

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY  
OF THE STATE OF MONTANA

In the matter of the amendment of ARM )  
17.53.105 and 17.53.401 pertaining to )  
incorporation by reference and no state )  
waste delisting - federal petition required )

NOTICE OF PUBLIC HEARING ON  
PROPOSED AMENDMENT

(HAZARDOUS WASTE)

TO: All Concerned Persons

1. On July 21, 2014, at 10:00 a.m., the Department of Environmental Quality will hold a public hearing in Room 111, Metcalf Building, 1520 East Sixth Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact Elois Johnson, Paralegal, no later than 5:00 p.m., July 7, 2014, to advise us of the nature of the accommodation that you need. Please contact Elois Johnson at Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2630; fax (406) 444-4386; or e-mail [ejohnson@mt.gov](mailto:ejohnson@mt.gov).

3. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

17.53.105 INCORPORATION BY REFERENCE (1) and (2) remain the same.

(3) Except as provided in (4), references in this chapter that incorporate 40 CFR 60, 61, 63, 124, 260 through 268, 270, 273, or 279 refer to the version of that publication revised as of July 1, ~~2012~~ 2014. References in this chapter to 40 CFR 124, 260 through 268, 270, 273, or 279 that incorporate publications refer to the version of the publication as specified at 40 CFR 260.11. Provisions within 40 CFR 60, 61, and 63 that are referenced in 40 CFR 124, 260 through 268, 270, 273, or 279 are also incorporated by reference.

(4) through (8) remain the same.

AUTH: 75-10-405, MCA

IMP: 75-10-405, MCA

REASON: The department is proposing to amend ARM 17.53.105 to incorporate by reference the most recent version of the Code of Federal Regulations (CFR). The incorporation by reference process is accomplished by amending the CFR publication date specified in ARM 17.53.105(3). The proposed amendment allows the department to maintain consistency with EPA regulations and preserve the hazardous waste program authorization.

17.53.401 NO STATE WASTE DELISTING – FEDERAL PETITION REQUIRED (1) remains the same.

(2) The provisions in 40 CFR 260.20, ~~260.21~~ and through 260.23, pertaining to rulemaking petitions, are not incorporated by reference. Thus, any reference to petitions under these provisions in 40 CFR 124, 260 through 266, 268, 270, 273, and 279, incorporated by reference by this chapter, are not applicable under the Montana hazardous waste program.

AUTH: 75-10-405, MCA

IMP: 75-10-405, MCA

REASON: The department is proposing to amend ARM 17.53.401(2) to resolve an inadvertent omission of a cross-reference to 40 CFR 260.22. Section (1) of the rule provides that delisting petitions must be filed with EPA. To implement this provision, (2) excludes from the state rules EPA delisting petition regulations in 40 CFR 260.20. There is no reason to not exclude 40 CFR 260.22, which also provides for delisting petitions. The proposed amendment corrects the omission and does not change the meaning or intent of ARM 17.53.401.

4. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Elois Johnson, Paralegal, Department of Environmental Quality, 1520 E. Sixth Avenue, P.O. Box 200901, Helena, Montana 59620-0901; faxed to (406) 444-4386; or e-mailed to [ejohnson@mt.gov](mailto:ejohnson@mt.gov), no later than 5:00 p.m., July 24, 2014. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

5. Carol Schmidt, attorney, has been designated to preside over and conduct the hearing.

6. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding: air quality; hazardous waste/waste oil; asbestos control; water/wastewater treatment plant operator certification; solid waste; junk vehicles; infectious waste; public water supplies; public sewage systems regulation; hard rock (metal) mine reclamation; major facility siting; opencut mine reclamation; strip mine reclamation; subdivisions; renewable energy grants/loans; wastewater treatment or safe drinking water revolving grants and loans; water quality; CECRA; underground/above ground storage tanks; MEPA; or general procedural rules other than MEPA. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to Elois Johnson, Paralegal, Department of Environmental Quality, 1520 E. Sixth Ave., P.O. Box 200901, Helena, Montana 59620-0901; faxed to (406) 444-4386; e-mailed to [ejohnson@mt.gov](mailto:ejohnson@mt.gov); or may be made by completing a request form at any rules hearing held by the department.

7. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

8. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses.

Reviewed by:

DEPARTMENT OF ENVIRONMENTAL  
QUALITY

/s/ John F. North

JOHN F. NORTH

Rule Reviewer

BY: /s/ Tracy Stone-Manning

TRACY STONE-MANNING, Director

Certified to the Secretary of State, June 16, 2014.