

Responses to Fedor Zarkhin at The Oregonian re: DEQ asbestos program

July 24, 2015

- *Has DEQ adequately protected the public from asbestos exposure as a result of demolitions of buildings containing asbestos?*

Public health is protected when asbestos removal and disposal are done properly and in accordance with DEQ requirements. When people violate these rules it can lead to increased risk of exposure for workers and the general public. DEQ works to ensure compliance with our regulations through complaint response, inspections, and by licensing abatement contractors.

- *Has DEQ adequately protected the public from asbestos exposure as a result of renovations of buildings containing asbestos?*

Same as above. Public health is protected when asbestos removal and disposal are done properly and in accordance with DEQ requirements. When people violate these rules it can lead to increased risk of exposure for workers and the general public. DEQ works to ensure compliance with our regulations through complaint response, inspections, and by licensing abatement contractors.

- *What attempts did DEQ make between 1988 and 2001 to require a survey for asbestos prior to a demolition and/or renovation?*

DEQ does not have readily available information about that time period. Oregon law and DEQ rules have always required that asbestos removed during demolition or renovation be bagged, labeled and disposed of properly and that, prior to demolition, all asbestos materials must be properly removed, using proper abatement techniques, by a licensed asbestos abatement contractor and properly bagged, labeled and disposed of properly.

- *Beyond implementing Senate Bill 705, does DEQ plan any other rule makings that would increase the department's capacity to ensure asbestos is removed prior to a demolition or a renovation at a home?*

In addition to writing rules to incorporate SB 705 requirements, DEQ is also planning future rulemaking to evaluate and update Oregon's asbestos rules. This rule-making is planned for 2016.

- *Why did DEQ take no position on Senate Bill 705, which by the department's estimates would prevent 650 homes a year from being demolished with asbestos in place?*

DEQ, as most other state agencies, generally maintains a neutral position on legislation sponsored or introduced by others. DEQ provides information to sponsoring legislators and other interested parties when asked.

- *Air quality regulators in Southwest Washington require contractors to submit an asbestos survey prior to a demolition. Why did DEQ decide not to enact such a rule? Would it help prevent demolitions of homes with asbestos in place if enacted in Oregon?*

DEQ requires building owners to have a survey on site; the regulations do not require they submit that survey to DEQ in advance of the project. Oregon's rules make the building owner responsible for completing an asbestos survey and for proper asbestos removal prior to renovation or demolition. Building owners are ultimately responsible for complying with asbestos regulations, proper management of the building materials in their own buildings and for ensuring proper removal and disposal of asbestos-containing materials prior to renovation or demolition.

Demolitions of a single family residence require asbestos abatement by a licensed asbestos abatement contractor; they do not currently require a survey. For demolition a home is not considered owner occupied so an owner occupant is not allowed to remove asbestos.

- *Southwest Washington also requires contractors to submit a notification that the contractor plans to demolish a building on a specific date, whether or not asbestos is found in the building. Why did DEQ decide not to enact such a rule? Would it help prevent demolitions of homes with asbestos in place if enacted in Oregon?*

Oregon law directs DEQ to adopt rules regarding proper asbestos abatement prior to renovation or demolition but does not direct DEQ to receive notifications of all demolitions in Oregon. DEQ's regulations require proper removal of asbestos containing waste materials prior to renovation or demolition.

- *Federal NESHAP rules require that a notice of demolition and renovation be submitted at least ten days prior to a demolition or renovation of a public or commercial building, or a residential building with five or more units, whether or not asbestos is found in the building. Oregon DEQ has no such requirement. Why?*

DEQ's asbestos abatement requirements are as stringent, or more stringent than, the federal requirements; how the regulations apply depends on the specific details of a project.

For projects that are subject to the federal NESHAP, DEQ rules require the building owner and/or abatement contractor to provide DEQ with ten day notification of a friable asbestos abatement project and five day notification of a non-friable asbestos abatement project. This requirement also applies for projects that are smaller than NESHAP sized asbestos abatement. Oregon law directs DEQ to adopt rules regarding proper asbestos abatement prior to renovation or demolition but does not direct DEQ to

receive notifications of all demolitions throughout Oregon. Federal asbestos NESHAP rules only apply to asbestos-containing material to be removed before demolition or renovation for projects where the total amount of asbestos is greater than 260 linear feet, 160 square feet, or 35 cubic feet from non-residential facilities with more than four units. The federal asbestos NESHAP does not regulate non-friable asbestos.

Oregon law and DEQ rules require proper removal and disposal of both non-friable and friable asbestos-containing materials with the exception of the owner-occupant renovation noted above (for owner-occupant projects, asbestos waste must still be bagged, labeled and disposed of properly), small projects involving less than three square feet or three linear feet (this material must still be properly disposed) and for encapsulated asbestos that stays encapsulated.

- *The department estimates that requiring a pre-demolition survey for asbestos (SB705) would prevent the demolition of 650 homes with asbestos inside annually. That would imply that thousands of Oregon homes have been demolished with asbestos inside since 2002, when the department withdrew a rule that would have required such surveys. Does DEQ bear some responsibility for cases where workers or members of the public contract an asbestos-related disease as a result of breathing asbestos fibers released during demolitions?*

DEQ's rules have never allowed for demolition of a building with asbestos containing material. Oregon's asbestos regulations require that building owners be responsible for knowing whether their buildings contain asbestos materials and for proper management of asbestos containing materials. DEQ rules require proper abatement of asbestos prior to renovation or demolition as explained above.

- *Here are some of our findings. If there are factual inaccuracies, please point them out and provide the correct information.*

*- In a comparison of City of Portland demolition data with DEQ asbestos project data, The Oregonian/OregonLive found that no more than 25 percent of the 775 homes demolished in Portland since 2011 had an asbestos abatement. DEQ estimates that 85 to 90 percent of demolished homes require an abatement.*

DEQ cannot verify the numbers used by the Oregonian.

*- Industry complaints prompted DEQ to weaken an asbestos survey requirement in 2002 that the department has recognized since 1989 is necessary for the prevention of improper removal of asbestos. Despite warnings that this would increase exposure to the public, and assurances on the department's part that it would reconsider the reversal or find an alternative to surveys, DEQ has done nothing to advocate for such a rule since 2002.*

Please refer to the chronology provided to the Oregonian on July 17, 2015.

*- DEQ currently relies entirely on referrals and complaints to catch contractors or individuals demolishing or renovating homes without first removing asbestos. The agency does not compare demolition permits data with asbestos abatement data, as The Oregonian did.*

DEQ works to ensure compliance with the asbestos regulations through informational outreach, complaint response, inspections, and through licensing abatement contractors. DEQ works statewide with local governments, fire departments, the Construction Contractors Board, Oregon OSHA, the Oregon Health Authority and others to continually improve education of contractors and building owners to improve building owner awareness of asbestos abatement requirements.