

Mitchell, Larry

From: jim elliott [jim@jimelliott.org]
Sent: Monday, January 12, 2004 12:14 PM
To: lamitchell@state.mt.us
Subject: EQC Meeting

Dear Mr. Mitchell;

I would like to request that the Environmental Quality Council conduct a formal review of the proposed Septage Cleaning and Disposal rules. Thanks for your help.

Sincerely,

Jim Elliott, Senator

Mitchell, Larry

From: jim elliott [jim@jimelliott.org]
Sent: Thursday, December 11, 2003 8:54 AM
To: lamitchell@state.mt.us
Subject: FW: Septage cleaning and disposal comments

-----Original Message-----

From: M & M Byrnes [mailto:spr3656@blackfoot.net]
Sent: Tuesday, December 09, 2003 8:37 PM
To: jim@jimelliott.org
Subject: Fw: Septage cleaning and disposal comments

Jim-

per our conversation here are the comments I submitted to DEQ. I believe the problem is that DEQ is violating 75-10-107, MCA, by exceeding the federal regulations in Part 503 of the Clean Water Act. The DEQ was also in violation of the current code when they did not enact rules for this code by the deadline set by the 1999 Legislature.

Mike

----- Original Message -----

From: M & M Byrnes
To: pcrowley@state.mt.us
Sent: Wednesday, December 03, 2003 1:36 PM
Subject: Septage cleaning and disposal comments

Mr. Crowley

Please include the following comments in the official record regarding the proposed rule changes for the Septage Cleaning and Disposal. I personally oppose the rule changes for the following reasons, and, as the President of the Montana Wastewater Association, my organization opposes the rule changes for the same reasons. We have already testified verbally at the public hearing, these comments are in addition to those already submitted.

We would like to request that the MT DEQ poll the legislature to ensure that the monetary burdens required under the proposed rule changes, and the Reporting requirements in these new rules that exceed the EPA's Requirements in Part 503 of the clean water act were in fact the intent of the legislature when they initially passed this legislation.

We would also like to know what happened to the training promised to us by the department 4 years ago that was going to be funded by our increase in license fees that we agreed to.

Just a reminder, the last time DEQ attempted to write regs for this industry, they were instructed to start over, and consult us. DEQ may have a short memory, but we do not, and we believe that legislative intent is not being followed.

17.50.503

1(h) The requirement for the local authority to inspect and certify That the vehicles are equipped with proper spreading and screening equipment is assuming that, 1) the only way to screen the septage is to have something attached to the truck, 2) that this rule requiring screening is going to be approved, and 3) the counties are going to comply with yet another unfunded mandate from the state requiring more work with no monetary support.

2(p) This rule would require us to become cartographers, and surveyors. There are topographic maps available, and you already require us to submit the legals after the local authority INSPECTS and APPROVES the site. I suggest that you allow the local Professional to do their job, and you buy the software and input the legals if you want to look at a map.

2(q) The reason for allowing the landowners designee, or Lessor to sign was that some nonresident landowners

were unavailable for long periods of time.

This is already covered in other parts of the original rule and is redundant. i) refers to 17.50.811, ii) refers to 17.50.809 (12) and 17.50.816(6) , iii) refers to 17.50.811, and iv) refers to 17.50.812 . Please strike all of this as it is cumbersome, redundant, and not needed. We also feel that as a courtesy, the landowner and the pumper be given 5 working days notice of inspection, in writing, and that the inspections occur during regular working hours, on regular work days, with the pumper or a representative present. We have nothing to hide, and we are not guilty until proven innocent. The way you have this rule written constitutes an open search warrant. I am sure that the enforcement people would enjoy this. I am also sure that so would my attorney.

17.50.809

1) the addition of inhabitable is not needed. Just another restriction by the dept. to hamper the operator. The building or structure is not impacted by the proximity to effluent, only live beings, and if the separation requirements are met this is not an issue.

(15) we can approve septic drainfields, with a variance, at 50 feet from a well for underground disposal of untreated effluent, but we cannot land apply Septage any closer than 500 feet to an inhabitable building.

(16) Changing land use patterns does not allow the dept.'s to rescind license for a land fill, which is infinitely more of a hazard than the beneficial use of septage as a soil amendment as defined by the U.S. EPA.

17.50.811

(9) Screening is a monetary burden not researched by the department . It is left to the operator to come up with something that will work. There is no training, no suggested practices, and no science to back up this arbitrary requirement.

17.50.812

(3) Although we do not have anything to hide, we want a 5 working day written notice of intent to inspect, the inspection will take place on a regular work day, during regular working hours, with the operator present. The Dept. will make every attempt to schedule an appointment with the pumper prior to inspection accommodating both parties busy schedules. You are not the Gestapo however the tactics you have been using, which I am aware of first hand, are Gestapo-like. I personally had to cancel appointments and reschedule work to accommodate my surprise inspection with a 30 minute notice.

I was also inspected on numerous occasions with no notice at all and was not informed of the inspection until after the fact by the local authority. This will stop. Property rights.

17.50.813

(3) This reporting requirement far exceeds the intent of the legislature to bring Montana up to speed with Part 503 of the clean water act. We are only required to keep records for 5 years. We want the rule to remain the same.

We feel that all of the "problems" identified by the Dept. and utilized as reasons for the rule changes could have been avoided, had the promise of training been followed through on.

Possibly a requirement written into the rule that attendance at a 1/2 day Dept. provided training (or another approved training, such as the Classes at the Septic Pumper expo at the pumpers option) is mandatory for issuance of a license and a refresher every third year for renewal of a license.

We would like to renew our offer to work with the dept on any problems or rules, and consult with them to write any training.

Please carefully consider these comments and reply to all licensed pumpers in writing.

Thank you
Mike Byrnes
President
MT Wastewater Assn.
P.O. Box 654
Superior, MT 59872

1/12/2004

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF MONTANA

In the matter of the amendment) NOTICE OF PUBLIC HEARING
of ARM 17.50.802, 17.50.803,) ON PROPOSED AMENDMENT
17.50.809, 17.50.811,)
17.50.812, 17.50.813 and) (SEPTAGE CLEANING AND
17.50.815 pertaining to) DISPOSAL)
cesspool, septic tank and)
privy cleaners)

TO: All Concerned Persons

1. On November 19, 2003, at 10:00 a.m., the Department of Environmental Quality will hold a public hearing in Room 35 of the Metcalf Building, 1520 East Sixth Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Department will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Department no later than 5:00 p.m., November 10, 2003, to advise us of the nature of the accommodation that you need. Please contact Pat Crowley, Community Services Bureau, Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-5294; fax (406) 444-1374; or email pcrowley@state.mt.us.

3. The rules as proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

17.50.802 DEFINITIONS In addition to the definitions in 75-10-1202, MCA, the following definitions apply in this subchapter:

(1) through (26) remain the same.

(27) "Privy" means a covered or uncovered facility for placement of non-water-carried toilet wastes where the wastes are discharged directly into a seepage pit without treatment in a septic tank or are discharged into a watertight vault.

(28) through (38) remain the same.

AUTH: ~~37-41-103~~, 75-10-1202, MCA

IMP: ~~Title 37, chapter 41~~, 75-10-1201, 75-10-1202, MCA

REASON: This amendment is needed to clarify that the term "privy" is the general term that includes all types of latrines, rather than only a specific type of latrine. The amendment clarifies that a portable toilet, which is defined as a "sealed pit privy" is included in the definition of "privy."

Section 37-41-103 and Title 37, chapter 41, MCA, are being deleted from the history note because the 1999 Legislature repealed Title 37, chapter 41, MCA. See Section 12, Chapter 378, Laws of 1999.