

Attachment A
Southwest Clean Air Agency Staff Report

Proposed Changes to SWCAA 476
“Standard for Asbestos Control, Demolition and Renovation”

May 22, 2018

Summary

The Southwest Clean Air Agency (SWCAA) regulates the emissions from the removal or disturbance of asbestos-containing materials. SWCAA 476 “Standards for Asbestos Control, Demolition, and Renovation” applies to demolition and renovation activities, the removal of asbestos-containing materials, and the storage, transport and disposal of asbestos-containing materials.

SWCAA is proposing changes to SWCAA 476 which would do the following:

SWCAA 476-030

Add additional definitions.
Clarify and update existing definitions

SWCAA 476-040

Add asbestos inspection procedures, including sampling procedures and analysis requirements. Alternate inspection and sampling procedures (*e.g.* fire damaged structures) are also added. Add asbestos inspection reporting requirements to require detailed inspection information, as well as details of the confirmed asbestos-containing materials identified.
Clarify and update existing language.

SWCAA 476-050

Reduce the notification period from 10 business days to 10 calendar days for both the Notice of Intent to Remove Asbestos and Notification of Demolition.
Add abandoned asbestos-containing materials procedures.
Add State of Emergency procedures during storms, floods, or other disasters.
Clarify and update existing language.

SWCAA 476-060

Add a provision to store asbestos-containing materials in a leak tight container.
Clarify and update existing language.

SWCAA 476-070

Add waste tracking requirements for the disposal of any asbestos-containing waste materials.
Clarify and update existing language.

SWCAA 476-080

Increase the notification period for fire training burns from 5 calendar days to 10 calendar days. Clarify and update existing language.

The full text of the proposed rules can be found at <http://swcleanair.org/regs/proposedrules.asp>.

Public Involvement

SWCAA held a public comment period for proposed changes to SWCAA 476 which began on April 4, 2018 and ended on May 4, 2018. In addition to filing and publication of notice with the code reviser, SWCAA posted the proposed rulemaking on its website and sent emails or letters to all identified affected parties including asbestos inspectors, contractors, and trainers, as well as fire departments. During the comment period a total of three people submitted comments via e-mail regarding the proposed changes. Public comments received during the comment period are organized by commenter and comment topic and summarized in the tables below. The first table contains a list of commenters with a cross reference to related comment topics. The second table contains a list of comment topics with SWCAA's corresponding comment response. Some comments received were beyond the scope of the rulemaking or were unrelated to the proposed revisions. The full comments are also attached at the end of this document.

Public Hearing

A public hearing for the proposed changes to SWCAA 476 was held on May 3, 2017 at the SWCAA offices in Vancouver, WA. There were no attendees from the public or comments during the public hearing at the May 3rd SWCAA Board meeting.

Summary of Comments

Table 1 List of Commenters		
Commenter ID	Commenter Affiliation	Comment
1	M. Roberts (Asbestos Training Provider)	1, 2
2	S. Carter (Asbestos Inspector/Analyst)	1,
3	R. Welch (Asbestos Training Provider)	1,2,3,4

Table 2 Summary of Comments and Responses			
Category/Topic	Comment ID	Comment	Response
Number of Asbestos Samples Taken During Inspections	1	AHERA protocols (40 CFR 763.86) do not specify the numbers of samples to be taken of miscellaneous materials (non-thermal system insulation or surfacing materials). SWCAA should correlate the minimum number of samples to the size of a homogenous area of miscellaneous materials.	SWCAA agrees that the federal Asbestos Hazard Emergency Removal Act (AHERA) protocols for sampling miscellaneous materials does not specify the number of samples required. The regulation says to “collect bulk samples from each homogenous area.” This suggests more than one sample. Given the nature of batch manufacturing of many miscellaneous materials even in a homogenous area, there can be “voids” that occurred in the manufacturing process which create “gaps” in asbestos materials which are added to products. Sampling in a location containing a gap could result in an inaccurate test result. With that said, SWCAA does not want to require any more samples than are needed to get a representative sample. As such, SWCAA agrees the rule should define the area of miscellaneous materials where taking less than 3 samples is sufficient. SWCAA has revised the proposed rule language to set 100 square feet of material as that threshold. See SWCAA 476-040(3)(b).
Asbestos Inspection Reports: Classify Condition of Asbestos-Containing Materials	2	Asbestos inspection reports should document the condition of asbestos containing materials in terms of friability as found in 40 CFR 763.85(4)(ii)	The requirement cited in the comment, applies to asbestos inspections, required by federal regulations, in schools and public buildings. The purpose of those inspections is to identify asbestos containing materials, condition and friability for the purpose of developing an Asbestos Management Plan. The asbestos inspection procedures and report format proposed in SWCAA 476 is for the purpose of determining the presence of asbestos containing materials that will be disturbed during renovation and demolition, regardless of condition or friability. Therefore, SWCAA does not require friability to be reported.

Criteria for Conducting an Inspection for Asbestos-Containing Materials	3	How will an Owner/Agent determine there is no need for an inspection? What is the basis for determining when an inspection is necessary?	<p>SWCAA 476-040(1) "Asbestos Project Requirements" detail when an inspection is required, both for renovation and demolition activities.</p> <p>Suspect asbestos-containing material is a defined term in SWCAA 476-030(3)(a). Any materials meeting that definition is a suspect material and must be sampled or evaluated by an AHERA accredited building inspector, or treated as asbestos-containing material.</p>
Miscellaneous	4	<p>Are petroleum-based roofing materials being deregulated by rule?</p> <p>Does an asbestos project include less than 3 feet of material?</p> <p>Please review the appropriate efficiency rating of High Efficiency Particulate Arrestance (HEPA) filters (99.7%)</p>	<p>These comments are unrelated to the proposed changes to SWCAA 476.</p> <p>Petroleum-based roofing materials are addressed in federal regulation and no change is being proposed to SWCAA 476 regarding these materials.</p> <p>An asbestos project is not determined by size and is not addressed in the proposed changes to SWCAA 476.</p> <p>The efficiency rating of HEPA filters is a standard defined by the United States Department of Energy and the National Institute for Occupational Safety and Health and is not affected by the proposed changes to SWCAA 476.</p>

Full Comments

A copy of all comments received is attached.

Tina Hallock

From: Robert Welch <rhwelch05@gmail.com>
Sent: Friday, April 6, 2018 8:57 AM
To: Comment
Subject: Re: Proposed Rule Changes – Standards for Asbestos Control, Demolition and Renovation

Are you actually considering 'deregulating' petroleum-base roofing from inspections? And from disposal requirements? Has this been reviewed with L&I...they have NOT deregulated roofing...
Does an 'Asbestos Project' include less than three feet of material?
Please review the appropriate efficiency rating of HEPA filters (99.97)
How will an Owner/Agent determine there is no need for an inspection? Perhaps, because they don't want to have one conducted? What basis will they have to make that determination? Remember, no terminal date for many ACMs...
WHY three samples for miscellaneous materials? EPA/AHERA states TWO. If this is based on AHERA's recommendation rather than requirement, then all materials should have nine samples (also 'recommended' but not required").
How will L&I respond/react to leaving non-friables in place during demolition/disposal?
Survey retention is great. It is the Owner's place to provide agencies with a copy of the work they paid for...not the Inspector...

On Wed, Apr 4, 2018 at 8:32 AM, <comment@swcleanair.org> wrote:
To Whom It May Concern:

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Clarify and update existing language.

An electronic version of the proposed rule language can be viewed on the SWCAA website at www.swcleanair.org/regs/proposedrules.asp and physical copies can be viewed at the SWCAA office located at 11815 NE 99th Street, Suite 1294 in Vancouver, Washington during business hours, Monday through Friday, 7:00 a.m. to 5:30 p.m. The agency phone number is (360) 574-3058.

The public comment period for the proposed rule change will begin on April 4th and close on May 4th. Comments can be submitted in writing, prior to the close date, to the above address or emailed to comment@swcleanair.org. Please contact SWCAA if you do not receive a reply confirming receipt of an emailed comment within one business day. A public hearing will be held on the proposed rules during SWCAA's May 3rd Board meeting in SWCAA's conference room at 3pm. The proposed rules will be considered for adoption by the Board at their June 7th meeting.

Regards,

Gerald Strawn, QEP
Air Quality Specialist II



Virus-free. www.avg.com

Tina Hallock

From: Gerald Strawn
Sent: Wednesday, April 11, 2018 2:00 PM
To: 'Roberts, Michael C CTR USARMY IMCOM CENTRAL (US)'
Subject: RE: [Non-DoD Source] RE: Proposed Rule Changes – Standards for Asbestos Control, Demolition and Renovation

Received

-----Original Message-----

From: Roberts, Michael C CTR USARMY IMCOM CENTRAL (US)
[mailto:michael.c.roberts.ctr@mail.mil]
Sent: Thursday, April 05, 2018 9:20 AM
To: Gerald Strawn <Gerry@swcleanair.org>
Cc: Olsen, Thomas William CIV USARMY USAG (US) <thomas.w.olsen.civ@mail.mil>
Subject: RE: [Non-DoD Source] RE: Proposed Rule Changes – Standards for Asbestos Control, Demolition and Renovation

Mr. Strawn - Thank-you for the direct email.

I have perused the proposed changes to the SWCAA 476 "Standards for Asbestos Control, Demolition, and Renovation", and I have also saved a PDF to utilize as a training tool during my AHERA Building Inspector refresher classes here on Base.

However, I do have initial comments to sections 476-040 (3) Asbestos Inspection Procedures and 476-040 (4) Asbestos Inspection Report Requirements:

476-040 (3) Asbestos Inspection Procedures (Pg. 6 of 18)

1) In this subsection(476-030 (3)(a)), SWCAA has proposed prescriptive, specific activities to be performed by an AHERA Certified Building Inspector, referencing the number of samples to be taken (when assumption or presumption of asbestos-positive has not been chosen) as per 40 CFR 763.86. In 476-030(3)(d), the proposed change for numbers of samples to be taken for 'Miscellaneous Materials' is stipulated as "(d) An AHERA accredited building inspector shall collect, at least three (3) bulk samples from each homogeneous area of any miscellaneous material that is not presumed to be asbestos containing material." The language in the referenced regulation at 40 CFR 763.86 (c) for obtaining samples of Miscellaneous Materials is: "(c) Miscellaneous material. In a manner sufficient to determine whether material is ACM or not ACM, an accredited inspector shall collect bulk samples from each homogeneous area of friable miscellaneous material that is not assumed to be ACM". My comment is, is it the intent of this change to supersede the requirements of 40 CFR 763.86 (c), and to mandate 3 (three) samples per miscellaneous Homogeneous Sampling Areas (materials)?

476-040 (4) Asbestos Inspection Report Requirements

2) This section appears to provide prescriptive measures for an AHERA Certified Building Inspector to create a SWCAA-valid and compliant Asbestos Inspection Report, that seem to extract from the regulatory requirements for Asbestos Inspection Reports found at "40 CFR 763.85 Inspection and Reinspections". What I found as an omitted activity in SWCAA 476-040 (4) Asbestos Inspection Report Requirements that I feel should be documented in all Asbestos Surveys would be the "Friability Test", found codified at 40 CFR 763.85(4)(ii) as follows: "(ii) Touch all suspected ACBM to determine whether they are friable".

I will continue to read and interpret the SWCAA proposed changes to the regulations, and should I find any issues that may assist you all in preparing the changes to your regulation, I will contact you again.

Good Luck in your endeavors to update the regulation!

Respectfully submitted,

Mike Roberts

Michael C. Roberts

STS Solutions & Training, LLC

JBLM Public Works
Environmental Division
Toxic Substances Management (TSM) Program Manager
(253) 966-1775
Email: michael.c.roberts.ctr@mail.mil

-----Original Message-----

From: Gerald Strawn [mailto:gerry@swcleanair.org]
Sent: Thursday, April 05, 2018 8:39 AM
To: Roberts, Michael C CTR USARMY IMCOM CENTRAL (US) <michael.c.roberts.ctr@mail.mil>
Subject: [Non-DoD Source] RE: Proposed Rule Changes – Standards for Asbestos Control, Demolition and Renovation

All active links contained in this email were disabled. Please verify the identity of the sender, and confirm the authenticity of all links contained within the message prior to copying and pasting the address to a Web browser.

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Regards,

Gerald Strawn, QEP
Air Quality Specialist II

Tina Hallock

From: Carter Sidney <sid.carter@advantage-enviro.com>
Sent: Friday, May 4, 2018 8:08 AM
To: Gerald Strawn
Subject: New rule questions

Gerry,

In our conversations about the new rule changes my biggest concern is the minimum required samples per homogeneous area. I support the AHERA protocol on friable materials of the 3, 5, 7, 9, but for non-friable miscellaneous materials adds an unfair financial burden on the client and does not produce a more thorough report.

I believe that GWB/Joint compound, textures, piping, built up roofing, should follow the 3, 5, 7, 9 rules. Flooring, I feel that one sample up to 300 square feet and then should follow a 3, 5, 7, 9 rule. siding and miscellaneous materials should follow the manner sufficient protocol.

I believe that surveys should be required to have a positive table and the lab results should be completed in a manner that is understandable. I have seen some lab results that do not make sense in how they list the materials as they list them as white powdery substance, I mean what is that supposed to tell you? I believe that surveys need to be of substance and not just thrown together.

well that's my thoughts, let me know if you have any questions and thank you for what you do to help tighten up the program.

Sidney Carter,
Senior Project Manager

Advantage Environmental

ph# (503) 522-1369

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