

# **METHAMPHETAMINE AFFECTED PROPERTY REGULATION**

## **JEFFERSON COUNTY PUBLIC HEALTH**

Environmental Health Services Division  
645 Parfet Street, Lakewood CO 80215  
303 232-6301

<https://jeffco.us/public-health/>

Adopted: July 31, 2008  
Revised: November 17, 2020  
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## **PART 1 - DECLARATION**

### 1.0 Purpose of the Regulation

The purpose of this regulation is to reduce and mitigate the significant known and probable health and environmental consequences resulting from the use of property to conduct activities associated with illegal drug laboratories or other activities that result in methamphetamine contamination on subsequent owners, occupants, invitees and other users of the property and adjacent properties by the imposition of testing, cleaning and certification requirements imposed on PROPERTY OWNERS as a condition precedent for the use of the property or alternatively, to provide public notice of those properties that have not been remediated in accordance with 6 Code of Colorado Regulations (CCR) 1014-3.

### 1.1 Applicability

These Regulations apply to real property in Jefferson County where a methamphetamine affected property or other methamphetamine contamination is discovered, and the PROPERTY OWNER has received notification thereof.

### 1.2 Authority

A. By resolution of the Board of County Commissioners of Jefferson County under authority granted in Colorado Revised Statutes (C.R.S.) § 25-18.5-101(2.5) has designated Jefferson County Public Health as the GOVERNING BODY of Jefferson County for the purpose of enacting and enforcing regulations under C.R.S. § 25-18.5-105.

B. All aspects of the screening level assessment, preliminary assessment of property, decontamination and removal procedures for real and personal property, sampling and analytical procedures, cleanup standards, post decontamination reporting requirements, and training and certification requirements shall be governed by regulations adopted pursuant to C.R.S. § 25-18.5-102 by the State Board of Health in 6 CCR 1014-3.

### 1.3 Severability and Savings Clause

The BOARD OF HEALTH hereby declares that Regulations adopted hereunder are severable, and if any Regulations adopted hereunder or its application to any person or circumstances is held invalid, unconstitutional, void, or inoperative, such holding shall not affect other provisions or applications of the Regulations adopted hereunder.

## **PART 2 - DEFINITIONS**

2.0 Unless shown below, all definitions shall be as set forth in regulations adopted pursuant to C.R.S. § 25-18.5-102 by the State Board of Health in 6 CCR 1014-3.

"Board" means the BOARD OF HEALTH of Jefferson County, Colorado.

"Clerk and Recorder" means the CLERK AND RECORDER of Jefferson County, Colorado.

"Compliance statement" a document prepared by the DEPARTMENT stating that the subject property has been remediated in accordance with 6 CCR 1014-3 or

demolished as determined by the consultant. This COMPLIANCE STATEMENT will be limited in scope, shall pertain only to the health-related aspects of the cleanup process and will not reference other requirements such as local building or code enforcement regulations or ordinances.

- "Closure placard" means a sign posted on a property or a portion of a property, by or on behalf of the DEPARTMENT that indicates that no person may lawfully occupy or use a property, except for those trained with the purpose of sampling, decontamination, or demolition.
- "Department" means Jefferson County Public Health
- "Final decision" means the last decision entered in administrative hearings or a judicial review of the administrative hearing
- "Governing body" means Jefferson County Public Health
- "Health officer" means the Public Health Administrator of Jefferson County Public Health or their designated representative(s)
- "Notification statement" means a document that is recorded against a property through the Jefferson County CLERK AND RECORDER that provides public notification of the presence of a methamphetamine affected property that has not been remediated in accordance with 6 CCR 1014-3
- "Property owner" means the persons listed as the owner of the property per the Jefferson County Assessor's Office

### **PART 3 - POWERS AND AUTHORITY**

- 3.0 The Jefferson County Public Health DEPARTMENT has the following powers and authority under the provisions of C.R.S. § 25-18.5-101, *et seq.* and these Regulations:
- A. administer and enforce these Regulations;
  - B. act as the GOVERNING BODY for Jefferson County;
  - C. require contaminated property to meet the cleanup standards specified in 6 CCR 1014-3 prior to occupancy;
  - D. placard any methamphetamine affected property as defined in 6 CCR 1014-3;
  - E. issue notices required under these Regulations to the PROPERTY OWNER and others as specified herein;
  - F. hold administrative hearings;

- G. notify the public of a methamphetamine affected property in Jefferson County;
- H. coordinate services and promote the sharing of information among governmental agencies, such as law enforcement, building departments, public health, and social services agencies and officials;
- I. receive and review post-decontamination reports from consultants to determine that the methamphetamine affected property has been decontaminated to the cleanup levels in compliance with Section 7.0 of 6 CCR 1014-3;
- J. issue statements to qualifying PROPERTY OWNERS that regulatory decontamination levels for their property have been achieved in accordance with Section 7.0 of 6 CCR 1014-3 and that the property is fit for human habitation;
- K. maintain permanent records of methamphetamine affected properties in Jefferson County and the post-decontamination reports issued by consultants for those properties that have been decontaminated;
- L. maintain an electronic database of all reported methamphetamine affected properties and their cleanup status;
- M. report methamphetamine affected properties as part of an environmental record search when requested by an outside party, except as provided for in C.R.S. §38-35.7-103; and
- N. establish, change, and collect reasonable fees to administer these Regulations.

#### **PART 4 - ADMINISTRATIVE PROCEDURES**

##### 4.0 Designation of a Public Nuisance

- A. A methamphetamine affected property that has been discovered and which has not met the State Board of Health's cleanup standards established in 6 CCR 1014-3 under authority granted in C.R.S. § 25-18.5-102 is deemed to be a public health nuisance as a matter of law.
- B. Upon notification that a methamphetamine affected property has been discovered, the DEPARTMENT shall designate the subject property as a public nuisance and unfit for human habitation by an administrative order issued by the DEPARTMENT.
- C. The following shall be considered forms of notification:
  - 1. documentation from a peace officer that chemicals, equipment, or supplies of a methamphetamine affected property are located on the premises;
  - 2. a screening level assessment prepared in accordance with 6 CCR 1014-3;

3. a preliminary assessment prepared in accordance with 6 CCR 1014-3; or
4. other relevant sampling performed by a consultant in accordance with 6 CCR 1014-3.
  - a. For the purpose of this Regulation, any other sampling that purports to demonstrate levels of methamphetamine in excess of 0.5 µg/100 cm<sup>2</sup> shall not be considered notification per se. However, upon receipt of such sampling the DEPARTMENT will contact the PROPERTY OWNER and request that they obtain the services of a consultant in good standing to perform sampling that conforms with Section 4.0.C.1-4.
- D. Notice of this designation may be given to the public and affected persons by the posting of a CLOSURE PLACARD or PLACARDS in prominent locations on the subject property.
- E. Once this CLOSURE PLACARD is posted, entry to the property is limited to all persons except those trained and certified to handle contaminated property pursuant to C.R.S. § 25-18.5-104, et seq., and 6 CCR 1014-3.

#### 4.1 Notice of Violation

- A. The DEPARTMENT shall give written notice of violation to the PROPERTY OWNER of the presence of a methamphetamine affected property and designation of said property as a public nuisance. The notice shall include:
  1. the statutory basis for the designation of the property as a public nuisance;
  2. the required compliance actions as specified in C.R.S. §25-18.5-103;
  3. an advisement that in the event the PROPERTY OWNER does fail to remediate the contamination to the standards set forth in 6 CCR 1014-3 or demolish the property, the DEPARTMENT will issue a NOTIFICATION STATEMENT and record that statement in the records of the Jefferson County CLERK AND RECORDER. Such NOTIFICATION STATEMENT will be recorded no later than 6 months after the Notice of Violation is issued unless as otherwise determined by the HEALTH OFFICER.
  4. the issuance of a notice of violation may be waived if the property is in the process of remediation or demolition.
- B. Copies of any relevant supporting documents such as police reports or test results may be included with the written notice.
- C. Such notice shall be sent to the PROPERTY OWNER via USPS Priority Mail within ten (10) days after the DEPARTMENT is notified of the presence of a methamphetamine affected property as provided for in Section 4.0.C.1-4. In the event that the PROPERTY OWNER does not reside at the property, a copy of such notice shall also be sent to the current occupants.
  1. All contaminated personal property removed from the property shall be either decontaminated or disposed of in accordance with State and Federal Regulations.

2. If the DEPARTMENT is notified of a vehicle suspected of being contaminated, the DEPARTMENT shall notify the registered owner or owners of said vehicle by USPS Priority Mail.
  3. The DEPARTMENT shall also notify affected third parties of a property with suspected or confirmed contamination, including, but not limited to, homeowner associations and property managers.
- D. If the PROPERTY OWNER wishes to contest the notice of violation, that person may request a hearing before the HEALTH OFFICER as outlined in Section 4.2.

#### 4.2 Hearing Procedures

- A. The administrative hearing shall be held within thirty (30) days of a request made by the PROPERTY OWNER.
- B. At the hearing, a hearing officer who is an employee of the DEPARTMENT shall preside. Should a hearing officer withdraw from a case, the case shall be transferred to another hearing officer.
- C. Every party to the proceeding shall have the right to present their case or defense by oral and documentary evidence, submit rebuttal evidence, and to conduct such cross examination, which may be required for a full and true disclosure of the facts.
- D. Every party, the agent, servant, or employee of any party, permitted or compelled to testify or to submit data or evidence shall be entitled to the benefit of legal counsel of his or her own choosing and at his or her own expense, but a person may appear on their own behalf.
- E. The hearing officer may take notice of general, technical, or scientific facts within their knowledge, but only if the fact so noticed is specified in the record or is brought to the attention of the parties before FINAL DECISION and every party is afforded an opportunity to controvert the fact so noticed.
- F. Use of hearsay evidence shall be admissible in administrative hearings so long as hearsay is sufficiently reliable and trustworthy and as long as the evidence possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs.
- G. At the administrative hearing, if the PROPERTY OWNER proposes to demolish the property to abate the nuisance condition, upon completion of the demolition and all associated and ancillary acts imposed by any other governmental entity having jurisdiction over the property, the hearing officer shall enter findings of fact and conclusions of law based upon an admitted or contested determination that the property is or has been a methamphetamine affected property and constitutes a public nuisance, and shall additionally enter an order for a date certain for the demolition.
- H. At the administrative hearing, if the PROPERTY OWNER states on the record that they wish to obtain a COMPLIANCE STATEMENT by remediation, the hearing officer shall enter findings of fact and conclusions of law based upon an admitted or contested determination that the property is

or has been a methamphetamine affected property and constitutes a public nuisance, and shall additionally enter an order for a date certain for the remediation.

- I. In the event the PROPERTY OWNER wishes to obtain any extension of time to remediate the property, that party may file a request for an extension of time with the DEPARTMENT specifying the grounds for the request and the length of the extension sought.
  1. These requests for extension of time may be granted or denied by the hearing officer with or without further hearings, specifying the decision the basis for the decision in written notice to the moving party and any person appearing at the initial hearing.
  2. In lieu of granting or denying the motion, the hearing officer may also schedule a hearing on the motion for the purpose of determining good cause for granting or denying the motion and the imposition of additional requirements as conditions to granting the motion including, but not limited to, altering the extension requested, requiring financial information to be provided, requiring performance guarantees to be implemented, and requiring expert opinions on issues involved in the extensions.
- J. The hearing officer who conducted the hearing, shall prepare, file, and serve its decision upon each party.
- K. Each decision and initial decision shall be served on each party by personal service or by mailing by USPS Priority Mail to their last known address.

#### 4.3 Compliance Determination

- A. Compliance will be deemed complete when:
  - a. The DEPARTMENT receives a post-decontamination report that meets the requirements of 6 CCR 1014-3, or
  - b. The DEPARTMENT received a demolition permit showing the property has been demolished.
- B. Review of the post decontamination report shall be limited to verifying the following:
  1. that the consultant who prepared the report is approved and in good standing;
  2. that all clearance samples are below the standards set forth in 6 CCR 1014-3, §7.0; and
  3. that the report contains a certificate of compliance, signed by the consultant, in the following form:

*"I do hereby certify that I conducted clearance sampling of the subject property in accordance with 6 CCR 1014-3, Part 1, §6. I further certify that the cleanup standards established by 6 CCR 1014-3, Part 1, §7 have been met as evidenced by testing I conducted."*

- C. Once the DEPARTMENT has determined that the requirements of Section 4.3.B have been met, the DEPARTMENT will accept the consultant's post-decontamination report and provide the PROPERTY OWNER with a statement regarding compliance and will authorize removal of the CLOSURE PLACARD.
- D. If the DEPARTMENT has recorded a NOTIFICATION STATEMENT, a COMPLIANCE STATEMENT will also be recorded. This COMPLIANCE STATEMENT will pertain only to the health-related aspects of the cleanup process and will not reference other requirements such as local building or code enforcement regulations or ordinances.
- E. For properties that were not originally designated as a methamphetamine affected property by any law enforcement agency, compliance will be determined by submission of documentation that methamphetamine levels within the dwelling or structure do not exceed the minimum cleanup standards set forth in 6 CCR 1014-3.

#### 4.4 Records

- A. The DEPARTMENT will maintain all reports and compliance documents as permanent files.
- B. The DEPARTMENT will also maintain an electronic database of all reported methamphetamine affected properties and their cleanup status. The information will become part of the DEPARTMENT's environmental records for the property and shall be reported as part of an environmental record search when requested by an outside party, except as provided for in C.R.S. §38-35.7-103.