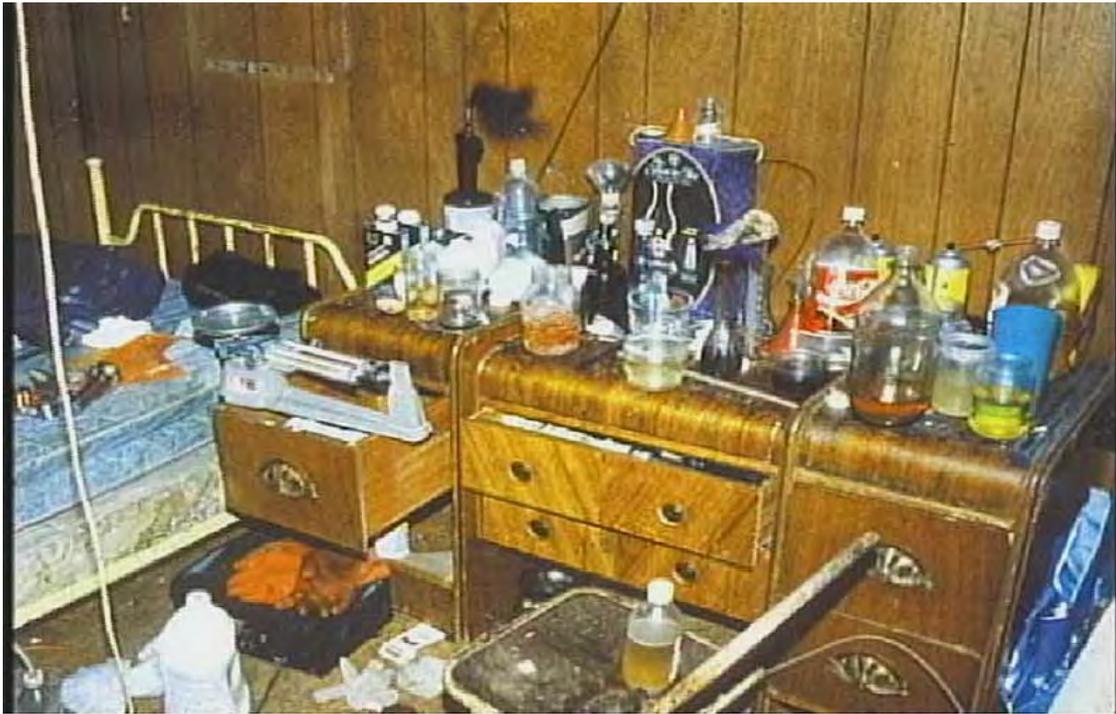


METHAMPHETAMINE LABORATORY REGULATION



**JEFFERSON COUNTY PUBLIC HEALTH
Environmental Health Services Division
1801 19th Street, Golden CO 80401
303 271-5700**

www.jeffco.us/health

**Adopted: July 31, 2008
Effective: September 1, 2008**

PART 1 DECLARATION

1.0 Status of Property to be Regulated

Property which has been used to manufacture, process, cook, dispose of, and store controlled substances as defined in C.R.S. § 18-18-102 and all proximate areas likely to be contaminated by such activities which has not met the State Board of Health's clean-up standards established in 6 CCR 1014-3 under authority granted in C.R.S. § 25-18.5-102 are deemed a public health nuisances as a matter of law.

1.2 Purpose of the Regulation

This regulation's purpose is to reduce and mitigate the significant known and probable health and environmental consequences resulting from the use of property to conduct activities associated with illegal drug laboratories on subsequent owners, occupants, invitees and other users of the property and adjacent properties by the imposition of cleaning, testing, and certification requirements imposed on owners as a condition precedent for the use of the property or alternatively, to cause the destruction of the affected property.

1.3 Authority

By resolution of the Board of County Commissioners of Jefferson County under authority granted in C.R.S. § 25-18.5-101(2.5) has designated the Jefferson County Department of Health and Environment as the governing body of Jefferson County for the purpose of enacting and enforcing regulations under C.R.S. § 15-18.5-105.

All aspects of the preliminary assessment of property, testing and acceptable decontamination procedures for real and personal property, establishing parameters for sampling and analytical procedures, establishing cleanup levels for the determination of adequate decontamination, and the reporting requirements by consultants to the governing body shall be governed by regulations adopted pursuant to C.R.S. § 25-18.5-102 by the State Board of Health in 6 CCR 1014-3.

1.4 Applicability

These Regulations apply to real property in Jefferson County that is the subject of a verification notice issued by a drug task force or law enforcement agency stating that chemicals, equipment or supplies indicative of an illegal drug laboratory are located at the property, or when an illegal drug laboratory in Jefferson County is otherwise discovered. , and the owner and other persons in subject property has received notice.

1.5 Severability and Savings Clause

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

PART II DEFINITIONS

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

"Board"	the board of health of Jefferson County Colorado.
"Clerk and Recorder"	the clerk and recorder of Jefferson County Colorado.
"Clearance statement"	a document stating that the subject property has been remediated in accordance with 6 CCR 1014-3, or demolished. This clearance statement will pertain only to the health-related aspects of the cleanup process and will not reference other requirements such as local building or code enforcement regulations or ordinances.
"Closure Placard"	a sign posted on a property, or a portion of a property, by or on behalf the Department that indicates that no person may lawfully occupy or use a property, except for the purpose of decontamination or demolition.
"Consultant"	a Certified Industrial Hygienist or Industrial Hygienist who is not an employee, agent, representative, partner, joint venture participant, shareholder, parent or subsidiary company of the contractor.
"Contractor"	one or more individuals or commercial entities hired to perform work in accordance with the requirements of this regulation.
"Department"	the Jefferson County Public Health Department
"Governing body"	the Jefferson County Public Health Department
"Final decision"	a final decision shall mean the last decision entered in administrative hearings or a judicial review of the administrative hearing
"Final Report"	a report prepared by the consultant to document the decontamination process and demonstrate that the property has been decontaminated to the cleanup levels listed in 6 CCR 1014-3, Section 7, or to document that the Preliminary Assessment did not find methamphetamine contamination that exceeded those clean-up-levels
"Health Officer"	the Public Health Administrator of the Jefferson County Public Health Department or their designated representative(s)

"Illegal Drug Laboratory"	the areas where controlled substances, as defined by Section 18-18-102, C.R.S., have been manufactured, processed, cooked, disposed of, or stored and all proximate areas that are likely to be contaminated as a result of such manufacturing, processing, cooking, disposing, or storing.
"Interested person"	any person, business entity or financial institution who has a record interest in the property or a mobile home as the owner, lessee, or as the holder of an interest in the property in order to secure or collateralize a loan or debt owed to that person.
"Methamphetamine"	dextro-methamphetamine, levo-methamphetamine, and unidentified isomers of the same, any racemic mixture of dextro/levo methamphetamine, or any mixture of unidentified isomers of methamphetamine. The term includes derivatives, conjugates, oxides, and reduced forms of the basic structure associated with CAS registration number 537-46-2. For the purposes of this regulation, this term also include amphetamine (CAS 300-62-9), ephedrine (CAS 299-42-3), and pseudoephedrine (CAS 90-82-4).
"Notification statement"	a document that is recorded against a property through the Jefferson County Recorder that provides public notification of the presence of an illegal drug laboratory that has not been remediated in accordance with 6 CCR 1014-3
"Person"	any individual, public or private corporation, partnership, association, firm, trust or estate; the state or any executive department, institution, or agency thereof; any municipal corporation, county, city and county, or other political subdivision of the state; or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.
"Preliminary assessment"	an evaluation of a property to determine the current condition, including the nature and extent of observable or detectable contamination, chemical storage and disposal.
"Property"	anything that may be the subject of ownership or possession, including but not limited to, land, buildings, structures. vehicles and personal belongings.
"Property owner"	for the purpose of real property, the person holding fee title to real property. "Property owner" also means the person holding title to a manufactured home. With respect to personal property, the term means the person who lawfully owns such property.

- "Verification Notice" a notice received by the Department from a drug task force or law enforcement agency pursuant to the provisions of Section 4.1 of this Regulation.
- "Work plan" a plan written by a consultant of the actions planned to decontaminate a property contaminated by the manufacture of methamphetamine.

PART III POWERS AND DUTIES

- 3.1 The Jefferson County Department of Health and Environment has the following powers and authority under the provisions of C.R.S. § 25-18.5-101, *et seq.* and these Regulations:
- A. Administer and enforce these regulations.
 - B. Act as the governing body for Jefferson County as that term is defined in C.R.S. § 25-18.5-101(2.5).
 - C. Maintain lists of approved and credentialed consultants, contractors and inspectors.
 - D. Prevent unauthorized entry into contaminated property.
 - E. To issue notices required under the Regulation to interested persons and others as specified herein.
 - F. To hold administrative hearings.
 - G. To issue subpoenas for witnesses and/or the production of documents at said hearings.
 - H. To issue final decisions regarding the remediation requirements for property used as an illegal drug laboratory, adjacent properties or the acceptance and implementation of the interested party's decision to demolish improvements on the property.
 - I. Require contaminated property to meet the cleanup standards specified in 6 CCR 1014-3 prior to occupancy.
 - J. Notify the public of contaminated property in Jefferson County.
 - K. Coordinate services among governmental agencies and to promote the sharing of information with law enforcement, building departments, public health and social services agencies and officials.

- L. Establish, change, and collect reasonable fees to administer these regulations.
- M. Receive, review and approve final reports from consultants in order to determine that the contaminated property has been decontaminated to the cleanup levels stated in Section 7.0 of 6 CCR 1014-3.
- N. Maintain records of contaminated property in Jefferson County and the remediation reports issued by consultants for those properties that are decontaminated.
- O. Issue statements to qualifying property owners that regulatory decontamination levels for their property has been achieved and that the property is fit for human habitation.

PART IV PROCEDURES

4.1 Initial Notification.

- A. All complaints, reports or information regarding the suspected presence on or use of property as an active illegal drug laboratory shall be forwarded by the Department and any other person, to the appropriate drug task force or law enforcement agency for investigation and verification of the complaint, report or other information.
- B. After that investigation, or contemporaneously with any independent investigation of real or personal property by a drug task force or law enforcement agency, that drug task force or law enforcement agency shall prepare a written report delivered to the Department which specifies;
 - 1. the identity of the drug task force or law enforcement agency conducting the investigation;
 - 2. the identity of the person conducting the investigation;
 - 3. location of the property by address
 - 4. the owners of the property;
 - 5. the occupants of the property; if known
 - 6. whether the owner and/or occupants were charged with any drug or drug manufacturing crimes;
 - 7. a statement by the investigator that in his or her opinion, the property is or has been used as an illegal drug laboratory; and

8. a statement or other information detailing the basis for the investigator's belief that the property was used as an illegal drug laboratory and/or that the property is contaminated by the presence, use or disposal of controlled substances, chemicals, equipment and/or supplies used or useful in the manufacturing, cooking or processing of illegal drugs.

4.2 Issuance of Administrative Orders and Placarding

- A. The initial action by the governing body shall be the designation of the property which is the subject of the verification notice issued by a drug task force or other law enforcement agency as a public nuisance and unfit for human habitation by an administrative order issued by the Department.
- B. Written notice of this status shall be given to the public and affected persons by posting a placard or placards in prominent locations on the property.
- C. Upon notification, Department staff or officers of the appropriate drug task force or local law enforcement agency shall post a closure placard on each entry door of the dwelling or unit, prohibiting entry and/or occupancy until cleanup is completed. Once this closure placard is posted, entry to the property is limited to all persons except those trained and certified to handle contaminated property pursuant to C.R.S. § 25-18.5-104, *et seq.*, and 6 CCR 1014-3, Section 4.0.
- D. Posting of the closure placard will only take place once the site is secured by law enforcement.
- E. Depending upon the jurisdiction, posting of the closure placard may take place immediately after the law enforcement agency has finished processing the scene or on the following day.
- F. Depending upon the situation, staff may request the assistance of local law enforcement in posting the closure placard on the dwelling or structure if performed after the initial response.
- G. Other departments or agencies may also post placards in accordance with their policies and regulations.
- H. In the event the issuance of administrative orders by the Public Health Officer and the placarding of the property fails to prevent the unauthorized entry into any dwelling or structure or the property, the governing body shall enlist the assistance and cooperation of the local drug task force or law enforcement agency in enforcing applicable trespass and other applicable criminal statutes; and the governing body may also apply to the Jefferson County District Court for the issuance of appropriate injunctive relief.

4.3 Notice of Violation

- A. The governing body shall give notice of hearing and a copy of the verification notice to the owner of the property via Certified Mail within ten (10) days of receipt of the verification notice.
 - 1. It shall be the responsibility of the owner of the property to notify any owners of contaminated personal property that said personal property has been contaminated. The Department will not notify a property owner of personal property suspected of contamination.
 - 2. All contaminated personal property removed from the property shall be disposed of in accordance with State and Federal Regulations.
 - 3. If the Department is notified of a vehicle suspected of being contaminated, the Department may, at its discretion, notify the registered owner or owners of said vehicle by certified mail.
 - 4. The Department may, in its discretion, also notify affected third parties of a property with suspected or confirmed contamination, including, but not limited to, homeowner associations and property managers.
- B. The notice of violation sent to the owner and interested persons shall include an advisement by the governing body that in the event the owner of the property or any other interested persons do not appear at the scheduled hearing, then the governing body will issue a notification statement and record that statement in the records of the Jefferson County Clerk and Recorder.
- C. The hearing shall be held within 30 days from the governing body's receipt of verification notice from a drug task force or law enforcement agency. The notice shall specify the date, time and location of the hearing and shall require the presence of the interested party, who may attend with an attorney.
- D. If any interested person wishes to contest or dispute any allegations of fact or conclusions of law made by the investigating officer in the verification notice, that interested person shall, within five days from the receipt of the notice of hearing and the verification notice, cause the governing body to issue a subpoena requiring the attendance of the investigating officer at the governing body's administration hearing, and the interested person shall cause that subpoena to be served on the investigating officer at least 48 hours prior to the hearing.
- E. In the event a subpoena is not requested by interested person, the factual allegations set forth in the verification notice shall be admitted by the hearing officer as conclusive statements of fact.
- F. At the administrative hearing, in lieu of employing consultants and contractors to investigate the property, preparing a work plan, implementing that work plan

and obtaining a clearance statement indicating that the property has been remediated in accordance with 6 CCR 1014-3, the owner and or interested persons may decide to remediate the nuisance condition on the property by demolition.

If this method is chosen, upon completion of the demolition and all associated and ancillary acts imposed by any other governmental entity having jurisdiction over the property, the governing body may issue and record a clearance statement for the property.

- G. At the administrative hearing, if an owner or interested person states on the record that he or she or it wishes to obtain a clearance statement by remediation, the hearing officer shall enter findings of fact and conclusions of law based upon an admitted or contested determination that the property is or has been an illegal drug laboratory and constitutes a public nuisance, and shall additionally enter an order addressing all relevant issues including, but not limited to the establishment of time frames or dates certain for the following activities:
1. for the owner or other interested person to obtain and enter into a contract with a consultant to investigate the property and prepare a Preliminary Assessment for submission to the Department. If remediation is required to meet the clean-up levels specified in 6 CCR 1014-3, the owner shall also submit a work plan that details the following:
 2. for the owner or other interested person to obtain and enter into a contract with a contractor to implement the work plan;
 3. for the completion of all work specified in the work plan by the contractor;
 4. for the consultant to inspect the property subsequent to the completion of the remediation work specified in the work plan;
 5. for the completion and delivery of a final report to the hearing officer by the consultant; and
 6. for the issuance of a clearance statement by the governing body.
- H. In the event the owner or other interested party wishes to obtain any extension of time to any of the completion dates set by the hearing officer, that party may file a request for an extension of time with the governing body specifying the grounds for the request and the length of the extension sought.
- I. These requests for extension of time may be granted or denied by the hearing officer with or without further hearings specifying, the decision

the basis for the decision in written notice to the moving party and any person appearing at the initial hearing.

- J. In lieu of granting or denying the motion, the hearing officer may also schedule a hearing on the motion for the purpose of determining good cause for granting or denying the motion and the imposition of additional requirements as conditions to granting the motion including, but not limited to, altering the extension requested, requiring financial information to be provided, requiring performance guarantees to be implemented, and requiring expert opinions on issues involved in the extensions.

4.4 Hearing Procedure.

- A. At the hearing a hearing officer who is an employee of the Department shall preside. A hearing officer may at any time withdraw if he or she deems himself or herself disqualified or for any other good reason, upon withdrawal the case shall be transferred to another hearing officer.
- B. The hearing officer shall have authority to: administer oaths and affirmations; sign and issue subpoenas; rule upon offers of proof and receive evidence; fix the time for the filing of briefs and other documents; direct the parties to appear and confer to consider the simplification of the issues, admissions of fact or of documents to avoid unnecessary proof, and limitation of the number of expert witnesses; issue appropriate orders which shall control the subsequent course of the proceedings.
- C. All parties to the proceeding shall also have the right to cross-examine witnesses who testify at the proceeding.
- D. Use of hearsay evidence shall be admissible in administrative hearings so long as hearsay is sufficiently reliable and trustworthy and as long as the evidence possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs.
- E. A subpoena shall be served in the same manner as a subpoena issued by a district court. Upon failure of any witness to comply with such subpoena, the Department may petition any district court, setting forth that due notice has been given of the time and place of attendance of the witness and the service of the subpoena; in which event, the district court, after hearing evidence in support of or contrary to the petition, may enter an order as in other civil actions compelling the witness to attend and testify or produce books, records, or other evidence, under penalty of punishment for contempt in case of contumacious failure to comply with the order of the court and may award attorney fees under the Colorado rules of civil procedure. A witness shall be entitled to the fees and mileage provided for a witness in a court of record.

- F. Every party to the proceeding shall have the right to present his case or defense by oral and documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts.
- G. The hearing officer may take notice of general, technical, or scientific facts within their knowledge, but only if the fact so noticed is specified in the record or is brought to the attention of the parties before final decision and every party is afforded an opportunity to controvert the fact so noticed.
- H. Any party, or the agent, servant, or employee of any party, permitted or compelled to testify or to submit data or evidence shall be entitled to the benefit of legal counsel of his or her own choosing and at his or her own expense, but a person may appear on their own behalf.
- I. The hearing officer shall cause the proceedings to be recorded by a reporter or by an electronic recording device.
- J. The hearing officer who conducted the hearing, shall prepare, file, and serve its decision upon each party.
- K. Each decision and initial decision shall be served on each party by personal service or by mailing by first-class mail to their last known address.

4.5 Compliance Determination.

- A. Cleanup will be deemed complete when the Department receives a final report that meets the requirements of 6 CCR 1014-3.
- B. Once the Department has determined that the requirements of 6 CCR 1014-3 have been met, the Department will provide the property owner with a statement regarding compliance and will authorize removal of the closure placard. Copies of this statement shall be sent to the local law enforcement agency, local building department, local fire department, local hazardous materials (hazmat) authority, local drug task force and local code enforcement agency.
- C. If the Department has recorded a notification statement, a clearance statement will also be recorded. This clearance statement will pertain only to the health-related aspects of the cleanup process and will not reference other requirements such as local building or code enforcement regulations or ordinances.
- D. For properties that were not originally designated as a illegal drug laboratory by any law enforcement agency, compliance will be determined by submission of documentation that methamphetamine levels within the dwelling or structure do not exceed the minimum cleanup standards set forth in 6 CCR 1014-3.

4.6 Records

- A. The Department will maintain all reports and compliance documents as permanent files.

- B. The Department will also maintain an electronic database of all reported illegal drug laboratories and their cleanup status. The information will become part of the Department's environmental records for a particular property and shall be reported as part of an environmental record search when requested by an outside party, except as provided for in C.R.S. § 38-35.7-103.