

DEPARTMENT OF HEALTH

Adoption of Chapter 11-502
Hawaii Administrative Rules

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SUMMARY

Chapter 11-502, Hawaii Administrative Rules,
entitled "Asbestos-Containing Materials in Schools," is
adopted.

HAWAII ADMINISTRATIVE RULES

TITLE 11

DEPARTMENT OF HEALTH

CHAPTER 502

ASBESTOS-CONTAINING MATERIALS IN SCHOOLS

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§11-502-1 Scope and purpose. (a) This chapter requires the local education agencies to identify friable and nonfriable asbestos-containing material in public and private elementary and secondary schools by visually inspecting school buildings for such materials, sampling such materials if they are not assumed to be asbestos-containing material, and having samples analyzed by appropriate techniques referred to in this chapter. This chapter also includes record keeping requirements, including the development of an asbestos management plan. This chapter requires the use of persons who have been certified to conduct

inspections, reinspections, develop management plans, or perform response actions as required in chapter 11-504. Local education agencies may contractually delegate duties mandated pursuant to this chapter, but each remains responsible for the proper performance of those duties. The local education agencies are encouraged to consult with EPA Regional Asbestos Coordinators or the department of health for assistance in complying with these rules.

(b) Local education agencies shall provide for the transportation and disposal of asbestos in accordance with 40 CFR Part 763, subpart E, appendix D, entitled "Transport and Disposal of Asbestos Waste." There are federal regulations in place, however, that affect transportation and disposal of asbestos waste generated through compliance with these rules. The transportation of asbestos waste is covered by the department of transportation (49 CFR Part 173, subpart J), and disposal is covered by state asbestos requirements in accordance with chapter 11-501 [Eff _____] (Auth: HRS §321-11(26)) (Imp: 40 CFR Part 763.80)

§11-502-2 Definitions. As used in this chapter:

"Accessible" when referring to ACM means that the material is subject to disturbance by school building occupants or custodial or maintenance personnel in the course of their normal activities.

"ACBM" means asbestos-containing building materials.

"ACM" means asbestos-containing material.

"AIHA" means the American Industrial Hygiene Association.

"Air erosion" means the passage of air over friable ACBM which may result in the release of asbestos fibers.

"Asbestos" means the asbestiform varieties of: chrysotile (serpentine); crocidolite (riebeckite); amosite (cummingtonite-grunerite); anthophyllite; tremolite; and actinolite.

"Asbestos-containing building material" means surfacing ACM, thermal system insulation ACM, or miscellaneous ACM that is found in or on interior structural members or other parts of a school building which can include sheetrock, drywall, plaster, mastic, ceiling tiles, floor tiles, sheet linoleum, baseboards, and joint compound.

"Asbestos-containing material" when referring to school buildings means any material or product which contains more than one per cent asbestos.

"Asbestos debris" means pieces of ACBM that can be identified by color, texture, or composition, or means dust if the dust is determined by a certified inspector to be ACM.

"Certified" or "certification" when referring to a person means that the person is certified in accordance with chapter 11-504.

"Damaged friable miscellaneous ACM" means friable miscellaneous ACM which has deteriorated or sustained physical injury such that the internal structure (cohesion) of the material is inadequate or, if applicable, which has delaminated such that its bond to the substrate (adhesion) is inadequate or which for any other reason lacks fiber cohesion or adhesion qualities. Such damage or deterioration may be illustrated by the separation of ACM into layers; separation of ACM from the substrate; flaking, blistering, or crumbling of the ACM surface; water damage; significant or repeated water stains, scrapes, gouges, mars, or other signs of physical injury on the ACM. Asbestos debris originating from the ACBM in question may also indicate damage.

"Damaged friable surfacing ACM" means friable surfacing ACM which has deteriorated or sustained physical injury such that the internal structure (cohesion) of the material is inadequate or which has delaminated such that its bond to the substrate (adhesion) is inadequate, or which, for any other reason, lacks fiber cohesion or adhesion qualities. Such damage or deterioration may be illustrated by the separation of ACM into layers; separation of ACM from

the substrate; flaking, blistering, or crumbling of the ACM surface; water damage; significant or repeated water stains, scrapes, gouges, mars, or other signs of physical injury on the ACM. Asbestos debris originating from the ACBM in question may also indicate damage.

"Damaged or significantly damaged thermal system insulation ACM" means thermal system insulation ACM on pipes, boilers, tanks, ducts, and other thermal system insulation equipment where the insulation has lost its structural integrity, or its covering, in whole or in part, is crushed, water-stained, gouged, punctured, missing, or not intact such that it is not able to contain fibers. Damage may be further illustrated by occasional punctures, gouges, or other signs of physical injury to ACM; occasional water damage on the protective coverings or jackets; or exposed ACM ends or joints. Asbestos debris originating from the ACBM in question may also indicate damage.

"Department" means the department of health, state of Hawaii.

"Director" means the director of the department of health, state of Hawaii, or the director's duly authorized agent.

"Elementary school" means a day or residential school which provides elementary education.

"Encapsulation" means the treatment of ACBM with a material that surrounds or embeds asbestos fibers in an adhesive matrix to prevent the release of fibers, as the encapsulant creates a membrane over the surface (bridging encapsulant) or penetrates the material and binds its components together (penetrating encapsulant).

"Enclosure" means an airtight, impermeable, permanent barrier around ACBM to prevent the release of asbestos fibers into the air.

"EPA" means the United States Environmental Protection Agency.

"Fiber release episode" means any uncontrolled or unintentional disturbance of ACBM resulting in visible emission.

"Friable" means that the material, when dry, may be crumbled, pulverized, or reduced to powder by hand pressure, and includes previously nonfriable material after such previously nonfriable material becomes damaged to the extent that when dry it may be crumbled, pulverized, or reduced to powder by hand pressure.

"Functional space" means a room, group of rooms, or homogeneous area (including crawl spaces or the space between a dropped ceiling and the floor or roof deck above), such as classrooms, cafeterias, gymnasiums, or hallways, designated by a person certified to prepare management plans, design abatement projects, or conduct response actions.

"HEPA" means high-efficiency particulate air.

"High-efficiency particulate air" means a filtering system capable of trapping and retaining at least 99.97 per cent of all monodispersed particles 0.3 μm in diameter or larger.

"Homogeneous area" means an area of surfacing material, thermal system insulation material, or miscellaneous material that is uniform in color and texture, and which does not extend to other floors or buildings.

"Local education agency" means:

- (1) The board of education;
- (2) The owner or operator of any non-public, elementary, or secondary school building; and
- (3) The governing authority of any school operated under the defense dependent's education system provided for pursuant to the Defense Dependents' Education Act of 1978 (20 U.S.C. 921, et seq.).

"Major fiber release episode" means the falling or accidental dislodging of more than three square or linear feet of friable ACBM.

"Minor fiber release episode" means the falling or accidental dislodging of three square or linear feet or less of friable ACBM.

"Miscellaneous ACM" means miscellaneous material that is ACM in a school building.

"Miscellaneous material" means interior building material on structural components, structural members, or fixtures such as floor and ceiling tiles, and does not include surfacing material or thermal system insulation.

"NIST" means the National Institute of Science and Technology.

"NIOSH" means the National Institute for Occupational Safety and Health.

"Nonfriable" means material which when dry may not be crumbled, pulverized, or reduced to powder by hand pressure.

"NVLAP" means the National Voluntary Laboratory Accreditation Program administered by the National Institute of Science and Technology.

"Operations and maintenance program" means a program of work practices to maintain friable ACBM in good condition, ensure clean up of asbestos fibers previously released, and prevent further release by minimizing and controlling friable ACBM disturbance or damage.

"PLM" means polarized light microscopy.

"Potential damage" means circumstances in which:

- (1) Friable ACBM is in an area regularly used by building occupants, including maintenance personnel in the course of their normal activities; and
- (2) There are indications of a reasonable likelihood that the material or its covering will become damaged, deteriorated, or delaminated due to factors such as changes in building use, changes in operations and maintenance practices, changes in occupancy, or recurrent damage.

"Potential significant damage" means circumstances in which:

- (1) Friable ACBM is in an area regularly used by building occupants, including maintenance personnel, in the course of their normal activities;

- (2) There are indications of a reasonable likelihood that the material or its covering will become significantly damaged, deteriorated, or delaminated due to factors such as changes in building use, changes in operations and maintenance practices, changes in occupancy, or recurrent damage; and
- (3) The material is subject to major or continuing disturbance, due to factors including accessibility or, under certain circumstances, vibration or air erosion.

"Preventive measures" means actions taken to reduce disturbance of ACBM or otherwise eliminate the reasonable likelihood of the material's becoming damaged or significantly damaged.

"Removal" means the taking out or the stripping of substantially all ACBM from a damaged area, a functional space, or a homogeneous area in a school building.

"Repair" means returning damaged ACBM to an undamaged condition or to an intact state to prevent fiber release.

"Response action" means a method, including removal, encapsulation, enclosure, repair, operations, and maintenance that protects human health and the environment from friable asbestos.

"Routine maintenance area" means an area, such as a boiler room or mechanical room, that is not normally frequented by students and in which maintenance employees or contract workers regularly conduct maintenance activities.

"School" means any elementary or secondary school.

"School building" means:

- (1) Any structure suitable for use as a classroom, including a school facility such as a laboratory, library, school eating facility, or facility used for the preparation of food;
- (2) Any gymnasium or other facility which is specially designed for athletic or

- recreational activities for an academic course in physical education;
- (3) Any other facility used for the instruction or housing of students or for the administration of educational or research programs;
 - (4) Any maintenance, storage, or utility facility, including any hallway, essential to the operation of any facility described in paragraph (1), (2), or (3);
 - (5) Any portico or covered exterior hallway or walkway; and
 - (6) Any exterior portion of a mechanical system used to condition interior space.

"Secondary school" means a day or residential school which provides secondary education except that it does not include any education provided beyond grade twelve.

"Significantly damaged friable miscellaneous ACM" means damaged friable miscellaneous ACM where the damage is extensive and severe.

"Significantly damaged friable surfacing ACM" means damaged friable surfacing ACM in a functional space where the damage is extensive and severe.

"Small-scale, short duration" means activities that involve removal of three square or linear feet or less of friable material, such as surfacing or thermal system insulation, or 0.5 cubic feet or less of friable debris, and are tasks such as, but not limited to:

- (1) Removal of asbestos-containing insulation on pipes.
- (2) Removal of asbestos-containing insulation on beams or above ceilings.
- (3) Replacement of an asbestos-containing gasket on a valve.
- (4) Installation or removal of drywall.
- (5) Installation of electrical conduits through or proximate to asbestos-containing materials.

- (6) Removal of ACM only if required in the performance of another maintenance activity not intended as asbestos abatement.
- (7) Removal of asbestos-containing thermal system insulation.
- (8) Minor repairs to damaged thermal system insulation which do not require removal.
- (9) Repairs to a piece of asbestos-containing wallboard.
- (10) Repairs, involving encapsulation, enclosure, or removal of friable ACM only if required in the performance of emergency or routine maintenance activity and not intended solely as asbestos abatement.

"Surfacing ACM" means surfacing material that is ACM.

"Surfacing material" means material in a school building that is sprayed-on, troweled-on, or otherwise applied to surfaces, such as acoustical or decorative plaster on ceilings or walls, fireproofing materials on structural members, or other materials on surfaces for acoustical, decorative, fireproofing, or other purposes.

"Thermal system insulation" means material in a school building applied to pipes, fittings, boilers, breeching, tanks, ducts, or other interior structural components to prevent heat loss or gain, or water condensation, or for other purposes.

"Thermal system insulation ACM" means thermal system insulation that is ACM.

"Vibration" means the periodic motion of friable ACBM which may result in the release of asbestos fibers. [Eff _____] (Auth: HRS §321-11(26)) (Imp: 40 CFR Part 763.83)

§11-502-3 References. The following references contain detailed information on asbestos-related work practices that are applicable to sections 11-502-7, 11-502-9, 11-502-10, and 11-502-11:

- (1) 40 CFR Part 763 Subpart E, Appendix A, Interim Transmission Electron Microscopy Analytical Methods - Mandatory and Nonmandatory - and Mandatory Section to Determine Completion of Response Actions, October 30, 1987.
- (2) 40 CFR Part 763, Subpart E, Appendix B, Work Practices and Engineering Controls for Small-Scale, Short duration Operations, Maintenance and Repair (O&M) Activities Involving ACM, October 30, 1987.
- (3) 40 CFR Part 763, Subpart E, Appendix D, Transport and Disposal of Asbestos Waste, October 30, 1987.
- (4) 40 CFR Part 763, Subpart E, Appendix E, Interim Method of the Determination of Asbestos in Bulk Insulation Samples, May 27, 1982. [Eff _____] (Auth: HRS §342P-41) (Imp: 40 CFR Part 61)

§11-502-4 Local education agency responsibilities. (a) Each local education agency shall:

- (1) Ensure that the activities of any persons who perform inspections, reinspections, and periodic surveillance, develop and update management plans, and develop and implement response actions, including operations and maintenance, are carried out in accordance with this chapter;
- (2) Ensure that all custodial and maintenance employees are properly trained as required by this chapter and other applicable federal or state regulations;
- (3) Ensure that workers and building occupants or their legal guardians, are informed at least once each school year about inspections, response actions, and post-response action activities, including periodic reinspection

and surveillance activities that are planned or in progress;

- (4) Ensure that short-term workers (e.g., telephone repair workers, utility workers, or exterminators) who may come in contact with asbestos in a school are provided information regarding the locations of ACBM and suspected ACBM assumed to be ACM;
- (5) Ensure that warning labels are posted in accordance with section 11-502-14;
- (6) Ensure that management plans are available for inspection and notification of such availability has been provided as specified in the management plan, pursuant to section 11-502-12(g);
- (7) Designate a person to ensure that requirements of this chapter are properly implemented;
- (8) Ensure that the person designated under paragraph 7 receives adequate training to perform duties assigned pursuant to this chapter. Such training shall provide, as necessary, basic knowledge of:
 - (A) Health effects of asbestos;
 - (B) Detection, identification, and assessment of ACM;
 - (C) Options for controlling ACBM;
 - (D) Asbestos management programs; and
 - (E) Relevant federal and state regulations concerning asbestos, including those in this chapter and those of the Occupational Safety and Health Administration, U.S. department of Labor, the U.S. department of Transportation and the EPA; and
- (9) Consider whether any conflict of interest may arise from the interrelationship among certified personnel and whether that should influence the selection of certified personnel to perform activities pursuant to

this chapter. [Eff] (Auth:
HRS §321-11(26)) (Imp: 40 CFR Part 763.84)

§11-502-5 Inspection and reinspections. (a) Any building leased or acquired that is to be used as a school building shall be inspected by a certified inspector prior to use as a school building. In the event that emergency use of an uninspected building as a school building is necessitated, such buildings shall be inspected within thirty days after commencement of such use. For each area of a school building, including surfaces behind suspended ceilings or other non-permanent structures, except as excluded pursuant to section 11-502-15, each person performing an inspection shall:

- (1) Visually inspect the area to identify the locations of all suspected ACBM;
- (2) Touch all suspected ACBM to determine whether they are friable;
- (3) Identify all homogeneous areas of friable suspected ACBM and all homogeneous areas of nonfriable suspected ACBM;
- (4) Assume that some or all of the homogeneous areas are ACM, and, for each homogeneous area that is not assumed to be ACM, collect and submit for analysis bulk samples pursuant to sections 11-502-6 and 11-502-7;
- (5) Assess, pursuant to section 11-502-8, friable material in areas where samples are collected, friable material in areas that are assumed to be ACBM, and friable ACBM identified during previous inspections; and
- (6) Record the following and submit to the person designated pursuant to section 11-502-4, a copy of such record for inclusion in the management plan within thirty days of the inspection:
 - (A) An inspection report with the date of the inspection signed by each certified person making the inspection, the state

- of certification, and the person's certification number;
- (B) An inventory of the locations of the homogeneous areas where samples were collected, size of each homogeneous area, exact location where each bulk sample was collected, dates that samples were collected, homogeneous areas where friable suspected ACBM is assumed to be ACM, and homogeneous areas where nonfriable suspected ACBM is assumed to be ACM;
 - (C) A description of the manner used to determine sampling locations, the name and signature of each certified inspector who collected the samples, the state of certification, and the person's certification number;
 - (D) A list of whether the homogeneous areas identified pursuant to subparagraph (B) are surfacing material, thermal system insulation, or miscellaneous material;
 - (E) The amount of material in each homogeneous area, listed in square, linear, or cubic feet; and
 - (F) Assessments made of friable material, the name and signature of each certified inspector making the assessment, the state of certification, and the inspector's certification number.
- (b) Reinspection shall be performed as follows:
- (1) At least once every three years after a management plan is in effect, the local education agency shall conduct a reinspection of all friable and nonfriable known or assumed ACBM in each school building that it leases, owns, or otherwise uses as a school building;
 - (2) Each inspection shall be made by an certified inspector; and

- (3) For each area of a school building, each person performing a reinspection shall:
 - (A) Visually reinspect and reassess, pursuant to section 11-502-8, the condition of all friable known or assumed ACBM;
 - (B) Visually inspect material that was previously considered nonfriable ACBM and touch the material to determine whether it has become friable since the last inspection or reinspection;
 - (C) Identify any homogeneous areas with material that has become friable since the last inspection or reinspection; For each homogeneous area of newly friable material that is already assumed to be ACBM, collect bulk samples and submit the samples for analysis in accordance with sections 11-502-6 and 11-502-7;
 - (D) Assess, pursuant to section 11-502-8, the condition of the newly friable material in areas where samples are collected, and newly friable materials in areas that are assumed to be ACBM;
 - (F) Reassess, pursuant to section 11-502-8, the condition of friable known or assumed ACBM previously identified;
 - (G) Identify and assess all suspect ACBM not identified by previous inspections; and
 - (H) Record the following and submit to the person designated pursuant to section 11-502-4 a copy of such record for inclusion in the management plan within thirty days of the reinspection:
 - (i) The date of the reinspection, the name and signature of the person making the reinspection, the state of certification, the person's certification number, and any changes in the condition of known or assumed ACBM;

- (ii) The exact locations where samples are collected during the reinspection, a description of the manner used to determine sampling locations, the name and signature of each certified inspector who collected the samples, the state of certification, and the inspector's certification number; and
- (iii) Any assessments or reassessments made of friable material, the name and signature of the certified inspector making the assessments, the state of certification, and the inspector's certification number.

(c) Thermal system insulation that has retained its structural integrity and that has an undamaged protective jacket or wrap that prevents fiber release shall be treated as nonfriable and therefore is subject only to periodic surveillance and preventive measures as necessary.

(d) Schools not previously covered under the AHERA regulation shall have their school buildings inspected and shall submit a management plan for approval to the department of health no later than six months after the adoption of this regulation.

[Eff] (Auth: HRS §321-11(26)) (Imp: 40 CFR Part 763.85)

§11-502-6 Sampling. (a) A certified inspector shall collect, in a statistically random manner that is representative of the homogeneous area, bulk samples from each homogeneous area of friable surfacing material that is not assumed to be ACM, and shall collect the samples as follows:

- (1) At least three bulk samples shall be collected from each homogeneous area that is one thousand square feet or less, except as provided in section 11-502-7(c)(2);

- (2) At least five bulk samples shall be collected from each homogeneous area that is greater than one thousand square feet, but less than or equal to five thousand square feet, except as provided in section 11-502-7(c)(2); and
 - (3) At least seven bulk samples shall be collected from each homogeneous area that is greater than five thousand square feet, except as provided in section 11-502-7(c)(2).
- (b) Thermal system insulation shall be sampled as follows:
- (1) Except as provided in paragraphs (2) through (4) and section 11-502-7(c), a certified inspector shall collect, in a randomly distributed manner, at least three bulk samples from each homogeneous area of thermal system insulation that is not assumed to be ACM;
 - (2) At least one bulk sample shall be collected from each homogeneous area of patched thermal system insulation that is not assumed to be ACM if the patched section is less than six linear or square feet;
 - (3) In a manner sufficient to determine whether the material is ACM, at least three bulk samples shall be collected from each insulated mechanical system that is not assumed to be ACM where cement or plaster is used on fittings such as tees, elbows, or valves, except as provided by section 11-502-7(c)(2); and
 - (4) Bulk samples are not required to be collected from any homogeneous area where the certified inspector has determined that the thermal system insulation is fiberglass, foam glass, rubber, or other non-ACBM, and material is not multi-layered.
- (c) In a manner sufficient to determine whether material is ACM, an certified inspector shall collect at least three bulk samples from each homogeneous area

of friable miscellaneous material that is not assumed to be ACM.

(d) If any homogeneous area of nonfriable suspected ACBM is not assumed to be ACM, then a certified inspector shall collect, in a manner sufficient to determine whether the material is ACM, at least three bulk samples from the homogeneous area of nonfriable suspected ACBM that is not assumed to be ACM. [Eff _____] (Auth: HRS §321-11(26)) (Imp: 40 CFR Part 763.86)

§11-502-7 Analysis of samples. (a) The local education agencies shall have bulk samples, collected pursuant to section 11-502-6 and submitted for analysis, analyzed for asbestos using laboratories accredited by the National Voluntary Laboratory Accreditation Program (NVLAP) and registered with the department of health. The local education agencies shall use laboratories which have received accreditation for PLM analysis through the National Voluntary Laboratory Accreditation Program (NVLAP).

(b) Bulk samples shall not be composited for analysis and shall be analyzed for asbestos content by PLM using the "Interim Method for the Determination of Asbestos in Bulk Insulation Samples" found in Appendix E to 40 CFR Part 763 Subpart E.

(c) A homogeneous area:

- (1) Is considered not to contain ACM only if the results of all samples required to be collected from the area show asbestos in amounts of one per cent or less; and
- (2) Shall be determined to contain ACM based on a finding that the results of any one sample collected from that area shows that asbestos is present in an amount greater than one per cent.

(d) The name and address of each laboratory performing an analysis, the date of analysis, the name and signature of the person performing the analysis, and the NVLAP accreditation number shall be submitted

to the person designated pursuant to section 11-502-4 for inclusion into the management plan within thirty days of the analysis. [Eff] (Auth: HRS §321-11(26)) (Imp: 40 CFR Part 763.87)

§11-502-8 Assessment. (a) For each inspection and reinspection conducted pursuant to section 11-502-5(a) and (c) and previous inspections specified pursuant to section 11-502-15, the local education agency shall have a certified inspector provide a written assessment of all friable known or assumed ACBM in the school building. Each certified inspector providing a written assessment shall sign and date the assessment, provide the inspector's state of certification and certification number, and submit a copy of the assessment to the person designated pursuant to section 11-502-4 for inclusion in the management plan within thirty days of the assessment.

(b) The inspector shall classify and give reasons in the written assessment for classifying the ACBM and suspected ACBM assumed to be ACM in the school building into one of the following categories.

- (1) Damaged or significantly damaged thermal system insulation ACM;
- (2) Damaged friable surfacing ACM;
- (3) Significantly damaged friable surfacing ACM;
- (4) Damaged or significantly damaged friable miscellaneous ACM;
- (5) ACBM with potential for damage;
- (6) ACBM with potential for significant damage; and
- (7) Any remaining friable ACBM or friable suspected ACBM.

(c) Assessment shall include the following considerations:

- (1) Location and the amount of the material, both in total quantity and as a percentage of the functional space;
- (2) Condition of the material, specifying:

- (A) Type of damage or significant damage (e.g., flaking, blistering, water damage, or other signs of physical damage);
 - (B) Severity of damage (e.g., major flaking, severely torn jackets, as opposed to occasional flaking, minor tears to jackets); and
 - (C) Extent or spread of damage over large areas or large percentages of the homogeneous area;
- (3) Whether the material is accessible;
 - (4) The material's potential for disturbance;
 - (5) Known or suspected causes of damage or significant damage (e.g., air erosion, vandalism, vibration, water); and
 - (6) Preventive measures which might eliminate the reasonable likelihood of undamaged ACM from becoming significantly damaged.

(d) The local education agency shall select a person certified to develop management plans pursuant to section 11-504-34 to review the results of each inspection, reinspection, and assessment for the school building and to conduct any other necessary activities in order to recommend in writing to the local education agency appropriate response actions. The certified person shall sign and date the recommendation, provide his or her state of certification, provide his or her certification number, and submit a copy of the recommendation to the person designated pursuant to section 11-502-4 for inclusion in the management plan.

[Eff] (Auth: HRS §321-11(26)) (Imp: 40 CFR Part 763.88)

§11-502-9 Response actions. (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 pursuant to section 11-502-8. 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 method. Nothing in this section shall be construed to prohibit removal of ACBM from a school building at any time, should removal be the preferred response action of the local education agency.

(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;
- (2) Remove the damaged material if it is not feasible, due to technological factors, to repair the damage; or
- (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 from among the following response actions: encapsulation, enclosure, removal, or repair of the damaged material. In selecting the response action from among those which meet the definitional standards of a response action as provided in section 11-502-2, the local education agency shall determine which of these response actions protects human health and the environment. For purposes of determining which of these response actions are the least burdensome, the local education agency may then consider local circumstances, including occupancy and use patterns within the school building, and its economic concerns, including short-term and long-term costs.

(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 isolation is not necessary to protect human health and the environment; and

- (2) Remove the material in the functional space; or enclose or encapsulate if these would be sufficient to protect human health and the environment.

(e) If any friable surfacing ACM, thermal system insulation ACM, or friable miscellaneous ACM that has potential for damage is present in a building, the local education agency shall at a minimum implement an operations and maintenance program, as described in section 11-502-10.

(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 operations and management program as described in section 11-502-10;
- (2) Institute preventive measures appropriate to eliminate the reasonable likelihood that the ACM or its covering will become significantly damaged, deteriorated, or delaminated;
- (3) Remove the material as soon as possible if appropriate preventive measures cannot be effectively implemented, or unless other response actions are determined to protect human health and the environment; immediately isolate the area and restrict access if necessary to avoid an imminent and substantial endangerment to human health or the environment.

(g) Response actions including removal, encapsulation, enclosure, or repair, other than small-scale, short duration repairs, shall be designed and conducted by persons certified to design and conduct response actions as required in chapter 11-504, and in accordance with chapter 11-501. All certification records must be kept by the contractors and also kept in the management plan. These records must be made available for inspection by the department of health. Small-scale, short duration response actions shall be designed and conducted by personnel who have at the minimum completed the training required by section 11-

502-11. Records of all small-scale, short duration response actions must be kept in the management plan pursuant to section 11-502-13(c).

(h) The requirements of this chapter in no way supersede the worker protection and work practice requirements pursuant to 29 CFR 1926.1101 (Occupational Safety and Health Administration asbestos worker protection standards for construction), and chapter 11-501 (Asbestos Requirements).

(i) At the conclusion of any action to remove, repair, encapsulate, or enclose ACBM or material assumed to be ACBM and before re-occupancy:

- (1) After the requirements of paragraphs (2) through (7) have been completed, a person designated by the local education agency who is certified as a project monitor pursuant to section 11-504-36 shall visually inspect each functional space where the action was conducted to determine whether the action has been properly completed. This visual inspection shall determine if any ACBM dust or debris is present. The person designated to conduct the visual inspection, the date, the area inspected, the response action conducted, and the results of the visual inspection shall be written and included in the management plan with all other documents relating to this response action. If any debris or dust is found, the response action shall not be considered complete;
- (2) A person designated by the local education agency who is certified as a project monitor pursuant to section 11-504-36 shall collect air samples using aggressive sampling as described in 40 CFR Part 763, Subpart E, Appendix A, as referenced in section 11-502-3, to monitor air for clearance after each removal, encapsulation, and enclosure project involving ACBM, except for projects that are of small-scale, short duration or contained non-friable ACM that did not become friable

during or after the response action. Air sample results must be provided in writing to the designated person before re-occupancy. The location of where these samples were taken must be recorded and kept in the management plan;

- (3) The local education agency shall have air samples collected pursuant to this section analyzed for asbestos using laboratories registered with the department, as required in section 11-504-19, and accredited by the NVLAP to conduct such analyses using transmission electron microscopy or, under circumstances permitted in this section, laboratories enrolled in an American Industrial Hygiene Association Testing Program for phase contrast microscopy;
- (4) Except as provided in paragraph (5) and (6) an action to remove, encapsulate, or enclose ACBM shall be considered complete when the average concentration of asbestos of five air samples collected within the affected functional space and analyzed by the transmission electron microscopy method in 40 CFR Part 763, Subpart E, Appendix A, as referenced in section 11-502-3, is not statistically different, as determined by the Z-test calculation found in 40 CFR Part 763, Subpart E, Appendix A, as referenced in section 11-502-3, from the average asbestos concentration of five 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 field blanks described in 40 CFR Part 763, Subpart E, Appendix A, is below the filter background level, as defined 40 CFR Part 763, Subpart E, Appendix A, of seventy structures per square millimeter;

- (5) An action may also be considered complete if the volume of air drawn for each of the five samples collected within the affected functional space is equal to or greater than 1,199 liters of air for a twenty-five millimeter filter or equal to or greater than 2,799 liters of air for a thirty-seven millimeter filter, and the average concentration of asbestos as analyzed by the transmission electron microscopy method in 40 CFR Part 763, Subpart E, Appendix A, as referenced in section 11-502-3, for the five air samples does not exceed the filter background level, as defined in 40 CFR Part 763, Subpart E, Appendix A, of seventy structures per square millimeter. If the average concentration of asbestos of the five air samples within the affected functional space exceeds seventy structures per square millimeter, or if the volume of air in each of the samples is less than 1,199 liters of air for a twenty-five millimeter filter or less than 2,799 liters of air for a thirty-seven millimeter filter, the action shall be considered complete only when the requirements of paragraph (4) or (6) are met;
- (6) The local education agency may choose to analyze air monitoring samples collected for clearance purposes by phase contrast microscopy, rather than transmission electron microscopy, to confirm completion of removal, repair, encapsulation, or enclosure of ACBM that is of small-scale, short duration. 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 NIOSH Method 7400 entitled "Fibers" published in the NIOSH Manual of Analytical Methods, 3rd Edition, Second Supplement, August 1987, show that the concentration of fibers for each of the five

samples is less than or equal to a limit of quantification for phase contrast microscopy (0.01 fibers per cubic centimeter of air); and

- (7) To determine the amount of ACBM affected pursuant to paragraph (6), 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, repair, 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 pursuant to paragraph (6). The division of a pre-existing functional space into smaller functional spaces through containments or other methods to reduce the amount of ACBM and avoid more stringent air-clearance requirements is not permitted.
[Eff _____] (Auth: HRS §321-11(26))
(Imp: 40 CFR Part 763.90)

§11-502-10 Operations and maintenance. (a) The local education agency shall implement an operations, maintenance, and repair program pursuant to this section whenever any friable ACBM is present or assumed to be present in a building that it leases, owns, or otherwise uses as a school building. Any material identified as nonfriable ACBM or nonfriable assumed ACBM must be treated as friable ACBM for purposes of this section when the material is about to become friable as a result of activities performed in the school building.

(b) The protection provided by EPA at 40 CFR 763.121 for worker protection during asbestos abatement projects is extended to employees of the local education agency who perform operations, maintenance, and repair activities involving ACM and who are not

covered by the OSHA asbestos construction standard at 29 CFR 1926.1101 or an asbestos worker approved by OSHA pursuant to Section 19 of the U.S. Occupational Safety and Health Act. The local education agency may consult 40 CFR Part 763, Subpart E, Appendix B, as referenced in section 11-502-3, if their employees are performing operations, maintenance, and repair activities that are of small-scale and short duration.

(c) Small-scale, short duration activities shall only be performed by staff that have completed the training required by section 11-502-11. Records of all small-scale, short duration activities must be kept in the management plan. These shall include:

- (1) The location of ACBM disturbance;
 - (2) The amount of ACBM affected;
 - (3) The person performing the activity;
 - (4) The training this person has received;
 - (5) The length of time required to complete the activity; and
 - (6) If ACM is removed, the name and location of the storage or disposal site of the ACM.
- (d) Cleaning shall be performed as follows:
- (1) unless the building has been cleaned using equivalent methods within the previous six months, all areas of a school building where friable ACBM, damaged or significantly damaged thermal system insulation ACM, or friable suspected ACBM assumed to be ACM are present shall be cleaned at least once after the completion of the inspection required by section 11-502-5(a) and before the initiation of any response action, other than operations and maintenance activities or repair, according to the following procedures:
 - (A) HEPA-vacuuming or steam-cleaning all carpets;
 - (B) HEPA-vacuuming or wet-cleaning all other floors and all other horizontal surfaces; and

(C) Disposal of all debris, filters, mop-heads, and cloths in sealed, leak-tight containers;

(2) The certified management planner shall make a written recommendation to the local education agency whether additional cleaning is needed, and if so, the methods and frequency of such cleaning.

(e) The local education agency shall ensure that the procedures described below to protect building occupants shall be followed for any operations and maintenance activities disturbing friable ACBM:

(1) Restrict entry into the area by persons other than those necessary to perform the maintenance project, either by physically isolating the area or by scheduling;

(2) Post signs to prevent entry by unauthorized persons;

(3) Shut off or temporarily modify the air-handling system and restrict other sources of air movement;

(4) Use work practices or other controls, such as wet methods, protective clothing, HEPA-vacuums, mini-enclosures, glove bags, as necessary to inhibit the spread of any released fibers;

(5) Clean all fixtures or other components in the immediate work area; and

(6) Place the asbestos debris and other cleaning materials in a sealed, leak-tight container.

(f) The response action for any maintenance activities disturbing friable ACBM, other than small-scale, short duration maintenance activities, shall be designed by persons certified to design response actions and conducted by persons certified to conduct response actions as required by sections 11-504-22, 11-504-23, and 11-504-35.

(g) The local education agency shall ensure that the procedures described below are followed in the event of a minor fiber release episode; these

procedures may be conducted by persons trained pursuant to subsection 11-502-11(b):

- (1) The debris shall be thoroughly saturated using wet methods;
- (2) The area shall be cleaned, as described in subsection (d);
- (3) The asbestos debris shall be placed in a sealed, leak-tight container; and
- (4) The area of damaged ACM shall be repaired with materials such as asbestos-free spackling, plaster, cement, or insulation; sealed with latex paint or an encapsulant; or the appropriate response action required by section 11-502-9 shall be immediately implemented.

(h) The local education agency shall ensure that the procedures described below are followed in the event of a major fiber release episode:

- (1) Entry into the area shall be restricted and signs shall be posted to prevent entry into the area by persons other than those necessary to perform the response action;
- (2) The air-handling system shall be shut off or temporarily modified to prevent the distribution of fibers to other areas in the building; and
- (3) The response action for any major fiber release episode shall be designed by persons certified to design response actions and conducted by persons certified to conduct response actions as required by sections 11-504-22, 11-504-23, and 11-504-35.

(i) The local education agency shall ensure that ACM such as floor tiles are not subjected to dry stripping or dry sanding. [Eff _____] (Auth: HRS §321-11(26)) (Imp: 40 CFR Part 763.91)

§11-502-11 Training and periodic surveillance.

(a) The local education agency shall ensure, prior to the implementation of the operations,

maintenance, and repair provisions of the management plan, that all members of its maintenance and custodial staff (custodians, electricians, heating and air conditioning engineers, plumbers, etc.) who may work in a building that contains ACBM receive awareness training of at least two hours, whether or not they are required to work with ACBM. New custodial and maintenance employees shall be trained within sixty days after commencement of employment. Training shall include:

- (1) Information regarding asbestos and its various uses and forms;
- (2) Information on the health effects associated with asbestos exposure;
- (3) Locations of ACBM identified throughout each school building in which they work;
- (4) Recognition of damage, deterioration, and delamination of ACBM; and
- (5) Name and telephone number of the person designated to carry out general local education agency responsibilities pursuant to section 11-502-4 and the availability and location of the management plan.

(b) The local education agency shall ensure that all members of its maintenance and custodial staff who conduct any activities that will result in the disturbance of ACBM shall receive training described in subsection (a) and fourteen hours of additional training. Additional training shall include:

- (1) Descriptions of the proper methods of handling ACBM;
- (2) Information on the use of respiratory protection as contained in the EPA/NIOSH "Guide to Respiratory Protection for the Asbestos Abatement Industry," September 1986 (EPA 560/OPPTS-86-001), available from Toxic Substances Control Agency Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, 401 M St. SW., Rm. E-543, Washington, DC 20460, and other personal protection measures;

- (3) The provisions of this section, section 11-502-10, Appendices A, B, C, and D to Subpart E of 40 CFR Part 763 as referenced in section 11-502-3, chapter 11-501 and its references, and OSHA regulations contained in 29 CFR 1926.1101; and
- (4) Hands-on training in the use of respiratory protection, other personal protection measures, and good work practices.

(c) Local education agency maintenance and custodial staff who have attended EPA-approved asbestos training or received equivalent training for operations, maintenance, and repair and periodic surveillance activities involving asbestos shall be considered trained for the purposes of this section.

(d) At least once very six months after a management plan is in effect, the local education agency shall conduct periodic surveillance in each building that it leases, owns, or otherwise uses as a school building that contains ACBM or is assumed to contain ACBM. Each person performing periodic surveillance shall:

- (1) Visually inspect all areas that are identified in the management plan as ACBM or assumed ACBM;
- (2) Record the date of the surveillance, the person's name, and any changes in the condition of the materials;
- (3) Submit to the person designated to carry out general local education agency responsibilities pursuant to section 11-502-4 a copy of such record for inclusion in the management plan; and
- (4) Complete at least the two-hour asbestos awareness course prior to performing the periodic surveillance [Eff]
(Auth: HRS §321-11(26)) (Imp: 40 CFR Part 763.92)

§11-502-12 Management plans. (a) If a building is to be used as part of a school, the local education agency shall include the building in the management plan for the school prior to its use as a school building. The revised portions of the management plan shall be submitted to the department of health. If the local education agency begins to use a building as a school, the local education agency shall submit a management plan for the school, developed by a management planner, to the department of health prior to its use as a school.

(b) The local education agency shall maintain and update its management plans to keep them current with ongoing operations and maintenance, periodic surveillance, inspection, reinspection, and response action activities. All provisions required to be included in the management plan by this chapter shall be retained as part of the management plan, as well as any information that has been revised to bring the plan up-to-date.

(c) The management plan shall be developed by a management planner certified according to section 11-504-34 and shall include:

- (1) A list of the name and address of each school building and whether the school building contains friable ACBM, nonfriable ACBM, and friable and nonfriable suspected ACBM assumed to be ACM;
- (2) For each inspection conducted before December 14, 1987:
 - (A) The date of the inspection;
 - (B) A blueprint, diagram, or written description of each school building that identifies clearly each location and the approximate square or linear footage of any homogeneous or sampling area where material was sampled for ACM, and, if possible, the exact locations where bulk samples were collected, and the dates of collection;

- (C) A copy of the analyses of any bulk samples, dates of analyses, and a copy of any other laboratory reports pertaining to the analyses;
 - (D) A description of any response actions or preventive measures taken to reduce asbestos exposure, including, if possible, the names, business addresses, and license numbers of all contractors involved, start and completion dates of the work, and results of any air samples analyzed during and upon completion of the work; and
 - (E) A description of assessments required by section 11-502-8 of material that was identified before December 14, 1987, as friable ACBM or friable suspected ACBM assumed to be ACM, and the name and signature, the state of certification, and the certification number of each certified person making the assessments;
- (3) For each inspection and reinspection conducted pursuant to section 11-502-5:
- (A) The date of the inspection or reinspection and the name and signature, the state of certification, and the certification number of each certified inspector performing the inspection or reinspection;
 - (B) A blueprint, diagram, or written description of each school building that identifies clearly each location and approximate square or linear footage of homogeneous areas where material was sampled for ACM, the exact location where each bulk sample was collected, the date of collection, the homogeneous areas where friable suspected ACBM is assumed to be ACM, and where nonfriable suspected ACBM is assumed to be ACM;

- (C) A description of the manner used to determine sampling locations, and the name and signature of each certified inspector collecting samples, the state of certification, and the inspector's certification number;
 - (D) A copy of the analyses of any bulk samples collected and analyzed, the name and address of any laboratory that analyzed bulk samples, a statement that the laboratory meets the applicable requirements of section 11-502-7(a), the date of analysis, and the name and signature of the person performing the analysis; and
 - (E) A description of assessments required to be made pursuant to section 11-502-8 of all ACBM and suspected ACBM assumed to be ACM, and the name, signature, state of certification, and certification number of each certified person making the assessments;
- (4) The name, business address, and telephone number of the person designated pursuant to section 11-502-4 to ensure that the duties of the local education agency are carried out, and the course name, and dates and hours of training taken by that person to carry out the duties;
 - (5) The recommendations made to the local education agency regarding response actions pursuant to section 11-502-9, the name, signature, state of certification and certification number of each person making the recommendations;
 - (6) A detailed description of preventive measures and response actions to be taken, including methods to be used, for any friable ACBM, the locations where such measures and action will be taken, reasons for selecting the response action or preventive measure, and a schedule

for beginning and completing each preventive measure and response action;

- (7) With respect to the person or persons who inspected for ACBM and who will design or carry out response actions, except for operations and maintenance, with respect to the ACBM, a statement that the person is certified pursuant to chapter 11-504;
- (8) A detailed description in the form of a blueprint, diagram, or written summary of any ACBM or suspected ACBM assumed to be ACM which remains in the school once response actions are undertaken pursuant to section 11-502-9. This description shall be updated as response actions are completed;
- (9) A plan for reinspection pursuant to section 11-502-5, a plan for operations and maintenance activities pursuant to section 11-502-10, a plan for periodic surveillance pursuant to section 11-502-11, a description of the written recommendation made by the management planner regarding additional cleaning pursuant to section 11-502-10(d)(2) as part of an operations and maintenance program, and the response of the local education agency to that recommendation;
- (10) A description of steps taken to inform workers and building occupants, or their legal guardians, about inspections, reinspections, response actions, and post-response action activities, including periodic reinspection and surveillance activities that are planned or in progress;
- (11) A description of the planned method to notify short-term workers (e.g., telephone repair workers, utility workers, or exterminators) who may come in contact with asbestos to ensure they are provided information regarding the locations of ACM as required in section 11-502-4;

- (12) An evaluation of the resources needed to complete response actions successfully and carry out reinspection, operations and maintenance activities, periodic surveillance, and training; and
- (13) With respect to each inspector or management planner who contributed to the management plan, the name of the person and a statement that the inspector or management planner is certified pursuant to chapter 11-504-33 and 11-504-34.

(d) The local education agency may require each management plan to contain a statement signed by an certified management planner that the person has prepared or assisted in the preparation of the plan or has reviewed the plan, and that the plan is in compliance with this chapter. The statement may not be signed by a person who, in addition to preparing or assisting in preparing the management plan, also implements or will implement the management plan.

(e) Upon submission of a management plan to the governor for review, the local education agency shall keep a copy of the plan in its administrative office. The management plan shall be available in the main office of the local education agency and at a specified location on the island on which the subject property of the plan is located, without cost or restriction, for inspection by representatives of EPA and the State, the public, including teachers, other school personnel, and their representatives, and parents. The local education agency may charge a reasonable amount to make copies of management plans.

(f) The local education agency shall maintain in its administrative office and at a specified location on the island on which the subject property of the plan is located a complete, updated copy of the management plan for each school under its administrative control or direction. The management plan shall be available, during normal business hours, without cost or restriction, for inspection by representatives of EPA and the State, the public, teachers, other school

personnel and their representatives, and parents. The local education agency may charge a reasonable cost to make copies of management plans.

(g) Each school shall maintain in its administrative office a complete, updated copy of the management plan for that school. Management plans shall be available for inspection, without cost or restriction, to workers before work begins in any area of a school building. The school shall make management plans available for inspection to representatives of EPA and the State, the public, including parents, teachers, and other school personnel and their representatives within five working days after receiving a request for inspection. The school may charge a reasonable amount to make copies of the management plan.

(h) Upon submission of its management plan to the governor and at least once each school year, the local education agency shall notify in writing parent, teacher, and employee organizations of the availability of management plans and shall include in the management plan a description of the steps taken to notify such organizations, and a dated copy of the notification. In the absence of any such organizations for parents, teachers, or employees, the local education agency shall provide written notice to that relevant group of the availability of management plans and shall include in the management plan a description of the steps taken to notify such groups and a dated copy of the notice.

(i) Records required pursuant to section 11-502-13 shall be made by the local education agency and maintained as part of the management plan.

(j) Each management plan shall contain a true and correct statement, signed by the individual designated by the local education agency pursuant to section 11-502-4, which certifies that the general, local education agency responsibilities, as stipulated in section 11-502-4, have been or will be met.

[Eff] (Auth: HRS §321-11(26)) (Imp: 40 CFR Part 763.93)

§11-502-13 Record keeping. (a) Records required pursuant to this section shall be maintained in a centralized location in the administrative office of both the school and the local education agency as part of the management plan. For each homogeneous area where all ACBM has been removed, the local education agency shall ensure that such records are retained for three years after the next reinspection required pursuant to section 11-502-5(b), or for an equivalent period.

(b) For each preventive measure and response action taken for friable and nonfriable ACBM and friable and nonfriable suspected ACBM assumed to be ACM, the local education agency shall provide:

- (1) A detailed written description of the measure or action, including the project design, methods used, the location where the measure or action was taken, reasons for selecting the measure or action, start and completion dates of the work, names, addresses and certifications of all contractors, workers, supervisors, project designers, and inspectors involved, their state of certification, and certification numbers, the visual inspection documentation required in section 11-502-9(i)(1), and, if ACBM is removed, the name and location of the storage or disposal site of the ACM; and
- (2) The name and signature of any person collecting any air sample required to be collected at the completion of certain response actions specified in section 11-502-9(i), the locations where samples were collected, the date of collection, the name and address of the laboratory analyzing the samples, the date of analysis, the results of the analysis, the method of analysis, the name and signature of the person performing the analysis, and a statement that the

laboratory meets the applicable requirements of section 11-502-9(i)(3).

(c) For each person required to be trained pursuant to section 11-502-11(a) and (b), the local education agency shall provide the person's name and job title, the date that training was completed by that person, the location of the training, and the number of hours of training completed.

(d) For each time that periodic surveillance pursuant to section 11-502-11(d) is performed, the local education agency shall record the name of each person performing the surveillance, the date of the surveillance, and any changes in the conditions of the materials.

(e) For each time that cleaning pursuant to section 11-502-10(d) is performed, the local education agency shall record the name of each person performing the cleaning, the date of the cleaning, the locations cleaned, and the methods used to perform the cleaning.

(f) For each time that operations and maintenance activities pursuant to section 11-502-10(e) are performed, the local education agency shall record the name of each person performing the activity, the start and completion dates of the activity, the locations where such activity occurred, a description of the activity including preventive measures used, and if ACBM is removed, the name and location of the storage or disposal site of the ACM.

(g) For each time that major asbestos activity is performed pursuant to section 11-502-10(f), the local education agency shall provide the name and signature, the state of certification, and the certification number of each person performing the activity, the start and completion dates of the activity, the locations where such activity occurred, a description of the activity including preventive measures used, and, if ACBM is removed, the name and location of the storage or disposal site of the ACM.

(h) For each fiber release episode as described in section 11-502-10(g) and (h), the local education agency shall provide the date and location of the

episode, the method of repair, preventive measures or response action taken, the name of each person performing the work, and, if ACBM is removed, the name and location of the storage or disposal site of the ACM. [Eff _____] (Auth: HRS §321-11(26)) (Imp: 40 CFR Part 763.94)

§11-502-14 Warning labels. (a) The local education agency shall attach a warning label immediately adjacent to any friable and nonfriable ACBM and suspected ACBM assumed to be ACM located in routine maintenance areas (such as boiler rooms) at each school building. This shall include

- (1) Friable ACBM that was responded to by a means other than removal,
- (2) ACBM for which no response action was carried out.

(b) All labels shall be prominently displayed in readily visible locations and shall remain posted until the ACBM that is labeled is removed.

(c) The warning label shall read, in print which is readily visible because of large size, bright color, or both, as follows: DANGER: ASBESTOS. HAZARDOUS. DO NOT DISTURB WITHOUT PROPER TRAINING AND EQUIPMENT.

[Eff _____] (Auth: HRS §321-11(26)) (Imp: 40 CFR Part 763.95)

§11-502-15 Exclusions. (a) The local education agency shall not be required to perform an inspection pursuant to section 11-502-5(a) in any homogeneous area of a school building where:

- (1) A certified inspector has determined that, based on sampling records, friable ACBM was identified in that homogeneous or sampling area during an inspection conducted before December 14, 1987. The inspector shall sign and date a statement to that effect with the inspector's state of certification, the certification number and, within thirty days

after such determination, submit a copy of the statement to the person designated under section 11-502-4 for inclusion in the management plan. However, a certified inspector shall assess the friable ACBM pursuant to section 11-502-8;

- (2) A certified inspector has determined that, based on sampling records, nonfriable ACBM was identified in that homogeneous or sampling area during an inspection conducted before December 14, 1987. The inspector shall sign and date a statement to that effect with the inspector's state of certification, certification number, and, within thirty days after such determination, submit a copy of the statement to the person designated pursuant to section 11-502-4 for inclusion in the management plan. However, a certified inspector shall identify whether material that was nonfriable has become friable since that previous inspection and shall assess the newly-friable ACBM pursuant to section 11-502-8;
- (3) Based on sampling records and inspection records, an certified inspector has determined that no ACBM is present in the homogeneous or sampling area and the records show that the area was sampled before December 14, 1987, in substantial compliance with section 11-502-5(a), which for purposes of this section means in a random manner and with a sufficient number of samples to reasonably ensure that the area is not ACBM. The certified inspector shall sign and date a statement, with the inspector's state of certification, and certification number, that the homogeneous or sampling area determined not to be ACBM was sampled in substantial compliance with section 11-502-5(a). Within thirty days after the inspector's determination, the local education agency

shall submit a copy of the inspector's statement to the director and shall include the statement in the management plan for that school;

- (4) The department of health has determined that, based on sampling records and inspection records, no ACBM is present in the homogeneous or sampling area and the records show that the area was sampled before December 14, 1987, in substantial compliance with section 11-502-5(a). Such determination shall be included in the management plan for that school;
- (5) A certified inspector has determined that, based on records of an inspection conducted before December 14, 1987, suspected ACBM identified in that homogeneous or sampling area is assumed to be ACM. The inspector shall sign and date a statement to that effect, with the inspector's state of certification, certification number and, within thirty days of such determination, submit a copy of the statement to the person designated pursuant to section 11-502-4 for inclusion in the management plan. However, an certified inspector shall identify whether material that was nonfriable suspected ACBM assumed to be ACM has become friable since the previous inspection and shall assess the newly friable material and previously identified friable suspected ACBM assumed to be ACM pursuant to section 11-502-8;
- (6) Based on inspection, contractor, and clearance records, a certified inspector has determined that no ACBM is present in the homogeneous or sampling area where asbestos removal operations have been conducted before December 14, 1987, and shall sign and date a statement to that effect and include the inspector's state of certification and certification number. The local education

agency shall submit a copy of the statement to the director and shall include the statement in the management plan for that school; or

- (7) An architect or project engineer responsible for the construction of a new school building built after October 12, 1988, or a certified inspector signs a statement that no ACBM was specified as a building material in any construction document for the building, or, to the best of that person's knowledge, no ACBM was used as a building material in the building. The local education agency shall submit a copy of the signed statement of the architect, project engineer, or certified inspector to the director and shall include the statement in the management plan for that school.

(b) The exclusion, pursuant to subsection (a)(1) through (4), from conducting the inspection pursuant to section 11-502-5(a) shall apply only to homogeneous or sampling areas of a school building that were inspected and sampled before October 17, 1987. The local education agency shall conduct an inspection pursuant to section 11-502-5(a) of all areas inspected before October 17, 1987, that were not sampled or were not assumed to be ACM.

(c) If ACBM is subsequently found in a homogeneous or sampling area of the local education agency that had been identified as receiving an exclusion by a certified inspector pursuant to

subsection (a)(3) through (5) or an architect, project engineer, or certified inspector pursuant to subsection (a)(7), the local education agency shall have one hundred eighty days following the date of identification of ACBM to comply with this chapter.
[Eff] (Auth: HRS §321-11(26)) (Imp: 40 CFR Part 763.99)

DEPARTMENT OF HEALTH

Chapter 11-502, Hawaii Administrative Rules, on the Summary Page dated _____, was adopted on _____, following public hearings held on June 1, 1999 in Honolulu, Hawaii, June 2, 1999 in Lihue, Hawaii, June 3, 1999 in Wailuku, Hawaii, June 7, 1999 in Kailua-Kona, Hawaii, and June 8, 1999 in Hilo, Hawaii, after public notice was given in the Hawaii State & County Public Notices on May 3, 1999.

The adoption of Chapter 11-502 shall take effect ten days after filing with the Office of the Lieutenant Governor.

Bruce S. Anderson, Ph.D., M.P.H.
Director of Health

APPROVED:

Benjamin J. Cayetano
Governor
State of Hawaii

Date: _____

Filed

APPROVED AS TO FORM:

Deputy Attorney General

