

ENVIRONMENTAL QUALITY

CHAPTER 74

NOISE, ASBESTOS CONTROL, METHAMPHETAMINE CLEANUP

Subchapter 3

Asbestos Control

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Subchapter 3

Asbestos Control

17.74.301 APPLICABILITY AND PURPOSE (1) Except as otherwise specifically provided, this subchapter applies to all persons or entities engaged in an asbestos-related occupation, persons in charge of asbestos projects, persons engaged in facility demolition or renovation activities, and persons who offer course work for accreditation of persons engaged in asbestos-related occupations.

(2) The purpose of these rules is to regulate and establish criteria for certain asbestos practices and to require statewide standards for accreditation of persons in asbestos-related occupations, for approval of course work, and for a fee and permit system. (History: 75-2-503, MCA; IMP, 75-2-503, MCA; NEW, 1989 MAR p. 2234, Eff. 1/1/90; TRANS, from DHES, 1996 MAR p. 433; AMD, 2011 MAR p. 2264, Eff. 10/28/11.)

17.74.302 DEFINITIONS (REPEALED) (History: 75-2-503, MCA; IMP, 75-2-503, MCA; NEW, 1989 MAR p. 2234, Eff. 1/1/90; AMD, 1993 MAR p. 549, Eff. 4/16/93; AMD, 1995 MAR p. 1578, Eff. 8/11/95; TRANS, from DHES, 1996 MAR p. 433; REP, 2006 MAR p. 1574, Eff. 6/23/06.)

17.74.303 EXCLUSIONS (REPEALED) (History: 75-2-503, MCA; IMP, 75-2-503, MCA; NEW, 1989 MAR p. 2234, Eff. 1/1/90; AMD, 1993 MAR p. 549, Eff. 4/16/93; TRANS, from DHES, 1996 MAR p. 433; REP, 2011 MAR p. 2264, Eff. 10/28/11.)

Rules 17.74.304 through 17.74.306 reserved

17.74.307 EVALUATION OF ASBESTOS HAZARDS IN STRUCTURES OTHER THAN LEA SCHOOL BUILDINGS (REPEALED) (History: 75-2-503, MCA; IMP, 75-2-503, MCA; NEW, 1989 MAR p. 2234, Eff. 1/1/90; AMD, 1993 MAR p. 549, Eff. 4/16/93; AMD, 1995 MAR p. 1578, Eff. 8/11/95; TRANS, from DHES, 1996 MAR p. 433; REP, 2006 MAR p. 1574, Eff. 6/23/06.)

17.74.308 CLEARING ASBESTOS ABATEMENT PROJECTS IN STRUCTURES OTHER THAN LEA SCHOOL BUILDINGS (REPEALED) (History: 75-2-503, MCA; IMP, 75-2-503, MCA; NEW, 1989 MAR p. 2234, Eff. 1/1/90; AMD, 1993 MAR p. 549, Eff. 4/16/93; AMD, 1995 MAR p. 1578, Eff. 8/11/95; TRANS, from DHES, 1996 MAR p. 433; REP, 2006 MAR p. 1574, Eff. 6/23/06.)

17.74.309 EVALUATION OF ASBESTOS HAZARDS IN LEA SCHOOL BUILDINGS (REPEALED) (History: 75-2-503, MCA; IMP, 75-2-503, MCA; NEW, 1989 MAR p. 2234, Eff. 1/1/90; AMD, 1993 MAR p. 549, Eff. 4/16/93; AMD, 1995 MAR p. 1578, Eff. 8/11/95; TRANS, from DHES, 1996 MAR p. 433; REP, 2006 MAR p. 1574, Eff. 6/23/06.)

17.74.310 CLEARING ASBESTOS ABATEMENT PROJECTS IN LEA SCHOOL BUILDINGS (REPEALED) (History: 75-2-503, MCA; IMP, 75-2-503, MCA; NEW, 1989 MAR p. 2234, Eff. 1/1/90; AMD, 1993 MAR p. 549, Eff. 4/16/93; AMD, 1995 MAR p. 1578, Eff. 8/11/95; TRANS, from DHES, 1996 MAR p. 433; REP, 2006 MAR p. 1574, Eff. 6/23/06.)

Rules 17.74.311 through 17.74.313 reserved

17.74.314 REQUIREMENTS OF ACCREDITATION AND PERMITTING FOR PERSONS ENGAGED IN AN ASBESTOS-TYPE OCCUPATION (REPEALED) (History: 75-2-503, MCA; IMP, 75-2-503, 75-2-511, MCA; NEW, 1989 MAR p. 2234, Eff. 1/1/90; AMD, 1995 MAR p. 1578, Eff. 8/11/95; TRANS, from DHES, 1996 MAR p. 433; REP, 2006 MAR p. 1574, Eff. 6/23/06.)

17.74.315 ACCREDITATION OF ASBESTOS INSPECTOR; ASBESTOS MANAGEMENT PLANNER; ASBESTOS ABATEMENT PROJECT DESIGNER; ASBESTOS ABATEMENT CONTRACTOR; ASBESTOS ABATEMENT SUPERVISOR; AND ASBESTOS WORKER (REPEALED) (History: 75-2-503, MCA; IMP, 75-2-503, 75-2-511, MCA; NEW, 1989 MAR p. 2234, Eff. 1/1/90; AMD, 1993 MAR p. 549, Eff. 4/16/93; AMD, 1995 MAR p. 1578, Eff. 8/11/95; TRANS, from DHES, 1996 MAR p. 433; REP, 2006 MAR p. 1574, Eff. 6/23/06.)

17.74.316 RENEWAL OF ACCREDITATION (REPEALED) (History: 75-2-503, MCA; IMP, 75-2-503, 75-2-511, MCA; NEW, 1989 MAR p. 2234, Eff. 1/1/90; AMD, 1993 MAR p. 549, Eff. 4/16/93; AMD, 1995 MAR p. 1578, Eff. 8/11/95; TRANS, from DHES, 1996 MAR p. 433; REP, 2006 MAR p. 1574, Eff. 6/23/06.)

17.74.317 TRAINING COURSE AND EXAMINATION REQUIREMENTS (REPEALED) (History: 75-2-503, MCA; IMP, 75-2-503, 75-2-511, MCA; NEW, 1989 MAR p. 2234, Eff. 1/1/90; AMD, 1993 MAR p. 549, Eff. 4/16/93; TRANS, from DHES, 1996 MAR p. 433; REP, 2006 MAR p. 1574, Eff. 6/23/06.)

17.74.318 APPLICATION FOR ACCREDITATION OF A TRAINING COURSE; CERTIFICATION (REPEALED) (History: 75-2-503, MCA; IMP, 75-2-503, 75-2-511, MCA; NEW, 1989 MAR p. 2234, Eff. 1/1/90; AMD, 1995 MAR p. 1578, Eff. 8/11/95; TRANS, from DHES, 1996 MAR p. 433; REP, 2006 MAR p. 1574, Eff. 6/23/06.)

17.74.319 COURSE APPROVAL (REPEALED) (History: 75-2-503, MCA; IMP, 75-2-503, 75-2-511, MCA; NEW, 1989 MAR p. 2234, Eff. 1/1/90; AMD, 1993 MAR p. 549, Eff. 4/16/93; AMD, 1995 MAR p. 1578, Eff. 8/11/95; TRANS, from DHES, 1996 MAR p. 433; REP, 2006 MAR p. 1574, Eff. 6/23/06.)

Rules 17.74.320 through 17.74.324 reserved

17.74.325 ASBESTOS INSPECTOR'S COURSE (REPEALED) (History: 75-2-503, MCA; IMP, 75-2-503, 75-2-511, MCA; NEW, 1989 MAR p. 2234, Eff. 1/1/90; AMD, 1993 MAR p. 549, Eff. 4/16/93; AMD, 1995 MAR p. 1578, Eff. 8/11/95; TRANS, from DHES, 1996 MAR p. 433; REP, 2006 MAR p. 1574, Eff. 6/23/06.)

17.74.326 ASBESTOS MANAGEMENT PLANNERS COURSE (REPEALED) (History: 75-2-503, MCA; IMP, 75-2-503, 75-2-511, MCA; NEW, 1989 MAR p. 2234, Eff. 1/1/90; AMD, 1993 MAR p. 549, Eff. 4/16/93; AMD, 1995 MAR p. 1578, Eff. 8/11/95; TRANS, from DHES, 1996 MAR p. 433; REP, 2006 MAR p. 1574, Eff. 6/23/06.)

17.74.327 ASBESTOS ABATEMENT PROJECT DESIGNER'S COURSE (REPEALED) (History: 75-2-503, MCA; IMP, 75-2-503, 75-2-511, MCA; NEW, 1989 MAR p. 2234, Eff. 1/1/90; AMD, 1993 MAR p. 549, Eff. 4/16/93; AMD, 1995 MAR p. 1578, Eff. 8/11/95; TRANS, from DHES, 1996 MAR p. 433; REP, 2006 MAR p. 1574, Eff. 6/23/06.)

17.74.328 ASBESTOS ABATEMENT CONTRACTOR'S AND SUPERVISOR'S COURSE (REPEALED) (History: 75-2-503, MCA; IMP, 75-2-503, 75-2-511, MCA; NEW, 1989 MAR p. 2234, Eff. 1/1/90; AMD, 1993 MAR p. 549, Eff. 4/16/93; AMD, 1995 MAR p. 1578, Eff. 8/11/95; TRANS, from DHES, 1996 MAR p. 433; REP, 2006 MAR p. 1574, Eff. 6/23/06.)

17.74.329 ASBESTOS ABATEMENT WORKER'S COURSE (REPEALED) (History: 75-2-503, MCA; IMP, 75-2-503, 75-2-511, MCA; NEW, 1989 MAR p. 2234, Eff. 1/1/90; AMD, 1995 MAR p. 1578, Eff. 8/11/95; TRANS, from DHES, 1996 MAR p. 433; REP, 2006 MAR p. 1574, Eff. 6/23/06.)

17.74.330 EXAMINATIONS (REPEALED) (History: 75-2-503, MCA; IMP, 75-2-503, 75-2-511, MCA; NEW, 1989 MAR p. 2234, Eff. 1/1/90; TRANS, from DHES, 1996 MAR p. 433; REP, 2006 MAR p. 1574, Eff. 6/23/06.)

17.74.331 REFRESHER COURSES (REPEALED) (History: 75-2-503, MCA; IMP, 75-2-503, 75-2-511, MCA; NEW, 1989 MAR p. 2234, Eff. 1/1/90; AMD, 1993 MAR p. 549, Eff. 4/16/93; AMD, 1995 MAR p. 1578, Eff. 8/11/95; TRANS, from DHES, 1996 MAR p. 433; REP, 2006 MAR p. 1574, Eff. 6/23/06.)

Rules 17.74.332 through 17.74.334 reserved

17.74.335 ASBESTOS ABATEMENT PROJECT PERMITS (REPEALED) (History: 75-2-503, MCA; IMP, 75-2-503, 75-2-511, MCA; NEW, 1989 MAR p. 2234, Eff. 1/1/90; AMD, 1993 MAR p. 549, Eff. 4/16/93; AMD, 1995 MAR p. 1578, Eff. 8/11/95; TRANS, from DHES, 1996 MAR p. 433; REP, 2006 MAR p. 1574, Eff. 6/23/06.)

17.74.336 ANNUAL PERMITS (REPEALED) (History: 75-2-503, MCA; IMP, 75-2-503, 75-2-504, MCA; NEW, 1989 MAR p. 2234, Eff. 1/1/90; AMD, 1993 MAR p. 549, Eff. 4/16/93; AMD, 1995 MAR p. 1578, Eff. 8/11/95; TRANS, from DHES, 1996 MAR p. 433; REP, 2006 MAR p. 1574, Eff. 6/23/06.)

17.74.337 EMERGENCY ASBESTOS PROJECT PERMITS (REPEALED) (History: 75-2-503, MCA; IMP, 75-2-503, MCA; NEW, 1989 MAR p. 2234, Eff. 1/1/90; AMD, 1993 MAR p. 549, Eff. 4/16/93; AMD, 1995 MAR p. 1578, Eff. 8/11/95; TRANS, from DHES, 1996 MAR p. 433; REP, 2006 MAR p. 1574, Eff. 6/23/06.)

17.74.338 ASBESTOS ABATEMENT PROJECT CONTROL MEASURES (REPEALED) (History: 75-2-503, MCA; IMP, 75-2-503, MCA; NEW, 1989 MAR p. 2234, Eff. 1/1/90; AMD, 1993 MAR p. 549, Eff. 4/16/93; TRANS, from DHES, 1996 MAR p. 433; REP, 2006 MAR p. 1574, Eff. 6/23/06.)

Rules 17.74.339 and 17.74.340 reserved

17.74.341 RECORDKEEPING (REPEALED) (History: 75-2-503, MCA; IMP, 75-2-503, 75-2-513, MCA; NEW, 1989 MAR p. 2234, Eff. 1/1/90; AMD, 1993 MAR p. 549, Eff. 4/16/93; TRANS, from DHES, 1996 MAR p. 433; REP, 2006 MAR p. 1574, Eff. 6/23/06.)

17.74.342 INSPECTIONS (REPEALED) (History: 75-2-503, MCA; IMP, 75-2-503, MCA; NEW, 1989 MAR p. 2234, Eff. 1/1/90; AMD, 1993 MAR p. 549, Eff. 4/16/93; TRANS, from DHES, 1996 MAR p. 433; REP, 2006 MAR p. 1574, Eff. 6/23/06.)

17.74.343 RECIPROCITY (1) The department may accredit a person in an asbestos-related occupation who is accredited in another state. Upon receipt of an application for accreditation based upon accreditation requirements of the state where the applicant is accredited, the department shall evaluate the requirements for accreditation of the other state, and accredit the person if the requirements in the other state are at least as stringent as the accreditation requirements under this subchapter. (History: 75-2-503, MCA; IMP, 75-2-503, MCA; NEW, 1989 MAR p. 2234, Eff. 1/1/90; TRANS, from DHES, 1996 MAR p. 433; AMD, 2006 MAR p. 1574, Eff. 6/23/06.)

Rules 17.74.344 through 17.74.349 reserved

17.74.350 INCORPORATION BY REFERENCE -- PUBLICATION DATES

(1) Unless expressly provided otherwise, whenever there is a reference in this subchapter to a federal regulation, the reference is to the July 1, 2010, edition of the Code of Federal Regulations (CFR). (History: 75-2-503, MCA; IMP, 75-2-503, MCA; NEW, 2006 MAR p. 1574, Eff. 6/23/06; AMD, 2006 MAR p. 2962, Eff. 12/8/06; AMD, 2011 MAR p. 2264, Eff. 10/28/11.)

17.74.351 INCORPORATION BY REFERENCE (1) For the purposes of this subchapter, the department adopts and incorporates by reference:

(a) 40 CFR 61, subparts A and M, pertaining to national emission standards for hazardous air pollutants (NESHAPs) for asbestos, with the following exception:

(i) 40 CFR 61.145(a)(2) is not incorporated by reference.

(b) National Institute of Occupational Safety and Health (NIOSH) Manual of Analytical Methods, fourth edition, August 1994, which contains a description of the 7400 Analytical Method for detecting asbestos and other fibers by phase contrast microscopy (PCM) and a description of the 7402 Analytical Method for detecting asbestos by transmission electron microscopy (TEM); and

(c) Method for the Determination of Asbestos in Bulk Building Materials, EPA/600/R-93/116 (1993).

(2) Copies of these materials may be obtained from the Department of Environmental Quality, 1520 E. Sixth Avenue, P.O. Box 200901, Helena, MT 59620-0901. Copies of the CFR are available from the Superintendent of Documents, Government Printing Office, Washington, DC 20402, (202) 512-1800. The CFR can also be accessed electronically at www.gpoaccess.gov/cfr/index.html. (History: 75-2-503, MCA; IMP, 75-2-503, MCA; NEW, 2006 MAR p. 1574, Eff. 6/23/06; AMD, 2011 MAR p. 2264, Eff. 10/28/11.)

17.74.352 DEFINITIONS For purposes of this subchapter, the following definitions apply:

(1) "Amended water" means water to which surfactant (wetting agent) has been added to increase the ability of the liquid to penetrate ACM.

(2) "Approved asbestos disposal facility" means a licensed Class II or Class IV landfill as described in ARM 17.50.504.

(3) "Asbestos-containing material (ACM)" means any material containing more than one percent asbestos.

(4) "Asbestos-containing waste" has the meaning given for "asbestos-containing waste materials" in 40 CFR 61.141.

(5) "Asbestos inspector" means any person who inspects a facility for the presence of asbestos-containing material.

(6) "Asbestos management planner" means any person who develops plans for the management of asbestos-containing material.

(7) "Asbestos project" has the meaning given in 75-2-502(3), MCA. "Pipe," as the term is used in this definition and 75-2-502(3), MCA, includes any coating or wrap made of regulated asbestos-containing material that partially or wholly covers the inner or outer surface of the pipe.

(8) "Asbestos project contractor" means any person who contracts to perform an asbestos project for another person.

(9) "Asbestos project contractor/supervisor" means any person who supervises asbestos projects and the personnel who conduct asbestos projects.

(10) "Asbestos project designer" means a person who develops the plans, specifications, and/or designs for an asbestos project.

(11) "Asbestos project worker" means any person other than those listed in (6) and (8) through (10) who is engaged in an asbestos project, and who encapsulates, encloses, removes, repairs, renovates, places in new construction, or demolishes asbestos, or transports or disposes of asbestos-containing wastes.

(12) "Asbestos-related occupation" has the meaning given in 75-2-502(4), MCA.

(13) "Background level" means:

(a) the concentration of asbestos in a comparable environmental setting at or near an asbestos project site; or

(b) the concentration of asbestos that provides a defensible reference point to evaluate whether or not a release at the asbestos project site has occurred.

(14) "Building or other structure" as used in the definition of "asbestos project" in 75-2-502, MCA, has the meaning given for "facility" in 40 CFR 61.141.

(15) "Demolition" has the meaning given in 40 CFR 61.141.

(16) "Department", as defined in 75-2-502(5), MCA, means the Department of Environmental Quality, provided for in 2-15-3501, MCA.

(17) "Emergency renovation operation" has the meaning given in 40 CFR 61.141.

(18) "Encapsulation" means the treatment of ACM 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). This definition does not include the repainting of a previously painted and undamaged ACM surface primarily to improve the appearance of the surface.

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

(20) "Engaged in an asbestos-related occupation" means:

- (a) conducting an asbestos inspection pursuant to ARM 17.74.354;
- (b) creating a project design pursuant to ARM 17.74.355; or
- (c) engaged in any activity for which an asbestos project permit is required under this subchapter.

(21) "Facility" has the meaning given in 40 CFR 61.141.

(22) "Friable" means able to be crumbled, pulverized, or reduced to powder by hand pressure when dry.

(23) "Glove bag" has the meaning given in 40 CFR 61.141.

(24) "Inspection" means an activity undertaken in a facility to determine the presence or location, or to assess the condition, of ACM or suspected ACM, whether by visual or physical examination, or by collecting samples of the material. This term includes reinspections of known or assumed ACM which has been previously identified. The term does not include the following:

(a) inspections performed by employees or agents of federal, state, or local government solely to determine compliance with applicable statutes or regulations; or

(b) visual inspections performed solely to determine completion of asbestos projects.

(25) "Person" has the meaning given in 75-2-502(6), MCA.

(26) "Regulated asbestos-containing material (RACM)" has the meaning given in 40 CFR 61.141.

(27) "Renovation" has the meaning given in 40 CFR 61.141.

(28) "Repair" means returning damaged RACM to an undamaged condition or to an intact state so as to prevent fiber release.

(29) "Structural member" has the meaning given in 40 CFR 61.141.

(30) "Surfacing material" means material that is sprayed-on, troweled-on, or otherwise applied to surfaces, such as acoustical plaster on ceilings and fireproofing materials on structural members, or other materials applied to surfaces for acoustical, fireproofing, or other purposes.

(31) "Thoroughly inspect" means to conduct a facility demolition-specific or renovation-specific asbestos inspection, pursuant to ARM 17.74.354, for the purposes of:

(a) identifying all ACM that potentially may be impacted by the subsequent renovation or demolition; and

(b) determining which requirements of this subchapter, and the Asbestos Control Act codified at Title 75, chapter 2, part 5, MCA, apply to the proposed demolition or renovation activity. (History: 75-2-503, MCA; IMP, 75-2-503, MCA; NEW, 2006 MAR p. 1574, Eff. 6/23/06; AMD, 2006 MAR p. 2962, Eff. 12/8/06; AMD, 2011 MAR p. 2264, Eff. 10/28/11.)

17.74.353 APPLICABILITY--ASBESTOS PROJECT REQUIREMENTS

(1) All asbestos projects must be conducted in accordance with the requirements of this subchapter and 40 CFR 61, subpart M, with the following exceptions:

(a) the minimum quantities of regulated asbestos-containing material (RACM) specified in 40 CFR 61.145(a)(1)(i) and (ii) and (4)(i) and (ii) do not apply;

(b) for purposes of 40 CFR 61.145(a)(1) and (4), the minimum quantities of asbestos provided in 75-2-502(3), MCA, apply;

(c) in 40 CFR 61.145(b)(1), pertaining to notification requirements, "Provide the department with written notice of intention to demolish or renovate. Delivery of the notice by U.S. Postal Service, commercial delivery service, facsimile, email, or hand delivery is acceptable, and delivery of the notice is complete when the department receives the notice" is substituted for "Provide the Administrator with written notice of intention to demolish or renovate. Delivery of the notice by U.S. Postal Service, commercial delivery service, or hand delivery is acceptable";

(d) in 40 CFR 61.145(b)(3), pertaining to the written notice of intention to demolish or renovate, "Notice must be received by the department as follows:" is substituted for "Postmark or deliver the notice as follows:"; and

(e) alternate work practices may be used if approved in writing by the department in advance. Requests for approval to employ alternate work practices must be submitted to the department on a form provided by the department.

(2) For purposes of this subchapter, inspections required by 40 CFR 61.145(a) must be conducted by a Montana-accredited asbestos inspector. (History: 75-2-503, MCA; IMP, 75-2-503, MCA; NEW, 2006 MAR p. 1574, Eff. 6/23/06; AMD, 2011 MAR p. 2264, Eff. 10/28/11.)

17.74.354 INSPECTION REQUIREMENTS FOR DEMOLITION AND RENOVATION ACTIVITIES (1) Prior to any demolition or renovation of a facility, the owner or operator shall ensure the facility or part of the facility where demolition or renovation actions will occur is thoroughly inspected by a department-accredited asbestos inspector in accordance with this subchapter.

(2) The owner or operator shall ensure that a copy of the inspection report is kept on site during the asbestos project. The owner shall ensure that the report is kept on site during subsequent renovations or demolition. The inspection report must be made available to the department upon request.

(3) A department-accredited asbestos inspector conducting an inspection in accordance with this subchapter shall:

(a) visually inspect the areas that may be affected to identify the locations of all suspect ACM;

(b) touch all suspect ACM to determine whether it is friable;

- (c) collect bulk samples from each surfacing material that is not assumed to be ACM in a statistically random manner that is representative of the surfacing material. Samples must be collected as follows:
- (i) at least three bulk samples must be collected from each surfacing material area that is 1,000 ft² or less;
 - (ii) at least five bulk samples must be collected from each surfacing material area that is greater than 1,000 ft², but less than or equal to 5,000 ft²; and
 - (iii) at least seven bulk samples must be collected from each surfacing material area that is greater than 5,000 ft²;
- (d) collect samples from thermal system insulation as follows:
- (i) at least one bulk sample from each area of patched thermal system insulation that is not assumed to be ACM;
 - (ii) at least three random bulk samples from each type of thermal system insulation that is not assumed to be ACM;
 - (iii) no bulk samples where the accredited inspector has determined that the thermal system insulation is fiberglass, foam, glass, rubber, or other non-ACM;
- (e) randomly collect at least three bulk samples from all mechanical system insulation and fittings, such as tees, elbows, and valves, that are not assumed to be ACM;
- (f) randomly collect at least three bulk samples from each type of miscellaneous material that is not assumed to be ACM; and
- (g) collect at least three bulk samples from any type of non-friable suspected ACM that is not assumed to be ACM.
- (4) For inspections conducted under (3), the inspector shall ensure that:
- (a) bulk samples are analyzed by persons or laboratories with proficiency demonstrated by current successful participation in a nationally recognized testing program such as the National Institute of Standards and Technology (NIST), National Voluntary Laboratory Accreditation Program (NVLAP), the round robin for bulk samples administered by the American Industrial Hygiene Association (AIHA), or an equivalent testing program accepted in writing by the department prior to analysis;
 - (b) except for wallboard system samples, bulk samples are not composited for analysis, but are analyzed for asbestos content by polarized light microscopy (PLM) using the "Method for the Determination of Asbestos in Bulk Building Materials" (EPA/600/R-93/116) or another method acceptable to the department; and
 - (c) the sample analytical report includes:
 - (i) results of the analysis;
 - (ii) method of analysis;
 - (iii) name and address of each laboratory performing an analysis;
 - (iv) the laboratory's accreditation number;
 - (v) the date of analysis; and
 - (vi) the name and signature of the person performing the analysis.

(5) For the purposes of an inspection conducted under (3):

(a) a material is considered to be ACM if the analytical results of at least one sample collected from that material show that asbestos is present in an amount greater than one percent; and

(b) a material is considered not to be ACM only if the analytical results for all samples collected from the material show that asbestos is not present in an amount greater than one percent.

(6) For inspections conducted under (3), the asbestos inspector shall report the findings in a written inspection report to the owner of the building or the operator conducting the planned demolition or renovation activity. The asbestos inspection report must include:

(a) the site of the asbestos inspection;

(b) the scope and purpose of the inspection and how it corresponds to the extent of the planned renovation or demolition activity;

(c) the date of the asbestos inspection;

(d) the signature of the accredited inspector conducting the asbestos inspection;

(e) the inspector's accreditation number and expiration date;

(f) an inventory of all assumed asbestos-containing and sampled materials;

(g) all sample locations;

(h) where ACM is located by type;

(i) the areas where friable material is assumed to be ACM, and areas where non-friable material is assumed to be ACM;

(j) a copy of the sample analytical report, specified in (4)(c), with the name and address of each laboratory performing an analysis, the date of analysis, and the name and signature of the person performing the analysis; and

(k) information on whether it will be necessary to remove any ACM before any activity begins that would break up, dislodge, or similarly disturb the material.

(7) If the inspection required in (1) was not conducted or was improperly conducted prior to commencement of renovation or demolition activities, an inspection must be conducted in accordance with (3) as soon as possible upon discovery of the missing or improper inspection, and before any additional renovation or demolition activities occur, with the addition of the following:

(a) industry-recognized procedures must be employed for sampling and analyzing settled dust to determine the extent of any asbestos contamination. The department will provide a list of acceptable procedures upon request;

(b) air sampling may not be used by the department-accredited asbestos inspector as the sole means of evaluating whether asbestos is present; and

(c) the department-accredited asbestos inspector shall summarize sampling and analytical procedures and evaluation findings in a written report. A recommendation on whether a new or continued asbestos project is necessary based on the evaluation must be included in the written report. The report must be submitted to the department before any further renovation or demolition work occurs.

(8) The department may conduct its own asbestos inspection if it deems an inspection conducted under (7) deficient.

(9) An inspection conducted under (7) does not excuse any failure to complete the inspection required in (1). (History: 75-2-503, MCA; IMP, 75-2-503, MCA; NEW, 2006 MAR p. 1574, Eff. 6/23/06; AMD, 2011 MAR p. 2264, Eff. 10/28/11.)

17.74.355 ASBESTOS PROJECT PERMITS (1) Pursuant to 75-2-511, MCA, a person may not conduct an asbestos project without a permit issued by the department, or violate the conditions of the permit.

(2) The asbestos project contractor or the owner or operator of the facility where an asbestos project is to be conducted shall submit to the department, on a form provided by the department, an application for a project permit that contains the following:

(a) a completed, signed Montana Asbestos Project Permit Application and NESHAP Demolition/Renovation Notification form provided by the department; and

(b) the permit fee required under ARM 17.74.401.

(3) If an application is deficient or incomplete, the department shall notify the applicant of the information necessary to complete the application. If the department has not received the information within ten days from the date of the deficiency letter, the application will be considered withdrawn.

(4) If the dates during which an asbestos project is to be conducted change, the asbestos project contractor/supervisor, or the owner or operator shall notify the department of the change at least 24 hours prior to:

(a) implementation of the new scheduled date; or

(b) the original scheduled date, whichever comes first.

(5) Within 72 hours after any initial verbal notice to the department of a change in the dates during which an asbestos project is to be performed, the permittee shall submit to the department a signed, original written notice of the newly scheduled dates, using an application form provided by the department. If the new dates are substantially different from those specified in the permit, the department may require the permittee to apply for an amendment to the permit.

(6) The department shall issue asbestos project permits for asbestos projects having a cost of \$3,000 or less within seven calendar days following the receipt of a properly completed permit application and the appropriate fee.

(7) A copy of the asbestos project permit application, permit, project design, and sketch must be posted and maintained on site in a conspicuous location during the asbestos project. A copy of the asbestos project contract must be maintained on site and be made available for examination by department employees or representatives.

(8) For an asbestos project limited to transportation and disposal, the posting of the project sketch required in (7) does not apply. (History: 75-2-503, MCA; IMP, 75-2-503, 75-2-511, MCA; NEW, 2006 MAR p. 1574, Eff. 6/23/06; AMD, 2011 MAR p. 2264, Eff. 10/28/11.)

17.74.356 ASBESTOS PROJECT CONTROL MEASURES (1) An asbestos project contractor/supervisor shall be:

(a) physically present at all times at the work site when regulated work is being conducted on an asbestos project;

(b) accessible to all asbestos project workers; and

(c) responsible for ensuring that the asbestos project complies with the asbestos project permit and the project design.

(2) Alternate control measures that are equivalent to those required under this subchapter may be used if written approval is obtained from the department in advance. (History: 75-2-503, MCA; IMP, 75-2-503, MCA; NEW, 2006 MAR p. 1574, Eff. 6/23/06; AMD, 2006 MAR p. 2962, Eff. 12/8/06; AMD, 2011 MAR p. 2264, Eff. 10/28/11.)

17.74.357 STANDARDS AND METHODS FOR CLEARING ASBESTOS PROJECTS AND REQUIREMENTS FOR PERSONS CLEARING ASBESTOS PROJECTS (1) At the conclusion of any asbestos project conducted in a facility,

the owner of the facility or the owner's designee shall ensure that final visual inspection and air clearance sampling are conducted in all asbestos project work areas.

(2) The concentration of asbestos fibers in air clearance samples collected pursuant to (1) must be:

(a) less than or equal to 0.01 fibers per cubic centimeter of air for each of five samples collected within the work area, if analyzed by PCM. The PCM analysis must be conducted using the NIOSH 7400 or NIOSH 7402 method; or

(b) less than or equal to the average concentration of 70 structures per square millimeter for five samples collected within the work area, if analyzed by transmission electron microscopy (TEM). The TEM analysis must be conducted using EPA's interim TEM analytical methods provided in 40 CFR 763, subpart E, appendix A.

(3) Final visual inspection and clearance sampling and analysis must be conducted as follows:

(a) a person performing a final visual inspection and final air clearance sampling shall:

(i) observe the entire asbestos project area to verify that the asbestos project contractor has removed all visible asbestos-containing waste, dust, and debris from the work area;

(ii) require any necessary recleaning by the asbestos project contractor and conduct subsequent visual inspections that verify that the asbestos project contractor has removed all ACM identified in the asbestos project permit and related asbestos-containing waste, dust, and debris from the work area; and

(iii) complete a signed, written affidavit verifying that the asbestos project contractor has removed all ACM identified in the asbestos project permit and related asbestos-containing waste, dust, and debris;

- (b) a person collecting final air clearance samples shall:
- (i) ensure final clearance air sampling and testing are not performed until after the final visual inspection has been completed in accordance with this rule;
 - (ii) once the work area has passed the final visual inspection, sweep an air stream from a high-speed blower or equivalent air-blowing device across all surfaces in the work area for a time adequate to disturb air in all areas of the work area prior to beginning final air clearance sampling;
 - (iii) ensure the air is continually agitated, creating maximum air disturbance in all potentially occupied areas, i.e., continually running fans, during the collection of final air clearance samples. Agitating the air in the work area prior to final air clearance sampling is not required for unoccupied areas such as crawl spaces; and
 - (iv) immediately after agitating the air in the work area, begin collecting at least five final clearance air samples in the work area;
- (c) for an asbestos project with more than a single isolated work area within a large space contained by four walls and a ceiling, the owner or operator of a renovation or demolition activity shall ensure the isolated work areas are sampled by taking at least one air sample within each isolated work area. If more than five isolated work areas are used in a space contained by four walls and a ceiling, at least five aggressive air samples must be collected. The first four air samples must be gathered from those isolated work areas where the greatest potential for asbestos exposure exists; the fifth sample must be taken in the last isolated work area in which the asbestos project occurred;
- (d) for asbestos projects employing glovebags, the owner or operator of the renovation or demolition activity shall have at least one aggressive air sample collected in the immediate area of each glovebag, with at least five air samples collected for each space contained by four walls and a ceiling. If more than five glovebags are used in a space contained by four walls and a ceiling, at least five air samples are required for that space. The five samples must be gathered from areas where the greatest potential for asbestos exposure exists;
- (e) the asbestos project may not be cleared until after the final visual inspection and after the results of all required air clearance samples demonstrate that asbestos concentrations do not exceed the applicable concentration specified in (2);
- (f) persons conducting a final visual inspection and final air clearance sampling and testing shall record:
- (i) the names of the asbestos project contractor/supervisor and the person or persons conducting final visual inspection and final air clearance sampling;
 - (ii) the name and address of the facility site and location of the asbestos project;
 - (iii) the number of the asbestos project permit issued by the department;
 - (iv) the date of final visual inspection and final air clearance sampling;
 - (v) whether the work area was aggressed;
 - (vi) the number of samples collected;
 - (vii) the type of samples (i.e., PCM or TEM);
 - (viii) a statement of whether final visual inspection and final air clearance sampling has documented the completion of the asbestos project;

(g) the final visual inspection and air clearance sampling report must include the signatures of the project contractor/supervisor and final air clearance sampling person attesting to the completion of the asbestos project; and

(h) the results of the final visual inspection and final air clearance sampling and testing must be maintained by the asbestos project contractor and by the person who performed the sampling and must be made available to the department within five working days of a request for the results.

(4) For asbestos projects with final air clearance sampling, the person conducting final air clearance sampling shall:

(a) collect five samples of air, with each sampling at least 1,199 liters of air, by using an air sampling pump capable of drawing a volume that is equal to or greater than 1,199 liters of air through each of the five millimeter filters, at a rate equal to or greater than one liter and less than ten liters per minute for TEM samples and equal to or greater than one liter and less than 16 liters per minute for PCM samples;

(b) ensure that the flow rate for each air sampling pump is calibrated at the beginning and end of the sampling period; and

(c) ensure air sampling cassettes are placed four to six feet above the floor at a 45 degree angle down. The cassettes must be uniformly distributed throughout the work area. At least one cassette must be located in each room. If the asbestos project was conducted in more than five rooms, a representative sample of rooms must be selected. Each cassette must be subject to normal air circulation, avoiding room corners, walls, ceilings, obstructed locations, and sites near windows, doors, or vents.

(5) If the background level of asbestos, as identified by the thorough inspection required in ARM 17.74.354(1), is determined to exceed the maximum allowable concentration in (2), the department may issue a written waiver from (3)(e) upon receipt of a written request in advance of the asbestos project.

(6) An asbestos project is considered complete when the final visual inspection documents no residual visible ACM, dust, or debris is present, and the results of clearance air sampling meet the requirements of (2).

(7) Air samples required by this rule may be analyzed only by laboratories accredited by the American Industrial Hygiene Association (AIHA) or laboratories that participate in the AIHA proficiency analytical testing (PAT) program and that have received a "proficient" rating for asbestos PCM samples, or another laboratory accepted in writing by the department. For sampling and sample analysis, a quality assurance program must be implemented as described in the NIOSH 7400 method or another quality assurance program accepted in writing by the department. PAT results must be submitted to the department upon request.

(8) PCM analyses required by this rule may be conducted only by a person certified in the NIOSH 582 or 582E sample collection and analytical method and who participates in a round robin quality assurance/quality control program for PCM analysts or another certification or quality assurance/quality control program accepted in writing by the department in advance.

(9) TEM sample analyses required by this rule must be conducted by a laboratory accredited by the National Voluntary Laboratory Accreditation Program or a laboratory accredited by an equivalent accreditation program that is accepted in advance by the department in writing.

(10) Proposed alternate standards and methods for clearing asbestos projects that provide results at least as accurate as the standards and methods set forth in (1) through (9) may be used if approved in advance by the department in writing. Requests for approval to employ alternate standards and methods must be submitted in advance to the department on a form provided by the department.

(11) A person performing a final visual inspection and final air clearance sampling:

(a) must be accredited by the department as an asbestos project worker or asbestos project contractor/supervisor; and

(b) may not be contractually associated with the asbestos project contractor, and there may not be any common ownership or employment relationship between the person or entity carrying out the asbestos project and the person or entity conducting the final clearance or sampling and analysis operations. (History: 75-2-503, MCA; IMP, 75-2-503, MCA; NEW, 2006 MAR p. 1574, Eff. 6/23/06; AMD, 2006 MAR p. 2962, Eff. 12/8/06; AMD, 2011 MAR p. 2264, Eff. 10/28/11.)

17.74.358 EMERGENCY RENOVATION OPERATION PERMITS

(1) For an emergency renovation operation, as defined in 40 CFR 61.141, the asbestos project contractor or owner of the facility shall immediately notify the department by telephone or in person and submit to the department, on a form provided by the department, a completed application for an asbestos project permit pursuant to ARM 17.74.355 within five working days after the initial notice.

(2) An application for an emergency renovation operation permit must include a description of the emergency renovation operation and must demonstrate that an emergency, as defined in 40 CFR 61.141, existed that prevented the asbestos project contractor or owner of the facility from applying for a permit prior to initiation of the project. (History: 75-2-503, MCA; IMP, 75-2-503, 75-2-511, MCA; NEW, 2006 MAR p. 1574, Eff. 6/23/06.)

17.74.359 ANNUAL ASBESTOS PROJECT PERMITS

(1) An annual asbestos project permit authorizes a facility to conduct asbestos projects within the confines of the facility's controlled area during the period for which the permit is in force.

(2) The owner or operator of a facility may apply to the department for an annual asbestos project permit if the facility:

(a) continuously employs asbestos project workers; or

(b) continuously contracts with outside contractors to perform asbestos projects for the facility; and

(c) maintains an asbestos health and safety program that incorporates standard operating procedures for employees involved in asbestos projects.

(3) An owner or operator conducting asbestos projects under an annual asbestos project permit shall comply with all requirements pertaining to asbestos project notification.

(4) The owner or operator of a facility applying for an annual asbestos project permit shall submit to the department:

- (a) the fee required under ARM 17.74.401;
- (b) a copy of the facility's written health and safety program on asbestos; and
- (c) a completed application on a form provided by the department, including:
 - (i) a description of the structure and the asbestos work to be performed;
 - (ii) the name(s) and address(es) of any outside contractor or contractors who will be performing asbestos projects at the facility under the permit;
 - (iii) a signed statement that all work performed under the permit will be performed in accordance with this subchapter;
 - (iv) a signed statement that all work will be performed by persons accredited by the department; and
 - (v) a signed statement that:
 - (A) asbestos-containing waste will be transported to and disposed of at an approved asbestos disposal facility;
 - (B) identifies the transporter of the asbestos-containing waste; and
 - (C) identifies the disposal facility by name and location.

(5) An annual asbestos project permit expires one year after issuance unless the facility owner applies for renewal at least 45 days before the expiration date and the department approves the application.

(6) An application for renewal of an annual asbestos project permit must address in detail only the portions of the permit application that require revision, updating, supplementation, or deletion, and may reference any required information that has been previously submitted.

(7) An amendment to the permit is required when there is a change in project contractor, demolition/renovation contractor, transporter, or disposal site or other change of similar scope or magnitude. (History: 75-2-503, MCA; IMP, 75-2-503, 75-2-504, MCA; NEW, 2006 MAR p. 1574, Eff. 6/23/06; AMD, 2011 MAR p. 2264, Eff. 10/28/11.)

17.74.360 RECORDKEEPING (1) Records of asbestos projects that are being, or have been, conducted must be retained for at least 30 years and made available to the department upon request.

- (2) Records must be retained and made available to the department by:
- (a) the asbestos project contractor/supervisor for the project; or
 - (b) the owner of the facility in which the project is being or has been conducted if the owner is accredited by the department and is conducting the project without a contractor/supervisor.

(3) Records of asbestos projects must include, but are not limited to, the following:

(a) the name, address, and accreditation identification number of the person who supervised each asbestos project, and of each person who worked on the project;

(b) the location and description of each project and the amount of ACM that was enclosed, removed, repaired, encapsulated, or placed in new construction;

(c) the starting and completion dates of each instance of enclosure, removal, repair, encapsulation, or placement in new construction;

(d) the name and address of each facility where asbestos-containing waste was deposited for disposal;

(e) a waste shipment record from each disposal facility indicating the amount of asbestos-containing waste deposited at the site and the date of the deposit; and

(f) the waste shipment records indicating the amount of asbestos-containing waste transported to each disposal facility and the name and location of each facility. (History: 75-2-503, MCA; IMP, 75-2-513, MCA; NEW, 2006 MAR p. 1574, Eff. 6/23/06; AMD, 2011 MAR p. 2264, Eff. 10/28/11.)

17.74.361 DEPARTMENT INSPECTIONS (1) The owner of the facility where an asbestos project is being or was conducted, or a person conducting or in charge of an asbestos project shall:

(a) afford the department, at all reasonable times, the opportunity to inspect the project site;

(b) upon request, make records maintained pursuant to this subchapter available to the department for inspection and copying; and

(c) maintain proof of accreditation and photo identification of all persons involved in the asbestos project. These documents must be available at the project site for the duration of the project and must be made available to the department upon request. (History: 75-2-503, MCA; IMP, 75-2-518, MCA; NEW, 2006 MAR p. 1574, Eff. 6/23/06; AMD, 2011 MAR p. 2264, Eff. 10/28/11.)

17.74.362 ACCREDITATION REQUIREMENTS FOR ASBESTOS-RELATED OCCUPATIONS (1) Pursuant to 75-2-511, MCA, a person may not:

(a) engage in an asbestos-related occupation unless accredited in that occupation by the department; or

(b) contract with or employ in an asbestos-related occupation a person not accredited in that occupation by the department.

(2) A person seeking initial accreditation in an asbestos-related occupation shall:

(a) successfully complete either a training course approved by the department pursuant to this subchapter, or a course approved by the U.S. Environmental Protection Agency and shall pass an examination approved by the department; and

(b) submit to the department a completed application form provided by the department, with the fee required in ARM 17.74.402 and a copy of a certificate of satisfactory completion from the course approved for that occupation.

(3) The department may deny, suspend, or revoke accreditation of a person pursuant to 75-2-515, MCA. (History: 75-2-503, MCA; IMP, 75-2-511, MCA; NEW, 2006 MAR p. 1574, Eff. 6/23/06.)

17.74.363 RENEWAL OF ACCREDITATION (1) A person may not engage in an asbestos-related occupation after the expiration of accreditation until accreditation is renewed.

(2) Accreditation for each asbestos-related occupation may be renewed annually on or before the expiration date of accreditation by submitting to the department a completed application form provided by the department, a certificate of satisfactory completion of a department approved refresher course, and the appropriate fee.

(3) An applicant for renewal of accreditation in an asbestos-related occupation, except asbestos project inspector and management planner, shall attend a one-day refresher course approved by the department or EPA for that specific occupation.

(4) For renewal of accreditation as an asbestos project inspector, a person shall attend a half-day refresher course approved by the department or EPA.

(5) Asbestos project management planners shall attend the half-day asbestos inspector refresher course plus an additional half-day refresher course on asbestos project management planning approved by the department or EPA.

(6) If a person does not apply for renewal of accreditation within one year following the expiration of accreditation, the person must obtain accreditation under ARM 17.74.362 to engage in an asbestos-related occupation.

(7) An applicant for renewal of accreditation as instructor shall attend a refresher course:

(a) taught by another instructor; or

(b) taught by the instructor with three or more students. (History: 75-2-503, MCA; IMP, 75-2-511, MCA; NEW, 2006 MAR p. 1574, Eff. 6/23/06.)

17.74.364 TRAINING PROVIDER REQUIREMENTS (1) Pursuant to 75-2-511, MCA, a person may not offer a training course in Montana for accreditation of persons to engage in an asbestos-related occupation in Montana unless the department has approved the course. A person offering a training course outside Montana also may apply to the department for course approval.

(2) The department shall approve a training course if it meets the requirements listed in ARM 17.74.365.

(3) For department approval of a training course, instructors' qualifications must include:

- (a) significant academic and/or field experience in asbestos control; and
- (b) current accreditation in the asbestos-related occupation related to the course to be taught.

(i) An instructor who is accredited as a contractor/supervisor may teach the asbestos project worker course without current accreditation as an asbestos project worker.

(4) Except for the asbestos project worker course and the refresher courses, at least two approved instructors shall conduct all training courses.

(5) All training course materials and examinations must be submitted to the department in advance for approval. A person may apply for approval of a training course by submitting all of the following to the department at least 45 calendar days prior to the proposed date of course presentation:

- (a) a completed written application on a form provided by the department;
- (b) a curriculum that includes the course topics specified in this subchapter;
- (c) a copy of the course examination and all course materials (written and visual);
- (d) a copy of the certification of satisfactory completion to be used for certification at the end of the course;
- (e) a list of the instructors who will teach the course and documentation of the instructors' qualifications, which must include significant academic and/or field experience in asbestos control;
- (f) a description of hands-on training to be provided in the course;
- (g) a course schedule indicating the time allotted and the instructor for each subject;
- (h) the appropriate fee for approval of the course, specified in ARM 17.74.403; and
- (i) documentation of EPA course approval if the course has been approved by EPA.

(6) At least ten working days before a course commences, the person providing the training course shall notify the department of the date, time, and location of the course.

(7) The department must be notified in advance of any proposed changes in the content of training courses, examinations, or instructors. The department shall approve or deny in writing any proposed changes in training course or examination contents or change in instructor(s).

(8) Guest speakers at a training course, such as physicians, attorneys, or other asbestos experts, do not need to be accredited in the discipline being taught. However, their presentation must be supervised by the course instructor and the course instructor remains responsible for ensuring that all required information is taught.

(9) The department may audit an approved training course and examination and may audit a training course following any change in the course.

(10) Following an audit conducted under this rule, the course provider shall pay the audit fee specified in ARM 17.74.404.

(11) Department personnel may audit any training course offered for accreditation in an asbestos-related occupation without paying tuition or the cost of materials.

(12) Within two working days of completing a course, the training course provider shall submit a course roster to the department. The course roster must identify:

- (a) the name and address of the training provider who provided the course;
- (b) the name of the asbestos-related occupation course completed;
- (c) the date(s) of the class;
- (d) the printed name and signature of at least one course instructor;
- (e) each course participant's signature and printed name;
- (f) each course participant's course certificate number; and
- (g) a statement that each person receiving a certificate has completed the training required for accreditation under this subchapter. (History: 75-2-503, MCA; IMP, 75-2-511, MCA; NEW, 2006 MAR p. 1876, Eff. 6/23/06; AMD, 2011 MAR p. 2264, Eff. 10/28/11.)

17.74.365 TRAINING COURSE REQUIREMENTS (1) A training course for accreditation as an asbestos project worker must meet the requirements of 40 CFR 763, subpart E, Appendix C, section B.1, Workers.

(2) A training course for accreditation as an asbestos project contractor/supervisor must meet the requirements of 40 CFR 763, subpart E, Appendix C, section B.2, Contractor/Supervisor.

(3) A training course for accreditation as an asbestos project inspector must meet the requirements of 40 CFR 763, subpart E, Appendix C, section B.3, Inspector.

(4) A training course for accreditation as an asbestos project management planner must meet the requirements of 40 CFR 763, subpart E, Appendix C, section B.4, Management Planner.

(5) A training course for accreditation as an asbestos project designer must meet the requirements of 40 CFR 763, subpart E, Appendix C, section B.5, Project Designer.

(6) For purposes of this rule, the phrase "public and commercial building" has the meaning given in the definition of "facility" at ARM 17.74.352. (History: 75-2-503, MCA; IMP, 75-2-511, MCA; NEW, 2006 MAR p. 1574, Eff. 6/23/06; AMD, 2011 MAR p. 2264, Eff. 10/28/11.)

17.74.366 TRAINING COURSE EXAMINATIONS (1) The following requirements apply to asbestos-related occupation accreditation training course examinations:

(a) for asbestos project worker, asbestos inspector, and asbestos project management planner training courses, the examination must include 50 multiple choice questions with a passing score of at least 70%; and

(b) for asbestos project contractor/supervisor and asbestos project designer courses, the examination must include 100 multiple choice questions with a passing score of at least 70%.

(2) All examinations must be closed book. (History: 75-2-503, MCA; IMP, 75-2-511, MCA; NEW, 2006 MAR p. 1574, Eff. 6/23/06.)

17.74.367 REFRESHER COURSES (1) A person may not offer a refresher course for renewal of accreditation under ARM 17.74.363 unless the department has approved the course.

(2) Refresher courses must relate to a particular asbestos-related occupation and must include review of changes in federal and state regulations, developments in state-of-the-art procedures, and key aspects of the initial training course.

(3) For department approval of a refresher course, a person shall submit to the department, on a form provided by the department, a completed application and the fee specified in ARM 17.74.403. The application must include:

(a) a description of the subject matter to be taught in the refresher course;

(b) the materials to be used;

(c) a description and example of the numbered certificates to be issued to students who successfully complete the course;

(d) the names of the instructors who will teach the course; and

(e) a description of the instructors' qualifications, which must include academic and/or field experience in asbestos control. (History: 75-2-503, MCA; IMP, 75-2-511, MCA; NEW, 2006 MAR p. 1574, Eff. 6/23/06.)

17.74.368 TRAINING COURSE AND REFRESHER COURSE CERTIFICATE AND RECORDKEEPING REQUIREMENTS (1) A person providing a training course for accreditation in an asbestos-related occupation shall provide a certificate to all persons who successfully complete the course and the examination. The certificate must be numbered and include:

(a) the asbestos-related occupation course completed;

(b) the course participant's name and address;

(c) the date of the examination;

(d) the signature of at least one course instructor;

(e) the inclusive dates of the course;

(f) the name, address, and telephone number of the training provider who issued the certificate;

(g) the name and address of the agency that approved the course;

(h) a statement that the person receiving the certificate has completed the training required for accreditation under this subchapter;

(i) a statement that the trainee, by name, has successfully passed the examination for the course; and

(j) an accreditation expiration date of one year after the date upon which the person successfully completed the course and examination.

(2) A person providing a training course for accreditation or a refresher course for renewal of accreditation in an asbestos-related occupation shall retain:

(a) copies of all training course materials used, including student manuals, instructor notebooks, and handouts;

(b) copies of all documents relating to that training course or refresher course issued to that person by the department;

(c) records that identify the instructors;

(d) records of the examinations, including:

(i) the date of the examination;

(ii) the name of the training course;

(iii) the name of the person who proctored the examination;

(iv) the name of each person taking the examination;

(v) each trainee's examination score; and

(vi) a copy of the examination; and

(e) records of all persons who have been awarded certificates, including:

(i) their names and certificate numbers;

(ii) their certified asbestos-related occupations;

(iii) the dates of their training;

(iv) the expiration dates of accreditation; and

(v) the training location.

(3) A training course provider shall maintain all records required under this rule for at least three years.

(4) A training course provider shall provide EPA and the department with reasonable access to all training records upon request. (History: 75-2-503, MCA; IMP, 75-2-511, MCA; NEW, 2006 MAR p. 1574, Eff. 6/23/06.)

17.74.369 TRANSPORTATION AND DISPOSAL OF ASBESTOS-CONTAINING WASTE (1) A person may not transport asbestos-containing waste generated at a facility unless accredited by the department as an asbestos project worker or asbestos project contractor/supervisor or escorted and supervised by a person who is accredited as an asbestos project worker or asbestos project contractor/supervisor.

(2) Prior to transporting or disposing of asbestos-containing waste from an asbestos project, a person shall obtain an asbestos project permit from the department.

(3) A person who transports or escorts a vehicle that contains asbestos-containing waste from an asbestos project shall:

(a) maintain proof of accreditation and the asbestos project permit and make it available, upon request, to the department during asbestos-containing waste handling activities;

(b) prior to waste pick up:

(i) obtain assurance from the asbestos project contractor/supervisor that the asbestos-containing waste is adequately wet;

(ii) confirm the asbestos-containing waste is properly packaged in leak-tight containers, or wrappings, except as provided in 40 CFR 61.150(a)(3);

(iii) confirm the contained or wrapped asbestos-containing waste is labeled with the name of the waste generator and the location at which the waste was generated;

(iv) ensure that any vehicle used to transport asbestos-containing waste during the loading and unloading of the waste is marked with signs conforming to the requirements of 40 CFR Part 61, subpart M;

(v) ensure that the waste shipment record form contains all information required by 40 CFR Part 61, subpart M, and record the asbestos project permit number on the form;

(vi) either deposit asbestos-containing waste at a licensed Class II or Class IV landfill facility as soon as practical, or, if asbestos-containing waste is not disposed of as soon as practical, store any asbestos-containing waste in a secure holding facility or location accessible only to asbestos project workers or asbestos project contractor/supervisors accredited by the department; and

(vii) retain responsibility for asbestos-containing waste until the waste is accepted by a licensed Class II or Class IV landfill; and

(c) retain the waste shipment record for at least two years. (History: 75-2-503, MCA; IMP, 75-2-503, MCA; NEW, 2011 MAR p. 2264, Eff. 10/28/11.)

17.74.370 ENCLOSURE OF ASBESTOS-CONTAINING MATERIAL (1) A person may not conduct asbestos enclosure procedures for an asbestos project unless accredited by the department as an asbestos project worker or asbestos project contractor/supervisor.

(2) When conducting asbestos enclosure procedures for an asbestos project, a person shall:

(a) apply amended water to the ACM to reduce airborne asbestos concentrations;

(b) remove or repair loose or hanging ACM;

(c) ensure that the enclosure material is impact resistant and installed in a manner that provides an airtight barrier;

(d) ensure that the enclosed ACM is conspicuously marked or labeled to warn persons of its presence; and

(e) meet the requirements of ARM 17.74.357. (History: 75-2-503, MCA; IMP, 75-2-503, MCA; NEW, 2011 MAR p. 2264, Eff. 10/28/11.)

17.74.371 ENCAPSULATION OF ASBESTOS-CONTAINING MATERIAL

(1) A person may not conduct asbestos encapsulation procedures for an asbestos project unless accredited by the department as an asbestos project worker or asbestos project contractor/supervisor.

(2) A person conducting asbestos encapsulation procedures for an asbestos project shall:

(a) apply amended water to the ACM to reduce airborne asbestos concentrations;

(b) remove or repair loose or hanging ACM;

(c) field-test encapsulants prior to their use by applying each encapsulant to a small area to determine how well the encapsulant works with the ACM to be encapsulated; and

(d) meet the requirements of ARM 17.74.357.

(3) Bridging and penetrating encapsulants must be applied to ACM according to the encapsulant manufacturer's specifications.

(4) Encapsulants must be applied in a manner that does not dislodge or disturb the ACM. (History: 75-2-503, MCA; IMP, 75-2-503, MCA; NEW, 2011 MAR p. 2264, Eff. 10/28/11.)

17.74.372 REPAIR OF ASBESTOS-CONTAINING MATERIAL (1) A person may not conduct asbestos repair procedures for an asbestos project unless accredited by the department as an asbestos project worker or asbestos project contractor/supervisor.

(2) A person conducting asbestos repair procedures for an asbestos project shall:

(a) apply amended water to the ACM to reduce airborne asbestos concentrations;

(b) remove or repair loose or hanging ACM;

(c) ensure that the repaired ACM is sufficiently repaired to prevent the release of asbestos;

(d) ensure that the repaired ACM is conspicuously marked or labeled to warn persons of its presence; and

(e) meet the requirements of ARM 17.74.357. (History: 75-2-503, MCA; IMP, 75-2-503, MCA; NEW, 2011 MAR p. 2264, Eff. 10/28/11.)

ENVIRONMENTAL QUALITY

CHAPTER 74

NOISE, ASBESTOS CONTROL, METHAMPHETAMINE CLEANUP

Subchapter 4

Fees

Rule	17.74.401	Permit Fees
	17.74.402	Accreditation and Accreditation Renewal Fees
	17.74.403	Course Approval Fees
	17.74.404	Course Audit Fees
	17.74.405	Penalty (REPEALED)

Subchapter 4

Fees

17.74.401 PERMIT FEES (1) Concurrent with submittal of an asbestos project permit application, the applicant shall submit a permit fee to the department as follows:

- (a) asbestos project permit 10.0% of the contract volume, as defined in (2)
- (b) annual permit.....\$2,000
- (c) amendments to annual permit\$600

(2) "Contract volume" means, for purposes of calculating the asbestos project permit fee, the itemized contract charges directly associated with conducting the asbestos project. If there is no itemization of charges, the total of all charges associated with the contract is the contract volume. The cost of the asbestos project permit fee is not included in the determination of the contract volume if the fee is separately itemized in the contract.

(3) The asbestos project permit applicant shall submit a copy of the contract to the department to verify the contract volume specified in the permit application.

(4) The fee for requested inspections of asbestos projects is \$500 for each inspection. (History: 75-2-503, MCA; IMP, 75-2-503, 75-2-504, MCA; NEW, 1989 MAR p. 2234, Eff. 1/1/90; AMD, 1993 MAR p. 549, Eff. 4/16/93; TRANS, from DHES, 1996 MAR p. 433; AMD, 2002 MAR p. 3599, Eff. 12/27/02; AMD, 2003 MAR p. 2624, Eff. 11/27/03; AMD, 2007 MAR p. 1933, Eff. 11/22/07.)

17.74.402 ACCREDITATION AND ACCREDITATION RENEWAL FEES

(1) A person seeking accreditation or renewal of accreditation in an asbestos-related occupation shall pay a fee to the department. The fees for accreditation or renewal of accreditation are:

- (a) asbestos project worker.....\$ 45
- (b) asbestos project contractor/supervisor\$170
- (c) asbestos inspector.....\$170
- (d) asbestos management planner\$170
- (e) asbestos project designer.....\$170

(2) For accreditation or accreditation renewal based on completion of an initial or refresher training course that has been approved by another state having accreditation requirements at least as stringent as Montana's, a person shall pay a surcharge of \$15 plus the accreditation or accreditation renewal fee for an application under (1)(a), or \$35 plus the accreditation or accreditation renewal fee for an application under (1)(b) through (e).

(3) For simultaneous, i.e., on the same application with the same date, accreditation or accreditation renewal in more than one asbestos-related occupation, the fee is \$325 plus any applicable surcharges, or the total of the two highest fees plus any applicable surcharges for those two occupations, whichever is less.

(History: 75-2-503, MCA; IMP, 75-2-503, MCA; NEW, 1989 MAR p. 2234, Eff. 1/1/90; AMD, 1993 MAR p. 549, Eff. 4/16/93; AMD, 1995 MAR p. 1579, Eff. 8/11/95; TRANS, from DHES, 1996 MAR p. 433; AMD, 2003 MAR p. 2624, Eff. 11/27/03; AMD, 2007 MAR p. 1933, Eff. 11/22/07.)

17.74.403 COURSE APPROVAL FEES (1) A person seeking approval of a training course for accreditation in an asbestos-related occupation shall pay to the department a fee of \$1,100 per course. (History: 75-2-503, MCA; IMP, 75-2-503, MCA; NEW, 1989 MAR p. 2234, Eff. 1/1/90; TRANS, from DHES, 1996 MAR p. 433; AMD, 2003 MAR p. 2624, Eff. 11/27/03; AMD, 2007 MAR p. 1933, Eff. 11/22/07.)

17.74.404 COURSE AUDIT FEES (1) A person offering a training course or refresher course for accreditation in an asbestos-related occupation that is audited by the department, as required under subchapter 3, shall pay the following fees, as applicable, within 60 days after receiving a bill from the department:

- (a) asbestos project worker course\$ 480
- (b) asbestos project contractor/supervisor course\$ 800
- (c) asbestos inspector course\$ 800
- (d) asbestos management planner course.....\$ 480
- (e) asbestos project designer course.....\$ 480
- (f) asbestos inspector course and asbestos management planner course presented in conjunction\$ 960
- (g) refresher course\$ 200
- (h) two or more refresher courses presented consecutively\$ 320

(2) For audits of approved training courses and refresher courses offered outside the state of Montana, in addition to the fees required in (1), the course provider shall pay actual and necessary department staff travel expenses as defined and provided in 2-18-501 through 2-18-503, MCA. (History: 75-2-503, MCA; IMP, 75-2-503, MCA; NEW, 1989 MAR p. 2234, Eff. 1/1/90; AMD, 1993 MAR p. 549, Eff. 4/16/93; TRANS, from DHES, 1996 MAR p. 433; AMD, 2003 MAR p. 2624, Eff. 11/27/03; AMD, 2007 MAR p. 1933, Eff. 11/22/07.)

17.74.405 PENALTY (REPEALED) (History: 75-2-503, MCA; IMP, 75-2-503, 75-2-514, MCA; NEW, 1989 MAR p. 2234, Eff. 1/1/90; AMD, 1993 MAR p. 549, Eff. 4/16/93; AMD, 1995 MAR p. 1579, Eff. 8/11/95; TRANS, from DHES, 1996 MAR p. 433; REP, 2003 MAR p. 2624, Eff. 11/27/03.)

