

ENVIRONMENTAL QUALITY

CHAPTER 74

NOISE, ASBESTOS CONTROL, METHAMPHETAMINE CLEANUP

Subchapter 5

Methamphetamine Cleanup

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Subchapter 5

Methamphetamine Cleanup

17.74.501 PURPOSE (1) This subchapter is adopted to protect the public health, safety, and welfare by providing specific cleanup standards for inhabitable property contaminated by clandestine methamphetamine labs (CML). This subchapter establishes a voluntary program for property owners to obtain department confirmation that the decontamination standards established by the department have been met, for purposes of liability immunity pursuant to 75-10-1305(4), MCA, and for purposes of removing property from the list of contaminated property maintained by the department pursuant to 75-10-1306, MCA. (History: 75-10-1304, MCA; IMP, 75-10-1304, MCA; NEW, 2006 MAR p. 1042, Eff. 4/21/06.)

17.74.502 INCORPORATION BY REFERENCE -- PUBLICATION DATES (REPEALED) (History: 75-10-1303, 75-10-1304, MCA; IMP, 75-10-1303, 75-10-1304, MCA; NEW, 2006 MAR p. 1042, Eff. 4/21/06; AMD, 2006 MAR p. 2963, Eff. 12/8/06; REP, 2014 MAR p. 2651, Eff. 10/24/14.)

17.74.503 INCORPORATION BY REFERENCE (REPEALED) (History: 75-10-1303, 75-10-1304, MCA; IMP, 75-10-1303, 75-10-1304, MCA; NEW, 2006 MAR p. 1042, Eff. 4/21/06; AMD, 2006 MAR p. 2963, Eff. 12/8/06; REP, 2014 MAR p. 2651, Eff. 10/24/14.)

17.74.504 DEFINITIONS For the purposes of this subchapter, unless the context clearly indicates otherwise:

(1) "Certificate" means a department-issued written approval under this subchapter.

(2) "Certificate of fitness" means a certificate issued for a particular inhabitable property by the department confirming that the property has been properly remediated to the standards provided in ARM 17.74.505.

(3) "Certified contractor" means a person who has been issued a CML decontamination certificate under this subchapter.

(4) "Certified training provider" means a person to whom the department has issued a CML decontamination training provider certificate under this subchapter.

(5) "CML" means a contaminated methamphetamine drug lab.

(6) "Contaminated" or "contamination" means polluted by hazardous chemicals from a CML so that the inhabitable property may be unfit for human habitation or use due to immediate or long-term hazards from such contamination. Inhabitable property that at one time was contaminated, but has been decontaminated in conformance with the requirements of this subchapter, is not "contaminated" once the department issues a certificate of fitness for the property.

(7) "Decontaminated" or "decontamination" means the process of reducing levels of methamphetamine from a CML affecting inhabitable property to the level established in ARM 17.74.505. A property is considered decontaminated when the department issues a certificate of fitness for the property.

(8) "Department" means the Montana Department of Environmental Quality.

(9) "Inhabitable property" has the meaning provided in 75-10-1302, MCA.

(10) "Initial course" means a training course sponsored or approved by the department for certified contractors who perform or supervise decontamination on CML sites.

(11) "Initial site assessment" means the first evaluation of inhabitable property by a certified contractor to determine the nature and extent of observable contamination from a CML.

(12) "Methamphetamine" means dextro-methamphetamine, levo-methamphetamine, any racemic mixture of dextro/levo-methamphetamine, or any mixture of isomers of methamphetamine.

(13) "Person" means an individual, trust, firm, joint stock company, federal agency, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of a state, or any interstate body.

(14) "Property owner" means a person with a lawful right of possession of inhabitable property by reason of obtaining it by purchase, exchange, gift, lease, inheritance, or legal action.

(15) "Refresher course" means a department-sponsored or department-approved training course for previously certified CML decontamination contractors.

(16) "Surface material" has the meaning provided in 75-10-1302, MCA.

(17) "Wipe sample" means a surface sample collected by wiping a sample medium on surface materials in accordance with common industry standards.

(History: 75-10-1304, MCA; IMP, 75-10-1304, MCA; NEW, 2006 MAR p. 1042, Eff. 4/21/06; AMD, 2014 MAR p. 2651, Eff. 10/24/14.)

17.74.505 DECONTAMINATION STANDARD (1) The CML decontamination standard is a surface wipe sample for methamphetamine may not exceed 0.1 micrograms (10^{-6} gram) per 100 square centimeters. (History: 75-10-1303, MCA; IMP, 75-10-1303, MCA; NEW, 2006 MAR p. 1042, Eff. 4/21/06; AMD, 2014 MAR p. 2651, Eff. 10/24/14.)

17.74.506 DECONTAMINATION PERFORMANCE, ASSESSMENT, AND INSPECTION (1) For the department to confirm, pursuant to 75-10-1305(4), MCA, that the decontamination standard in ARM 17.74.505 has been met for an inhabitable property where clandestine methamphetamine manufacturing has taken place, and for the department to remove the property from the list of contaminated property maintained pursuant to 75-10-1306, MCA, all sampling, submittal of samples, and work performed to assess the extent of contamination in compliance with the CML decontamination standard and disposal of contaminated material must be performed by the department or by contractors certified by the department pursuant to this subchapter to perform that work.

(2) Upon confirmation by the department that an inhabitable property has been properly remediated to the standards provided in ARM 17.74.505, the department shall issue a certificate of fitness to the property owner of record.

(3) At any reasonable time, upon presentation of credentials, and for the purpose of determining compliance with the provisions of this subchapter, an employee or agent of the department may:

(a) enter and inspect any place at which a CML decontamination project is being conducted pursuant to this subchapter; or

(b) enter any place at which records pertinent to a CML decontamination project conducted pursuant to this subchapter are maintained, and examine or copy any such records. (History: 75-10-1303, MCA; IMP, 75-10-1303, MCA; NEW, 2006 MAR p. 1042, Eff. 4/21/06; AMD, 2014 MAR p. 2651, Eff. 10/24/14.)

17.74.507 PERFORMANCE STANDARDS (1) Only certified contractors may:

(a) perform a contamination assessment and decontamination work and dispose of contaminated material pursuant to this subchapter;

(b) file a work plan with, and obtain written approval of the plan from, the department prior to beginning a decontamination project;

(c) perform all work in accordance with the department-approved work plan; and

(d) have final clearance sampling conducted by an independent certified contractor who is not employed by the certified contractor performing the decontamination work.

(2) Department approval of a work plan does not relieve a certified contractor from compliance with any other applicable requirements including, but not limited to, state and local building codes, occupational safety and health standards, and the solid waste, hazardous waste, and asbestos requirements in ARM Title 17, chapters 50, 53, and 74. (History: 75-10-1304, MCA; IMP, 75-10-1304, MCA; NEW, 2006 MAR p. 1042, Eff. 4/21/06; AMD, 2006 MAR p. 2963, Eff. 12/8/06; AMD, 2014 MAR p. 2651, Eff. 10/24/14.)

17.74.508 CONTRACTOR CERTIFICATION AND RENEWAL (1) An applicant for department certification as a CML decontamination contractor shall:

(a) provide evidence of successful completion of HAZWOPER training, including initial 40-hour HAZWOPER and current eight-hour HAZWOPER refresher, conducted pursuant to 29 CFR 1910.120; and

(b) successfully complete the initial CML decontamination course and submit to the department within 60 days after completing the course:

(i) written evidence of successful completion of the initial course;

(ii) a completed CML decontamination certified contractor application; and

(iii) the fee established in ARM 17.74.518.

(2) A CML decontamination certificate is valid for two years from the date of issuance.

(3) A person renewing as a CML decontamination certified contractor shall submit the following information to the department for approval at least ten days before the expiration of the current certificate:

(a) a completed contractor certification renewal form provided by the department;

(b) written evidence the renewal applicant has successfully completed a department-sponsored or department-approved refresher training course; and

(c) the fee established in ARM 17.74.518.

(4) If a previously certified contractor does not apply for a renewal of a contractor certification within one year following the expiration of the certification, the person must obtain certification under the provisions of this rule.

(5) A CML decontamination certified contractor shall make the CML decontamination certificates, or other acceptable proof of certification, available for inspection at all times during a CML decontamination project that is being performed pursuant to this subchapter. (History: 75-10-1304, MCA; IMP, 75-10-1304, MCA; NEW, 2006 MAR p. 1042, Eff. 4/21/06; AMD, 2014 MAR p. 2651, Eff. 10/24/14.)

17.74.509 WORKER AND SUPERVISOR CERTIFICATION (REPEALED)
(History: 75-10-1304, MCA; IMP, 75-10-1304, MCA; NEW, 2006 MAR p. 1042, Eff. 4/21/06; REP, 2014 MAR p. 2651, Eff. 10/24/14.)

17.74.510 WORKER AND SUPERVISOR CERTIFICATION RENEWAL
(REPEALED) (History: 75-10-1304, MCA; IMP, 75-10-1304, MCA; NEW, 2006 MAR p. 1042, Eff. 4/21/06; REP, 2014 MAR p. 2651, Eff. 10/24/14.)

17.74.511 INITIAL TRAINING COURSE CONTENT (1) For departmental approval, initial CML decontamination training courses must include, at a minimum:

- (a) information on state and federal laws, rules, and regulations applicable to clandestine methamphetamine manufacturing sites including, but not limited to:
 - (i) the Federal Occupational Safety and Health Act, 29 USC 651 et seq.; and
 - (ii) this subchapter;
- (b) chemical terminology, classifications, and properties related to clandestine methamphetamine manufacturing;
- (c) clandestine methamphetamine laboratory characteristics;
- (d) first aid;
- (e) adverse health effects of exposure to clandestine methamphetamine manufacturing including, but not limited to:
 - (i) toxicology; and
 - (ii) symptomology;
- (f) compatibility of chemicals related to CML decontamination;
- (g) techniques and equipment used for CML decontamination;
- (h) handling unknown substances;
- (i) state and federal requirements for hazardous substances including, but not limited to:
 - (i) disposal;
 - (ii) transportation;
 - (iii) storage; and
 - (iv) reporting.
- (j) techniques for obtaining information to make site assessments, including:
 - (i) initial assessments;
 - (ii) initial site sampling;
 - (iii) work plan development;
 - (iv) effective cleanup procedures;
 - (v) final site sampling; and
 - (vi) report preparation. (History: 75-10-1304, MCA; IMP, 75-10-1304, MCA; NEW, 2006 MAR p. 1042, Eff. 4/21/06; AMD, 2014 MAR p. 2651, Eff. 10/24/14.)

17.74.512 REFRESHER TRAINING COURSE (1) For department approval, CML decontamination refresher training courses must include, at a minimum:

- (a) a thorough review of the subjects required under ARM 17.74.511;
- (b) an update of information on state-of-the-art procedures and equipment;
- (c) a review of regulatory changes and interpretation; and
- (d) other subjects as necessary to update information on new technology and procedures. (History: 75-10-1304, MCA; IMP, 75-10-1304, MCA; NEW, 2006 MAR p. 1042, Eff. 4/21/06; AMD, 2014 MAR p. 2651, Eff. 10/24/14.)

17.74.513 RECIPROCITY (1) The department shall provide reciprocal certification for contractors trained and certified in another state when the standards and training of the other state are substantially similar to those of this subchapter.

(2) An applicant for reciprocity shall submit to the department:

- (a) a completed application form for the type of certification being requested;
- (b) documentation of specialized training for CML decontamination;
- (c) evidence of successful completion of HAZWOPER training, including initial 40-hour HAZWOPER and current eight-hour HAZWOPER refresher, and HAZWOPER supervisor training conducted pursuant to 29 CFR 1910.120; and
- (d) the fee prescribed in ARM 17.74.518.

(3) Prior to certificate approval, the department may require the applicant to:

- (a) submit additional information;
- (b) successfully complete a refresher course; or
- (c) pass a department-administered examination. (History: 75-10-1304, MCA; IMP, 75-10-1304, MCA; NEW, 2006 MAR p. 1042, Eff. 4/21/06; AMD, 2014 MAR p. 2651, Eff. 10/24/14.)

17.74.514 TRAINING PROVIDER CERTIFICATION (1) A person may not provide initial or refresher CML decontamination contractor training for department certification of contractors, unless the department has approved the instructors and courses and issued a training provider certificate to the person.

(2) An applicant for training provider certification shall submit to the department at least 45 days before the requested approval date:

- (a) a completed training provider application, on a form provided by the department;
 - (b) a list of all instructors and a description of their qualifications, including their proof of department certification and a description of the instructor's knowledge and experience to properly train contractors, and documentation of academic or field experience in CML decontamination;
 - (c) a detailed description of course content and the amount of time allotted to each major topic;
 - (d) a description of teaching methods;
 - (e) a list of questions for development of an examination;
 - (f) copies of all materials proposed for use, when requested by the department; and
 - (g) the fee prescribed in ARM 17.74.518.
- (3) Training provider certification is valid for two years from the date of issuance. (History: 75-10-1304, MCA; IMP, 75-10-1304, MCA; NEW, 2006 MAR p. 1042, Eff. 4/21/06; AMD, 2014 MAR p. 2651, Eff. 10/24/14.)

17.74.515 CERTIFIED TRAINING PROVIDER RESPONSIBILITIES (1) A certified CML decontamination training provider shall:

(a) notify the department in writing at least ten days before any training is scheduled to begin. The notification must include the dates and times of the training and the address of the location where training will be conducted;

(b) limit the size of each class to a level that is appropriate for learning the course content;

(c) incorporate into training any required subject matter developed by the department; and

(d) obtain department approval in writing in advance of any changes to the training including, but not limited to, changes involving the course instructor or changes in course materials.

(2) At the department's request, a training provider shall allow a department representative to attend, without charge, a training course as an observer to verify that the training provider conducts the training in accordance with the training approved by the department.

(3) A training provider shall submit to the department a list of attendees within ten days following the completion of the course. The list must identify:

(a) the name and address of the training provider who provided the course;

(b) the dates, name and brief description of the course;

(c) the names of each participant;

(d) each participant's certificate number; and

(e) confirmation of each participant's successful completion of the course.

(4) A training provider shall require that training course attendees provide proof of identity. (History: 75-10-1304, MCA; IMP, 75-10-1304, MCA; NEW, 2006 MAR p. 1042, Eff. 4/21/06; AMD, 2014 MAR p. 2651, Eff. 10/24/14.)

17.74.516 TRAINING PROVIDER CERTIFICATION RENEWAL

(1) An applicant for renewal of CML decontamination training provider certification shall submit the following to the department at least 30 days before expiration of the current certificate:

(a) a completed training provider application as prescribed in ARM 17.74.514(2); and

(b) the fee prescribed in ARM 17.74.518. (History: 75-10-1304, MCA; IMP, 75-10-1304, MCA; NEW, 2006 MAR p. 1042, Eff. 4/21/06.)

17.74.517 DENIAL, SUSPENSION, AND REVOCATION OF CERTIFICATION

(1) The department may deny, suspend, or revoke the certification of a CML decontamination contractor or training provider who fails to meet any of the requirements of this subchapter.

(2) The department may suspend or revoke the certification of a contractor or training provider who obtains a certificate by error, fraud, or misrepresentation.

(3) When the department believes that a violation of a rule in this subchapter has occurred, it shall serve written notice of the violation personally or by certified mail on the alleged violator or the alleged violator's agent. The notice must specify the provision of the rule alleged to have been violated and the facts alleged to constitute a violation. The notice shall include an order to take necessary corrective action within a reasonable period of time stated in the order. An order becomes final unless, within 30 days after the order is received, the person named requests, in writing, a hearing before the department. (History: 75-10-1304, MCA; IMP, 75-10-1304, MCA; NEW, 2006 MAR p. 1042, Eff. 4/21/06; AMD, 2014 MAR p. 2651, Eff. 10/24/14.)

17.74.518 FEES (1) For any CML decontamination training and testing of training providers or contractors provided by the department, or through a contract with a third-party trainer, the department shall ensure fees cover the cost of the training and testing.

(2) Concurrent with submittal of an application under this subchapter, the applicant shall pay the following fees:

(a) \$500 for each initial, renewal, or reciprocal CML contractor certificate application; and

(b) \$500 for each initial or renewal CML decontamination training provider certificate application.

(3) Fees are nonrefundable and must be paid by check or money order made payable to the department. (History: 75-10-1304, MCA; IMP, 75-10-1304, MCA; NEW, 2006 MAR p. 1042, Eff. 4/21/06; AMD, 2014 MAR p. 2651, Eff. 10/24/14.)

