

Date: May 6, 2022

To: Environmental Quality Commission

From: Richard Whitman, Director

Subject: Summary for item C: Asbestos Fee Rules (Action)
May 19-20, 2022, EQC Meeting

Action summary DEQ proposes to increase fees associated with Asbestos Program to maintain safe asbestos abatement in Oregon, and as approved by the 2021 Oregon Legislature, effective July 1, 2022.

DEQ recommendation and summary justification DEQ recommends that the Oregon Environmental Quality Commission approve fee increases for the Asbestos Program. The proposed fee increases are projected to result in \$300,000 in additional annual revenue from fees for the following asbestos-related actions:

- Abatement project notification;
- Worker and supervisor certification;
- Licensing; and
- Accreditation of training providers.

Each of these four actions currently has a fee associated, and the proposal would increase the individual fees by approximately 23 to 27 percent. Actual program revenue will be based on projects completed and the relevant fees paid for each action. DEQ projections show that the potential additional revenue is reasonable based on past program data.

The last fee increase for abatement project notifications occurred in 2007 and the last fee increase for certifications, accreditations and licensing occurred in 1992. Since 2015, DEQ has received an increase in requests for smaller abatement projects and technical assistance related to increasingly complex federal and state regulations for the safe handling, removal and disposal of asbestos-containing materials.

Approval of this proposed fee increase will allow the asbestos program to maintain current service levels through July 2026, operating in a way that protects public and worker health by providing technical assistance, collaborating with local, state, and federal agencies, conducting abatement project inspections, and investigating and addressing violations that endanger public health.

- Key policy issues** In this rulemaking development, DEQ considered the following options related to policy decisions and program considerations:
- No fee increase.
 - This approach would not allow DEQ to maintain current service levels and could result in harm to human health and the environment.
 - Increase all asbestos fee categories across-the-board to reach the targeted \$300,000 revenue increase.
 - This would increase all fees 23 percent to 27 percent.
 - Increase asbestos fees selectively to reach the targeted \$300,000 revenue increase.
 - This would increase notification fees by 20 percent, and increase licensing, certification, and accreditation fees by 70 percent.
 - A phased-in increase of fees, beginning January 2023.
 - Only increasing the notification fees for larger-sized projects (2,600 linear feet and larger or 1,600 square feet and larger).

In each case, DEQ discussed these issues with members of the advisory committee and accepted public comment specific to these key policy elements. The final proposal reflects an across-the-board one-time fee increase for all types of fees in the Asbestos Program, as noted in the second bullet above.

Consequences of no action The Asbestos Program is fully fee-funded, and the proposed fee increases would provide revenue to ensure the program can remain financially solvent and able to provide oversight to ensure the protection of human health and the environment related to asbestos abatement, removal and disposal. Without the proposed fee increase, the Asbestos Program will not be able to provide sufficient technical assistance to asbestos abatement professionals, which could result in potential harm to human health and the environment from inadequate asbestos identification, removal and disposal.

Related Legislative actions The proposed fee increase was approved by the 2021 Oregon Legislature as DEQ's Policy Option Package 114. That approval authorized DEQ to seek up to an additional \$300,000 in revenue, annually, to sustain the increased agency operating costs of the asbestos program. DEQ is proposing to implement that action through the proposed fee increase, to meet the maximum approval of up to \$300,000 in additional revenue per year.

Recent EQC actions In fall 2018, EQC approved updates to Asbestos Program rules to require a pre-abatement survey for residential renovations, revised the definition of friable versus non-friable materials and updated requirements for lab accreditation for testing samples of potentially asbestos-containing materials. There were no changes to fees or other program elements at that time.