

Sec. 19a-333-7. Response action

(a) The local education agency shall select and implement in a timely manner the appropriate response actions in this section consistent with the assessment conducted in section 19a-333-6 of the regulations of Connecticut State Agencies. The response actions selected shall be sufficient to protect human health and the environment. The local education agency may then select, from the response actions which protect human health and the environment, that action which is the least burdensome. For purposes of determining which of these response actions is the least burdensome, the local education agency may consider local circumstances, including occupancy and use patterns within the school building, and its economic concerns, including short-term and long-term costs. The response action shall at a minimum meet the requirements as set forth in subsections (a) through (h) of this section. No asbestos abatement shall be performed in a school building while school is in session without the prior written approval of the Department.

(b) If damaged or significantly damaged thermal system insulation ACM is present in a building, the local education agency shall:

- (1) repair the damaged area; or
- (2) remove the damaged material if it is not feasible, due to technological factors, to repair the damage; and
- (3) maintain all thermal system insulation ACM and its covering in an intact state and undamaged condition.

(c) If damaged friable surfacing ACM or damaged friable miscellaneous ACM is present in a building, the local education agency shall select the response actions that best protect human health and the environment from among the following:

- (1) encapsulation
- (2) enclosure,
- (3) removal or
- (4) repair.

(d) If significantly damaged friable surfacing ACM or significantly damaged friable miscellaneous ACM is present in a building the local education agency shall:

- (1) immediately isolate the functional space and restrict access unless the accredited management planner determines that isolation is not necessary to protect human health and the environment;
- (2) remove the material in the functional space or, depending upon whether the accredited management planner determines that enclosure or encapsulation would be sufficient to protect human health and the environment, enclose or encapsulate.

(e) If any friable surfacing ACM, thermal system ACM, or friable miscellaneous ACM that has potential for damage is present in a building, the local education agency shall at least implement an O & M program, as described under section 19a-333-8 of the regulations of Connecticut State Agencies.

(f) If any friable surfacing ACM, thermal system insulation ACM, or friable miscellaneous ACM that has potential for significant damage is present in a building, the local education agency shall:

- (1) implement an O & M program as described under section 19a-333-8 of the regulations of Connecticut State Agencies, and

(2) immediately isolate the area and restrict access if necessary to avoid an imminent and substantial endangerment to human health or the environment, and

(3) institute preventive measures appropriate to eliminate the reasonable likelihood that the ACM or its covering will become significantly damaged, deteriorated, or delaminated, and

(4) remove the material as soon as possible if appropriate preventive measures cannot be effectively implemented.

(g) Response actions including removal, encapsulation, enclosure, or repair, other than small-scale, short-duration repairs, shall be designed and conducted by persons accredited to design and conduct response actions.

(h) Completion of response actions

(1) At the conclusion of any action to remove, encapsulate, or enclose ACBM or material assumed to be ACBM, an accredited person designated by the local education agency shall visually inspect each functional space where such action was conducted to determine whether the action has been properly completed.

(2) An accredited person designated by the local education agency shall collect air samples using aggressive sampling as described in Appendix A to 40 CFR Part 763 Subpart E, as amended, to monitor air for clearance after each removal, encapsulation, and enclosure project involving ACBM, except for projects that are spot repairs as defined in section 19a-332a-1 of the regulations of Connecticut State Agencies.

(3) Local education agencies shall have air samples collected under this section analyzed for asbestos using laboratories accredited by the National Institute of Standards and Technology to conduct such analysis using transmission electron microscopy (TEM) or, under circumstances permitted in this section, laboratories enrolled in the American Industrial Hygiene Association Proficiency Analytical Testing Program for phase contrast microscopy (PCM).

(4) Except as provided in subdivisions (5) and (6) of this subsection, an action to remove, encapsulate, or enclose ACBM shall be considered complete when the average concentration of asbestos of five (5) air samples collected within the affected functional space and analyzed by the TEM method in Appendix A to 40 CFR Part 763 Subpart E, as amended, is not statistically significantly different, as determined by the Z-test calculation found in Appendix A from the average asbestos concentration of five (5) air samples collected at the same time outside the affected functional space and analyzed in the same manner, and the average asbestos concentration of the three (3) field blanks described in Appendix A is below the filter background level, as defined in Appendix A, of seventy structures per square millimeter (70 s/sq mm).

(5) An action shall also be considered complete if the volume of air drawn for each of the five (5) samples collected within the affected functional space is equal to or greater than one thousand one hundred and ninety-nine liters (1,199 L) of air for a twenty-five millimeter (25 mm) filter or equal to or greater than two thousand seven hundred and ninety-nine liters (2,799 L) of air for a thirty-seven millimeter (37 mm) filter, and the average concentration of asbestos as analyzed by the TEM method in Appendix A to 40 CFR Part 763 Subpart E, as amended, for the five (5) air samples does not exceed the filter background level, as defined in Appendix A, of seventy structures per square millimeter (70 s/sq mm). If the

average concentration of asbestos of the five (5) air samples within the affected functional space exceeds seventy structures per square millimeter (70 s/sq mm), or if the volume of air in each of the samples is less than one thousand one hundred and ninety-nine liters (1,199 L) of air for a twenty-five millimeter (25 mm) filter or less than two thousand seven hundred and ninety-nine liters (2,799 L) of air for a thirty-seven millimeter (37 mm) filter the action shall be considered complete only when the requirements of subdivision (4) or (6) of this subsection are met.

(6) At any time, a local education agency may analyze air monitoring samples collected for clearance purposes by phase contrast microscopy (PCM) to confirm completion of removal, encapsulation, or enclosure of ACBM that is greater than a spot repair as defined in section 19a-332a-1 of the regulations of Connecticut State Agencies, and less than or equal to one hundred and sixty (160) square feet or two hundred and sixty (260) linear feet. The action shall be considered complete when the results of samples collected in the affected functional space and analyzed by phase contrast microscopy using the most current National Institute for Occupational Safety & Health (NIOSH) Method 7400 as amended in the Federal Register, show that the concentration of fibers for each of the five (5) samples is less than or equal to a limit of quantitation for PCM - 0.01 fibers per cubic centimeter (0.01 f/cc) of air.

(7) To determine the amount of ACBM affected under subdivision (6) of this subsection, the local education agency shall add the total square or linear footage of ACBM within the containment barriers used to isolate the functional space for the action to remove, encapsulate, or enclose the ACBM. Contiguous portions of material subject to such action conducted concurrently or at approximately the same time within the same school building shall not be separated to qualify under subdivision (6) of this subsection.

(i) The requirements of this section in no way supersede the worker protection and work practice requirements under any applicable state regulations.

(Effective December 1, 1992)