



Regulation No. 2007-1

## **DECONTAMINATION OF METHAMPHETAMINE CONTAMINATED PROPERTIES**

Adopted by the Bear River Board of Health  
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Under Authority of Section 26A-1-121  
Utah Code Annotated, 1953, as amended

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## 1.0 DEFINITIONS

For the purpose of this Regulation, the following terms, phrases, and words shall have the following meanings, unless otherwise defined:

Competent Sampler: State of Utah Certified Decontamination Specialist or Licensed Environmental Health Scientist;

Department: Bear River Health Department;

Director: Director of the Bear River Health Department;

Confirmation Sampling: Obtaining samples by a Decontamination Specialist to verify that concentrations of methamphetamine residue and particulates are below the State of Utah decontamination standard;

Decontamination Specialist: A person who is certified through the State of Utah as a Decontamination Specialist;

Licensed Environmental Health Scientist (LEHS): A person who is licensed through the State of Utah as an Environmental Health Scientist;

Board of Health: The Bear River Board of Health;

Decontaminated: Any property contaminated by either methamphetamine production or methamphetamine use shall have the contamination of such production or use reduced below the State of Utah decontamination standard;

Methamphetamine: Any material, compound, mixture, or preparation which contains any quantity of methamphetamine, its salts, isomers, and salts of its isomers;

Methamphetamine Contaminated Property: Property that has been identified by the Department as contaminated with methamphetamine, or methamphetamine residue or particulates in an amount in excess of the State of Utah decontamination standard as the result of use or production of methamphetamine on or about the property;

1.1 All other definitions contained in Utah Administrative Code R392-600 shall apply to the Regulation, if applicable;

## 2.0 PURPOSE

It is the purpose of this Regulation to identify methamphetamine contaminated

properties within the jurisdiction of the Department, notify the public of these properties, and oversee decontamination activities. This will aid in furthering the Mission of the Department so as to protect and promote the public health, safety, and welfare of the general public.

### 3.0 AUTHORITY AND JURISDICTION OF THE DEPARTMENT

3.1 This Regulation is promulgated pursuant to the authority established by Utah Code Ann. 26A-1-101, *et seq.*, (1953), as amended.

### 4.0 POWERS AND DUTIES

4.1 The Department shall be responsible for the administration of this Regulation and shall:

Require the owner of the property contaminated with methamphetamine to decontaminate the property in order to restore it to a safe and livable condition;

4.1.1 Issue permits and charge fees as necessary to implement the provisions, requirements, and standards of this Regulation;

4.1.2 Make appropriate determinations or investigations and evaluate any property reasonably expected to be contaminated with methamphetamine;

4.1.3 Deny, suspend, or revoke the work plan and permit of any person that fails to comply with the requirements of this Regulation, and other applicable regulations of the Department; and

4.1.4 Placard properties that fail to meet the State of Utah decontamination standards with appropriate signage.

### 5.0 SCOPE

5.1 In order to ensure proper decontamination procedures, permits from the Department shall be required before decontamination begins.

5.2 In order to protect the health, safety, and welfare of the public, contaminated properties shall be conspicuously posted.

5.3 The responsibilities of the Department regarding contaminated properties shall be:

5.3.1 Determining if contamination exists;

5.3.2 Posting the property;

5.3.3 Notifying the owner of record of contamination;

5.3.4 Maintaining oversight of the decontamination of the property; and

5.3.5 Issuing certificate of decontamination when results from lab analysis are below the State of Utah decontamination standard.

5.4 It shall be unlawful for any person to fail to comply with this regulation and other applicable rules, regulations and ordinances.

## 6.0 IDENTIFYING METHAMPHETAMINE CONTAMINATED PROPERTY

6.1 Whenever it comes to the attention of the Department that property within the jurisdiction of the Department may be contaminated with methamphetamine, the Department shall require a competent sampler to determine the extent of the contamination of the property.

6.2 The competent sampler shall determine the nature and extent of the contamination of property by performing a preliminary assessment prior to decontamination activities. To conduct the preliminary assessment, the competent sampler shall follow guidelines established by Utah Administrative Code R392-600-3(2) to the extent applicable to methamphetamine contaminated property as determined by the Department.

6.3 Subsequent to performing a preliminary assessment of the property, the competent sampler shall notify the property owner of the results of the assessment. If it is determined that the property has levels above the state standard of 1.0 micrograms per 100 square centimeters as found in Table 1 of Utah Administrative Code R392-600-6(2), the Department shall post the property.

## 7.0 DEPARTMENT TO PLACARD PROPERTY

7.1 If the Department is notified of a contaminated property and has seen evidence of contamination such as lab testing results of a sample taken from the property, paraphernalia, confession of user, or a positive hair follicle test, the Department shall conspicuously post the property with "Warning" signs.

7.2 A "Warning" placard shall display the following information:

7.2.1 The type of closure;

7.2.2 The Department's name;

7.2.3 The inspector's name;

7.2.4 The telephone number at the Department;

7.2.5 The address of the site;

7.2.6 The date the sign was posted;

7.2.7 The warning of a possible chemical hazard and notification that entry may be unsafe;

7.3 A “Warning” placard shall remain posted in a conspicuous location until the property is proven decontaminated by testing performed by a decontamination specialist as per the procedure in Utah Administrative Code R392-600-6 that relates to methamphetamine contamination.

## 8.0 RESPONSIBILITIES OF THE OWNER OF RECORD

8.1 The owner of record shall, if the Department placards a property, ensure the placard is not removed, obscured, or damaged in any way while the property remains contaminated.

8.2 The owner of record in any hearing concerning whether a property is contaminated has the burden of proving that the property is not contaminated.

8.3 The owner of record is responsible for ensuring decontamination activities take place and confirmation testing is performed by a decontamination specialist.

## 9.0 RESPONSIBILITIES OF THE DECONTAMINATION SPECIALIST

9.1 Prior to decontamination of methamphetamine contaminated property, a work plan shall be established, and shall conform to the protocols set forth by the provisions contained within Utah Administrative Code R392-600-4 to the extent applicable as determined by the Department.

9.2 The decontamination specialist shall obtain a permit from the Department before proceeding with any decontamination activity on any property which has been placarded with a “Warning” sign by the Department.

9.3 A decontamination specialist shall be certified by the Department of Environmental Quality pursuant to Utah Administrative Code R311-500 *et.seq.*, before a permit required by this regulation will be issued.

9.4 The decontamination specialist shall obtain all federal, state, and local permits, certificates, or other documentation including any required by the Utah Department of Health, Utah Department of Environmental Quality, U.S. Environmental Protection Agency, U.S. and Utah Occupational Safety Health Authorities, and local building and/or zoning agencies.

9.5 The decontamination specialist shall pay any fees charged by the Department for processing an application for a permit to do decontamination work under this regulation. The fee shall cover initial inspection, preliminary testing review, review of the Work Plan, review of the Final Plan and one final inspection/confirmation sampling. Any additional reviews, inspections, or other requests for the Department time may result in additional fees.

9.6 If during the decontamination process it becomes necessary to modify the approved plan, written application shall be made to the Department. The decontamination specialist shall have written approval from the Department before proceeding with the modified Work Plan.

9.7 A methamphetamine contaminated property shall not have the “Warning” placard removed until a decontamination specialist certifies in writing, by a final report with supporting evidence, that the property has been decontaminated. The report shall comport to the requirements established by the provisions of the Utah Administrative Code R392-600-7 to the extent applicable as determined by the Department.

## 10.0 PERMIT TO DECONTAMINATE

10.1 The decontamination specialist shall apply for a permit from the Department to decontaminate a property the Department has deemed contaminated.

10.2 The decontamination specialist shall not start any decontamination prior to issuance of the permit. This does not preclude a decontamination specialist from conducting a pre-decontamination site assessment with notice to the Department.

10.3 The results of any observations or laboratory analysis completed to test for contamination, prepare a bid, or Work Plan shall be given to the owner of record and copies forwarded to the Department.

10.4 Applicable fees and the required Work Plan signed by both the owner of record and the decontamination specialist shall accompany the application for a permit.

10.5 A copy of the permit shall be posted near the main entrance in an uncontaminated, conspicuous location where persons not in specialized personal protective equipment may read it safely. A copy shall be re-posted as necessary.

10.6 Permits shall expire 60 days from date of issue. A 30-day extension for an expired permit may be granted upon submission of a written request and progress summary. If after 90 days from the original issuance date of a permit the decontamination is not complete, all work on the property will cease. Application for a new permit must be accompanied by a new Work Plan and applicable fees will be required before work can resume.

## 11.0 CITY AND COUNTY OPTION

Nothing in this Regulation is intended to preclude a municipality or a county from pursuing nuisance, injunctive or other remedies available. Any property suspected to be contaminated by illegal drug use or production or storage of hazardous or dangerous chemicals, however, shall be reported to the Department for a preliminary assessment before such abatement action is executed.

## 12.0 EXEMPTIONS

This regulation does not apply to commercial or industrial sites where a person’s manufacturing process uses a hazardous or dangerous chemical, if the site is appropriately licensed, permitted, or regulated by state or federal agencies.

### 13.0 ENFORCEMENT

13.1 It shall be the duty of the Department to perform inspections, reviews, and other actions as necessary to ensure compliance with this regulation.

13.2 Department inspections may be made with the consent of the owner of record, occupant, or other responsible person. If consent is not granted, a search may be made pursuant to a search warrant issued by a court of competent jurisdiction.

### 14.0 RIGHT TO APPEAL

Appeals concerning this regulation are governed by the Bear River Health Department's Appeals Procedures.

### 15.0 PENALTY

15.1 Any person who is found guilty of violating any of the provisions of this regulation, either by failing to do those acts required herein or by doing a prohibited act, is guilty of a class B misdemeanor, pursuant to Section 26A-1-123, Utah Code Annotated, 1953, as amended. If a person is found guilty of a subsequent similar violation within two years, he is guilty of a class A misdemeanor, pursuant to Section 26A-1-123, Utah Code Annotated, 1953, as amended.

15.2 Each day such violation is committed or permitted to continue shall constitute a separate violation.

15.3 In addition to other penalties imposed by a court of competent jurisdiction, any person found guilty of violating this regulation shall be liable for all expenses incurred by the Department in removing or abating any nuisance, source of filth, chemical contamination, cause of sickness or infection, health hazard, or sanitation violation including attorney's fees and costs and any administrative fees that the Department may adopt.

15.4 Compliance with this regulation is not a defense if charged with any environmental crimes or violation of any local, state, or federal law.

15.5 Prosecution under this regulation does not preclude prosecution for any environmental crime that may have been committed or violation of any other local, state, or federal law.

### 16.0 SEVERABILITY

If any provision, clause, sentence, or paragraph of this regulation or the application thereof to any person or circumstances shall be held to be invalid, such invalidity shall not affect the other provisions or applications of the regulation. The valid part of any clause, sentence, or paragraph



of this regulation shall be given independence from the invalid provisions or application and to this end the provisions of this regulation is hereby declared to be severable.

17.0 EFFECTIVE DATE

This regulation shall become effective May 13, 2020 as adopted by the Bear River Board of Health.