

# **STAFF REPORT**

## **Proposed Adoption of Rule 270, *Asbestos Demolition and Renovation* and Rule 516, *Asbestos Demolition and Renovation Fees***

Date of Release September 15, 2022

### **Schedule of Meetings**

- Date of Draft Public Workshop: 10:00 a.m., Thursday, August 25, 2022, Butte County Air Quality Management District Office, 629 Entler Ave, Suite #15, Chico, CA 95928
- Date of Public Workshop: 10:00 a.m., Thursday, September 29, 2022, Butte County Air Quality Management District Office, 629 Entler Ave, Suite #15, Chico, CA 95928
- Date of Board Hearing: 10:00 a.m., Thursday, October 27, 2022, Butte County Association of Governments Board Room, 326 Huss Drive, Suite #100, Chico, CA 95928

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Reviewed by: Patrick Lucey, Assistant Air Pollution Control Officer

Approved by: Stephen Ertle, Air Pollution Control Officer

**STAFF REPORT**

**Proposed New Regulations**  
**Rule 270-Asbestos Demolition and Renovation and**  
**Rule 516-Asbestos Demolition and Renovation Fees**

Date of Release: September 15, 2022

Date of Board Consideration for Adoption/Public Hearing: Thursday, October 27, 2022  
Butte County Association of Governments Board Room  
326 Huss Drive, Suite #100, Chico, CA 95928

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- Attachment B.** Proposed Rule 516- *Asbestos Demolition and Renovation Fees*
- Attachment C.** Notice of Public Hearing and Workshops
- Attachment D.** Proposed Resolution of Adoption

**Proposed Rule 270-Asbestos Demolition and Renovation and  
Proposed Rule 516- Asbestos Demolition and Renovation Fees**

**STAFF REPORT**

*Executive Summary*

*California Health and Safety Code section 39658(b)(1) establishes the federal Asbestos National Emission Standard for Hazardous Air Pollutants (Asbestos NESHAP) as the State Asbestos NESHAP Airborne Toxic Control Measure (ATCM). The Asbestos NESHAP and the corresponding State Asbestos NESHAP ATCM were established to protect the public and environment by minimizing the release of asbestos fibers during renovation and demolition activities. The regulations apply to facility demolition, renovation and waste disposal activities occurring at stationary sources subject to the jurisdiction of California's 35 Air Pollution Control and Air Quality Management Districts (Air Districts) air pollution control and air quality management districts (air districts).*

*Many air districts have enforced the federal Asbestos NESHAP directly, having been delegated enforcement authority from the U.S. Environmental Protection Agency (U.S. EPA). Historically, CARB has enforced compliance with the Asbestos NESHAP in California's 16 'non-delegated' air districts. The Butte County Air Quality Management District (District) is one of the 'non-delegated' air districts being transitioned to implement and enforce the applicable Asbestos NESHAP ATCM requirements as CARB no longer is providing oversight for the program.*

**1.0 PURPOSE**

The purpose of proposed Rule 270-*Asbestos Demolition and Renovation* is to limit the emissions of asbestos to the atmosphere and require appropriate work practice standards and waste disposal procedures as required by the federal Asbestos NESHAP and corresponding state Asbestos NESHAP ATCM. The purpose of the corresponding Rule 516-*Asbestos Demolition and Renovation Fees* is to establish fees to cover the estimated reasonable costs of review, inspection, and monitoring related to the implementation of District Rule 270.

**2.0 APPLICABILITY**

Rule 270—*Asbestos Demolition and Renovation* is applicable to the owners and operators who are doing renovations and/or demolitions of commercial structures; the Rule does not apply to projects at single family residential homes with some exceptions as described in the Rule. The fees from Rule 516-*Asbestos Demolition and Renovation Fees* are to be collected to cover the District resources required to enforce Rule 270, which in effect enforces the Federal Asbestos NESHAP. Rule 270- *Asbestos Demolition and Renovation* shall become effective on the first day of the month that is more than ninety (90) days after the Environmental Protection Agency (EPA) delegates the Federal Asbestos NESHAP to the District. If the District does receive delegation of the Federal Asbestos NESHAP, this Rule will not go into effect. Rule 516- *Asbestos Demolition and Renovation Fees* shall become effective on the same date Rule 270 becomes effective. If Rule 270 does not go into effect, Rule 516 will not become effective.

### 3.0 REQUIREMENTS OF PROPOSED RULE 270 and RULE 516

The proposed Rule 270-*Asbestos Demolition and Renovation* provides the regulatory requirements for an owner or operator of a demolition or renovation of a commercial structure to prevent emissions of particulate asbestos material from the work area including standards for asbestos testing, surveying and the removal of asbestos.

**Section 1, General:** This section provides the purpose of the Rule, where and to whom the Rule applies to, which federal regulations, Code of Federal Regulations (CFR), are incorporated in the Rule by reference, what projects are exempted from the Rule, and what techniques may be used when wetting of material during removal is not advisable.

**Section 2, Definitions:** This section clarifies that terms in the Rule are consistent with District Rule 101-Definitions and updates definitions specific to this new Rule.

**Section 3, Standards:** This section details the required procedures to be performed during demolition and renovation projects to prevent emissions of particulate asbestos material from the work area including the removal of RACM, the wetting of material, the containment system, posting of the project, management of the waste, and the requirement of a properly trained on-site representative during the project. It also provides the standards for any waste disposal site which accepts asbestos waste.

**Section 4, Administrative Requirements:** This section provides the survey requirements and certifications required of any person(s) conducting asbestos surveys and details the the Asbestos Hazard Emergency Response Act (AHERA) sampling protocol required by the Rule as well as the notification requirements.

**Section 5, Monitoring and Records:** This section provides information on the federal requirements for testing for asbestos content using Polarized Light Microscopy or, if required, Transmission Electron Microscopy, and details the requirement for airflow permeability of fabric filters, determined by ASTM method D737-69. This section also details the recordkeeping requirements of Rule 270.

The proposed Rule 516-*Asbestos Demolition and Renovation Fees* is separated into Sections similar to Rule 270, with Section 1 detailing the purpose of the Rule, which is to cover the estimated reasonable costs of review, inspection and monitoring related to the implementation of Rule 270. Section 2 details the applicability of the Rule and Section 3 details exemptions to the Rule, both of which are defined in Rule 270. Section 4 details when fee a refund may be requested following cancelation of a notification. Section 5 details the fee schedule for projects based on area and tied to the District's hourly fee set forth in Rule 509. Section 6 details the waiving of fees for firefighting agencies when the waiver of such fees would be in the public interest and in the best interest of the District.

### 4.0 COST IMPACTS/COST EFFECTIVENESS:

**Cost of Compliance:** The proposed Rule 270-*Asbestos Demolition and Renovation* is unlikely to alter the cost of compliance beyond what has already been required by the federal Asbestos

NESHAP and corresponding state Asbestos NESHAP ATCM. Rule 516-*Asbestos Demolition and Renovation Fees* will incur a cost to any owner or operator of a facility that engages in a demolition or renovation as defined in Rule 270-*Asbestos Demolition and Renovation*. The fee schedule that sets forth the cost in Section 5 of Rule 516 has been developed to cover the District's costs to enforce the Asbestos program, which encompasses the requirements of the federal Asbestos NESHAP.

**Type of Business Affected:** Rule 270-*Asbestos Demolition and Renovation* and Rule 516-*Asbestos Demolition and Renovation Fees* are applicable to the owners and operators who are doing renovations and/or demolitions of commercial structures.

**Impact to Economy:** The impact to the economy of the proposed amendments cannot be fully determined; however, owners and operators of commercial structures have been required to comply with the requirements of the of the federal Asbestos NESHAP to protect the public and the environment since the regulations were promulgated several decades ago (beginning in 1973).

**Overall Costs:** The schedule of fees for proposed Rule 516-*Asbestos Demolition and Renovation Fees* is detailed in Section 5 is based on the area of the project to be renovated and/or demolished. The fees are based on the District's hourly rate as set forth in District Rule 509.

**District Costs:** The costs to the District will involve the staff resources required to administer and enforce Rule 270-*Asbestos Demolition and Renovation*.

## **5.0 ALTERNATIVES:**

The Governing Board may choose to:

- a) Approve the rules as proposed;
- b) Direct staff to modify the proposed rules after receiving public comments during the hearing; or
- c) Take no action.

## **6.0 ENVIRONMENTAL REVIEW AND COMPLIANCE:**

The adoption of proposed amendments to Rule 270-*Asbestos Demolition and Renovation* and Rule 516-*Asbestos Demolition and Renovation Fees* are categorically exempt from the California Environmental Quality Act (CEQA) under Sections 15307 and 15308 of the State CEQA Guidelines and no exceptions to these exemptions apply. This exemption is allowed when the rule will help improve air quality in Butte County. California Public Resources Code (Section 21159) requires an environmental analysis of the reasonably foreseeable methods of compliance. The District has concluded that no reasonably foreseeable adverse environmental impacts will be caused by adoption of the proposed Rule.

## **7.0 REQUIRED FINDINGS:**

Division 26 of the California Health and Safety Code requires local districts to comply with a rule adoption protocol as set forth in Section 40727 of the Code and make the required findings. This section has been revised through legislative mandate to contain six findings that the District must

make when developing, amending, or repealing a rule or regulation. These findings and their definitions are included in the following table.

**Required Findings**

<b>FINDING</b>	<b>DEFINITION</b>	<b>REFERENCE</b>
Authority	An air district shall adopt rules and regulations and perform such acts as may be necessary or proper to execute the powers and duties granted to and imposed upon the district by this Division 26 and other statutory provisions.	The following California Health and Safety Code Sections are provisions of law that provide the District with the authority to adopt these amended rules: 40000 – Legislative finding and declaration, 40001 – Rules and Regulations, 40701 – General Powers, 40702 – Rules and Regulations,
Necessity	The District has demonstrated that a need for the rule, or for rule amendment or repeal exists.	The adoption of proposed Rule 270 and Rule 516 are necessary to comply with the federal Asbestos NESHAP and corresponding state Asbestos NESHAP ATCM.
Clarity	The rule is written or displayed so that its meaning can easily be understood by the persons directly affected by it.	The proposed rules are written in such a manner that persons affected by the rules can easily understand them.
Consistency	This rule is in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or State or federal regulations.	The proposed Rule 270 and Rule 516 are consistent with applicable statutory requirements and consistent with the federal Asbestos NESHAP and corresponding state Asbestos NESHAP ATCM.
Non-Duplication	The rule does not impose the same requirements as an existing State or federal regulation, unless the District finds that the requirements are necessary and proper to execute the powers and duties granted to, and imposed upon, the district.	The proposed rules do not impose requirements that duplicate existing laws or regulations but rather provide the District with the delegated authority to enforce the laws and regulations set forth by the federal Asbestos NESHAP and corresponding state Asbestos NESHAP ATCM.
Reference	Any statute, court decision, or other provision of law that the district implements, interprets, or makes specific by adopting, amending, or repealing a regulation.	California Health and Safety Code, Division 26, Part 3, Sections 40000, 40001, 40701, 40702, and 41512.5.

## 8.0 REFERENCES

**United States Environmental Protection Agency**, Asbestos National Emission Standards for Hazardous Air Pollutants (NESHAP), Code of Federal Regulations, 40 CFR Part 61, Subpart M.

**California Air Resources Board**: Regulation, California Health and Safety Code section 39658(b)(1), Asbestos National Emissions Standards for Hazardous Air Pollutants.

## 9.0 ATTACHMENTS

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|----------------------|---|
| <b>Attachment A.</b> | Proposed Rule 270- <i>Asbestos Demolition and Renovation</i>      |
| <b>Attachment B.</b> | Proposed Rule 516- <i>Asbestos Demolition and Renovation Fees</i> |
| <b>Attachment C.</b> | Notice of Public Hearing and Workshops                            |
| <b>Attachment D.</b> | Proposed Resolution of Adoption                                   |

**Attachment A**

**Proposed Rule 270—*Asbestos Demolition and Renovation***

**Attachment B**

**Proposed Rule 516— *Asbestos Demolition and Renovation Fees***

**Attachment C**

**Notice of Public Hearing and Workshops**

## NOTICE OF PUBLIC WORKSHOP AND HEARING

The Butte County Air Quality Management District (District) Governing Board will hold a public workshop and hearing to consider adoption of Rule 270-*Asbestos Demolition and Renovation* and Rule 516-*Asbestos Demolition and Renovation Fees*. The time, date, and location of the public workshop and hearing are given below:

Public Workshop: 10:00 a.m. September 29, 2022, Butte County Air Quality Management District Office, 629 Entler Ave, Suite #15, Chico, CA 95928

Public Hearing: 10:00 a.m. October 27, 2022, Butte County Association of Governments Board Room, 326 Huss Drive, Suite #100, Chico, CA 95928

The Staff Report and proposed amended rules may be reviewed at the District office or on the District website: [www.bcaqmd.org](http://www.bcaqmd.org). For additional information, please contact Ursula Parker at (530) 332-9400, ext. 104. Written comments on the proposed rules must be submitted by October 18, 2022 to: Board Clerk, Butte County Air Quality Management District, 629 Entler Avenue, Suite #15, Chico, CA 95928.

DATED: September 15, 2022

BY: Stephen Ertle  
Air Pollution Control Officer

**Attachment D**

**Proposed Resolution of Adoption**