



March 31, 2021

Re: Permitting and notification requirements for installations.

Dear Interested Persons:

The intent of this notice is to clarify the Montana Department of Environmental Quality (DEQ) Asbestos Control Program (ACP) position on individual structure permitting at installations. While DEQ ACP staff continue to *encourage* the use of individual Asbestos Project Permits and Demolition Notifications for each structure, the choice to obtain individual structure, a single installation permit, or an annual permit remains at the discretion of the owner or owner/operator.

The NESHPA definition of installation is:

any building or structure or any group of buildings or structures at a single demolition or renovation site that are under the control of the same owner or operator (or owner or operator under common control).

40 CFR 61.141

The Montana Asbestos Control Act defines an asbestos project as:

the encapsulation, enclosure, removal, repair, renovation, placement in new construction, demolition of asbestos in a building or other structure, or the transportation or disposal of asbestos-containing waste. The term does not include a project that involves less than 10 square feet in surface area or three linear feet of pipe.

§75-2-502(3), Montana Code Annotated (MCA).

The Administrative Rules of Montana (ARM) implementing the Montana Asbestos Control Act at Title 17, chapter 74, subchapter 3 incorporate the NESHPA for asbestos, 40 CFR 61, subparts A and M and the definition of "building or other structure" in §75-2-502(3), MCA has the meaning given for "facility" in 40 CFR 61.141, which follows:

any institutional, commercial, public, industrial, or residential structure, installation, or building (including any structure, installation, or building containing condominiums or individual dwelling units operated as a residential cooperative, but excluding residential buildings having four or fewer dwelling units); any ship; and any active or inactive waste disposal site. For purposes of this definition, any building, structure, or installation that contains a loft used as a dwelling is not considered a residential structure, installation, or building. Any structure, installation or building that was previously subject to this subpart is not excluded, regardless of its current use or function.

40 CFR 61.141

The DEQ ACP considered the state and federal definitions, its 2020 fee rules, and recent comments from stakeholders related to structure and installation permitting and determined it will continue to analyze the need for greater clarity and certainty in the rules and assess the need for amendment to the current fee structure applicable to installations. DEQ ACP anticipates discussion with stakeholders over this subject matter prior to a projected August 2022 Administrative Rule change.

The Asbestos Control Program appreciates your consideration in this matter and welcomes any questions, comments, or concerns you may have.

Sincerely,

The Asbestos Control Program
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