

# Draft Proposed Amended Rule 1403 Frequently Asked Questions (FAQ)

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# 1. DEFINITIONS

## 1.1 Asbestos-Containing Material (ACM)

**Does Rule 1403 require abatement of all nonfriable asbestos-containing material (ACM), including Class II nonfriable ACM? According to the NESHAP, materials classified as Class II or Category II nonfriable ACM can neither become friable when dry nor are they expected to become friable as a result of demolition or renovation activities.**

Yes, Rule 1403 regulates the abatement of all friable and nonfriable ACM. The NESHAP does not have a Class I or Class II nonfriable ACM. Rather, the NESHAP discusses Category I and Category II nonfriable materials. The definitions are not synonymous. The NESHAP defines and includes Category II nonfriable ACM as part of the definition for regulated ACM, and thus it has been included in the definition of ACM in Proposed Amended Rule 1403. The SCAQMD identifies materials that would be considered Category II nonfriable, such as transite, pipe and asbestos cement products, plaster, and stucco, to be Class I nonfriable. The SCAQMD has not encountered nonfriable ACM that does not have the potential to be broken, crumbled, pulverized, or reduced to powder in the course of demolition or renovation activities.

(This response is based on proposed rule language and is subject to change after completion of rule development process)

**Cal/OSHA has set 0.1% (and below) as the limit that allows a material to be treated as Non-ACM. Would the proposed amended rule have any impact on this current regulation, or is it the SCAQMD's intent to just require quantification to avoid contractors rounding down to avoid full asbestos abatement?**

The inclusion of a significant digit (1 to 1.0) in Proposed Amended Rule 1403 will have no impact on the Cal/OSHA limits set for worker safety. Adding a significant digit to 1% prevents potential rounding down of asbestos sample analysis results that are greater than 1.0% but less than 1.5%. In the interest of protecting the breathing public, the SCAQMD recognizes that a result value of 1% alone does not reflect the precision and accuracy that can be achieved currently by existing

asbestos test methods. Therefore, a sample analyzed at 1.25% asbestos content, for example, is greater than 1% and thus subject to Rule 1403.

(This response is based on proposed rule language and is subject to change after completion of rule development process)

**Many utilities use hand tools such as scrapers and drills during wet method ACM removal on pipes. Is the use of hand tools such as scrapers and drills used during wet method removal interpreted as “mechanical force” per Proposed Amended Rule 1403 (c)(10)?**

The portion of the definition referred to provides a list of activities that may cause a material to be broken, crumbled, pulverized, or reduced to powder which includes physical wear and disturbance by mechanical force. In this case, scraping and drilling are mechanical forces that may cause a material to be broken, crumbled, pulverized, or reduced to powder. Nothing in the section that defines Procedure 3 – Adequate Wetting prohibits mechanical force. Only power tools are prohibited for use under Procedure 3.

(This response is based on proposed rule language and is subject to change after completion of rule development process)

## **1.2 End Date for Renovation Activities**

**Can the SCAQMD clarify when the last date of the notification is? Is it the last day of when teardown is complete, or, if later, the last day when all ACM is removed from the site? Wouldn't that be after the end date?**

Proposed Amended Rule 1403 includes a definition for both Start Date and End Date. The End Date for renovation activities is whichever comes later, the last day when teardown is complete or the last day when all accumulated asbestos-containing waste material (ACWM) is removed from the project site. EPA requires that an asbestos notification include the dates of the entire operation, which entails the start date when the renovation activity has the potential to first disturb the asbestos-containing building material and the end date when all waste materials have been removed from the project site. The End Date provided on the notification to be submitted to the SCAQMD should include the last day when

teardown is complete and the last day when all ACM is removed from the project site.

Although many projects plan for and incorporate the period for air clearance after abatement, Rule 1403 neither addresses air clearance nor does it specifically require it. For an active notification where renovation has completed but is still awaiting air clearance and waste transport, it is acceptable for asbestos-containing material to still be on-site but no renovation activity is occurring.

(This response is based on proposed rule language and is subject to change after completion of rule development process)

## 2. REQUIREMENTS FOR DEMOLITION/RENOVATION ACTIVITIES

### 2.1 Survey

#### 2.1.1 Is a survey update or revision required to meet the revised minimum requirements for sampling?

**If a project was surveyed and already completed, do we have to update the survey and include three (3) sample results?**

No retroactive action is required for renovation or demolition projects that have been completed.

(This response is based on proposed rule language and is subject to change after completion of rule development process)

**If I am using a survey that was conducted 10 years ago that only had one (1) sample results, do I need to update my survey to include three (3) sample results?**

Previous surveys that show that only one sample was examined and that the test results for the sample show that the material contains more than 1.0% asbestos are still valid as long as they are revised to include a statement that the Certified Asbestos Consultant (CAC) or Certified Site Surveillance Technician (CSST) assumes, based on prior testing, that the material is ACM subject to Rule 1403. Similarly, previous surveys where a consultant has assumed or presumed suspect

materials to be ACM regardless of the number of samples collected or examined are similarly still valid. Previous surveys that show that fewer than the required three (3), five (5), or seven (7) samples were collected, depending on the area and type of homogeneous material being sampled, and that the test results show 1.0% or less asbestos may not meet current Rule 1403 requirements.

(This response is based on proposed rule language and is subject to change after completion of rule development process)

**Subclause (d)(1)(B)(v)(II) of Proposed Amended Rule 1403 does not require a notification to be updated when the quantity of affected asbestos-containing material decreases or increases by less than 20%. Will this apply to ACM that was not initially included in the survey, provided that the clean-up procedure is not changed? Do I need to revise the survey and/or submit another notification when I find a material that was not included in the first survey?**

All materials that may be disturbed during a renovation or demolition must be surveyed for condition and the presence of asbestos. If new materials are found that were not surveyed, then those new materials must be surveyed. If those materials are determined to be Asbestos-Containing Material (ACM) and will be disturbed during the renovation or removed prior to demolition, then the Notification must be revised to include these materials.

((This response is based on proposed rule language and is subject to change after completion of rule development process))

### 2.1.2 Are past surveys still valid for compliance?

**Will the added rule language for survey requirements (e.g., for chain of custody and sampling) be applied retroactively or invalidate past, good faith surveys or reports used for compliance?**

Previous surveys where only one sample was collected and the test results show that the material contains more than 1.0% asbestos are still valid. Similarly, previous surveys where a consultant has assumed or presumed suspect materials to be ACM regardless of the number of samples collected are still valid. Previous surveys where less than the required 3, 5, or 7 samples were collected, depending on the area and type of homogeneous material being sampled, and the test results show 1.0% or less asbestos may not meet current Rule 1403 requirements. The collection and testing of samples less than the number of samples prescribed in

Rule 1403 would not be adequate in meeting the intent of Rule 1403, which has always sought a minimum of 3 or more samples depending on the area and type of the homogeneous material being sampled.

(This response is based on proposed rule language and is subject to change after completion of rule development process)

## 2.2 Notification

### 2.2.1 Time Schedule

**How do I notify for projects where the work is scheduled to be done on weekends? Do I have to submit a notification for each weekend of work?**

Proposed Amended Rule 1403 includes language that would allow contractors to upload a schedule to the notification application informing the SCAQMD of a non-standard abatement or demolition work schedule, such as weekends only, Monday and Thursday evenings, every other Wednesday, etc.

(This response is based on proposed rule language and is subject to change after completion of rule development process)

**We have a Pre-Approved Procedure 4 or 5 plan; are we still subject to the 10 working day waiting period before we can abate the asbestos-containing material?**

Yes. The 10 working day (or 14 calendar day) waiting period can only be waived in the case of an emergency, which Proposed Amended Rule 1403 defines an emergency [1403(c)(16)] as an imminent threat to public health and safety, a sudden unexpected event that results in unsafe conditions, or encountering previously unknown ACM during demolition or excavation.

(This response is based on proposed rule language and is subject to change after completion of rule development process)

## 2.2.2 Changes and Updates

**Subclause (d)(1)(B)(v)(II) of Proposed Amended Rule 1403 does not require a notification to be updated when the quantity of affected asbestos-containing material decreases or increases by less than 20%. Will this apply to ACM that was not initially included in the survey, provided that the clean-up procedure is not changed? Do I need to revise the survey and/or submit another notification when I find a material that was not included in the first survey?**

All materials that may be disturbed during a renovation or demolition must be surveyed for condition and the presence of asbestos. If new materials are found that were not surveyed, then those new materials must be surveyed. If those materials are determined to be Asbestos-Containing Material (ACM) and will be disturbed during the renovation or removed prior to demolition, then the Notification must be revised to include these materials.

(This response is based on proposed rule language and is subject to change after completion of rule development process)

**Can a contractor go back into a notification and update the schedule?**

Proposed Amended Rule 1403 includes language that would allow contractors to provide and update a schedule for the project. The original schedule would be uploaded at the time the Notification is completed. To notify the SCAQMD of a schedule change, the contractor would send an email to [Rule1403Notifications@aqmd.gov](mailto:Rule1403Notifications@aqmd.gov). The contractor would include the notification number and address for the project in the subject of the email and the schedule change information in the body of the email. This information would be uploaded to the SCAQMD document database which includes the notification copy-of-record.

(This response is based on proposed rule language and is subject to change after completion of rule development process)

**I filed a notification to treat an underground pipe/valve that was presumed ACM. Once the project begun and the pipe/valve was unearthed, the CAC determined that the material is not ACM. Rule 1403 requires a cancellation**

**be made no later than the notified start date. Does the SCAQMD allow a cancellation to be made after the notified start date, even within one business day?**

The cancellation is not required before the Start Date. Proposed Amended Rule 1403 includes language that would allow the contractor to cancel the notification no later than the notified Start Date. Notifications for projects that do not start on the Start Date must either be canceled, or have the Start Date revised.

(This response is based on proposed rule language and is subject to change after completion of rule development process)

**Is the abatement contractor allowed to be away from the project site before a notification is cancelled? The SCAQMD has recently allowed a contractor to be away from the project site up to 7 days before cancelling a notification.**

Proposed Amended Rule 1403 includes language that specifies that cancellations of notifications must take place no later than the Start Date. If the project will be delayed, the contractor may revise the Start Date on the notification to a later date, but this must happen no later than the Start Date. If the project is cancelled, the contractor must cancel the notification no later than the Start Date. In addition, Proposed Amended Rule 1403 also includes language to allow contractors to update the SCAQMD when they are forced to leave a project after starting it.

(This response is based on proposed rule language and is subject to change after completion of rule development process)

## **2.3 Asbestos Disposal**

**Rule 1403 defines “End Date” and it makes the date of last waste removal from the site as the ending date of an abatement or demolition project. Often wastes from different projects are combined for efficient shipping. Wastes may be held between 90 and 180 days prior to shipping. Will the District accept keeping bagged and labeled ACWM within the facility after a specific project ending date?**

Yes. The definition for End Date in Proposed Amended Rule 1403, section (c) addresses the last day of ACWM removal or leaving of the last load of building

waste from the project site. A Rule 1403 notification, if the project is over 100 square feet, would just be for the area of your facility where renovation or demolition activity will occur, not the whole facility. It is acceptable for facilities to move waste material from a project site to a permanent storage site that is still on the facility but is outside of the project site.

(This response is based on proposed rule language and is subject to change after completion of rule development process)

**My facility has its own on-site storage that accumulates ACWM over time until the container is full, and then the storage container gets shipped out for disposal at the landfill. If the notification requires an end date for the last day when all accumulated ACWM is removed from the project site, does that mean my facility has to ship out the ACWM after every completed job?**

No. The definition for End Date in Proposed Amended Rule 1403, section (c) addresses the last day of ACWM removal or leaving of the last load of building waste from the project site. A Rule 1403 notification, if the project is over 100 square feet, would just be for the area of your facility where renovation or demolition activity will occur, not the whole facility. It is acceptable for facilities to move waste material from a project site to a permanent storage site that is still on the facility but is outside of the project site. The permanent storage site shall still comply with requirements for ACWM storage facilities in Rule 1403, paragraph (d)(2).

(This response is based on proposed rule language and is subject to change after completion of rule development process)

## **2.4 Emergency Situations**

### 2.4.1 Notification Requirements

**Costs associated with heavy equipment rental and disruption of operation can be substantial when a project is unexpectedly delayed. To avoid such unreasonable financial burden, could I apply for an emergency notification?**

The Proposed Amended Rule 1403 definition of Emergency Renovation includes the proposed amended sentence “An unreasonable financial burden alone does not

give rise to conditions that meet this definition.” This sentence was proposed in the 2018 amendment to clarify that an economic burden does not constitute an emergency, and that an emergency renovation must be the result of an imminent threat to public health and safety, a sudden unexpected event that results in unsafe conditions, or encountering previously unknown ACM during demolition or excavation. Examples of such economic burden that does not constitute an emergency include added financial costs of using heavy duty equipment and labor to accommodate logistical changes due to a delay in operations or loss of revenue from breach of time-sensitive contractual agreements.

(This response is based on proposed rule language and is subject to change after completion of rule development process)

**Why does an emergency letter need to be notarized or signed by the abatement contractor? This results in delays in response to an emergency.**

Proposed Amended Rule 1403 includes language requiring that either the signature of the property owner on the emergency letter be witnessed by a Notary, or that both the property owner and the abatement contractor sign attestations under penalty of perjury that the information in the emergency letter is true and correct. There is no need to delay the project if no Notary is immediately available.

(This response is based on proposed rule language and is subject to change after completion of rule development process)

## 2.4.2 Addressing Emergencies

**Currently, every emergency notification under Rule 1403 requires a facility survey, an emergency letter, a Procedure 5 plan, and payment before the emergency can be addressed. How do facilities satisfy the notification requirement and immediately address the emergency?**

Not every emergency requires a Procedure 5 plan; Procedure 5 plans are required for removal of asbestos-containing material that the asbestos consultant has determined to have been disturbed, and is no longer intact. Proposed Amended Rule 1403 requires that “if for any reason, any renovation or demolition results in an associated disturbance of ACM outside of a containment or work area then, prior to continuing with any renovation or demolition activity, the owner/operator

shall secure, stabilize and survey the affected facility areas and submit and obtain an approved Procedure 5 plan, prior to any asbestos clean-up.” Proposed Amended Rule 1403 language has been included to clarify that these steps (secure, stabilize, and survey) are also required for disturbed suspect ACM resulting from an imminent threat to public health and safety, a sudden unexpected event, or encountering previously unknown ACM during demolition or excavation.

In the event of a hazardous situation that poses an immediate risk of injury or death, Proposed Amended Rule 1403 exempts the owner/operator from the requirements for demolition and renovation activities until the immediate hazard is addressed. Once the immediate hazard has been addressed, activity must stop and the site must be secured, stabilized, and surveyed for the presence and conditions of ACM and asbestos-contaminated materials. Any disturbed or damaged ACM resulting from, or as part of the response to, the hazardous situation requires a Procedure 4 or 5 plan, along with a written explanation of the hazard and hazard response, to be submitted to the SCAQMD within three (3) business days and approved by the SCAQMD prior to any asbestos clean-up.

(This response is based on proposed rule language and is subject to change after completion of rule development process)

**Utilities cannot leave possible or known ACM exposed until a notification is approved. Utilities have a duty to prevent exposure and restore services to the community. Can SCAQMD allow utility emergency renovations to start prior to approved notification based on pre-approved Procedure 5 plans for emergency situations submitted annually? Can SCAQMD allow verbal notification to 1-800-CUT-SMOG and/or email to Rule 1403 Notifications to satisfy the notification requirement?**

Proposed Amended Rule 1403 requires that “If for any reason, any renovation or demolition results in an associated disturbance of ACM outside of a containment or work area then, prior to continuing with any renovation or demolition activity, the owner/operator shall secure, stabilize and survey the affected facility areas and submit and obtain an approved Procedure 5 plan, prior to any asbestos clean-up.” Proposed Amended Rule 1403 clarifies that these steps (secure, stabilize, and survey) are also required for disturbed suspect ACM resulting from an imminent threat to public health and safety, a sudden unexpected event, or encountering previously unknown ACM during demolition or excavation.

If disturbed or damaged Asbestos-Containing Material (ACM) is in the public right-of-way and cannot be adequately secured and stabilized, this is considered an immediate threat to public health and safety, and the abatement contractor responsible for the clean-up should call the Asbestos Hotline at (909) 396-2336 (during SCAQMD regular business hours [Tuesday through Friday, 7 am to 5:30 pm]) or 1-800-CUT-SMOG (after regular SCAQMD hours), and request to speak to an asbestos supervisor to immediately review a Procedure 5 notification.

In the event of a hazardous situation that poses an immediate risk of injury or death, Proposed Amended Rule 1403 exempts the owner/operator from the requirements for demolition and renovation activities until the immediate hazard is addressed. Once the immediate hazard has been addressed, activity must stop and the site must be secured, stabilized, and surveyed for the presence and conditions of ACM and asbestos-contaminated materials. Any disturbed or damaged ACM resulting from, or as part of the response to, the hazardous situation requires a Procedure 4 or 5 plan, along with a written explanation of the hazard and hazard response, to be submitted to the SCAQMD by the end of the next business day and approved by the SCAQMD prior to any asbestos clean-up.

(This response is based on proposed rule language and is subject to change after completion of rule development process)

**What does it mean when Proposed Rule 1403 states that the site must be “secured” and “stabilized” once an immediate hazard has been addressed?**

The SCAQMD considers securing and stabilizing the site to align with Cal/OSHA expectations and requirements for the handling of spills and other uncontrolled releases of asbestos fibers. Specifically, we expect that a perimeter for a restricted area be established (secure) as soon as possible and that access would be limited to those persons cleaning up the spill/debris and that effective measures be instituted to prevent migration of asbestos fibers out of the restricted area (stabilize) and into adjacent areas where employees may be exposed.

(This response is based on proposed rule language and is subject to change after completion of rule development process)

### 2.4.3 Disruption or Loss of Essential Service Utility

**Natural disasters such as an earthquake, flood, or wildfire can cause a disruption to natural gas service. Natural gas supply is needed as an energy source for utilities to run equipment necessary to provide power and water to customers when there is loss of electric and/or water service. Are we able to repair and restore service without prior notification?**

The described situation would constitute an emergency, and if such an event, or incident, occurs, the first and foremost priority is to restore utility service and make necessary repairs to protect life and property. For the disturbed or damaged asbestos-containing and/or asbestos-contaminated material(s) resulting from the emergency, a Procedure 4 or 5 (Approved Alternative) clean-up plan must be submitted by the end of the third business day following the incident and approved prior to any asbestos clean-up. Written explanation of the hazard and hazard response must be submitted to the District along with the Procedure 4 or 5 clean-up plan. As the immediate hazard response is in progress, compliance with SCAQMD Rule 1403 Emergency Notification must be achieved. Concurrently, an assessment for presence and condition of asbestos-containing materials (ACM) and asbestos contaminated materials can be conducted by a Certified Asbestos Consultant (CAC) and a letter can be prepared by the CAC that states the presumption or assumption that the pipe is ACM. A pre-approved Procedure 5 may be utilized to address clean-up procedures for an applicable emergency, but notification, fees, and review are still required prior to commencement of work. Emergency notifications are normally reviewed that same day after business hours, and for projects involving an immediate threat to public health and safety, the abatement contractor may call the Asbestos Hotline at (909) 396-2336 (during SCAQMD regular business hours [Tuesday through Friday, 7 am to 5:30 pm]) or 1-800-CUT-SMOG (after regular SCAQMD hours), request a return phone call from the asbestos on-call supervisor, and have the notification reviewed during the same day.

**(This response is based on proposed rule language and is subject to change after completion of rule development process)**

**A main water line broke under a major roadway and we have to dig a large hole to repair the break. Are we able to conduct work to repair the break, restore the roadway, and reinstate service without notification?**

The described situation would constitute an emergency, and if such an event, or incident, occurs, the first and foremost priority is to restore utility service and make necessary repairs to protect life and property. For the disturbed or damaged asbestos-containing and/or asbestos-contaminated materials resulting from the emergency, a Procedure 4 or 5 (Approved Alternative) clean-up plan must be submitted by the end of the third business day following the incident and approved prior to any asbestos clean-up. Written explanation of the hazard and hazard response must be submitted to the District along with the Procedure 4 or 5 clean-up plan. As the immediate hazard response is in progress, compliance with SCAQMD Rule 1403 Emergency Notification must be achieved. Concurrently, an assessment for presence and condition of asbestos-containing materials (ACM) and asbestos contaminated materials can be conducted by a Certified Asbestos Consultant (CAC) and a letter can be prepared by the CAC that states the presumption or assumption that the pipe is ACM. A pre-approved Procedure 5 may be utilized to address clean-up procedures for an applicable emergency, but notification, fees, and review are still required prior to commencement of work. Emergency notifications are normally reviewed that same day after business hours, and for projects involving an immediate threat to public health and safety, the abatement contractor may call the Asbestos Hotline at (909) 396-2336 (during SCAQMD regular business hours [Tuesday through Friday, 7 am to 5:30 pm]) or 1-800-CUT-SMOG (after regular SCAQMD hours), and have the notification reviewed during the same day.

(This response is based on proposed rule language and is subject to change after completion of rule development process)

**Consider underground repair work to address a major electrical power outage that was affecting the community with disruption to traffic signals, hospital functions, and other essential services that would cause damage to a section of below-grade transite pipe. Would such a situation be considered an emergency? And would an emergency notification be granted?**

The described situation would constitute an emergency, and if such an event, or incident, occurs, the first and foremost priority is to restore power to protect life and property. For the disturbed or damaged transite pipe resulting from the emergency, a Procedure 4 or 5 (Approved Alternative) clean-up plan must be submitted by the end of the third business day following the incident and approved

prior to any asbestos clean-up. Written explanation of the hazard and hazard response must be submitted to the District along with the Procedure 4 or 5 clean-up plan. As the immediate hazard response is in progress, compliance with SCAQMD Rule 1403 Emergency Notification must be achieved. Concurrently, an assessment for presence and condition of asbestos-containing materials (ACM) and asbestos contaminated materials can be conducted by a Certified Asbestos Consultant (CAC) and a letter can be prepared by the CAC that states the presumption or assumption that the pipe constitutes ACM. A pre-approved Procedure 5 may be utilized to address clean-up procedures for an applicable emergency, but notification, fees, and review are still required prior to commencement of work. Emergency notifications are normally reviewed that same day after business hours, and for projects involving an immediate threat to public health and safety, the abatement contractor may call the Asbestos Hotline at (909) 396-2336 (during SCAQMD regular business hours [Tuesday through Friday, 7 am to 5:30 pm]) or 1-800-CUT-SMOG (after regular SCAQMD hours). (This response is based on proposed rule language and is subject to change after completion of rule development process)

## **2.5 Underground or Utility Pipe**

### **2.5.1 Notification Procedure**

**If subterranean pipe is exposed on the surface and able to be identified and assessed, is a regular notification required?**

If the quantity of asbestos to be abated or removed (surface area of the asbestos-containing pipe or pipe insulation) is 100 square feet or greater and the material is intact, then a notification to the SCAQMD is required. If any amount of asbestos-containing pipe or associated materials is determined by an Asbestos Consultant to be damaged or disturbed, then a notification and a Procedure 4 or 5 plan submitted for approval to the SCAQMD are required. In cases where the renovation activity involves subterranean pipe that is located more than one-quarter mile away from the nearest offsite residence, institution (e.g., school, hospital), industrial, commercial and office building, or recreational area (e.g., park, playground, sports field) that is accessible to the general public, Proposed Amended Rule 1403 allows for a two day notification period.

(This response is based on proposed rule language and is subject to change after completion of rule development process)

**We are digging a trench and discover transite pipe. Can the pipe be abated as an emergency notification?**

In order to submit a notification for an emergency renovation, Rule 1403 requires that the emergency renovation be the result of an imminent threat to public health and safety, a sudden unexpected event that causes an unsafe condition, or encountering previously unknown ACM during demolition or excavation. If the existence of the pipe was previously unknown and is damaged during trenching, this is a sudden unexpected event that resulted in an unsafe condition and with an appropriate letter from the property owner or manager, may be submitted as an emergency. Examples of events that qualify for notification for an emergency renovation include, but are not limited to, digging a trench to fix an underground water or power line break that supports essential functions, disruption or loss of essential services as a result of a natural disaster, and the potential collapse of a structurally compromised structure or facility component (e.g. a pipe leak over an acoustic ceiling in which the ceiling is weakened, but not collapsed).

(This response is based on proposed rule language and is subject to change after completion of rule development process)

### 2.5.2 Facility Survey

**Utility pipes (transite and coal tar pipe wrap) are assumed to be ACM and are remediated as ACM. Requiring a facility survey when material is assumed ACM increases costs with no additional environmental benefit. Why is a survey still required when utility pipes are considered a “facility” already presumed to contain ACM?**

Currently, Rule 1403 requires that the affected facility or facility components shall be thoroughly surveyed for the presence of asbestos prior to any demolition or renovation activity and that the persons conducting asbestos surveys shall be certified by Cal/OSHA. The NESHAP provides the option for the inspector conducting the survey to assume that material is Asbestos-Containing Material

(ACM). This assumption must be included in the survey report that an Asbestos Consultant (as defined in the rule) prepares.

While the 1994 Staff Report for the (then) Proposed Amended Rule 1403 states “An additional means to compliance to this requirement would be through the rule’s exemption, which states that the asbestos survey need not be performed if the materials handled during the demolition/renovation are handled and removed as ACM and disposed of in accordance with the provisions of this rule”, the exemption, as written into the 1994 version of Rule 1403, only exempts certain parts of the of the survey, not the whole survey. From the 1994 Adopted Rule 1403, Exemption (j)(3) reads:

*Subparagraph (d)(1)(A)(v), (vi), and (vii) and subclause (d)(1)(B)(iii)(VI) shall not apply to the owner or operator of any renovation or demolition activity, when the suspected material is removed, stripped, collected, and handled as ACM and disposed of in accordance with the provisions of this rule.*

Subparagraph (d)(1)(A)(v) was that portion of the survey report that discussed the contact information and identity of the laboratory that analyzed the samples, (vi) was that portion of the survey report that discussed the qualifications of the laboratory that analyzed the samples, (vii) was that portion of the survey report that discusses the test methods used to analyze the samples, and (d)(1)(B)(iii)(VI) was that portion of the notification that required reporting the test method used to identify asbestos in the samples. All of these portions were unnecessary in a survey report where no samples were collected because an asbestos consultant as defined in the rule assumed the material to be ACM, but there was never an exemption from the entire survey in Rule 1403, just portions of it.

(This response is based on proposed rule language and is subject to change after completion of rule development process)

**Proposed Amended Rule 1403 clause (d)(1)(A)(iv) identifies the requirements to conduct asbestos surveys and excludes qualified personnel. Who is considered a “qualified individual” to do a survey? Can this be someone trained by Cal/OSHA under Labor Code Section 6501.8(c) and/or utility workers trained in Labor Code Section 9021.9?**

Currently, Rule 1403 requires that persons conducting asbestos surveys be certified by Cal/OSHA pursuant to regulations required by subdivision (b) of Section 9021.5 of the Labor Code, and shall have taken and passed an EPA-approved Building Inspector Course and conform to the procedures outlined in the Course.

Labor Code Section 6501.8(c) and 9021.9 discuss who may do “asbestos-related work” and “training programs for all craft employees who may be exposed to asbestos-containing construction materials and all employees and supervisors involved in operations pertaining to asbestos cement pipe” respectively, but these provisions do not discuss surveys.

(This response is based on proposed rule language and is subject to change after completion of rule development process)

### 2.5.3 Removal Procedure

**Can a Procedure 5 (Approved Alternative) plan be standardized for transite? In the case of an unexpected event that asbestos-containing pipe is found, can I waive the 10-day notification if I have a pre-approved Procedure 5 plan?**

Pre-approved Procedure 5 clean-up plans may be used to address the abatement of disturbed Asbestos-Containing Material (ACM) when there is an imminent threat to public health and safety, a sudden unexpected event that disturbs the ACM, or an encountering of this ACM that was previously unknown during demolition or excavation. The property owner or manager must provide a letter outlining the imminent threat or sudden unexpected event, the date of the event and a description of the unsafe condition that was created in order to satisfy the requirements to waive the 10-day waiting period required by the NESHAP, when applicable, and Rule 1403. The property owner or manager must wait for SCAQMD approval prior to proceeding with the clean-up plan. Having a pre-approved Procedure 5 plan on record with SCAQMD expedites the review process and reduces the fees for review.

(This response is based on proposed rule language and is subject to change after completion of rule development process)

**Proposed language requires that any notification for subterranean piping that cannot be assessed for damage is to be submitted as a Procedure 4 (Dry**

**Removal) or Procedure 5 (Approved Alternative). Does that mean ALL subterranean work would require a Procedure 4 or Procedure 5?**

Proposed Amended Rule 1403(d)(1)(D)(ii) states that “No person shall remove or strip any amount of ACM that has suffered any damage or disturbance without the use of a Procedure 4 or 5 Approved Alternative.” There is no lower square footage of ACM express or implied in this language.

It is the intent of the SCAQMD to require a Procedure 4 or 5 notification for the abatement of material that has not been assessed for condition. While the asbestos consultant as defined in the rule is allowed to assume that material is ACM, nothing in Rule 1403 or NESHAP provides for allowing the inspector to assume the condition of the material. If a property or facility owner only intends to abate assumed ACM in a quantity less than 100 square feet, no notification is required, but that is predicated on a complete assessment by an Asbestos Consultant that the material is not disturbed or damaged.

(This response is based on proposed rule language and is subject to change after completion of rule development process)

## **2.6 On-Site Proof and Recordkeeping**

**The SCAQMD requires supervisor logs documenting site activities. Is there a standard template available for facilities to use or set of minimum elements that needs to be documented in that log?**

The Proposed Amended Rule 1403 includes language requiring that supervisor logs be maintained on-site during the project. These supervisor logs are the logs that are required by Cal/OSHA.

(This response is based on proposed rule language and is subject to change after completion of rule development process)

### 3. SAMPLING PROTOCOLS

#### 3.1 Sampling Requirements

##### 3.1.1 Homogeneous Areas (Friable & Nonfriable)

**A CAC conducts a limited inspection of a small hall bathroom, which has vinyl flooring, walls, and ceiling plus insulation in the wall and in the ceiling. If I follow the AHERA guidelines, I have to take 15 samples. Can I take less samples from suspect material? Do I have to take 3 samples from each material?**

A minimum of three (3) samples of each area of identified homogeneous-suspect friable surfacing material that is  $\leq 1,000$  square feet, friable non-surfacing material, and Class I and Class II nonfriable material that is  $> 16$  square feet are required. A minimum of one (1) sample of each area of identified homogeneous-suspect Class I and Class II nonfriable material that is  $\leq 16$  square feet is required. However, with the property owner's concurrence, the Certified Asbestos Consultant (CAC) or Certified Site Surveillance Technician (CSST) may assume that the homogeneous-suspect material is Asbestos-Containing Material subject to Rule 1403.

(This response is based on proposed rule language and is subject to change after completion of rule development process)

**For small areas that have homogeneous material, e.g. putty, taking 3 samples is impossible. Will the SCAQMD accept less samples if taking 3 samples is not feasible?**

For areas of identified homogeneous-suspect Class I or Class II nonfriable materials that are  $\leq 16$  square feet each, a minimum of one (1) sample is required. Otherwise, a minimum of three (3) samples of each area of identified homogeneous-suspect material are required. The sampling may not be at the consultant's discretion, but, with the property owner's concurrence, the Certified Asbestos Consultant (CAC) or Certified Site Surveillance Technician (CSST) may assume that the homogeneous-suspect material is Asbestos-Containing Material subject to Rule 1403.

(This response is based on proposed rule language and is subject to change after completion of rule development process)

**We have sudden and unexpected water damage in a house, and the areas affected are the kitchen floor, bathroom, and closet. Does the SCAQMD require us to test three (3) samples from each homogeneous-suspect material in the bathroom, kitchen, and closet? It is hard to do Transmission Electron Microscopy (TEM) on 3 samples of a little spot that has <1% asbestos. Can it be the consultant's discretion?**

For areas of identified homogeneous-suspect Class I or Class II nonfriable materials that are  $\leq 16$  square feet each, a minimum of one (1) sample is required. Otherwise, a minimum of three (3) samples of each area of identified homogeneous-suspect material are required. The sampling may not be at the consultant's discretion, but, with the property owner's concurrence, the Certified Asbestos Consultant (CAC) or Certified Site Surveillance Technician (CSST) may assume that the homogeneous-suspect material is Asbestos-Containing Material subject to Rule 1403. Point counting is required for subsequent analysis of samples that are <10% asbestos after PLM. Transmission Electron Microscopy (TEM) is a more stringent method than point counting, but it is not a required test method.

(This response is based on proposed rule language and is subject to change after completion of rule development process)

### 3.1.2 Composite or Multi-Layered Systems

**Is composite sampling allowed for abatement purposes? For which materials is this allowed? What about for disposal purposes? The 1993 EPA letter, published in the January 5, 1994 Federal Register, specifically lists drywall and joint compound as one integral system, best sampled as a composite. There are some sampling scenarios where "systems" of homogeneous material applications (HMAs) are inseparable and as such, some multi-system HMAs may be subject to "composite sampling" in the field, but at the same time, would be subject to separate layered analysis at the laboratory.**

For compliance with Rule 1403, composite sampling is allowed, but composite analysis is not. Proposed Amended Rule 1403(d)(1)(A)(i) states, “The survey shall include the onsite inspection, identification, and quantification of all friable, and Class I and Class II nonfriable ACM, and any physical sampling of materials in accordance with subdivision (h).” Since drywall and drywall joint compound are identifiably different materials and joint compound is often applied substantially beyond just filling joints and nail holes even to a degree of a skim coat, thereby increasing the chance for asbestos exposure, they must be analyzed separately. This position is more stringent than the NESHAP, however consistent with how Rule 1403 has always been interpreted and in agreement with OSHA requirements. Building materials that cannot be separated in the field can be composite sampled, and the laboratory must separate the samples for analysis.

Rule 1403 has always required that all Asbestos-containing Waste Material (ACWM) shall be disposed of at a waste disposal site that is operated in accordance with paragraph (d)(3) of this rule. ACWM, by definition, includes “any waste that contains commercial asbestos and that is generated by a source subject to the provisions of this rule. ACWM includes, but is not limited to, ACM which is friable, has become friable, or has a high probability of becoming friable, or has been subjected to scraping, sanding, grinding, cutting, drilling or abrading, and the waste generated from its disturbance, such as asbestos waste from control devices, filters from control devices, particulate asbestos material, asbestos slurries, bags or containers that previously contained asbestos, used asbestos-contaminated plastic sheeting and clothing, and clean-up equipment waste, such as cloth rags or mop heads.”

(This response is based on proposed rule language and is subject to change after completion of rule development process)

**The three (3) sample minimum becomes an issue when a CAC/CSST takes 3 composite samples of drywall, takes them to the lab, and the lab separates each sample into four (4) layers, tests each layer, and comes back with these results: gypsum 2%, tape 2%, wallboard non-detect, and joint compound <1%. Does the joint compound need to be sampled with 3 samples minimum?**

Yes, each separable layer of building material must be analyzed separately. Drywall joint compound is identifiable as a separate material, and Proposed Amended Rule 1403(d)(1)(A)(i) states, “The survey shall include the onsite

inspection, identification, and quantification of all friable, and Class I and Class II nonfriable ACM, and any physical sampling of materials in accordance with subdivision (h).”

(This response is based on proposed rule language and is subject to change after completion of rule development process)

## 4. TEST METHODS

### 4.1 Analysis Requirements

#### 4.1.1 Methods

**Is Polarized Light Microscopy (PLM) an approved method to determine Asbestos-Containing Material (ACM) when it is less than 1%? Which methods are acceptable? What type of point counting is acceptable and what is the formal laboratory analytical method for point counting?**

Proposed Amended Rule 1403 includes language that parallels the Environmental Protection Agency document in the Applicability Determination Index under Control Number C112, which directs that, except for sample results of non-detect, sample results of less than 10% must be point counted by at least 400-point count method or assumed to be ACM >1.0% by the asbestos consultant as defined in the rule. If PLM reveals trace amounts or <1.0%, then it must be, at a minimum, 400-point counted to verify the sample is <1.0%. This means that all sample results that are reported as “trace” or “<1%” by PLM analysis must be point counted to verify that that material is not subject to Rule 1403. The procedure for point counting is specified in 40 CFR Part 763 Appendix E to Subpart E, Section 1.7.2.4 “Quantitation of Asbestos Content” and in EPA/600-93/116 “Method for the Determination of Asbestos in Bulk Building Materials,” Section 2.2.5.2.2 “Quantitation of Asbestos Content.” More stringent methods, including, but not limited to, 1000-point count, point counting with gravimetric reduction, or Transmission Electron Microscopy (TEM), are also acceptable to verify that the sample is <1.0% after PLM analysis. Please refer to the Environmental Protection Agency document in the Applicability Determination Index under Control Number C112 (Subpart 61, M, Asbestos, Reference 61.141).

(This response is based on proposed rule language and is subject to change after completion of rule development process)

**Is SCAQMD Method 300-91 no longer a requirement for Rule 1403? What is the reference method for analysis of materials for asbestos?**

The current reference should be Appendix E, Subpart E, 40 CFR Part 763 for Polarized Light Microscopy or EPA Method for the Determination of Asbestos in Bulk Building Materials (EPA/600/R-93/116). Both are considered acceptable.

(This response is based on proposed rule language and is subject to change after completion of rule development process)

4.1.2 ACM Determination

**Is Polarized Light Microscopy (PLM) an approved method to determine Asbestos-Containing Material (ACM) when it is less than 1%? Which methods are acceptable? What type of point counting is acceptable and what is the formal laboratory analytical method for point counting?**

Proposed Amended Rule 1403 includes language that parallels the Environmental Protection Agency document in the Applicability Determination Index under Control Number C112, which requires that, except for sample results of non-detect, sample results of less than 10% must be point counted by at least 400-point count method or assumed to be ACM >1.0% by the asbestos consultant as defined in the rule. If PLM reveals trace amounts or <1.0%, then it must be, at a minimum, 400-point counted to verify the sample is <1.0%. This means that all sample results that are reported as “trace” or “<1%” by PLM analysis must be point counted to verify that that material is not subject to Rule 1403. The procedure for point counting is specified in 40 CFR Part 763 Appendix E to Subpart E, Section 1.7.2.4 “Quantitation of Asbestos Content” and in EPA/600-93/116 “Method for the Determination of Asbestos in Bulk Building Materials,” Section 2.2.5.2.2 “Quantitation of Asbestos Content.” More stringent methods, including, but not limited to, 1000-point count, point counting with gravimetric reduction, or Transmission Electron Microscopy (TEM), are also acceptable to verify that the sample is <1.0% after PLM analysis. Please refer to the Environmental Protection Agency Applicability Determination Index Control Number C112, Subpart 61, M, Asbestos, Reference 61.141.

(This response is based on proposed rule language and is subject to change after completion of rule development process)

**Three (3) samples in the lab report are all less than 1% asbestos. How many of those have to be point counted?**

All three must be point counted. Proposed Amended Rule 1403 includes language that parallels the Environmental Protection Agency document in the Applicability Determination Index letter under Control Number C112, which directs that, except for sample results of non-detect, sample results of less than 10% must be point counted by at least 400-point count method or assumed to be ACM >1.0% by the asbestos consultant as defined in the rule. If PLM reveals trace amounts or <1.0%, then it must be, at a minimum, 400-point counted to verify the sample is <1.0%. This means that all sample results that are reported as “trace” or “<1%” by PLM analysis must be point counted to verify that that material is not subject to Rule 1403.

(This response is based on proposed rule language and is subject to change after completion of rule development process)

**Proposed Amended Rule 1403 requires that every sample needs to be <1% by point count. Seven (7) samples of exterior stucco were submitted for analysis, and all come back <1%. Do all of them have to be point counted to prove less than 1%?**

Yes, Proposed Amended Rule 1403 includes language that parallels the Environmental Protection Agency Applicability Determination Index letter (Control Number C112) which directs that, except for sample results of non-detect, sample results of less than 10% must be point counted by at least 400-point count method or assumed to be ACM >1.0% by the asbestos consultant as defined in the rule. If PLM reveals trace amounts or <1.0%, then it must be, at a minimum, 400-point counted to verify the sample is <1.0%. This means that all sample results that are reported as “trace” or “<1%” by PLM analysis must be point counted to verify that that material is not subject to Rule 1403.

(This response is based on proposed rule language and is subject to change after completion of rule development process)

**If all samples from a homogeneous area come back as trace, to make sure that all are all below 1%, do all samples need to be point counted and show that they are <1%?**

All nine must be point counted. Proposed Amended Rule 1403 includes language that parallels the Environmental Protection Agency Applicability Determination Index document (Control Number C112) which directs that, except for sample results of non-detect, sample results of less than 10% must be point counted by at least 400-point count method or assumed to be ACM >1.0% by the asbestos consultant as defined in the rule. If PLM reveals trace amounts or <1.0%, then it must be, at a minimum, 400-point counted to verify the sample is <1.0%. This means that all sample results that are reported as “trace” or “<1%” by PLM analysis must be point counted to verify that that material is not subject to Rule 1403.

(This response is based on proposed rule language and is subject to change after completion of rule development process)

**If any sample of a material comes back from the lab after PLM analysis as >1%, does it have to then be point counted or can it be considered Asbestos-Containing Material (ACM)?**

If PLM reveals or shows >1.0%, then 400-point count is not necessary if the sample(s) will be presumed or assumed to be ACM.

(This response is based on proposed rule language and is subject to change after completion of rule development process)

**If a sample comes back 5% after PLM, then gets point counted in lab, it goes down to <1%. The <1% result controls?**

Yes, the more precise analysis method (point count) controls.

(This response is based on proposed rule language and is subject to change after completion of rule development process)

**Are three sample analyses required if the result is negative? Are three sample analyses required even if the sample is positive? Can the sample analysis stop at the first positive test result?**

If the laboratory is requested to stop at the first positive test result, then the subsequent samples are not required to be analyzed and the material is established to be ACM. 40 CFR 763.86 (AHERA) states that “a homogeneous area shall be determined to contain ACM based on a finding that the results of at least one sample collected from that area shows that asbestos is present in an amount greater than 1 percent.” Under Proposed Amended Rule 1403(h)(1)(D), a homogeneous area shall be determined to be ACM based on a finding that the results of at least one sample collected from that area shows that asbestos is present in an amount greater than one percent (1.0%).

(This response is based on proposed rule language and is subject to change after completion of rule development process)

#### 4.1.3 Composite Samples

**It is my understanding that EPA does not prohibit composite analysis on all wall systems. Why do I have to do layered analysis of drywall when joint compound is just used for joints and nail holes?**

In drywall installation, it is common and even most likely that drywall joint compound is applied to an area significantly larger on the drywall system than just the joints and screw/nail holes. The inability to see where the drywall joint compound is on a wall or ceiling due to its coverage by paint or other surfacing material makes it impossible to know to what extent drywall joint compound was feathered across the joints, slathered down the line of screws, or used as filler for depressions.

In addition, drywall joint compound is identifiable as a separate material, and Proposed Amended Rule 1403(d)(1)(A)(i) states, “The survey shall include the onsite inspection, identification, and quantification of all friable, and Class I and Class II nonfriable ACM, and any physical sampling of materials in accordance with subdivision (h).”

Lastly, Cal/OSHA requires that all separable layers be analyzed separately, and the SCAQMD believes that this is an appropriate measure to protect public health. (This response is based on proposed rule language and is subject to change after completion of rule development process)