

Weber-Morgan Health Department

Regulation For

**ILLEGAL DRUG OPERATIONS SITE
REPORTING AND DECONTAMINATION**

Adopted by the Weber-Morgan Board of Health

November 28, 2005

Under Authority of Section 26A-1-121
Utah Code Annotated, 1953, as amended

1.0 Title

Illegal Drug Operations Site Reporting and Decontamination Regulation.

2.0 Purpose

It is the purpose of this regulation to protect the public's health, safety, and welfare by establishing standards, procedures, and responsibilities for:

- (1) Regulation of the occupancy and use of property where hazardous or dangerous chemicals or chemical residues commonly associated with the manufacture of illegal drugs are or may be present;
- (2) Regulation of the decontamination of such contaminated properties; and
- (3) Regulation of the disposal of hazardous or dangerous materials and contaminated debris removed from contaminated properties.

3.0 Authority

3.1 It is the responsibility of the Weber-Morgan Health Department to provide reporting and decontamination oversight of possibly contaminated and contaminated property for the protection of the citizens of Weber and Morgan Counties as legislated under Section Title 19, Chapter 6, Part 9 of the Utah Code Annotated, 1953 as amended.

3.2 The Weber-Morgan Board of Health is authorized to make standards and regulations pursuant to Subsection 26A-1-121(1) of the Utah Code Annotated, 1953 as amended.

3.3 The Weber-Morgan Board of Health is authorized to establish and collect fees pursuant to Section 26A-1-114 of the Utah Code Annotated, 1953 as amended.

3.4 All fees shall be set by the Board of Health and the Department may charge additional fees for enforcement and follow-up inspections as set by the Board of Health.

4.0 Incorporation by Reference

The requirements as found in the Utah Department of Health, Illegal Drug Operations Decontamination Standards, R392-600, are adopted and incorporated by reference with Weber-Morgan Board of Health amendments.

4.1 Amend first sentence of Section R392-600-3(1) to read: The decontamination specialist shall determine the nature and extent of damage and contamination of the property from illegal drug operations by performing a preliminary assessment prior to decontamination activities.

4.2 Amend Section R392-600-3(2) to read: To conduct the preliminary assessment, the decontamination specialist shall:

4.3 Amend Section R392-600-3(3)(a) to read: a final report documenting the preliminary assessment is submitted to the local health department by the owner of record or the decontamination specialist: and

4.4 Amend Section R392-600-7(1)(a) to read: Prepared by the decontamination specialist upon completion of the decontamination activities;

5.0 Powers and Duties

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

- (1) Require owner of record of properties contaminated by the illegal manufacture of drugs or storage of hazardous or dangerous chemicals and precursors to decontaminate the properties in order to restore them to their intended use;
- (2) Require owner of record of properties to secure them against unauthorized entry until they are fit for use; and properly dispose of any materials removed from such sites;
- (3) Issue permits and charge fees as necessary to implement the provisions, requirements, and standards of this regulation;
- (4) Make appropriate determinations or investigations and evaluate any property reasonably expected to be contaminated by illegal drug manufacturing or the storage of hazardous or dangerous chemicals and issue notices and orders as necessary to effect the purposes of this regulation;
- (5) Deny, suspend, or revoke the work plan and permit of any person that fails to comply with the requirements of this regulation, and other applicable regulations of the Department;
- (6) Close and secure structures that fail to meet the requirements of this regulation, and other applicable Department regulations and that have been found to be a threat to the public's health, safety, or welfare.

6.0 Scope

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

6.2 In order to protect the health and safety of the public, contaminated property shall be posted.

6.3 The responsibilities of the Department regarding illegal drug manufacturing and chemical storage sites shall be:

- (a) Determining if contamination exists;
 - (b) Posting the property;
 - (c) Notifying the owner of record or occupant that use is prohibited until decontamination is completed;
 - (d) Maintaining oversight of the decontamination of the property; and
 - (e) Authorizing re-use when deemed appropriate.
- (d) It shall be unlawful for any person to fail to comply with this regulation and other applicable rules, regulation and ordinances.

7.0 Placarding Property

7.1 The Department may post a warning placard on premises following an initial observation.

7.2 The warning placard shall inform occupants and others that hazardous or dangerous chemicals may exist on, or have been removed from, the premises and that entry may be unsafe due to residual chemical contamination.

7.3 The warning placard shall identify the address of the posted site, the name of the posting agent, and the name and the telephone number of the Department.

7.4 The Department shall notify local law enforcement agencies of any site within their jurisdiction that has been posted with a warning placard.

7.5 The warning placard does not prohibit otherwise legal access to the property.

7.5 If the Department finds the property is contaminated, the Department shall designate the property unfit for use and post the property accordingly.

7.6 The Department shall post the property with closed-to-entry signs if the property is contaminated to the extent that no one should enter the property without specialized personal protective equipment and specialized training.

7.7 A property that has been closed to entry may not be entered by anyone except while actively assessing the extent of contamination or for activity related to decontamination of the property for which a permit has been issued by the Department.

7.8 The Department shall post the property with closed-to-occupancy signs if the property can be safely entered by persons utilizing ordinary hygienic practices.

7.9 A property closed to occupancy may not be entered by anyone except those authorized by the owner of record to prepare the property for occupancy or use when actively engaging in such activities and no one may inhabit the property, that is, no one is to sleep or prepare meals on the property.

7.10 A closed-to-entry or closed-to-occupancy placard shall display the following information:

- (a) The type of closure;
- (b) The Department's name;
- (c) The inspector's name;
- (d) The telephone number at the Department;
- (e) The address of the site;
- (f) The restriction of access to designated decontamination specialists or those authorized by the owner of record as the case may be.

8.0 Responsibilities of the Owner of Record

8.1 The owner of record shall, if the Department closes a property to entry, keep the property secured against entry by anyone except listed decontamination specialists until such time as the Department determines that the property is no longer contaminated. This includes the owner of record and any occupants from entering the property as well.

8.2 The owner of record in any hearing concerning whether a property is unfit for use has the burden of showing that the property is not contaminated and is fit for use.

9.0 Responsibilities of the Decontamination Specialist

9.1 The decontamination specialist or owner of record shall obtain a permit from the Department before proceeding with any decontamination activity on any property the Department has closed to entry pursuant to this regulation.

9.2 A decontamination specialist shall have a valid business license before a permit required by this regulation will be issued to perform decontamination, demolition, or disposal work associated with illegal drug manufacturing or hazardous or dangerous chemical storage.

9.3 The decontamination specialist or owner of record shall obtain all required federal, state, and local permits, certificates, or other documentation including any required by the Utah Department of Environmental Quality, Environmental Protection Agency, Occupation Safety and Health Administration, and local building or zoning agencies.

9.4 The decontamination specialist or owner of record shall pay any fees charged by the Department for processing an application for a permit to do decontamination work under this regulation. The fee shall cover review of the Work Plan, review of the final plan. Any additional reviews, inspections, or other request for Department time may result in additional fees.

9.4 The decontamination specialist or owner of record shall have a permit from the Department prior to implementation of the Work Plan. If during the decontamination process it becomes necessary to modify the approved plan, written application shall be made to the Department. The decontamination specialist shall have written approval from the Department before proceeding with the modified Work Plan.

10.0 Permit to Decontaminate

10.1 The decontamination specialist or owner of record shall apply for a permit from the Department to decontaminate a property the Department has deemed unfit for use due to chemical contamination.

10.2 The decontamination specialist or owner of record shall not start any decontamination prior to issuance of the permit. This does not preclude the decontamination specialist or owner of record from accessing the property without a permit, but with the consent of the owner, in order to prepare a bid or take samples for testing in order to develop an appropriate Work Plan, i.e., the decontamination specialist may conduct a pre-decontamination site assessment.

10.3 The results of any observations or testing done to prepare a bid or Work Plan shall be given to the owner of record and made available to the Department upon request.

10.4 Applicable fees and the required Work Plan shall accompany the application for a permit.

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

10.6 A copy of the permit shall be posted on the premises in an uncontaminated location where persons not in specialized personal protective equipment may read it safely. A copy shall be re-posted as necessary.

11.0 City and County Options

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

12.0 Exemptions

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

13.0 Enforcement

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

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

14.0 Right to Appeal

Appeals concerning this regulation are governed by the Weber-Morgan Health Department Adjudicatory Procedures.

15.0 Penalty

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

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

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

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

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

16.0 Severability

If any provision, clause, sentence, or paragraph of this regulation or the application thereof to any person or circumstances shall be held to be invalid, such invalidity shall not affect the other provisions or applications of this regulation. The valid part of any clause, sentence, or paragraph of this regulation shall be given independence from the invalid provisions or application and to this end the provisions of this regulation are hereby declared to be severable.

17.0 Effective Date

This regulation shall become effective January 1, 2006 as adopted by the Weber-Morgan Board of Health. Appendix A shall reflect the Department fee schedule and may be modified by the Board of Health without affecting the rest of this Regulation.

Appendix A: Fee Schedule

Review of Work Plan - \$132 includes first 2 hours then \$66 per hour.

Permit to Decontaminate Proper - \$198 includes first 3 hours then \$66 per hour.