

DEPARTMENT OF HUMAN SERVICES, PUBLIC HEALTH DIVISION

DIVISION 40

DECONTAMINATION OF ILLEGAL DRUG MANUFACTURING SITES

333-040-0010

Purpose and Scope

(1) **Purpose:** The purpose of these rules is to implement ORS 453.855-453.912 and Oregon Laws 1999, chapter 861 and provide a means whereby property found to be unfit for use due to chemical contamination that may result from illegal drug manufacturing can be evaluated, decontaminated and returned to use.

(2) **Scope:** These rules apply to any property as defined in ORS 453.858 and Oregon Laws 1999, chapter 861 and also includes the following: criteria used by agencies when determining property unfit for use; maintenance of listing of unfit for use properties; property owner responsibilities; assessment, decontamination, sampling and testing procedures; requirements for demolition and disposal of property contents; disclosure requirements for property sale or transfer; qualifications for decontamination and sampling personnel; licensing requirements for decontamination contractors; requirements for inspections and consultations by the Health Division; Health Division fees and reciprocity requirements; and contractor penalties.

Stat. Auth.: ORS 453.864

Stats. Implemented: ORS 453.855 - ORS 453.912 & OL 1999, Ch 861

Hist.: HD 20-1990, f. 6-29-90, cert. ef. 7-1-90 (and corrected 7-13-90); OHD 2-1998, f. & cert. ef. 2-13-98; OHD 1-2000, f.& cert. ef. 1-24-00

333-040-0020

Definitions

(1) "**Agent of the Owner**" -- means a current employee of the owner of record who was in the employ of that owner at the time the property was determined to be an illegal drug manufacturing site; or is a current employee of any new owner and who was an employee of that owner at the time the property was sold or transferred to that owner prior to decontamination.

(2) "**Certificate of Fitness**" -- means a certificate issued for a particular property by the Health Division indicating that the property is fit for use.

(3) "**Contractor**" -- means a contractor licensed by the Health Division under these rules to perform assessment and decontamination activities at illegal drug manufacturing sites.

(4) "**Decontamination**" and "**Contamination Reduction**" -- mean reduction in levels of known contaminants to the lowest practical level, as determined by the Health Division, using currently available methods and processes.

(5) "**Division**" -- means the Health Division of the Department of Human Services.

(6) "**Full disclosure**" -- means written notice to a prospective buyer or recipient of any illegal drug manufacturing site as set forth in OAR 333-040-0100.

(7) "**Owner**" -- means:

(a) For real property, the owner of record as disclosed by the records of the recorder in the county where the property is located; or,

(b) For personal property for which a certificate of title or ownership has been issued, the person shown as owner on such certificate.

(8) "**Reasonable grounds**" -- includes, but is not limited to, the presence of chemicals, substances, apparatus and chemical residues commonly associated with an illegal drug manufacturing site.

(9) "**Unfit for Use**" -- means a determination made by an agency as listed in ORS 453.876 that a property is an illegal drug manufacturing site and may be contaminated with hazardous chemicals or substances.

(10) "**Unfit for Use listing**" -- means a listing of properties in Oregon that have been determined to be illegal drug manufacturing sites, and that have not been issued a Certificate of Fitness. The list is maintained by the Department of Consumer and Business Services-Building Codes Division, pursuant to ORS 453.879.

(11) "**Use**" -- means occupancy or entry for any reason including, but not limited to, entry for such things as cleaning, remodeling, repairs, or demolition, except as allowed in ORS 453.873, 453.876, 453.885 and Oregon Laws 1999, chapter 861.

Stat. Auth.: ORS 453.864

Stats. Implemented: ORS 453.855 - ORS 453.912 & OL 1999, Ch 861

Hist.: HD 20-1990, f. 6-29-90, cert. ef. 7-1-90 (and corrected 7-13-90); OHD 2-1998, f. & cert. ef. 2-13-98; OHD 1-2000, f.& cert. ef. 1-24-00

333-040-0050

Determination of Unfitness for Use

(1) The determination that a property is unfit for use applies to any property that is known to have been used as an illegal drug manufacturing site, or for which there are reasonable grounds to believe that the property has been used as an illegal drug manufacturing site.

(2) Any owner of a property that was an illegal drug manufacturing site prior to August 3, 1989 may obtain a Certificate of Fitness by following all the procedures and meeting all the criteria of these rules.

(3) An agency determining property unfit for use shall proceed as follows:

(a) Notify the owner or agent of the affected property by personal service or by certified mail sent within 3 working days of the determination. Proof of such mailing shall be considered service. Proof of actual delivery is not required. Where the owner of record or the title or certificate holder is not listed in public records or cannot be reasonably notified, service of notice on the registered agent or other designated agent is sufficient;

(b) Mail a copy of the notice to the owner/agent as required in subsection (3)(a) of this rule to the Division. The Division shall notify the State Building Codes Division, the Department of Motor Vehicles, the State Marine Board and/or other affected agencies; and

(c) Post a standard warning notice provided by the Division at all entrances to the contaminated property at the time of the determination. Such notice(s) shall be displayed continuously until a Certificate of Fitness has been issued by the Division.

(4) The notice required in subsection (3)(a) of this rule shall include all of the specific information in the sample notice available from the Division, but need not be identical in form. This notice shall also include a statement that the owner may obtain a hearing by making a written request to the agency making the determination within 30 days.

Stat. Auth.: ORS 453.864

Stats. Implemented: ORS 453.855 - ORS 453.912 & OL 1999, Ch 861

Hist.: HD 20-1990, f. 6-29-90, cert. ef. 7-1-90 (and corrected 7-13-90); OHD 2-1998, f. & cert. ef. 2-13-98; OHD 1-2000, f. & cert. ef. 1-24-00

333-040-0060

Unfit for Use Listing by State Department of Consumer and Business Services-Building Codes Division

(1) The Director of the State Department of Consumer and Business Services shall place the property on an official unfit for use listing after it receives a copy of a notice of determination that a property is unfit for use from the Division, or any owner of record. The State Department of Consumer and Business Services -- Building Codes Division shall update and distribute the list according to their rules.

(2) To remove a property from the unfit for use list, the owner must provide the Division written proof that:

(a) The determination that the property is unfit for use has been reversed by the agency that made the initial determination; or

(b) The determination by the agency that made the initial determination has been reversed by a court of law; or

(c) A Certificate of Fitness has been issued for the property.

Stat. Auth.: ORS 453.864

Stats. Implemented: ORS 453.855 - ORS 453.912 & OL 1999, Ch 861

Hist.: HD 20-1990, f. 6-29-90, cert. ef. 7-1-90 (and corrected 7-13-90); OHD 2-1998, f. & cert. ef. 2-13-98; OHD 1-2000, f.& cert. ef. 1-24-00

333-040-0065

Procedures for Owners of Unfit for Use Properties

(1) The owner of property determined to be unfit for use shall:

(a) Prevent by reasonable means the entry, occupancy or any use whatsoever by anyone of the property in question until the property has been issued a Certificate of Fitness or until the determination that the property is unfit for use has been reversed in writing by the determining agency or by a court of law; except that qualified contractors and regulatory agencies and their authorized agents may enter such properties for purposes of evaluation, sampling, and/or decontamination; and owners or agents of the owner may enter such properties for the purposes of decontamination when approved by the Division as set forth in section (2) of this rule; and

(b) Retain a contractor to supervise the decontamination efforts, including: performing a site assessment; supervising site sampling by an independent third party as required in OAR 333-040-0130(1); submitting a work plan for Division approval; and decontaminating the property or supervising the decontamination of the property. An owner or an agent of the owner may perform the decontamination when the requirements of this subsection and the criteria of section (2) or (3) of this rule are met.

(2) The Division may approve the performance of the decontamination work by the owner or an agent of the owner in accordance with subsection (1)(b) of this rule if all of the following criteria are met:

(a) Methamphetamine was the only drug manufactured at the site; and

(b) The method of manufacturing was the ephedrine-red phosphorus or ephedrine-sodium/lithium metal method; and

(c) The manufacturing occurred after 1994; and

(d) No visual or apparent evidence of manufacturing-related contamination, filth and debris, or biohazards are present; and

(e) No manufacturing-related fire occurred.

(3) When a contractor is proposing a demolition as a method of decontamination as set forth in section (2) of this rule, the Division may waive subsections 2(a) through 2(e) if:

(a) Methamphetamine was the only drug manufactured; and

(b) The owner or agent of the owner is prohibited from entering the structure(s) to be demolished.

(4) The Division may disallow the owner or agent of the owner from performing the decontamination work when there is evidence of removal of contents or any other form of decontamination not approved by the Division.

(5) An owner must do one of the following before unfit for use property can be used: provide evidence that the unfit for use property designation has been reversed on appeal; provide evidence that the property has been assessed as set forth in OAR 333-040-0070(1)(a), found not to be contaminated, and a Certificate of Fitness issued; or provide evidence that the property has been decontaminated and a Certificate of Fitness issued.

Stat. Auth.: ORS 453.864

Stats. Implemented: ORS 453.855 - ORS 453.912 & OL 1999, Ch. 861

Hist.: OHD 2-1998, f. & cert. ef. 2-13-98; OHd 1-2000, f.& cert. ef. 1-24-00

333-040-0070

Procedures for Assessment, Decontamination, Sampling and Testing

(1) A contractor who has been retained to assess a property shall submit all information, proposals and the appropriate fee to the Division on the form supplied by the Division.

(a) The contractor shall assess the site and characterize the extent of contamination by, but not limited to, the following:

(A) Securing any documentation available from the Division, the determining agency, other appropriate state agencies or other sources regarding the nature and extent of the illegal drug activity and evidence of such activity;

(B) Evaluating the property site to determine the nature and extent of observable damage and contamination;

(C) Providing a written site assessment with an accompanying sampling and analysis plan. The contractor shall submit the assessment and sampling plan, along with the appropriate fee listed in OAR 333-040-0180(4), to the Division for approval prior to commencement of the decontamination work;

(D) Supervising qualified, third-party sampling personnel, as set forth in OAR 333-040-0135, in the collection of site samples;

(E) Arranging for the qualified scientific testing of air, surfaces, and articles and materials on or taken from the site;

(F) Providing a brief written description of the contaminated site and buildings, and a scale drawing of the property including the location and type of all site structures; floor plans drawn to reasonable scale of all affected buildings; location of any surface waters, wells, and/or septic tanks; location of any damage, observable contamination, chemical storage, dump sites, burn piles, or drug lab operations;

(G) Supplying photographs of the site and the interior and exterior of any buildings, vehicles, boats or other potentially contaminated structures or areas. These photographs must show any damage, observable contamination or identified dump sites that may be present;

(H) Providing a list of the sample locations, methods, and laboratory tests to be performed prior to decontamination of the property, and a list of the articles and materials that may need removal from the site during the decontamination process; and

(I) Supplying the name of the company retained to collect the samples, name(s) of the analytical laboratory(ies) performing the analyses on the samples, and the name and qualifications of the sample collector.

(b) The contractor shall submit the assessment along with all tests, findings and conclusions, the name of the owner, mailing and street address, legal description of the property, clear directions for locating the property, and a completed application for a Certificate of Fitness along with the applicable fee to the Division if no contamination is found. If the findings are acceptable to the Division, the Division shall issue a Certificate of Fitness.

(2) If contamination is found, the contractor shall proceed as follows to decontaminate the property, or to supervise the owner or agent of the owner in the decontamination:

(a) Prepare and submit to the Division a written work plan for decontamination along with the applicable fee. The work plan, at a minimum, shall include:

(A) Complete identifying information such as street address, mailing address, owner of record, legal description, and clear directions for locating the property;

(B) A drawing of the contaminated property including floor plans of all affected buildings drawn to reasonable scale showing the location of damage and contamination, chemical storage, and the location of all sampling points used in the initial evaluation;

(C) A summary of the information obtained from the determining agency and/or other sources and a discussion of its relevance to the contamination;

(D) A summary of all tests performed, test results and a discussion of the significance of the test, along with a copy of the laboratory test results;

(E) Specific procedures for decontamination detailing any and all materials or articles to be removed, all procedures to be employed to remove contaminants, any proposed processes to cover or encapsulate contaminants, and any other proposed procedures for decontamination and disposal of contaminated materials;

(F) A complete listing of proposed post-decontamination laboratory tests of the property and the name(s) of the laboratory(ies) doing the testing;

(G) A listing of all personnel who will participate in the on-site decontamination and qualifications of each;

(H) Certification that all workers, except as set forth in OAR 333-040-0065(2), are qualified and trained under applicable OSHA rules, per 29 CFR 1910.120(e) and OAR 437-002-0100(18)(b) through (o), and will use appropriate protective clothing and equipment whenever on the property;

(I) All results of the site assessment; and

(J) Documentation that the site to be decontaminated meets the criteria established in OAR 333-040-0065(2) or (3) when proposing an owner decontamination.

(b) After securing written approval from the Division for the work plan or amended work plan, the contractor shall complete the decontamination work, or supervise the completion of the work, in accordance with the approved work plan;

(c) The contractor shall arrange for, and supervise as necessary as set forth in OAR 333-040-0130(1), all follow-up sampling as specified in the approved work plan;

(d) The contractor shall submit to the Division written and photographic documentation showing that the decontamination has been completed in accordance with the approved work plan, along with all follow-up test results required by the approved work plan, and a completed affidavit on a form supplied by the Division attesting to compliance with the approved work plan; and

(e) If in the course of decontamination, factors are discovered requiring modifications to the work plan, such modifications may be made only upon prior written approval from the Division. The contractor shall provide the Division with written confirmation that the modified work as approved was performed.

(3) The contractor shall insure that all samples collected from the site, including the taking of air, surface and bulk samples prior to and after decontamination of the property are performed by independent, qualified personnel using industry-recognized standards and protocols. The contractor shall insure that the sampling personnel utilize the Division's Drug Lab Field and Sampling Guidelines.

(a) The contractor shall insure that all laboratory tests on the samples collected from the site are performed by a laboratory following standard laboratory practices. The laboratory shall:

(A) Be currently certified or approved under appropriate state, federal, or professional programs;

(B) Use standard methods and procedures when available;

(C) Have implemented a quality assurance program, including use of quality control measures, that is acceptable to the Division; and

(D) Have a US Drug Enforcement Administration registration on file with the Division if analyzing for controlled substances.

(b) The contractor shall insure that the following components of the site sampling and laboratory testing are integrated into the work plan:

(A) The materials, equipment and techniques used, or to be used, for sampling at each location;

(B) All control samples taken, or to be taken, including the location, materials, techniques and results;

(C) The exact location within the property where each test sample was or will be collected. Samples collected after decontamination shall be collected immediately adjacent to the location initially tested, and shall be sampled by identical methods in order to accurately reflect the effectiveness of the decontamination work; and

(D) The amount of area, volume of material or air taken, or to be taken, for each test sample: air sample test results are reported in ppm; liquid and solid sample test are reported in ppm, or in weight/weight; and surface sample test results are reported as total weight of contaminant per appropriate unit of area.

(c) All site assessment reports and test results shall be retained by the contractor for a period of not less than one calendar year from the date of certification of the site.

Stat. Auth.: ORS 453.864

Stats. Implemented: ORS 453.855 - ORS 453.912 & OL 1999, Ch. 861

Hist.: HD 20-1990, f. 6-29-90, cert. ef. 7-1-90 (and corrected 7-13-90); OHD 2-1998, f. & cert. ef. 2-13-98; OHD 1-2000, f.& cert. ef. 1-24-00

333-040-0080

Compliance with Regulations and Disposing of Contents of Unfit for Use Properties

A contractor must conduct any abatement activities in compliance with applicable state and federal regulations. Permits may be required for such activities. The contractor shall provide written documentation to the Division of proper disposal of all materials removed from unfit for use properties.

Stat. Auth.: ORS 453.864

Stats. Implemented: ORS 453.855 - ORS 453.912 & OL 1999, Ch. 861

Hist.: HD 20-1990, f. 6-29-90, cert. ef. 7-1-90 (and corrected 7-13-90); OHD 2-1998, f. & cert. ef. 2-13-98; OHD 1-2000, f.& cert. ef. 1-24-00

333-040-0090

Destruction of Unfit for Use Property

Property found to be unfit for use may be demolished all or in part in order to remove the contamination. A contractor shall comply with all state and local requirements, including any permits, for protecting health and the environment in any Division-approved demolition, and shall remove or contain all hazards resulting from the illegal drug manufacturing. A contractor shall submit a written work plan to the Division and receive written approval from the Division prior to the demolition. Where required, permits for demolition shall also be obtained from the Building Codes Division, city or county building authority before demolition begins.

Stat. Auth.: ORS 453.864

Stats. Implemented: ORS 453.855 - ORS 453.912 & OL 1999, Ch. 861

Hist.: HD 20-1990, f. 6-29-90, cert. ef. 7-1-90 (and corrected 7-13-90); HD 2-1991, f. & cert. ef. 2-28-91; OHD 2-1998, f. & cert. ef. 2-13-98; OHD 1-2000, f.& cert. ef. 1-24-00

333-040-0100

Disclosure for Sale or Transfer of Illegal Drug Manufacturing Sites

(1) An owner of unfit for use property may transfer or sell the property before a Certificate of Fitness is issued if the owner provides full written disclosure to the buyer or transferee. The owner shall attach the disclosure statement to the earnest money receipt, if any, or otherwise attach the disclosure statement to the sale or transfer document for each transaction, and shall, at a minimum, include each of the following:

(a) A verbatim statement as follows: "The property in this transaction has been determined to be an illegal drug manufacturing site and cannot be rented, leased, entered or used for any reason without first being issued a Certificate of Fitness by the Oregon Health Division." The statement shall be in 10-point, bold type or equivalent;

(b) A brief description of the property including street address and legal description;

(c) A brief description of the kind and location of all drug manufacturing activities on the property if known;

(d) The name and address of the owner of record, the name and address of the buyer/recipient, and the date of the transfer;

(e) The name of the agency that determined the property was unfit for use;

- (f) The address and telephone number of the agency that made the above determination; and
- (g) A photocopy of the written notice of determination as issued by the determining agency listed in ORS 453.876.

(2) The owner shall provide a copy of the disclosure statement for each transaction to the Building Codes Division and the Oregon Health Division within 10 days of the closing of the sale or transfer.

Stat. Auth.: ORS 453.864

Stats. Implemented: ORS 453.855 - ORS 453.912 & OL 1999, Ch. 861

Hist.: HD 20-1990, f. 6-29-90, cert. ef. 7-1-90 (and corrected 7-13-90); OHD 2-1998, f. & cert. ef. 2-13-98; Administrative correction 7-8-98; OHD 1-2000, f.& cert. ef. 1-24-00

333-040-0110

Qualifications, Training and Licensing of Contractors and Employees

(1) No person or entity shall advertise to undertake, or perform the work necessary to assess or decontaminate properties found to be unfit for use, without first complying with these rules and securing a license to do so pursuant to ORS 453.885(2), 453.888 and Oregon Laws 1999, chapter 861, section 3, except as set forth in section (2) of this rule or in OAR 333-040-0065(2) and (3).

(2) Before applying for a decontamination contractor license, a contractor must be registered, bonded and insured as a general contractor with the Construction Contractor's Board. Companies and persons providing only sample collection, transportation and testing services for drug laboratory decontamination contractors are not required to be licensed pursuant to these rules; however, a contractor shall supervise anyone providing sample collection as set forth in OAR 333-040-0130(1), and anyone providing sample collection services shall comply with the hazardous materials training required in section (5) of this rule and the qualification and training requirements of OAR 333-040-0135. Laboratories providing sample analysis shall comply with OAR 333-040-0070(3)(a).

(3) The contractor shall provide documentation to the Division that its supervisory personnel seeking training and certification as a drug laboratory decontamination supervisor have successfully completed at least 40 hours of hazardous materials training satisfying the requirements of OAR 437-002-0100(18) and 29 CFR 1910.120(e). The contractor shall insure that only persons so qualifying are admitted for training, examination or on-site work as an illegal drug manufacturing site decontamination supervisor.

(4) Applicants shall demonstrate that all employees who will perform work on illegal drug manufacturing sites have completed a Division-sponsored specialized training course and have successfully passed the course examination with a score of seventy percent or greater.

(5) The contractor shall insure that its employees and agents who have on-site duties or who handle contaminated materials, chemicals or contaminated equipment, shall be trained as

required by OAR 437-002-0100(18) and 29 CFR 1910.120(e) before engaging in assessment, testing or decontaminating illegal drug manufacturing sites. Refresher training as required by said rules and regulations shall be kept current.

(6) The contractor's supervisory employees performing on-site drug site decontamination activities shall successfully complete the initial training course required in section (4) of this rule and shall successfully complete refresher training specified by the Division every other year to renew their certification. The Division may also require more frequent training updates.

(7) The contractor's non-supervisory employees who have on-site exposure to properties found unfit for use shall receive specialized drug site decontamination training before having any on-site exposure, and must attend refresher training at least every other year to renew their certification. The contractor shall supply the Division with documentation of such training for each employee who enters an illegal drug manufacturing site. Training referred to in sections (6) and (7) of this rule is required in addition to the training required by State and Federal OSHA regulations referred to in section (5) of this rule.

(8) All contractors and all employees of any contractor shall carry identification provided by the Division attesting to their training credentials and level of training whenever performing duties at an illegal drug manufacturing site.

Stat. Auth.: ORS 453.864

Stats. Implemented: ORS 453.855 - ORS 453.912 & OL 1999, Ch. 861

Hist.: HD 20-1990, f. 6-29-90, cert. ef. 7-1-90 (and corrected 7-13-90); OHD 2-1998, f. & cert. ef. 2-13-98; OHD 1-2000, f.& cert. ef. 1-24-00

333-040-0120

Contractor Listing

The Division shall maintain a complete listing of Drug Laboratory Decontamination Contractors and shall provide copies of the list as follows:

(1) To the Director of the Department of Consumer and Business Services who shall supply the list and updates to local building code enforcement agencies;

(2) To the Administrator of each county health department in the state;

(3) Upon request, to any property owner, prospective buyer, licensee or other interested person.

Stat. Auth.: ORS 453.864

Stats. Implemented: ORS 453.855 - ORS 453.912 & OL 1999, Ch. 861

Hist.: HD 20-1990, f. 6-29-90, cert. ef. 7-1-90 (and corrected 7-13-90); OHD 2-1998, f. & cert. ef. 2-13-98; OHD 1-2000, f.& cert. ef. 1-24-00

333-040-0130

On-Site Supervision

(1) The contractor shall insure that at all times during site assessment and sampling activities on illegal drug manufacturing sites, a qualified supervisor employed by the contractor shall be on site and responsible for the activities performed. The Division may also require the presence of such a supervisor on these sites during decontamination activities. Supervisors shall at all times while on site carry identification provided by the Division attesting to their training and credentials.

(2) An applicant for a decontamination license must demonstrate that it has one or more qualified supervisors on staff.

(3) A contractor may not perform any illegal drug manufacturing site activities unless the contractor has at least one certified supervisor.

Stat. Auth.: ORS 453.864

Stats. Implemented: ORS 453.855 - ORS 453.912 & OL 1999, Ch. 861

Hist.: HD 20-1990, f. 6-29-90, cert. ef. 7-1-90 (and corrected 7-13-90); HD 15-1993(Temp), f. & cert. ef. 10-14-93; HD 12-1994, f. & cert. ef. 4-22-94; OHD 2-1998, f. & cert. ef. 2-13-98; OHD 1-2000, f.& cert. ef. 1-24-00

333-040-0135

Qualifications and Training of Sampling Personnel

Persons collecting site samples shall have the following minimum qualifications:

(1) Have completed hazardous materials training, as set forth in OAR 333-040-0110(5); and

(2) Be a certified Industrial Hygienist (CIH); or

(3) Have a Bachelor of Science Degree in Health and Safety, Industrial Hygiene, Environmental Sciences, or Basic Sciences, and six months experience working with or for a professional environmental or industrial hygiene firm, Occupational Safety and Health Administration (OSHA), Environmental Protection Agency (EPA), Department of Environmental Quality (DEQ), or for an environmental laboratory certified under a state, federal, or professional program; or

(4) Have an Associate Degree in Hazardous Materials Management or Environmental Evaluations/Chemistry, and one year experience working under the direct supervision of personnel identified in section (2) or (3) of this rule. Persons who have been collecting samples at drug lab sites consistently since prior to January 1, 2000, are exempt from the requirements in sections (2), (3), and (4) of this rule.

Stat. Auth.: ORS 453.864

Stats. Implemented: ORS 453.855 - ORS 453.912 & OL 1999, Ch. 861

Hist.: OHD 2-1998, f. & cert. ef. 2-13-98; OHD 1-2000, f.& cert. ef. 1-24-00; PH 15-2003(Temp), f. & cert. ef. 10-27-03 thru 4-16-04; PH 14-2004, f. & cert. ef. 4-9-04

333-040-0140

Entry and Inspection

Properties determined to be unfit for use may be entered and inspected as set forth in ORS 453.873 and Oregon Laws 1999, chapter 861. Law enforcement officials may accompany such entries for safety or security purposes. The owner, manager, tenant, or occupant of such property shall allow access to all parts of such property for these purposes and for quality control evaluations pursuant to OAR 333-040-0150 from the date of the finding that the property is unfit for use and up to six months after a Certificate of Fitness has been issued.

Stat. Auth.: ORS 453.864

Stats. Implemented: ORS 453.855 - ORS 453.912 & OL 1999, Ch. 861

Hist.: HD 20-1990, f. 6-29-90, cert. ef. 7-1-90 (and corrected 7-13-90); OHD 1-2000, f.& cert. ef. 1-24-00

333-040-0150

Quality Control Checks

(1) The Division or designated agents may inspect, evaluate and perform tests upon any property for which a Certificate of Fitness has been requested or issued. The inspection, evaluation and tests shall determine whether the approved work plan was followed, whether post-cleaning tests submitted meet the requirements of OAR 333-040-0070(3), and whether the property has been decontaminated adequately. The contractor shall be subject to license revocation, suspension, civil penalties or other penalties as set forth in ORS 453.990 if inadequate decontamination is found.

(2) The Division may monitor the work of any contractor at any illegal drug manufacturing site.

Stat. Auth.: ORS 453.864

Stats. Implemented: ORS 453.855 - ORS 453.912 & OL 1999, Ch. 861

Hist.: HD 20-1990, f. 6-29-90, cert. ef. 7-1-90 (and corrected 7-13-90); OHD 1-2000, f.& cert. ef. 1-24-00

333-040-0170

Advice and Consultation

Between the dates of scheduled training for contractors as set forth in ORS 453.888, the Division shall be available to consult with contractors, as well as those planning to become contractors, on information pertinent to illegal drug manufacturing sites, including but not limited to chemicals

found at such sites and their toxicity, new or revised decontamination procedures, personal protective equipment and applicable federal regulations and state rules.

Stat. Auth.: ORS 453.864

Stats. Implemented: ORS 453.855 - ORS 453.912 & OL 1999, Ch. 861

Hist.: HD 20-1990, f. 6-29-90, cert. ef. 7-1-90 (and corrected 7-13-90); HD 2-1991, f. & cert. ef. 2-28-91; OHD 1-2000, f.& cert. ef. 1-24-00

333-040-0180

Licenses and Fees

(1) For applicants applying for an initial license, the following fees are payable to the Division:

(a) Drug Site Decontamination Contractors initial training course

(A) Course Registration and Processing fee: \$150.00;

(B) Initial Examination fee (each time taken): \$100.00;

(C) Refresher Course fee: \$100.00.

(b) Initial License Application fee: \$1,000.00 (if made on or before July 1, of even-numbered calendar years) If initial application is made before July 1, of any odd-numbered year: \$500.00.

(2) Renewal of License:

(a) Renewal fee (must be made on or before July 1 of even-numbered years): \$1,000.00.

Licenses expire on June 30 of each even-numbered year and must be renewed on or before July 1 of each even-numbered year.

(b) Penalty for late renewal (if made after July 15): \$100.00.

(3) Reciprocity fees:

(a) License Application fee: \$1,000.00 (if made on or before July 1 of even-numbered calendar years). If application is made before July 1 of any odd-numbered year: \$500.00;

(b) Contractor License Review fee: \$200.00;

(c) Worker or Supervisor Certification Review fee: \$100.00.

(4) Decontamination fees:

(a) Site Assessment Review fee: \$300.00;

(b) Work Plan Review fee -- for each real property including all property associated thereto: \$900.00. Work Plan Review fee - for vehicles, trailers, and boats not associated with real property: \$100.00;

(c) Project Completion Review and Certificate of Fitness fee (for each property): \$200.00;

(d) Issuance of additional copies of Certificate of Fitness:\$5.00.

(5) No portion of any of the above fees is refundable unless the fee was submitted in error and the application is withdrawn by written request of the applicant within 10 working days of submission.

Stat. Auth.: ORS 453.864 & ORS 453.894

Stats. Implemented: ORS 453.855 - ORS 453.995

Hist.: HD 20-1990, f. 6-29-90, cert. ef. 7-1-90 (and corrected 7-13-90); OHD 2-1998, f. & cert. ef. 2-13-98; OHD 1-2000, f.& cert. ef. 1-24-00; OHD 5-2000, f. & cert. ef. 5-4-00

333-040-0190

Reciprocity

(1) The Division may provide reciprocal licensure for contractors licensed in another state, and reciprocal certification for supervisors and workers trained and certified in another state if standards and training are substantially equivalent to these rules. Applications for a decontamination contractor license or worker/supervisor certification are subject to review and approval by the Division. Applicants for reciprocity shall submit to the Division:

(a) A completed application on a form provided by the Division;

(b) Documentation of specialized training for drug manufacturing site decontamination;

(c) Evidence of successful completion of training as set forth in OAR 437-002-0100(18) and 29 CFR 1910.120(e);

(d) Evidence of registration, bonding, and insurance with the Oregon Construction Contractor's Board; and

(e) A fee as set forth in OAR 333-040-0180.

(2) After reviewing the application, the Division may issue the applicant a certificate/license or require:

(a) Additional information;

(b) A refresher course; or

(c) A Division-administered examination.

Stat. Auth.: ORS 453.864

Stats. Implemented: ORS 453.855 - ORS 453.912 & OL 1999, Ch. 861

Hist.: HD 20-1990, f. 6-29-90, cert. ef. 7-1-90 (and corrected 7-13-90); OHD 1-2000, f.& cert. ef. 1-24-00

333-040-0230

Denial, Suspension, Revocation of License and Civil Penalties

(1) An applicant for an initial license as a Drug Laboratory Decontamination Contractor will be denied if the applicant fails to meet any of the qualifications or requirements of these rules.

(2) The Division may deny, suspend or revoke the license of any contractor pursuant to ORS 453.888, ORS 183.310 to 183.550 and Oregon Laws 1999, chapter 849.

(3) Denials, suspensions and revocations of licenses are contested cases subject to ORS 183 and Oregon Laws 1999, chapter 849 and the model procedural rules of the Attorney General.

Stat. Auth.: ORS 453.864

Stats. Implemented: ORS 453.855 - ORS 453.912 & OL 1999, Ch. 861

Hist.: OHD 2-1998, f. & cert. ef. 2-13-98; OHD 1-2000, f.& cert. ef. 1-24-00