

# Minutes

## Asbestos Advisory Group Meeting

July 6, 2016  
Room 45 Metcalf Building

Optional Work Session: 10:30am to 12:00pm

General Session: 1:30pm to 3:30pm

*The goal of the Asbestos Advisory Group is to advise DEQ on various issues relating to asbestos regulation.*

### **Committee Members in Attendance:**

Jennene Lyda – Worker Protection (via Lync)  
Brad Evanger – Minor Facilities (via Lync)  
Peggy Trenk - Trade Associations  
Patricia Heiser - Environmental Advocacy  
Bruce Kirby – Contractors & Consultants  
Ed Surbrugg – Consulting Engineers & Architects  
Harold Blattie- City & County Public Works & Permitting  
Joe Radonich – State & Federal Public Works  
Barb Butler – Waste & Materials Management  
Jim Devlin – Citizen at Large  
Alan Olson – Major Facilities

### **Committee Members not in Attendance:**

Annette Satterly - School Organizations  
Nick Van Tighem - General Construction Contractors

### **Others in Attendance:**

Greg Kurvink – DEQ ACP  
John Benoit – DEQ ACP  
Judy Kirby – Kirby Environmental  
Jessica Smith – DEQ REM  
Mark Smith – DEQ SRF

### **AAG Support Staff in Attendance:**

Amanda Allen – DEQ Minutes  
Emily Ewart - DEQ Rule Writer  
Mark Hall - DEQ Hazardous Materials Section  
Bob Habeck - DEQ Facilitator  
Ed Thamke - DEQ WUTM Bureau Chief  
Deb Grimm - DEQ Asbestos Control Program

### **Optional Work Session – 10:30 a – 12:00 p**

- **Members in Attendance:** Bruce Kirby, Judy Kirby, Ryan McGee, John Podolinsky, Deb Grimm, Greg Kurvink, John Benoit, Mark Hall, Ed Thamke, and Bob Habeck.

### **Lunch Pre-meeting:**

- Bob Habeck has a commitment from Tom Livers to join the October Meeting for a welcome & introduction.
- Ed Thamke spoke briefly about the passage of the “Frank R. Lautenberg Chemical Safety for the 21<sup>st</sup> Century Act”, which amends the Toxic Substance Control Act (TSCA). Among many things, the Act requires EPA to assess existing toxic chemicals, including asbestos, and may be an avenue by which asbestos containing products could be banned in the USA. Emily Ewart will post the information.
- Deb Grimm gave general information regarding training, courses, training providers, and refresher courses. There was discussion of course curriculum and how to keep people updated on important information throughout the year.

### **General Session was called to order at 1:30 p.m. by Bob Habeck**

### **Welcome & Opening Remarks:**

- Bob provided the opening remarks and thanked members for their time and investment. Bob discussed a strategy for continued ‘polishing’ of the draft recommendations and the expectation for AAG members to begin sharing with their constituents.
- Bob recognized that AAG members suggested the optional Work Session may be better utilized by discussing relevant topics for immediate action. Deb and Mark will look into topics for discussion for August.

#### **Action Item:**

- June Minutes. Motion to approve was moved by Jim Devlin and seconded by Bruce Kirby. No further discussion. There was unanimous approval.
- Bob reviewed the July agenda.

### **Old Business:**

- **Review of AAG Charter**
  - Bob reviewed the Charter and discussed the scope of the eight required items outlined in HB 434. Ed provided additional context on the bill and what success looks like for AAG.
  - AAG is fully staffed with all 13 members and the website is always kept up to date for everyone to see. Bob has AAG members and a large list of stakeholders who receive information via e-mail.
  - The use of Basecamp software was to accommodate members in their discussions between minutes. While Basecamp has received little use, progress has been made during regular monthly meetings.

- Roles & Responsibilities Section 3.1 (5) is a key provision. It states that an AAG member may recognize a recommendation by affirmative vote, but does not have to continually support it (in whole or part) at other stakeholder forums.

### **New Business:**

Bob facilitated a discussion on the draft recommendations and AAG members made comments and suggestions.

#### **R1. DEQ should conduct additional education and outreach activities to explain state and federal asbestos regulations and to promote compliance assistance.**

- Peggy explained how not all real estate licensees are realtors. The wording needs to be real estate licensees.
- Ed Thamke suggested we add a bullet to publish a December newsletter to disseminate new information to stakeholder (including F.A.Q.). The group discussed possibly doing this quarterly or as topics arise. Jim suggested this is probably the best way for the program to interact with constituents.
- Deb explained how course providers submit a sort of Table of Contents and the program insures that they meet all the basics. Currently, ACP oversees ten training providers.

#### **R2. DEQ should revise state regulatory definitions to allow for more administrative flexibility while not causing harm to health or the environment.**

- Deb explained that ACP already has three pages that define *thoroughly inspect* so we wouldn't be starting from scratch.
- Bruce asked what role the requirement to "touch all suspect ACM" has when reviewing inspection reports
- Barb pointed out that the bullets include three rules and two policies. She suggested that they should all be rule changes so it has more teeth.
- The group discussed vermiculite and what it is. EPA tells homeowners to assume all insulation is asbestos-containing.
- Ed Thamke appreciates the needs for regulations but values policies because it leaves a little flexibility and affords discretion.
- Jim explained that EPA is looking at changing *institutional controls* which would change federal law.
- Clarify *Vermiculite to Vermiculite Building Products*.
- The group discussed bridge material and how this recommendation gets things moving in the right direction to continue looking into it further. A wood bridge is not likely to have asbestos.

**R3. DEQ should encourage landfills to use a standardized form for commercial haulers to adequately describe the load as non-asbestos prior to disposal.**

- More policy than rule.
- This would be just one of many points along the way to keep asbestos in the correct landfills.
- Harold mentioned the need to have a means of educating landfill employees to identify the materials. Bruce disagreed and said the only way to really identify the materials would be through sampling. Bruce thinks it would be wrong to put the responsibility onto the landfills.
- Jenean stated that OSHA operators should already be trained for basic hazards.
- Bruce said that some landfills have a section that receives inspections and thereby takes the liability off of the landfill.
- The goal is to reduce, not eliminate asbestos.
- It was suggested that we change the focus of this recommendation to put more emphasis on worker/user protection.

**R4. DEQ should require all accredited inspectors to post on its website and abatement, renovation and demolition projects by the facility work site a**

- The word post should be changed to report. The information is public knowledge, but would not be readily available. The information would have to be requested.
- Ed Thamke suggested that this be rule and not just a policy.
- Joe pointed out that this seems more Enforcement/Compliance than Permitting.
- There was brief discussion on the difference between inspection and permit.
- Do we even have the authority? Consequences would have to be reviewed by attorney.
- Jim asked if ACP already has a portal to accept this information. Yes, it would have to be added to the table.

**R5. DEQ should provide an online service to apply for annual permits.**

- Minimal discussion.
- ACP has a quote of \$85,000 to add this to the website.

**R6. DEQ should work with stakeholders to encourage an asbestos inspection check-box system for local building permit or related permit actions.**

- Barb doesn't see much resistance from landfills. Would like to strike out waste haulers and landfills from bullet regarding resistance.
- Cities provide building permits, not many counties.
- Harold suggested to get rid of the word *local*. The state (DLI?) has a building codes bureau that should be consulted.

**R7. DEQ should continue to provide a fee discount for individuals who simultaneously apply for multiple asbestos certifications.**

- Minimal discussion.
- Un-strike out the discount

**R8. DEQ should adopt a voluntary low-cost notification system for non-permitted asbestos projects that authorizes projects to proceed without delay if friable asbestos is discovered.**

- This is now basically a notification which makes this recommendation null and void.
- Could be changed back to non-voluntary but that would require legislation.
- The group discussed how this recommendation began and the reason for its existence. It would be sort of like a cheap insurance. Contractors could just go back to work without the 10-day wait if you find friable materials.
- Some wordsmithing may make this more palatable.

**R9. DEQ should increase compliance by allocating more staff time towards identifying non-compliance and taking the appropriate enforcement actions.**

- The group briefly discussed company vs individual.
- ACP doesn't accredit companies so violations go to the individual.

**Public Comment:**

- Joe asked if we should whittle down the implementation bullet points. Bob agreed and will review bullets to reduce redundancy. He reminded the AAG that the bullets are examples of actions that DEQ may take. Allowing for flexibility is key. Other AAG members agreed with that statement and that even prioritization may be too restrictive. The bullet points could then be put into business plans.
- Ed Surbrugg suggested a small wordsmith to R8 to comply with the "registration program."
- Ed Thamke said the bill was amended and minimum amount was raised, therefore, we have already addressed the "registration program."
- It was suggested that ACP not use the terms "*courtesy* or "*courtesy notification*".

**Action and Discussion Items for May Meeting:**

- Review of July minutes for approval.
- Identification of possible discussion items for the option work session.
- Detailed discussions of draft recommendations from all of the Focus Groups.

**Meeting Adjourned at 3:40 p.m.**