation.</p>	<p>Allows the use of a glove bag technique or local collection with ventilation instead of wetting. Rule 902 and the NESHAP are equivalent in stringency.</p>
	<p>Waste Disposal</p>	<p>Prohibits visible emissions to the outside air. Requires waste to be disposed of at certain waste disposal sites. Requires waste material to be kept adequately wet and stored in leak-tight, labeled containers. Allows waste to be converted to a non-friable form or converted to an asbestos-free form. Requires waste material to be disposed of within 90 days of generation. Requires all vehicles and containers used to transport asbestos waste to be labeled. Requires recordkeeping and reporting of all transported waste.</p>	<p>Same as Rule 902, except the NESHAP requires waste material to be disposed of as soon as practical instead of within 90 days of generation. Rule 902 and the NESHAP are equivalent in stringency.</p>
	<p>Manufacturing</p>	<p>Prohibits discharge of visible emissions to the outside air or clean emissions prior to venting.</p>	<p>Same as Rule 902.</p>
	<p>Fabricating</p>	<p>Prohibits visible emissions to the outside air or clean emission prior to venting.</p>	<p>Same as Rule 902.</p>

Elements of comparison	Specific Provisions	Rule 902	Asbestos NESHAP (40 CFR 61 Subpart M)
	Spraying	Prohibits visible emissions to the outside air or clean emissions prior to venting. Spray material shall contain less than 1% asbestos.	Same as Rule 902.
	Insulating	Molded and wet-applied materials which are friable after drying shall contain no asbestos.	Same as Rule 902.
	Roadways	Prohibits the surfacing of roadways with asbestos containing waste material except for temporary roadways on an area of asbestos ore deposits.	Prohibits construction or maintenance of a roadway with asbestos tailings or materials, except asbestos tailings can be used: 1) on a temporary roadway at an asbestos mine; 2) on a temporary roadway at an active asbestos mill when encapsulated with resinous or bituminous binder, or 3) when encapsulated in asphalt concrete. Rule 902 permits fewer uses; therefore, <u>Rule 902 is more stringent than the NESHAP.</u> This requirement has not changed from the existing rule.
	Asbestos Mills	Prohibits visible emissions to the outside air or clean emission prior to venting.	Same as Rule 902.
	Waste Disposal Sites	Requires either no visible emissions or meeting specific requirements for cover and dust suppression agents. Requires warning signs in specified format to be posted at all entrances and along the property line at interval of 330 feet or less. Requires fencing along the perimeter of the property.	Same as Rule 902

Elements of comparison	Specific Provisions	Rule 902	Asbestos NESHAP (40 CFR 61 Subpart M)
Exceptions	Visible emissions	<p>The owner or operator may elect to use air cleaning to clean asbestos emissions through the use of air cleaning equipment. Fabric filters shall be used. If fabric filters would create a fire or explosion hazard, the APCO may authorize the use of wet collectors. HEPA filters may be used in place of fabric filters.</p> <p>Fabric filter pressure drop maximum: 30 ft³/min/ft² for woven fabric (40 for asbestos ore dryers), 35 ft³/min/ft² for felted fabric (45 for asbestos ore dryers).</p> <p>Felted fabric: at least 14 ounces per square yard density and at least 1/16 inch thick.</p> <p>Synthetic fabrics: must not contain fill yarn other than that which is spun.</p> <p>HEPA filter efficiency: at least 99.97% for 0.3 micron particles.</p> <p>Wet collector contacting energy: at least 40 inches water pressure gauge</p>	Same as Rule 902.
Reporting	Renovations and Demolitions - Surveys	<p>Requires a survey to be done prior to disturbance, unless the operation is an ordered demolition - then the survey is done after demolition</p> <p>Specifies contents of surveys and persons qualified to conduct surveys.</p>	Same as Rule 902.

Elements of comparison	Specific Provisions	Rule 902	Asbestos NESHAP (40 CFR 61 Subpart M)
	Renovations and Demolitions - Plan revisions	<p>Requires revision of a notification of intent to renovate or demolish if the start date or completion date is going to change.</p> <p>Requires a minimum of 10 days' notice between notification and work commencing if an owner or operator intends on starting earlier than originally stated.</p> <p>Requires owners or operators to revise the notification prior to the original start date if the owner or operator intends on beginning work later than originally noticed.</p> <p>Requires revision of the notification if the amount of RACM to be disturbed changes.</p> <p>Allows revision of an annual notification.</p>	<p>Same as Rule 902.</p>
Emission Equipment	Control	<p>For facilities using emission control equipment, provide a description of the emission control equipment.</p> <p>For all fabric filters, provide the pressure drop across the filter in inches water pressure gauge.</p> <p>For woven fabric, include airflow permeability and if the fabric is synthetic, whether the fill yarn is spun or not spun.</p> <p>For felted fabric, include the density, minimum thickness, and air flow permeability.</p>	<p>Same as Rule 902.</p>

Elements of comparison	Specific Provisions	Rule 902	Asbestos NESHAP (40 CFR 61 Subpart M)
	Waste Disposal Operations	Provide a brief description of the asbestos waste-generating process, the average weight (kg/day) of waste disposed, emission controls used in waste disposal, the type of disposal site or incineration site ultimately used, the name of the site operator, and the name and location of the disposal site.	Same as Rule 902.
	Inactive Disposal Sites	Provide a brief description of the site and the method(s) used to comply with the standard or alternative procedures to be used.	Same as Rule 902.
	Spraying Operations	Provide the name and address of owner or operator, location of spraying operation, and procedures to be followed to meet the rule standards for spraying operations. Information must be provided at least 20 days prior to commencement of the spraying operation.	Same as Rule 902.
	Active Waste Disposal Sites	Before excavation begins, provide the scheduled starting and completion dates, reasons for disturbing the waste, procedures to be used to control emissions, the location of any temporary storage site, and the location of the final disposal. Information must be provided at least 45 days prior to beginning excavation.	Same as Rule 902.
Monitoring	Conversion Facilities	Requires a start-up performance test and another test within the initial 90 days of operation. After 90 days, continuous monitoring of parameters identified in start-up and subsequent testing. Maintain visible emissions monitoring records. Maintain inspection and maintenance records.	Same as Rule 902.
Recordkeeping	Asbestos Manufacturing, Fabricating Operations Mills, or		Same as Rule 902.

Elements of comparison	Specific Provisions	Rule 902	Asbestos NESHAP (40 CFR 61 Subpart M)
	Active Waste Disposal Sites	Maintain waste shipment records. Maintain, until closure, records of the location, depth, area, and quantity of waste within the disposal site on a map or diagram.	Same as Rule 902.
	Conversion Operations	Maintain records of: performance testing results; composite analyses; continuous monitoring and process operating parameters; waste shipment records; and the name and location of the purchaser and date of sale or deposit for output materials. 2 years. There are no averaging provisions for this rule.	Same as Rule 902.
Averaging Provisions	Record Retention	There are no averaging provisions for this rule.	Same as Rule 902.
Units		Lineal feet, square feet, cubic feet, ft ³ /min/ft ² , ounces/yd ² , inches water pressure gauge,	Lineal meters (or feet), m ² (or ft ²), m ³ (or ft ³), m ³ /min/m ² (or ft ³ /min/ft ²), g/m ² (or ounces/yd ²), inches water pressure gauge,
Test Methods		Asbestos content by Polarized Light Microscopy and Transmission Electron Microscopy. Fabric filter airflow permeability by ASTM D737-69.	Same as Rule 902.

Appendix C

Guidance on Minimum Number of Samples to be Collected

	Proposed Rule 902	Pink Book ¹	Purple Book ²	AHERA ³	NESHAP	Current Rule 902
RACM	Interior - Exterior	Interior	Interior	Interior	Interior - Exterior	Interior - Exterior
Fireproofing	Thoroughly (3,5,7 minimum) ⁴	3,5,7	3,5,7	3,5,7	Thoroughly	Thoroughly/EPA approved course
Acoustical Ceiling Texture	Thoroughly (3,5,7 minimum) ⁴	3,5,7	3,5,7	3,5,7	Thoroughly	Thoroughly/EPA approved course
Plaster	Thoroughly (3,5,7 minimum) ⁴	3,5,7	3,5,7	3,5,7	Thoroughly	Thoroughly/EPA approved course
Wall Texture	Thoroughly (3,5,7 minimum) ⁴	3,5,7	3,5,7	3,5,7	Thoroughly	Thoroughly/EPA approved course
Ceiling Tiles	Thoroughly	N/A	Sufficient to determine	Sufficient to determine	Thoroughly	Thoroughly/EPA approved course
HVAC Duct Insulation	Thoroughly	N/A	3	3	Thoroughly	Thoroughly/EPA approved course
Thermal System Insulation	Thoroughly	N/A	3	3	Thoroughly	Thoroughly/EPA approved course

¹ U.S. Environmental Protection Agency. Asbestos in Buildings: Simplified Sampling Scheme for Friable Surfacing Materials. EPA 560/5-85-03a. October 1985.
² U.S. Environmental Protection Agency. Guidance for Controlling Asbestos-Containing Materials in Buildings. EPA 560/5-85-024. June 1985.
³ U.S. Environmental Protection Agency. 40 CFR 763, Subpart E, Asbestos-Containing Materials in Schools.
⁴ Minimum of 3 samples for sampling area of less than 1,000 ft², 5 samples for areas between 1,000 and 5,000 ft², 7 samples for areas greater than 5,000 ft². More than 3, 5, or 7 samples may be necessary to adequately test for the presence of asbestos.

	Proposed Rule 902	Pink Book ¹	Purple Book ²	AHERA ³	NESHAP	Current Rule 902
Mudded Pipe Elbow Insulation	Thoroughly	N/A	3	3	Thoroughly	Thoroughly/EPA approved course
Linoleum Backing	Thoroughly	N/A	Sufficient to determine	Sufficient to determine	Thoroughly	Thoroughly/EPA approved course
Furnace Insulation	Thoroughly	N/A	3	3	Thoroughly	Thoroughly/EPA approved course
Fire Doors	Thoroughly	N/A	Sufficient to determine	Sufficient to determine	Thoroughly	Thoroughly/EPA approved course
Nicolite Roofing paper	Thoroughly	N/A	Sufficient to determine	Sufficient to determine	Thoroughly	Thoroughly/EPA approved course
Category II						
Stucco	Thoroughly (3,5,7 minimum) ⁴	N/A	N/A	3,5,7	Thoroughly	Thoroughly/EPA approved course
Window Glazing	Thoroughly	N/A	N/A	Sufficient to determine	Thoroughly	Thoroughly/EPA approved course
Cement Board/Transite	Thoroughly	N/A	N/A	Sufficient to determine	Thoroughly	Thoroughly/EPA approved course
Mastics	Thoroughly	N/A	N/A	Sufficient to determine ³	Thoroughly	Thoroughly/EPA approved course
Textured Paints/coatings	Thoroughly	N/A	N/A	Sufficient to determine	Thoroughly	Thoroughly/EPA approved course
Chalkboards	Thoroughly	N/A	N/A	Sufficient to determine	Thoroughly	Thoroughly/EPA approved course

	Proposed Rule 902	Pink Book ¹	Purple Book ²	AHERA ³	NESHAP	Current Rule 902
Lab Hoods/Table Tops	Thoroughly	N/A	N/A	Sufficient to determine	Thoroughly	Thoroughly/EPA approved course
Cement Pipes Cement Roofing Shingles	Thoroughly	N/A	N/A	Sufficient to determine	Thoroughly	Thoroughly/EPA approved course
Caulking	Thoroughly	N/A	N/A	Sufficient to determine	Thoroughly	Thoroughly/EPA approved course
Category I						
Asphalt Flooring	Thoroughly	N/A	N/A	Sufficient to determine	Thoroughly	Thoroughly/EPA approved course
Roofing Shingles	Thoroughly	N/A	N/A	Sufficient to determine	Thoroughly	Thoroughly/EPA approved course
Built-up Roofing	Thoroughly	N/A	N/A	Sufficient to determine	Thoroughly	Thoroughly/EPA approved course
Base Flashing	Thoroughly	N/A	N/A	Sufficient to determine	Thoroughly	Thoroughly/EPA approved course
Rolled Roofing	Thoroughly	N/A	N/A	Sufficient to determine	Thoroughly	Thoroughly/EPA approved course
Boiler/Tank Insulation	Thoroughly	N/A	N/A	Sufficient to determine	Thoroughly	Thoroughly/EPA approved course
Vinyl Floor Tile	Thoroughly	N/A	N/A	Sufficient to determine	Thoroughly	Thoroughly/EPA approved course

Appendix D

Public Comments

Written Comment from Scott Compton at Hazardous Materials Inc. on November 5, 2014

Comment #1: The wording of Sections 204, 205, and 301.1(b) would seem to legitimize asbestos abatement contractors conducting asbestos surveys, contrary to California Business and Professions Code sections 7180 – 7189.7.

Response: The District is not authorized to contravene state laws and regulations. The intention of the proposed rule language is to allow the District to enforce the rule requirements for any parties responsible for compliance at the time a violation occurred, regardless of whether any party may also be operating outside of the California Business and Professions Code.

Public Workshop Comments, November 18, 2014

Attendee:

Marlin Bryant, RGA-Terracon
Pat Keane, Aspen Square
Anitra Brosseau, Aerojet
Dave Payette, SMUD
Ryan Terwilliger, Clark Sief Clark
Eugene Rubin, YSAQMD
Shannon Johanson, HMS, Inc.
Mike Spruell, E.J. Williams Property
John Martinelli, Forensic Analytical Consulting Services
Dave Brinkerhoff, Forensic Analytical Consulting Services
Tony Belcher, CAC
Kathy Edwards, Miracorp for WAPA
Robert Howell, California Department of General Services
Jeff Van Slooten, Lead Detective

Comment #2: Is it common for asbestos abatement contractors to perform asbestos consultant duties or consultants to perform contractor duties?

Response: It is not common but it does happen. The intent of the rule language is to ensure that parties are responsible for the duties they perform, regardless of whether they consider themselves to be asbestos abatement contractors or asbestos consultants.

Comment #3: Can you give an example of a mixed use building besides a loft?

Response: One example would be apartments on top of a first floor commercial structure. Whenever residential units, regardless of the number of such units, are a part of the same building or structure as non-residential units, the residential units cannot qualify for the

exemption for 4 or fewer residential dwelling units under Section 110.1. This is typical of the way the NESHAP is interpreted across the country.

Comment #4: If a consultant gives guidance that is compliant with Rule 902, but the guidance is not followed, is the consultant liable for a violation?

Response: It is important for the consultant to keep detailed documentation as duties are performed. If it is documented that compliant advice was given, then the consultant would not be liable for the violation. Each violation is evaluated on a case-by-case basis and all factors are considered when evaluating the responsibilities of each party.

Comment #5: Is it enough that a consultant documents that all advice given was compliant with Rule 902?

Response: Again, each violation is evaluated on a case-by-case basis. Detailed documentation is preferred over a blanket statement, especially if there is a conflict between parties.

Comment #6: There is concern about the different ways that the term “supervise” could be interpreted and how “supervision” transfers from one party to the next.

Response: Rule 902 Section 301.6 states that an on-site representative must be present at all times when RACM is being disturbed. This on-site representative must be, at minimum, certified in compliance with 40 CFR, Part 763, Subpart E and is responsible for maintaining compliance with Rule 902. If an asbestos abatement contractor or asbestos consultant is not acting as the on-site representative but is supervising a smaller subset of activities (such as when a consultant supervises a site surveillance technician conducting a survey), they are responsible for the specific activities they are supervising. Procedures for transferring of supervisory responsibilities may vary from site to site, which is why any resulting violations are always examined on a case-by-case basis to determine which parties are responsible.

Comment #7: You mentioned that if during a demolition RACM is discovered and can be isolated, then only the isolated RACM needs to be treated as asbestos-containing waste material. What does it mean to isolate the RACM and how is it done?

Response: Once the RACM is discovered, a survey must be conducted to determine if the RACM can be isolated and removed. If the RACM has not yet been disturbed and can be isolated and removed safely, then the owner or operator may establish a containment and remove the RACM in accordance with the requirements of Rule 902. If RACM is already part of the demolition debris, then all the debris must be treated as asbestos-containing waste material.

Comment #8: You mention that non-porous materials can be decontaminated so that they do not have to be treated as asbestos-containing waste material. Can you list some examples of non-porous materials?

Response: The most common examples of non-porous materials are metal, glass, and some plastics. Staff intentionally used the term “non-porous materials” instead of listing specific

materials to be more inclusive of any type of non-porous material. Non-porous material or debris is defined in Section 233 of the proposed rule.

Comment #9: When dealing with a fire damaged building, if the roof tested positive for asbestos must the entire building be considered asbestos-containing waste material?

Response: A thorough asbestos survey must be conducted on the building if it has not already been done. If the roof tests positive for asbestos, it must be treated as asbestos-containing waste material. If the roof has been demolished due to fire damage and has come in contact with other building debris, all the debris must be treated as asbestos-containing waste material unless the RACM can be isolated or pieces of nonporous debris can be decontaminated.

Comment #10: The definition for an asbestos consultant lists “contract administration” as one of the professional services for which a consultant may be engaged. What is contract administration?

Response: A consultant might assist the owner or operator in preparing or overseeing contracts for an asbestos abatement project. This portion of the asbestos consultant definition is identical to the definition in the California Business and Professions Code Section 7181.