



To: Jill Hunsaker Ryan, Executive Director

From: Doug Knappe, Hazardous Waste Program Manager, Hazardous Materials and Waste Management Division

Through: Jennifer Opila, Hazardous Materials and Waste Management Division Director  
JTO

Date: August 27, 2020

Subject: Emergency Rulemaking Hearing concerning (6 CCR 1014-3, Part 2, Section 4.0) Cleanup of Methamphetamine Affected Properties, General Requirements)

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On March 25, 2020, pursuant to the authorities under 24-33.5-704(7), Governor Polis issued Executive Order D 2020-015 authorizing the Executive Director of the Colorado Department of Public Health and Environment to “promulgate and issue emergency rules...extending the expiration date of...licenses, endorsements, registrations, and certifications expiring in the next thirty (30) days” required by certain statutory provisions, including §§ 25-18.5-102 and 25-18.5-106, C.R.S. This order has been extended multiple time, most recently on August 19, 2020 Executive order D 2020-167 was issued to extending the expiration date of licenses, endorsements, registrations, and certifications by an additional 30 days. Rules originally adopted pursuant to Executive Order 2020-015 were effective from April 10, 2020 until August 8, 2020.

These statutory provisions provide for the certification and renewal of certification for persons involved in the sampling, assessment and decontamination of methamphetamine-affected properties. The Hazardous Materials and Waste Management Division has determined that the emergency rule is still necessary as third party provided trainings necessary for individuals to complete renewal of certifications for consultants, decontamination workers, and decontamination supervisors have not yet opened to in-person events. Because in person testing is taking place at the Department, certifications for qualified instructors can now be renewed and an extension for those rules is not needed.

Pursuant to the Executive Order, the Hazardous Materials and Waste Management Division is requesting that the Executive Director revise this regulation in order to extend the expiration date for consultants, decontamination workers, and decontamination supervisors as covered by Section II(H) of the Executive Order.

Findings Pursuant to § 24-4-103(6), C.R.S.

In response to Covid-19, Governor Polis verbally declared a disaster emergency on March 10, 2020, and issued the corresponding Executive Order D 2020 003 on March 11, 2020. Executive Order D 2020 003 has been amended and extended multiple time since, most recently on August 4, 2020. Additionally, a wide array of actions have been taken to mitigate the effects of the pandemic, prevent further spread, and protect against overwhelming our health care resources. The risk of contamination posed by COVID-19 has necessitated closure of multiple businesses.

Renewals of methamphetamine cleanup consultants, decontamination workers, and decontamination supervisors requires the in-person activity of third party training providers and the certified individuals. Therefore, the Executive Director finds that immediate adoption

of these revisions is imperatively necessary to preserve the public health, safety and welfare, and that compliance with the normal rulemaking requirements of § 24-4-103 C.R.S., would be contrary to the public interest.

Any renewal of methamphetamine cleanup consultant, decontamination worker, or decontamination supervisor certifications that may be completed online, and without any in person activities, shall not have an extended expiration date pursuant to this emergency rule and all requirements for renewal must be completed.

**STATEMENT OF BASIS AND PURPOSE  
AND SPECIFIC STATUTORY AUTHORITY  
for Amendments to  
6 CCR 1014-3, Part 2, Section 4.8 Regulations Pertaining to the Cleanup of  
Methamphetamine Laboratories, General Requirements  
(Adopted by the Executive Director on April 10, 2020)**

**Basis and Purpose.**

On March 25, 2020, Governor Jared Polis entered Executive Order D 2020-15, which was extended by Executive Order D 2020 042 (March 23, 2020), 2020 075 (May 22, 2020), 2020 111(June 20, 2020), 2020 141 (July 19, 2020) and 2020 167 (August 19, 2020) (Authorizing the Executive Directors of Certain State Agencies to Promulgate and Issue Emergency Rules Extending the Expiration Date of Licenses and Other Documents Due to the Presence of COVID-19).

Executive Order 2020 015, and its subsequent extensions, authorize the Executive Director of the Colorado Department of Public Health and Environment to promulgate and issue emergency rules to extend certain licenses and certifications that expire in the period of time covered by Executive Order D 2020 015 and any extensions. Rules were promulgated on April 10, 2020 that expired on August 8, 2020. This rulemaking is to extend the previous emergency rules.

Pursuant to Executive Order D 2020 015 and its extensions, the Executive Director of the Colorado Department of Public Health and Environment adopted this emergency rule to extend consultant, decontamination worker, and decontamination supervisor certifications that expire during the period covered by Executive Order D 2020 015 and any of its extensions until the expiration date of this emergency rule.

**Statutory Authority**

The Executive Director issues this emergency rule pursuant to general powers to administer the Department of Public Health and Environment pursuant to §25-1-102(1), C.R.S. and the Governor's Executive Order 2020 015. The Governor issued this executive order pursuant to Article IV, Section 2 of the Colorado Constitution and § 24-33.5-704, C.R.S. (Colorado Disaster Emergency Act).

**Findings Pursuant to § 24-4-103(6), C.R.S.**

In response to Covid-19, Governor Polis verbally declared a disaster emergency on March 10, 2020, and issued the corresponding Executive Order D 2020 003 on March 11, 2020. A wide array of actions have been taken to mitigate the effects of the pandemic, prevent further spread, and protect against overwhelming our health care resources. The risk of contamination posed by COVID-19 has necessitated closure of multiple businesses and government offices.

Renewal of certifications for consultants, decontamination workers, and decontamination supervisors requires the in person activity of both third party training providers and the certified individuals. Therefore, the Executive Director

finds the immediate adoption of this emergency rule is imperatively necessary under the current circumstances to preserve public health, safety and welfare. The Executive Director further finds that compliance with the normal rulemaking requirements of §24-4-103 C.R.S. would be contrary to the public interest.

#### Specific Statutory Authority.

These rules are promulgated pursuant to § 25-18.5-102, C.R.S. The powers and duties of the Department are set forth in § 25-18.5-106, C.R.S.

Executive Director, Colorado Department of Public Health and Environment

ADOPTED: August 27, 2020

EFFECTIVE IMMEDIATELY

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Does the proposed rule language create (or increase) a state mandate on local government?

No.

- The proposed rule does not require a local government to perform or increase a specific activity for which the local government will not be reimbursed;
- The proposed rule requires a local government to perform or increase a specific activity because the local government has opted to perform an activity, or;
- The proposed rule reduces or eliminates a state mandate on local government.

Yes.

This rule includes a new state mandate or increases the level of service required to comply with an existing state mandate, and local government will not be reimbursed for the costs associated with the new mandate or increase in service.

The state mandate is categorized as:

Necessitated by federal law, state law, or a court order

Caused by the State's participation in an optional federal program

Imposed by the sole discretion of a Department

Other: \_\_\_\_\_

(i.e. requested by local governments and consensus was achieved)

Has an elected official or other representatives of local governments disagreed with this categorization of the mandate?  Yes  No. If "yes," please explain why there is disagreement in the categorization.

Please elaborate as to why a rule that contains a state mandate on local government is necessary.

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT  
Hazardous Materials and Waste Management Division  
CLEANUP OF METHAMPHETAMINE-AFFECTED PROPERTIES  
6 CCR 1014-3

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PART 2: TRAINING AND CERTIFICATION REQUIREMENTS

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4.0 General Requirements

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- 4.8 ALL CERTIFICATIONS FOR CONSULTANTS OR DECONTAMINATION WORKERS AND DECONTAMINATION SUPERVISORS THAT EXPIRE DURING THE PERIOD OF TIME COVERED BY EXECUTIVE ORDER D 2020-015, OR ANY LATER ISSUED ORDER THAT AMENDS OR EXTENDS EXECUTIVE ORDER 2020-015, THAT ARE UNABLE TO MEET THE REQUIREMENTS OF 5.4 OR 7.5 RESPECTIVELY, ARE EXTENDED UNTIL THE EXPIRATION OF THIS EMERGENCY RULE.