



September 19, 2019

Dr. Sarah L. Rees  
Planning, Rule Development and Area Sources  
South Coast Air Quality Management District  
21865 Copley Drive  
Diamond Bar, California 91765

Dear Dr. Sarah L. Rees:

**Re: Comments on Proposed Amended Rule 1403: Asbestos Emissions from Demolition/Renovation Activities**

The Southern California Alliance of Publicly Owned Treatment Works (SCAP) appreciates this opportunity to provide comments on Proposed Amended Rule (PAR) 1403. SCAP represents 83 public agencies that provide essential water supply and wastewater treatment to nearly 19 million people in Los Angeles, Orange, San Diego, Santa Barbara, Riverside, San Bernardino and Ventura counties. SCAP's wastewater members provide environmentally sound, cost-effective management of more than two billion gallons of wastewater each day and, in the process, convert wastes into resources such as recycled water and biogas.

We would like to take this opportunity to recognize SCAQMD's efforts to address our concerns by including provisions that allow our water and sewer systems to be repaired immediately in order to avoid an imminent threat to public health and safety. While we support these provisions and appreciate the dialogue with staff, SCAP remains concerned that the proposed rule contains new burdensome requirements for underground utilities. SCAP members share a common interest in protection of the health and safety of our employees and the public. As such, we strive to comply with all regulatory requirements and have a good working relationship with SCAQMD staff. Our outstanding concerns regarding PAR 1403 primarily relate to expanded rule applicability, new restrictive survey requirements, potential delays in conducting routine maintenance projects and new requirements pertaining to asphalt.

Throughout the rule amendment process, our members have participated in multiple working group meetings, as well as individual meetings with SCAQMD Planning and Rules as well as Enforcement staff. Our members understand that this rule amendment process commenced with the intent to clarify

P.O. Box 231565

Encinitas, CA 92024-1565

Tel: 760-479-4112 Website: [www.scap1.org](http://www.scap1.org) Email: [info@scap1.org](mailto:info@scap1.org)

existing requirements. However, after various discussions throughout this process it is evident that there is a widespread difference in interpretations between SCAQMD staff and the regulated community. This newfound discovery is an opportunity to discuss and identify reasonable solutions to these concerns while staying aligned with federal National Emission Standards for Hazardous Air Pollutants (NESHAP) requirements. Unfortunately, PAR 1403 does not currently address the widespread concerns that have been raised by the regulated community during this rulemaking process. These concerns are focused on allowing work on essential public services to be performed efficiently. SCAP is concerned that the proposed rule amendments will result in an expanded applicability and administrative burden on essential public services that will not yield any environmental benefits to our employees, contractors or the general public.

SCAP members understand that PAR 1403 must align with NESHAP requirements specific to asbestos from demolition and renovation activities; however, PAR 1403 is more stringent than the NESHAP in several areas. SCAP respects SCAQMD's prerogative to be more stringent than the NESHAP, however, we urge staff to consider the differences between a building or school and the non-friable nature of the materials within an underground pipeline distribution system. While the NESHAP requires a "thorough inspection" to access the presence of asbestos containing materials, the federal regulation does not define "thorough inspection", or the details related to the inspection such as the qualifications of the inspector and the documentation required.

The following sections of this comment letter further expand on the key remaining areas of concerns regarding PAR 1403.

#### **Rule Applicability and Survey Requirements**

PAR 1403 applies to any renovation and demolition activity and the associated disturbance of asbestos. SCAQMD staff have clarified that an onsite survey is required for **any** renovation activity regardless of size. Furthermore, PAR 1403 will now require a pre-renovation onsite survey, by a Certified Asbestos Consultant, for **any** work on any pipeline (above or below grade). Recent discussions with SCAQMD staff has highlighted that PAR 1403 will apply to **all** capital improvement projects as well as small maintenance jobs (i.e., new service connections, valve replacements, line repairs) if it involves any alteration of a facility or its components. This applies regardless of as-builts and/or construction records that indicate there are no asbestos containing materials involved. This expansive applicability and the requirement to have surveys performed by a state Certified Asbestos Consultant or AHERA trained building inspector significantly impacts our member's ability to efficiently perform routine work on essential public services.

SCAP would like to highlight the following regarding essential public service systems and request that SCAQMD staff consider other documentation and information as an acceptable form of a survey:

- As-built drawings and construction records indicate construction materials, especially pipe materials,
- Essential public services have records and mapping systems to identify the locations of asbestos cement pipe (ACP), and
- ACP is not a common material for above grade piping and is a category II non-friable material.

Currently, SCAQMD staff does not consider the above information or records as acceptable methods to satisfy the pre-renovation survey requirements. The recent expanded applicability for essential public service distribution systems and facilities affects thousands of miles of pipelines utilized to provide essential public service to our communities and service areas. The impact affects capital improvement projects as well as small maintenance jobs (i.e., new service connections, valve replacements, line repairs).

Cal/OSHA recognizes the routine maintenance work that is required for water distribution systems. In accordance with Title 8, Section 314.17, Cal/OSHA has approved Asbestos Cement Pipe (ACP) training. SCAP members continue to request that SCAQMD consider this Cal/OSHA approved Asbestos Cement Pipe (ACP) training as an acceptable qualification for a person conducting a Rule 1403 survey for distribution pipelines, especially for small projects less than 100 square feet.

### **Asphalt Policy**

SCAP is also very concerned by staff's recent incorporation of an unwritten asphalt sampling policy as part of PAR 1403 implementation. SCAP understands staff's concern upon finding asbestos containing asphalt in one city street and in a parking lot, but we believe it is premature to extrapolate that asphalt is a suspect material based on these limited data points. We disagree with the proposed approach to investigate the issue by placing an additional burden on essential public services.

Requiring asphalt sampling as part of a facility survey would place undue burden on SCAP members even though our members are not the only stakeholders conducting work within streets and highways. SCAP believes these recent findings impact cities, counties, and transit authorities that are not currently subject to PAR 1403. Due to the widespread ramifications of asbestos containing asphalt, we believe that SCAQMD staff should consider notifying entities that resurface asphalt roadways and provide guidance on how to mitigate potential hazards associated with the disturbance of these materials.

SCAP supports the formation of an Ad Hoc Working Group to establish an asphalt policy and to identify practical streamlining methods to eliminate the potential for asbestos emissions, while allowing essential public services to efficiently maintain required infrastructure. SCAP would be pleased to be active participants in the group and would support a SCAQMD led study that would evaluate the extent of asbestos asphalt throughout the four-county region. Once the Working Group studies the issue in a more comprehensive manner, the group would develop an appropriately tailored plan for how to manage asphalt related work.

Thank you for the opportunity to provide comments on PAR 1403. SCAP would like to continue the dialogue with SCAQMD staff to identify solutions that streamline proposed requirements for essential public service underground utility pipelines. If you have any questions regarding our concerns or recommendations, please do not hesitate to contact Mr. David Rothbart, SCAP Air Quality Committee Chair at (562) 908-4288, extension 2412.

Sincerely,

A handwritten signature in blue ink, appearing to read "Steve Jepsen".

Steve Jepsen, Executive Director

cc: Marian Coleman, SCAQMD  
Phillip Fine, SCAQMD  
Terrance Mann, SCAQMD