

FINAL REGULATION ORDER

ASBESTOS AIRBORNE TOXIC CONTROL MEASURE FOR ASBESTOS-CONTAINING SERPENTINE

Section 93106. Asbestos Airborne Toxic Control Measure--Asbestos -Containing Serpentine.

- (a) Definitions. For the purposes of this section, the following definitions shall apply:
- (1) "Aggregate" means a mixture of mineral fragments, sand, gravel, rocks, or similar minerals.
 - (2) "Alluvial deposit" means any deposit of sediments laid down by running water including but not limited to streams and rivers.
 - (3) "ARB Test Method 435" means the test method specified in Title 17, California Code of Regulations, section 94147.
 - (4) "Asbestos" means asbestiforms of the following hydrated minerals: chrysotile (fibrous serpentine), crocidolite (fibrous riebeckite), amosite (fibrous cummingtonite--grunerite), fibrous tremolite, fibrous actinolite, and fibrous anthophyllite.
 - (5) "Asbestos-containing serpentine material" means serpentine material that has an asbestos content greater than five percent (5.0%) as determined by ARB Test Method 435.
 - (6) "Receipt" means any written acknowledgement that a specified amount of serpentine material was received, delivered, or purchased. Receipts include, but are not limited to, bills of sale, bills of lading, and notices of transfer.
 - (7) "Road surface" means the traveled way of a road and any shoulder which extends up 10 feet from the edge of the traveled way.
 - (8) "Sand and gravel operation" means any aggregate-producing facility operating in alluvial deposits.
 - (9) "Serpentine" means any form of hydrous magnesium silicate minerals--including, but not limited to, antigorite, lizardite, and chrysotile.
 - (10) "Serpentine material" is any material that contains at least ten percent (10%) serpentine as determined by a registered geologist. The registered geologist must document precisely how the serpentine content of the material in question was determined.

- (11) "Surfacing" means the act of covering any surface used for purposes of pedestrian, vehicular, or nonvehicular travel including, but not limited to, roads, road shoulders, streets, alleys, lanes, driveways, parking lots, playgrounds, trails, squares, plazas, and fairgrounds.
- (b) Requirements for use or sale of asbestos-containing serpentine material.
- (1) No person shall use or apply serpentine material for surfacing in California unless the material has been tested using ARB Test Method 435 and determined to have an asbestos content of five percent (5.0%) or less. A written receipt or other record documenting the asbestos content shall be retained by any person who uses or applies serpentine material, for a period of at least seven years from the date of use or application, and shall be provided to the Air Pollution Control Officer or his designee for review upon request.
- (2) Any person who sells, supplies, or offers for sale serpentine material in California shall provide with each sale or supply a written receipt containing the following statement: "Serpentine material may have an asbestos content greater than five percent (5.0%). It is unlawful to use serpentine material for surfacing unless the material has been tested and found to contain less than or equal to five percent (5.0%) asbestos. All tests for asbestos content must use California Air Resources Board Test Method 435, and a written record documenting the test results must be retained for at least seven years if the material is used for surfacing.
- (3) No person shall sell, supply, or offer for sale serpentine material for surfacing in California unless the serpentine material has been tested using ARB Test Method 435 and determined to have an asbestos content of five percent (5.0%) or less. Any person who sells, supplies, or offers for sale serpentine material that he or she represents, either orally or in writing, to be suitable for surfacing or to have an asbestos content that is five percent (5.0%) or less, shall provide to each purchaser or person receiving the serpentine material a written receipt which specifies the following information: the amount of serpentine material sold or supplied; the dates that the serpentine material was produced, sampled, tested, and supplied or sold; and the asbestos content of the serpentine material as measured by ARB Test Method 435. A copy of the receipt must, at all times, remain with the serpentine material during transit and surfacing.
- (4) Any person who sells, supplies, or offers for sale serpentine material, shall retain for a period of at least seven years from the date of sale or supply, copies of all receipts and copies of any analytical test results from asbestos testing of the serpentine material. All receipts and test results shall be provided to the Air Pollution Control Officer or his designee for review upon request.

- (5) If ARB Test Method 435 has been used to perform two or more tests on any one volume of serpentine material, whether by the same or a different person, the arithmetic average of these test results shall be used to determine the asbestos content of the serpentine material.
- (c) Exemptions.
 - (1) The provision of subdivisions (b)(2) through (b)(5) shall not apply to sand and gravel operations.
 - (2) The provisions of subdivision (b)(1) shall not apply to roads located at serpentine quarries, asbestos mines, or mines located in serpentine deposits.
 - (3) The provisions of subdivision (b)(1) shall not apply to maintenance operations on any existing road surfaces, or to the construction of new roads in serpentine deposits, as long as no additional asbestos-containing serpentine material is applied to the road surface.
 - (4) Emergency Road Repairs: The air pollution control officer may issue a temporary exemption from the requirements of subdivision (b)(1) to an applicant who demonstrates that a road repair is necessary due to a landslide, flood, or other emergency and that the use of material other than serpentine is not feasible for this repair. The air pollution control officer shall specify the time during which such exemption shall be effective, provided that no exemption shall remain in effect longer than six (6) months.
 - (5) Bituminous and Concrete Materials: The provisions of subdivision (b) shall not apply to serpentine material that is an integral part of bituminous concrete, portland cement concrete, bituminous surface, or other similar cemented materials.
 - (6) The provisions of subdivision (b)(1) shall not apply to landfill operations other than the surfacing of public-access roads dedicated to use by vehicular traffic.

NOTE: Authority cited: Sections 39600, 39601, 39650 and 39666, Health and Safety code.
Reference: Sections 39650 and 39666, Health and Safety Code.

Adopted by the Air Resources Board on April 12, 1990