

MEMORANDUM

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RE: Methamphetamine Disclosure – Statutory Language vs. Current Cleanup Practices

I. Issue Presented

What should instructors convey to licensees regarding the methamphetamine disclosure requirement in light of the statutory reference to the Minnesota Department of Health's ("MDH") cleanup guidelines, given that MDH no longer maintains active standards and defers to the U.S. Environmental Protection Agency ("EPA") guidance?

II. Brief Answer

Minn. Stat. § 152.0275, subd. 2(n) requires sellers to disclose known or suspected methamphetamine production on a property and holds sellers liable for remediation costs "according to the Department of Health's clandestine drug labs general cleanup guidelines and best practices." Although MDH no longer publishes its own cleanup standards and has adopted EPA's voluntary cleanup guidelines as the operative standard, the statutory reference to MDH remains in effect. The disclosure form must mirror this statutory language until the legislature amends the statute. Instructors should make clear the distinction between statutory wording and current agency practice.

III. Background

The statute requires: (1) Written disclosure by a seller if the seller knows or has reason to know that methamphetamine production has occurred on the property. And (2), Seller liability for remediation costs in accordance with MDH's clandestine drug lab cleanup guidelines and best practices.

Historically, MDH published its own cleanup procedures. MDH has since discontinued maintaining its own standards and instead directs property owners to the EPA's Voluntary Guidelines for Methamphetamine Laboratory Cleanup. The statutory language, however, has not been updated to reflect this change.

IV. Analysis

A. Form Language and Legal Compliance

The seller disclosure form is required to reflect the statute exactly to ensure compliance. Removing or altering the reference to MDH in the form would render it inconsistent with

Minn. Stat. § 152.0275 and could subject users to noncompliance risk.

B. Practical Effect of Agency Shift

While the form references MDH, actual remediation work is now conducted to EPA standards, as MDH has adopted those guidelines by reference. This creates a divergence between the statutory text and the operational standard followed in the field.

C. Instructional Implications

Instructors should clarify: (1) the statutory mandate and its MDH reference; (2) the current industry practice of following EPA guidelines; (3) that MDH no longer issues its own active cleanup standards; and (4) that sellers remain liable for cleanup to recognized standards, which in practice means EPA compliance.

V. Recommendations for Instruction

1. Clarify the Distinction – Explain that the statute requires MDH-referenced cleanup, but MDH defers to EPA guidelines in practice.
2. Prevent Misunderstanding – Ensure licensees understand that the statutory reference does not mean MDH maintains its own standards today.
3. Encourage Accuracy in Disclosure – Licensees should advise sellers to both disclose known methamphetamine production and ensure remediation meets the operative EPA standard.

VI. Conclusion

The methamphetamine disclosure statute continues to reference MDH despite MDH's adoption of EPA guidelines as the cleanup standard. This creates a necessary instructional point: the law's text and the current cleanup practice are not identical, and both must be understood for proper compliance. Instructors should present this distinction clearly and consistently until legislative amendment aligns the statute with current practice.