

Colorado Regulation No. 8, Part B, Asbestos “100 Questions”

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1. On a non-friable project, can any poly used be disposed of as non-friable waste material?

Yes, poly sheeting from non-friable asbestos projects may be disposed of as non-friable asbestos waste.

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2. What’s the ruling for metal deck staining? Can PLM bulk sampling be used to determine if any residue or non-friable adhesive is present at <1%? Need to clarify as to whether the rule is ‘no asbestos’, or if some is OK.

No visible dust or debris may remain in the work area for it to successfully pass a final visual inspection. Note that this standard does not distinguish between asbestos and non-asbestos debris. Residue and non-friable adhesives constitute “dust and debris” and must be removed.

Stains, which are an integral and inseparable part of the metal, do not constitute “dust and debris” and therefore do not have to be removed.

If it can be shown that the metal decking was coated with more than one layer, and that the first layer applied to the deck was non-asbestos, then the Division would consider allowing PLM to verify that the residue is non-asbestos and could remain in place. On the other hand, if the metal deck was covered with just one layer of material, and initial bulk sampling resulted in the material being considered ACM, then we would not allow follow-up PLM bulk sampling to, in effect, go back and declare material as non-ACM that had already been deemed ACM.

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3. What’s the ruling for concrete deck pits? Can PLM bulk sampling be used to determine if any residue or non-friable adhesive is present at <1%? Need to clarify as to whether the rule is ‘no asbestos’, or if some is OK.

No visible dust or debris may remain in the work area for it to successfully pass a final visual inspection. Residue and non-friable adhesives constitute “dust and debris” and must be removed. Visible debris, asbestos or otherwise, must be removed from concrete deck pits.

If it can be shown that the concrete deck was coated with more than one layer, and that the first layer applied to the deck was non-asbestos, then the Division would consider allowing PLM to verify that the residue is non-asbestos and could remain in place. On the other hand, if the concrete deck was covered with just one layer of material, and initial bulk sampling resulted in the material being considered ACM, then we would not allow

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follow-up PLM bulk sampling to, in effect, go back and declare material as non-ACM that had already been deemed ACM.

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4. Must a certified AMS be certified as an asbestos building inspector to conduct a visual inspection? What if bulk sampling is required as a part of the visual inspection (i.e. soil)?

AMS certification is the only required credential for a person performing a final visual inspection for clearance of an abatement project. If, for whatever reason, bulk sampling is performed at any time, the person collecting the sample must be state-certified as an asbestos building inspector.

This determination stems from Regulation No. 8, Section III.B.2., which states the following:

“With respect to school buildings, public or commercial buildings and single-family residential dwellings, any individual who inspects any building for the presence of asbestos shall be certified as a Building Inspector in accordance with this regulation.”

In addition, Definition A.3. of the ASHARA defines “inspection” as follows:

“Inspection” means an activity undertaken in a school building, or a public and commercial building, to determine the presence or location, or to assess the condition of, friable or non-friable asbestos-containing building material (ACBM) or suspected ACBM, whether by visual or physical examination or by collecting samples of such material ... The term does not include the following:
a. Periodic surveillance ... b. Inspections performed by employees or agents of Federal, State or local government solely for the purpose of determining compliance ... c. visual inspections of the type described in 40 CFR 763.90(i) solely for the purpose of determining completion of response actions.

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5. Can an insurance adjuster or home inspector/appraiser collect bulk samples for ACM analysis?

Refer to the answer to Question #4, which says that the person collecting the sample must be state-certified as an asbestos building inspector.

Regulation No. 8, Section III.B.2., requires the following:

“With respect to school buildings, public or commercial buildings and single-family residential dwellings, any individual who inspects any building for the presence of asbestos shall be certified as a Building Inspector in accordance with this regulation.”

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The ASHARA defines an inspection as follows:

“Inspection” means an activity undertaken ... to assess the condition of, friable or non-friable asbestos-containing building material (ACBM) or suspected ACBM, whether by visual or physical examination or by collecting samples of such material ...”

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6. For grandfathered AMS applicants who paid the AMS application fee in May 2003, what time period does that cover and when would additional fees be required?

Existing AMS applicants will be fully certified when the applicant brings in the AMS refresher certificate. The date of the refresher class will be the date that the Division will use for certification. For renewal of AMS certification, after the AMS takes a refresher class, the AMS will then need to bring to the Division the refresher certificate, a completed application and the associated fee.

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7. Can an AMS employer hire a new AMS trainee and use him/her for work activities as a trainee for a period of time and never have the person fully certified? Can other states' on-the-job training apply to the Colorado AMS training requirements?

The rationale for allowing the AMS trainee to perform some work activities under the supervision and observation of the mentoring AMS was to allow consulting companies to put these trainees to work until an AMS training class became available. It was understood and agreed to by all Parties to the last Reg. 8 revision that any efforts to circumvent the training requirement would result in a move to request that the Commission revise the regulation so that it required that the AMS training course be taken prior to any fieldwork being performed, and that this effort would be supported fully by the Parties.

The on-the-job experience requirement for AMS applicants requires that the applicant be supervised and observed by a currently Colorado-certified AMS. Since this became a requirement of new AMS on March 30, 2003, experience before that date cannot be considered. If there will be work conducted in another state that involves both the mentoring- and applicant-AMS, please call the Division to discuss this on a case-by-case basis. The decision may hinge on clearance and air monitoring requirements for that other state.

If someone wants to qualify to be an AMS by reciprocity, they must possess a valid certificate, license or other registration from another state, District of Columbia or other territory of the United States, or other Division-approved national entity (specifically, the National Asbestos Examinations and Registration System) which has a certification and testing program that has been approved by the EPA and which is at least as stringent as the Commission's and provide documentation to the Division showing that they have been certified to conduct Air Monitoring Specialist activities for at least 1 year (See Regulation No. 8, Section II.I., Reciprocity)

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8. If the outside samples for an AHERA TEM clearance are not collected, is that in violation of Regulation No. 8 even if you do not intend to use the Z-test?

If you are collecting the samples for clearance in a school building, a minimum of 13 samples (5 inside, 5 outside and 3 blanks) must be collected for each work area. This question is answered in the EPA's "100 Commonly Asked Questions" (Question #83). You are only required to analyze the inside samples. In a non-school building, you are only required to collect the inside samples. The minimum number of samples to be collected is based on the table in Regulation No. 8, Section III.P.3.a.(ii) on page 45.

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9. Will CDPHE be conducting any “spill response” workshops?

The Division and CWIACA have agreed to form an ad hoc committee made up of industry representatives and federal, state and county regulators to meet to share their expertise, experiences and opinions regarding the broader question of how to deal with asbestos spills. The goal will be to develop a standard set of protocols to be followed when dealing with asbestos spills. Once these protocols are completed the Division will develop a “Spill Response” Workshop.

There are many different types of spills, from a delaminating sprayed-on acoustical ceiling to an office building fire and its associated smoke and water damage. How to best respond to a spill can depend on a whole host of factors, including:

- Is it in an Area of Public Access?
- Is it a Public and Commercial building, SFRD or school?
- What kind of HVAC system is there in the building?
- Is the building currently occupied? If so, do we order evacuation? If yes, under what conditions may the tenants re-enter the building/structure? Or remove personal belongings?
- Is the building structurally unsound?
- What type of damage has the building sustained? Fire? Smoke? Water? Other?
- Defining the spill boundaries:
 - Who should do it?
 - How should it be done?
 - What tests should be used to define the boundaries?
 - What protocols should be followed in conducting those tests?
- Once the spill boundaries are defined, how do we deal with carpeting, clothing, furniture, electronics, curtains, partitions, etc. impacted by the spill?

These are just a few of the many questions that must be answered before it can be determined what steps need to be taken in responding to a spill involving asbestos. Therefore, there is no one answer that could be given here that would apply to all spill situations.

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Nonetheless, Regulation No. 8, in Section III.T. (Asbestos Spill Response) beginning on page 50, lays out the basic steps that need to be taken by the building owner or contractor in the event of a major spill. In addition, Section III.T.1.k. further requires the building owner or contractor to “[c]omply with any other measure deemed necessary by the Division to protect public health.”

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10. Can CDPHE clarify requirements for responses to fires or areas that sustain smoke damage, specifically as they relate to tenants’ personal belongings and clearance requirements?

The Division views this question and question #9 on spill responses as inter-related, so please refer back to our response to question #9.

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11. Can CDPHE identify why abatement work done in a structure on a single-family home site other than the primary residence, i.e., out buildings, falls into the requirement for single-family residence for permitting purposes?

Although it could be interpreted that “out” buildings, such as detached garages, outhouses, sheds, etc., are not structures “whose primary use is for housing of one family”, the Division believes the intent of the regulation is to treat structures that are directly associated with, and dependent upon, the actual residence itself as single-family residential dwellings (SFRD), unless the abatement in the structure could somehow affect persons other than the family residing in the home. This is based on the Division’s interpretation of the legislative intent to provide a homeowner/occupant exemptions from complying with the regulations when exposure to asbestos would be relatively limited to the homeowner/occupant and not affect the public (the homeowner/occupant should be allowed to choose their level of risk, but the homeowner/occupant cannot make that choice for other persons who may suffer asbestos exposure from the homeowner/occupant’s choices). Thus, “out” buildings, which are an integral part of the house, are, therefore, considered part of the single-family residential dwelling (SFRD) for all intents and purposes.

With respect to farms, “out” buildings that are utilized for a commercial purpose would be considered “public and commercial” buildings. Exceptions could include detached garages used for storage cars and out-houses.

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12. What’s the story with poly sheeting? Regulation No. 8 calls for two layers, so why can’t poly be folded over and hung on the walls that way? Isn’t that equivalent to two layers?

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Folded poly does not comply with the regulatory requirement for two layers of poly, in that folded poly does not provide either the intended or equivalent level of protection against water and debris finding its way behind poly that two, single-layers of overlapping poly provide, which is what the regulatory requirement contemplated. The folded poly does reduce the potential for penetration through direct physical contact, like two separate layers, but it does not provide the critical protection at the attachment point, which is where poly barriers typically fail, and it does not facilitate proper teardown practices to minimize exposure of the surface. In fact, folding the poly actually increases the chances of barrier failure and contamination as explained below:

- a. **Weight problem:** If poly is folded over, the duct tape used to hold the poly in place must support twice as much poly, and therefore twice as much weight, as it would if two separate layers of overlapping poly are used. This unnecessarily increases the likelihood of the wall poly pulling free from the wall or from the tape.
- b. **Two sealed areas vs. one sealed area:** Two separate layers of poly (and two separate strips of duct tape) provide for at least double the protection from water or debris finding its way behind the poly because there are two separately sealed areas where poly is attached to the wall with duct tape. With two separate layers, if one seal is compromised, there's a backup second sealed area remaining.
- c. **Backup layer of protection:** In the case of duct tape failure, both layers of poly would come down in the folded over method, while only one layer of poly would come down in the separate layer method, leaving at least one layer of poly as backup protection for the walls.
- d. **Mechanics:** The ability of poly to remain adhered to duct tape is greatly reduced in the folded-over method. This is difficult to describe and difficult to picture, so try this: apply the lower 3” of a 12” length of duct tape to the seam of a square foot piece of folded poly and tape it to a wall. Now, simulate the weight of an entire wall covered with poly by pulling straight down on the layer of poly farthest from the wall and notice how well the poly adheres to the duct tape. Now try it again, but this time pull straight down on the layer of poly closest to the wall. Notice how much less force (weight) it takes to get the poly to separate from the duct tape. This is a good illustration of why folded poly is much harder to secure with duct tape than two separate layers of poly.
- e. **Teardown contamination problem:** In the teardown phase, it is difficult to remove the inner layer of folded poly without damaging or causing outright delamination of the outer layer. The simultaneous removal of both layers of poly simultaneously is undesirable because the inner layer has gross amounts of fibers that will shake loose during removal and packaging, exposing wall and floor surfaces to asbestos fibers. To minimize this contamination potential, the outer layer must stay intact during the stripping and packaging of the grossly contaminated inner layer. Hence, two independent layers are important to correctly affect proper de-construction of the containment barriers.

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