

# STATE OF CONNECTICUT

## DEPARTMENT OF PUBLIC HEALTH



Jewel Mullen, M.D., M.P.H., M.P.A.  
Commissioner

Dannel P. Malloy  
Governor  
Nancy Wyman  
Lt. Governor

April 30, 2015

The Honorable Senator Barbara Boxer  
Ranking Member  
Committee on Environment and Public Works  
112 Hart Senate Office Building  
Washington DC 20510

The Honorable Senator Edward J. Markey  
Ranking Member  
Subcommittee on Superfund, Waste Management and Regulatory Oversight  
218 Russell Senate Office Building  
Washington, DC 20510

Dear Senators Boxer and Markey:

This correspondence is provided on behalf of Governor Dannel P. Malloy in response to your March 31, 2015 letter regarding the implementation of the Asbestos Hazard Emergency Response Act (AHERA) in Connecticut.

The State of Connecticut appreciates your interest in assessing how the AHERA law is being implemented to protect students, teachers, and other employees from asbestos hazards within school buildings in Connecticut. As a waiver state, the Connecticut Department of Public Health (DPH) receives funding from the United States Environmental Protection Agency to conduct AHERA compliance and enforcement activities.

It should be noted that the State of Connecticut has promulgated and administers its own state regulations related to the management of asbestos-containing materials in schools (Section 19a-333-1 to Section 19a-333-13, inclusive, of the Regulations of Connecticut State Agencies).

The Connecticut regulations mirror the AHERA requirements with the following additional provisions:



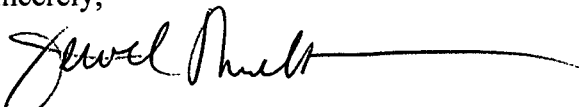
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- Connecticut regulations prohibit the performance of asbestos abatement while school is in session unless the local education agency obtains prior written approval from the DPH to conduct such abatement.
- Connecticut regulations require the local education agency submit to the DPH, within thirty (30) days of the mandated triennial reinspection, documentation that a reinspection has been performed. The documentation must be submitted on a form prescribed by the DPH.
- The local education agency is required to attach warning labels adjacent to any friable or non-friable asbestos-containing building material (ACBM) or suspect ACBM assumed to be asbestos-containing material (ACM) located in routine maintenance areas (such as boiler rooms) at each school building. Connecticut regulations require that these warning labels be posted in a bilingual form whenever the local education agency determines that a significant student and/or employee population require a translated format.
- Connecticut regulations require the local education agency to notify the DPH of any major fiber release episode within twenty-four (24) hours of its occurrence.

Please note the attached responses provided to the questions posed in your March 31, 2015 correspondence regarding Connecticut's implementation of the AHERA regulations. Please contact Suzanne Blancaflor, M.S., M.P.H, Section Chief, DPH Environmental Health Section ([suzanne.blancaflor@ct.gov](mailto:suzanne.blancaflor@ct.gov) or 860 509-7293) should you have any questions or wish to further discuss this issue.

Thank you for your interest in Connecticut's efforts related to this public health issue.

Sincerely,

  
Jewel Mullen, MD, MPH, MPA  
Commissioner

JM/sm  
attachments



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***Scope of Asbestos Hazards in Schools***

1. How many local education agencies in your state are subject to AHERA? Please provide a list of the local education agencies subject to AHERA and identify the number of school buildings in each.

**DPH Response:**

A total of 362 local education agencies (LEAs) within the State of Connecticut are subject to AHERA (See Appendix A). Neither the Connecticut Department of Public Health (DPH) nor the Connecticut Department of Education (DOE) maintains a database of the number of school buildings at each school. The 362 LEAs include 1,707 schools that are subject to AHERA. The LEAs and the related number of schools are categorized as follows:

***PUBLIC LEAS***

**149 LEA School Districts** (by town) with  
**1165 individual schools**

**20 Public LEAs** Full time Inter- District  
Magnet with **86 schools**

**3 Public LEAs** Part Time Magnet Schools  
served by **5 schools**

**17 LEAs-** Regional School Districts-  
with **58 schools**

**1 LEA** Technical/Vocational Schools- **17**  
schools and 4 satellite schools

**6 LEAs** with **58 school programs**  
Regional Educational Service Centers

**3 LEAs** with **7 school programs**

**STATE AGENCIES**

**3 LEAs** with **21 schools** /State Institutions

**18 LEAs** with **22** /Charter Schools

***PRIVATE LEAS***

**Diocesan Schools**  
**3 LEAs** with 125 schools

**Other Nonpublic**  
**85 LEAs** with 85 schools-

**ENDOWED ACADEMIES**

**3 LEAs**

Gilbert Academy	2 buildings
Woodstock Academy	5 buildings
Norwich Free Academy	13 buildings

**SPECIAL EDUCATION FACILITIES**

**51 schools**

2. How many local education agencies in your state have conducted an initial asbestos inspection of all buildings owned, leased, or used as school buildings as required by AHERA

**DPH Response:**

All LEAs (362) currently known to be present within Connecticut have conducted an initial inspection of buildings owned, leased, or used as school buildings as required by AHERA. The DPH takes steps to ensure that all newly formed LEAs and LEAs that are newly identified by the agency comply with the provisions of AHERA and the corresponding Connecticut regulation (Section 19a-333-1 to Section 19a-333-13, inclusive, of the Regulations of Connecticut State Agencies (RCSA)).

A list of each school with an approved management plan is provided (See Appendix B).

- Public and Private local education agencies originally prepared and submitted asbestos management plans prior to AHERA. These management plans were reviewed and approved in accordance with the then-existing DOE regulations. Connecticut required all LEAs to resubmit a management plan for each school to comply with AHERA.
    - 1,032 public school plans were originally reviewed, some with multiple buildings (+208 submitted at a later date)
    - 319 private school plans were originally reviewed; the number of buildings is shown only where this information is known.
  - LEAs may choose to use the inspection exemption provision in AHERA and the DPH regulation. Since 2003, the DPH has reviewed and approved 362 asbestos management plans that included an exemption from the inspection requirements of AHERA and DPH regulations. These school buildings include newly constructed, leased or purchased building that qualify for the exemption under 40 C.F.R, Subpart E, Section 763 and Section 19a-333-13 of the RCSA.
3. How many local education agencies in your state have been identified as having school buildings that harbor asbestos-containing materials? Please provide a list of those local education agencies and provide the number of school buildings in each that have been identified as harboring asbestos-containing building materials.

**DPH Response:**

DPH estimates that one thousand five hundred forty seven (1,547) schools still have asbestos-containing material (ACM) in their schools. In accordance with Section 19a-333-3 of the RCSA, each local education agency (LEA) must submit to the DPH, within thirty (30) days of the

required three-year reinspection, documentation that a reinspection has been performed. This documentation is submitted on a form prescribed by the agency. The requirement to perform the three-year reinspection is contingent upon the presence of known or assumed asbestos-containing building material (ACBM) within the school building.

A listing of LEAs and schools still performing three-year reinspections is included. Please note the data is current as of March 2015 and several reinspections have been reported and not yet logged in (See Appendix C).

### ***Awareness and Monitoring of Asbestos Hazards in Schools***

4. How frequently do local education agencies report AHERA compliance information to the State?

#### **DPH Response:**

LEAs with known or assumed ACBM in a school building are mandated to conduct a three-year re-inspection and required to submit a form to the DPH documenting that it was conducted.

The LEAs are required to submit an asbestos management plan (AMP) to the DPH for each newly constructed, leased, or purchased school building prior to the use of the building as a school building (or in the case of an emergency, the management plan must be submitted no later than sixty (60) days after the building is used as a school building).

The DPH regulation (Section 19a-333-8 of the RCSA) requires the LEA to notify the agency within twenty-four (24) hours of the occurrence of any major fiber release episode (the falling or dislodging of more than three (3) linear feet or more than three (3) square feet of ACM).

Independent of the AHERA regulation, in accordance with Section 19-332a-3 of the RCSA, the DPH receives notification of asbestos abatement performed in school buildings. The notification is required for any asbestos abatement involving more than ten (10) linear feet or more than twenty-five (25) square feet of ACM. Such notification must be submitted by the facility owner (the LEA), or the asbestos abatement contractor hired by the LEA. A total of 1,631 asbestos abatement notifications were received associated with asbestos abatement projects conducted in schools for the period January 2009 and April 2015 (See Appendix D).

Section 19a-333-7 of the RCSA prohibits LEAs from performing asbestos abatement while school is in session without obtaining prior written approval from the DPH. The term “while school is in session” is interpreted to mean anytime that student or other children under age 18 are present in the school building where abatement is to be performed, and is not just limited to the mandated school day. Therefore, the term “while school is in session” includes, but is not

limited to, weekends, evenings, and vacation periods when students or other children under 18 are present in the school (e.g. sporting events, community events). During the years 2010-2014, the DPH received and reviewed two hundred fifty (250) requests to perform asbestos abatement while school was in session. As part of the review process, the DPH will ensure that the project is designed by a licensed asbestos consultant (project designer), conducted by a licensed asbestos abatement contractor, and that the project is monitored by a licensed asbestos consultant (project monitor). As a condition of approval to conduct abatement while school is in session, the LEA must provide a separate notification to parents/guardians, teachers and employee organizations, to inform them about the project.

The LEAs are not mandated to report any other AHERA compliance information to the DPH.

5. How many local education agencies in your state have prepared and submitted asbestos operations and maintenance/management (O&M) plans as required by AHERA regulations (40 C.F.R. Section 763.91)?

**DPH Response:**

The DPH does not specifically receive O&M plans. The O&M plan is a part of the AMP, and is therefore submitted with each management plan unless there is no ACBM present in the school building. The AMP for all school buildings where known or assumed ACBM is present must contain an O&M plan in order to be approved.

6. How many local education agencies in your state have prepared and submitted asbestos management plans as required by AHERA regulations (40 C.F.R Section 763.91)?

**DPH Response:**

All LEAs (362) currently known to be present within Connecticut have prepared and submitted AMPs as required by AHERA and the corresponding State regulations to the DPH. The DPH takes steps to ensure that all newly formed LEAs and LEAs that are newly identified by the agency comply with the provisions of AHERA and the corresponding Connecticut regulation.

- 390 Nonpublic LEA management plans reviewed in 1989 and through deferral period. These management plans had been previously approved under pre-AHERA Connecticut DOE regulations. The plans were updated to comply with AHERA and the corresponding DPH regulations.
- 1,032 Public LEA management plans reviewed in 1990-1991 and through deferral period. These management plans that had been previously approved under pre-AHERA Connecticut DOE regulations. The plans were updated to comply with AHERA and the corresponding DPH regulations.
- 506 additional AMPs have been received and reviewed since 1992.

362 of 506 AMPs submitted between 1992 and April 1, 2015 reported no ACBM present in the school building (See Appendix E).

7. How many local education agencies in your state have conducted the periodic inspections as required by AHERA regulations? Please provide a list of those local education agencies and the number of school buildings in each for which period inspections have not been conducted.

**DPH Response:**

The number of compliant LEAs in this question remains unknown since the LEAs are not required to report the activity to the DPH. As part of the audits conducted by the DPH, a review of records related to periodic surveillance conducted is performed. The DPH documents those LEAs that have failed to either conduct and/or maintain records associated with periodic surveillance. It should be noted that in auditing school management plans, the DPH seeks to identify a copy of the records associated with all periodic surveillance required since the last audit conducted by the agency, and not just the records of periodic surveillance for the current year.

Available data associated with the failure to either conduct and/or maintain records associated with periodic surveillance are found in the following table (See Appendix F for details):

**Table 1**

Inspection Time Period	Number of Schools AHERA Inspected	Based on Complaints or Referral	Other Inspections (MAP, joint agency, NON follow-up	No Periodic Surveillance	No Annual notification
June 1, 1997-5/31/1998	69 schools (46 LEAs)	3	21	23	24
1998-May 1999	No data	No data	No data	No data	No data
6/1/99-5/31/2000	86 Schools (50 LEAs)	4	12	No data	No data
6/1/2000 -5/31/01	88 Schools (49 LEAs)	15	5	No data	No data

Inspection Time Period	Number of Schools AHERA Inspected	Based on Complaints or Referral	Other Inspections (MAP, joint agency, NON follow-up	No Periodic Surveillance	No Annual notification
6/1/2002-11/30/21003	31 Schools (13 LEAs)	No data	No data	No data	No data
12/01/2003 - 05/31/2004	22 Schools (26 LEAs)		No data	3	5
6/1/04-5/31/2005	14	4	14 Work In Progress Inspections	No data	No data
Inspection Time Period	Number of Schools AHERA Inspected	Based on Complaints or Referral	Other Inspections (MAP, joint agency, NON follow-up	No Periodic Surveillance	No Annual notification
06/01/2005-5/31/2006	30 Schools (18 LEAs)	3	No data	No data	No data
6/1/2006-05/31/2007	36 Schools (24 LEAs)	6	No data	No data	No data
6/1/2008-5/31/2009	26 Schools (17 LEAs)	6	No data	No data	No data
6/1/2009-9/30/2010	50 Schools (33 LEAs)	5	16	16	No data
10/1/2010-5/31/2012	84 Schools (62 LEAs)	6	10 in 2010 13 in 2011	32	32
6/1/2012-May 31, 2014	84 Schools (66 LEAs)	7	12 in 2012 24 in 2013	33	32
6/1/14-4/1/2015	34 Schools (23 LEAs)	4	19 in 2014	16	17

**\*No data is actually incomplete data in DPH Files and is therefore not included**

8. How often does your state conduct inspections and/or audits of each local education agency for their compliance with AHERA? Please provide the dates of state inspections and/or audits since 2010.

**DPH Response:**

The frequency of inspections and/or audits of each LEA for compliance with AHERA and state regulations will vary. A neutral administrative inspection scheme (NAIS) has been established to determine inspection/audit priorities. This administrative scheme considers factors such as complaint/tips/referrals, regulatory compliance history, environmental justice (school population served), current or recent asbestos abatement projects, and the date of the last inspection/audit. Within available resources, LEAs that have not been inspected within the last six (6) years are targeted for inspection.



A list of LEAs inspected/audited since 2010 is attached (See Appendix G). This list includes the date of the corresponding inspection(s).

9. For each of the past five (5) years, what were the annual costs of your state's implementation and enforcement of AHERA?

**DPH Response:**

The AHERA grant funding that the DPH receives from the EPA requires a twenty-five percent (25%) match in state funds. The 25% match is calculated based on the total of federal and state funding that is devoted to Connecticut's implementation and enforcement of AHERA (not calculated as 25% of the award alone).

The following is a summary of the state match associated with the last five years of federal funding:

Year 1 – June 1, 2014 to May 31, 2015	\$72,031
Year 2 – June 1, 2013 to May 31, 2014	\$53,842
Year 3 – June 1, 2012 to May 31, 2013	\$44,214
Year 4 – June 1, 2011 to May 31, 2012	\$60,882
Year 5 – June 1, 2010 to May 31, 2011	\$57,982

These amounts are documented costs related to Connecticut's implementation of AHERA and the corresponding DPH regulation. There are additional undocumented state costs, which are not reflected in these figures. These undocumented costs include the personnel costs for the DPH Asbestos Program Supervisor, who serves as the AHERA grant coordinator and who is responsible for the review and approval of inspection/audit reports and related enforcement actions taken. Additional costs incurred by the state include transportation (vehicle required) and training of staff. These undocumented costs are estimated to be \$20,000 annually.

10. Have any local education agencies in your state been issued penalties for non-compliance with AHERA? If so, please describe these occasions.

**DPH Response:**

Yes. The following is a summary of penalties for non-compliance with AHERA that have been issued in Connecticut. Each of these actions involved the execution of a Consent Order by the DPH and the LEA following a determination of non-compliance with AHERA and the corresponding DPH regulation. These actions were taken with the assistance of the Office of the Attorney General.

- Holy Trinity School, Wallingford, CT

Based upon an audit conducted by the DPH, the LEA was found to be in violation of AHERA and the corresponding state regulation. These violations included, but were not limited to, failure to ensure that response actions and maintenance activities were designed and performed by persons properly accredited/licensed, failure to notify short-term workers about the location of ACBM, failure to train maintenance and custodial personnel within sixty (60) days of employment, failure to post warning signs in routine maintenance areas, and failure to select and implement in a timely manner an appropriate response action to protect human health and the environment.

This Consent Order included a civil penalty of \$14,000, of which \$3,000 was used by the LEA for costs associated with updating the asbestos management plan.

- Regional School District No. 5, Serving Woodbridge, Orange and Bethany, CT

Based upon an audit conducted by the DPH, the LEA was found to be in violation of provisions of AHERA and the corresponding state regulation. These violations included, but were not limited to, failure to have a “designated person”, failure to conduct a reinspection every 3 years, failure to notify in writing parent teacher and employee organizations regarding the availability of the AMP, failure to conduct periodic surveillance, failure to maintain records associated with response actions, and failure to implement an O & M program.

This Consent Order included a civil penalty of \$22,000, of which \$3,000 was paid to an asbestos consulting firm to perform activities related to the updating of the AMP.

- New Haven Hebrew Day School, Orange CT

Based upon an audit conducted by the DPH, the LEA was found to be in violation of provisions of AHERA and the corresponding state regulation. These violations included, but were not limited to, failure to make AMP available during normal business hours without cost or restriction, failure to maintain the AMP to keep it current with recordkeeping associated with O&M, periodic surveillance, inspection, reinspection and response action activities, failure to provide documentation within 30 days of a reinspection, failure to designate and train a person to ensure all regulatory requirements are properly implemented, failure to conduct periodic surveillance in each building that it leases, owns or otherwise uses as a school building at least once every six (6) months after the school AMP is in effect, failure to notify in writing parents, teachers and employee organizations of the availability of the AMP, and failure to train all members of its maintenance and custodial staff within sixty (60) days of employment.

This Consent Order included a civil penalty of \$5,500.

- Ledyard Public Schools, Ledyard, CT

Based upon an audit conducted by the DPH, the LEA was found to be in violation of AHERA and the corresponding state regulation. The LEA had previously received three Notice of Noncompliance related to inspections conducted by the DPH. Violations related to the Consent Order, included, but were not limited to, failure to provide short-term workers with information regarding the location of ACBM, failure to post asbestos warning labels in routine maintenance areas; failure to select and implement in a timely manner an appropriate response action to protect human health and the environment, failure to train new custodial and maintenance personnel within sixty (60) days of employment, failure to maintain a copy of records for each periodic surveillance conducted; failure to maintain a copy of each three-year reinspection, and failure to maintain records related to response actions taken.

This Consent Order included a civil penalty of \$17,500, of which \$8,500 was paid to update the AMPs for the LEA. The remaining \$9,000 was forgiven following receipt of proof of an expenditure of \$400,000 associated with the removal of asbestos from the Ledyard Middle School.

- Brookfield Public Schools, Brookfield, CT

Based upon an audit conducted by the DPH, the LEA was found to be in violation of provisions of AHERA and the corresponding state regulation. These violations included, but were not limited to, failure to document training for custodial and maintenance personnel, failure to maintain records related to response actions, failure to ensure the posting or warning labels in routine maintenance areas, and failure to implement an O&M program in accordance with regulatory requirements.

This Consent Order included a civil penalty of \$14,000, and required follow-up action to address the violations noted, in accordance with an agreed upon schedule.

11. Has your State ever taken an emergency action against any local education agency for noncompliance with AHERA? If so, please describe these occasions and their outcomes.

**DPH Response:**

Yes. Between May and June of 2002, dust and air testing conducted in the Brookfield Public Schools revealed the presence of elevated levels of asbestos fibers. In response, Brookfield officials closed all Brookfield public elementary and secondary schools -- Brookfield High School, Whisconier Middle School, Huckleberry Hill Elementary School and Center Elementary School -- approximately two weeks before the 2001-02 school year was scheduled to end. Brookfield officials developed a plan designed to ensure that the asbestos decontamination would be completed by the start of the 2002-03 school year. In 2002, Attorney General Richard Blumenthal, together with the Governor and the Secretary of the Office of Policy and Management composing a special state board established pursuant to Connecticut General Statutes § 7-379, certified that the situation in Brookfield constituted an unusual and serious condition endangering public health and welfare and requiring the immediate expenditure of public funds by the town. This finding allowed the town of Brookfield to obtain local bond funding to proceed with its remediation plan. As a result, during the summer of 2002, Brookfield spent approximately \$4.2 million to remediate the asbestos in its school buildings. The Brookfield school district performed a comprehensive cleaning of all of its school buildings, in addition to recarpeting and reupholstering the chairs in the auditorium of Brookfield High School. (Reference: Investigative Report of the Attorney General, February 10, 2004, Richard Blumenthal, Attorney General)

12. How many complaints or informant tips about alleged AHERA violations has your state received from parents, teachers, students, janitorial staff, etc. each year since AHERA became law in 1986?

**DPH Response:**

The DPH does not have data available related to the number of complaints, or informant tips received from parents, teachers, students, janitorial staff, etc. since AHERA became law in 1986. Please note the following number of complaints and tips received for the specified time periods.

6 complaints received between June 1, 2010 and May 31, 2012

10 complaints received between June 1, 2012 and May 31, 2014

3 complaints received between June 1, 2014 and April 20, 2015

See Table 1 found within the response to question 7 for additional data.

***Asbestos Abatement Status***

13. Of the local education agencies known to have or have had buildings with asbestos material, how many local education agencies have completed full abatement of the asbestos hazards? By “full abatement” we mean full removal of the asbestos hazards and not management in place through encapsulation, enclosure, or other means.
- a. Please provide a list of local education agencies that have completed full abatement and the date upon which the abatement was completed.
  - b. Please provide a list of those local education agencies that have *not* fully abated asbestos hazards and the number of school buildings in each that continue to harbor asbestos-containing materials.

**DPH Response:**

The DPH does not track information identifying those LEAs that have completed full abatement.

As noted previously, LEAs are required to submit a prescribed form to the DPH, which documents the performance of the three-year reinspection of the school building. Based upon a review the data available related to the performance of three-year reinspections, the DPH estimates that ACBM remain present in 1,547 school buildings within Connecticut.

***Asbestos Accreditation, Training, and Licensure***

14. Did your State adopt EPA’s Model Accreditation Plan (i.e. the EPA’s template establishing definitions, training, examinations, continuing education, qualifications, recordkeeping, deaccreditation, reciprocity, and electronic reporting as set forth in 40 C.F.R 763, Subpart E, App.C) to ensure that contractors, inspectors, and other professionals are adequately trained to handle asbestos-containing materials safely? (If not, please describe the differences of your State’s accreditation plan as compared to EPA’s.)

**DPH Response:**

Yes. The State of Connecticut implemented regulations in 1994 that address licensing and training requirements for persons engaged in asbestos abatement and the provision of asbestos consultation services (Section 20-440-1 to Section 20-440-9, inclusive, and Section 20-441-1 of the RCSA). These regulations, administered by the DPH, establish requirements for the licensing of asbestos abatement contractors and asbestos consultants (inspectors, management planners,

project designers, and project monitors). Additionally, these regulations establish requirements for the certification of asbestos abatement site supervisors and asbestos abatement workers.

The regulations are consistent with the provisions of EPA's Model Accreditation Plan and include provisions for training, examinations, continuing education, qualifications, recordkeeping, de-accreditation, and reciprocity. The reciprocity provisions may apply solely to the training or accreditation that is received by the individual. The DPH will not recognize the license issued by another state; individuals providing asbestos consultation services or performing asbestos abatement must be licensed/certified by the State of Connecticut.

15. How does your state verify that professionals conducting asbestos-related work (such as building inspections, abatement projects, etc.) are properly accredited?

**DPH Response:**

As noted, the DPH has implemented a licensure program for asbestos contractors and asbestos consultants and for certification of asbestos abatement site supervisors and asbestos abatement workers. The DPH Environmental Practitioner Licensing Unit (EPLU) is responsible for the review and approval of initial license and certification applications, including the submission of documentation related to training, and work experience and education, as required, for each discipline. The DPH EPLU is also responsible for approval of asbestos training providers that offer training required for each discipline.

The DPH maintains licensing and certification information in the e-Licensure system, which is updated on a daily basis, and is used to verify the current license and certification status of each individual (consultant, site supervisor and abatement worker) and company (asbestos contractor). The e-Licensure system is available via the DPH web site to verify that individuals and companies are properly licensed or certified.

The following is a summary of the number of licensed companies and individuals:

Asbestos Abatement Professionals

- Asbestos Contractors - 221
- Asbestos Abatement Supervisors – 1,110
- Asbestos Abatement Workers – 1,278

Asbestos Consulting Professionals

- Inspectors - 229
- Management Planners - 81
- Project Designers - 101
- Project Monitors - 193

16. In addition to AHERA requirements for accreditation of contractors and laboratories, does your State require any professionals to be licensed to perform asbestos-related work? If so, please describe the requirements for licensure, penalties for doing asbestos-related work with a license, and disciplinary procedures for not performing asbestos-related work in conformity with the professional standards in your State. Provide appropriate citations to State statutes when applicable.

**DPH Response:**

As noted, the DPH licenses asbestos consultants (individuals) with certification available in the inspector, management planner, project designer and project monitor disciplines. Specific qualifications for each consulting discipline are detailed in Section 20-440-3 of the RCSA. These qualifications include educational requirements (bachelor's or associates degree), work experience, and successful completion of initial and refresher training courses.

The DPH requires that as a condition of licensure, asbestos contractors must employ asbestos abatement site supervisors and asbestos abatement workers who are certified by the DPH.

The following is a summary of the citations associated with enforcement of AHERA and corresponding State statutes (and regulations) within Connecticut:

- **Connecticut General Statute Sec. 19a-332d. Criminal penalties.** Any person who knowingly violates any provision of sections 19a-332 to 19a-332c, inclusive, section 19a-333 or sections 20-435 to 20-439, inclusive, shall be fined not more than five thousand dollars, or imprisoned for not more than one year or both. Each day's failure to comply with such provisions shall constitute a separate violation. Failure to comply with respect to a single facility or school building shall constitute a separate violation.
- **Connecticut General Statute Sec. 19a-332e. Civil penalties. Regulations.** (a) If, upon review, investigation or inspection, the Commissioner of Public Health determines that any person has violated any provision of sections 19a-332 to 19a-332c, inclusive, 19a-333 and 20-435 to 20-439, inclusive, or any regulations adopted thereunder, he may impose a civil penalty not to exceed five thousand dollars upon a local education agency and not to exceed twenty-five thousand dollars upon any one person. Governmental

immunity shall not be a defense to any civil penalty imposed pursuant to this section. The commissioner shall adopt regulations, in accordance with the provisions of chapter 54, establishing a schedule or schedules of the amounts, or the ranges of amounts, of civil penalties which may be imposed under this section. (See Section 19-332e of the Regulation of Connecticut State Agencies for a detailed penalty schedule)

- **Connecticut General Statute Sec. 19a-332c. Inspections. Orders issued by commissioner. Court order.** This statute authorizes the Commissioner of the DPH to issue an order to cease activity and to require corrective action. The statute also contains a provision that authorizes the Commissioner to request the Attorney General to make an application to the appropriate court for an order enjoining acts or practices which constitute, or will constitute a violation or an order directing compliance.
- **Connecticut General Statute Sec. 19a-14. (Formerly Sec. 19-4o). Powers of department concerning regulated professions.** This statute authorizes the DPH to regulate licensed asbestos contractors and licensed asbestos consultants, and certified asbestos abatement site supervisors and certified asbestos abatement workers.
- **Connecticut General Statute Sec. 19a-17. (Formerly Sec. 19-4s). Disciplinary action by department, boards and commissions.** This statute authorizes the DPH to take actions against a licensed asbestos contractor, a licensed asbestos consultant, and a certified asbestos abatement site supervisor or an asbestos abatement worker. The following actions can be taken against a practitioner's license: revocation, suspension, censure, reprimand, or designation of a probationary status. The DPH is also authorized to assess a civil penalty of up to \$25,000.

***Asbestos Notification to Parents, Teachers, and Staff***

17. Does your State have a template notification letter used by local education agencies to provide parents, teachers, and staff annual notifications about asbestos management plans? If so, please provide a copy.

**DPH Response:**

Yes. However, the DPH does not prescribe the use of a specific notification letter by LEAs to provide to parents, teachers, and staff related to annual notifications about AMPs. A copy of a template notification letter is provided if the LEA requests it (See Appendix H).

18. How many local education agencies have provided annual notifications to parents, teachers, and staff each year since 2010?
- a. Please provide a list of the local education agencies that have provided annual notifications letters to parents, teachers, and staff each year since 2010.
  - b. Please provide a list of the local education agencies that have *not* provided annual notification letters to parents, teachers, and staff each year since 2010.



**DPH Response:**

The DPH does not maintain a database listing the LEAs that have provided annual notification letters to parents, teachers, and staff each year since 2010.

The DPH does not maintain a database of listing all LEAs that have *not* provided annual notification letters to parents, teachers, and staff each year since 2010.

Neither AHERA nor the DPH regulation requires that the LEAs provide documentation that such annual notifications were provided to parent, teacher, and employee organizations. The DPH evaluates compliance with the AHERA and the state regulatory requirement during compliance inspections that it conducts. Please note the following compliance data for the specified periods of time.

10/01/10 – 05/31/12 – 62 LEAs inspected, 32 Notification violations

06/01/12 – 05/31/14 – 66 LEAs inspected, 32 Notification violations

06/01/14 – 04/01/15 – 23 LEAs inspected, 17 Notification violations

See Table 1 in the response to question 7 for additional data.

It should be noted that in auditing school management plans, the DPH seeks to identify a copy of the annual notification for each year since the last audit conducted by the agency, and not just the current school year.

***Reporting to EPA***

19. What information related to AHERA and asbestos hazards in schools does your State report to the EPA? How frequently is this reporting occurring?

**DPH Response:**

Connecticut is required to report information related to AHERA and asbestos hazards in schools as a condition of grant funding. See response to Question #20.

20. Does your State receive grant funding to assist in the enforcement of AHERA (e.g. funding to conduct inspections)? If so, describe the funding amount, funding period, and reporting requirements.

**DPH Response:**

Yes. The State of Connecticut receives grant funding in the enforcement of AHERA. The current EPA grant, covering the time period of June 1, 2014 to May 31, 2016, totals \$216,000 (\$108,000 per grant year). The level of EPA funding has remained essentially unchanged for a number of years. Given existing personnel costs, this grant will serve to cover the personnel costs for 0.97 full-time equivalents.

As a condition of grant funding, the DPH is required to provide the EPA with a mid-grant (year 1) report and a final grant report, which details accomplishments related to the grant work plan.

EPA requires reporting on a quarterly basis of the number of inspections conducted, number of enforcement actions taken, number of charter schools inspected, number of schools subject to the Environmental Justice Area Geographical Inspections (EJAGI) conducted, number of inspections of public employee asbestos activities (complaints), and number of school children attending institutions reached through general toxic fibers education and outreach activities

**DELETED OR POSSIBLE REFERENCE**

Deleted from question 1. [The following information was derived from data provided by the Connecticut Department of Education (DOE). It includes enrollment data for all public/private and charter schools reported in the 2014-2015 Education Statistics State Register.

- Total enrollment (public schools only) – 545,614
- Special Education Schools are listed as Non-Publics and not in the Public School Count.

Specific enrollment data pertaining to the public schools can be found on the following website

<http://www.sde.ct.gov/sde/cwp/view.asp?a=2758&q=334898>

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## United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6124

RYAN JACKSON, MAJORITY STAFF DIRECTOR  
BETINA NIEBER, DEMOCRATIC STAFF DIRECTOR

March 31, 2015

The Honorable Governor Dannel P. Malloy  
210 Capitol Avenue  
Hartford, CT 06106

Dear Governor Malloy,

In 1986 Congress enacted the Asbestos Hazard Emergency Response Act (AHERA) to protect students, teachers, and other employees from the dangers of asbestos hazards in school buildings. As implementation of this law approaches the twenty year mark, the extent of asbestos hazards remaining in schools across the nation is largely unknown. We think it is an appropriate time to assess how the law is being implemented in each state and whether any legislative or other reforms are needed.

Please answer the following questions by May 15, 2015 as they relate to AHERA implementation in Connecticut.

### *Scope of Asbestos Hazards in Schools*

1. How many local education agencies in your state are subject to AHERA? Please provide a list of the local education agencies subject to AHERA and identify the number of school buildings in each.
2. How many local education agencies in your state have conducted an initial asbestos inspection of all buildings owned, leased, or used as school buildings as required by AHERA?
3. How many local education agencies in your state have been identified as having school buildings that harbor asbestos-containing materials? Please provide a list of those local education agencies and provide the number of school buildings in each that have been identified as harboring asbestos-containing building materials.

### *Awareness and Monitoring of Asbestos Hazards in Schools*

4. How frequently do local education agencies report AHERA compliance information to the State?
5. How many local education agencies in your state have prepared and submitted asbestos operation and management (O&M) plans as required by AHERA regulations (40 C.F.R. §763.91)?
6. How many local education agencies in your state have prepared and submitted asbestos management plans as required by AHERA regulations (40 C.F.R. §763.93)?
7. How many local education agencies in your state have conducted the periodic inspections as required by AHERA regulations? Please provide a list of those local education agencies and the number of school buildings in each for which periodic inspections have not been conducted.
8. How often does your State conduct inspections and/or audits of each local education agency for their compliance with AHERA? Please provide the dates of state inspections and/or audits since 2010.
9. For each of the past five (5) years, what were the annual costs of your State's implementation and enforcement of AHERA?

10. Have any local education agencies in your state been issued penalties for noncompliance with AHERA? If so, please describe these occasions.
11. Has your State ever taken an emergency action against any local education agencies for noncompliance with AHERA? If so, please describe these occasions and their outcomes.
12. How many complaints or informant tips about alleged AHERA violations has your state received from parents, teachers, students, janitorial staff, etc. each year since AHERA became law in 1986?

#### *Asbestos Abatement Status*

13. Of the local education agencies known to have or have had buildings with asbestos-containing material, how many local education agencies have completed full abatement of the asbestos hazards? By "full abatement" we mean full removal of the asbestos hazards and not management in place through encapsulation, enclosure, or other means.
  - a. Please provide a list of the local education agencies that have completed full abatement and the date upon which the abatement was completed.
  - b. Please provide a list of those local education agencies that have *not* fully abated known asbestos hazards and the number of school buildings in each that continue to harbor asbestos-containing materials.

#### *Asbestos Accreditation, Training, and Licensure*

14. Did your State adopt the EPA's Model Accreditation Plan (*i.e.*, the EPA's template establishing definitions, training, examinations, continuing education, qualifications, recordkeeping, deaccreditation, reciprocity, and electronic reporting as set forth in 40 C.F.R. Pt. 763, SubPt. E, App. C) to ensure contractors, inspectors, and other professionals are adequately trained to handle asbestos-containing materials safely? If not, please describe the differences of your State's accreditation plan as compared with EPA's.
15. How does your State verify that professionals conducting asbestos-related work (such as building inspections, abatement projects, etc.) are properly accredited?
16. In addition to AHERA requirements for accreditation of contractors and laboratories, does your State require any professionals to be licensed to perform asbestos-related work? If so, please describe the requirements for licensure, penalties for doing asbestos-related work without a license, and disciplinary procedures for not performing asbestos-related work in conformity with professional standards in your State. Provide appropriate citations to State statutes when applicable.

#### *Asbestos Notifications to Parents, Teachers, and Staff*

17. Does your State have a template notification letter for use by local education agencies to provide parents, teachers, and staff annual notifications about asbestos management plans? If so, please provide a copy.
18. How many local education agencies have provided annual notification letters to parents, teachers, and staff each year since 2010?
  - a. Please provide a list of the local education agencies that have provided annual notification letters to parents, teachers, and staff each year since 2010.
  - b. Please provide a list of the local education agencies that have *not* provided annual notification letters to parents, teachers, and staff each year since 2010.

#### *Reporting to EPA*

19. What information related to AHERA and asbestos hazards in schools does your State report to the EPA? How frequently does this reporting occur?

20. Does your State receive grant funding to assist in the enforcement of AHERA (e.g. funding to conduct inspections)? If so, please describe the funding amount, funding period, and reporting requirements.

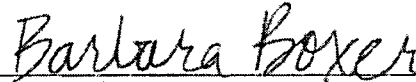
Thank you very much for your consideration of this matter. If you have any questions, please contact Dr. Jennifer Wagner or Dr. Michal Freedhoff at 202-224-2742.

Sincerely,

Handwritten signature of Edward J. Markey in cursive script.

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Edward J. Markey, Ranking Member  
Subcommittee on Superfund, Waste  
Management, and Regulatory Oversight

Handwritten signature of Barbara Boxer in cursive script.

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Barbara Boxer, Ranking Member  
Committee on Environment and Public  
Works

## **Murray, Sue**

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**From:** Jensen, Dana  
**Sent:** Thursday, April 23, 2015 1:21 PM  
**To:** Murray, Sue; Foreman, Rebecca  
**Subject:** RE: Asbestos Letter - Due April 23 - to Connecticut Governor

Great. Thanks.

*Dana Jensen (Formerly Sitler)*

Executive Secretary to the Commissioner  
Department of Public Health  
410 Capitol Avenue  
Hartford, CT 06106  
860-509-7101 (Tel)  
860-509-7111 (Fax)  
New e-mail address:  
**dana.jensen@ct.gov**

**From:** Murray, Sue  
**Sent:** Thursday, April 23, 2015 1:20 PM  
**To:** Foreman, Rebecca; Jensen, Dana  
**Subject:** Asbestos Letter - Due April 23 - to Connecticut Governor

Hi Rebecca and Dana,

Just letting you know I reminded Suzanne this morning that this is due today. She said Ron Skomro is getting it ready for Ellen's review.

**From:** Foreman, Rebecca  
**Sent:** Wednesday, April 01, 2015 9:30 AM  
**To:** Blaschinski, Ellen; Blancaflor, Suzanne  
**Cc:** Murray, Sue; Sitler, Dana; Lewis, Katharine K  
**Subject:** FW: Letter to Connecticut Governor

Hi,

Could you please draft a response to the attached letter for Dr. Mullen's review. Please forward the draft response to Dana Sitler by April 10<sup>th</sup>.

Thank you.

Rebecca Foreman

**From:** Mullen, Jewel  
**Sent:** Wednesday, April 01, 2015 9:18 AM  
**To:** Foreman, Rebecca  
**Cc:** Sitler, Dana; Lewis, Katharine K  
**Subject:** FW: Letter to Connecticut Governor

Hi

Would you forward this to Suzanne and Ellen and ask that they draft a response? thanks

Jewel Mullen, MD, MPH, MPA

Commissioner

Connecticut Department of Public Health

410 Capitol Avenue MS# 13 COM

P.O. Box 340308

Hartford, CT 06134-0308

Phone: 860-509-7101

Fax: 860-509-7111

[Jewel.mullen@ct.gov](mailto:Jewel.mullen@ct.gov)

**From:** DeSimone, Dan

**Sent:** Tuesday, March 31, 2015 4:10 PM

**To:** Mullen, Jewel

**Subject:** FW: Letter to Connecticut Governor

Hi jewel – please see below and attached from Senators Markey and Boxer, concerning implementation of the asbestos hazard emergency response act (AHERA) of 1986 which is focused on asbestos abatement in schools. Per the email, they cite Kristen Day or Suzanne Blancaflor at DPH as our subject matter experts on this. Is that the case, or does SDE or DEEP have jurisdiction?

Thanks,

Dan

Dan DeSimone

Director – Washington, DC Office

State of Connecticut, Office of Governor Dannel P. Malloy

444 N. Capitol St., NW Suite 317

Washington, DC 20001

(o) 202-403-8654

**Connecticut**  
*still revolutionary*



**From:** Wagner, Jen (Markey) [[mailto:Jen\\_Wagner@markey.senate.gov](mailto:Jen_Wagner@markey.senate.gov)]

**Sent:** Tuesday, March 31, 2015 10:42 AM

**To:** DeSimone, Dan

**Subject:** Letter to Connecticut Governor

Dan,  
My boss, Senator Markey, and Senator Boxer are sending each of the 50 state governors a letter to inquire about how the asbestos hazard emergency response act (AHERA) of 1986 is being implemented in each state. Attached is the letter intended for Governor Malloy. If it helps you assist the governor in directing this letter appropriately, it is my understanding that the subject matter person in Connecticut might be Kristen Day or Suzanne Blancaflor. If you have any questions, please don't hesitate to contact me.

Kind regards,  
Jen Wagner

Jennifer K. Wagner, J.D., Ph.D.  
AAAS Congressional Fellow  
Office of Senator Edward J. Markey  
218 Russell Senate Office Building  
Washington, DC 20510  
202-224-2742