

FEATHER RIVER AIR QUALITY MANAGEMENT DISTRICT  
MEMORANDUM  
10/05/2020

TO: FRAQMD BOARD OF DIRECTORS  
FROM: Christopher D. Brown, AICP, APCO  
SUBJECT: Discussion of Asbestos NESHAP Enforcement

---

**BACKGROUND:**

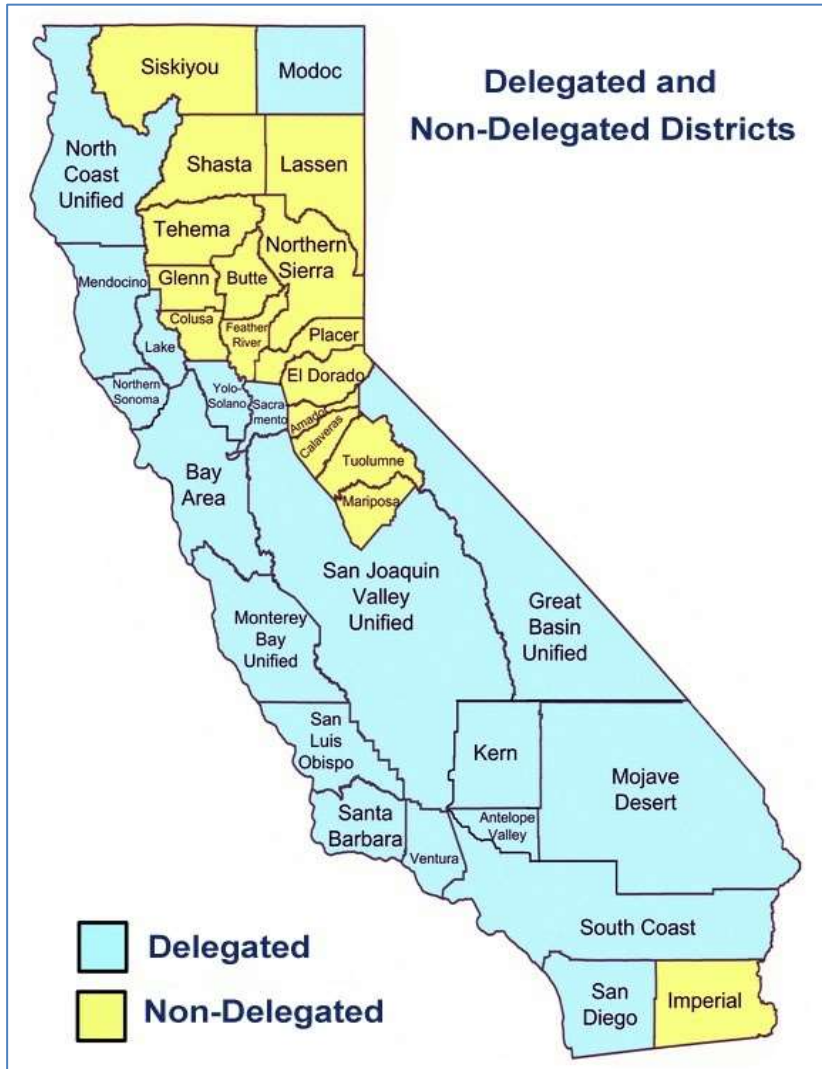
Asbestos is a mineral known to cause or contribute to several lung conditions (Lung Cancer, Asbestosis and others). Although it is naturally occurring<sup>1</sup>, and found locally in the Yuba Foothills, it is regulated by EPA when used in products. Asbestos was, and remains, popular because it can make products that are heat and fire resistant. There is no known safe level of Asbestos exposure.

Although widely considered to be “banned” the Asbestos Ban in the Clean Air Act was invalidated by the courts in the late 1980s. As it currently stands Asbestos containing products can still be (and are) sold. New products which contain asbestos are generally not allowed to be developed. Asbestos is frequently found in insulation, drywall, mastics, siding and shingles, clutches and brake pads and as a pipe insulation.

Asbestos is regulated nationally by EPA who has then delegated various state and local entities to enforce parts of regulations. For example, in California Cal/OSHA regulates Asbestos abatement contractors and workplace exposures, while the Department of Toxic Substances (DTSC) regulates disposal and transport of Asbestos as a hazards waste. Most Air Districts in California are delegated by EPA to regulate Asbestos as it relates to building renovation and demolition. FRAQMD and seventeen other Air Districts (see map below) are not delegated, meaning EPA retains authority in those areas.

---

<sup>1</sup> The District currently has a role in regulation naturally asbestos during construction and quarrying activities.



**DISCUSSION:**

Beginning in 2012 EPA nationally started putting less resources into the Asbestos program. In that year EPA ended full time asbestos coordinators in each EPA Region and either laid off or reassigned those employees. As a result, the workload for the delegated Districts began to increase. EPA has also eliminated training support for the program for local agencies.

In California the Air Resources Board for many years played a role coordinating the Asbestos Program in the non-delegated Districts (like FRAQMD). They would conduct inspections and serve as a single point of notification for contractors. While ARB did not take enforcement action, they could refer cases to EPA for action. ARB has informed the Districts that effective immediately that they will no longer be providing these services.

Both EPA and ARB have reached out to the non-delegated Districts and FRAQMD specifically asking us to take on the Asbestos program.

The Asbestos program would require the District develop and adopt a new regulation and fee schedule. This would consume significant, limited, staff time to develop without being able to recover costs until the regulation was in place.

Typical District Asbestos Regulations require contractors to pay a fee to the District for each demolition and renovation that occurred in the District<sup>2</sup> and to provide 10 days' notice to the District before asbestos is disturbed. District inspectors would then visit the abatement site to ensure Asbestos was not being released into the environment.

Typically, the facilities that are found in violation of the Asbestos regulations are commercial buildings doing remodels, public buildings (including military) and industrial facilities such as power plants and food processing facilities. Enforcement of the Asbestos NESHAP tend to result in more conflicts with local government since City and County buildings can be cited and the State Law creates potential liability for Building Departments who issue permits without having an asbestos clearance (Health and Safety Code 19827.5).

Finally, the issue of liability for District Employee exposure to asbestos is a significant concern. If District employees are exposed to Asbestos under OSHA regulations the District must enact a medical monitoring program for employees exposed above the OSHA standard. The medical monitoring program must meet OSHA standards and provide for free medical evaluations on a fixed schedule. This would have significant fiscal costs and could impact the District's insurance rates.

**FISCAL IMPACT:**

None. This is information only.

---

<sup>2</sup> Depending how the regulation was written Single Family Homes (less than 4 units) may be exempt, but all commercial properties would be required to be regulated.