

**Salt Lake County Health Department**

**Health Regulation**

**#32**

**CHEMICALLY CONTAMINATED  
PROPERTIES REGULATION**

**Adopted by the Salt Lake County Board of Health  
July 12, 2001**

**Amended  
May 4, 2006  
June 4, 2009  
April 1, 2010  
November 1, 2012  
June 6, 2013  
\*\*\*\*\*, 2020**

**Under Authority of  
Utah Code Ann. § 26A-1-114**

**1. PURPOSE.** The purpose of this ~~Regulation~~ is to protect the public's health, safety, and welfare by establishing standards, procedures, and responsibilities for the regulation of the occupancy and use of property where hazardous or dangerous chemicals or chemical residues commonly associated with the manufacture of illegal drugs or other hazardous or dangerous chemicals are or may be present; or methamphetamine and methamphetamine paraphernalia and methamphetamine use has been identified; the regulation of the decontamination of such contaminated properties; and the regulation of the disposal of hazardous or dangerous materials and contaminated debris removed from contaminated properties.

**2. DEFINITIONS.**

For the purposes of this Regulation, the following terms, phrases, and words shall have the meanings herein expressed:

- 2.1. "Background concentration" ~~means shall mean~~ the level of a contaminant in soil, groundwater or other media up-gradient from a facility, practice, or activity that has not been affected by the facility, practice or activity; or other facility, practice or activity.
- 2.2. "Board" ~~means shall mean~~ the Salt Lake County Board of Health.
- 2.3. "Chain-of-custody protocol" ~~means shall mean~~ a procedure used to document each person that has had custody or control of an environmental sample from its source to the analytical laboratory, and the time of possession of each person.
- 2.4. "Characterize" ~~means shall mean~~ to determine the quality or properties of a material by sampling and testing to determine the concentration of contaminants, or specific properties of the material such as flammability or corrosiveness.
- 2.5. "Chemical-storage site" ~~means shall mean~~ any property used for the storage of illegally manufactured controlled substances, precursor or hazardous chemicals and the site is not licensed, permitted, or otherwise regulated by state or federal agencies.
- 2.6. "Clean" ~~means shall mean~~ free from readily noticeable dirt, both organic and inorganic dirt, including dirt of biological origin.
- 2.7. "Closed-to-entry" ~~means shall mean~~ a designation by the Department indicating that no one may enter a premises unless authorized by the Director pursuant to this ~~Regulation~~.
- 2.8. "Combustible" ~~means shall mean~~ vapor concentration from a liquid that has a flash point greater than 100 degrees F.
- 2.9. "Composite sample" ~~means shall mean~~ the combination of up to 3 individual wipe (grab) samples into one submission for analysis by a laboratory. The composite sample result will be the average or standardized result in units of micrograms of methamphetamine per 100 square centimeters.

- 2.10. “Confirmation sampling” ~~means shall mean~~ collecting samples by a certified decontamination specialist or a LEHS during a ~~preliminary assessment~~ Preliminary Assessment or upon completion of decontamination activities. Only confirmation sampling can be used to confirm that contamination is below the decontamination standards outlined in this Regulation.
- 2.11. “Contaminant” means an improperly managed hazardous material.
- 2.12. “Contamination” or “contaminated” ~~means shall mean~~
- 2.12.1. Polluted by hazardous materials that cause property to be unfit for human habitation or use due to immediate or long-term health hazards.
- 2.12.2. That a property is polluted by hazardous materials as a result of the use, production, or presence of methamphetamine in excess of decontamination standards adopted in Utah Admin. Code R392-600.
- 2.13. “Corrosive” ~~means shall mean~~ a material ~~such as acetic acid, acetic anhydride, acetyl chloride, ammonia (anhydrous), ammonium hydroxide, benzyl chloride, dimethylsulfate, formaldehyde, formic acid, hydrogen chloride/hydrochloric acid, hydrobromic acid, hydriodic acid, hydroxylamine, methylamine, methylene chloride (dichloromethane, methylene dichloride), methyl methacrylate, nitroethane, oxalylchloride, perchloric acid, phenylmagnesium bromide, phosphine, phosphorus oxychloride, phosphorus pentoxide, sodium amide (sodamide), sodium metal, sodium hydroxide, sulfur trioxide, sulfuric acid, tetrahydrofuran, thionyl chloride or any other substance that increases or decreases the pH7 of a material and may cause degradation of the material.~~
- 2.14. “Decontamination” ~~means shall mean~~ the treatment or removal of contamination by a decontamination specialist or owner of record to reduce concentrations of contaminants below the decontamination standards.
- 2.15. “Decontamination standards” ~~means shall mean~~ the levels or concentrations of contaminants that must be met to demonstrate that contamination is not present or that decontamination has successfully removed the contamination.
- 2.16. “Decontamination specialist” ~~means shall mean~~ an individual who has met the standards for certification as a decontamination specialist and has a currently valid certificate issued by the ~~Solid and Hazardous Waste Control Board~~ Waste Management and Radiation Control Board, as defined under Utah Code Ann. §19-6-906 (2).
- 2.17. “Delineate” ~~means shall mean~~ to determine the nature and extent of contamination by sampling, testing, or investigating.
- 2.18. “Department” ~~means shall mean~~ the Salt Lake County Health Department. ~~(SLCoHD.)~~

- 2.19. "Director" ~~means~~ shall mean the Director of the Salt Lake County Health Department.
- 2.20. "Disposal of contaminated material" ~~means~~ shall mean the handling, transportation, and ultimate disposition of contaminated materials removed from contaminated premises.
- 2.21. "Drugs" ~~means~~ shall mean any substance considered a controlled substance or its precursors as per Utah Code Ann. §§ 58-37-3(1) ~~and 58-37-3~~ to -3(2).
- 2.22. "Easily cleanable" ~~means~~ shall mean an object and its surface that can be cleaned by a detergent solution applied to its surface in a way that would reasonably be expected to remove dirt from the object when rinsed and to be able to do so without damaging the object or its surface finish.
- 2.23. "Ecstasy" ~~means~~ shall mean 3, 4-methylenedioxy-methamphetamine (MDMA).
- 2.24. "EPA" ~~means~~ shall mean the United States Environmental Protection Agency.
- 2.25. "EPA Method 8015B" ~~means~~ shall mean the EPA approved method for determining the concentration of various non-halogenated volatile organic compounds and semi-volatile organic compounds by gas chromatography/flame ionization detector.
- 2.26. "EPA Method 6016B" ~~means~~ shall mean the EPA approved method for determining the concentration of various heavy metals by inductively coupled plasma.
- 2.27. "EPA Method 8260B" ~~means~~ shall mean the EPA approved method for determining the concentration of various volatile organic compounds by gas chromatograph/mass spectrometer.
- 2.28. "FID" ~~means~~ shall mean flame ionization detector.
- 2.29. "Flammable" shall mean vapor concentration from a liquid that has a flash point less than 100-degree F.
- 2.30. "Grab Sample" ~~means~~ shall mean one sample collected from a single, defined area or media at a given time and location.
- 2.31. "Hazardous material" or "hazardous chemical" ~~means~~ shall mean a substance which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause or significantly contribute to an increase in mortality or an increase in serious or incapacitating irreversible illness, or pose a substantial present or potential hazard to human health or the environment if improperly treated, stored, transported, disposed, or otherwise managed or as defined in Utah Code Ann. § 58-37d-31f(e) and includes any illegally manufactured controlled substances.
- 2.32. "Hazardous Waste" ~~means~~ shall mean solid waste, or a combination of solid wastes which, because of its quantity, concentration, or physical, chemical, or infectious

characteristics, may cause or significantly contribute to an increase in mortality or an increase in serious or incapacitating irreversible illness, or pose a substantial present or potential hazard to human health or the environment if improperly treated, stored, transported, disposed, or otherwise managed, or any solid waste listed as a hazardous waste in the Utah Administrative Code R315-2-9 & 10 and R315-2-11 of the Utah Hazardous Waste management Rules, or any solid waste that exhibits a characteristic of a hazardous waste as defined in Section R315-2-9 of the Utah Hazardous Waste Management Rules; The definition for “Hazardous Waste” in Utah Administrative code Section R315-2-3 is hereby incorporated by reference.

2.33. “HEPA” ~~means shall mean~~ high-efficiency particulate air and indicates the efficiency of an air filter or air filtration system.

~~2.32. “Highly suggestive of contamination” shall mean the presence of visible or olfactory signs indicative of contamination, locations in and around where illegal drug production occurred, where hazardous materials were stored or suspected of being used to manufacture illegal drugs, or areas that tested positive for contamination or other portions of the property that may be linked to processing and storage areas by way of the ventilation system or other activity that may cause contamination to be distributed across the property.~~

2.34. “Impacted groundwater” ~~means shall mean~~ water present beneath ground surface that contains concentration of a contaminant above the Utah Ground Water Quality Standards (UGWQS) UGWQS.

2.35. “Impacted soil” ~~means shall mean~~ soil that contains concentrations of a contaminant above background or EPA residential Risk Based Screening Concentrations as contained in the document listed in Utah Admin. Code R392-600. U.S. E.P.A., Region 9: Superfund Preliminary Remediation Goals (PRG) Table, October 2004.

2.36. “LEL/O<sub>2</sub>” ~~means shall mean~~ lower explosive limit/oxygen.

2.37. “Manufacture” has the same meaning as “illegal manufacture of specified controlled substances” as that term is defined in Utah Code Ann. § 58-37d-3(1)(g) (f). Also referred to as “processing,” or “operation” and the site may be referred to as a “lab,” or “illegal drug manufacturing site.”

2.38. “Negative pressure enclosure” means an air-tight enclosure using a local exhaust and HEPA filtration system to maintain a lower air pressure in the work area than in any adjacent area and to generate a constant flow of air from the adjacent areas into the work area.

2.39. “Non-confirmation sampling” means collecting samples by any party other than a certified decontamination specialist.

2.40. “Non-porous” ~~means shall mean~~ resistant to penetration of liquids, gases, powders and includes non-permeable substance or materials, that are sealed such as, concrete floors, wood floors, ceramic tile floors, vinyl tile floors, sheet vinyl floors, painted drywall or sheet rock walls or ceilings, doors, appliances, bathtubs, toilets, mirrors, windows, counter-tops, sinks, sealed wood, metal, glass, plastic, and pipes.

~~2.40 “Not highly suggestive of contamination” shall mean areas outside of the main locations(s) where illegal drugs were produced and hazardous materials were stored or suspected of being used that do not reveal obvious visual or olfactory signs of contamination, but may, however, be contaminated by residue from the manufacture or storage of illegal drugs or hazardous materials.~~

~~“Nuisance” shall mean a condition created by a person who unlawfully commits or omits to perform any duty, which either:~~

~~2.40.1. Seriously injures, or endangers the repose, health, or safety of any person; or~~

~~2.40.2. Seriously renders a person insecure in life or the use of property.~~

2.41. “Observable signs of contamination” ~~means shall mean~~ odors, property deterioration, discoloration of surfaces, and other conditions that are typically associated with the presence of, or exposure to, controlled substances, their precursors, or hazardous chemicals.

2.42. “Occupant” ~~means shall mean~~ the person who uses or occupies any house, building, or structure, or part thereof, whether or not as the actual ~~property owner~~ owner of record or legal tenant. For the scope of this ~~Regulation~~, the ~~property owner~~ owner of record, agent, or custodian of a vacant building or vacant portion thereof, shall have the responsibility of an occupant.

2.43. “Owner of record” means the owner of property as shown on the records of the county recorder in the county where the property is located and may include an individual, financial institution, company, corporation, or other entity.

2.44. “Person” ~~means shall mean~~ any individual, public or private corporation and its officers; partnership; association; firm; trustee; executor of an estate; the State or its departments, institutions, bureaus, agencies, counties, cities, political subdivisions, or any legal entity recognized by law.

2.45. “Personal protective equipment (PPE)” means various types of clothing such as suits, gloves, hats, and boots, or apparatus such as facemasks or respirators designed to prevent inhalation, skin contact, or ingestion of hazardous chemicals.

2.46. “PID” ~~means shall mean~~ photo ionization detector.

2.47. “Porous” ~~means shall mean~~ material easily penetrated or permeated by gases, liquids, or powders such as carpets, draperies, bedding, mattresses, fabric covered furniture, pillows, drop ceilings, or other fiber-board ceiling panels, cork paneling, blankets, towels, clothing, and cardboard or any other material that is worn or not properly sealed.

2.48. “Post” ~~means shall mean~~ to affix a written or printed announcement or placard conspicuously on a premises such that anyone attempting to access the property can reasonably be expected to be on notice of the posted information.

~~“Potentially contaminated site” shall mean a premises where any of the following have been observed:~~

~~Paraphernalia of a clandestine laboratory operation including chemicals or equipment used in the manufacture of unlawful drugs;~~

~~Stains or odors typically associated with the manufacture of unlawful drugs;~~  
~~or~~

~~Any improper storage of hazardous chemicals.~~

2.49. “Preliminary Assessment” ~~means shall mean~~ an evaluation of a property to define all areas that are ~~highly suggestive of contamination~~ contaminated and delineate the extent of contamination. The ~~preliminary assessment~~ Preliminary Assessment consists of an on-site evaluation conducted by the ~~decontamination specialist~~ or owner of record to gather information to demonstrate that contamination is not present above the decontamination standards or to enable development of a work plan outlining the most appropriate method to decontaminate the property.

2.50. “Properly disposed” ~~means shall mean~~ to discard at a licensed facility in accordance with all applicable laws and not reused or sold.

2.51. “Property” ~~means shall mean~~ any location, site, structure, part of a structure, or the grounds, surrounding a structure; and includes single-family residences, outbuildings, garages, units of multiplexes, condominiums, apartment buildings, warehouses, hotels, motels, boats, motor vehicles, trailers, manufactured housing, storage units, shops, or booths, ~~also referred to as premises.~~

~~2.51 “Property Owner” shall mean a property owner of record or a person having charge, care or control of any property, site, facility, business, or process as agent of the property owner of record or as the representative of the estate of the property owner of record and may include an individual, financial institution, company, corporation, or other entity.~~

~~2.51 “Property Owner of Record” shall mean a human person listed on the Salt Lake County Recorder’s records who has legal title to the property.~~

2.52. “Return air housing” ~~means shall mean~~ the main portion of an air ventilation system where air from the livable space returns to the air handling unit for heating or cooling.

2.53. “Sample location” ~~means shall mean~~ the actual place where an environmental sample was obtained, including designation of the room, the surface (wall, ceiling, appliance, etc), and the direction and distance from a specified fixed point (corner, door, light switch, etc).

2.54. “Services” ~~means shall mean~~ the activities performed by a decontamination specialist in the course of decontaminating residual chemical contamination from the manufacturing of illegal drugs or from the storage of chemicals used in manufacturing illegal drugs, or from methamphetamine use and includes not only the removal of any contaminants but inspections and sampling.

2.55. “Solid waste” ~~means shall mean~~ garbage; refuse; trash; rubbish; junk; asbestos waste; hazardous waste; infectious waste; industrial waste; dry waste; construction and demolition waste; dead animals; sludge; liquid or semi-liquid waste; used oil; other spent, useless, worthless, or discarded materials; or materials stored or accumulated for the purpose of discarding; materials that have served their original intended purpose; or waste material resulting from industrial manufacturing, mining, commercial, agricultural, household, institutional, recreational, or community activities.

2.56. “Toxic” ~~means shall mean~~ hazardous materials in sufficient concentrations that they can cause local or systemic detrimental effects to people.

2.57. “UGWQS” ~~means shall mean~~ the Utah Ground Water Quality Standards established in Utah Admin. Code R317-6-2.

2.58. “VOA” ~~means shall mean~~ volatile organic analyte.

2.59. “VOCs” ~~means shall mean~~ volatile organic compounds or organic chemicals that can evaporate at ambient temperatures used in the manufacture of illegal drugs such as acetone, acetonitrile, aniline, benzene, benzaldehyde, benzyl chloride, carbon tetrachloride, chloroform, cyclohexanone, dioxane, ethanol, ethyl acetate, ethyl ether, Freon 11, hexane, isopropanol, methanol, methyl alcohol, methylene chloride, naphtha, nitroethane, petroleum ether, petroleum distillates, pyridine, toluene, o-toluidine, and any other volatile organic chemical that may be used to manufacture illegal drugs.

2.60. “Waste” ~~means shall mean~~ solid waste including refuse, garbage, or other discarded material, either solid or liquid.

### **3. GENERAL PROVISIONS**



### 3.1. Jurisdiction of the Department.

3.1.1 This Regulation is promulgated by the ~~Salt Lake County Board of Health~~ as authorized by Utah Code Ann. § 26A-1-121(1) and Chapter 9.04, Salt Lake County Code of Ordinances.

3.1.2 The Department is empowered to enforce this Regulation as authorized by Utah Code Ann. § 26A-1-114(1)(a), in all incorporated and unincorporated areas served by the Department, and Chapter 9.04, Salt Lake County Code of Ordinances.

3.2. It ~~is shall be~~ unlawful for any person not to comply with any regulation promulgated by the Department unless granted an express variance by the ~~Salt Lake County Board of Health~~.

3.3. Compliance with this ~~¶~~Regulation does not constitute a defense if charged with any environmental crime or violation of any local, state, or federal law.

3.4. Legal action taken by the Department 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.

3.5. Nothing in this ~~¶~~Regulation affects or modifies in any way the obligations or liability of any person under any other regulation or provision thereof issued by the Department, any ordinance issued by Salt Lake County or any municipality located within Salt Lake County, or any state or federally issued law, including common law. However, Departmental regulations supersede other existing local and county standards, regulations and ordinances pertaining to similar subject matter that are inconsistent.

3.6. **Severance.** If any section, subsection, sentence, clause, or phrase of this ~~¶~~Regulation is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ~~¶~~Regulation.

## 4. SUBSTANTIVE PROVISIONS

### 4.1. Duty to Report Potentially Contaminated Site.

#### 4.1.1. Law Enforcement.

- (i) When any federal, state, or local law enforcement agency in the course of its official duties observes any paraphernalia of a clandestine drug laboratory operation, including chemicals or equipment used in the manufacture of unlawful drugs, the agency ~~will shall~~ report the location where the items were observed to the Department.

- (ii) When any federal, state or local law enforcement agency in the course of its official duties observes methamphetamine and methamphetamine paraphernalia, or methamphetamine use and methamphetamine paraphernalia in a property, the agency will report the location where the items were observed to the Department.
- (iii) The law enforcement officer ~~will shall~~ make the report to the Department at the location where and at the time when the observation occurred, if making the report at that time will not compromise an ongoing investigation. If the report cannot be made at the location, the report will shall be made as soon afterward as is practical.
- (iv) The report ~~must shall~~ include:
  - a. the date and time of the observation;
  - b. the name of the reporting agency and the case number of the case that resulted in the observation;
  - c. the contact information of the officer involved, including name and telephone number;
  - d. the address of the location and descriptions of the property that may be contaminated including any directions necessary for access; and
  - e. a brief description of the evidence and its location on the property that led to the belief there may be contamination.
- (v) The law enforcement agency shall forward to the Department copies of the required reports.

4.1.2. **~~Property Owners~~ Owner of Record.** An ~~property owner~~ owner of record ~~must shall~~ report potentially contaminated sites to the Department if he or she observes, or has reason to believe, that his or her property has been the site of illegal drug manufacturing, methamphetamine use, or improper hazardous chemical storage.

4.1.3. **Certified Decontamination Specialist.** A Certified Decontamination Specialist ~~shall will~~, within five (5) working days of receipt, report to the Department any ~~preliminary assessment~~ Preliminary Assessment results for assessments completed by or under the legal direction of that Certified Decontamination Specialist, received in excess of the Utah State decontamination standard of 1.0ug/100cm<sup>2</sup> set in Table 1 of this Regulation, whether the property appears on the list of chemically contaminated properties or not. This ~~shall~~ pertains to properties contaminated by a lab, from use, or from any other cause.

4.2. **Department to Investigate.** Following a report of a potentially contaminated site, the Department ~~shall~~ will make an initial investigation in order to determine whether reasonable evidence exists to consider the property contaminated. If upon completion of such investigation, the Department finds reasonable evidence of contamination, the property ~~shall~~ will be placed on a list of contaminated properties if the report was received from a law enforcement agency. If the report was received from a certified decontamination specialist, the property upon request, will be posted closed-to-entry on the inside ~~will not be placed on the list for thirty (30) days from the date of initial report,~~ if the following conditions are met:

4.2.1 The property remains secured: and

4.2.2 A ~~W~~work plan, as set forth in Section 4.6 of this Regulation is submitted to the Department for review and approval.

4.2.3 If an owner of record ~~property owner~~ disagrees with the ~~d~~Department's conclusions, he or she may arrange at his or her own expense for confirmation sampling to be taken in accordance with subSection 4.4, Preliminary Assessment.

#### 4.3. **Department to Placard Potentially Contaminated Site.**

##### 4.3.1. **Warning Placard.**

- (i) If an investigation confirms a high likelihood that the property is or has been contaminated, as a result of methamphetamine or paraphernalia being discovered by law enforcement or non-confirmation sampling by a person the Department ~~shall~~ will post the premises with a warning placard. Properties posted with a warning placard ~~shall~~ will not be placed on the list of contaminated properties.
- (ii) The warning placard ~~shall~~ will inform occupants and others that hazardous chemicals may exist on, or have been removed from, the premises and that entry may be unsafe due to residual chemical contamination.
- (iii) The warning placard ~~shall~~ will identify the address of the posted site, the name of the posting agent, and the name and telephone number of the Department.
- (iv) The Department may notify local law enforcement agencies of any site within their jurisdiction that has been posted with a warning placard.
- (v) The warning placard does not prohibit otherwise legal access to the property.

##### 4.3.2. **Closed-to-Entry Placard.**

- (i) If the Department's initial investigation confirms the presence of chemical contaminants in quantities which create or may create a hazard to the occupants or the public; the Department ~~shall~~must post the premises with a closed-to-entry placard.
- (ii) If the Department's initial investigation confirms the presence of methamphetamine and methamphetamine paraphernalia or use that may create a hazard to the occupants or the public; the Department will post the premises with a closed-to-entry placard.
- (iii) For premises posted as the result of a law enforcement report, the closed-to-entry placards ~~shall~~must be conspicuously posted on the premises' entryway. For premises posted as the result of a report from a certified decontamination specialist, the closed-to-entry placard may be posted at other locations on the premises that gives adequate notification if the conditions specified in ~~subsection~~ Section 4.2 are met. The placard ~~shall~~ will state the address of the premises, the date of closure, and name and phone number of the Director.
- (iv) **Chemically Contaminated Property Management Fee.** Owners of properties posted closed-to-entry by the Department ~~shall~~must remit to the Department the Chemically Contaminated Property Management Fee in the amount specified in ~~subsection~~ Section 5.2 of this Regulation. The fee shall cover Department consultations, review of the work plan, the permit issued pursuant to ~~part~~ Section 4.7.2 of this Regulation, review of the final report, any on-site inspections and a final on-site inspection for release of the property from Department regulation.
- (v) A building or any part of a building that has been closed-to-entry ~~shall~~ must be properly secured to prevent entry by unauthorized persons. If the ~~property~~-owner of record, lessee, or occupant fails to secure the closed area, the Director may proceed to secure it and charge the costs against the ~~property~~-owner of record, lessee, or occupant.

#### 4.3.3. Vacating Required Upon Closing to Entry.

- (i) Any premises which is closed-to-entry ~~shall~~must be vacated within a reasonable time as ordered by the Director.
- (ii) It ~~shall be~~ is unlawful for any unauthorized person to enter any premises that has been closed-to-entry until the placard is removed by the Director.
- (iii) A decontamination specialist may be authorized by the ~~property~~ owner of record to enter a premise that has been closed-to-entry to collect information for a submission of a bid, to conduct a ~~preliminary assessment~~

Preliminary Assessment, or upon receipt of a permit, to decontaminate the property.

- (iv) No person, other than the Director, ~~shall~~may deface or authorize the removal of a closed-to-entry placard.

#### 4.4. **Preliminary Assessment.**

- 4.4.1. Before decontamination, the ~~property~~ owner of record of a property that appears on the Department's list of contaminated properties ~~shall~~must ~~engage~~ a decontamination specialist to conduct a ~~preliminary assessment~~ Preliminary Assessment of the premises in accordance with ~~subsection~~ Section 4.4. This ~~part~~ Section ~~shall~~may not be construed to prohibit the removal of contamination by law enforcement agencies to abate an imminent threat to human health or the environment.
- 4.4.2. The decontamination specialist must determine the nature and extent of damage and contamination of the property from illegal drug operations or methamphetamine use by performing a Preliminary Assessment prior to decontamination activities. Contamination may be removed prior to approval of the work plan as necessary to abate an imminent threat to human health or the environment.
- 4.4.3. **Structural Assessment.** If there was a fire or an explosion in the contaminated portion of the listed property that appears to have compromised structural integrity, the decontamination specialist ~~shall~~must obtain a structural assessment before beginning the ~~preliminary assessment~~ Preliminary Assessment.
- 4.4.4. **Preliminary Assessment Procedures, Health Department Reporting.** The Department will notify the owner of record of test results reported to the Department indicating that a property is potentially contaminated.
  - (i) If the tests were from non-confirmation sampling, the owner of record may obtain confirmation sampling, performed by a certified decontamination specialist, within 10 days of receipt of the notice and provide the Department with the confirmation sampling test results. If confirmation sampling is not performed within 10 days, the property will be posted closed-to-entry as required in Section 4.3.2.
  - (ii) If the test results were from confirmation sampling, the Department will direct the owner of record to decontaminate the property as outlined.
- 4.4.5. **Preliminary Assessment Procedures.** To conduct a ~~preliminary assessment~~ Preliminary Assessment, the decontamination specialist ~~shall~~must:

- (i) Supervise persons making physical assessments or adjustments, i.e., structural, mechanical, plumbing, electrical, etc.;
- (ii) Request and review copies of any law enforcement, state agency or other report regarding illegal drug activity, suspected illegal drug activity, or improper chemical storage at the property;
- (iii) Evaluate all information obtained regarding the nature and extent of damage and contamination;
- (iv) Determine the method of illegal drug manufacturing used if applicable;
- (v) Determine the chemicals involved in the operation or stored on the premises;
- (vi) Determine specific locations where the processing and illegal drug activity took place or was suspected and where hazardous materials were stored or disposed;
- (vii) Use all available information to delineate areas ~~highly suggestive~~ of contamination;
- (viii) Develop procedures to safely enter the property in order to conduct a ~~preliminary assessment~~ Preliminary Assessment;
- (ix) Wear appropriate personal protective equipment for the conditions assessed;
- (x) Visually inspect all portions of the property, including areas outside of any impacted structure to document where stained materials or surfaces are visible, drug production took place, hazardous materials were stored, and burn pits or illegal drug operation trash piles may have been or are currently present;
- (xi) Determine whether the property contains a septic system on-site and if there has been a release to the system as a result of the illegal drug operation;
- (xii) Determine the locations of the ventilation system components in the areas ~~highly suggestive~~ of contamination;
- (xiii) Conduct and document appropriate testing for corrosive, flammable, combustible, and toxic atmospheres during the initial entry in the contaminated portion of the property using instruments such as LEL/O<sub>2</sub> meter, pH paper, PID, FID, or equivalent equipment; and

- (xiv) If decontamination is not anticipated due to the lack of supporting evidence of contamination, obtain confirmation samples ~~must be collected~~ to demonstrate compliance with the decontamination standards using the methodology specified in ~~sub~~Sections 4.13 and/or 4.15 of this Regulation.

#### 4.4.6. **Results of Preliminary Assessment.**

- (i) If the ~~preliminary assessment~~ Preliminary Assessment does not reveal the presence of contamination above the decontamination standards specified in ~~subsection~~ Section 4.12 of this ~~r~~Regulation the decontamination specialist or ~~property~~ owner of record may request that the property be removed from the list of contaminated properties provided that:
  - a. A final report documenting the results of the ~~preliminary assessment~~ Preliminary Assessment is submitted to the Department by the ~~property~~ owner of record and/or the decontamination specialist; and
  - b. The Department concurs with the recommendations contained in the final report.
- (ii) If the ~~preliminary assessment~~ Preliminary Assessment reveals the presence of contamination, the decontamination specialist shall submit all test results to the Department.

4.5. **Property Owner of Record to Arrange for Decontamination.** If the ~~preliminary assessment~~ Preliminary Assessment reveals the presence of contamination above the decontamination standards provided in Tables 1 & 2 of this Regulation, the ~~property~~ owner of record ~~shall~~must ensure that the property is decontaminated in accordance with the ~~subsection~~ 4.12 of this Regulation and inform the Department of plans to secure and decontaminate the property, including the contact information of the decontamination specialist assigned to decontaminate the premises within the time frame given in the Department's written notice indicating that the property has been placed on the list of contaminated properties.

#### 4.6. **Work Plan Required Before Decontamination of Property.**

- 4.6.1. Prior to decontamination of the property, the decontamination specialist or owner of record ~~shall~~must prepare a written work plan that contains:
  - (i) Complete identifying information of the property, including a physical description such as ~~location~~, street address, mailing address, legal description, county tax or parcel identification number, or vehicle identification number if a mobile home, trailer or boat;

- (ii) Complete identifying and contact information of the ~~property~~ owner of record and their designated representative, including their physical address, mailing address, phone number;
- (iii) If applicable, the certification number of the decontamination specialist ~~and business license of the decontamination specialist~~ who will be performing decontamination services on the contaminated portion of the property;
- (iv) A list of persons authorized to be present during any and all aspects of the decontamination process;
- (v) ~~If applicable, copies~~ Copies of the decontamination specialist's current certification;
- (vi) Photographs identifying the property and areas of possible chemical contamination;
- (vii) A description of the areas ~~highly suggestive of contamination, and areas that are considered not highly suggestive of contamination~~, including any information that may be available regarding locations where illegal drug processing was performed, hazardous materials were stored, and stained materials and surfaces were observed;
- (viii) A description of contaminants that may be present on the property;
- (ix) Results of any testing conducted for corrosive, flammable, combustible, and toxic atmospheres during the initial entry in the contaminated portion of the property, such as by a LEL/O<sub>2</sub> meter, pH paper, PID, FID, or equivalent equipment;
- (x) A listing of all subcontractors and all persons who will enter areas of suspected contamination, ~~along with:~~
  - a. ~~Their qualifications including applicable training and experience;~~
  - b. ~~Any certifications or licenses required; and~~
  - c. ~~Documentation of any training required by applicable Occupational Safety and Health Administration (OSHA), Utah Labor Commission, Environmental Protection Agency, and Utah Department of Environmental Quality statutes and regulations. For example, contractors should be in compliance with any applicable training requirements in Hazard Communication, 29 CFR 1910.1200; Personal Protective Equipment, 29 CFR 1910.132; Respiratory Protection, 29 CFR 1910.134; Blood Borne Pathogens, 29 CFR 1910.1030;~~



~~HAZWOPER, 29 CFR 1910.120; any applicable provisions in Utah Administrative Code R307-840, 40 CFR 745 Subpart E (lead paint), 40 CFR 745 Subpart L (lead paint), 29 CFR 1926.62 (employee lead exposure), 29 CFR 1926.1101 (employee asbestos exposure); and any other applicable requirements.~~

- (xi) A description of the personal protective equipment to be used while in or on the contaminated portion of the property;
- (xii) The health and safety procedures that will be followed in performing the decontamination of the contaminated portion of the property. ~~conforming to any applicable requirements in Hazard Communication, 29 CFR 1910.1200; Personal Protective Equipment, 29 CFR 1910.132; Respiratory Protection, 29 CFR 1910.134; Blood Borne Pathogens, 29 CFR 1910.1030; Lead in Construction, 29 CFR 1926.62; and Asbestos, 29 CFR 1926.1101.~~
- (xiii) A detailed summary of the decontamination to be performed based on the findings and conclusions of the Preliminary Assessment, which summary ~~shall~~must include:
  - a. All surfaces, materials, or articles to be removed;
    - ~~i. Describe the original location of each item.~~
    - ii. Describe results of confirmation testing if any.
    - ~~iii. Describe intended destination or disposal site.~~
  - b. All surfaces, materials and articles to be ~~cleaned~~ decontaminated on-site;
  - c. All procedures to be employed to remove or clean the contamination, including both areas ~~highly suggestive~~ of contamination as well as those areas that are not ~~highly suggestive of contamination~~ contaminated;
  - d. All locations where decontamination will occur;
  - e. All containment and negative pressure enclosure plans; and
  - f. Personnel decontamination procedures to be employed to prevent the spread of contamination;

~~A site map of the contaminated property including floor plans of affected buildings, local drinking wells, and nearby streams drawn to a reasonable~~

~~scale as determined by the Department. The site map shall show the location of the damage and contamination and the location of sampling points used in the site assessment;~~

- (xiv) The shoring plan, if an assessment of the structural integrity was conducted and it was determined that shoring was necessary, including a written description or drawing that shows the structural supports required to safely occupy the building during decontamination;
- (xv) A complete description of the proposed post-decontamination confirmation sampling locations, parameters, techniques, and quality assurance requirements;
- (xvi) The names of all individuals who ~~will~~ gathered samples, the analytical laboratory performing the testing, and a copy of the standard operating procedures for the analytical method used by the analytical laboratory; ~~or reference the nationally recognized standard method used;~~
- (xvii) A description of waste disposal procedures, including waste characterization, the anticipated disposal facility, and verifying documents;
- (xviii) A schedule outlining time frames to complete the decontamination process; and
- (xix) All available information relating to the contamination and the property based on the findings and conclusions of the ~~preliminary assessment~~ Preliminary Assessment.

4.6.2. The ~~property~~ owner of record, and any decontamination specialist involved in executing the work plan ~~shall~~ must retain the work plan for a minimum of three years after completion of the work plan and the removal of the property from the contaminated-properties list.

4.6.3. All information required to be included in the work plan ~~shall~~ must be keyed to or contain a reference to the relevant subparts of ~~subsection~~ Section 4.6 of this Regulation.

4.6.4. If, at any point after a work plan has been submitted, a person discovers evidence of contamination that had not been previously identified, that person ~~shall~~ must report such observations to the Department and all activity on the property ~~shall~~ must stop. The work plan shall be amended, resubmitted to the Department and work may not resume until the Department approves the amended work plan.

#### 4.7. Permit to Decontaminate.

4.7.1. The decontamination specialist ~~shall~~must obtain a Decontamination Permit from the Department prior to implementation of the work plan. This does not preclude the decontamination specialist from accessing the property without a permit in order to conduct a ~~preliminary assessment~~ Preliminary Assessment, prepare a bid, or develop an appropriate work plan.

4.7.2. **Permit Application and Duration.**

(i) Prior to decontamination, a decontamination specialist ~~shall~~must obtain a permit to decontaminate. To obtain a permit, the decontamination specialist ~~shall~~must submit to the Department a work plan approved by the ~~property~~ owner of record.

(ii) **Permit Duration and Renewal.**

a. Permits shall expire 30 days from date of issue.

b. A 30-day extension for an expired permit may be granted upon submission of a written request and progress summary.

c. ~~In no case will~~ No more than 2 extensions may be granted.

d. If after 90 days from the original issuance date of a decontamination permit the decontamination is not complete, all work on the property will cease. Application for a new permit ~~must~~shall be accompanied by a new work plan and all applicable fees will be required before work can resume.

4.7.3. The permit ~~shall~~must specify the time of day and the dates when the work will take place.

4.7.4. The permit ~~shall~~must list all persons authorized to enter the portions of the property suspected to be contaminated.

4.7.5. A copy of the permit ~~shall~~must be posted on the premises in an uncontaminated and conspicuous location. A copy ~~shall~~must be re-posted as necessary.

4.8. **Decontamination Procedures.**

4.8.1. The requirements for decontamination will be based on the findings of the ~~preliminary assessment~~ Preliminary Assessment. All decontamination shall follow procedures described in ~~subsection~~ Section 4.8 of this ~~r~~Regulation.

4.8.2. The decontamination specialist and ~~property~~ owner of record ~~shall~~must comply with all applicable federal, state, municipal, and local laws, rules, ordinances, and regulations in decontaminating the property.

- 4.8.3. The decontamination specialist or owner of record shall must be present on the property during all decontamination activities.
- 4.8.4. The decontamination specialist or owner of record shall must conduct the removal of the contamination from the property, except for porous materials from areas not ~~highly suggestive of contamination~~ contaminated that may be ~~cleaned~~ decontaminated as outlined in ~~subpart~~ Section 4.8.11 (i) of this Regulation.
- 4.8.5. The decontamination specialist or owner of record shall must see that doors or other openings from areas requiring decontamination shall must be partitioned from all other areas with at least 4-mil plastic sheeting or equivalent before beginning decontamination to prevent contamination of portions of the property that have not been impacted by illegal drug operations.
- 4.8.6. **Ventilation-CleaningDecontamination Procedures.**
- (i) Air registers shall must be removed and ~~cleaned~~ decontaminated as outlined in ~~subsection Section 4.9 and in either part section 4.8.7 of this Regulation (if the air register is in an area highly suggestive of contamination).~~ or part 4.8.11 of this Regulation if the air register is not in an area highly suggestive of contamination.
  - (ii) All air register openings shall must be covered by temporary filter media.
  - (iii) A fan-powered HEPA filter collection machine shall must be connected to the ductwork to develop negative air pressure in the ductwork.
  - (iv) Air lances, mechanical agitators, or rotary brushes shall must be inserted into the ducts through the air register openings to loosen all dirt, dust and other materials.
  - (v) The air handler units, including the return air housing, coils, fans, systems, and drip pan shall must be decontaminated as required in ~~subsection Section 4.9 and in either part Section 4.8.7. of this Regulation. of this regulation if the air handler unit is in an area highly suggestive of contamination or part section 4.8.11 of this Regulation if the air handler unit is not in an area highly suggestive of contamination.~~
  - (vi) All damaged porous linings or filters in the ventilation system shall must be removed and properly disposed.
  - (vii) The ventilation system shall must be sealed off at all openings with at least 4-mil plastic sheeting, or other barrier of equivalent strength and effectiveness, to prevent re-contamination until the contaminated portion

of the property meets the decontamination standards in ~~subsection~~ Section 4.12 of this Regulation.

**4.8.7. Procedures for Areas ~~Highly Suggestive~~ of Contamination.**

- (i) ~~All porous materials shall be removed and properly disposed. On site cleaning of this material is not allowed.~~
- (i) All stained materials ~~shall~~ must be removed and properly disposed, unless the decontamination specialist or owner of record determines that ~~cleaning~~ decontamination and testing can be performed and can demonstrate based on results of confirmation sampling and testing that the materials meet the decontamination standards contained in ~~subsection~~ Section 4.12 of this Regulation. ~~Only smooth and easily cleanable surfaces may be decontaminated on site and only in accordance with subsection 4.9 of this Regulation.~~
- (ii) All non-porous surfaces such as floors, walls, ceilings, mirrors, windows, doors, appliances and non-fabric furniture may be ~~cleaned to the point of stain removal~~ decontaminated and left in place or removed and properly disposed. Only smooth and easily cleanable surfaces may be decontaminated on site and only in accordance with ~~subsection~~ Section 4.9 of this ~~Regulation~~. After on-site ~~cleaning~~ decontamination, the decontamination specialist shall test all surfaces to verify compliance with the decontamination standards contained in ~~subsection~~ Section 4.12 of this Regulation.
- (iii) All exposed concrete surfaces ~~shall~~ must be thoroughly ~~cleaned~~ decontaminated as outlined in ~~subsection~~ Section 4.9 of this ~~Regulation~~ and tested to meet the decontamination standards contained in ~~subsection~~ Section 4.12 of this Regulation or may be removed and properly disposed.
- (iv) All appliances ~~shall~~ must be removed and properly disposed, unless the decontamination specialist or owner of record determines that ~~cleaning~~ decontamination and testing can be performed and can demonstrate based on results of confirmation sampling and testing that the materials meet the decontamination standards contained in ~~subsection~~ Section 4.12 of this Regulation. Only smooth and easily cleanable surfaces may be decontaminated on site and only in accordance with ~~subsection~~ Section 4.9 of this Regulation. After on-site ~~cleaning~~ decontamination, the decontamination specialist or owner of record shall test all surfaces to verify compliance with the decontamination standards contained in ~~subsection~~ Section 4.12 of this Regulation. For appliances such as ovens that have exposed insulation, a 100 square centimeter portion of the insulation ~~shall~~ must also be tested. If the insulation does not meet the decontamination standards contained in ~~subsection~~ Section 4.12 of this

Regulation, the insulated appliances ~~shall~~must be removed and properly disposed.

- (v) “Porous materials with no evidence of staining or contamination may be cleaned by HEPA vacuuming and one of the following methods”
  - (a) Steam cleaning; Hot water and detergent must be injected into the porous material under pressure to agitate and loosen any contamination. The water and detergent solution must then be extracted from the porous material by a wet vacuum.
  - (b) Detergent and water solution; porous materials must be washed in a washing machine with detergent and water for at least 15 minutes. The porous material must be rinsed with water. This procedure must be repeated at least two additional times using new detergent solution and rinse water.
  - (c) Doors or other openings to areas with no visible contamination must be partitioned from all other areas with at least 4-mil plastic sheeting or equivalent after being cleaned decontaminated to avoid re-contamination.
  - (d) Spray-on acoustical ceilings must be left undisturbed and must be sampled and tested for asbestos and for contamination to determine whether ceilings meet the decontamination standards outlined in Utah Admin. Code R392-600 (2) and (3), and if in need of removal, whether asbestos remediation protocols are applicable. If the materials exceed the standard, the decontamination specialist or owner of record must properly remove and dispose of them.

4.8.8. **Structural Integrity and Security Procedures.** If, as a result of the decontamination, the structural integrity or security of the property is compromised, the decontamination specialist or ~~property~~ owner of record ~~shall~~must take measures to remedy the structural integrity and security of the property.

4.8.9. **Procedures for Plumbing, Septic, Sewer, and Soil.**

- (i) All plumbing inlets to the septic or sewer system, including sinks, floor drains, bathtubs, showers, and toilets, ~~shall~~must be visually assessed for any staining or other observable residual contamination. All plumbing traps shall be assessed for VOC concentrations with a PID or FID in accordance with ~~subsection~~ Section 4.16 of this ~~Regulation~~. All plumbing traps shall be assessed for mercury vapors in accordance with ~~subsection~~ Section 4.19 of this ~~Regulation~~ by using a mercury vapor analyzer unless the results of the ~~preliminary assessment~~ Preliminary Assessment indicate that contamination was unlikely to have occurred. If

VOC concentrations or mercury vapor concentrations exceed the decontamination standards contained in ~~subsection~~ Section 4.12 of this Regulation, the accessible plumbing and traps where the excess levels are found shall be removed and properly disposed or shall be ~~cleaned~~ decontaminated and tested to meet the decontamination standards contained in ~~subsection~~ Section 4.12 of this Regulation.

- (ii) The decontamination specialist or owner of record ~~shall~~ must obtain documentation from the Department or the local ~~waste water~~ wastewater company describing the sewer disposal system for the premises and include it in the final report. If the premises are connected to an on-site septic system, a sample of the septic tank liquids shall be obtained and tested for VOC concentrations unless the results of the ~~preliminary assessment~~ Preliminary Assessment indicate that contamination was unlikely to have occurred.
- (iii) If VOCs are not found in the septic tank sample or are found at concentrations less than ~~Utah Ground Water Quality Standards (UGWQS)~~ and less than 700 micrograms per liter for acetone, no additional work is required in the septic system area, unless requested by the ~~property~~ owner of record.
- (iv) If VOCs are found in the septic tank at concentrations exceeding the UGWQS or exceeding 700 micrograms per liter for acetone the following applies:
  - a. The decontamination specialist or owner of record ~~shall~~ must investigate the septic system discharge area for VOCs, lead, and mercury unless there is clear evidence that mercury or lead was not used ~~or stored on the premises in the manufacturing of illegal drugs at the illegal drug operation.~~
  - b. The horizontal and vertical extent of any VOCs, mercury, and lead detected in the soil samples ~~shall~~ must be delineated relative to background or EPA residential risk-based screening concentrations contained in U.S. E.P.A. Region 9 Superfund Preliminary Remediation Goals (PRG) Table, October 2004.
  - c. If any of the VOCs, mercury, and lead migrated down to groundwater level, the decontamination specialist ~~shall~~ must delineate the vertical and horizontal extent of the groundwater contamination.
  - d. After complete characterization of the release, the decontamination specialist ~~shall~~ must remediate the impacted soils to concentrations below background or EPA residential risk-based screening concentrations as contained in U.S. E.P.A. Region 9 Superfund

Preliminary Remediation Goals (PRG) Table, October 2004 and any impacted groundwater to concentrations below the UGWQS and below 700 micrograms per liter for acetone.

- e. The contents of the septic tank ~~shall~~must be removed and properly disposed.
- (v) The decontamination specialist or ~~property~~ owner of record ~~shall~~must also notify the Utah Department of Environmental Quality, Division of Water Quality, if a release has occurred as a result of illegal drug operations to a single-family septic system or a multiple family system serving less than 20 people.
- (vi) All sampling and testing pursuant to this ~~r~~Regulation ~~shall~~must be performed in accordance with EPA sampling and testing protocol.

#### 4.8.10. **Procedures for Burn Areas, Trash Piles and Bulk Wastes.**

- (i) The decontamination specialist or owner of record ~~shall~~must characterize, remove, and properly dispose of all bulk wastes remaining from the activities of the illegal drug operations or other wastes impacted by compounds used by the illegal drug operations or stored on the premises.
- (ii) The decontamination specialist ~~shall~~must examine the property for evidence of burn areas, burn or trash pits, debris piles, and stained areas suggestive of contamination. The decontamination specialist ~~shall~~must test any burn areas, burn or trash pits, debris piles or stained areas with appropriate soil sampling and testing equipment, such as a LEL/O<sub>2</sub> meter, pH paper, PID, FID, mercury vapor analyzer, or equivalent equipment to determine if the area is contaminated.
- (iii) If the burn areas, burn or trash pits, debris piles, or stained areas are not in a part of the property that has otherwise been determined to be ~~highly suggestive of contamination~~ contaminated, the decontamination specialist ~~shall~~must recommend to the ~~property~~ owner of record that these areas be investigated.
- (iv) If the burn areas, burn or trash pits, debris piles, or stained areas are part of the contaminated portion of the property, the decontamination specialist ~~shall~~must investigate and remediate these areas.
- (v) The decontamination specialist or owner of record ~~shall~~must investigate burn areas, burn or trash pits, debris piles, or stained areas for VOCs used by the illegal drug operations and lead and mercury, unless there is clear evidence that mercury or lead was not used in the manufacturing of illegal drugs at the illegal drug operations. ~~or stored on the premises.~~



- (vi) The decontamination specialist or owner of record shall ~~must~~ delineate the horizontal and vertical extent of any VOCs, lead, or mercury detected in the soil samples relative to background concentrations or EPA residential risk-based screening concentrations as contained in the U.S. E.P.A. Region 9 Superfund Preliminary Remediation Goals (PRG) Table, October 2004.
- (vii) If any of the compounds used by the illegal drug operation, or stored on the premises ~~migrated~~ into groundwater, the decontamination specialist or owner of record shall ~~must~~ delineate the vertical and horizontal extent of the groundwater contamination relative to the UGWQS and relative to the maximum contaminant level of 700 micrograms per liter for acetone.
- (viii) After complete characterization of the release, the decontamination specialist or owner of record shall ~~must~~ remediate contaminated soils to background or EPA residential risk-based screening concentrations as contained in the ~~the~~ U.S. E.P.A. Region 9 Superfund Preliminary Remediation Goals (PRG) Table, October 2004, and contaminated groundwater to concentrations at or below the UGWQS and at or below 700 micrograms per liter for acetone.
- (ix) All sampling and testing conducted under this ~~section~~ Section ~~shall~~ must be performed in accordance with current EPA sampling and testing protocol.

**~~4.8.11 Procedures for Areas Not Highly Suggestive of Contamination.~~**

- (i) ~~Porous materials with no evidence of staining or contamination may be cleaned by HEPA vacuuming and one of the following methods:~~
  - a. ~~**Steam cleaning.** Hot water and detergent shall be injected into the porous materials under pressure to agitate and loosen any contamination. The water and detergent solution shall then be extracted from the porous material by a wet vacuum.~~
  - b. ~~**Detergent and water solution.** Porous materials shall be washed in a washing machine with detergent and water for at least 15 minutes. The porous materials shall be rinsed with water. This procedure shall be repeated at least two additional times using new detergent solution and rinse water.~~
- (ii) ~~All non porous surfaces such as floors, walls, ceilings, mirrors, windows, doors, appliances, and non fabric furniture shall be cleaned as outlined in subsection 4.9 of this Regulation.~~

- (iii) ~~Doors or other openings to areas with no visible contamination shall be partitioned from all other areas with at least 4 mil plastic sheeting or equivalent after being cleaned to avoid re-contamination.~~
- (iv) ~~Spray-on acoustical ceilings shall be left undisturbed, and shall be sampled and tested for asbestos and for contamination to determine whether ceilings meet the decontamination standards contained in subsection 4.12 of this Regulation, and if in need of removal, whether asbestos remediation protocols are applicable. If the materials exceed the standards, the decontamination specialist shall properly remove and dispose of them.~~
- (v) ~~All exposed concrete surfaces shall be thoroughly cleaned as outlined in subsection 4.9 of this Regulation.~~

4.8.11. **Decontamination Procedures for Motor Vehicles.** If a motor vehicle is determined to be contaminated due to use or improper storage of hazardous chemicals, the decontamination specialist ~~shall~~ must conduct a ~~preliminary assessment~~ Preliminary Assessment in the manner described in ~~subsection 4.4 of this Regulation~~ to determine if the vehicle is contaminated. If it is determined that the motor vehicle is contaminated, and the vehicle cannot be ~~cleaned~~ decontaminated in a manner consistent with ~~parts~~ Sections 4.8.6, 4.8.7, and 4.8.11 of this Regulation so that it meets the decontamination standards of ~~subsection~~ Section 4.12 of this Regulation, the motor vehicle may no longer be occupied. The vehicle ~~shall~~ must also be properly disposed.

4.9. **Cleaning Decontamination Procedure.** For all items, surfaces or materials that are identified as easily cleanable and for which the work plan indicates they will be decontaminated on site, the decontamination specialist ~~or owner of record~~ shall ~~must~~ wash them with a detergent and water solution and then thoroughly rinse them. This procedure ~~shall~~ must be repeated at least two additional times using new detergent solution and rinse water. The decontamination specialist ~~shall~~ must test all surfaces where decontamination on site has been attempted to verify compliance with the decontamination standards in ~~subsection~~ Section 4.12 of this Regulation.

4.10. **Waste Characterization and Disposal Procedures.**

4.10.1. The Utah Administrative Code, Hazardous Waste Rules of R315-1 through R315-101, the Solid Waste Rules of R315-301 through R315-320 and the Illegal Drug Operations Decontamination Standards R392-600 regulate the management and disposal of hazardous waste and contaminated debris. The decontamination specialist and ~~property~~ owner of record ~~shall~~ must comply with this ~~r~~ Regulation and meet the following criteria.

- (i) No waste, impacted materials or contaminated debris from the decontamination from the illegal drug operations use or improper storage

~~of hazardous chemicals~~ may be removed from the site or waste stream for recycling or reuse without the written approval of the Department.

- (ii) All items removed from the illegal drug operations and waste generated during decontamination work ~~shall~~must be properly disposed. Solid waste removed from a property during the decontamination process shall be stored in a manner to prevent further contamination.
- (iii) All liquid waste, powders, pressurized cylinders, and equipment used during the production of illegal drugs shall be properly characterized by sampling or testing prior to making a determination regarding disposal or the waste ~~shall~~must simply be considered hazardous waste and properly disposed, except the waste ~~shall~~must not be deemed to be household hazardous waste.
- (iv) All impacted materials and contaminated debris that are not determined by the decontamination specialist or owner of record to be a hazardous waste may be considered a solid waste and properly disposed.
- (v) All infectious waste ~~shall~~must be managed in accordance with Federal, State and local requirements.
- (vi) The disturbance, removal and disposal of asbestos must be done in compliance with all Federal, State, and local requirements including the requirements for Asbestos Certification, Asbestos Work Practices and Implementation of Toxic Substances Control Act, Utah Administrative Code R307-801.
- (vii) The removal and disposal of lead-based paint must be done in compliance with all Federal, State and local requirements including the requirements for Lead-Based Paint Accreditation, Certification and Work Practice Standards, Utah Administrative Code R307-840.
- (viii) The decontamination specialist and ~~property~~ owner of record ~~shall~~must comply with all Federal, State, Municipal, County or City codes, ordinances and regulations pertaining to waste storage, manifesting, record keeping, waste transportation and disposal.

4.10.2. Waste that is not designated as hazardous waste ~~shall~~must be considered solid waste and may be disposed at a permitted landfill. The waste ~~must~~ shall be handled as special waste in accordance with Utah Administrative Code R315-301-2(71) to be buried immediately upon its arrival at the solid waste management facility. The facility's procedures for the receipt and handling of special waste ~~must~~ shall be followed. This waste ~~shall~~must not be recycled or reused.

#### 4.11. Post-Decontamination Confirmation Sampling Required.

- 4.11.1. The decontamination specialist ~~shall must take and submit for testing~~ conduct confirmation samples sampling after decontamination to verify that concentrations are below the decontamination standards prior to the submittal of a final report. Samples are not required if a contaminated surface has been removed and replaced, unless there is evidence that the area has been re-contaminated. All decontaminated areas and materials, areas suggestive of contamination and surfaces that have not been removed must be sampled for compliance with the standards in Table 1. and prior to replacing structural elements, surfaces (including painting and covering floors,) and furniture to verify that concentrations are below the decontamination standards. Confirmation sampling results shall be submitted with the final report. All decontaminated areas and materials shall be sampled for compliance with the standards in Table 1.
- 4.11.2. If the decontamination standards are not achieved, the decontamination specialist or owner of record shall must perform additional decontamination and the decontamination specialist must re-sample to confirm the surface or area meets the decontamination standards specified in Table 1.
- 4.11.3. The decontamination specialist or owner of record shall must also conduct sampling and testing for all of the metals listed in Table 2 unless there is clear evidence that these metals were not used or improperly stored on the premises. If Table 2 contaminants are present, the decontamination specialist or owner of record shall must decontaminate the affected areas and the decontamination specialist shall sample until they meet the decontamination standards in Table 2.

4.12. **Decontamination Standards.**

**TABLE 1:**

<b>COMPOUND</b>	<b>DECONTAMINATION STANDARD</b>
Red Phosphorus	Removal of stained material or <del>cleaned</del> <u>decontaminated</u> as specified in <del>subsection</del> <u>Section 4.8</u> of this <del>r</del> <u>Regulation such that there is no remaining</u> <del>visible residue</del>
Iodine Crystals	Removal of stained material or <del>cleaned</del> <u>decontaminated</u> as specified in <del>subsection</del> <u>Section 4.8</u> of this <del>r</del> <u>Regulation such that there is no remaining</u> <del>visible residue</del>
Methamphetamine	Less than or equal to 1.0 microgram Methamphetamine per 100 square centimeters
<del>Ephedrine</del>	<del>Less than or equal to 0.1 microgram Pseudoephedrine</del> <del>per 100 square centimeters</del>
VOCs in Air	Less than or equal to 1 parts per million
Corrosives	Surface pH between 6 and 8
Ecstasy	Less than or equal to 0.1 micrograms Ecstasy per 100 square centimeters

**TABLE 2:**

<b>COMPOUND</b>	<b>DECONTAMINATION STANDARD</b>
Lead	Less than or equal to 4.3 micrograms Lead per 100 square centimeters
Mercury	Less than or equal to 3.0 micrograms Mercury per cubic meter

4.13. **General Confirmation Sampling Procedures.**

- 4.13.1. All sample locations ~~from which samples are taken shall~~ must be photographed.
- 4.13.2. All samples ~~shall~~ must be obtained from areas representative of the materials or surfaces being tested. Samples ~~shall~~ must be collected from materials or surfaces

using wipe samples and ~~shall~~must be biased toward areas where contamination is suspected or confirmed or was known to be present prior to decontamination.

- 4.13.3. All samples ~~shall~~must be obtained, preserved, and handled and maintained under chain-of-custody protocol in accordance with industry standards for the types of samples and analytical testing to be conducted.
- 4.13.4. All samples ~~shall~~must include a control and ~~shall~~must be performed in accordance with current EPA sampling and testing protocol unless otherwise specified in this Regulation or in writing by the Director.
- 4.13.5. The individual conducting the sampling ~~shall~~must wear a new pair of gloves to obtain each sample.
- 4.13.6. All reusable sampling equipment ~~shall~~must be decontaminated prior to sampling.
- 4.13.7. All testing equipment ~~shall~~must be properly equipped and calibrated for the types of compounds to be analyzed.
- 4.13.8. Cotton gauze, 3" x 3" 12-ply, ~~or 4" x 4" 8-ply~~ in sterile packages, ~~shall~~must be used for all wipe sampling. The cotton gauze ~~shall~~must be wetted with analytical grade methanol for the wipe sampling. The cotton gauze ~~shall~~must be blotted or wiped at least five times in two perpendicular directions with each sampling area.
- 4.13.9. After sampling, each wipe sample ~~shall~~must be placed in a new clean sample container and capped tightly. Recommended containers are 50-mL polypropylene disposable centrifuge tubes or 40-mL VOA glass vials. Plastic bags ~~shall~~must not be used. The sample container ~~shall~~must be properly labeled with at least the site or project identification number, date, time, and actual sample location. The sample container ~~shall~~must be refrigerated until delivered to an analytical laboratory.
- 4.13.10. Each sample ~~shall~~must be analyzed for methamphetamine, ephedrine, pseudoephedrine, and ecstasy depending upon the type of illegal drug operations using NIOSH Manual of Analytical Method (NMAM) 9106, 9109 or 9111 (~~or the proposed 9106 method if it is not yet approved~~) or equivalent method approved by the Utah Department of Health.

#### 4.14. **Confirmation Sampling in ~~Areas Highly Suggestive of Contamination~~.**

- 4.14.1. Grab samples or composite samples are allowed for confirmation testing of contaminated areas.

~~Samples collected from areas highly suggestive of contamination shall be by grab samples that are not combined with other samples.~~

- 4.14.2. Three 10 cm. x 10 cm. areas (100 square centimeters) ~~shall~~must be wipe-sampled from each room of the property where illegal drug operations occurred, hazardous materials were stored and where staining or contamination are or were present. The three samples ~~shall~~must be obtained from a nonporous section of the floor, one wall, and the ceiling in each room or any other location where contamination is suspected.
- 4.14.3. Three 10 cm. x 10 cm. areas (100 square centimeters) ~~shall~~must be wipe-sampled from different areas of the ventilation system, unless the system serves more than one unit or structure. If the system serves more than one unit or structure, samples ~~shall~~must be collected from a representative distribution of the system as well as the corresponding areas that it serves until the contamination is delineated, decontaminated, and determined to be below the decontamination standards established in this rule.
- 4.14.4. If there is a kitchen, three 10 cm. x 10 cm. areas (100 square centimeters) ~~shall~~must be wipe-sampled from the surfaces most likely to be contaminated including the counter top, sink, or stove top, and from the floor in front of the stove top or any other location where contamination is suspected.
- 4.14.5. If there is a bathroom, three 10 cm. x 10 cm. areas (100 square centimeters) ~~shall~~must be wipe-sampled from the surfaces most likely to be contaminated including the countertop, sink, toilet, or the shower/bathtub and any other location where contamination is suspected.
- 4.14.6. If there are any appliances, one 10 cm. x 10 cm. area (100 square centimeters) ~~shall~~must be wipe sampled from the exposed portion of each appliance. If multiple appliances are present, each wipe sample may be a composite of up to three 100 square centimeter areas on three separate appliances, provided that the surfaces most likely to be contaminated are tested.
- 4.14.7. If there is any other enclosed space where illegal drug operation occurred, hazardous materials were stored, or where staining or contamination is present, three 10 cm. x 10 cm. areas (100 square centimeters) ~~shall~~must be wipe-sampled from the surfaces most likely to be contaminated.
- 4.14.8. Each wipe sample ~~shall~~must be placed in a new clean sample container and capped tightly. Recommended containers are 50-mL polypropylene disposable centrifuge tubes or 40-mL VOA glass vials. Plastic bags ~~shall~~must not be used.
- 4.14.9. The Department may require the decontamination specialist to adjust the shape and location of the areas sampled to meet the constraints and character of the structure and its contents in order to achieve valid and representative samples.

**4.14** ~~Confirmation Sampling in Areas Not Highly Suggestive of Contamination.~~  
Samples shall be collected in a manner consistent with the confirmation sampling

methods described in subsection 4.14 of this Regulation. The samples may be combined together to form one sample per room or sampling area.

#### 4.15. ~~VOC sampling and testing procedures~~ **Sampling and Testing Procedures.**

- 4.15.1. A properly calibrated PID or FID capable of detecting VOCs ~~shall~~ must be used for testing. The background concentration of VOCs ~~shall~~ must be obtained by testing three exterior areas outside the areas ~~highly suggestive~~ of contamination and in areas with no known or suspected sources of VOCs. All VOC readings ~~shall~~ must be recorded for each sample location.
- 4.15.2. At least three locations in areas ~~highly suggestive~~ of contamination ~~shall~~ must be tested for VOC readings. The testing equipment probe ~~shall~~ must be held in the sample location for at least 30 seconds to obtain a reading.
- 4.15.3. All accessible plumbing traps ~~shall~~ must be tested for VOCs by holding the testing equipment probe in the plumbing pipe above the trap for at least 60 seconds.

#### 4.16. **Testing Procedures for Corrosives.**

- 4.16.1. Surface pH measurements ~~shall~~ must be made using deionized water and pH test strips with a visual indication for a pH between 6 and 8. The pH reading ~~shall~~ must be recorded for each sample location.
- 4.16.2. For horizontal surfaces, deionized water ~~shall~~ must be applied to the surface and allowed to stand for at least three minutes. The pH test strip ~~shall~~ must then be placed in the water for a minimum of 30 seconds and read.
- 4.16.3. For vertical surfaces, a cotton gauze, 3" x 3" 12-ply ~~or~~ 4" x 4" 8-ply, in sterile packages, ~~shall~~ must be wetted with deionized water and wiped over a 10 cm. x 10 cm. area at least five times in two perpendicular directions. The cotton gauze ~~shall~~ must then be placed into a clean sample container and covered with clean deionized water. The cotton gauze and water ~~shall~~ must stand in the container for at least three minutes prior to testing. The pH test strip ~~shall~~ must then be placed in the water for a minimum of 30 seconds and read.
- 4.16.4. pH testing ~~shall~~ must be conducted on at least three locations in each room within the areas ~~highly suggestive~~ of contamination.

#### 4.17. **Lead Sampling and Testing Procedures.**

- 4.17.1. Unless there is clear evidence that lead was not used in the manufacturing of methamphetamine or ecstasy at the illegal drug operations, lead sampling ~~shall~~ must be conducted as follows:



- (i) Cotton gauze, 3" x 3" 12-ply ~~or 4" x 4" 8-ply~~, in sterile packages ~~shall~~ must be used for wipe sampling. The cotton gauze shall be wetted with analytical grade 3 per cent nanograde nitric acid for the wipe sampling. The cotton gauze ~~shall~~ must be blotted or wiped at least five times in two perpendicular directions within each sampling area.
- (ii) Three 10 cm. x 10 cm. areas (100 square centimeters) ~~shall~~ must be sampled in each room within the areas ~~highly suggestive~~ of contamination; and
- (iii) After sampling, each wipe sample ~~shall~~ must be placed in a new clean sample container and capped tightly. The sample container ~~shall~~ must be properly labeled with at least the site or project identification number, date, time, and actual sample location. The sample container ~~shall~~ must be delivered to an analytical laboratory that uses EPA Method 6010B or an equivalent method approved by the Utah Department of Health.

4.17.2. The sample ~~shall~~ must be analyzed for lead using EPA Method 6010B or equivalent.

#### **4.18. Mercury Sampling and Testing Procedures.**

- 4.18.1. A properly calibrated mercury vapor analyzer ~~shall~~ must be used for evaluating the decontaminated areas for the presence of mercury. All mercury readings ~~shall~~ must be recorded for each sample location.
- 4.18.2. At least three locations in each room within the areas ~~highly suggestive~~ of contamination ~~shall~~ must be tested for mercury vapor readings. The testing equipment probe ~~shall~~ must be held in the sample location for at least 30 seconds to obtain a reading.
- 4.18.3. All accessible plumbing traps ~~shall~~ must be tested for mercury by holding the testing equipment probe in the plumbing pipe above the trap for at least 60 seconds.

#### **4.19. Septic Tank Sampling and Testing Procedures.**

- 4.19.1. All sampling and testing ~~shall~~ must be performed in accordance with current EPA sampling and testing protocol.
- 4.19.2. The liquid in the septic tank ~~shall~~ must be sampled with a new clean bailer or similar equipment.
- 4.19.3. The liquid ~~shall~~ must be decanted or poured with minimal turbulence into three new VOA vials properly prepared by the analytical laboratory.

- 4.19.4. The VOA vials ~~shall~~must be filled so that there are no air bubbles in the sealed container. If air bubbles are present, the vial must be emptied and refilled.
- 4.19.5. The sample vials ~~shall~~must be properly labeled with at least the date, time, and sample location.
- 4.19.6. The sample vials ~~shall~~must be refrigerated until delivered to the analytical laboratory.
- 4.19.7. The sample ~~shall~~must be analyzed using EPA Method 8260 or equivalent.
- 4.20. **Chemical Hazard Determination.** The following methodology should be used for estimating the hazard for those chemicals detected in chemically contaminated properties for which no standards have been set:
- 4.20.1. Information on the chemical should be reviewed on a toxicological database, such as “Toxline” or “Hazardous Substance Data Base” (HSDB), to obtain references that might aid in identifying a critical study on which hazard estimation can be based.
- 4.20.2. Studies that indicate health effects from human exposures to low levels should be identified. Animal studies that indicate effects at the lowest exposure level possible should be identified.
- 4.20.3. Critical studies need to identify both a LOAEL (Lowest Observed Adverse Effect Level) and a NOAEL (No Observed Adverse Effect Level). Critical studies should be studies that use the same exposure route or routes of the suspect chemical.
- 4.20.4. For a rough estimate, the NOAEL identified in a critical study can be divided by a safety or uncertainty factor of at least 100 (for inter- and intra- species differences) to arrive at a level that could indicate harm to an exposed human being.
- 4.20.5. The level derived from the critical study by the application of uncertainty factors should be compared with the concentration measured of that chemical on the suspect premises. If the level measured in the lab is higher than that calculated from the critical study, a judgment can be made that the level existing in the suspect lab constitutes a potential danger to occupants. Route of exposure ~~must~~ shall be taken into consideration.
- 4.20.6. Sampling methodology ~~must~~ shall reference standard U.S. Environmental Protection Agency (EPA) methods or equivalent established methods used to analyze the samples when available. The analytical method must be detailed (e.g., lead – EPA method 239.2 and mercury – EPA method 245.2) For substances without such recognized standards, the laboratory conducting the test will submit

to the Department their analytical procedures, their justification for its use, and their quality control analysis.

4.21. **Confirmation Sampling by the Department.** The Department may also conduct confirmation sampling after decontamination is completed and after the final report is submitted to verify that the property has been decontaminated to the standards outlined in ~~subsection~~ Section 4.12 of this Regulation.

4.22. **Final Report.**

4.22.1. A final report ~~shall~~ must be:

- (i) Prepared by the decontamination specialist or owner of record upon completion of the decontamination activities;
- (ii) Submitted to the ~~property~~ owner of record of the decontaminated property and the Department prior to final inspection; and
- (iii) Retained by the decontamination specialist and ~~property~~ owner of record for a minimum of three years.

4.22.2. The final report ~~shall~~ must include the following information and documentation:

- (i) Complete identifying information of the property, such as street address, mailing address, the owner of record as it appears on the title, legal description, county tax or parcel identification number, or vehicle identification number if a mobile home or motorized vehicle;
- (ii) The name and certification number, ~~if applicable~~, of the decontamination specialist who performed the decontamination services on the property;
- (iii) A detailed description of the decontamination activities conducted at the property, including any ~~cleaning~~ decontamination performed in areas not ~~highly suggestive of contamination~~ contaminated;
- (iv) A description of all deviations from the approved work plan;
- (v) Photographs documenting the decontamination services and showing each of the sample locations;
- (vi) A drawing or sketch of the areas highly suggestive of contamination that depicts the sample locations and areas that were decontaminated;
- (vii) A description of the sampling procedure used for each sample;

- (viii) A copy of the testing results from testing all samples, including testing for VOCs, corrosives, and if applicable, lead and mercury, and testing performed by an analytical laboratory;
- (ix) A written discussion interpreting the test results for all analytical testing on all samples;
- (x) A copy of an asbestos sampling and testing results;
- (xi) A copy of the analytical laboratory test quality assurance data on all samples and a copy of the chain-of-custody protocol documents;
- (xii) A summary of the waste characterization work, any waste sampling ~~or~~ and testing results, and transportation and disposal documents, including bills of lading, weight tickets, and manifests for all materials removed from the property;
- (xiii) A summary of the decontamination specialist's observation and testing of the property for evidence of burn areas, burn or trash pits, debris piles, or stained areas;
- (xiv) A written discussion and tables summarizing the confirmation sample results with a comparison to the decontamination standards outlined in ~~subsection~~ Section 4.12 of this Regulation; and
- (xv) A request for re-entry ~~that shall~~ must contain an affidavit from the decontamination specialist and ~~property~~ owner of record that the property has been decontaminated in accordance with the approved work plan ~~to~~ and the standards outlined in ~~subsection~~ Section 4.12 of this Regulation.

4.22.3. All information required to be included in the final report ~~shall~~ must be keyed to or contain a reference to the appropriate ~~subsection of the relevant part of~~ subsection 4.23 Section of this Regulation.

**4.23. Requirements for Re-Entry and Removal From List of Contaminated Properties.**

The Department ~~shall~~ will review the final report. If the review and subsequent inspection support the conclusions of the final report and it meets the decontamination standards of ~~subsection~~ Section 4.12 of this Regulation, the Department ~~shall~~ will:

4.23.1. Remove the placard,

~~4.23.2. Grant re-entry, and~~ Issue a Release of Property statement granting re-entry, and,

4.23.3. Remove the property from the list of contaminated properties.

**4.24. Certification of Decontamination Specialist Required.**

4.24.1. Persons performing or causing to be performed any evaluation, decontamination, demolition, or disposal work of contaminated properties ~~shall~~must be a Decontamination Specialist certified by the State of Utah and ~~shall~~must comply with all requirements of this ~~Regulation~~, unless otherwise authorized in writing by the Department.

4.24.2. The decontamination specialist ~~shall~~must obtain all required federal, state, and local permits, certificates, or other documentation including any required by the Utah Department of Environmental Quality (Utah Administrative Code R311-500), Environmental Protection Agency, Occupation Safety and Health Administration, and local building or zoning agencies.

#### 4.25. Exemptions.

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

4.25.2. A ~~property~~ owner of record may act as his or her own decontamination specialist provided that he or she complies with all requirements as set forth in this ~~Regulation~~ for decontamination specialists; except:

(i) A ~~property~~ owner of record does not need to submit a business license nor a decontamination specialist certification with their work plan.

(ii) A ~~property~~ owner of record acting as his or her own decontamination specialist may not hire another entity to perform any services of a decontamination specialist on his or her behalf unless that entity is certified as a decontamination specialist by the State of Utah.

(iii) **Chemically Contaminated Properties Sampling Supervision.** A ~~property~~ owner of record acting as his or her own decontamination specialist ~~shall~~must be required to have a Department inspector on site to supervise the collection of all confirmation samples. ~~The cost for Chemically Contaminated Properties Sampling Supervision is specified in subsection 5.3.~~

4.25.3. Owners of properties contaminated by chemicals not customarily associated with the manufacture of illegal drugs may request in writing that the Director waive the Department's requirement to hire a decontamination specialist and to waive or adapt the decontamination procedures and sampling requirements of this ~~Regulation~~ as the Department determines to be appropriate to effectively decontaminate the premises. A work plan and final report shall be required.

4.25.4. Owners of properties contaminated by methamphetamine where there are no observable signs or credible reports of illegal drug manufacturing having occurred on the premises may request in writing that the Director adapt the decontamination procedures and sampling requirements of this ~~¶~~Regulation to effectively decontaminate the premises. A work plan, final report and the services of a decontamination specialist shall be required except that the owner of record may act as his or her own decontamination specialist as outlined in Section 4.26.2 4.25.2 of this Regulation.

## 5. CERTIFICATIONS, LICENSES, PERMITS, & REGULATORY FEES

5.1. The Department may establish and collect appropriate fees for certifications, licenses and permits as set out in this ~~¶~~Regulation. If during the decontamination process it becomes necessary to modify the approved plan because of a discovery of new evidence of contamination that had not been previously identified written application ~~shall~~ must be made to the Department. The decontamination specialist ~~shall~~ must have written approval from the Department before proceeding with the modified work plan.

5.2. **Chemically Contaminated Management Fee.** The Chemically Contaminated Management Fee ~~shall~~ must be an amount as provided for or as approved by the Director in the Department's Fee ~~Standard~~ Schedule.

~~**5.3 Chemically Contaminated Properties Sampling Supervision Fee.** The fee for supervising sampling at chemically contaminated properties shall be an amount as provided for or as approved by the Director in the Department's Fee Standard.~~

5.3. Unless otherwise provided for in this ~~¶~~Regulation or approved by the Director in the Department's Fee ~~Standard~~ Schedule, all fees collected by the Department are non-refundable. All certifications, licenses and permits issued by the Department are non-transferable.

5.4. Failure to adhere to the requirements of the permit is in violation of this ~~¶~~Regulation and will result in further action being taken as the law requires.

5.5. **Denial, Suspension, or Revocation of License or Permit.** Any person who applies to decontaminate a property pursuant to this Regulation may be denied, suspended or revoked by the Department for any of the following reasons:

5.6.1 Submission of incorrect, incomplete, or false information in the application;

5.6.2 Failure to pay applicable fees;

5.6.3 Failure of the owner of record or the decontamination specialist to perform decontamination in accordance with the approved work plan;

- 5.6.4 Decontamination operations are performed in a way that causes or creates a hazard to the public health, safety, or welfare;
- 5.6.5 Failure to decontaminate a property in accordance with the application, reports, plans, and specifications approved by the Department; or
- 5.6.6 Failure to comply with any provision of this Regulation.

## 6. INSPECTIONS & INVESTIGATIONS

6.1. To ensure compliance, the Department has the authority to perform inspections, investigations, reviews, and other actions as necessary.

### 6.2. Authority for Department to Enter Premises.

6.2.1. **Regulated Commercial Premises.** Upon presenting proper identification, authorized representatives of the Department may enter upon the premises of properties regulated by the Department to perform routine inspections to ensure compliance with rules, standards, regulations, and ordinances adopted by the Department, the Departments of Health & Environmental Quality, county or municipal governing bodies, or the Division of Occupational and Professional Licensing.

6.2.2. **Unregulated Commercial Premises.** The Department may enter upon the premises of unregulated commercial properties upon the consent of the owner or otherwise responsible party or upon a warrant issued by a court.

6.2.3. **Private Dwellings.** Inspections of private dwellings are made by consent of owner or otherwise responsible party or upon a warrant issued by a court.

6.2.4. **Consent by License or Permit:** The Department may require licensees or permittees to consent to access for inspections as part of their license or permit. Failure to allow access for inspections as set out in the license or permit may result in the suspension or revocation of the license or permit.

6.3. The owner or other responsible person may request information gathered by the Department during an investigation, inspection or review as authorized by the Government Records Access and Management Act, Utah Code Ann. §§ ~~63-2-101 to 63-2-1004~~ 63G-2-101 to -901.

7. **ENFORCEMENT MECHANISMS.** ~~During an investigation or inspection, if the~~ During an investigation or inspection, if the Department has ~~investigated or inspected any property or facility and believes the property owner or other responsible party is in violation of this regulation or the division has other~~ reasonable grounds to believe that there has been a violation of any part Section of this ~~Regulation or that the property owner of record or otherwise responsible party is not in compliance with this Regulation, the division~~ Department may take civil enforcement action

as authorized by statute, rule, ordinance, and regulation and may also refer the matter for criminal prosecution. Civil enforcement may involve court or administrative actions, injunctive actions, and closures and may involve cost recovery, penalties, and other remedies. Civil and criminal actions may be brought simultaneously. A person does not need to be first adjudged liable in a civil matter before facing criminal charges.

**7.1. Criminal Enforcement Actions.** The Department may recommend criminal prosecution for environmental violations either alone or in conjunction with civil enforcement. Criminal prosecutions for environmental violations of state or federal law may be filed by the District Attorney, Utah Attorney General, United States Department of Justice, or other enforcement entity. Factors that the Department may consider in recommending criminal enforcement include the following factors and any other relevant factors.

- 7.1.1. The nature and seriousness of the offense including the immediacy of the threat of danger to the life or safety of another or the harm or threatened harm to human health or environment;
- 7.1.2. The degree to which the violation was designed to provide economic gain or cost avoidance, or it involved a pattern of conduct or a common attitude of illegal conduct;
- 7.1.3. The degree to which the offender is a known violator and has avoided prior actions by the department;
- 7.1.4. The degree to which prosecution might deter future violations;
- 7.1.5. The person's actual culpability in connection with the offense including the presence in connection with the offense including the presence of criminal intent;
- 7.1.6. The person's willingness to cooperate in the investigation including whether the violator has attempted to conceal evidence or prosecution of others;
- 7.1.7. The appropriateness of referring the case to other agencies having prosecutorial interest; and
- 7.1.8. Possibilities of civil remedies which would be more appropriate than initiating the criminal justice process.

**7.2. Civil Enforcement Actions.**

- 7.2.1. The Department may request that the District Attorney bring an action to restrain or enjoin actions in violation of public health, environmental laws, and other laws or abate conditions in violation of such laws.

**7.3. Administrative Actions.**



- 7.3.1. The Department may, at its discretion, issue a Notice of Violation & Order of Compliance (“NOV”).
- 7.3.2. **Service of NOV.** The Department may provide notice to the owner of the property or otherwise responsible person by sending the NOV via first class mail to the last known address of the owner of the property or other responsible person. If notice is returned undeliverable, the owner of the property or other responsible person may be personally served or be given notice by other methods reasonably calculated to give actual notice to the owner or other responsible party.
- 7.3.3. **Contents of NOV.** The NOV ~~shall~~will:
- (i) Describe the property and the persons believed to be in violation;
  - (ii) Describe the violation;
  - (iii) Describe remedial action that will comply with the provisions of this ~~Regulation~~Regulation;
  - (iv) Set a reasonable time for the performance of any required remedial action(s);
  - (v) Describe the procedure to contest the NOV and the time limits for such a contest; and
  - (vi) Notify the owner or other responsible person that if no written contest is filed within the time required, the NOV will become final and unappealable to any administrative entity or court.
- ~~7.3.4. **Challenging an NOV.** As detailed in the SLCoHD Department’s Adjudicative Hearing Procedures, a party aggrieved by an NOV may request a departmental conference, departmental hearing, or departmental appeal appropriate relief in writing within ten (10) days of the date of the NOV.~~
- ~~7.3.5. **Departmental Conference, Settlement Agreements, and Stipulations & Orders.**~~
- ~~(i) After issuance of the NOV, the alleged violator has the option to request and attend a Departmental Conference to discuss the NOV and settlement with the Department and its legal counsel. No hearing officer will be present. The process of requesting a Departmental Conference is more fully described in the SLCoHD Department’s Adjudicative Hearing Procedures.~~

- (ii) ~~If the parties agree to a settlement, the Department will prepare, in conjunction with the District Attorney's Office, a binding Settlement Agreement or Stipulation & Consent Order which may require the payment of penalties and the costs of investigation. Parties may also agree to a settlement at any time subsequent to the Departmental Conference. After signing a Settlement Agreement or Stipulation & Consent Decree, the parties waive all rights to further department and court hearings or appeals. Settlement Agreements or Stipulation & Consent orders may be enforced in state courts.~~

~~7.3.6. **Hearings & Appeals.** Parties aggrieved by an NOV may also request a Departmental Hearing or a Departmental Appeal. A hearing officer is present at these proceedings and makes a written determination. The methods of challenging an NOV are more fully described in the Salt Lake County Health Department's Adjudicative Hearing Procedures. Departmental Hearing Orders and Departmental Appeal Orders may be appealed to the entities and within the time limits set out in the Salt Lake County Health Department's Adjudicatory Adjudicative Hearing Procedures.~~

~~7.3.7. **Failing to respond to an NOV.** If a party fails to respond to an NOV within the required time, the NOV becomes a final order unappealable to any administrative entity or court. The Department may then enforce the order in state court.~~

#### 7.4. **Additional Administrative Enforcement Authority.**

7.4.1. The Department may declare unsanitary conditions a nuisance and cause every nuisance affecting the public health to be abated.

7.4.2. **Variances.** Any variances allowed by the Department to the requirements of this ~~¶~~Regulation shall be only by written approval of the Board of Health.

7.4.3. **Exercise of Physical Control.** The Department may establish, maintain, and exercise physical control over property and over individuals as the Department finds necessary for the protection of the public health including but not limited to closing theaters, schools, and other public or private places and prohibit public gatherings. ~~The order shall~~ physical control will be effective immediately. Any person to whom ~~the order the physical control~~ is directed ~~shall~~ must comply immediately but ~~may~~ upon proper written petition to the Director for a hearing in accordance with the ~~Salt Lake County Health Department's Adjudicative Hearing Procedures.~~ After the hearing and depending upon the findings as to whether the person has complied with the provisions of this ~~¶~~Regulation, the Director ~~shall~~ may continue the order in effect or modify or revoke it.

7.4.4. **Emergency Enforcement.** If the Director finds that an emergency exists that requires immediate action to protect the public health, he or she may without notice or hearing issue an order declaring the existence of an emergency and

requiring that action be taken as he deems necessary to meet the emergency. The order ~~shall~~ will be effective immediately. Any person to whom the order is directed ~~shall~~ must comply and abate the nuisance immediately; but may petition the Director for a hearing in accordance with the ~~Salt Lake County Health~~ Department's Adjudicative Hearing Procedures. After the hearing and depending upon the findings as to whether the person has complied with the provisions of this ~~Regulation~~, the Director ~~shall~~ must continue the order in effect or modify or revoke it. If circumstances warrant because of the seriousness of the hazard, the Department may act to correct or abate the emergency without issuance of an order or directive or without waiting for the expiration of compliance time previously given in an order.

## **8. CRIMINAL, CIVIL & ADMINISTRATIVE PENALTIES**

### **8.1. Criminal Penalties.**

- 8.1.1. Any person who is found guilty by a court of violating any of the provisions of this ~~Regulation~~, either by failing to do the acts required herein or by doing a prohibited act, is guilty of a class B misdemeanor, pursuant to Utah Code Ann. § 26A-1-123.
- 8.1.2. Each day such violation is committed or permitted to continue ~~shall~~ constitutes a separate violation.
- 8.1.3. Each similar subsequent violation occurring within two years of the initial violation may constitute a class A misdemeanor.

### **8.2. Civil & Administrative Penalties.**

- 8.2.1. Penalties may be included in a Settlement Agreement or Stipulation & Consent Order. Penalties may be assessed according to the following factors:
  - (i) The violator's history of compliance or non-compliance;
  - (ii) The violator's economic benefit of non-compliance;
  - (iii) The documented costs associated with environmental or health damage;
  - (iv) The violator's degree of willfulness or negligence; and
  - (v) The violator's good faith efforts to comply and cooperate.
- 8.2.2. The Director may multiply the penalty by the number of days the violation occurred.

### **8.3. Recovery of Investigation & Abatement Costs**

8.3.1. The Department may recover its inspection, investigative and abatement expenses and costs from owners or another responsible person(s).

8.3.2. The Department may record a judgment lien on a violator's property to recover its expenses and costs.

**9. EFFECTIVE DATE.**

9.1. This ~~Regulation shall~~ is be effective upon its ~~enactment~~ adoption by the ~~Salt Lake County Board of Health~~.

**APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, ~~2013~~ 2020.

SALT LAKE COUNTY BOARD OF HEALTH

By: \_\_\_\_\_  
~~SCOTT BROWN~~ Russell K. Booth, Chair

ATTEST:

\_\_\_\_\_  
Gary L. Edwards, M.S.  
Executive Director  
Salt Lake County Health Department