

ADAMS COUNTY HEALTH DEPARTMENT

REGULATION M-23 FOR THE DECONTAMINATION OF METHAMPHETAMINE-AFFECTED PROPERTIES

Adopted by the Board of Health of the Adams County Health Department on _____, 2023. Effective _____, 2023.

Section 1. Purpose

This Regulation M-23 is intended to supplement C.R.S. §25 18.5 101 (the Act) and 6 CCR 1014 3 (State Regulations) regarding Adams County Health Department's roles as a Governing Body; the roles of other Governing Bodies, including Building Departments and law enforcement; the roles of third parties; and the responsibilities of Property Owners; regarding Property in unincorporated and incorporated Adams County with confirmed or probable Contamination.

Section 2. Definitions

Capitalized terms used, but not otherwise defined, in this Regulation M-23 shall have the same meaning as those terms are defined in C.R.S. §25-18.5-101, relating to Illegal Drug Laboratories, and 6 CCR 1014-3, relating to Cleanup of Methamphetamine-affected Property. For the purpose of this Regulation M-23, the following terms shall have the following meanings:

- 2.1. **“ACHD”** shall mean the Adams County Health Department, including all of its authorized agents and employees.
- 2.2. **“ACHD Compliance Statement”** shall mean an official document prepared by ACHD that certifies that the Property Owner has complied with the Act, the State Regulations and this Regulation M-23; obtained all required reports, certificates, and assessments, including a Certificate of Compliance from a Consultant, and provided copies of such reports, certificates, and assessments to ACHD; and that all applicable fees have been paid.
- 2.3. **“ACHD's Jurisdiction”** shall mean Adams County, Colorado, including all of the cities and local jurisdictions contained therein.
- 2.4. **“ACHD Notice of Contamination”** shall mean a notification letter sent by ACHD to a Property Owner stating that a Property has confirmed or probable Contamination based on an Initial Observation.
- 2.5. **“Act”** shall mean the Illegal Drug Laboratory Act, C.R.S. §25-18.5-101, et. seq.
- 2.6. **“Board of Health”** shall mean the Board of Health of the Adams County Health Department.

- 2.7. **“Building Department”** shall mean Building Departments located within ACHD’s Jurisdiction, and, where applicable, shall mean the Building Department with jurisdiction over a Property with probable or confirmed Contamination.
- 2.8. **“CDPHE”** shall mean the Colorado Department of Public Health and Environment.
- 2.9. **“Closure Placard”** shall mean a sign posted on a Property, or any portion thereof, by the Governing Body, including the Building Department, having jurisdiction over the Property, and which indicates that no person may lawfully occupy or use the property, except for people trained or certified to handle Contaminated Property under State Board of Health rules or federal law.
- 2.10. **“Governing Body”** shall mean the agency or office designated by the city council or board of county commissioners where the Property in question is located. If there is no such designation, the governing body shall be the county, district, or municipal public health agency, building department, and law enforcement agency with jurisdiction over the Property. ACHD, as Adams County’s public health agency, is a Governing Body.
- 2.11. **“Initial Observation”** shall mean a determination by law enforcement, Building Department, Consultant, or third party, through observation or testing, that a Property has confirmed or probable Contamination. Any sampling or testing that indicates Property Contamination within ACHD’s Jurisdiction, including testing performed pursuant to the provisions of C.R.S. §38-35.7-103, shall be deemed an Initial Observation, and the individual who performed such sampling or testing shall notify ACHD in writing within 20 days of the receipt of such results.
- 2.12. **“Notice of Contamination”** A Property Owner is notified of Contamination if they receive notification from a peace officer that chemicals, equipment, or supplies of an Illegal Drug Laboratory are located on a Property, or when an Illegal Drug Laboratory is otherwise discovered and the Property Owner has received notice.
- 2.13. **“State Regulations”** shall mean the Clean-up of Methamphetamine-Affected Properties, 6 CCR 1014-3, adopted by the State Board of Health.

Section 3. Authority

- 3.1. All aspects of the Screening Level Assessment, Preliminary Assessment, Decontamination and Removal, Sampling, Cleanup Standards, Post Decontamination Reporting, and training and certification shall be governed by regulations adopted pursuant to C.R.S. §25-18.5-102 (the Act), by the State Board of Health in 6 CCR 1014-3 (State Regulations).
- 3.2. Pursuant to C.R.S. §25-18.5-105 and C.R.S. §25-1-508, the Board of Health is authorized and empowered to enact ordinances or resolutions and to adopt orders and rules for the Decontamination of Methamphetamine-affected Properties.
- 3.3. This Regulation M-23 does not supersede the regulatory authority of other local, State or Federal agencies which may also have jurisdiction over Subject Property.

- 3.4. A city council or board of county commissioners may designate an agency or office, other than ACHD, as a “Governing Body” as provided in C.R.S. §25-18.5-101.

Section 4. Powers and Duties

ACHD shall have the power and authority to:

- 4.1. Make appropriate investigations, inspections, reviews and evaluations of Property located within Adams County with confirmed or probable Contamination.
- 4.2. Prevent unauthorized entry into Property with confirmed or probable Contamination.
- 4.3. Issue notices regarding Property with confirmed or probable Contamination.
- 4.4. Oversee Assessment, Decontamination, and Sampling of Property with confirmed or probable Contamination.
- 4.5. Issue Compliance Statements to Property Owners and Building Departments regarding the successful Decontamination or demolition of Methamphetamine-affected Property.
- 4.6. Charge reasonable fees as approved by the Board of Health for the services provided by ACHD in accordance with the Act, State Regulations, and this Regulation M-23.
- 4.7. Establish additional procedures for Property with confirmed or probable Contamination not inconsistent with the Act or State Regulations.
- 4.8. Declare an Illegal Drug Laboratory that has not met Cleanup Standards, a public health nuisance.
- 4.9. Enforce the Act, State Regulations, and this Regulation M-23.
- 4.10. As described in more detail below, collaborate with law enforcement, Building Departments, CDPHE, Contractors, and other third parties with jurisdiction over Property with confirmed or probable Contamination to carry out any of the foregoing powers and duties.

Section 5. Methamphetamine Contamination

- 5.1. A Contaminated Property is a public health nuisance until it has been demolished or Decontaminated to the Cleanup Standards.
- 5.2. A Property Owner may be required by a Building Department to Decontaminate a Property and/or obtain an ACHD Statement of Compliance in order to obtain a certificate of occupancy for the Property or to remove an encumbrance to the title of the Property.
- 5.3. A Property Owner must obtain a Certificate of Compliance and furnish copies of such certificates to ACHD in order to obtain a Compliance Statement from ACHD.

- 5.4. In order to obtain immunity for future alleged health-based civil actions as described in C.R.S. §25-18.5-103(2), a Property Owner must furnish copies of their Certificate of Compliance to ACHD.**
- 5.5. The removal of Illegal Drug Laboratory equipment and chemicals by law enforcement, or other law enforcement decontamination activities or processing of a Property with suspected of confirmed Contamination does not constitute Decontamination.

Section 6. Notice

6.1. Property Owner Notification of Contamination

- 6.1.1.** Upon notification of an Initial Observation that reveals confirmed or probable Contamination of a Property, ACHD shall send an ACHD Notice of Contamination to the last known Property Owner within 10 days of receipt of such notice.
- 6.1.2.** The ACHD Notice of Contamination will state that the Property has confirmed or probable Contamination based on an Initial Observation and will require the Property Owner to comply with this Regulation M-23, the State Regulations and the Act. The ACHD Notice of Contamination will also describe the Decontamination procedure for a Contaminated Property.
- 6.1.3.** A Property Owner is notified of Contamination if they receive an ACHD Notice of Contamination; a notification from a peace officer that chemicals, equipment, or supplies of an Illegal Drug Laboratory are located on a Property; or when an Illegal Drug Laboratory is otherwise discovered and the Property Owner has received notice.
- 6.1.4.** In the event ACHD is notified of a Property with confirmed or probable Contamination by a Property Owner or third party, ACHD may then notify the applicable law enforcement and Building Department of such fact.

6.2. Notice to ACHD

- 6.2.1.** Law enforcement, Building Departments, and any person who knows, or reasonably suspects, that a Property is Contaminated are encouraged to report such confirmed or probable Contamination to ACHD.
- 6.2.2.** Any sampling or testing that indicates Property Contamination within ACHD's Jurisdiction, including testing performed pursuant to the provisions of C.R.S. §38-35.7-103, must be reported by the individual who performed such sampling or testing to ACHD in writing within 30 days of the receipt of such results to Adams County Health Department, Environmental Health, 7190 Colorado Blvd Suite 200, Commerce City, CO 80022.

6.3. Notice of Contamination to Personal Property Owners

It shall be the responsibility of the Property Owner to notify owners of Personal Property that has been Contaminated. ACHD will provide notice of Contamination of Personal Property.

6.4. Notice to Vehicle Owner

If ACHD is notified of a vehicle with confirmed or probable Contamination, ACHD may, at its discretion, notify the registered owner or owners of said vehicle.

6.5. Notice to Third Parties

ACHD may, at its discretion, notify affected third parties of a Property with confirmed or probable Contamination, including, but not limited to, the general public, homeowners associations and property managers.

6.6. Other Notices as Required by State and Federal Law

Additional notices and reporting may be required by the Act, State Regulations, and/or other local, state, and federal law and nothing in this Regulation M-23 shall eliminate any such requirements. Property Owners, Consultants, and all other relevant parties must be familiar and comply with all relevant local, state and federal laws.

Section 7. Property Closure

ACHD, law enforcement, Building Departments, CDPHE, or other Governing Bodies may take steps to prevent unauthorized entry into Property with confirmed or probable Contamination. These steps may include, but are not limited to:

- 7.1. The placement of a Closure Placard on Property.
- 7.2. The encumbrance of title, condemnation, or the revocation of a Certificate of Occupancy.
- 7.3. Ordering the closure of Property.
- 7.4. The installation of physical barriers to prevent entry to Property.
- 7.5. Requiring a Property Owner to fence off the Property or otherwise make it inaccessible for occupancy or intrusion.

Section 8. Property Owner Duties Upon Notice of Contamination

- 8.1. If a Property has been determined to be Contaminated or if a Property Owner receives Notice of Contamination, including an ACHD Notice of Contamination, the Property Owner shall not permit any person to have access to the Property unless:
 - 8.1.1. The person is trained or certified to handle Contaminated Property under the Act, State Regulations, or federal law; or

- 9.5. ACHD may, in its discretion, inspect the Property and/or require additional testing or sampling prior to issuing an ACHD Statement of Compliance. Additional testing and sampling may also be required before a Closure Placard or title encumbrance is removed from the Property.
- 9.6. ACHD shall not issue an ACHD Statement of Compliance if:
- 9.6.1. the Property has not been Decontaminated in accordance with this Regulation M-23 and the requirements of the State Regulations,
 - 9.6.2. if the results of any testing or sampling show Methamphetamine Contamination in excess of the Contaminate Criteria set forth in the State Regulations, or
 - 9.6.3. if the applicable fees have not been paid.
- 9.7. If ACHD determines that a Property does not comply with the requirements of the Act, State Regulations, or this Regulation M-23, ACHD may require additional Decontamination as may be required and a new Post-Decontamination Report.
- 9.8. It is the intention of ACHD that every property be Decontaminated or demolished in accordance with the Act, the State Regulations, and this Regulation M-23 and ACHD shall work with each Property Owner to achieve that end.

Section 10. Fees and Costs

The Board of Health has promulgated a Fee Schedule For Environmental Health Services, which sets forth the applicable fee for the regulatory oversight services provided by ACHD. The Fee Schedule For Environmental Health Services may be amended from time to time by the Board of Health. The Fee Schedule can be found on the ACHD website at <https://adamscountyhealthdepartment.org/environmental-health>.