

ARTICLE 38. INSPECTION AND CLEANUP OF PROPERTY CONTAMINATED WITH CHEMICALS USED IN THE ILLEGAL MANUFACTURE OF A CONTROLLED SUBSTANCE

Rule 1. General

410 IAC 38-1-1 Applicability

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4
Affected: IC 6-1.1-25-4.1; IC 16-19-3.1

Sec. 1. This article applies to the following:

- (1) The owner of a contaminated property as defined in 410 IAC 38-2-18.
- (2) A person who applies to be listed or who is listed by the department as qualified to inspect and clean up contaminated property.
- (3) A person who cleans up contaminated property under this article.
- (4) A county that takes possession of a contaminated property in accordance with IC 6-1.1-25-4.1.

(Indiana Department of Health; 410 IAC 38-1-1; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; errata filed Jun 22, 2018, 10:19 a.m.: 20180704-IR-410180270ACA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA) NOTE: Transferred from the Department of Environmental Management (318 IAC 1-1-1) to the Indiana State Department of Health (410 IAC 38-1-1) by P.L.111-2018, SECTION 17, effective July 1, 2018.

Rule 2. Definitions

410 IAC 38-2-1 Applicability

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4
Affected: IC 13-11; IC 16-19-3.1

Sec. 1. The definitions in IC 13-11 and this rule apply throughout this article. *(Indiana Department of Health; 410 IAC 38-2-1; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA) NOTE: Transferred from the Department of Environmental Management (318 IAC 1-2-1) to the Indiana State Department of Health (410 IAC 38-2-1) by P.L.111-2018, SECTION 17, effective July 1, 2018.*

410 IAC 38-2-2 "ASTM D 5756-02" defined

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4
Affected: IC 16-19-3.1

Sec. 2. "ASTM D 5756-02" means ASTM D 5756-02, "Standard Test Method for Microvacuum Sampling and Indirect Analysis of Dust by Transmission Electron Microscopy for Asbestos Mass Surface Loading", available from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428-2959. *(Indiana Department of Health; 410 IAC 38-2-2; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; errata filed Mar 29, 2007, 8:34 a.m.: 20070411-IR-318060125ACA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA) NOTE: Transferred from the Department of Environmental Management (318 IAC 1-2-2) to the Indiana State Department of Health (410 IAC 38-2-2) by P.L.111-2018, SECTION 17, effective July 1, 2018.*

410 IAC 38-2-3 "ASTM D 6661-01" defined

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4
Affected: IC 16-19-3.1

Sec. 3. "ASTM D 6661-01" means ASTM D 6661-01, "Standard Practice for Field Collection of Organic Compounds from

INSPECTION AND CLEANUP OF PROPERTY CONTAMINATED WITH CHEMICALS USED IN THE ILLEGAL MANUFACTURE OF A CONTROLLED SUBSTANCE

Surfaces Using Wipe Sampling", available from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428-2959. (*Indiana Department of Health; 410 IAC 38-2-3; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA*) NOTE: Transferred from the Department of Environmental Management (318 IAC 1-2-3) to the Indiana State Department of Health (410 IAC 38-2-3) by P.L.111-2018, SECTION 17, effective July 1, 2018.

410 IAC 38-2-4 "Certification" or "certify" defined

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4

Affected: IC 16-19-3.1

Sec. 4. "Certification" or "certify" means the act of stating the facts about the inspection of a contaminated property under 410 IAC 38-5 and stating in writing that the facts are true and accurate. (*Indiana Department of Health; 410 IAC 38-2-4; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; errata filed Jun 22, 2018, 10:19 a.m.: 20180704-IR-410180270ACA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA*) NOTE: Transferred from the Department of Environmental Management (318 IAC 1-2-4) to the Indiana State Department of Health (410 IAC 38-2-4) by P.L.111-2018, SECTION 17, effective July 1, 2018.

410 IAC 38-2-5 "Chemicals used in the illegal manufacture of a controlled substance" defined

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4

Affected: IC 16-19-3.1; IC 35-48-1-9; IC 35-48-1-17; IC 35-48-4-14.5

Sec. 5. "Chemicals used in the illegal manufacture of a controlled substance" means all substances used in or resulting from the illegal manufacture of controlled substances and includes the following:

- (1) Controlled substances as defined in IC 35-48-1-9.
- (2) Immediate precursors as defined in IC 35-48-1-17.
- (3) Chemical reagents and precursors as defined in IC 35-48-4-14.5.
- (4) Wastes produced from:
 - (A) the illegal manufacture of a controlled substance; or
 - (B) an immediate precursor of a controlled substance.

(*Indiana Department of Health; 410 IAC 38-2-5; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA*) NOTE: Transferred from the Department of Environmental Management (318 IAC 1-2-5) to the Indiana State Department of Health (410 IAC 38-2-5) by P.L.111-2018, SECTION 17, effective July 1, 2018.

410 IAC 38-2-6 "Clean", "cleanup", or "clean up" defined

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4

Affected: IC 9-22; IC 16-19-3.1

Sec. 6. "Clean", "cleanup", or "clean up" means actions taken after the operation used for illegal manufacture of a controlled substance has been dismantled by a law enforcement agency or its agents. Those actions include the following:

- (1) Decontamination of a structure, mobile home, vehicle, or watercraft, followed by inspection and certification of decontamination under 410 IAC 38-5.
- (2) Demolition of a structure or mobile home under 410 IAC 38-6.
- (3) Disposal of a vehicle under IC 9-22.
- (4) Destruction of a watercraft and disposal under 329 IAC 10.

(*Indiana Department of Health; 410 IAC 38-2-6; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; errata filed Jun 22, 2018, 10:19 a.m.: 20180704-IR-410180270ACA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA*) NOTE: Transferred from the Department of Environmental Management (318 IAC 1-2-6) to the Indiana State Department of Health (410 IAC 38-2-6) by P.L.111-2018, SECTION 17, effective

INSPECTION AND CLEANUP OF PROPERTY CONTAMINATED WITH CHEMICALS USED IN THE ILLEGAL
MANUFACTURE OF A CONTROLLED SUBSTANCE

July 1, 2018.

410 IAC 38-2-7 "Commissioner" defined

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4
Affected: IC 16-18-2-340; IC 16-19-3.1

Sec. 7. "Commissioner" has the meaning set forth in IC 16-18-2-340 and means the commissioner of the department. (*Indiana Department of Health; 410 IAC 38-2-7; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; errata filed Jun 22, 2018, 10:19 a.m.: 20180704-IR-410180270ACA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA*) NOTE: Transferred from the Department of Environmental Management (318 IAC 1-2-7) to the Indiana State Department of Health (410 IAC 38-2-7) by P.L.111-2018, SECTION 17, effective July 1, 2018.

410 IAC 38-2-8 "Contaminated property" defined

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4
Affected: IC 5-2-15; IC 6-6-5-1; IC 9-13-2-196; IC 9-13-2-198.5; IC 10-11-8-2; IC 13-11-2-42; IC 16-19-3.1; IC 36-7-9

Sec. 8. (a) "Contaminated property" means real property, a vehicle as defined in IC 9-13-2-196, a mobile home as defined in IC 6-6-5-1, or a watercraft as defined in IC 9-13-2-198.5 that has been used for the illegal manufacture of a controlled substance.

(b) For an apartment building, multifamily dwelling, condominium, hotel, or motel, the term is limited to the unit that was identified by the law enforcement agency as having been used for the illegal manufacture of a controlled substance if all of the following are true:

(1) The entry to the unit is located on the:

(A) outside of the structure; or

(B) interior of the structure and is closed by a fire door assembly.

(2) The unit has no other opening to another unit or space.

(3) The heating, ventilating, and air conditioning system for that unit is enclosed within that unit and is separate from the heating, ventilating, and air conditioning system of any other unit, except for:

(A) a hot water boiler that serves more than one (1) unit in the structure; or

(B) an air conditioning condenser located outside the structure.

(c) The property is not a contaminated property if the law enforcement agency that identifies the property as having been used for the illegal manufacture of a controlled substance determines that:

(1) the process used to manufacture the controlled substance has not been started;

(2) all chemicals to be used in the illegal manufacture of the controlled substance have been removed; and

(3) no contamination related to the illegal manufacture of a controlled substance is present.

(d) The term includes any areas outside a structure that were used for the disposal of chemicals used in the illegal manufacture of a controlled substance.

(e) A property is no longer a contaminated property when the certificate of decontamination prepared under 410 IAC 38-5-9 for that property has been issued or the activities required by 410 IAC 38-6-2 have been completed. (*Indiana Department of Health; 410 IAC 38-2-8; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; errata filed Jun 22, 2018, 10:19 a.m.: 20180704-IR-410180270ACA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA*) NOTE: Transferred from the Department of Environmental Management (318 IAC 1-2-8) to the Indiana State Department of Health (410 IAC 38-2-8) by P.L.111-2018, SECTION 17, effective July 1, 2018.

410 IAC 38-2-9 "Contamination" or "contaminant" defined

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4
Affected: IC 13-11-2-42; IC 16-19-3.1

Sec. 9. "Contamination" or "contaminant" has the meaning set forth at IC 13-11-2-42. (*Indiana Department of Health; 410 IAC 38-2-9; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-*

INSPECTION AND CLEANUP OF PROPERTY CONTAMINATED WITH CHEMICALS USED IN THE ILLEGAL MANUFACTURE OF A CONTROLLED SUBSTANCE

318130240RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA) NOTE: Transferred from the Department of Environmental Management (318 IAC 1-2-9) to the Indiana State Department of Health (410 IAC 38-2-9) by P.L.111-2018, SECTION 17, effective July 1, 2018.

410 IAC 38-2-10 "Decontaminate" or "decontamination" defined

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4

Affected: IC 16-19-3.1

Sec. 10. "Decontaminate" or "decontamination" means removal of chemicals used in the illegal manufacture of a controlled substance from a contaminated property that occurs after the operation used for illegal manufacture of a controlled substance has been dismantled by a law enforcement agency or its agents. Decontamination may include either or both of the following:

(1) Reduction of the level of the controlled substance to or below the final decontamination levels listed in 410 IAC 38-5-2, Table 1.

(2) Removal of all potentially contaminated materials under 410 IAC 38-5-4.

(Indiana Department of Health; 410 IAC 38-2-10; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; errata filed Jun 22, 2018, 10:19 a.m.: 20180704-IR-410180270ACA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA) NOTE: Transferred from the Department of Environmental Management (318 IAC 1-2-10) to the Indiana State Department of Health (410 IAC 38-2-10) by P.L.111-2018, SECTION 17, effective July 1, 2018.

410 IAC 38-2-11 "Department" defined

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4

Affected: IC 16-19-3.1; IC 35-48-1-9

Sec. 11. "Department" has the meaning set forth in [sic] means the Indiana department of health. (Indiana Department of Health; 410 IAC 38-2-11; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; errata filed Jun 22, 2018, 10:19 a.m.: 20180704-IR-410180270ACA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA; errata filed Jul 28, 2021, 3:27 p.m.: 20210811-IR-410210332ACA) NOTE: Transferred from the Department of Environmental Management (318 IAC 1-2-11) to the Indiana State Department of Health (410 IAC 38-2-11) by P.L.111-2018, SECTION 17, effective July 1, 2018.

410 IAC 38-2-12 "Equivalent method or practice" defined

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4

Affected: IC 16-19-3.1; IC 35-48-1-9

Sec. 12. "Equivalent method or practice" means a method or practice other than the required method or practice that:

(1) provides equivalent accuracy, reliability and documentation; and

(2) has been accepted by the commissioner.

(Indiana Department of Health; 410 IAC 38-2-12; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA) NOTE: Transferred from the Department of Environmental Management (318 IAC 1-2-12) to the Indiana State Department of Health (410 IAC 38-2-12) by P.L.111-2018, SECTION 17, effective July 1, 2018.

410 IAC 38-2-13 "Illegally manufactured controlled substance" defined

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4

Affected: IC 16-19-3.1; IC 35-48-1-9

Sec. 13. "Illegally manufactured controlled substance" means a controlled substance, as defined in IC 35-48-1-9, that has been illegally manufactured. (Indiana Department of Health; 410 IAC 38-2-13; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-

INSPECTION AND CLEANUP OF PROPERTY CONTAMINATED WITH CHEMICALS USED IN THE ILLEGAL
MANUFACTURE OF A CONTROLLED SUBSTANCE

318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA) NOTE: Transferred from the Department of Environmental Management (318 IAC 1-2-13) to the Indiana State Department of Health (410 IAC 38-2-13) by P.L.111-2018, SECTION 17, effective July 1, 2018.

410 IAC 38-2-14 "Inspect" or "inspection" defined

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4

Affected: IC 16-19-3.1

Sec. 14. (a) "Inspect" or "inspection" means the activities conducted to confirm that the property meets the decontamination levels in 410 IAC 38-5-2, Table 1, or to confirm that decontamination is not required. These activities are regulated by 410 IAC 38-5 and include the following:

- (1) Sampling.
- (2) Analysis by an independent laboratory.
- (3) Reporting of laboratory results.
- (b) The term does not include activities of any of the following:
 - (1) State and local law enforcement agencies.
 - (2) Hazardous materials responders.
 - (3) Local health departments.

(Indiana Department of Health; 410 IAC 38-2-14; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; errata filed Jun 22, 2018, 10:19 a.m.: 20180704-IR-410180270ACA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA) NOTE: Transferred from the Department of Environmental Management (318 IAC 1-2-14) to the Indiana State Department of Health (410 IAC 38-2-14) by P.L.111-2018, SECTION 17, effective July 1, 2018.

410 IAC 38-2-15 "Law enforcement agency" defined

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4

Affected: IC 10-11-8-2; IC 16-19-3.1

Sec. 15. "Law enforcement agency" has the meaning set forth in IC 10-11-8-2. (Indiana Department of Health; 410 IAC 38-2-15; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA) NOTE: Transferred from the Department of Environmental Management (318 IAC 1-2-15) to the Indiana State Department of Health (410 IAC 38-2-15) by P.L.111-2018, SECTION 17, effective July 1, 2018.

410 IAC 38-2-16 "Manufacture" defined

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4

Affected: IC 16-19-3.1; IC 35-48-1-18

Sec. 16. "Manufacture" has the meaning set forth in IC 35-48-1-18. (Indiana Department of Health; 410 IAC 38-2-16; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA) NOTE: Transferred from the Department of Environmental Management (318 IAC 1-2-16) to the Indiana State Department of Health (410 IAC 38-2-16) by P.L.111-2018, SECTION 17, effective July 1, 2018.

410 IAC 38-2-17 "Method 8270C" defined

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4

Affected: IC 16-19-3.1

Sec. 17. "Method 8270C" means Method 8270C, "Semivolatile Organic Compounds by Gas Chromatography/Mass

INSPECTION AND CLEANUP OF PROPERTY CONTAMINATED WITH CHEMICALS USED IN THE ILLEGAL
MANUFACTURE OF A CONTROLLED SUBSTANCE

Spectroscopy", from "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", U.S. Environmental Protection Agency Publication SW-846, Third Edition (November 1986), Revision 3 (December 1996), available from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, (202) 783-3238. (*Indiana Department of Health; 410 IAC 38-2-17; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA*) NOTE: Transferred from the Department of Environmental Management (318 IAC 1-2-17) to the Indiana State Department of Health (410 IAC 38-2-17) by P.L.111-2018, SECTION 17, effective July 1, 2018.

410 IAC 38-2-18 "Owner of the contaminated property" defined

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4

Affected: IC 16-19-3.1; IC 35-48-1-18

Sec. 18. "Owner of the contaminated property" means either of the following:

(1) A person having an ownership interest in the contaminated property.

(2) An agent of a person having an ownership interest in the contaminated property.

(*Indiana Department of Health; 410 IAC 38-2-18; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA*) NOTE: Transferred from the Department of Environmental Management (318 IAC 1-2-18) to the Indiana State Department of Health (410 IAC 38-2-18) by P.L.111-2018, SECTION 17, effective July 1, 2018.

410 IAC 38-2-19 "Person" defined

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4

Affected: IC 13-11-2-158; IC 16-19-3.1

Sec. 19. "Person" has the meaning set forth at IC 13-11-2-158(a). (*Indiana Department of Health; 410 IAC 38-2-19; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA*) NOTE: Transferred from the Department of Environmental Management (318 IAC 1-2-19) to the Indiana State Department of Health (410 IAC 38-2-19) by P.L.111-2018, SECTION 17, effective July 1, 2018.

410 IAC 38-2-20 "Qualified inspector" defined

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4

Affected: IC 13-11-2-158; IC 16-19-3.1

Sec. 20. "Qualified inspector" means a person who has been placed on the qualified inspector list. (*Indiana Department of Health; 410 IAC 38-2-20; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA*) NOTE: Transferred from the Department of Environmental Management (318 IAC 1-2-20) to the Indiana State Department of Health (410 IAC 38-2-20) by P.L.111-2018, SECTION 17, effective July 1, 2018.

410 IAC 38-2-21 "Qualified inspector list" defined

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4

Affected: IC 13-11-2-158; IC 16-19-3.1

Sec. 21. "Qualified inspector list" means the list of persons that the department has determined to be qualified to carry out the duties described in 410 IAC 38-5-1 for qualified inspectors. (*Indiana Department of Health; 410 IAC 38-2-21; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; errata filed Jun 22, 2018, 10:19 a.m.: 20180704-IR-410180270ACA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA*) NOTE: Transferred from the Department of Environmental Management (318 IAC 1-2-21) to the Indiana State Department of

Health (410 IAC 38-2-21) by P.L.111-2018, SECTION 17, effective July 1, 2018.

Rule 3. Responsibilities of the Owner of Contaminated Property

410 IAC 38-3-1 Applicability

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4

Affected: IC 6-1.1-25-4.1; IC 9-22; IC 13-14-8-8; IC 16-19-3; IC 16-19-3.1; IC 16-20-1; IC 16-41-20

Sec. 1. (a) This rule applies to the owner of any of the following properties that meet the definition of a contaminated property:

- (1) Single or multiple family residences.
 - (2) Mobile homes.
 - (3) Hotels or motels.
 - (4) Businesses.
 - (5) Vehicles.
 - (6) Watercraft.
 - (7) Rental storage units.
 - (8) Outbuildings that are readily accessible to children.
- (b) This rule does not apply to any of the following:
- (1) Property that is not described in subsection (a).
 - (2) Waste collection containers.

(Indiana Department of Health; 410 IAC 38-3-1; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA) NOTE: Transferred from the Department of Environmental Management (318 IAC 1-3-1) to the Indiana State Department of Health (410 IAC 38-3-1) by P.L.111-2018, SECTION 17, effective July 1, 2018.

410 IAC 38-3-2 Cleanup required

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4

Affected: IC 6-1.1-25-4.1; IC 9-22; IC 13-14-8-8; IC 16-19-3; IC 16-19-3.1; IC 16-20-1; IC 16-41-20

Sec. 2. (a) The owner of the contaminated property shall clean up the contaminated property as required by this article before:

- (1) continuing to occupy or use the property;
 - (2) reoccupying or reusing the property;
 - (3) allowing the property to be reoccupied or reused; or
 - (4) transferring any interest in the property to another person.
- (b) The owner of the contaminated property may use any of the following to clean up the contaminated property:
- (1) Decontamination of the property or removal of all potentially contaminated material.
 - (2) Demolition of a structure.
 - (3) Disposal of a vehicle
 - (4) Destruction and disposal of a watercraft.

(Indiana Department of Health; 410 IAC 38-3-2; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA) NOTE: Transferred from the Department of Environmental Management (318 IAC 1-3-2) to the Indiana State Department of Health (410 IAC 38-3-2) by P.L.111-2018, SECTION 17, effective July 1, 2018.

410 IAC 38-3-3 Qualified inspector; when required

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4

Affected: IC 16-19-3.1

Sec. 3. The owner of contaminated property who cleans up that property using decontamination shall retain a qualified

INSPECTION AND CLEANUP OF PROPERTY CONTAMINATED WITH CHEMICALS USED IN THE ILLEGAL
MANUFACTURE OF A CONTROLLED SUBSTANCE

inspector from the list of qualified inspectors to carry out the duties listed in 410 IAC 38-5-1. (*Indiana Department of Health; 410 IAC 38-3-3; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; errata filed Jun 22, 2018, 10:19 a.m.: 20180704-IR-410180270ACA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA*) NOTE: Transferred from the Department of Environmental Management (318 IAC 1-3-3) to the Indiana State Department of Health (410 IAC 38-3-3) by P.L.111-2018, SECTION 17, effective July 1, 2018.

410 IAC 38-3-4 Contaminated property in the possession of a county

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4

Affected: IC 6-1.1-25-4.1; IC 16-19-3.1

Sec. 4. (a) A county may take possession of a contaminated property in accordance with IC 6-1.1-25-4.1 without complying with this rule, unless that property is, or will be, occupied while in the possession of the county.

(b) A county may transfer a contaminated property in accordance with IC 6-1.1-25-4.1 without complying with this rule if the county notifies the person who receives the tax deed to the property that the property is a contaminated property. The person who receives the tax deed to a contaminated property under IC 6-1.1-25-4.1 must comply with this rule. (*Indiana Department of Health; 410 IAC 38-3-4; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA*) NOTE: Transferred from the Department of Environmental Management (318 IAC 1-3-4) to the Indiana State Department of Health (410 IAC 38-3-4) by P.L.111-2018, SECTION 17, effective July 1, 2018.

410 IAC 38-3-5 Decontamination by the owner of the contaminated property

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4

Affected: IC 16-19-3.1

Sec. 5. (a) The owner of a contaminated property shall not decontaminate property controlled by that person unless the decontamination is done under the supervision of a qualified inspector.

(b) The owner of a contaminated property shall not issue a certificate of decontamination under 410 IAC 38-5-9 for property owned or controlled by that person. (*Indiana Department of Health; 410 IAC 38-3-5; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; errata filed Jun 22, 2018, 10:19 a.m.: 20180704-IR-410180270ACA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA*) NOTE: Transferred from the Department of Environmental Management (318 IAC 1-3-5) to the Indiana State Department of Health (410 IAC 38-3-5) by P.L.111-2018, SECTION 17, effective July 1, 2018.

Rule 4. Listing by the Department as a Qualified Inspector

410 IAC 38-4-1 Who must be listed as a qualified inspector

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4

Affected: IC 16-19-3.1

Sec. 1. (a) A person who issues a certificate of decontamination under 410 IAC 38-5-9 for a contaminated property must be listed on the qualified inspector list.

(b) A person who decontaminates a contaminated property under the supervision of a qualified inspector is not required to be listed on the qualified inspector list. (*Indiana Department of Health; 410 IAC 38-4-1; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; errata filed Jun 22, 2018, 10:19 a.m.: 20180704-IR-410180270ACA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA*) NOTE: Transferred from the Department of Environmental Management (318 IAC 1-4-1) to the Indiana State Department of Health (410 IAC 38-4-1) by P.L.111-2018, SECTION 17, effective July 1, 2018.

INSPECTION AND CLEANUP OF PROPERTY CONTAMINATED WITH CHEMICALS USED IN THE ILLEGAL
MANUFACTURE OF A CONTROLLED SUBSTANCE

410 IAC 38-4-2 Criteria for listing

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4
Affected: IC 16-19-3.1

Sec. 2. (a) A qualified inspector must meet all of the criteria in this section.

(b) A qualified inspector shall have accumulated at least forty (40) hours of experience doing any of the following:

(1) Decontaminating contaminated properties.

(2) Emergency response operations, cleanup or remediation operations, corrective actions, or operations involving hazardous wastes that are regulated under the regulations of the federal Occupational Safety and Health Administration at 29 CFR 1910.120.

(c) A qualified inspector shall have received the training for supervisors required by the regulations of the federal Occupational Safety and Health Administration at 29 CFR 1910.120(e).

(d) A qualified inspector shall have done all of the following:

(1) Received training on decontamination and inspection of contaminated property provided by the department.

(2) Passed an examination on the subject matter of the training provided by the department with a score of at least eighty percent (80%).

(e) To remain on the qualified inspector list, each qualified inspector shall receive all of the following refresher training:

(1) Eight (8) hour annual refresher training that meets the requirements of the regulations of the federal Occupational Safety and Health Administration at 29 CFR 1910.120(e)(8).

(2) Biennial refresher training provided by the department.

(f) Each qualified inspector shall maintain the following insurance:

(1) Professional liability insurance in the amount of at least one million dollars (\$1,000,000).

(2) Errors and omissions insurance in the amount of at least one million dollars (\$1,000,000) per occurrence.

(3) Pollution prevention insurance in the amount of at least three million dollars (\$3,000,000).

(Indiana Department of Health; 410 IAC 38-4-2; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA) NOTE: Transferred from the Department of Environmental Management (318 IAC 1-4-2) to the Indiana State Department of Health (410 IAC 38-4-2) by P.L.111-2018, SECTION 17, effective July 1, 2018.

410 IAC 38-4-3 Application to be listed on the qualified inspector list

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4
Affected: IC 16-19-3.1

Sec. 3. (a) A person who wishes to be listed on the qualified inspector list must apply to the department in writing. The application may be in any form but must include all of the following information:

(1) Full name, address, telephone, and electronic mail contact information.

(2) Copies of documents showing the applicant meets all criteria in section 2 of this rule.

(3) Complete information showing how the person should be described on the qualified inspector list.

(b) The application must be mailed or delivered to the Indiana Department of Health, Environmental Public Health, Room N855, 100 North Senate Avenue, Indianapolis, Indiana 46204-2251. *(Indiana Department of Health; 410 IAC 38-4-3; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; errata filed Jun 22, 2018, 10:19 a.m.: 20180704-IR-410180270ACA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA; errata filed Jul 28, 2021, 3:27 p.m.: 20210811-IR-410210332ACA) NOTE: Transferred from the Department of Environmental Management (318 IAC 1-4-3) to the Indiana State Department of Health (410 IAC 38-4-3) by P.L.111-2018, SECTION 17, effective July 1, 2018.*

410 IAC 38-4-4 Qualified inspector list

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4
Affected: IC 16-19-3.1

INSPECTION AND CLEANUP OF PROPERTY CONTAMINATED WITH CHEMICALS USED IN THE ILLEGAL
MANUFACTURE OF A CONTROLLED SUBSTANCE

Sec. 4. (a) The department will maintain a current list of all persons who have been found by the department to have met the requirements of section 2 of this rule.

(b) The purpose of the qualified inspector list is to allow owners of contaminated properties, local health departments, and other persons to:

- (1) locate qualified inspectors; and
- (2) verify that a person is qualified to inspect and clean up contaminated properties.
- (c) Listing of a person on the qualified inspector list does not convey a property right.
- (d) The qualified inspector list will be available to the public as follows:

(1) In person or by mail at Indiana Department of Health, Environmental Public Health, Room N855, 100 North Senate Avenue, Indianapolis, Indiana 46204-2251.

(2) By telephone at (317) 233-7173 in Indiana.

(3) Electronically on the department's Web site at <http://www.in.gov/isdh/>.

(e) The department will review each application for completeness. When the person or persons identified in the application have demonstrated that all criteria of this rule have been met, the department will place that person or persons on the qualified inspector list.

(f) The department will remove a person from the qualified inspector list who submits a written request for removal from the list to the address in section 3(b) of this rule.

(g) The department may remove a person from the qualified inspector list if the person demonstrates a failure to meet one (1) or more of the requirements of this article.

(h) The department may return a person to the qualified inspector list when the condition that caused the department to remove that person from the list has been corrected. (*Indiana Department of Health; 410 IAC 38-4-4; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; errata filed Jun 22, 2018, 10:19 a.m.: 20180704-IR-410180270ACA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA; errata filed Jul 28, 2021, 3:27 p.m.: 20210811-IR-410210332ACA*) NOTE: Transferred from the Department of Environmental Management (318 IAC 1-4-4) to the Indiana State Department of Health (410 IAC 38-4-4) by P.L.111-2018, SECTION 17, effective July 1, 2018.

410 IAC 38-4-5 Decontamination by a person not listed on the qualified inspector list prohibited

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4

Affected: IC 16-19-3.1

Sec. 5. (a) A person who is not listed by the department on the qualified inspector list shall not:

- (1) supervise decontamination of a contaminated property;
- (2) inspect a contaminated property;
- (3) issue a certificate of decontamination; or
- (4) advertise to decontaminate contaminated properties.

(b) A certificate of decontamination issued by a person who is not listed by the department on the qualified inspector list is not valid to certify decontamination of a contaminated property. (*Indiana Department of Health; 410 IAC 38-4-5; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA*) NOTE: Transferred from the Department of Environmental Management (318 IAC 1-4-5) to the Indiana State Department of Health (410 IAC 38-4-5) by P.L.111-2018, SECTION 17, effective July 1, 2018.

Rule 5. Inspection and Decontamination of Contaminated Property

410 IAC 38-5-1 Duties of a qualified inspector

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4

Affected: IC 5-2-15; IC 16-19-3.1

Sec. 1. A qualified inspector shall do all of the following:

- (1) Review the Indiana State Police Methamphetamine Laboratory Occurrence Report prepared by the law enforcement agency

INSPECTION AND CLEANUP OF PROPERTY CONTAMINATED WITH CHEMICALS USED IN THE ILLEGAL MANUFACTURE OF A CONTROLLED SUBSTANCE

under IC 5-2-15 relevant to that property.

(2) Consult with the law enforcement agency that terminated the laboratory and the local health department to determine the types of chemicals used in the illegal manufacture of a controlled substance that may reasonably be expected to be present.

(3) Conduct an initial assessment of the contaminated property to determine the following:

(A) The types and levels of chemicals used in the illegal manufacture of a controlled substance present.

(B) The scope and extent of the decontamination, if any, that will be required to achieve the final decontamination levels listed in Table 1 of section 2(d) of this rule.

This assessment must cover the entire contaminated property and areas outside a structure that may have been used for disposal of chemicals used in the illegal manufacture of a controlled substance including contamination in the septic system or sewage disposal system.

(4) Notify all of the following in writing that decontamination will be conducted at that location and the date that decontamination will begin:

(A) The local health department.

(B) Indiana Department of Health, Environmental Public Health, Room N855, 100 North Senate Avenue, Indianapolis, IN 46204.

(5) Supervise decontamination of the property, including the septic system and sewage disposal system.

(6) Notify the person who pumps out the septic system that the property was used for illegal manufacture of a controlled substance, including a warning about the hazards that may be expected when cleaning the septic system.

(7) Follow the procedure in section 3 of this rule if contamination is found outside the structure.

(8) Inspect the contaminated property in accordance with this rule:

(A) when decontamination is complete; or

(B) if the initial assessment required by subdivision (3) shows that decontamination is not required;

to determine that the levels of contamination are below the levels listed in Table 1 of section 2(d) of this rule.

(9) When the levels of contamination have been determined to be equal to or lower than the levels listed in Table 1 of section 2(d) of this rule, certify in accordance with section 9 of this rule that:

(A) the property has been decontaminated; and

(B) the levels of chemicals used in the illegal manufacture of a controlled substance that were found at the property are equal to or lower than the decontamination levels listed in Table 1 of section 2(d) of this rule.

(10) Dispose or arrange for disposal of wastes resulting from decontamination in accordance with the following:

(A) 329 IAC 3.1 for hazardous wastes.

(B) 327 IAC 7.1 for wastewater from a septic system.

(C) 329 IAC 10 for all other wastes resulting from decontamination.

(Indiana Department of Health; 410 IAC 38-5-1; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; errata filed Jun 22, 2018, 10:19 a.m.: 20180704-IR-410180270ACA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA; errata filed Jul 28, 2021, 3:27 p.m.: 20210811-IR-410210332ACA)

NOTE: Transferred from the Department of Environmental Management (318 IAC 1-5-1) to the Indiana State Department of Health (410 IAC 38-5-1) by P.L.111-2018, SECTION 17, effective July 1, 2018.

410 IAC 38-5-2 Inspection of contaminated property following decontamination

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4

Affected: IC 16-19-3.1

Sec. 2. (a) Before issuing a certificate of decontamination, the qualified inspector shall inspect the contaminated property for the chemicals listed in Table 1 that are determined to be present during the review of law enforcement reports and the assessment required by section 1(1) through 1(3) of this rule.

(b) The qualified inspector shall use the sampling procedures in this rule.

(c) Analysis for the contaminants listed in Table 1 must use:

(1) Method 8270C; or

(2) an equivalent method or practice.

INSPECTION AND CLEANUP OF PROPERTY CONTAMINATED WITH CHEMICALS USED IN THE ILLEGAL MANUFACTURE OF A CONTROLLED SUBSTANCE

(d) The qualified inspector shall determine if the levels of chemicals listed in Table 1 that were identified during the initial assessment performed under section 1(3) of this rule are equal to or lower than the decontamination levels in Table 1.

Table 1.

Chemical	Chemical Abstract Service Registry Number	Final Decontamination Level
Methamphetamine	7632-10-2 or 537-46-2	0.5 µg/100 cm ²
Amphetamine	300-62-9	0.5 µg/100 cm ²
Ephedrine	299-42-3	0.5 µg/100 cm ²
Pseudoephedrine	90-82-4	0.5 µg/100 cm ²
Methcathenone	112117-24-5	0.5 µg/100 cm ²
Lysergic acid diethylamide (LSD)	50-37-3	0.5 µg/100 cm ²
3,4-methylenedioxy-methamphetamine (MDMA) (Ecstasy)	(No CAS number)	0.5 µg/100 cm ²
Phencyclidine (PCP)	60124-79-0	0.5 µg/100 cm ²
Gamma hydroxybutyrate (GHB)	591-81-1	0.5 µg/100 cm ²

¹ An alternate final decontamination level may be used for a specific contaminated property if that alternate level is based on the levels of chemicals found during the initial assessment required by section 1 of this rule and the planned reuse of the property is at least as protective of human health as the corresponding final decontamination level and is accepted by the commissioner.

(e) All sample analysis must be conducted by an independent laboratory. (*Indiana Department of Health; 410 IAC 38-5-2; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA*) NOTE: Transferred from the Department of Environmental Management (318 IAC 1-5-2) to the Indiana State Department of Health (410 IAC 38-5-2) by P.L.111-2018, SECTION 17, effective July 1, 2018.

410 IAC 38-5-3 Contamination outside a contaminated structure

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4

Affected: IC 16-19-3.1

Sec. 3. If the assessment required by section 1(3) of this rule indicates that contamination exists outside the contaminated structure, the qualified inspector shall:

- (1) remove all contaminated material, including soil;
- (2) dispose of all contaminated material and soil in accordance with 329 IAC 10; and
- (3) document removal in the certificate of decontamination issued under section 9 of this rule.

(*Indiana Department of Health; 410 IAC 38-5-3; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA*) NOTE: Transferred from the Department of Environmental Management (318 IAC 1-5-3) to the Indiana State Department of Health (410 IAC 38-5-3) by P.L.111-2018, SECTION 17, effective July 1, 2018.

410 IAC 38-5-4 Removal in lieu of decontamination

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4

Affected: IC 16-19-3.1

Sec. 4. (a) Instead of having the property decontaminated to meet the decontamination levels in Table 1 of section 2 of this rule, the owner of the contaminated property may remove all potentially contaminated material from the interior of the structure or dwelling unit identified as a contaminated property.

(b) The owner of the contaminated property who removes contaminated materials in lieu of decontamination shall remove all of the following from the contaminated property:

- (1) All contents of the structure or dwelling unit and all personal property.

INSPECTION AND CLEANUP OF PROPERTY CONTAMINATED WITH CHEMICALS USED IN THE ILLEGAL MANUFACTURE OF A CONTROLLED SUBSTANCE

- (2) All plaster and lath, wallboard, and paneling covering all walls and ceilings.
 - (3) All floor covering. However, the subflooring may be left in place and sealed if there is no visible contamination present.
 - (4) All cabinets, shelves, and closet fixtures.
 - (5) All interior doors, baseboards, and moldings.
 - (6) All appliances.
 - (7) All plumbing and electrical fixtures except as provided in subsection (c).
 - (8) Window air conditioners.
 - (9) Any remaining equipment or materials used in or resulting from the illegal manufacture of a controlled substance.
- (c) The following may remain in the structure or dwelling unit if they are thoroughly washed with solvent and then washed again with detergent and water:
- (1) Exterior window assemblies.
 - (2) Exterior doors.
 - (3) Plumbing and electrical systems and light fixtures that are not enclosed in walls and ceilings.
 - (4) Recessed light fixtures.
 - (5) Ceramic or porcelain plumbing fixtures.
 - (6) Heating, ventilating, and air conditioning appliances except window air conditioners.
 - (d) Heating, ventilating, and air conditioning ductwork may remain in the structure if:
 - (1) it has been decontaminated; and
 - (2) a qualified inspector has inspected the ductwork in accordance with this rule.
 - (e) Insulation in exterior walls may remain in place if it is covered with a vapor barrier.
 - (f) Plumbing and electrical systems enclosed in walls and ceilings may remain in place without cleaning.
 - (g) Inspection of rooms or spaces where removal was done is not required if the removal was done in accordance with this section.
 - (h) Materials removed under this section must not be sold or transferred to another person.
 - (i) All materials removed under this section must be disposed of in accordance with 329 IAC 10 no more than seventy-two (72) hours after removal.
 - (j) The qualified inspector shall document removal of contaminated material under this section in the certificate of decontamination. (*Indiana Department of Health; 410 IAC 38-5-4; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA*) NOTE: Transferred from the Department of Environmental Management (318 IAC 1-5-4) to the Indiana State Department of Health (410 IAC 38-5-4) by P.L.111-2018, SECTION 17, effective July 1, 2018.

410 IAC 38-5-5 Preparation for sampling

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4
Affected: IC 13-11-2-104; IC 16-19-3.1

Sec. 5. The qualified inspector shall ensure that all of the following have been removed from the contaminated property before sampling:

- (1) Carpeting and other floor covering.
 - (2) Drapery.
 - (3) Furniture.
 - (4) Clothing.
 - (5) Paper and textiles.
 - (6) Food.
 - (7) Other household goods.
 - (8) Household hazardous waste as defined in IC 13-11-2-104.
- (*Indiana Department of Health; 410 IAC 38-5-5; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA*) NOTE: Transferred from the Department of Environmental Management (318 IAC 1-5-5) to the Indiana State Department of Health (410

INSPECTION AND CLEANUP OF PROPERTY CONTAMINATED WITH CHEMICALS USED IN THE ILLEGAL
MANUFACTURE OF A CONTROLLED SUBSTANCE

IAC 38-5-5) by P.L.111-2018, SECTION 17, effective July 1, 2018.

410 IAC 38-5-6 Number and location of required samples

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4

Affected: IC 16-19-3.1

Sec. 6. (a) Each room and space in the contaminated property shall be sampled. Except as provided in subsection (g), the qualified inspector shall collect all of the samples required by this section in accordance with ASTM D 6661-01 or another equivalent method or practice.

(b) In each room within the contaminated property, four (4) ten (10) centimeter by ten (10) centimeter areas, for a total of four hundred (400) square centimeters, shall be wipe sampled from each of the following locations:

- (1) One (1) ten (10) centimeter by ten (10) centimeter area from a location at or near the center of the floor.
- (2) One (1) ten (10) centimeter by ten (10) centimeter area from a location at or near the center of the ceiling.
- (3) One (1) ten (10) centimeter by ten (10) centimeter area from a location at or near the center of each of two (2) walls.

These four (4) wipes may be combined into one (1) sample for every room.

(c) In addition to the room samples required by subsection (b), if the contaminated property includes a kitchen, four (4) additional ten (10) centimeter by ten (10) centimeter areas, for a total of four hundred (400) square centimeters, shall be wipe sampled from each of the following:

- (1) Countertop
- (2) Sink.
- (3) Stovetop.
- (4) Floor in front of the stovetop.

If the stove or cook top has been removed, a sample shall be collected from the vent hood or, if there is no vent hood, from a cabinet in the immediate vicinity of the stove or cook top. The four (4) wipes from the kitchen may be combined into one (1) kitchen sample. Wipes from newly replaced appliances shall not be included in the sample.

(d) In addition to the room samples required by subsection (b), if the contaminated property includes a bathroom, four (4) additional ten (10) centimeter by ten (10) centimeter areas, for a total of four hundred (400) square centimeters shall be wipe sampled from each of the following in each bathroom:

- (1) Countertop.
- (2) Sink.
- (3) Toilet.
- (4) Shower or bathtub.

The four (4) wipes from each bathroom may be combined into one (1) bathroom fixture sample for each bathroom. Wipes from newly replaced fixtures shall not be included in the sample.

(e) In addition to the room samples required by subsection (b), four (4) additional ten (10) centimeter by ten (10) centimeter areas, for a total of four hundred (400) square centimeters shall be wipe sampled at four (4) different locations in the ventilation system. These four (4) wipes may be combined into one (1) sample.

(f) If the contaminated property contains any cleaned appliances, one ten (10) centimeter by ten (10) centimeter area for a total of one hundred (100) square centimeters, shall be wipe sampled from the exposed portion of each appliance. If multiple appliances are present, up to four (4) wipes may be combined into one (1) appliance sample for a total of four hundred (400) square centimeters per sample.

(g) If highly textured, coarse, or porous materials, such as concrete, brick, cloth, wood, or textured ceiling paint, are present on ceilings, walls, or floors after decontamination, those surfaces shall be:

- (1) removed;
- (2) sampled using the vacuum sampling method in ASTM D 5756-02 or another equivalent method or practice; or
- (3) sampled by removing a one hundred (100) square centimeter sample and analyzing the sample in accordance with Method 8270C or another equivalent method or practice.

(h) In addition to the samples required by subsections (b) through (g), all quality control samples required by ASTM D 6661-01, ASTM D 5756-02, Method 8270C, or another equivalent method or practice shall be obtained.

INSPECTION AND CLEANUP OF PROPERTY CONTAMINATED WITH CHEMICALS USED IN THE ILLEGAL MANUFACTURE OF A CONTROLLED SUBSTANCE

(i) The qualified inspector shall preserve and handle all samples in accordance with Method 8270C or another equivalent method or practice. (*Indiana Department of Health; 410 IAC 38-5-6; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA*) NOTE: Transferred from the Department of Environmental Management (318 IAC 1-5-6) to the Indiana State Department of Health (410 IAC 38-5-6) by P.L.111-2018, SECTION 17, effective July 1, 2018.

410 IAC 38-5-7 Laboratory analytical procedures

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4

Affected: IC 16-19-3.1

Sec. 7. The qualified inspector shall ensure that the laboratory that analyzes the samples uses Method 8270C or another equivalent method or practice, for all analysis. (*Indiana Department of Health; 410 IAC 38-5-7; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA*) NOTE: Transferred from the Department of Environmental Management (318 IAC 1-5-7) to the Indiana State Department of Health (410 IAC 38-5-7) by P.L.111-2018, SECTION 17, effective July 1, 2018.

410 IAC 38-5-8 Laboratory reports

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4

Affected: IC 16-19-3.1

Sec. 8. The qualified inspector shall:

(1) obtain from the analytical laboratory all reports and data required by:

(A) Method 8270C; or

(B) the equivalent method or practice used; and

(2) retain those reports as required by section 11 of this rule.

(*Indiana Department of Health; 410 IAC 38-5-8; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA*) NOTE: Transferred from the Department of Environmental Management (318 IAC 1-5-8) to the Indiana State Department of Health (410 IAC 38-5-8) by P.L.111-2018, SECTION 17, effective July 1, 2018.

410 IAC 38-5-9 Certificate of decontamination

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4

Affected: IC 16-19-3.1

Sec. 9. (a) When the final decontamination levels listed in Table 1 of section 2 of this rule have been met, the qualified inspector shall certify in writing that decontamination has been completed and all applicable final decontamination levels have been met. The certification must be:

(1) on the form provided by the commissioner; and

(2) signed by the qualified inspector.

(b) Within five (5) days of receiving validated reports and data from the analytical laboratory, the qualified inspector shall provide the following:

(1) The original certificate of decontamination to the owner of the contaminated property.

(2) A copy of the certificate of decontamination to all of the following:

(A) The local health department.

(B) The Indiana Department of Health, Environmental Public Health, Room N855, 100 North Senate Avenue, Indianapolis, IN 46204.

(*Indiana Department of Health; 410 IAC 38-5-9; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; errata filed Jun 22, 2018, 10:19 a.m.: 20180704-IR-410180270ACA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA; errata filed Jul 28, 2021, 3:27 p.m.: 20210811-IR-410210332ACA*)

INSPECTION AND CLEANUP OF PROPERTY CONTAMINATED WITH CHEMICALS USED IN THE ILLEGAL
MANUFACTURE OF A CONTROLLED SUBSTANCE

NOTE: Transferred from the Department of Environmental Management (318 IAC 1-5-9) to the Indiana State Department of Health (410 IAC 38-5-9) by P.L.111-2018, SECTION 17, effective July 1, 2018.

410 IAC 38-5-10 Third party validation

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4
Affected: IC 16-19-3.1

Sec. 10. Nothing in this article may be construed to prohibit independent third party validation of any records and analytical data relevant to the contaminated property. (*Indiana Department of Health; 410 IAC 38-5-10; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA*) *NOTE: Transferred from the Department of Environmental Management (318 IAC 1-5-10) to the Indiana State Department of Health (410 IAC 38-5-10) by P.L.111-2018, SECTION 17, effective July 1, 2018.*

410 IAC 38-5-11 Record retention

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4
Affected: IC 16-19-3.1

Sec. 11. The person who signs the certificate of decontamination shall make the following records and documents relevant to decontaminations and inspections performed by that person available upon request to the owner of the contaminated property, the department, the local health department, and the Indiana department of health for a period of at least five (5) years after the certificate of decontamination has been issued:

- (1) A copy of the certificate of decontamination.
- (2) All data and reports received from the laboratory that analyzes the post-decontamination samples relevant to the property.
- (3) Copies of relevant laboratory records required by the analytical method used.
- (4) Field sampling logs.

(Indiana Department of Health; 410 IAC 38-5-11; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA; errata filed Jul 28, 2021, 3:27 p.m.: 20210811-IR-410210332ACA) *NOTE: Transferred from the Department of Environmental Management (318 IAC 1-5-11) to the Indiana State Department of Health (410 IAC 38-5-11) by P.L.111-2018, SECTION 17, effective July 1, 2018.*

Rule 6. Demolition

410 IAC 38-6-1 Applicability

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4
Affected: IC 16-19-3.1

Sec. 1. A person who demolishes a contaminated property that is a structure shall comply with all requirements of this rule. (*Indiana Department of Health; 410 IAC 38-6-1; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA*) *NOTE: Transferred from the Department of Environmental Management (318 IAC 1-6-1) to the Indiana State Department of Health (410 IAC 38-6-1) by P.L.111-2018, SECTION 17, effective July 1, 2018.*

410 IAC 38-6-2 Duties of a demolition contractor

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4
Affected: IC 5-2-15; IC 16-19-3.1

Sec. 2. The demolition contractor shall do all of the following:

- (1) Review the Indiana State Police Methamphetamine Laboratory Occurrence Report prepared by the law enforcement agency

INSPECTION AND CLEANUP OF PROPERTY CONTAMINATED WITH CHEMICALS USED IN THE ILLEGAL MANUFACTURE OF A CONTROLLED SUBSTANCE

under IC 5-2-15 for that property.

- (2) Perform a visual inspection of the contaminated property to identify safety and health hazards at the property that can affect the health of persons at or near the property.
- (3) Notify the local health department of the following:
 - (A) That demolition will be conducted at that location.
 - (B) The date that demolition will begin.
- (4) Remove the septic tank or ensure the septic tank has been emptied. Notify the person who pumps out the septic system that the property was used for illegal manufacture of a controlled substance.
- (5) Protect all persons at the contaminated property from hazards identified at that property, including respiratory protection if needed.
- (6) Remove all soil that has been contaminated with chemicals used in the illegal manufacture of a controlled substance.
- (7) Prevent salvaging of materials from the contaminated property or transfer of those materials to another person.
- (8) Dispose of all materials resulting from activities under this rule in accordance with 329 IAC 10 no more than seventy-two (72) hours after demolition is completed.

(Indiana Department of Health; 410 IAC 38-6-2; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA) NOTE: Transferred from the Department of Environmental Management (318 IAC 1-6-2) to the Indiana State Department of Health (410 IAC 38-6-2) by P.L.111-2018, SECTION 17, effective July 1, 2018.

410 IAC 38-6-3 Notice that demolition has been completed

Authority: IC 4-22-2; IC 16-19-3.1-1; IC 16-19-3.1-4; IC 35-48-4

Affected: IC 16-19-3.1

Sec. 3. Not more than five (5) days after completing demolition, the demolition contractor shall notify the following in writing that demolition has been completed:

- (1) The local health department.
- (2) The Indiana Department of Health, Environmental Public Health, Room N855, 100 North Senate Avenue, Indianapolis, IN 46204.

(Indiana Department of Health; 410 IAC 38-6-3; filed Feb 21, 2007, 1:56 p.m.: 20070321-IR-318060125FRA; readopted filed Aug 5, 2013, 2:08 p.m.: 20130904-IR-318130240RFA; errata filed Jun 22, 2018, 10:19 a.m.: 20180704-IR-410180270ACA; readopted filed Nov 13, 2019, 3:14 p.m.: 20191211-IR-410190391RFA; errata filed Jul 28, 2021, 3:27 p.m.: 20210811-IR-410210332ACA) NOTE: Transferred from the Department of Environmental Management (318 IAC 1-6-3) to the Indiana State Department of Health (410 IAC 38-6-3) by P.L.111-2018, SECTION 17, effective July 1, 2018.

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