



Kentucky Public Health

Prevent. Promote. Protect.

Guidance Regarding KRS 224.01 - .410

Methamphetamine Contaminated Properties And Local Health Department Responsibilities

**Kentucky Department for Public Health
Division of Public Health Protection and Safety
275 East Main Street, HS1E-B
Frankfort, Kentucky 40621**

Introduction

In 2007 the General Assembly passed KRS 224.01 - .410 establishing methamphetamine cleanup standards. This law assigned local health departments various responsibilities, including the posting of methamphetamine-contaminated properties. Due to concerns with the language of the law and the health and safety of local health department (LHD) staff involved with the posting of properties, HB 765 was introduced and passed in 2008, amending KRS 224.01 - .410. The changes became effective July 15, 2008, and were not retroactive. LHD staff are encouraged to read and familiarize themselves with the law which is available at <http://www.lrc.ky.gov/record/08RS/HB765/bill.doc>.

Subsequently administrative regulations relative to methamphetamine-contaminated properties were drafted by the Energy and Environment Cabinet (EEC); the Justice and Public Safety Cabinet (Kentucky State Police) and by the Cabinet for Health and Family Services. The applicable regulations for each agency are listed below for reference:

- Energy and Environment Cabinet Regulations 401 KAR 101:001-040
- Cabinet for Health and Family Services Regulation 902 KAR 47:200
- Kentucky State Police (KSP) 502 KAR 47:010

The following document shall serve as a guidance to local health departments in regards to the requirements of the methamphetamine law.

Kentucky State Police Responsibilities

- Through a Memorandum of Understanding with the Cabinet for Health and Family Services, KSP or local law enforcement will post the property with a methamphetamine contamination warning sign (DFS 407) when they respond to an event.
- Law enforcement will determine the level of contamination from 1-4, with 4 being the highest, and they complete a Clandestine Drug Lab Preliminary Assessment tool in order to assess the level of decontamination required.
- KSP will send written notification and a copy of the Clandestine Drug Lab Preliminary Assessment sheet within three days to the local health department and to EEC.

Local Health Department Responsibilities

- Once notified by law enforcement, the LHD shall send a **certified** letter to the homeowner listed on the deed notifying them of the contamination posting, outlining their responsibilities in the decontamination process, notifying them of their right to appeal, and alerting them to the disclosure requirements. (Sample letter at <http://chfs.ky.gov/dph/info/phps/PHPSR.htm>)
- The LHD shall also notify each of the following that a posting has occurred by emailing, mailing or faxing a copy of the Clandestine Drug Lab Preliminary Assessment tool received from law enforcement and a copy of the owner's notification letter to:

Jennifer Burt
Public Safety Branch
275 E. Main St., HS1E-B
Frankfort, KY 40621
502-564-0885
jennifera.burt@ky.gov

Lynne Spencer
Meth Coordinator, KSP
Fax # 270-746-7863

Lori Berry
Superfund Branch
300 Sower Blvd., 2nd Floor
Frankfort, KY 40 Fax #
Fax # 502-564-4245
lori.berry@ky.gov

- The LHD may serve as a source of information regarding owners' disclosure obligations outlined in 902 KAR 47:200 at <http://www.lrc.ky.gov/kar/902/047/200.htm>. (Sample disclosure notice at <http://chfs.ky.gov/dph/info/phps/PHPSR.htm>.)
- If the LHD is made aware of a posting being removed before it is decontaminated, they should notify KSP or local law enforcement in order to get it reposted.
- If the LHD is notified of a disclosure violation, they should notify the law enforcement agency that originally posted the property since this is a Class D felony.
- When the LHD is notified by EEC that the property has been decontaminated, a **certified** letter should be sent to the homeowner to let them know they may

remove the posting and disclosure is no longer required. (Sample letter at <http://chfs.ky.gov/dph/info/phps/PHPSR.htm>.)

- A copy of the release letter should be sent to Jennifer Burt, 275 East Main Street, HS1E-B, Frankfort, Kentucky 40621. The email address is jennifera.burt@ky.gov, and the fax number is 502-564-0885.
- The LHD should maintain copies of all correspondence regarding methamphetamine-contaminated properties, including receipts for certified letters.
- The Department for Community Based Services (DCBS) asks that LHD's please refer any complaints regarding children living in or cared for in a home that has been posted for methamphetamine contamination to their hotline at 1-877-597-2331.

Energy and Environmental Cabinet Responsibilities

- EEC certifies methamphetamine cleanup contractors and provides guidance on their website at <http://waste.ky.gov/SFB/MethLabCleanup/Pages/default.aspx>.
- EEC sends the homeowner a list of certified contractors and information about the decontamination process, as well as a copy of the assessment tool.
- EEC developed standards for decontamination that will vary with the tier level assigned by law enforcement.
- EEC notifies the health department when a property has been decontaminated and released from posting.

Cabinet for Health and Family Services Responsibilities

- DPH will act as a liaison between LHD's, KSP and EEC when questions or concerns arise.
- CHFS will keep copies of all records forwarded to them involving a methamphetamine posting and release.
- Appeals may be filed by the homeowner listed on the deed by requesting an administrative hearing through the Commissioner of Public Health, 275 East Main Street, Frankfort, Kentucky 40621, within 30 days of the posting.

Methamphetamine-Contaminated Properties Posted Prior to July 15, 2008

- The law is not retroactive, so properties posted prior to the effective date of the statutory changes are not subject to any of the criminal penalties or disclosure requirements contained within the law.
- Properties that had been posted shall remain posted; however, the LHD shall make no effort to continue quarantines placed upon the property or to impede reentry into the property.

- Owners of property posted prior to July 15, 2008, have no statutory right to appeal the posting, but they may be referred to the Cabinet for Health and Family Services for a case-by-case review of their request.

Other Items of Note

- Contact Jennifer Burt with the Public Safety Branch if law enforcement or LHD's need more methamphetamine contamination warning signs.
- LHD staff should not remove signage themselves, but only notify owners that it can be removed.
- LHD staff should not repost homes themselves, but alert the law enforcement agency that originally posted the property since this is a Class A misdemeanor.

Contacts

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Department of Community Based Services Hotline
1-877-597-2331