

Appendix A – NESHAP Discussion of Terms and Policy Decisions

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1. **Applicability**

- A. **General Applicability:** Statement is in §61.140 of the asbestos NESHAP, which states that it is applicable to those sources specified in §§61.142 through 61.151, 61.154 and 61.155. These include standards for asbestos mills, roadways, manufacturing, demolition and renovation, spraying, fabricating, insulating materials, waste disposal, active and inactive waste disposal sites, and operations that convert ACWM into non-asbestos (asbestos free) material.
- B. **Demolition and Renovation Activity:** Addressed in §61.145 and indicates that to determine whether the NESHAP applies, the owner or operator must thoroughly inspect the facility of affected portion of the facility for asbestos prior to demolition or renovation. [See **Facility, Thoroughly Inspect and Thresholds.**]

2. **Asbestos-Containing Material (ACM):** ACM is material that contains more than one percent (1.0%) asbestos as determined by polarized light microscopy (PLM) analysis.
3. **Boarding Houses:** In an EPA memorandum (January 25, 1995), a boarding house becomes regulated when there are four or more leases or contacts for tenants. For example, a single structure containing four or more bedrooms each leased or contracted separately and share a common space such as a living room is a regulated facility.
4. **Bricks:** According to an EPA determination letter to Loch (October 22, 1994), cinder blocks, mortar, bricks, concrete slabs and foundations do not typically contain asbestos and would not normally be sampled unless suspected of containing asbestos.
5. **Bridges:** The EPA issued a letter to the Santa Barbara Air Pollution Control District (March 24, 1997), and to Doug Eisinger, a Caltrans consultant (May 22, 1998) clarifying that highway bridges are regulated facilities.
6. **Category I Nonfriable ACM [see Regulated Asbestos-Containing Material (RACM)]:** Defined as packings, gaskets, resilient floor coverings and asphalt roofing products containing more than one percent (1%) asbestos. These include paint, window putty and various caulk materials.
7. **Category II Nonfriable ACM [see Regulated Asbestos-Containing Material (RACM)]:** Defined as any material, excluding Category I nonfriable ACM, containing more than one percent (1%) asbestos.
8. **Cinder Blocks:** [See **Bricks**]

9. **Clean-up Activities:** Clean-up activities of RACM resulting from unplanned incidences such as natural causes (fire, flood or earthquake) or from equipment breakdown (tank leakage or water pile leakage, etc.) are subject to the NESHAP if the area of RACM originated from is greater than the threshold amounts [see **Thresholds**]. If the area the RACM originated from is less than the threshold amounts, then the clean-up operation is not subject to the NESHAP.
10. **Concrete Slabs and Foundations:** [See **Bricks**]
11. **Condominiums:** A dwelling part of a condominium complex, which exceeds four dwelling units, is regulated. There is a discussion in the preamble to the 1990 revisions describing applicability, which stems in part from the conversions of apartment buildings into condominiums.
- Condominiums should be differentiated from gated communities or planned unit developments in that regulated condominiums are those with an association with delegated building maintenance responsibilities. If regulated, all activities including those performed inside units by tenants or owners are subject to the NESHAP.
12. **Cutting:** Cutting includes sawing, but does not include dividing solid materials with a knife-edge type of device (i.e. shearing, slicing or punching). The use of a rotary blade roofing material cutter is also not considered a cutting activity if a sharpened or tapered blade is used. Refer to Appendix A to subpart M (June 17, 1994), Interpretive Rule Governing Roof Removal Operations.
13. **Dates (Starting and Completion):** According to an EPA letter to the Texas Air Control Board (February 3, 1993), the start date is the first day ACM is disturbed. Criteria for changing dates are also addressed.

- A change in starting dates must be communicated to the District by telephone as soon as possible and before the original start date. In addition, a written notice of the amended start date must be submitted to the District as soon as possible and no later than the original start date.
- A change in completion dates must be communicated to the District where the project will last for more than seven days and the completion date will change by at least $\pm 20\%$. If a project is extended, such as for detailing after clearance air testing, a notice of amended completion date is needed per the criteria in the letter.

The SJVUAPCD addressed starting and completion dates in a letter to Mike Kidd (August 24, 1993), which states that:

- The start date is the first day ACM is disturbed

- Allowance for an alternative start date if it is not possible to predict when ACM will be disturbed by an activity.
- Requires notification for interrupted projects when the project was not described to be discontinuous and is interrupted by a full working day or more; and,
- Any one part of the project equals the thresholds.

14. **Demolition:** The NESHAP defines this as the means of wrecking or taking out of any load-supporting structural member of a facility together with any related handling operations, or the intentional burning of any facility.

A. A demolition includes:

- 1) Removing a building from its foundation.
- 2) The removal of an entire pipeline facility, including piping and the other components that comprise the facility.
- 3) The removal of a bearing wall followed by its reconstruction in a different location (i.e. the room or building is increased or decreased in size as a result of the modification).
- 4) The removal or tearing down of a kiosk that was bolted or similarly attached to a foundation [see **Kiosk**].
- 5) The destruction of any portable building.
- 6) The moving of any structure that is supported on concrete or a similarly substantial load supporting material. These buildings would only be movable if carefully lifted and supported on heavy steel or wood beams in preparation of and during the moving process.
- 7) All cleanup/removal work at the site of a demolition. This includes work following a fire that has damaged or destroyed structural load bearing members of a building or structure.
- 8) The intentional burning of a structure for fire training purposes.

B. A demolition excludes:

- 1) Load-supporting members where the intent is to replace them. The EPA determination letter to Sledge (October 5, 1992) states that the removal of support members where the intent is not to destroy but to alter or re-

support a structure is not considered a demolition. This includes the removal of a bearing wall that is replaced by a header beam and columns to support the load.

- 2) Moving mobile or portable buildings such as mobile homes or travel trailers. These types of structures may be fitted with a tongue and axles for towing. They are constructed with heavy steel frames either under or throughout the structure and have structural integrity sufficient to be moved merely by attaching axles and/or wheels, if needed.
- 3) The removal of pipelines if no structural load supporting elements of the facility is removed. EPA addressed this in a letter to Perez (July 17, 1991), which states that pipelines are facility components and applicable to the NESHAP if more than 260 linear feet is crushed or removed in a renovation.
- 4) [Also see **Portable Equipment.**]

15. **Emergency Activities:** Emergencies may result in the need for immediate renovation or demolition activities.

- A. **Demolition:** The 10-day working day notification period may be waived if a responsible official declares that a building is in danger of imminent collapse. The presence of illegal activities such as drug use at a demolition site is not grounds to declare an emergency and waive the 10-working day notification period.
- B. **Renovation:** A renovation operation qualifies as an emergency if it was not planned but results from a sudden unexpected event that, if not immediately attended to, presents a safety or public health hazard, is necessary to protect equipment from damage, or is necessary to avoid imposing an unreasonable financial burden. These unexpected events may cause the release of ACM and contaminate a living space, workplace, school site or the environment surrounding a facility, or disrupt a business site such as in the case of fire. In all these instances, the 10-working day notification period may be waived.

16. **Employee Housing:** If one single family dwelling (SFD) is renovated or demolished for the purpose of replacing it with another SFD, it is exempt. If one SFD is being renovated or demolished for the purpose of converting to commercial use, it is regulated. For example, if the SFD will be renovated to convert it to an office, it is regulated. If the SFD will be demolished to allow crops to be planted in its place or to allow a new shop to be built, it is regulated. If more than one SFD or a multiple family unit is renovated or demolished it is regulated.

17. **Enforcement Action Against Owners, Operators, and Consultants:** Correspondence from EPA, one letter to DOJ (July 19, 1991) and a memo to EPA regional counsels (August 20, 1991) describes that owners should be subject to enforcement actions along with the operators. This is to encourage owners to work with qualified operators for demolition and abatement activities. The EPA has developed criteria to be used to excuse owners from such enforcement actions. The District will follow these criteria that the EPA has identified:
- A. The owner used reputable contractors.
 - B. The owner attempted to monitor or supervise contractors.
 - C. The owner cooperated with an investigation.
 - D. Cases that involve alleged violations by an operator at multiple sites in which including the owners would “unnecessarily” complicate the case.
 - E. The owner is a federal entity or a non-profit organization since it would enjoy the court’s sympathy. The District will not recognize this criterion as significant in the mutual settlement process.

Owners are to be included in enforcement actions. The responsibility to dismiss owners from enforcement cases is the responsibility of the Mutual Settlement program.

The District will include consultants in enforcement actions on a case-by-case basis. The EPA has participated in a case in Clark County, Nevada where a consultant was charged with NESHAP violations. In this case, the consultant acted as an operator with substantial management involvement in the abatement and demolition activities.

An advisory was mailed to consultants in 2003 explaining that the District has experienced problems with incomplete surveys that fail to reveal or quantify ACM. The District also experienced a problem where consultants have cleared a building of ACM but failed to find remaining ACM. In both situations, enforcement action might be brought against the consultants.

18. **Facility:** Generally, any man-made structure is subject to the NESHAP unless specifically exempted in certain settings. The NESHAP specifies any institutional, commercial, public, industrial or residential structure, installation, or building (excluding residential buildings having four or fewer dwelling units); any ship; and any active or inactive waste disposal site. Facilities may also include boarding houses, bridges, facility components, single-family dwellings, and small structures. [Also see **Boarding Houses, Bridges, Condominiums, Employee Housing, Facility Component, Home Office, House Moving, Installation, Mobile Buildings, Multi-**

Unit Residential, Kiosk, Outbuildings, Pipelines, Portable Equipment, Service Station Canopies, Single Family Dwellings, Site, Small Structures, Tanks, Urban Renewal/Code Enforcement, and Waste Disposal Sites.]

19. **Facility Component:** Any part of a facility including equipment.
20. **Fees:** Due with the notification. Fees are non-refundable, per Rule 3050 – *Asbestos Removal Fees* and are applicable to all regulated projects, including firefighter-training exercises. The Director of Compliance may only approve refunds.
21. **Fire and Natural Disasters:** [See **Emergency Activities and Surveys.**]
22. **Floor Tile:** Usually floor tile found to be in good condition and non-friable will exhibit some pliability. If, however, it is brittle or will shatter or crumble if disturbed (i.e. upon removal), the material will be considered to be in poor condition and friable.
23. **Forms:**
 - A. **Demolition Release Form:** To be used with local building departments as an aid to implement CH&SC section 19827.5 (AB 2971, 1990). This section requires that the building official to not issue a demolition permit until the applicant declares that it has complied with the NESHAP notification requirements or is exempt from them.

After receiving a proper notification and inspecting the subject property, or after receiving information that the demolition is exempt, the District will approve the release form by signing it. The applicant can then use this form as proof of compliance per CH&SC 19827.5 to the building official.

District staff has contacted the city and county building departments informing them of their responsibility under the CH&SC. Staff goals have been to inform the building officials about the requirement and solicit their cooperation regarding the use of the Demolition Release Form. Follow-up contacts are needed depending on how well building departments are responding to the requirement.
 - B. **Renovation Release Form:** This form was developed for use in cases where a building department demolition permit or asbestos demolition notification is not appropriate, but there is a need to convey compliance with the NESHAP survey requirements. Bulk samples results or other substantial verification about the presence or absence of asbestos is needed if threshold quantities of suspect materials will be disturbed.

24. **Friable Asbestos Materials:** Any material containing more than one percent (1%) asbestos that can be crumbled, pulverized, or reduced to powder by hand pressure. Refer to the EPA demolition guidance “A Guide to Normal Demolition Practices Under the Asbestos NESHAP” (Chapter 5, “Reduction of Demolition Debris”) regarding the rendering friable of non-friable demolition debris.

Friable materials include:

- Sheetrock.
- Nicolite™ roofing paper.
- Peeling paint that is considered to be in poor condition and can be crumbled, pulverized or reduced to powder by hand pressure. Refer to the EPA determination memo to Wagner (April 11, 1990).
- “Crystallized” floor tile that will shatter or crumble when disturbed.
- The asbestos-containing paper backing found on the underside of sheet vinyl flooring.

Friable materials may exclude:

- Breaking of Category II materials, such as Transite™ materials into a small number of large pieces during removal with prying devices, such as crowbars or shovels.
25. **Home Office:** Dwellings with incidental commercial use, such as an office used in supporting farming operations or other private office in a home is exempt. There are two EPA determination letters on the subject of nonresidential use in a dwelling. Hobson (November 6, 1992 and February 3, 1993) suggests that nonresidential additions to SFDs (such as day care centers) are regulated and portions of the SFD used in support of the nonresidential portion become regulated. This notwithstanding, application of the NESHAP to incidental office use is impractical.
26. **House Moving:** House moving is considered a demolition and is regulated under the same circumstances as the destructive demolition of a SDF. The activity is exempt if the SDF is being moved at the owner’s direction. This includes rental properties if only one unit at a site is being moved or demolished.

The activity becomes a regulated demolition if the SDF is owned by and being moved by a commercial house mover for eventual resale or relocation. EPA has advised that such property may be viewed as having become part of the mover’s inventory of structures.

27. **Installation:** Defined as a building or structure or group of buildings or structures at a single demolition or renovation site under the control of the same owner or operator (or owner or operator under common control). The 1990 NESHAP preamble, in response to a comment to the EPA about the inclusion of a group of residential buildings constituting an installation, confirms that such group of buildings is regulated and cites the example of a highway right-of-way, where there is a common, non-residential future use. It says, “several houses located on highway right-of-way that are all demolished as part of the same highway project would be considered an installation even when the houses are not proximate to each other.” Similarly, more than one single family dwelling (SFD) or the combination of a SFD, and public or commercial buildings or structures that are proximate and under the control of the same owner or operator is an installation and regulated.

28. **Intentional Burning:** Demolition by intentional burning renders a dwelling subject to the NESHAP. The interpretation from the EPA is that the dwelling is considered to have changed in character from a SFD to a training exercise facility. Asbestos abatement is required if amounts above the threshold quantities are present. All ACM is RACM in cases of intentional burning and to be included in the calculation of threshold quantities.

Per the Open Burn Policy, fire protection agencies may intentionally burn a structure for the purpose of fire training. The lead agency conducting the fire training is required to submit a Fire Suppression Training Plan for approval at least 15 days prior to the event. A requirement of the training plan is an assessment for the presence and removal of ACM from the structure. (See the **Open Burn Policy**)

29. **Joint Compound:** Per EPA’s determination (October 19, 1992), the District will consider the asbestos content of joint compound on the basis of a composite sample of the wall system, including joint compound, tape and wall board. For NESHAP applicability purposes (whether 160 square feet or more are involved and the composite sample reports more than one percent (1%) asbestos), the amount is the total amount of the surface area being disturbed, not just the joints. Joint compound used as a texture material is not to be assessed as a part of the wall system, but as a separate layer (Green, January 13, 1994).

30. **Kiosk:** A small, light structure with one or more open sides. Examples include a film stand, coffee shack, newsstand or a telephone booth. A demolition activity includes the removal or tearing down of a kiosk that was bolted or similarly attached to a foundation [see **Demolition and Facility**].

31. **Labeling:** The labeling of waste containers is only required for materials that are placed in the transport container or otherwise in the final stage before shipment off site. The

label should include the name of the waste generator and the location or origin of wastes materials per §150(a)(1)(v).

32. **Leak-Tight:** Defined as closed containers so that solids or liquids that cannot escape or spill out. It also means dust-tight.
33. **Linoleum:** Linoleum is a unique material that contains burlap and linseed oil. It is generally regarded as friable due to its age and expected deterioration with age, but should be evaluated on a case-by-case basis.
34. **Mastic:** Mastic is a category I non-friable material and therefore RACM unless it is friable or it is or will be rendered friable due to sanding, grinding, cutting or abrading. The use of bead blasting, floor buffer with a rotating blade cutter, or other power mechanical devices renders mastic friable.

When concrete to which mastic has been applied will be recycled, the mastic must be removed since it would be made friable by the recycling process. Two letters explaining the EPA standard expected to be achieved for the mastic removal have been written. The first, Trotter to Behar (May 26, 1996) states that “no remnant or film may remain on material being recycled”. The second, Trotter to Glenn (October 3, 1996) states that if asbestos-containing mastic has been removed and residual material remains mixed with the concrete and cannot be analyzed as a separate and identifiable layer, additional sampling of the substrate is necessary. If the samples are less than one percent (1%) asbestos, it is not ACM.

35. **Mobile Buildings:** [See **Demolition.**] Removing a mobile building from piers or supports, or separating portions of such a structure from each other in advance of moving the building is not a demolition. Examples include portable construction offices at a temporary site, mobile homes, travel trailers, and some portable classrooms. These units commonly have one or more axles. The destruction of a mobile building is a demolition.
36. **Mortar:** [See **Bricks.**]
37. **Multi-Layered Materials:** The assessment of multiple layered materials is on a layer-by-layer basis.
38. **Multi-Unit Residential Building:** The NESHAP applies to a site with one single residential structure that has more than four units, even if only one unit is being renovated or demolished.
39. **Native American Lands:** The District does not have jurisdiction to implement the NESHAP on Native American lands. The EPA views Native American lands as

sovereign states that are equal in status to States of the Union over which the federal government does have authority. State and local agencies do not have this jurisdiction.

40. **Natural Barriers:** Defined as a natural object that effectively precludes or deters access. These include physical obstacles such as cliffs, lakes or other large bodies of water, deep and wide ravines, and mountains. Remoteness by itself is not a natural barrier.
41. **Nonfriable Asbestos-Containing Material:** Any material containing more than one percent (1%) asbestos that when dry cannot be crumbled, pulverized, or reduced to powder by hand pressure.
42. **Notifications**
 - A. **Requirements:** A written notification must be postmarked or delivered to the District office at least ten working days prior to the start date of any demolition or renovation activity [§61.145(b)(3)(i)]. Any party associated with the regulated event may submit a notification, including the owner, general contractor, abatement contractor, or demolition contractor. Applicable fees must also be submitted with the notification [see **Fees**].
 - B. **Incomplete Notifications:** Will be accepted and a follow-up contact will be made to obtain the needed information.
 - C. **Amendments or Modifications:** EPA addressed notification amendments or modifications in a letter to Sedge (October 5, 1992). Notifications may be amended or modified, including revised date changes and quantities of RACM, provided that such modifications are made at least ten working days prior to the event. Notifications cannot be converted from “renovation” to “demolition” unless the notification is modified at least ten working days before the demolition start date.
 - D. **Multiple Demolitions on a Single Facility or Phased Projects:** EPA addressed notification requirements with multiple removals in a letter to Sledge (October 5, 1992). A single notification submitted at least ten working days prior to any demolition is sufficient for various demolitions at a single facility. An initial notification would cover the scope of the entire project including the expected dates of each separate activity and the total amount of ACM that will be removed. The project does not need to be continuous. Individual notifications for each renovation or demolition could then be submitted as amendments to the initial notification once the details are known. Amendments must be made at least ten working days prior to each activity where the date is modified.

- E. **Annual Renovation Notifications:** Must be submitted ten working days before the start of the subject calendar year [§145(b)(3)(ii)]. Such notifications would be needed for sites having planned, unscheduled small projects that in total will exceed the threshold during a calendar year. An owner or operator may not break down a project to involve smaller than the threshold amounts and thus circumvent the rule or disguise the scope of the work. A separate notification would be required for any removal event that is greater than the threshold amount.
43. **Outbuildings:** According to EPA’s “Background Information for the Promulgated Asbestos NESHAP Revisions” (September 1990), outbuildings associated with SFDs are exempt. Therefore, outbuildings such as detached garages, storage sheds and barns associated with a residential use are exempt if the SFD is exempt.
44. **Owner or Operator of a Demolition or Renovation Activity:** Any person who owns, leases, operates, controls, or supervises the facility being demolished or renovated or any person who owns, leases, operates, controls, or supervises the demolition or renovation operation, or both.
45. **Paint:** Paint that is not friable is viewed as a Category I material, but is a suspect material. EPA states in a determination letter (April 11, 1990) that paint in good condition (not friable) will not be rendered friable by normal demolition practices. [See **Friable Asbestos Materials.**]
46. **Pipelines:** [See **Demolition.**]
47. **Plaster:** Plaster construction will be assessed on a coat-by-coat basis. The NESHAP clarification on multilayer systems (January 4, 1994) allows for small amounts of another layer of material to be included when collecting and analyzing the sample.
48. **Portable Equipment:** The removal of portable equipment is not a demolition. If a piece of equipment, such as a storage tank or an oilfield steam generator can be moved intact, the equipment is considered a facility component. This is explained in EPA determination letter to Bullock (November 14, 1993) that such activity is considered a renovation. The activity is only a demolition if a load-supporting structural member is wrecked or displaced.
49. **Projects Put On Hold:** Projects to be put on hold and not updated may be allowed, but a revised notification is required ten working days in advance of the new start date. No additional fees are required.
50. **Regulated Asbestos-Containing Material (RACM):** The NESHAP defines RACM as any of the following:

- A. Friable asbestos material.
- B. Category I non-friable ACM that has become friable.
- C. Category I non-friable ACM that will be or has been subjected to sanding, grinding, cutting or abrading. Generally, hand removal methods to remove Category I materials would not be regulated; however, mechanical methods will render the material as RACM.

Mechanical removal of Category I ACM was addressed in a District letter to Asbestos Contractors and Consultants (May 28, 2003) that indicated the use of mechanical buffers with mastic removal solvents to remove Category I floor mastic is subject to the asbestos NESHAP. The notification and work practice requirements would need to be met.

However, the intent to render materials friable is not a violation. The District investigated a proposed concrete recycling operation where the concrete had a layer of asbestos-containing mastic. The project was stopped before any material was crushed and the contractor removed the mastic from the concrete prior to commencing recycling activities. The mastic was not considered RACM because no sanding, grinding, cutting or abrading of ACM occurred.

- D. Category II non-friable ACM that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations. It is not considered RACM if the material is removed prior to the renovation or demolition activity.
51. **Recycling:** [see **Mastic.**] The District requires that in addition to waste disposal information related to RACM, the notification must identify any materials that may be recycled after removal from a project. The name of the contractor and location of the recycling activity must be identified. No asbestos-containing or asbestos-contaminated material from a regulated facility may be recycled.
 52. **Renovation:** Altering a facility or one or more facility components in any way, including the stripping or removal of RACM from a facility component. Operations in which load-supporting structural members are wrecked or taken out are demolitions.
 53. **Service Station Canopies:** Canopies are regulated. Notification is needed prior to moving or demolishing them. As a category, they can contain suspect ACM.
 54. **Sheet Vinyl Floor Covering:** [See **Linoleum.**] Sheet style vinyl floor coverings with more than one percent (1%) asbestos are Category I nonfriable ACM. Exceptions are such materials with a layer of backing that contains asbestos and is not impregnated

with the vinyl material or similar binding agent. The backing is considered a separate, friable layer subject to separate, discrete sampling. EPA determination letters to Fuhs (July 19, 1993) and Kendall (May 24, 1996) states that sheet vinyl backing may be Category II material.

55. **Single Family Dwellings (SFD):** [See **Condominiums, Employee Housing, Home Office, House Moving, Intentional Burning, Outbuildings, and Urban Renewal/Code Enforcement.**] Exceptions to the definition of facility are a single family dwelling (SFD) and a residential building with four or fewer dwelling units. The EPA declared in a memorandum (April 19, 1990) that single family dwellings also include residential buildings with four or fewer dwelling units.

The NESHAP does apply if more than one structure is being remodeled or demolished at a site. The EPA clarified this in 1995, by stating that the demolition (or renovation) of one isolated building is exempt. If the demolition or renovation of more than one building occurs at a site by the same owner or operator, the demolition or renovation is regulated.

- A. **Commercial Use:** A residential building used for commercial purposes is a regulated facility. Residential renting is not included as a commercial use for purposes of this determination. EPA determination letters to Hobson (November 6, 1992 and February 3, 1993), which discusses additions to dwellings used for commercial purposes and dwelling parts of which are used in support of commercial operations render these portions of the structures as regulated.
- B. **Future Subdivision, Commercial or Public Land Use:** It is general policy that if only one SFD or residential structure is being demolished, it is exempt unless there is future subdivision, commercial or public use planned. Exemptions should be evaluated on a case-by-case basis. If the applicant states that no future use is planned, the applicant should be advised that a NOV would be issued if it were discovered that future subdivision, commercial, or public use was planned at the time of application. Subdivision, for the purpose of this policy, means that the property in question will be legally divided, such that each property will have a unique address.
- C. **Agricultural Settings:** Employee housing associated with a farming operation is regulated only if more than one residential building is demolished. If one building is demolished for the expressed purpose of placing land into agricultural use, the demolition is regulated. However, if a single dilapidated structure is demolished because of its condition, it is not regulated. Clearing land for the growing or raising of crops, fowl or animals should not be the determining factor as to whether the project is regulated or not.

56. **Site:** A city block or a similarly compact area.
57. **Small Structures:** The EPA has indicated in letters to the Florida Department of Transportation (May 6, 1991) and the State of North Carolina (October 28, 1992) that certain small structures are not necessarily subject to the NESHAP on the condition that no suspect materials are present (i.e. only wood, glass, metal, concrete and brick). Painted surfaces are included as long as the paint is sound and not peeling or cracking. Examples of such buildings include fruit stands, barns and block dairy barns, portable prefabricated metal buildings, and picnic shelters.
58. **Surveys:** District policy is to require that surveys be conducted by Cal-OSHA certified consultants.
- A. **In-house Staff:** A firm's employee who is surveying the employer's site is exempt from the Cal-OSHA certified consultant requirement since the employee is not providing consulting services under a contract.
- B. **Incomplete Surveys:** If a survey appears to be incomplete, staff will require additional sampling. It is advisable to obtain samples of suspect materials not included in survey reports that are found in pre-demolition/renovation inspections. Staff should avoid assuming any responsibility for performing the asbestos inspection required of the owner or operator in the NESHAP.
- C. **Surveying After Fires or Natural Disasters:** The "Asbestos NESHAP Demolition Decision Tree" (EPA, 1994) describes the procedure for dealing with asbestos discovered during demolition activities and asbestos inspections in unsafe buildings. It includes the following:
- 1) Suspect materials must be assumed to contain asbestos and handled according to the NESHAP if they cannot be inspected.
 - 2) Suspect contaminated debris may be declared to be asbestos-free if it is inspected and the samples are found to contain no asbestos (less than one percent asbestos).
 - 3) Asbestos found in debris may be NESHAP-exempt if the owner can establish that it came from ACM that contained less than one percent asbestos.
- D. **Exception to the Surveying Requirements:** The District will accept a letter from an owner or contractor in lieu of a survey if the facility in question contains no suspect material (nothing other than unpainted metal, glass or wood). The EPA published additional information about building surveys (May 29, 1997) where it states that building owners may rely on documentation

regarding the absence of asbestos along with the owner's level of confidence in this information. If the District finds asbestos not revealed by the owner, the owner has violated the requirement to thoroughly inspect.

- E. **Failure to Survey:** It is policy to take enforcement action when it is apparent that the owner or operator has made no effort to determine whether asbestos is present, even if the District finds that there is no asbestos.
59. **Tanks:** [See **Portable Equipment.**] Tanks that can be moved intact are not subject to the NESHAP as a demolition. Dismantling a tank is a demolition. Discarding a tank that is coated with or contains RACM is a renovation. Underground storage tanks are not regulated facilities for demolition, but may trigger the NESHAP if suspect ACM is present.
60. **Tile:** [see **Floor Tile.**]
61. **Thoroughly Inspect:** [See **Survey.**] Though the term "thoroughly inspect" is not defined, the EPA wrote in a determination letter (May 29, 1997) that it is the owner's option to obtain bulk samples to determine whether asbestos is present. The owner may choose to rely instead on building records, but it is generally expected that the building survey will include bulk sampling.
62. **Thresholds:** The NESHAP is applicable to any demolition at a facility and any renovation in which more than 160 square feet or 260 lineal feet of RACM will be disturbed or removed. In addition, the NESHAP is applicable when at least 35 cubic feet of RACM will be disturbed or removed off facility components where the length or area could not be measured prior to the removal.
63. **Urban Renewal/Code Enforcement:** Demolitions that result from planned or organized urban renewal projects in a limited geographic area, such as a distinct neighborhood, are subject to the NESHAP. Per CFR NESHAP clarification (July 28, 1995) this would only include actions that involve more than one SFD or residential building per city block.
64. **Waste Disposal:** [See **Labeling.**]
65. **Waste Disposal Sites:**
- A. **Active Sites:** The standard is in §61.154F in the asbestos NESHAP. At least annual inspections of active waste disposal sites for RACM should be performed to satisfy EPA 105 grant requirements. The "Guidelines for Asbestos NESHAP Demolition and Renovation Inspection Procedures (Revision)" (EPA 340/1-90-007) includes in Chapter 7 procedures for inspecting these sites.

- B. **Inactive Sites:** The standard is in §61.151 in the asbestos-NESHAP. The EPA retains direct responsibility for receiving 45-day notification required prior to the excavating or otherwise disturbance of any asbestos-containing waste materials deposited at an inactive waste disposal site.
66. **Window Putty:** Window putty may be present in an otherwise asbestos-free building and needs to be assessed for asbestos and friability.
67. **Working Day:** Monday through Friday, including holidays and “Flex-Fridays” that fall on any of the days Monday through Friday.
68. **Zoning:** Primarily involved with single-family dwellings, for example zoning changes from residential to commercial. The demolition of a single family dwelling that will be replaced with a dwelling, or no proposed redevelopment is planned, is exempt from the NESHAP without regard to the zoning.