



## Memo

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TO: Rep. Kenneth Holmlund, Chair, Joint Appropriations Subcommittee on Natural Resources and Transportation

FROM: Jenny Chambers, Waste Management & Remediation Division Administrator

DATE: February 2, 2021

SUBJECT: Requested Information – January 29, 2021 Asbestos Regulations and Mitigation - -

During the January 29, 2021, hearing to discuss “Asbestos Regulations and Mitigation”, the committee requested a few follow-up items.

One request was made for DEQ to provide a summary of the mission, membership, and recommendations of the Asbestos Advisory Group (AAG). Below is a summary of the tasks and recommendations and the status of DEQ’s efforts toward the recommendations. The list of AAG members is attached to this memo.

**Asbestos Advisory Group:** The 2015 Legislature passed HB434 that required DEQ to convene an asbestos advisory group that represents a broad variety of people with interests in asbestos regulation. The AAG mission was to advise the department on:

- regulatory thresholds for permits and whether a tiered permitting system is appropriate;
- the appropriate types of projects and the size of structures subject to permitting;
- the appropriate timeframe for asbestos project notification and issuance of permits;
- whether a registration program is appropriate for small scale projects;
- the scope of the department's enforcement and cleanup authority;

- appropriate funding options;
- the relationship between federal and state authority over various issues related to asbestos control and methods to clarify conflicts;
- options to streamline the permitting process while still protecting public health and safety;
- any other issues related to asbestos regulation considered appropriate by the advisory group.

The asbestos advisory group completed its work, and was sunset, on December 31, 2016, by issuing the following recommendations to the department:

**Recommendation 1. DEQ should work with stakeholders to develop additional education and outreach information to explain state and federal asbestos regulations and to promote compliance assistance.**

- Within the last 14 months, DEQ staff have revised 4 publications to promote compliance efforts. Publications include brochures on “Pipe Bursting”, “Fire Service Training”, and “Think Asbestos”, while a fourth document outlines the inspection and notification requirements and is designed to be left at project sites when no contact can be made. A fourth brochure, targeting code enforcement officials, is under review.
- DEQ staff initiated Asbestos Roundtable discussions with stakeholders to provide outreach regarding various topics, including state and federal asbestos regulations.
- DEQ held stakeholder meetings for the draft asbestos fee rules in Great Falls, Missoula, and Billings to gain input and further refine the draft rules before filing for publication.
- DEQ staff provide compliance assistance on a daily basis, through phone calls, emails, letters and site visits.

**Recommendation 2. DEQ should revise state regulatory definitions to allow for more administrative flexibility while not causing harm to health or the environment.**

- DEQ staff are currently undertaking a draft rewrite of Administrative Rules utilizing input from stakeholders.
- The final draft will be rolled out to stakeholders during 2021 with the goal of a final draft rule in 2023.

**Recommendation 3. DEQ should encourage landfills, when applicable, to use a standard form or method for customers to describe their load as non-asbestos prior to disposal.**

- DEQ’s Asbestos Control Program staff is working with DEQ’s Solid Waste Program to provide landfill workers education on asbestos safety. Asbestos is commonly discussed at quarterly Solid Waste Advisory Committee meetings.
- DEQ will evaluate, with all stakeholders, guidance or other method for development or recommendation on standard form.

**Recommendation 4. DEQ should require, for agency use only, all accredited asbestos inspectors to register their inspections for renovations or demolitions (per NESHAP) by facility work site address, inspection date, inspector ID #, and whether asbestos was detected or not.**

- Undergoing internal feasibility review for cost and implementation complexity. Not possible with current data base but will be a goal for future enhancements.

**Recommendation 5. DEQ should provide an online service to apply for annual permits.**

- Implemented during the 2020 Fee Rule Amendment.

**Recommendation 6. DEQ should work with stakeholders to encourage an asbestos inspection check- box system for any agency that issues building or related permit actions**

- DEQ worked with Department of Labor and Industry (DLI) State Building Codes Bureau to incorporate asbestos inspections with its permit review. This recommendation has been an effective compliance assistance tool for ACP and additional opportunities are being explored as they are identified.
- Next steps will be to work with League of Cities and Towns and Montana Association of Counties to implement an inspection check-box with demolition or renovation permits.

**Recommendation 7. DEQ should continue to provide a fee discount for individuals who simultaneously apply for multiple asbestos accreditations.**

- Maintained discount during the 2020 Fee Rule Amendment

**Recommendation 8. DEQ should adopt a voluntary low-cost registration process for abatement contractors when they perform non-permitted asbestos projects, allowing them to proceed without delay if a non-regulated project becomes regulated.**

- Implemented during the 2020 Fee Rule Amendment

**Recommendation 9. DEQ should increase compliance by allocating more staff time toward identifying non-compliance and taking the appropriate enforcement actions.**

- DEQ instituted an internal Department Asbestos Work Group (DAWG) to discuss monthly asbestos activities with remediation, enforcement, DEQ's small business ombudsman, and DEQ's Asbestos Control Program and Solid Waste.

- 2019 implementation of the draft “**ASBESTOS CONTROL PROGRAM VIOLATION SIGNIFICANCE AND ENFORCEMENT RESPONSE GUIDANCE DOCUMENT**”. The purpose of this guidance is to describe the policies and procedures concerning compliance monitoring and enforcement response activities conducted by the Asbestos Control Program (ACP) and to define categories of violations. The final guidance document is attached to this memo.

Progress and accountability for these recommendations are made by including them in annual Asbestos Control Program business plans, inclusion on the agenda for the Department Asbestos Work Group (DAWG), and ongoing discussions with the Asbestos Stakeholders Roundtable facilitated by DEQ.

As promised during the hearing, greater focus will be applied toward clarification and dissemination of DEQ efforts to raise compliance with existing regulations. Those efforts will not only include continued implementation of agency documents such as our Asbestos Control Program Violation Significance and Enforcement Response Guide, as-well-as compliance assistance tools for landfills and abatement contractors to ensure a level playing field.

DEQ will re-engage the external Asbestos Stakeholders Roundtable for quarterly dialogue starting in the summer of 2021. Notification of these meetings and participation will continue to be sent to DEQ’s Interested Persons list for asbestos control. Rep. Holmlund has been added to this list and we are happy to include other members of the subcommittee as they desire. In addition, the quarterly meetings will be announced via DEQ’s social media account.

The second request from Representative Read requested biennium breakdown of expenditures verses appropriation for the fund 02202.

02202 Asbestos Control	2018			2019			2020			2021		
	Approp	Actuals	Balance	Approp	Actuals	Balance	Approp	Actuals	Balance	Approp	Actuals	Balance
10 CENTRAL MANAGEMENT PROGRAM	62,125	56,453	5,735	63,145	61,391	1,754	63,496	59,326	4,170	60,436	28,910	31,526
61000 Personal Services	45,819	43,285	2,534	46,835	47,563	(728)	45,988	43,679	2,309	44,008	22,248	21,760
61100 Salaries		32,241			34,790		0	32,186		0	16,214	
61400 Employee Benefits		11,044			12,773		0	11,493		0	6,034	
62000 Operating Expenses	16,306	13,167	3,202	16,310	13,828	2,482	17,508	15,648	1,860	16,428	6,662	9,766
62100 Other Services		1,481			906		0	473		0	593	
62200 Supplies & Materials		498			223		0	89		0	308	
62300 Communications		298			61		0	274		0	83	
62400 Travel		179			411					0	65	
62500 Rent		254			216		0	3,403		0	159	
62700 Repair & Maintenance		6			46							
62800 Other Expenses		10,452			11,965			11,409			5,454	
40 WASTE MGMT & REMEDIATION DIV	152,427	148,227	4,200	152,857	103,560	49,297	223,914	195,514	28,400	225,704	127,708	97,996
61000 Personal Services	120,000	103,429	16,571	120,000	71,745	48,255	136,239	139,876	(3,637)	108,029	92,037	15,992
61100 Salaries		79,737			55,080			103,766			65,783	
61400 Employee Benefits		23,692			16,665			36,109			26,253	
62000 Operating Expenses	32,327	44,222	(11,895)	32,757	31,815	942	85,675	55,089	30,586	115,675	35,671	80,004
62100 Other Services		5,666			3,094			12,199			7,980	
62200 Supplies & Materials		2,732			2,470			2,519			2,117	
62300 Communications		2,853			2,677			3,667			2,358	
62400 Travel		5,565			1,758			453				
62500 Rent		12						126			163	
62700 Repair & Maintenance		76			141							
62800 Other Expenses		27,318			21,675			36,125			23,053	
68000 Transfers-out	100	576	(476)	100	0	100	2,000	550	1,450	2,000	0	2,000
68100 Fund transfers		576						550				
<b>Grand Total</b>	<b>214,552</b>	<b>204,680</b>	<b>9,935</b>	<b>216,002</b>	<b>164,951</b>	<b>51,051</b>	<b>287,410</b>	<b>254,841</b>	<b>32,569</b>	<b>286,140</b>	<b>156,618</b>	<b>129,522</b>