

Recommended changes to draft standard

To: Standards New Zealand Private Bag 2439 WELLINGTON Email: SNZPublicComments@mbie.govt.nz	From: (Your Name and Address) Kali Mercier Senior Advisor, Policy and Advocacy New Zealand Drug Foundation PO Box 3082 Wellington 6140	
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Title: Testing and decontamination of methamphetamine-contaminated properties		

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General comment

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Standards should not include non-labs

The Drug Foundation believes that the draft standards should restrict themselves to houses in which methamphetamine has been manufactured. It is a mistake to include properties in which methamphetamine has been used, but not manufactured.

It is undeniable that methamphetamine can be harmful to those who use it and potentially to others (especially children) who live with them. However, the health implications of living in a house in which methamphetamine has previously been smoked have not been properly assessed in our view. The standards as they are drafted will have wide-ranging negative impacts on methamphetamine users and their families, as well as on third parties, that we believe are not justified by the weight of available evidence.

No clear evidence of harm from living in a house where there has been previous methamphetamine use

The debate about the potential health dangers of living in a house in which methamphetamine has previously been smoked ('non-labs') has not arisen from concerns raised by the medical or scientific establishment, as one might expect. Instead, the public concern around this issue appears to have been driven by Housing New Zealand's 'zero

tolerance' approach to tenants taking drugs in their properties, by the media response to that, and by the methamphetamine testing and remediation industry, which has a financial interest in raising the profile of methamphetamine use as an issue.

We did not find any reports in the draft standards, nor in ESR's accompanying 'Review of Remediation Standards for Clandestine Methamphetamine Laboratories'ⁱ (the ESR review), of actual harm to any individual attributed to living in a house in which methamphetamine had previously been smoked. Almost all the research referred to in the draft standards, and in the ESR review, relates to houses that have been used as methamphetamine laboratories.

The science as we understand it is not yet sufficiently developed to convincingly describe the level of risk arising from living in a house in which methamphetamine has previously been smoked. It seems likely that this risk is quite low. We refer to the attached paperⁱⁱ by scientist Nick Kim, in which he writes:

“In a hierarchy of relative health hazards and risks, contaminated banknotes and houses where methamphetamine has been smoked *would be at the low end of any scale*. Former methamphetamine laboratories would be at the high end, as would households within which methamphetamine is still being smoked” [emphasis our own].

In fact both Nick Kim and Leo Schep, toxicologist at the National Poison's Centre, apparently judge the likely health risks of living in a house in which methamphetamine has been smoked as being comparable to living in a house in which tobacco or cannabis had previously been smokedⁱⁱⁱ. If the risk is indeed this low, then it makes no practical sense to develop a standard to cover this situation.

It is very telling that no other country appears to have implemented a standard for non-labs. If New Zealand is to be a trail-blazer in this area, the decision to do so should be based on compelling science that shows a clear risk of actual harm to occupants.

In addition, the weight that is attributed to any potential health harms must be carefully balanced against a range of other factors, including social justice and financial considerations. At the very least, research should first be undertaken on New Zealand houses to find out how widespread the supposed problem is, what level of methamphetamine is found in the average home, and what health effects are more commonly experienced by people in houses in which methamphetamine levels are high (obviously comparing for other factors such as general standard of housing). Most importantly, this research would need to tell us at what level of methamphetamine residue we can measure harm as occurring or being likely to occur. None of this research appears to have been done.

We strongly recommend that due to the lack of compelling scientific proof that a health risk currently exists, non-labs be removed from the draft standards.

Instead, we recommend adding the following paragraph in the introduction:

“This Standard applies solely to houses in which there is clear evidence that methamphetamine has been manufactured. Where this evidence does not exist, no testing, decontamination or remediation action is required. No clear evidence currently exists that living in a house in which methamphetamine has previously been smoked is a cause for concern.”

Evidence of actual and provable harm is all the more essential because of the wide-ranging negative impacts likely from this standard

The ESR review make plain that setting a reference dose level for methamphetamine is not straight forward and is open to a range of variables which could skew the final figure settled on by orders of magnitude. They have chosen a conservative threshold level for the standards, below which no plausible health risk exists for the most vulnerable person living in the premises long-term.

Nick Kim's quite different conclusions show that scientific consensus about a safe level of exposure to methamphetamine does not yet exist^{iv}:

"Surface methamphetamine loadings in the range 0.5-1.5 µg/100 cm² represent levels at which risk is neither appreciable nor quantifiable. In my opinion, the lowest surface loading with the potential for a remotely plausible health effect in infants (the most sensitive receptor group) from daily exposure is about 12.5 µg/100 cm². This is 25 times higher than the currently recommended New Zealand guideline for remediation of methamphetamine laboratory sites; and just over 8 times higher than the health-protective 1.5 µg/100 cm² guideline that is used in California (and some other US States). My view is therefore that exceedance of a methamphetamine surface loading of 0.5 µg/100 cm² by up to 25 times does not denote the onset of any plausible health risk. All that can be said is that an intentionally conservative and protective guideline value has been exceeded."

Dr Kim further points out that the level of 12.5 µg/100 cm² he has quoted represents only about 1/46th of the lowest dose used in cases where methamphetamine is *intentionally* prescribed for the treatment of ADHD in six year olds. Given this widely different conclusion, we find it extraordinary that the draft standards recommend decontamination of non-lab houses that show levels above 1.5 or 2.0 µg/100 cm².

In houses where methamphetamine has been manufactured, a cautious approach is no doubt warranted due to the other poisonous chemicals involved in the manufacturing process, many of which have known and serious negative health effects. However, an overly conservative and cautious approach is not appropriate in the case of non-labs, because of the serious impacts that adopting such a policy is certain to have on people's lives and livelihoods.

If non-labs are to be included in the standards (we think they should not be), then a more balanced approach should be taken in setting the threshold levels, weighing up the risks and benefits across a range of factors. These factors encompass social justice, human rights and financial impacts, such as:

- The trauma of being removed from a home and of having personal possessions destroyed is likely to be significant, and could well be catastrophic for already vulnerable people - especially children. The effects could be compared to having one's house burn down with all the possessions in it. The trauma and powerlessness experienced by tenants on the receiving end will be made worse by the fact that someone is in charge of making the decision about whether it should happen or not, and they may be afforded no influence, or chance to appeal their decision.
- The effect of having to vacate a house (probably permanently, when the tenant is not the landlord) on individuals and families can include issues such as loss of employment, disruption of schooling with long-term implications, disruption of the family unit and of important social networks, homelessness, and long-term negative impacts on physical and mental health. These effects are likely to be exacerbated for those who are struggling with addiction.
- The cost of moving out of a property and having possessions destroyed is likely to run into the tens of thousands of dollars in many cases, especially for families who are not well-off, or who are under-insured. This figure will be even higher if the landlord passes any remediation costs on to the tenant. The resulting debt could well leave a family experiencing financial difficulties for many years.
- The cost for landlords of testing and remediating non-lab properties would be considerable, especially if testing non-labs becomes standard practise in the wake of these standards being adopted. The financial implications of the draft standards have the potential to put social and community housing associations out of business. The standards will certainly result in fewer houses being available for social tenants, and in these being available for fewer weeks per year.

If non-labs are retained in the draft standards (we prefer that they are not), a higher threshold level should be set at which decontamination or remediation becomes indicated. In setting this level the standards should:

- acknowledge that the existing science on harm and risk levels is not conclusive; and
- in a common sense way, balance considerations of social justice, human rights, and potential financial implications alongside any provable health risks.

We recommend that the remediation guidelines be redrafted to properly emphasise the balancing act that must be undertaken each time an assessor makes the decision to decontaminate a property and recommend the destruction of possessions. Every separate recommendation made in a decontamination plan should weigh up and balance a range of factors alongside an assessment of actual health risks.

In addition, tenants whose homes and possessions are at risk should be given the option to challenge the science, and to challenge the administrative decisions made by 'professionals' (mostly non-scientists) that are made on their behalf. This should apply in the case of labs and non-labs.

The decontamination guidelines should provide clear guidance and leave less to discretion

We are particularly concerned that the draft standards provide so little guidance about the level of decontamination that is needed in specific circumstances, and that no clear distinction is made between standards for labs and non-labs.

As currently drafted, the standards imply that if any measurement falls above the conservative threshold limits, a full remediation of every property and destruction of all property is called for (though reading between the lines, this can be left somewhat to the discretion of the individual assessor). The presumption towards full decontamination is particularly concerning given the conservative risk-based thresholds that have been set. To quote Nick Kim:

“Risk-based guidelines are set at levels that are so low that long-term exposure could carry no appreciable, nor quantifiable, health risk. For this reason exceeding a surface methamphetamine loading of either 0.5 $\mu\text{g}/100\text{ cm}^2$, or 1.5 $\mu\text{g}/100\text{ cm}^2$, would not denote the sudden onset of any discernible health risk. Guidelines like these are not set at values just below where a health-risk begins. They are set at values which are many times lower than the point where a health risk could become quantifiable”^v.

Given that, in the case of non-labs, health risks are not likely until levels of methamphetamine residue climb substantially above the threshold limits, we would imagine that staggered remediation guidelines would be called for. These could guide those writing decontamination plans as to what type of action is needed with varying levels of residue. We would imagine that these guidelines would set out the ranges within which, say, a sofa should be vacuumed, or destroyed, and the limit above which clothes, refrigerators or family photo albums should probably not be remediated. Further, the reason for setting these specific limits should be clearly backed up by evidence of harm, balanced against a range of other factors as discussed above.

It is essential that individual decontamination plans are science-based and tailored to specific readings in different parts of the house and on different surfaces. Guidance should be given about these differences. The remediation standards should also differ in scope for labs and non-labs, and guidance should be given on this. For example, flushing the plumbing would presumably not be indicated in a non-lab situation, and this should be clearly stated. Similarly, it is surely not necessary to destroy a child's teddy and special blanket because a level of 1.5 $\mu\text{g}/100\text{ cm}^2$ has been recorded in the lounge. And what level must residue in a bedroom reach before all clothes need to be destroyed? (And why can these not simply be washed twice in hot water, as suggested in the Minnesota Clandestine Drug Lab General Cleanup Guidance^{vi}?).

Further guidance may also be needed to explain whether, for example, furniture that has been brought into the house subsequent to the methamphetamine use should be treated the same way as items that were there when the use took place. Similarly it may be appropriate to suggest a less rigorous remediation process in a house in which no children are currently living. The ESR report indicated a reference level of 3.8 µg/100 cm² for adult females of child bearing age. Does it make sense to evacuate adults and destroy their possessions if a measurement of 1.5 µg/100 cm² is made, and no children are living in the house?

None of these decisions are straight forward and the standards remain silent on how they should be made. Presumably this is because the science is not developed enough to give clear answers. We do not believe it is appropriate to be expecting this kind of discretionary decision-making by assessors who in many cases will not be scientists, and may not understand what a risk-based guideline means in terms of developing a sensible decontamination plan.

The lack of tailored remediation guidance in the standards has potentially serious implications. One assessor may condemn an entire family's possessions because one room is found to contain threshold levels of methamphetamine, and another may recommend surface wiping and vacuuming.

We recommend that clear and evidence-based guidance is developed covering the type of scenarios raised above. If this is not possible, then non-labs should not be included in the standards at all.

The use of the word "contamination"

The draft standards define "contaminated" as "the presence of one or more contaminants at a level above those defined in this standard on a room by room basis". We refer to Nick Kim's paper^{vii}, in which he points out that in the Resource Management Act (RMA) 1991, "contaminated land" means land that has a hazardous substance in or on it that has significant adverse effects on the environment. He explains that if we were to take a similar plain language approach to defining 'contaminated' in methamphetamine houses, we would need to be reasonably confident that the hazardous substance is present at levels that are reasonably likely to cause significant adverse effects on people. He adds, "In my opinion no property at which methamphetamine has only been smoked is likely to meet the RMA definition of contaminated land, which carries the same sense of significant harm as the popular usage."

This argument underscores our comments above that methamphetamine use should not be included in these guidelines at all. It also brings up another key point about the importance of using accurate language in a standard such as this which will be referred to by a public that is already worked up about this issue.

We suggest removing the words 'contaminated houses' throughout the document where this relates to houses in which methamphetamine has only been smoked, and replacing it with "houses in which residues of methamphetamine have been found", or similar wording. The current wording is misleading and likely to lead to an understanding about harms that is out of proportion to the science.

Need to review Standard as science develops

If non-labs are retained in the Standard, we strongly recommend including a regular review date of the threshold limits and remediation guidelines within the Standard. This would take into account the fact that the science is extremely underdeveloped in terms of assessing health risks. We would also call for investment into research on how living in houses in which methamphetamine was previously smoked is (or isn't) currently impacting on people's health. This should be an absolute minimum requirement to uphold the standards of fairness and natural justice that New Zealanders hold dear.

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- ⁱ Fowles, Deyo and Kester: 'Review of Remediation Standards for Clandestine Methamphetamine Laboratories: Risk Assessment recommendations for a New Zealand Standard'. Institute of Environment Science and Research (ESR). 7 October 2016.
- ⁱⁱ Kim, Dr Nick D: 'Background notes relating to the nature and health significance and persistence of trace of methamphetamine on indoor surfaces', Massey University, June 2016 (unpublished), p14.
- ⁱⁱⁱ Brown, Russell: 'Poor Foundations', *Matters of Substance*, August 2016, Volume 27, Issue 3, NZ Drug Foundation, p9.
- ^{iv} Kim, Dr Nick D: 'Background notes', p24.
- ^v Kim, Dr Nick D: 'Background notes', p15.
- ^{vi} *Clandestine Drug Lab General Cleanup Guidance*, Minnesota Department of Health (MDH) Division of Environmental Health, September 2010, p28.
- ^{vii} Kim, Dr Nick D: 'Background notes', p23-24.



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