



Asbestos Advisory Group Recommendations

Updated on 12/06/2021

Prepared by DEQ Asbestos Control Program (ACP)

Background

The 2015 Legislature passed HB 434 that required DEQ to convene an Asbestos Advisory Group (AAG) representing a broad variety of people with interests in asbestos regulation. The AAG mission was to advise the department on the following:

- 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 sunset on December 31, 2016 and made the following recommendations for DEQ through August 2021.*

As promised during the Legislative subcommittee hearing on January 29, 2021, greater focus will be applied toward clarification and dissemination of DEQ efforts to raise compliance with existing regulations. These efforts will not only include continued implementation of agency documents such as the 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 has maintained engagement with the external Asbestos Stakeholders via quarterly meetings beginning in 2020. Notification of these meetings and participation will continue to be sent to DEQ's Interested Persons list for the Asbestos Control Program. In addition, the quarterly meetings will be announced via DEQ's Twitter account.

AAG Recommendations

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.

DEQ efforts and implementation to date include:

- Within the last 24 months, DEQ staff have revised four publications to promote compliance efforts. Publications include brochures on:

- “Pipe Bursting” – updated 3/2020
- “Fire Service Training” – updated 3/2020
- “Think Asbestos” – updated 2/2021
- 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 fifth brochure, targeting code enforcement officials, is under review.
- 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.
 - Meetings occurred on 3/20/19 in Missoula; 4/23/19 in Great Falls; and 5/23/19 in Billings.
- DEQ staff provide compliance assistance daily through phone calls, emails, letters, and site visits.
- Completed and reported out at Stakeholder meeting on 03/09/21 and will report out each meeting in future until otherwise decided.
- ACP and the DEQ Enforcement program attend quarterly EPA Region 8 meetings.
- ACP Section Supervisor and Enforcement Manager meet bi-weekly.
- Sent outreach email to MACO and League of Cities and Towns 6/16/21.
- Met quarterly with stakeholders on 9/29/20, 1/12/21, 3/9/21, 6/15/21, 9/14/21, next meeting is scheduled for 12/14/21.

Recommendation Complete: Outreach documents updated 2/2021 and will be updated as needed moving forward. Stakeholder meetings occur on quarterly basis.

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

DEQ efforts and implementation to date include:

- DEQ staff are currently undertaking a draft amendment of Administrative Rules utilizing input from stakeholders.
- Draft to DEQ attorney and rule writer 6/14/21. The goal is to have a draft rule amendment to stakeholders in 2022.
- Current Gantt chart aims for 7/2023 implementation.

Recommendation In progress.

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 efforts and implementation to date include:

- ACP is working with DEQ’s Solid Waste Program to provide additional landfill worker education on asbestos safety.
 - Solid Waste Program - includes training on asbestos recognition for landfill workers and uses standardized asbestos sections on landfill inspection forms.
- Asbestos is commonly discussed at quarterly Solid Waste Advisory Committee (SWAC) meetings.
- DEQ will evaluate, with all stakeholders, guidance or other methods for development or recommendation on standard form in 2023.
- ACP is now participating in SWAC meetings and a SWAC representative will now participate in ACP stakeholder meetings.
- Survey to Landfills and ACP Interested parties 11-29-2021 to solicit input

Next Steps:

- Solid Waste Section Supervisor will participate in December Asbestos Stakeholder meeting.

Recommendation In progress.

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.

DEQ efforts and implementation to date include:

- ACP underwent internal feasibility review for cost and implementation complexity. Not possible with current database but will be a goal for future enhancements.

Recommendation Reviewed December 2018.

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

DEQ efforts and implementation to date include:

- Implemented during the 2020 Fee Rule Amendment.
- Annual Permit application is now available on DEQ's website using Formstack submittal form with online payment option overseen by SITSD.

Recommendation Complete: Applicants can apply for annual permits online.

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 efforts and implementation to date include:

- 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:

- Work with League of Cities and Towns and Montana Association of Counties to implement an inspection check box with demolition or renovation permits.
- ACP has begun working with and requesting cities and counties to implement form changes to support this transition.

Recommendation In progress.

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

DEQ efforts and implementation to date include:

- Maintained discount during the 2020 Fee Rule Amendment.

Recommendation Complete: Fee discount is available for individuals who apply for multiple in-state asbestos accreditations.

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.

DEQ efforts and implementation to date include:

- Implemented during the 2020 Fee Rule Amendment.

Recommendation Complete: Process has been adopted to allow for a voluntary low-cost registration process.

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

DEQ efforts and implementation to date include:

- DEQ instituted an internal Department Asbestos Work Group (DAWG) to discuss monthly asbestos activities with remediation, enforcement, DEQ's small business ombudsman, ACP, and Solid Waste Program.
- 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 ACP and to define categories of violations.
 - The existing Guidance document was updated in 2/2021 to address this AAG recommendation.
- Progress and accountability for these recommendations are made by including them in the annual Asbestos Control Program business plans, inclusion on the agenda for the DAWG, and ongoing discussions with the Asbestos Stakeholders Roundtable facilitated by DEQ.
- ACP secured a third Environmental Science Specialist in October of 2020 to perform compliance assistance, outreach, field work, etc.
- Efforts from Recommendation 6 and coordination with DLI has allowed for identification and awareness to identify possible non-compliance and make contact to return to compliance and get inspections/permits.
- Continue tracking enforcement efforts and permitting rates for purposes of having more data and increased compliance.

Next Steps: ACP will continue the collaboration with stakeholders, compliance assistance, coordination with DEQ Enforcement Program, and outreach efforts. Continue outreach efforts with MACO, cities and counties.

Recommendation Completed: ACP is committed to carrying on these efforts.