



March 25, 2024

Laura Manyak

CDPHE Indoor Air Environment Program Manager

Subject: Questions for round table discussion between CEPA and CDPHE Indoor Air Quality Asbestos Unit  
4/18/24

Laura,

The following CEPA has generated the following questions for our round table discussion scheduled for the next CEPA general membership meeting. The meeting is on April 18<sup>th</sup> 9:30 AM. We are meeting at a new location, the Columbine Library, 7706 W Bowels, Littleton, CO. If you have some other issues that the Division would like to discuss or if any of these questions are something that you don't feel ready to talk about please send me that info and we can adjust.

1. CEPA requests that the Division provide a schedule for the outreach described in the Memo received, October 2012

"The Division anticipates beginning outreach to stakeholders during the first quarter of 2022 on both guidance documents and course curriculum updates. Division staff have had less time and resources than expected to devote to the development process. At the conclusion of the Regulation 8, Part B Rulemaking, Division staff began two major tasks in addition to its regular duties. The first was beginning a stakeholder process to review and update Colorado Regulation No. 19 – The Control of Lead Hazards and the second, the Asbestos Control Act Sunset Review by the Department of Regulatory Agencies. The Division previously had several staff vacancies and has lost two additional staff members during this period."

See attachment #1 for full memo

2. CEPA requests that the Division respond to the 10/15/2023 letter titled: **Removal of non-friable asbestos?** The letter states "It is our opinion that simply breaking floor tile does not render the floor tile friable. This opinion is consistent with 40 CFR 61 subpart M (NESHAP) and commentary published in the Federal Register November 20, 1990, as well as EPA Control Number: A970005 issued in July of 1996. CEPA requests that the Division enforce Reg 8 as written. In any event, the Division should issue a guidance document or some other written communication on this topic that our members can reference. Without this written document, our members cannot properly advise clients regarding protecting human health and the environment. It paints both our members as well as the Division in a bad light if we do not know how Reg 8 will be interpreted and applied on any given project. Additionally, if inspections of floor tile projects lead to costly delays and variable treatment under the regulation due to differing interpretations of what is considered to be "rendering a material friable," our fear is that less scrupulous contractors will simply skip courtesy notification for floor tile jobs. This outcome serves no one and is not in the best interest of the public, the industry, or the Division."



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See attachment #2 for full letter

### 3. Permits

- a. CEPA requests that the Division respond to the 10/15/2023 letter titled: **Regression from Updated Data-Processing Systems Decreases the Program's Efficiency, Its Ability to Fulfill the Regulation's Intentions, and Recommendations Made by DORA in the 2021 Review of the Act?** This letter asks the question why has the Division stopped sending electronic permits as they are processed. During the COVID Pandemic this was implemented and was received by the industry as an over whelming success. Sometime in 2023 this practice was halted and permits were sent by hard copy in the mail.  
See attachment #3 for full letter
- b. Is there a way that a permit could be assigned to a single inspector from the time of submission through the entire project? There is often issues with permits / projects that get rehashed if question arise and a different inspector is on permits that week.
- c. Do modifications require a response before the changes can be implemented?
- d. Can homeowners choose to opt out of regulation 8 if removing only non-friable materials?
- e. Can previously approved variances simply be referenced and resubmitted without a lengthy review period?

### 4. Sampling

- a. Please explain the Division's interpretation and intent for the industry on sampling texture and joint compound separately, as discussed with the Regulatory Affairs Committee on 3/21/24.
- b. Please define "tar impregnated". It has been indicated by APCD that a felt covered and saturated between two layers of tar mopped on is not "tar impregnated", but the definition of "impregnated" itself is subjective and debatable, depending on what dictionary is referenced; according to Oxford Languages it's to "soak or saturate (something) with substance", according to Merriam-Webster it's to "cause to be filled, imbued, permeated, or saturated, or to permeate thoroughly" etc. etc.. There is no way for a trained BI to know which definition the APCD is using or how it is applying that definition to the material, the only assessments the BI can make are in regard to friability, material condition, and potential for disturbance. Determining what is "tar impregnated" is not covered in the BI curriculum currently, and as a result, inspectors are left to classify materials based on known techniques: friability, condition, and potential for disturbance

### 5. Spills

- a. CEPA is requesting a timeline for approval/feedback of the addition of spill delineation to the curriculum. Several training companies are waiting on approval to add this to the BI/AMS class.



- b. By what regulatory standard does presence / absence sampling apply to Reg. 8. CEPA is of the opinion that the standards for sampling contained in Reg. 8 to be the MAAL. Why are spill verification samplings not consistently judged by this standard alone?
    - c. CEPA requests some explanation into why wild fires have guidance documents for debris removal and other single occurrence fires are not permitted to follow the same guidelines? Our mission for each spill is the same protect public health and the environment. Letting debris be openly exposed to the elements for up to 90 days to get a variance approved is an industry concern for potential to release more fibers than wetting the material and loading it out.
  6. Would the division entertain a hybrid refresher class that could cover multiple disciplines during one class. Much of the base materials are covered in each class combining would be a real help to the industry.
  7. Please explain the reasoning behind the direction to, when removing a fire door, open the sealed door and wet the material (creating unnecessary exposure), or apply for a variance for non-wet methods (unnecessary time spent on a variance), when a fire door can be reasonably removed without impacting the interior asbestos containing material at all, by removing hinges from the frame.
  8. Surfactant being diluted before use as a wetting agent.
    - a. Members have been asked / instructed to use surfactant at full strength by inspectors. Our members would like to follow manufacture's guidelines. Please advise.

Open discussion on other topics

Submitted by,

Rob Schimberg

Colorado Environmental Professionals Association

President