



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

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Ref: 8SEM-EMR

**ACTION MEMORANDUM**

**SUBJECT:** Approval and Funding for a Removal Action at the San Haven Asbestos Site, San Haven, Rolette County, North Dakota

**FROM:** Joyce Ackerman  
Federal On-Scene Coordinator

**THRU:** Laura Williams, Chief  
Emergency Response Section

Deirdre Rothery, Chief  
Emergency Management Branch

**TO:** Betsy Smidinger, Director  
Superfund and Emergency Management Division

Site ID#: B869

**I. PURPOSE**

The purpose of this Action Memorandum is to request and document approval of the removal action described herein for the San Haven Asbestos Site (Site) located near the town of Dunseith, Rolette County, North Dakota. This time-critical removal action involves the cleanup and proper disposal of debris from a partially collapsed building that is abandoned, damaged by vandalism and weathering, and known to contain friable asbestos. The building is part of a former medical complex known as San Haven that was purchased in 1992 by the Turtle Mountain Band of Chippewa Indians (Tribe). Several abandoned buildings are present at the former medical complex. This removal action concerns Building #9 of the complex. The Site was identified by the Tribe as a safety concern, posing a potential asbestos exposure threat to nearby residents, children, and community members. Conditions at the Site present a threat to public health and the environment and meet the criteria for initiating a removal action under 40 CFR § 300.415(b) of the National Contingency Plan (NCP).

This removal action is considered nationally-significant or precedent-setting because it involves asbestos as the principal contaminant of concern and is occurring at a tribally-owned facility. This removal action will not establish any precedent for how future response actions will be taken and will not commit the U.S. Environmental Protection Agency (EPA) to a course of action that could have a significant impact on future responses or resources.

## II. SITE CONDITIONS AND BACKGROUND

|                                      |                             |
|--------------------------------------|-----------------------------|
| Site Name:                           | San Haven Asbestos Site     |
| Superfund Site ID (SSID):            | B869                        |
| NRC Case Number:                     | N/A                         |
| CERCLIS Number:                      | NDN000821055                |
| Site Location:                       | San Haven/Rolette County/ND |
| Lat/Long:                            | 48.834560/-100.040089       |
| Potentially Responsible Party:       |                             |
| National Priority List (NPL) Status: | Non NPL                     |
| Removal Start Date:                  | Summer 2021                 |

### A. Site Description

#### 1. Removal Site Evaluation

Building #9 is part of a former medical complex that is 14 acres in size and known as San Haven. First built in 1909 as a tuberculosis sanitarium, the complex was later transferred in 1971 for use as the state hospital until 1987. The Tribe acquired the property in 1992 and a sewing factory was reportedly located in one of the buildings until 1993. The buildings at the complex are now abandoned and in a state of severe disrepair due to vandalism, scavengers who have removed building materials, and weathering. The nearest incorporated town is Dunseith, approximately two miles away.

The EPA Region 8 Brownfields Program conducted a Phase II Environmental Site Assessment (ESA) at the former San Haven medical complex in 2020 and determined that friable asbestos-containing materials (ACM) were present in Building #9 and several other buildings in the complex. Building #9 is a four-story structure. The Phase II ESA found numerous building materials in Building #9 containing ACM including asphalt roofing material and sealants, window glazing and exterior plaster, floor tiles and/or mastic throughout, underlayment on the 4th floor, black cove base throughout, vermiculite insulation in the attic, and air cell pipe insulation debris. Samples of building materials showed concentrations of chrysotile asbestos ranging from 3 percent to 75 percent. The vermiculite insulation may have been obtained from the former Robinson Insulation vermiculite exfoliation plant in nearby Minot, North Dakota (addressed in an EPA removal action in 2002) and would therefore contain tremolite-actinolite asbestos. The Phase II ESA report is provided in the administrative record for this Site. Photographs of Building #9 are provided in Attachment 2.

Trespassers regularly enter the San Haven property to explore or scavenge building materials. The complex is believed to have ghosts, which attracts people to the area. There are websites on the Internet which describe the reported haunting by ghosts at the Site. Structural beams in the building have been removed by scavengers, causing floors to collapse and affecting the structural

integrity of the upper levels. A teenager died from a fall down an elevator shaft while exploring the main hospital in 2001 and others have been injured while accessing the Site. The Tribe has attempted to block access roads, but these efforts have been largely ineffective due to the large size of the property and its easy access from a major highway.

Building #9 is the most severely damaged structure in the complex and is partially collapsed. In December 2020, the Tribe requested an EPA removal action on Building #9 and is seeking a Brownfields cleanup grant to address the other buildings.

## **2. Physical Location**

The Site is located in the unincorporated area known as San Haven. The nearest incorporated town is Dunseith, which is approximately two miles away. The Site is located in Rolette County, North Dakota. According to the 2010 census, the population of Dunseith was 773. Although the Tribe owns the buildings and property at the former San Haven medical complex, the property is not currently in Trust status. The Trust land base of the nearby Turtle Mountain Indian Reservation comprises 79,176 acres and the estimated Tribal enrollment is 30,100 members.

## **3. Site Characteristics**

The Site is part of the former San Haven medical complex comprising numerous buildings that are now abandoned. It is located near State Highway 281 and the town of Dunseith is approximately two miles away. Trespassers regularly enter the San Haven complex to scavenge building materials or explore the buildings which are believed to be haunted by ghosts. Building #9 is partially collapsed and friable ACM is present and open to the environment in the remains of the structure. Winters in the area are reported to be frigid and windy with annual average snowfall of 38 inches and summers are humid; there is an annual average of 40 days with 0.1 inch or more of precipitation.

## **4. Release or Threatened Release into the Environment of a Hazardous Substance, Pollutant or Contaminant**

The principal contaminant of concern at the Site is asbestos, which is a hazardous substance as defined by Section 101 (14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). As the remains of the building continue to deteriorate from weather events, vandalism, and structural collapse, there is a threat of release of asbestos fibers to the environment from ACM.

Asbestos is a solid material with a variety of forms, including chrysotile, which was found at the Site in several building materials. Vermiculite attic insulation was also found at the Site and likely contains tremolite-actinolite asbestos. Asbestos is highly resistant to heat and has exceptional tensile strength, both of

which are characteristics that lend themselves to use in ordinary building materials. Asbestos tends to become brittle over time, shattering into fiber bundles due to age and weathering, and is referred to as being friable. Subsequently, the friable fiber bundles can further degrade into microscopic fibers that can be distributed into the air.

An EPA On-Scene Coordinator (OSC) determined that Building #9 poses a direct threat to public health and welfare because friable ACMs are present in the heavily vandalized, partially collapsed building and are being released into the environment due to missing walls and windows. Asbestos fibers pose an inhalation threat to persons accessing the Site. Weather events including wind, rain and snow will continue to degrade the structure. Asbestos fibers will continue to be released into the environment as the ACMs weather and become friable due to ongoing exposure to wind, rain, and snow as well as damage caused by scavengers or vandalism.

There is potential for human exposure to Site-related asbestos in the surrounding San Haven area from releases of asbestos into the environment and to anyone who accesses the building. Human exposure to these airborne asbestos fibers via inhalation has been proven to cause asbestosis, cancer, mesothelioma, and other respiratory diseases.

**5. NPL Status**

This Site is not on the NPL, nor is it currently proposed for inclusion on the NPL.

**6. Maps, Pictures and Other Graphic Representations**

A Site map is provided in Attachment 1 and photos are provided in Attachment 2.

**B. Other Actions to Date**

**1. Previous Actions**

EPA conducted a removal action in 2001 at seven of the buildings in the San Haven complex, including Building #9, to conduct abatement of friable asbestos. The removal action consisted of removing deteriorated friable ACM, addressing the threat that existed at the time. The OSC's initial/final pollution report (polrep) noted that the 2001 removal action was an interim removal action and that "Asbestos materials may remain on-site that are not in a deteriorated/time-critical removal mode at this time." The Phase II ESA states that additional assessments and asbestos abatements have taken place at the former San Haven medical complex, however, records of these activities are incomplete.

**2. Current Actions**

The Phase II ESA documented the presence of ACM in several buildings in the San Haven complex. The Tribe is currently applying for a Brownfields cleanup grant from the EPA to address other buildings at the San Haven complex.

**C. State and Local Authorities' Roles**

**1. Tribal and Local Actions to Date**

The Tribe requested assistance from EPA Region 8's Response Section. The Tribe wrote an e-mail to EPA Region 8 on December 2, 2020, requesting an EPA cleanup at the property. The request stated that the Tribe's limited resources are not sufficient to address the environmental exposures posed by Building #9.

**2. Potential for Continued Tribal/Local Response**

Neither the Tribe nor the local authorities have the resources to conduct the proposed removal action at this Site.

**III. THREATS TO PUBLIC HEALTH OR WELFARE OR THE ENVIRONMENT, AND STATUTORY AND REGULATORY AUTHORITIES**

Conditions at the Site present a threat to public health and the environment and meet the criteria for initiating a removal action under 40 CFR 300.415(b)(2) of the NCP.

EPA has considered all the factors described in 40 CFR 300.415(b)(2) of the NCP and determined that the following factors apply at the Site:

“(i) Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances, or pollutants or contaminants:”

The Site poses a direct threat to public health and welfare because friable ACM are present in the heavily vandalized, partially collapsed building and are being released into the environment due to missing walls and windows. This may result in exposure to visitors to the Site. There are no access restrictions to prevent persons from entering the Site.

“(v) Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released:”

Building #9 is a heavily damaged, partially collapsed building that is in poor condition and is completely open to the environment. Weather events including wind, rain and snow will cause continued degradation of the remaining portions of the structure. Asbestos fibers will be released from the ACM as the material weathers and continues to become friable due to ongoing exposure to the elements.

“(vii) The availability of other appropriate federal or state mechanisms to respond to the release:”

No other local, tribal, state, or federal agency is in the position or has the resources to independently implement a timely, effective response action to address the ongoing threat presented by the Site.

#### **IV. PROPOSED ACTIONS AND ESTIMATED COSTS**

##### **A. Proposed Actions**

###### **1. Proposed Action Description**

Due to the partial collapse of Building #9 and its lack of structural integrity, the EPA will demolish the building and dispose of all debris as ACM. All cleanup activities that will disturb ACM will be conducted using adequately wet methods to prevent the migration of asbestos fibers. No post-removal Site controls are anticipated to be necessary following the removal action. The EPA will identify the closest landfills allowed to accept ACM and are in compliance with the CERCLA Off-Site Rule (40 CFR section 300.440).

###### **2. Contribution to Remedial Performance**

This effort will, to the extent practical, contribute to any future remedial effort at the Site. However, no further federal action is anticipated at this time.

###### **3. Engineering Evaluation/Cost Analysis (EE/CA)**

An EE/CA is not required for a time-critical removal action.

###### **4. Applicable or Relevant and Appropriate Requirements (ARARs)**

Removal actions conducted under CERCLA are required to attain ARARs to the extent practicable considering the exigencies of the situation. In determining whether compliance with ARARs is practicable, the lead agency may consider appropriate factors including the urgency of the situation and the scope of the removal action to be conducted. The EPA contacted the North Dakota Department of Environmental Quality regarding potential ARARs that the EPA should consider and received a reply. The ARARs are in Attachment 3.

###### **5. Project Schedule**

The removal action is anticipated to begin in the summer of 2021. All removal activities should be completed within five weeks of the beginning of on-site activities.

##### **B. Estimated Costs\***

| <b>Contractor Costs</b>              | <b>Estimated Costs</b> |
|--------------------------------------|------------------------|
| ERRS contractor                      | \$559,000              |
| START contractor                     | \$55,000               |
| <b>SUBTOTAL</b>                      | <b>\$614,000</b>       |
| Contingency Costs (20 % of subtotal) | \$122,800              |
| <b>Total Removal Project Ceiling</b> | <b>\$736,800</b>       |

\*EPA direct and indirect costs, although cost recoverable, do not count toward the removal ceiling for this removal action. Liable parties may be held financially responsible for costs incurred by the EPA as set forth in Section 107 of CERCLA.

## **V. EXPECTED CHANGE IN THE SITUATION SHOULD ACTION BE DELAYED OR NOT TAKEN**

A delay in action or no action at this Site would increase the actual or potential threats to the public health and/or the environment.

## **VI. OUTSTANDING POLICY ISSUES**

Removals involving contamination that may affect other sovereign nations, including Indian Tribes, and those involving asbestos as a principal contaminant are two of seven categories designated as nationally significant or precedent-setting (NSPS). Specific procedures are required for requesting the EPA Headquarters' concurrence on these actions.

According to the EPA's Superfund Removal Guidance for Preparing Action Memoranda, September 2009, removals involving asbestos, when it is the principal contaminant of concern, require Headquarters' concurrence because action levels for response have not yet been set and these determinations are being made on a case-by-case basis (OSWER 9345.4-05).

## **VII. ENFORCEMENT**

A separate Enforcement Addendum has been prepared providing a confidential summary of current and potential future enforcement activities.

## **VIII. RECOMMENDATIONS**

This decision document represents the selected removal action for the San Haven Asbestos Site, near the town of Dunseith, Rolette County, North Dakota, developed in accordance with CERCLA, as amended, and is not inconsistent with the NCP. This decision is based on the administrative record for the Site.

Conditions at the Site meet the NCP section 300.415(b) criteria for a removal action, and I recommend your approval of the proposed removal action. The total project ceiling, if approved,

will be \$736,800; this amount will be funded from the Regional removal allowance.

APPROVE

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Betsy Smidinger  
Director  
Superfund and Emergency Management Division

Date

DISAPPROVE

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Betsy Smidinger  
Director  
Superfund and Emergency Management Division

Date

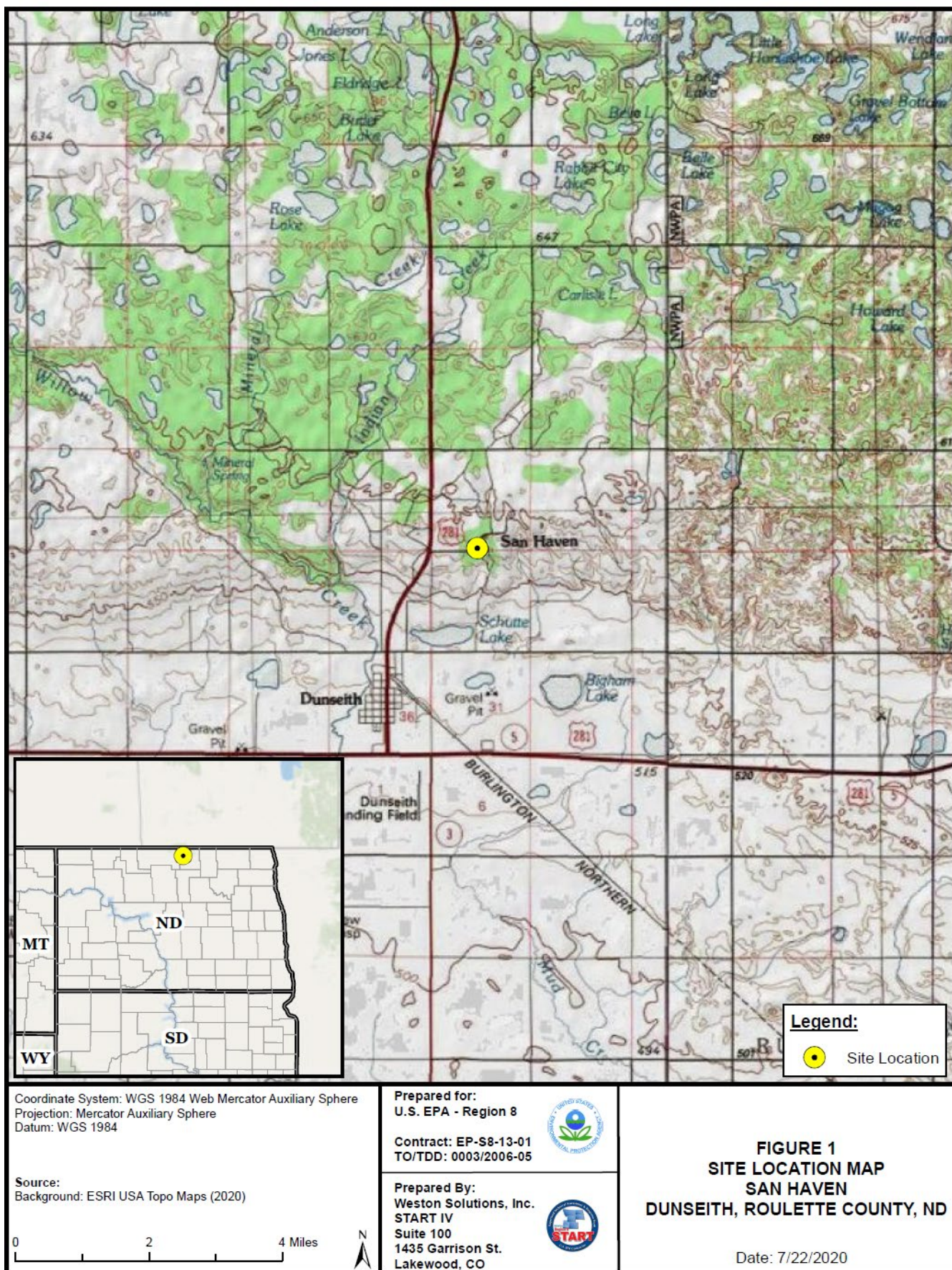
**Attachments:**

Attachment 1: Site Map  
Attachment 2: Site Photos  
Attachment 3: ARARs Table



## Attachment 1

### Site Map



## Attachment 2

### Site Photos



|  |                            |
|--|----------------------------|
| <b>Photo No.</b><br><b>1</b>   | <b>Date:</b><br>08/21/2020 |
| <b>Photo Coordinates</b>   |                            |
| <b>Lat</b>   | 48.834714                  |
| <b>Long</b>  | -100.040261                |
| <b>Direction Photo Taken:</b><br>124.545616113744                                    |                            |
| <b>Description:</b><br><br>Exterior of building 9 with asbestos in exterior plaster. |                            |



|  |                            |
|--|----------------------------|
| <b>Photo No.</b><br><b>2</b>                                       | <b>Date:</b><br>08/21/2020 |
| <b>Photo Coordinates</b>   |                            |
| <b>Lat</b>   | 48.834644                  |
| <b>Long</b>  | -100.040153                |
| <b>Direction Photo Taken:</b><br>171.877494838266                  |                            |
| <b>Description:</b><br><br>Structural instability of the building. |                            |





|  |                            |
|--|----------------------------|
| <b>Photo No.</b><br><b>13</b>                          | <b>Date:</b><br>08/21/2020 |
| <b>Photo Coordinates</b>                               |                            |
| <b>Lat</b>   | 48.834453                  |
| <b>Long</b>  | -100.040108                |
| <b>Direction Photo Taken:</b><br>32.9660949737286      |                            |
| <b>Description:</b><br><br>Debris from floor collapse. |                            |



|  |                            |
|--|----------------------------|
| <b>Photo No.</b><br><b>14</b>                        | <b>Date:</b><br>08/21/2020 |
| <b>Photo Coordinates</b>                             |                            |
| <b>Lat</b>   | 48.834964                  |
| <b>Long</b>  | -100.040367                |
| <b>Direction Photo Taken:</b><br>311.528228924981    |                            |
| <b>Description:</b><br><br>Air cell debris observed. |                            |



## Attachment 3

## ARARs Table

|                | <i>Standard,<br/>Requirement or<br/>Criteria</i>  | <i>Description</i>  | <i>Applicable or<br/>Relevant and<br/>Appropriate or TBC</i> | <i>Comment</i>   |
|----------------|---|---|--|--|
| <b>FEDERAL</b> |   |   |  |  |
| <b>AIR</b>     |   |   |  |  |
|                | National Emissions Standards for Hazardous Air Pollutants (NESHAP), National Emission Standards for Asbestos 40 CFR Part 61 Subpart M | Establishes regulations for abatement and/or demolition of asbestos-contaminated structures | Applicable   | Best Management Practices will be implemented to comply with the requirements of NESHAP and protect public health, including keeping asbestos-contaminated debris adequately wet until disposed of as ACM. |

|              | <i>Standard,<br/>Requirement or<br/>Criteria</i>   | <i>Description</i>  | <i>Applicable or<br/>Relevant and<br/>Appropriate or TBC</i> | <i>Comment</i>   |
|--------------|--|---|--|--|
| <b>STATE</b> |  |   |  |  |
|              | North Dakota Administrative Code Title 33.1 Article 15 Chapter 33.1-15-13 Emission Standards for Hazardous Air Pollutants Subdivisions 6.c.(4), (7), (9), (11) and 11.a.(1), (3); b., d., e. | Establishes regulations for abatement and/or demolition of asbestos-contaminated structures | Applicable   | Applicable to unstable building demolition<br>Best Management Practices will be implemented to comply with the requirements of the regulation and protect public health, including keeping asbestos-contaminated debris adequately wet until disposed of as ACM. Disposal of ACM will be conducted in accordance with State regulations. |