

401 KAR 101:010. Contractor certification.

RELATES TO: KRS 224.01-410, 29 C.F.R. 1926.50-1926.65, EO 2008-507, 2008-531

STATUTORY AUTHORITY: KRS 224.01-410, EO 2008-507, 2008-531

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.01-410(3) requires the cabinet to promulgate administrative regulations for the cleanup of methamphetamine contaminated properties. EO 2008-507 and 2008-531, effective June 16, 2008, abolish the Environmental and Public Protection Cabinet and establish the new Energy and Environment Cabinet. This administrative regulation establishes the criteria for contractor certification and issuance, suspension, and revocation of certification.

Section 1. Applicability.

(1)

(a) Sections 2 and 3 of this administrative regulation shall apply to all contractors certified by the cabinet to clean up methamphetamine contaminated properties after July 15, 2008.

(b) Contractors certified by the cabinet to clean up methamphetamine contaminated properties prior to July 15, 2008 who do not maintain certification shall be recertified as established in Sections 2 and 3 of this administrative regulation.

(2) Sections 4 through 6 of this administrative regulation shall apply to all contractors regardless of certification date.

Section 2. Certification Requirements.

(1) Applicants for certified contractor shall:

(a) Complete and submit Certified Contractor Application, DEP 6079A, May 2009 to the cabinet for review;

(b) Obtain financial assurance pursuant to KRS 224.01-410(8)(a) and 401 KAR 101:020;

(c) Provide proof to the cabinet of liability insurance policy of at least \$250,000.00, pursuant to KRS 224.10-410(8)(a)3; and

(d) Certify that decontamination shall be performed in accordance with 803 KAR 2:403 and 29 C.F.R. 1926.50-1926.65. Applicants shall provide the following for review:

1. Forty (40) hour HAZWOPER Certification for all personnel performing decontamination services on methamphetamine contaminated properties; and

2. Eight (8) hour HAZWOPER refresher training certificates for all personnel performing decontamination services on methamphetamine contaminated properties.

(2) The cabinet shall review all contractor certification requirements once a completed application has been submitted; if a complete application is not submitted within six (6) months a new application shall be required.

(3)

(a) Certified contractors shall submit to the cabinet copies of forty (40) hour HAZWOPER Certification or current eight (8) hour HAZWOPER refresher certificates for all personnel performing decontamination services on an annual basis.

(b) Failure to submit this information shall result in suspension of certification.

(4) Certified contractors shall report changes in application information to the Division of Waste Management, such as change of the following:

(a) Address;

(b) Financial assurance; or

(c) Liability insurance, within thirty (30) days of the change.

Section 3. Issuance of Certificate.

- (1) Upon completion, review, and approval of the application, the contractor shall receive the following:
 - (a) A certification letter from the cabinet signed by the Director of the Division of Waste Management; and
 - (b) A copy of Kentucky Cleanup Guidance for Methamphetamine Contaminated Properties, May 2009.
- (2) The cabinet shall maintain a list of certified contractors for methamphetamine contaminated properties on the division's Web site.

Section 4. Suspension of Certification.

- (1) A certification shall be suspended, effective immediately, upon one (1) or more of the following:
 - (a) The financial assurance as required by 401 KAR 101:020 is no longer held in full by the contractor; or
 - (b) Personnel for the contractor have not submitted the certification pursuant to Section 2(1)(d) of this administrative regulation to the cabinet.
- (2) A certification shall be reinstated if the contractor comes back into compliance with the requirements of 401 KAR 101:020 and this administrative regulation and provides written documentation of such compliance to the cabinet.

Section 5. Revocation of Certification.

- (1) A certification shall be revoked:
 - (a) If the contractor certification is suspended for more than 180 days; or
 - (b) If the contractor is fraudulent or deceitful in the submission of inaccurate data or qualifications.
- (2) If the contractor's certification is revoked, the cabinet shall collect the forfeited financial assurance of any contractor found to be in violation and the cabinet shall use the forfeited financial assurance to decontaminate methamphetamine contaminated properties pursuant to KRS 224.01-410(8)(c).
- (3) Contractors who have a certification revoked pursuant to this administrative regulation shall not be eligible to be recertified by the cabinet.

Section 6. Termination of Certification.

- (1) A certified contractor who wishes to terminate certification for decontamination services shall submit a request to the cabinet to terminate certification.
- (2) The request shall be reviewed by the cabinet.
- (3) Upon verification that all work has been completed in compliance with KRS 224.01-410, and all decontamination services have ceased, the cabinet shall grant the termination of certification and release the contractor of financial assurance requirements.

Section 7. Incorporation by Reference.

- (1) The following material is incorporated by reference:
 - (a) "Certified Contractor Application", DEP 6079A, November 2016;
 - (b) "Kentucky Cleanup Guidance for Methamphetamine Contaminated Properties", January 2009.
 - (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Division of Waste Management, 300 Sower Boulevard, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. or on the division's Web site at, or from the Web site at eec.ky.gov/environmental-protection/waste.
- (35 Ky.R. 1949; 2734; eff. 7-6-2009; TAm eff. 7-8-2016; TAm eff. 12-21-2016; Crt eff. 8-13-2018; TAm eff. 5-7-2019.)