Statutes and Regulations	Brief Description	Application/Thresholds
FEDERAL		
Asbestos Hazard Emergency Response Act (15 U.S.C. §§ 2641-2647; 40 CFR 763.80 – 763.126). ("AHERA" is subchapter II of the Toxic Substances Control Act ("TSCA")).	Establishes regulations requiring inspections for asbestos containing building material and implementation of appropriate response actions with respect to ACBM in the Nation's schools.	**FACILITIES AND MATERIALS REGULATED** The law applies to "local education agencies" which are defined as any "public institution having administrative control and direction of a public elementary or secondary school." The law regulates asbestos contained within school building materials, but does not regulate asbestos from sources outside of school facilities. **PROCEDURES** Inspections. Agencies must inspect each school building prior to October 12, 1988, to identify all locations of asbestos containing building material ("ACBM"). ACBM is defined as surfacing asbestos containing material ("ACM"), thermal system insulation ACM, or miscellaneous ACM that is found in or on interior structural members or other parts of a school building. ACM is defined as any material or product containing more than 1% asbestos using the polarized light microscopy ("PLM") method, which measures the asbestos content of a material rather than the amount of asbestos fibers contained in the air. Accredited inspectors must visually inspect for all suspected friable and non-friable ACBM. "Friable" is defined as material that when dry can be crumbled or reduced to powder by hand pressure. Reinspection must be conducted for all friable and nonfriable known or assumed ACBM at least once every three years after a management plan is in effect. Sampling Requirements. The inspector must take samples of materials suspected of containing ACBM. The inspector must also test random samples of friable surfacing materials not assumed to be ACM. Sampling is required when the inspector encounters homogenous friable surface material. Written Assessment. The inspector must provide a written assessment of all friable known or assumed ACBM in the school building. The assessment must be reviewed and a written recommendation must be made as to the appropriate response action. Response Activities. The education agency must implement the appropriate response actions. The responses are set out in section 763.90 of the regulations, and include actions regarding damaged thermal system

		ACBM and damaged friable surfacing ACBM. Response actions must be made in accordance with worker protection requirements as set out in the OSHA regulations. Air samples must be taken at the conclusion of any response activities involving removal, encapsulation, and enclosure, except projects which are of small-scale, short duration. (See below for air analysis method.) The samples must be tested using either of two methodologies: the Transmission Electron Microscopy Method ("TEM") as listed in the regulations, or, where the project is less than 160 square feet, the Phase Contrast Microscopy ("PCM") method may be used. The samples determine whether the response action is complete, and are very stringent. Under one TEM method, clearance levels for is 70 s/mm2 for 1,199 liters of air drawn across a 25 mm diameter filter. (See 40 CFR section 763.90(i), referencing appendix A of the subpart). This equates to about .0001 fibers per cubic centimeter using the PCM standard. (See ARB "AHERA Asbestos Clearance Level Determination for Schools"). Under the PCM method, samples must indicate less than or equal to .01 fibers per cubic centimeter. Operations and Maintenance. The education agency must implement an operations, maintenance, and repair program whenever any friable ACBM is present or assumed to be present in a school building. Management Plans. Education agencies must develop a management plan for each school and submit it to a designated state agency. The plan must include, in part, a list of school buildings and whether each contains friable ACBM, nonfriable ACBM, and material assumed to be ACBM. The management plan should also include descriptions of inspections, assessments made, and recommended responses. Recordkeeping. Education agencies must keep records for each preventive and responsive action taken for friable and nonfriable ACBM. Warning. Warning labels must be posted adjacent to friable and nonfriable ACM, and suspected ACM located in routine maintenance areas. **SUBSTANTIVE THRESHOLDS** Air Analysis. For a response action to be considered complete, air samples must be tested using either of two methodologies: the Transmission Electron Microscopy ("TEM") method, or the Phase Contrast Microscopy ("PCM") method. The tests determine whether the response action is complete, and are

		very stringent. TEM method. TEM must be used on all except for very small projects as noted below. Clearance levels under this method must not exceed 70 structures per square millimeter for 1,199 liters of air drawn across a 25 mm diameter filter. (See 40 CFR section 763.90(i), referencing appendix A of the subpart). Structure is defined as a microscopic bundle, cluster, fiber or matrix which may contain asbestos). Although some reports criticize comparing the TEM and PCM standards, the Air Resources Board "ARB") calculates that the TEM threshold under AHERA would equal .0000895 fibers per cubic centimeter under the PCM method. (ARB "AHERA Asbestos Clearance Level Determination for Schools"). PCM method. PCM may be used for projects greater than small-scale, short duration and less than 160 square feet or 260 linear feet. Clearance levels under this method must not exceed .01 fibers per cubic centimeter.
Education for Economic Security; Asbestos School Hazard Abatement Act. (20 U.S.C. §§4011-4022).	Similar to Asbestos School Hazard Detection and Control Act.	Provides continuing scientific and technical assistance to state and local agencies to enable them to identify asbestos hazards in schools. Also provides financial assistance for abatement programs.
Clean Air Act (42 U.S.C. §§ 7401-7671; 40 CFR 61 et seq.). Regulates through the National Emission Standards for Hazardous Air Pollutants ("NESHAP") program.	Protects air quality by regulating the emission of pollutants and other hazardous substances, including asbestos.	**FACILITIES AND MATERIALS REGULATED** Regulates the use and disposal of commercial asbestos which may result in asbestos emissions. Commercial asbestos is any material containing asbestos that is extracted from ore and has value because of its asbestos content. Also regulates renovation and demolition of facilities. A facility is defined as essentially any structure, either public or private, except residential buildings having four or fewer dwelling units. **PROCEDURES** Asbestos Mill. An asbestos mill is defined as any facility engaged in converting asbestos ore into commercial asbestos. The regulations describe monitoring, inspection and recordkeeping standards. Roadways. Prohibits most uses of asbestos tailings and asbestos containing material on roads. Asbestos tailings are defined as solid waste containing asbestos, and are the product of asbestos mining or milling operations. Asbestos containing material is defined as mill tailings or as waste that contains commercial asbestos. Commercial asbestos is any material containing asbestos that is extracted from ore and has value because

		of its asbestos content. The regulations pertain to products resulting from the commercial asbestos process not asbestos-containing serpentine used on roads. Manufacturing. Regulates the use of commercial asbestos in listed manufacturing processes, including the manufacture of cement products and the manufacture of asphalt concrete. Renovation and Demolition. Owners and operators of a demolition or renovation project must inspect for friable and nonfriable asbestos. Friable asbestos is defined as material containing more than 1% asbestos, as determined by the Polarized Light Microscopy (APLM@) method, that, when dry, can be crumbled into powder by hand pressure. Nonfriable ACM means material containing more than 1% asbestos that, when dry, cannot be reduced to powder by hand pressure. The regulated asbestos containing material (RACM) must be determined. RACM includes: friable asbestos; Category I nonfriable ACM (ACM in such items as floor coverings and roofing products) that has become friable or will be subjected to sanding, grinding, cutting or abrading; and Category II nonfriable ACM (ACM not included in Category I) that has a high probability of becoming reduced to powder by the demolition or renovation operations. For facilities being demolished, notification requirements and emission controls must be met if RACM equals, in part, at least 80 linear meters on pipes or 160 square feet on other components. Emission controls require either wetting RACM or using an exhaust ventilation and collection system which must not exhibit visible emissions to the outside air; and wrapping removed RACM. If the RACM equals, in part, less than 80 linear meters on pipes or less than 160 square feet on other components, notification requirements apply. For facilities being renovated, notification requirements and asbestos emission controls must be met if the RACM to be stripped, removed, or otherwise disturbed equals at least 80 linear meters on pipes or 160 square feet on other components. Facility is defined as essentially any structure, both public and private, except residential buildings having four or fewer dwelling units.

		Spraying, Fabricating, Insulating, Waste Disposal. Regulates the use of asbestos in spraying, insulating and fabricating; waste disposal for asbestos mills and other operations; and operations converting asbestos waste into nonasbestos. Also regulates active and inactive asbestos waste disposal sites. **SUBSTANTIVE THRESHOLDS** For all regulated activities involving asbestos the activity must be monitored, and either there must be no visible emissions to the outside air, or the methods specified in the regulations must be used to clean emissions prior to their discharge to the outside air.
Asbestos Ban. Regulations published under authority of TSCA. (40 CFR 763.160 - 763.179).	Prohibits the manufacture, importation, processing, and distributing in commerce of certain asbestos-containing products. Sets out labeling requirements.	Regulates through manufacturing and importation prohibitions, processing prohibitions, distribution in commerce prohibitions, and labeling requirements, specific asbestos-containing products ("ACP"). ACP is defined as any product to which asbestos is deliberately added in any concentration or a final product which contains more than 1% asbestos by weight or area. Regulates the specific items of flooring felt, commercial paper, corrugated paper, rollboard, and specialty paper. Also regulates "new uses" of asbestos. New uses are defined as commercial uses of asbestos not defined in the regulations, the processing, manufacture or importation of which would be initiated for the first time after August 25, 1989.
Asbestos School Hazard Detection and Control Act (20 U.S.C. §§ 3601-3611).	Establishes a task force and funding mechanism for states in order to assist in complying with the asbestos detection and control program.	Provides scientific, technical and financial assistance to educational agencies to conduct asbestos detection. Provides loans to educational agencies for asbestos mitigation. Requires states which receive administrative funds to submit plans illustrating the method by which state education agencies will receive information.
CERCLA (also referred to as "Superfund") (42 U.S.C. §§ 9601-9662).	CERCLA gives the government and private parties authority to respond to hazardous releases.	CERCLA does not compensate for economic losses or personal injury attributable to the release of hazardous waste. Asbestos is a hazardous substance for purposes of CERCLA. For CERCLA to apply there must be a "release" or "threatened release" from a CERCLA-defined "facility." A release is defined, in part, as emitting, discharging or disposing into the environment. CERCLA defines facility as any building, structure, installation, pipe, site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located. CERCLA does not cover any consumer product in consumer use. The EPA and private parties may bring an action to recover cleanup costs when the costs are consistent with certain requirements.

		CERCLA generally does not extend to actions for recovery for removal of ACM from within building structures for a variety of reasons, including an exemption relating to commercial products. A claim also does not occur when the "release" was wholly within the same building of which the hazardous substance was a part.
RCRA (42 U.S.C. §§ 6901 – 6987, 9001 – 9010).	Comprehensive regulatory scheme for managing hazardous and nonhazardous solid wastes. Regulates active and inactive waste disposal sites.	Asbestos may be a hazardous solid waste within the meaning of RCRA. RCRA regulates hazardous and non-hazardous solid waste. Solid waste is defined, in part, as discarded material, including solid, liquid and semisolid, or contained gaseous material. "Discarded" is defined as abandoned, recycled or considered inherently wastelike. Mining wastes from extraction and beneficiation processes are exempt from regulation as hazardous waste. Beneficiation is defined, in part, as crushing and grinding. Asbestos is a hazardous waste within the meaning of RCRA. However, RCRA jurisdiction only applies to those wastes that are "discarded." The EPA has defined "discarded material" as material which is abandoned, recycled or considered inherently wastelike. There are no cases in federal court under RCRA involving the discharge of asbestos from serpentine mining operations. Under government or citizen suit provisions, a suit may be commenced to compel a cleanup where it is shown that someone is creating an "imminent and substantial endangerment."
MSHA (30 U.S.C. §§ 811 et seq.; 30 CFR 56.5001 – 56.5005).	Regulations protect employees of metal and non-metal mining (including surface mines) and milling industries. Also note that OSHA may regulate some activities at a mine site.	MSHA has set employee permissible asbestos fiber exposure limit, over an 8-hour time weighted average, of 2 fibers per milliliter greater than 5 microns in length as determined by the membrane filter method at 400-450 magnification phase contrast illumination. No employee shall be exposed to airborne concentrations of asbestos fibers in excess of 10 fibers longer than 5 micrometers per millimeter of air as determined by the membrane filter method over a minimum sampling period of 15 minutes. This standard converts to 2 fibers per cubic centimeter under the PCM method. (Compare to the Cal/OSHA standard of .1 fibers per cubic centimeter under the PCM method.)
OSHA (29 U.S.C. §§ 651 et seq.)		Cal/OSHA regulates exposure to asbestos and ACM under authority granted by the federal OSHA. See Cal/OSHA below for the appropriate regulations.

Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.; 40 CFR 427).	Regulates discharge of pollutants into navigable waters.	Regulates asbestos manufacturing processes which discharge effluent. Limits effluents for processes to manufacture; asbestos-cement pipe, asbestos-cement sheet, asbestos paper, asbestos millboard, asbestos roofing, asbestos floor tile, and asbestos textiles. Also regulates solvent recovery in the manufacture of asbestos products and wet dust collection in manufacturing.
CALIFORNIA		
Asbestos and Hazardous Substance Removal Contracts. (Cal. Health & Safety Code §§ 25914-25914.3).	Sets forth provisions intended to ensure that asbestos or other hazardous substance removal work be done properly to safeguard the public health and safety through prescribing standards and other requirements that must be adhered to when engaging in asbestos-abatement work.	Sets standards for persons performing asbestos-related work. Certification standards are set out in Labor Code sections 9021.5 et seq. Asbestos-related work is defined as any activity, which by disturbing asbestos-containing construction materials, may release asbestos fibers into the air and which is not related to its manufacture, the mining or excavation of asbestos-bearing ore or materials, or the installation or repair of automotive materials. Contractors who encounter asbestos must cease work in that area and make a written report to the owner or architect of the building.
Asbestos Notification. (Cal. Health & Safety Code §§ 25915-25919.7).	Establishes notice requirements by requiring owners of buildings containing asbestos and contractors working in such buildings to notify their employees of the presence of asbestos containing construction material.	"Owner" is defined to include state and other public entities. Owner includes lessee and sublessee. "Building" is defined as all or part of any public and commercial buildings built prior to 1979 except schools and apartment buildings of fewer than 10 units. Residential dwellings are exempted. Asbestos containing construction material is defined as material which contains more than one-tenth of 1% asbestos by weight. Written notice regarding any asbestos surveys, general procedures and handling instructions regarding asbestos material, summaries of any bulk sampling analysis or other monitoring for asbestos, and the potential health risks from exposure to asbestos as referred to in the tests or monitoring operations. Other notice requirements may be complied with in lieu of the above stated requirements where the owner adopts a management plan as set out in the code. The notice must be given individually to employees and other owners within 15 days after the owner receives the information. This law applies in addition to notification required under Cal/OSHA.

		Exceptions to the notice requirements are provided based on the accessibility of the asbestos materials.
Asbestos Abatement and Control. (Cal. Health & Safety Code §§ 25925-25929).	Prescribes procedures and standards for the abatement and control of asbestos, but specifically excludes school buildings from its provisions.	Creates asbestos assessment task force to inspect public buildings other than public schools. The Department of Health Services is responsible for coordinating the work of the task force and compiling a report which, in part, reviews relevant research, law and regulations to assess exposure to asbestos in public buildings.
Friable Asbestos in the Workplace. (Labor Code § 6325.5).	Gives the Division of Occupational Safety and Health the authority to prohibit the use of an area where there is friable asbestos.	If the Division has cause to believe that a workplace contains friable asbestos, and if there appears to be inadequate protection of employees from asbestos, the Division may prohibit use of the workplace.
Cal/OSHA (Labor Code §§ 6300 et seq.; 8 CCR §§ 1529, 5208, 8358).	Regulates exposure to asbestos in the workplace.	**FACILITIES AND MATERIALS REGULATED**. Applies to all employers, including the state and local government. Regulates employee exposure to asbestos in all industries covered by Cal/OSHA. Asbestos is defined to include presumed asbestos-containing material ("PACM"). Asbestos containing material is defined as material containing more than 1% asbestos. **PROCEDURES**. Divides standards into three categories: general industry; construction; and shipbuilding. Adopts exposure limits for asbestos and specific requirements for, among other things, exposure monitoring, warning signs and labels, employee training and medical surveillance. Employers conducting operations involving material containing more than .1% asbestos must register with OSHA. An OSHA notification exemption is provided where the exposure involves outdoor storage of mine ore tailings piles as long as the employer complies with other required employee warnings. Applies to state and local government entities. **SUBSTANTIVE THRESHOLDS**. Permissible exposure limit ("PEL") of 0.1 fiber per cubic centimeter over an 8 hour time-weighted average. Excursion limit of 1 f/cc over 30 minutes. Analysis is conducted using the PCM method.

		*See Prop. 65 for interaction with Prop. 65 occupational warning requirements.
Proposition 65 (Health & Safety Code §§ 25249.5-25249.12; 22 CCR §§ 12000 et seq.).	Requires businesses to warn persons prior to exposing them to certain listed carcinogens and reproductive toxins unless the business can prove that the risk from the exposure is insignificant. Asbestos is a listed carcinogen. Prop. 65 also contains a provision prohibiting the discharge into drinking water of carcinogens and reproductive toxins.	**APPLICATION**. Applies to businesses with 10 or more employees. Does not apply to any federal, state or local government agencies. **PROCEDURES**. Businesses are required to issue a warning before knowingly and intentionally exposing individuals to a chemical listed on the Governor's List of Carcinogens and Reproductive Toxins. Asbestos is listed as a carcinogen. For carcinogens, the business does not have to issue a warning if it can show that the exposure poses no significant risk assuming a lifetime exposure at the level in question for carcinogens. For reproductive toxins, the business must prove that the exposure will have no observable effect assuming exposure at 1000 times the level in question. The regulations set a no significant risk level ("NSRL") for certain chemicals. This level represents the daily intake level calculated to result in a cancer risk not exceeding one excess of cancer in 100,000 individuals exposed over a 70-year lifetime. A business is not required to issue a warning if the exposure level is at or below the NSRL. If the exposure is above the NSRL, the business must issue a warning or prove that the emission does not constitute a significant risk within the meaning of the Act. Prop. 65 requires three types of warnings: for consumer products; for occupational exposures; and for environmental exposures. However, some occupational warnings may be given under the Cal/OSHA hazard communications requirements in lieu of the specified Prop. 65 warnings for occupational exposures. Health and Safety Code section 25180.7 requires designated government employees to disclose information concerning illegal discharges of hazardous wastes to the local Board of Supervisors, and the local health officer is required to make this information available to the public, including the local news media, within 72 hours. The information must be "obtained in the course of his official duties." The official must know "that the discharge or threatened discharge is likely to cause substantial injury to the public health or safety." However, as a leading treatise has noted, "[S]ince the statute imposes

		heavy penalties on government employees . . . a strong incentive is created for disclosure even where there is a significant question about the illegality of a discharge or the potential for harm to the public health." **SUBSTANTIVE THRESHOLDS.** The NSRL for asbestos is 100 fibers inhaled per day. Thus any business with 10 or more employees which exposes individuals to asbestos levels of 100 fibers inhaled per day must either issue a warning or prove that the exposure level does not pose a significant risk. Using the environmental exposure method, the NSRL of 100 fibers/day for an adult would equal a rate of .000005 fibers per cubic centimeter under the PCM method. The level of environmental exposure assumes that an adult breathes air in an amount of 20 cubic meters a day, children breath 15 cm/day and an infant (0-2) breathes 4 cm/day. In calculating work-place exposure, the exposed worker is assumed to inhale 10 cm/day per eight-hour day, forty hours per week, fifty weeks per year over a forty-year period. Exposed individuals who occasionally enter a workplace inhale 1.25 cm/day for one hour per month for a seventy-year lifetime. For exposure to consumer products, lifetime exposure is calculated using the average rate of intake or exposure for average users of the consumer product. Comparing exposure levels. Put in perspective, using the environmental exposure method, an adult would inhale 100 fibers/day at a rate of .000005 fibers per cubic centimeter. (Compare to Cal-OSHA PEL standard of .1 fiber per cubic centimeter.) Paradoxically, because children are calculated as consuming less air than an adult, they would need to be exposed to more asbestos before requiring a warning under Prop. 65. There is no violation under Prop. 65 for an exposure as long as the appropriate warning is issued as required in the regulations. Thus, an emission could violate other laws without violating Prop. 65. Government reporting duties. Prop. 65 requires designated government employees to disclose information concerning illegal discharges of hazardous wastes to the local Board of Supervisors, and the local health officer is

		required to make this information available to the public, including the local news media, within 72 hours. The information must be "obtained in the course of his official duties." The official must know "that the discharge or threatened discharge is likely to cause substantial injury to the public health or safety."
Tanner Act (Health & Safety Code §§ 39650-39668).	Part of comprehensive law regulating air pollution. Establishes a program for the identification and control of toxic air contaminants, including asbestos. Gives the Air Resources Board ("ARB") the responsibility to develop measures to control toxic emissions from nonvehicular sources.	Applies to all persons, including government entities. Local air pollution control districts are directed, no later than 120 days after the adoption by the ARB of an airborne toxic control measure, to propose regulations that make the control measure applicable to sources within their jurisdictions. The districts must adopt the measure within six months following its adoption by the ARB, or adopt a control measure that is equally effective or more stringent than the measure adopted by ARB. ARB has adopted control measures for asbestos-containing serpentine at 17 C.C.R. section 93106, which limits the use and sale of serpentine for road surfacing purposes to an asbestos content of 5% as determined by ARB Test Method 435. Sellers and suppliers of serpentine material (defined as any material containing at least 10% serpentine) must provide a written receipt that "Serpentine material may have an asbestos content greater than five percent (5.0%). It is unlawful to use serpentine material for surfacing unless the material has been tested and found to contain less than or equal to five percent (5.0%) asbestos. All tests for asbestos content must use California Air Resources Board Test Method 435, and a written record documenting the test results must be retained for at least seven years if the material is used for surfacing." Exceptions: The prohibition on surfacing roads with greater than 5% asbestos does not apply to "roads located at serpentine quarries, asbestos mines, or mines located in serpentine deposits." The prohibition against selling or supplying serpentine material for surfacing with an asbestos content greater than 5% does not apply to "sand and gravel operations." Neither does the provision apply requiring the issuance of a receipt containing the serpentine material warning. Note: The Tanner Act does not preempt the authority of the local air pollution district to identify and regulate air toxic contaminants.

Air Toxics "Hot Spots" Information and Assessment Act (Health & Safety Code §§ 44300-44384).	Designed to gather information on air emissions of hazardous substances, including asbestos, from facilities that create localized airborne concentrations of such substance.	A facility subject to the Act is required to complete and update a detailed air toxics inventory plan and an emission inventory. The local air district must then prioritize facilities, and high-priority facilities must submit a health risk assessment. The health risk assessment must be reviewed by the Office of Environmental Health Hazard Assessment ("OHHEA") and approved by the air district. If a district determines there are significant health risks associated with the emissions, the facility must notify all exposed individuals and develop a plan to reduce emissions. What constitutes a "significant risk" is determined by the air district. A facility is subject to the Act if either: 1) the facility was listed in any toxics use, toxics air emission survey, inventory or report compiled by an air district; or 2) if the facility manufactures, uses or releases any of the substances on the Act's list (including asbestos) and releases criteria pollutants, including particulate matter, in certain amounts. Facilities releasing less than 10 tons of a criteria pollutant are subject to the Act if the class of facility is listed in the ARB "Emission Inventory Criteria and Guidelines Report." Quarries are not listed facilities. A facility subject to the inventory requirement must submit a proposed plan to the air district. Air districts must review and approve the plans within 120 days of receipt. A facility emitting less than 10 tons of a criteria pollutant may also be subject to the Act if: 1) the local air district has made an initial assessment of the emissions from the facility, and 2) the district has made a written determination that, in part, the district has identified the emissions from the facility as being a health concern to the community, and the toxics emissions data are needed by the district to evaluate the potential health risk to surrounding receptors.
Hazardous Waste Control Act (Health & Safety Code §§ 25100 et seq.; 14 CCR §§ 17897 et seq.).	State version of Federal CERCLA or "Superfund" law.	Regulates asbestos only when it can be classified as a waste. The regulations do not state any workplace rules, but govern the disposal of ACM on removal. For example, waste must be packaged in sealed, leak-tight, non-returnable containers; wetted to prevent the spread of fibers if the container is broken, and labeled.
Hazardous Substances Account Act (Health & Safety Code § 25300).	State version of Federal CERCLA law.	See CERCLA.

Hazardous Waste Control Act (Health & Safety Code § 25100; 14 CCR 17897).	State version of Federal RCRA law, which regulates hazardous waste from "cradle to grave."	See RCRA.
COMMON LAW AND STATUTORY REMEDIES		The common law and other statutes also allow private actions relating to asbestos exposure. Some are provided below.
Nuisance	Civil Code § 3479 sets out the definition of a nuisance.	Provides a private right of action for injured parties. The relevant code states that a nuisance is "anything which is injurious to health, or . . . an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property." Successive owners of property may be liable for a continuing nuisance that is not abated. A nuisance may be either public or private.
Trespass to property.	Depositing material onto another's land without his or her consent may constitute a trespass.	Trespass is a commonly utilized cause of action where off-site migration of contaminants occurs. Liability may be imposed as a result of intentional, reckless, negligent or ultra hazardous activities.
Negligence	Provides a private right of action for an injured party.	A person may bring an action where there has been a breach of a duty of care, causing personal injury or damage to property.
LOCAL ORDINANCES		
El Dorado County Air Pollution Control District ("EDC-APCD") Regulation II, Rule 223	Regulates fugitive dust.	Prohibits handling, transporting or storing fine material without taking precautions determined by the Air Pollution Control Officer. Precautions include: application of water or other covering on materials during such activities as excavation and grading; installing collection and filtering devices; covering or wetting material being transported in trucks which create a nuisance by generating particulate matter in areas where the general public has access. Persons responsible for the ownership or maintenance of a road may not allow or cause a nuisance to develop as a result of any use, construction, alteration or repair of the road. The responsible person must take precautions determined by the Air Pollution Control Officer to prevent a nuisance. Precautions include, in part: application of asphalt, oil, water or other chemicals on dirt roads; paving parking surfaces; and other measures as approved by the Air Pollution Control Officer. The rule does not apply to fugitive dust from unpaved roads where no nuisance (see also below for nuisance rule) or health hazard is created, or where it is demonstrated that no means are available to finance the necessary road improvements immediately. Other exceptions apply to agricultural activities.

EDC-APCD Regulation II, Rule 205	Prohibits the creating of a nuisance.	The regulation prohibits the discharge, from any source, of air contaminants or other materials which cause injury, detriment, nuisance or annoyance to any considerable number of persons, or to the public, or which endanger the comfort, repose, health or safety of any persons or the public, or which have a tendency to cause injury or damage to business or property. This rule does not apply to some agricultural operations.
EDC-APCD Rules 521 & 522 (Rule 522 is issued pursuant to the Federal Clean Air Act.)	Limits the potential to emit pollutants from certain sources, and sets out permit standards.	Rule 521 applies, in part, to facilities which emit hazardous air pollutants, which includes asbestos. The rule applies to facilities which have the potential to emit 10 tons per year of a single hazardous air pollutant ("HAP") or 25 tons per year of a combination of HAPs. If the facility falls within the regulation, certain emission, recordkeeping and reporting provisions apply. Rule 522 implements Title V of the Clean Air Act. Title V provides for the establishment of operating permit programs for sources which emit regulated air pollutants. Regulated air pollutants include hazardous air pollutants. The permit rule regulates major sources. A major source is defined as a source with the potential to emit 10 tons per year of a single HAP or 25 tons per year of a combination of HAPs.
El Dorado County Ordinance No. 4489, 4508	Regulates grading and construction activities in serpentine areas.	The ordinances require that any grading activities requiring a permit under Chapter 15.14 of the Ordinance Code of the County comply with the measures listed below. The ordinances also authorize the environmental management department and the air quality district to require an asbestos hazard dust mitigation plan for its review and approval for grading and building permit applicants in the area of serpentine deposits. The ordinances require that: the area be pre-wetted for dust control; vehicle access and speed in the area be limited; areas exposed to vehicular traffic be covered with a non-asbestos cover; that binder material or a high moisture condition be maintained on disturbed surfaces; that other loose material be kept adequately wet or sealed by a palliative or covered; and that employees be notified as to these requirements and as to the potential health risk of airborne asbestos. It also urges that exposure monitoring and other worker safety precautions be considered.