

**From:** Skomro, Ronald  
**Sent:** Monday, July 13, 2015 3:50 PM  
**To:** 'Jamie Roche'  
**Cc:** Bunnell, Ross; Sullivan, Kevin T; Isner, Robert; McKeegan, David  
**Subject:** Guidance Regarding Abandonment of Below Grade Asbestos-Containing Material

Dear Mr. Roche:

This correspondence is provided in response to your May 4, 2015 e-mail (below) concerning the proposed abandonment of asbestos-containing material (ACM) and ACM associated with underground building systems.

Please note the following:

Section 19a-332 of the Connecticut General Statutes (C.G.S.) includes the following definition for asbestos abatement:

(2) "Asbestos abatement" means the removal, encapsulation, enclosure, renovation, repair, demolition or other disturbance of asbestos-containing materials, but does not include activities which are related to (A) the removal or repair of asbestos cement pipe and are performed by employees of a water company as defined in section 25-32a, or (B) the removal of nonfriable asbestos-containing material found exterior to a building or structure other than material defined as regulated asbestos-containing material in 40 CFR 61, the National Emission Standards for Hazardous Air Pollutants, as amended from time to time;"

As a point of clarification, Department of Public Health (DPH) asbestos regulations will apply to the abatement of exterior ACM if the material is friable or if the material is a regulated asbestos-containing material (RACM) as defined by the National Emission Standards for Hazardous Air Pollutants. For such exterior ACM, the asbestos contractor and/or facility owner is required to notify the DPH of asbestos abatement involving more than ten (10) linear feet or more than twenty-five (25) square feet of ACM, in accordance with the provisions of Section 19a-332a-3 of the Regulations of Connecticut State Agencies (RCSA). Additionally, asbestos abatement involving more than three (3) linear feet of ACM or more than three (3) square feet of ACM must be performed by a licensed asbestos contractor, in accordance with the provisions of Section 20-440-1 to Section 20-440-9, and Section 20-441 of the RCSA.

Your correspondence describes a scenario in which all asbestos-containing building materials (ACBM) located above grade within a facility have been abated. Assuming that the remaining slab or basement will not be reused, you requested comment on any remaining at or below grade asbestos-containing materials (ACMs), which does not include ACMs in soil but does include ACMs such as weatherproofing tars on foundation walls, tunnels or trenches with tar (including mesh or flashing between two concrete slabs).

The DPH Asbestos regulations as related to the demolition of a facility would require the abatement of all ACMs (friable and non-friable materials) found interior to the facility, including, but not limited to, those materials that are found on the surface of the slab and/or in the basement of the facility. ACMs found exterior to the facility, including friable ACM and non-friable materials that would become regulated asbestos-containing material (RACM), as defined by the asbestos National Emission Standards for Hazardous Air Pollutants (NESHAP), as a result of the methods to be used during demolition of the facility, must also be abated (removed) prior to demolition.

Non-friable ACM, which is located exterior to the facility, and that will not become a RACM as defined by the asbestos NESHAP, does not necessarily need to be removed prior to demolition of the facility. However, if such material is left on the building during demolition, it must be segregated from construction debris and must be disposed of as asbestos waste at an authorized waste disposal facility. If such segregation cannot effectively occur, all comingled waste must be disposed of as asbestos waste at an authorized waste disposal facility.

DPH regulations do not mandate the removal of non-friable ACM found below grade (e.g. weather or damp proofing tar that would require excavation of the foundation in order to access the material), or ACM that is encased within layers of the remaining concrete slab.

Regarding ACM pipes, the DPH has considered insulated pipes in tunnels that can be accessed from within a facility to be subject to DPH regulation. In general, these materials are abated in advance of the demolition of the associated facility/facilities. However, DPH regulations do not prohibit the abandonment in place of the ACM pipes found in pipe tunnels.

Similarly, DPH regulations do not prohibit the abandonment of buried ACM pipes or pipes located in trenches, which are not accessible from within a facility. However, if such materials are to be abated, the DPH must be notified, as required by Section 19a-332a-3 of the RCSA. Further, the abatement must be performed by a licensed asbestos abatement contractor utilizing DPH certified/licensed individuals.

The presence of any abandoned ACM must be taken into consideration prior to conducting any activities performed in the future that may result in disturbance of the material. The facility owner should consider placing information regarding the presence of abandoned ACM on the land records for the property, or on other documents available to the public, in order to prevent uncontrolled disturbance to the material in the future, and at a minimum should provide written notice to the DPH, the CT Department of Energy and Environmental Protection (“DEEP”), Waste Engineering & Enforcement Division (“WEED”), and local building and public health officials detailing the circumstance and location of any abandoned ACM.

The DPH Asbestos Program has also shared your May 4, 2015 e-mail with the DEEP/WEED. The DEEP/WEED is responsible for administering Connecticut’s waste management statutes and regulations, including those associated with the disposal of ACM. While the DEEP/WEED noted that its interpretation of the kinds of scenarios that you presented often would be dependent on the specific fact pattern associated with each particular site, it is willing to provide the following general guidance:

- In the scenario in which exposed, accessible basement walls and/or slab are to be left in place with waterproofing tars with ACM on the exterior of the basement walls and/or in mesh or flashing between layers of the slab, DEEP/WEED believes that this activity constitutes disposal of solid waste and the use of the basement walls and/or slab materials as fill. This presents problems for two reasons. Firstly, Connecticut’s Solid Waste Management Regulations (RCSA Sections 22a-209-1 through 209-17) prohibit the use of solid waste as fill unless it meets the definition of “clean fill” in RCSA Section 22a-209-1, which reads as follows:

“Clean fill” means natural soil, rock, brick, ceramics, concrete, and asphalt paving fragments which are virtually inert and pose neither a pollution threat to ground or surface waters nor a fire hazard.

The presence of ACM (and possibly also asphaltic sealants) on or in the concrete do not make it possible for the basement walls and/or slab to be considered “clean fill.”

Secondly, Connecticut General Statutes Section 22a-252 prohibits the disposal of more than one cubic foot of ACM except at a solid waste facility which has been granted a permit pursuant to CGS Section 22a-208a, and which has been authorized by DEEP as a solid waste disposal site for asbestos.

- In your scenario concerning underground tunnels or trenches that contain waterproofing tars with ACM, DEEP/WEED would have a different interpretation depending on whether the tunnels/trenches are accessible and exposed as opposed to those in which they are inaccessible and unexposed. More specifically, in the former scenario, DEEP/WEED’s interpretation would be the same as the prior bullet for basement walls/slabs. That is, DEEP/WEED would consider abandonment in place to constitute disposal, in violation of applicable statutes and regulations. On the other

hand, if the tunnels/trenches are inaccessible and unexposed, DEEP/WEED does not believe that there is a conscious intent to dispose of these materials, and would not pursue enforcement for their being left in place. However, at such time that the tunnels/trenches are excavated or exposed, DEEP/WEED would expect them to be properly disposed of. In addition, DEEP/WEED strongly agrees with DPH that any such tunnels/trenches left in place should be carefully documented for future reference. In particular, DEEP/WEED strongly encourages property owners to record this information on the deed for the property.

- In your scenario concerning the abandonment in place of underground services (e.g., steam, water, or electrical utilities) which contain ACM, DEEP/WEED's interpretation would be the same as described above for underground tunnels/trenches. That is, if the underground services are accessible and exposed, DEEP/WEED's interpretation would be that they should be removed and properly disposed. However, if the underground services are inaccessible and unexposed, DEEP/WEED would not require their removal, and they may be abandoned in place. However, as noted above for the tunnels/trenches, DEEP/WEED strongly suggests that any such services that are left in place should be documented for future reference, preferably on the land records.

Given the variability of potential scenarios, you are encouraged to contact the DPH Asbestos Program and/or the DEEP/WEED should you have any questions related to the guidance provided as it applies to a specific fact pattern associated with a particular site.

Please contact me should you wish to further discuss this matter.

Sincerely,

Ronald Skomro  
Supervising Environmental Analyst  
CT DPH Asbestos Program  
(860) 509-7367

---

**From:** Jamie Roche [<mailto:jaroche@loureiro.com>]  
**Sent:** Monday, May 04, 2015 12:00 PM  
**To:** Skomro, Ronald  
**Subject:** Below Grade ACMs

Not sure if the Department has any guidance on this subject. I recognize the Standards do not apply to exterior non-friables but just asking to cover all possibilities.

Following the abatement of all above grade or typical building materials, the building is often demolished to slab or to the basement. Assuming the remaining slab or basement will not be reused, I would like to provide the correct advice to a client for any remaining at or below grade ACMs.

This is not ACMs in soil but identified (>1%) in foundation wall weatherproofing tars, tunnels or trenches with tars.

Additionally some slabs have a mesh or flashing between two concrete slab layers.

We are also interested in guidance on abandonment in place of underground services which have or are likely to have ACMs such as asphalt wraps on pipes, transite pipes, and pipes with asbestos insulation.

I have spoken with the CT DEEP and there are no known regs requiring the excavation & abatement of systems containing ACMs that are at or below grade.

Can you comment on these subjects.

Thanks

Jamie Roche

Director, Environmental Services

Loureiro Engineering Associates, Inc

An Employee Owned Company

100 Northwest Drive

Plainville, CT 06062

Direct: 860-410-2945

Cell: 860-384-9688

Fax 860-747-8822

[jaroche@Loureiro.com](mailto:jaroche@Loureiro.com)

Visit us on the web: [www.loureiro.com](http://www.loureiro.com)

Visit us on the web: [www.loureiroengineering.com](http://www.loureiroengineering.com)

This message contains PRIVILEGED and CONFIDENTIAL INFORMATION intended solely for the use of the addressee(s) named above. Loureiro Engineering Associates, Inc. (LEA) is not responsible for the data or any computational programming contained herein. LEA's responsibility extends solely to original "Hard Copy" mapping and documents prepared by LEA. Any disclosure, distribution, copying or use of the information by others is strictly prohibited. If you have received this message in error, please notify the sender by immediate reply and permanently delete the original message.