

## State & Federal Regulations

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

#### **Reason for This Recommendation:**

To increase compliance, public awareness and worker safety and provide clarity for the regulated community.

#### **This may be achieved by:**

- Conduct direct informational mailings to stakeholder groups.
- Provide updated materials and information to training providers via website, other means.
- Insert materials along with City / County Landfill permit notices, asbestos registrations, and contractor registrations.
- Utilize extended staff to assist with information development and distribution.
- Apply for grants to fund awareness campaigns and design new materials.
- Update the existing DEQ FAQ-document covering EPA and State regulations.
- Create a regulatory manual that incorporates state and federal asbestos regulations.
- Increase DEQ's attendance at asbestos provider trainings and workshops.
- Work with DEQ's Solid Waste Program to provide landfill workers training on asbestos safety.
- Develop information regarding asbestos cement pipe bursting and distribute to stakeholders.

#### **The difficulty factor for implementation is considered to be LOW - challenges include:**

- Stakeholders necessary to disseminate information may not prioritize this effort.
- Competing agency priorities within DEQ.

## State & Federal Regulations

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

#### **Reason for This Recommendation:**

To increase clarity regarding regulatory definitions. In addition, provide for more confidence and trust in asbestos professionals' judgement and knowledge, which would enable the program to focus more on compliance assistance and education/outreach and build better working relationships with the regulated community.

#### **This may be achieved by:**

- Revise state rule ARM 17.74.352 to incorporate the federal DOT definition of "Bridge" as being spans greater than 20 feet (CFR 650.305).
- Revise state rules ARM 17.74.352 (31) and ARM 17.74.354 to provide administrative flexibility for what constitutes "Thoroughly Inspect."
- Revise state rule ARM 17.74.354(3)(d)(iii) sampling and inspection requirements for "Miscellaneous Materials" to be consistent with thermal system insulation (TSI) requirements that excludes fiberglass / foam / rubber / or other non-ACM as determined by an accredited inspector.
- Create a state policy that presumes all vermiculite products to be an asbestos containing material consistent with federal policy.
- Create a state policy to recognize professional judgement of inspectors through an agreed upon process (i.e. Alternate Work Practice, Waiver, or Variance).

#### **The difficulty factor for implementation is considered to be MED - challenges include:**

- Getting EPA to recognize Montana's definition interpretation - using other federal definitions as a surrogate.
- Competing agency priorities within DEQ.

## State & Federal Regulations

### **R3. DEQ should encourage landfills to use a standard form or method, when applicable, for customers to describe their load as non-asbestos prior to disposal.**

#### **Reason for This Recommendation:**

This form would improve the characterization of the waste, increase awareness regarding proper disposal of asbestos, and provide increased safety for landfill workers and landfill users when asbestos waste is disposed.

#### **This may be achieved by:**

- Create a brochure outlining recommendations to landfills regarding asbestos containing materials, worker safety, and ways to decrease landfill liability if best management practices are implemented.
- DEQ Solid Waste Program should encourage all landfills to include a standardized asbestos form in their Operation and Maintenance Plans through the education and outreach process.
- Work with DEQ's Solid Waste Program to provide landfill workers training on asbestos safety.
- Work with DLI Safety and Health Bureau on providing working health and safety training emphasizing worker/user protection and minimizing exposure. [Jeanne to provide training bullets]

#### **The difficulty factor for implementation is considered to be LOW - challenges include:**

- Disseminating the information and gaining support from landfills, landfill employees and other stakeholders.

## Enforcement & Cleanup

**R4. DEQ should require all accredited asbestos inspectors to register their inspections by the facility work site address, inspection date, inspector ID #, and whether asbestos was detected or not.**

### Reason for This Recommendation:

The website listing would provide information, to the public and the DEQ, on the address of facilities that had an asbestos inspection. Registering the inspection would reduce the number of complaints filed with the DEQ by providing the inquirer with information on the asbestos inspection. This would allow construction companies to have inspection information before proceeding and would free up program resources.

### This may be achieved by:

- Utilize technology to the greatest extent to reduce administrative and enforcement process.
- Use existing web portals / database and “shopping cart” feature for ease of use.

### The difficulty factor for implementation is considered to be **MED** - challenges include:

- Maintaining confidentiality of the inspector and owner by listing only the address and inspector ID#.
- Would require state rulemaking to require reporting.
- May require increased funding through fees.

## Permitting

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

#### **Reason for This Recommendation:**

This would ease the process for those interested in applying for annual permits. Currently, annual permits are the only permits that are not available online.

#### **This may be achieved by any of the following examples:**

- Allow for credit card payments without transaction fees.

#### **The difficulty factor for implementation is considered to be MED - challenges include:**

- The state does not allow PDF's to be uploaded through its website for security reasons.
- Currently, there are only 7 annual permits so the cost and effort to implement this may outweigh the benefit.

## Permitting

### **R6. DEQ should work with stakeholders to encourage an asbestos inspection check-box system for any agency that issues building or related permit actions.**

#### **Reason for This Recommendation:**

Public awareness and compliance would increase if agencies issuing building or related permit actions provided information regarding the State's asbestos requirements to all applicants prior to issuing their permits.

#### **This may be achieved by:**

- Research how other states utilize check-box systems.
- Work with State Building Codes Bureau to incorporate asbestos inspections with its permit review.
- Consider the feasibility of revising state statute and rule for a required check-box system.
- Provide incentives for using a check-box system.
- Involve local government in developing the check-box system.

#### **The difficulty factor for implementation is considered to be MED - challenges include:**

- Stakeholders necessary to disseminate information may not prioritize this effort.
- May be difficult to provide incentives to accomplish.
- May receive resistance from local government.

## Funding

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

#### **Reason for This Recommendation:**

The regulated community has requested that the simultaneous discount remain in place in administrative rule in order to help promote professional development for those involved in the field of asbestos.

#### **This may be achieved by:**

- Continue this fee discount through existing processes and current application conditions.
- Revise draft asbestos fee rule to ensure consistency with this recommendation.

#### **The difficulty factor for implementation is considered to be LOW - challenges include:**

- Modifying existing website for maintenance purposes.
- Modifying the asbestos fee rule is within the control of the ACP.

## Permitting

**R8. 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.**

### Reason for This Recommendation:

Provides an “insurance policy” so work is not delayed if asbestos is discovered or non-friable asbestos becomes friable. Currently, the contractor has to wait the NESHAP mandated 10 working days before work could resume.

### This may be achieved by:

- Create a voluntary, low-cost on-line notification system for abatement contractors because it would satisfy NESHAP 10 day notification requirement.
- Promote this voluntary notification system in DEQ’s education and outreach campaign.

### The difficulty factor for implementation is considered to be **MED**- challenges include:

- Competing agency priorities within DEQ to develop a notification system.
- Modifying state rules requires agency resource priority.
- Modify the draft fee rule to include this voluntary notification system.

## Enforcement & Cleanup

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

### **Reason for Recommendation:**

The regulated community has asked the program to increase their focus from inspecting permitted facilities to inspecting non-permitted and suspect facilities.

### **This may be achieved by:**

- Hire temporary staff or student interns to focus on non-compliant operators.
- Re-prioritize asbestos program activities – allocation internal resources accordingly.
- Revise internal enforcement process to get more offenders to the penalty phase.
- Establish an escalating fine schedule for formal enforcement actions.
- Establish an ACP process for escalating compliance protocols using significance criteria.
- Continue to build positive relationships with compliant customers.

### **The difficulty factor for implementation is considered to be MED - challenges include:**

- Competing with internal agencies priorities.
- Developing / revising enforcement process for asbestos with limited enforcement staff time.
- Consistency in agency enforcement process – may be legal challenges.