

MONTANA ADMINISTRATIVE REGISTER

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MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 6

The Montana Administrative Register (MAR or Register), a twice-monthly publication, has three sections. The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted. The Rule Adoption Section contains final rule notices which show any changes made since the proposal stage. All rule actions are effective the day after publication of the adoption notice unless otherwise specified in the final notice. The Interpretation Section contains the Attorney General's opinions and state declaratory rulings. Special notices and tables are found at the end of each Register.

Inquiries regarding the rulemaking process, including material found in the Montana Administrative Register and the Administrative Rules of Montana, may be made by calling the Secretary of State's Office, Administrative Rules Services, at (406) 438-6122.

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BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF MONTANA

In the matter of the amendment of ARM))
17.74.501, 17.74.504, 17.74.505,)
17.74.506, 17.74.507, 17.74.508,)
17.74.511, 17.74.512, 17.74.513,)
17.74.514, 17.74.515, 17.74.516,)
17.74.517, and 17.74.518 pertaining to)
definitions, decontamination standards,)
performance, assessment, and)
inspection, performance standards,)
contractor certification and training)
course requirements, reciprocity,)
training provider certification, certified)
training provider responsibilities, denial,)
suspension, and revocation of)
certification, and fees; and the adoption)
of NEW RULES I, II, and III pertaining)
to sampling, recordkeeping, reports,)
and incorporation by reference)

NOTICE OF PUBLIC HEARING
ON PROPOSED AMENDMENT
AND ADOPTION

(METHAMPHETAMINE
CLEANUP)

TO: All Concerned Persons

1. On April 22, 2022, at 10:00 a.m., the Department of Environmental Quality (DEQ) will hold a public hearing in Room 111 of the Metcalf Building, 1520 East Sixth Avenue, Helena, Montana, to consider the proposed amendment and adoption of the above-stated rules.

DEQ is committed to preventing the spread of COVID-19 and promoting the health and wellness of others. Members of the public may participate either in person or virtually. For in-person meetings, while face masks are not required, meeting attendees are welcome to wear masks. If you are not feeling well, please do not attend the in-person meeting. Registration with Zoom may be made at the following link:

Join Zoom Meeting: <https://mt-gov.zoom.us/j/86412151320?pwd=WUQtQempiUU9ML2NNaFBBMldDRHNtZz09>

Meeting ID: 864 1215 1320
Password: 339014

Dial by Telephone
+1 646 558 8656 or +1 406 444 9999
Meeting ID: 864 1215 1320
Password: 339014
Find your local number: <https://mt-gov.zoom.us/j/86412151320>

Join by SIP
86412151320@zoomcrc.com

Join by H.323 (Polycom)
162.255.37.11##86412151320

Please contact the Department of Environmental Quality at (406) 444-1388 or DEQMETHAMPHETAMINECLEANUP@mt.gov should you encounter any difficulties.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m., April 15, 2022, to advise us of the nature of the accommodation that you need. Please contact the Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-1388; fax (406) 444-4386; or e-mail DEQMETHAMPHETAMINECLEANUP@mt.gov.

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

17.74.501 PURPOSE (1) This subchapter is adopted to protect the public health, safety, and welfare by providing specific cleanup standards for inhabitable ~~property~~ properties contaminated by clandestine methamphetamine labs (CML) or the smoke from the use of methamphetamine. This subchapter establishes a voluntary program for property owners to obtain department confirmation that the decontamination standards established by the department have been met, for purposes of liability immunity pursuant to 75-10-1305(4), MCA, and for purposes of removing property from the list of contaminated property maintained by the department pursuant to 75-10-1306, MCA.

AUTH: 75-10-1304, MCA
IMP: 75-10-1304, MCA

REASON: This proposed rulemaking is necessary to implement House Bill 116 (HB 116) adopted by the 67th Legislature. HB 116 amends 75-10-1301 through 75-10-1303, and 75-10-1305, MCA, by expanding the inhabitable property decontamination requirements. Previously, the statutory methamphetamine decontamination standard, disclosure, and cleanup requirements only applied to inhabitable properties contaminated by clandestine methamphetamine labs (CMLs). As of October 1, 2021, the effective date of HB 116, the decontamination standard, disclosure, and cleanup requirements of Title 75, chapter 10, part 13, MCA, apply to contamination of inhabitable property by smoke from methamphetamine use as well as contamination from CMLs. HB 116 also increases the decontamination standard from 0.1 µg/100 square centimeters to 1.5 µg/100 square centimeters.

17.74.504 DEFINITIONS For the purposes of this subchapter, unless the

context clearly indicates otherwise, the following terms have meanings indicated below and are supplemental to the definitions in 75-10-1302, MCA:

(1) "Assessment plan" means a plan submitted to the department by a certified methamphetamine cleanup contractor to investigate suspected contamination of inhabitable property, confirm, and evaluate the extent and magnitude of contamination by hazardous chemical residue from the manufacture of methamphetamine or by smoke from the use of methamphetamine.

(1) and (2) remain the same but are renumbered (2) and (3).

~~(3)(4)~~ "Certified methamphetamine cleanup contractor" means a person who has been issued a an CML inhabitable property decontamination certificate under this subchapter.

~~(4)(5)~~ "Certified training provider" means a person to whom the department has issued a an CML inhabitable property decontamination training provider certificate under this subchapter.

(6) "Closure letter" means documentation issued by the department indicating that a potentially contaminated inhabitable property was disposed of in a manner that is at least as stringent as ARM 17.74.505, the structure will not be inhabited in the future, and public health, safety, and welfare will be adequately protected.

(5) remains the same but is renumbered (7).

~~(6)(8)~~ "Contaminated" or "contamination" means polluted by hazardous chemicals from a CML or from smoke from the use of methamphetamine so that the inhabitable property may be unfit for human habitation or use due to immediate or long-term hazards from such contamination. Inhabitable property that at one time was contaminated, but has been decontaminated or disposed of in conformance with the requirements of this subchapter, is not considered "contaminated," once the department issues a certificate of fitness or closure letter for the property.

~~(7)(9)~~ "Decontaminated" or "decontamination" means the process of reducing levels of methamphetamine from a CML or from smoke from the use of methamphetamine affecting inhabitable property to the level established in ARM 17.74.505. A property is considered decontaminated when the department issues either a certificate of fitness or closure letter for the property.

~~(8) "Department" means the Montana Department of Environmental Quality.~~

(10) "Final clearance plan" means a plan submitted to the department by a certified methamphetamine cleanup contractor to collect representative samples and conduct a visual inspection of decontaminated areas to verify that the methamphetamine decontamination standard is met.

(9) remains the same but is renumbered (11).

~~(10)(12)~~ "Initial course" means a training course sponsored or approved by the department for initial certification of certified methamphetamine cleanup contractors who perform or supervise decontamination on CML sites of inhabitable properties.

~~(11) "Initial site assessment" means the first evaluation of inhabitable property by a certified contractor to determine the nature and extent of observable contamination from a CML.~~

(12) remains the same but is renumbered (13).

(14) "Owner" means a person who has legal title to inhabitable property that

is contaminated by a clandestine methamphetamine drug lab or by smoke from the use of methamphetamine.

~~(13)~~(15) "Person" means an individual, trust, firm, joint stock company, federal agency, corporation (including a government corporation), partnership, association, state or state agency, municipality, commission, political subdivision of a state, or any interstate body.

~~(14) "Property owner" means a person with a lawful right of possession of inhabitable property by reason of obtaining it by purchase, exchange, gift, lease, inheritance, or legal action.~~

~~(15)~~(16) "Refresher course" means a department-sponsored or department-approved training course to renew certification for previously certified CML methamphetamine decontamination cleanup contractors.

~~(16) "Surface material" has the meaning provided in 75-10-1302, MCA.~~

(17) "Site assessment" means the evaluation of inhabitable property by a certified methamphetamine cleanup contractor to determine the nature and extent of contamination from a CML or from smoke from the use of methamphetamine.

(17)(18) "Wipe sample" means a surface sample collected by wiping a sample medium on surface materials in accordance with common industry standards and the requirements of this subchapter.

(19) "Work plan" means a plan submitted to the department by a certified methamphetamine cleanup contractor to describe methods and means to decontaminate an inhabitable property and dispose of the waste stream, based on the assessment plan.

(20) "Working day" means Monday through Friday and includes holidays that fall on working days.

AUTH: 75-10-1304, MCA

IMP: 75-10-1304, MCA

REASON: Reference to the definitions in 75-10-1302, MCA, is necessary to cross reference and incorporate the definitions in the methamphetamine cleanup statute.

It is necessary to adopt the proposed definition of "assessment plan" at (1) to describe the department's criteria for collecting relevant samples and other information to evaluate inhabitable properties that are potentially contaminated with methamphetamine. This definition is also necessary to explain assessment procedures so that the department, certified contractors, and the public understand the requirements and purpose of an assessment plan.

The department is proposing to amend the definition of "certified contractor" at (4) by changing the defined term to "certified methamphetamine cleanup contractor." This change is necessary to better describe the specialized work for which these cleanup contractors are certified to perform. Additionally, amendments to the definition of "initial course" at (12), "refresher course" at (16), and "site assessment" at (17) are necessary to ensure the term "certified methamphetamine cleanup contractor" is used consistently within the defined terms applicable to this subchapter.

Many of the definitions in ARM 17.74.504, including "certified

methamphetamine cleanup contractor" at (4), "certified training provider" at (5), the definition of "contaminated" or "contamination" in (8), the definition of "decontaminated" or "decontamination" in (9), and the definition of "site assessment" in (17) are amended in response to House Bill 116 (HB 116), which expands the indoor inhabitable property decontamination requirements including the statutory methamphetamine decontamination standard, disclosure, training, and cleanup requirements to address contamination of inhabitable properties by smoke from methamphetamine use as well as contamination from CMLs. See the REASON statement for ARM 17.74.501.

It is necessary to adopt the proposed definition of "final clearance plan" at (10) to describe the process to ensure proper samples and other information are collected, reviewed, and approved to verify that the methamphetamine decontamination standard is met after contamination of an inhabitable structure with methamphetamine is confirmed. This proposed definition will explain final clearance procedures so that the department, certified methamphetamine cleanup contractors, and the public understand the requirements.

It is necessary to adopt the proposed definition of "closure letter" at (6) to describe exceptions and extenuating circumstances when a certificate of fitness, defined in (3), cannot be issued due to the disposal of a potentially contaminated inhabitable structure. The closure letter is necessary to document that the inhabitable structure was disposed of in a manner that is at least as stringent as meeting the decontamination standard at ARM 17.74.505, the structure is disposed of in a manner that ensures it cannot be inhabited in the future, and public health, safety, and welfare are adequately protected.

The proposed amendments to the definition of "contaminated" or "contamination" in (8) expand the definition, consistent with HB 116, to include contamination from smoke from the use of methamphetamine. Additionally, the proposed amendments to (8) are necessary to clarify that when inhabitable property is issued a closure letter, defined in (6), it is no longer considered contaminated under these rules.

The proposed amendments to the definition of "decontaminated" or "decontamination" in (9) are necessary to expand the definition, consistent with HB 116, to include reduction of the levels of methamphetamine from smoke from the use of methamphetamine. Additionally, the proposed amendments to (9) are necessary to amend the definition to clarify that when inhabitable property is issued a closure letter, defined in (6), it is considered decontaminated under these rules.

The department proposes to strike the definition of "department" formerly at (8) to conform with 2-4-305, MCA, whereby definitions already in statute are not repeated in rule. However, the definition of "inhabitable property" in (11) is retained for the convenience of the regulated community, with a cross reference to the statutory definition, because that term is referenced repeatedly within these rules.

The proposed amendments to the definition of "initial course" in (12) are necessary to strike language pertaining to department-sponsored training courses as the department is not sponsoring methamphetamine cleanup contractor training courses. Language pertaining to contractor supervisor training is stricken because certified contractor training is limited to training on methamphetamine cleanup to meet the decontamination standard. Certified methamphetamine cleanup

contractors are not required to supervise other certified methamphetamine cleanup contractors. As explained above, the language limiting cleanup training to decontamination of CMLs is removed because, after the effective date of HB 116, the training and the cleanup requirements and standards apply to inhabitable structures contaminated by CMLs and by smoke from the use of methamphetamine.

The proposed addition of the definition of "owner" in (14) is necessary to define the person responsible for the notification requirements in 75-10-1305, MCA. The department is proposing to replace the existing definition of "property owner" with the definition of "owner" and proposes deleting the definition of "property owner" upon adoption of these rules. A clear definition of owner is necessary to define the person responsible for notifying occupants and future purchasers of inhabitable structures that are known by the owner to have been contaminated by a CML or by the smoke from the use of methamphetamine.

The proposed amendment to the definition of "person" in (15) is necessary to expand the definition to include a state agency so that the definition is consistent with the definition of person in 75-2-502(6), MCA (the Montana Asbestos Control Act). The proposed amendment of the definition of person will provide consistency between the two programs administered by the department.

The proposed amendments to the definition of "refresher course" in (16) are necessary to strike language pertaining to department-sponsored refresher training courses as the department is not sponsoring methamphetamine cleanup contractor training courses. Additionally, the language limiting refresher courses to decontamination of CMLs is removed because, after the effective date of HB 116, the refresher training requirements apply to certified methamphetamine cleanup contractors of inhabitable structures and will therefore address both contamination from CMLs and contamination from smoke from the use of methamphetamine.

These proposed amendments will remove the definition of "initial site assessment," previously numbered (11), and add the proposed definition of "site assessment" in (17). This change is necessary to expand the definition of site assessment to include all evaluation of the extent and magnitude of methamphetamine contamination of an inhabitable property. The department does not intend to limit site assessments to the first evaluation of an inhabitable structure. A site assessment will evaluate the extent and magnitude of contamination of inhabitable properties from CMLs and from smoke from the use of methamphetamine.

The department proposes to strike the definition of "surface material" in the former (16), to conform with 2-4-305, MCA, whereby definitions already in statute are not repeated in rule.

The proposed amendments to the definition of "wipe sample" in (18) are necessary to clarify that wipe samples must be collected by wiping a sample medium on surface materials in accordance with common industry standards as well as the requirements of this subchapter. This change is necessary to ensure certified contractors are aware they must comply with the requirements of these methamphetamine cleanup rules as well as industry standards.

The proposed definition of "work plan" in (19) is necessary to ensure certified methamphetamine cleanup contractors have a clear understanding of the necessary information required for the department to review and approve a work plan under

ARM 17.74.507 so that the department can confirm the decontamination standard is met pursuant to 75-10-1305, MCA.

The proposed definition of "working day" in (20) is necessary to clarify which calendar days count as working days and provide certainty to the regulated community as to how time is calculated to ensure methamphetamine cleanup timeframes are consistently applied and met.

17.74.505 DECONTAMINATION STANDARD (1) ~~The CML inhabitable property decontamination standard is a surface wipe sample~~ for methamphetamine may not exceed ~~0.1~~ 1.5 micrograms (~~10⁻⁶ gram~~) per 100 square centimeters of surface material.

AUTH: 75-10-1303, MCA

IMP: 75-10-1303, MCA

REASON: The proposed amendment is necessary to incorporate the current methamphetamine decontamination standard adopted in HB 116, which increases from 0.1 µg/100 square centimeters to 1.5 µg/100 square centimeters of surface material effective October 1, 2021. The department proposes to remove the application of the decontamination standard to surface wipe samples because sampling methods will be outlined in proposed NEW RULE I. The proposed amendments to ARM 17.74.505 are also necessary to expand the application of the decontamination standard to inhabitable property contaminated by CMLs and smoke from the use of methamphetamine and to reflect the decontamination standard in 75-10-1303, MCA, which applies to surface material.

17.74.506 DECONTAMINATION PERFORMANCE, ASSESSMENT, AND INSPECTION (1) ~~For the~~ The department requires the certified methamphetamine cleanup contractor to submit the following documentation for the department to confirm; that the decontamination standard provided in 75-5-1303, MCA, pursuant to 75-10-1305(4), MCA, that the decontamination standard in ARM 17.74.505 has been met for an inhabitable property ~~where clandestine methamphetamine manufacturing methamphetamine has taken place,~~ and for the department to remove the property from the list of contaminated property maintained pursuant to 75-10-1306, MCA, ~~all sampling, submittal of samples, and work performed to assess the extent of contamination in compliance with the CML decontamination standard and disposal of contaminated material must be performed by the department or by contractors certified by the department pursuant to this subchapter to perform that work.;~~

(a) the assessment plan, which shall be prepared by a certified methamphetamine cleanup contractor in accordance with [NEW RULE II];

(b) the decontamination work plan, which shall be prepared by a certified methamphetamine cleanup contractor in accordance with [NEW RULE II]; and

(c) documentation that the decontamination standard in 75-10-1303, MCA, is met pursuant to representative sampling and inspection conducted in accordance with the final clearance plan, which shall be prepared by a certified methamphetamine cleanup contractor in accordance with [NEW RULE II].

(2) Upon confirmation by the department that an inhabitable property has

been properly remediated to the standards provided in 75-10-1303, MCA, and ARM 17.74.505, the department shall issue a certificate of fitness or closure letter to the property owner of record.

(3) At any reasonable time, upon presentation of credentials, ~~and~~ for the purpose of determining compliance with the provisions of this subchapter, an employee or agent of the department may:

(a) enter and inspect any place at which ~~a~~ an CML inhabitable property decontamination assessment, work, or final clearance project is being conducted pursuant to this subchapter; or

(b) enter any place at which records pertinent to ~~a~~ an CML inhabitable property decontamination assessment, work, or final clearance project conducted pursuant to this subchapter are maintained, and examine or copy any such records.

AUTH: 75-10-1303, MCA

IMP: 75-10-1303, MCA

REASON: The proposed amendments to ARM 17.74.506 are necessary to provide language consistent with HB 116, which expanded methamphetamine disclosure requirements to inhabitable properties contaminated by smoke from the use of methamphetamine as well as chemical contamination from CMLs.

The proposed amendments to (1) are intended to align the rule with the new definitions of "assessment plan," "work plan," and "final clearance plan" and require that these plans are prepared by certified methamphetamine cleanup contractors and submitted to the department in accordance with NEW RULE II. Additionally, the proposed amendments to (1) are necessary to list the submittals and documents for the department's review so that it can confirm that the decontamination standard has been met in accordance with 75-10-1303, MCA.

The proposed amendments to (2) are necessary to add "closure letter" as a method to document the department's determination that an inhabitable structure was disposed of in a manner that is at least as stringent as decontamination to the standard in 75-10-1303, MCA, and ARM 17.74.505 because the structure is disposed of in a manner that ensures it cannot be inhabited.

17.74.507 PERFORMANCE STANDARDS (1) Only The following must be completed by certified methamphetamine cleanup contractors ~~may~~:

(a) ~~perform a site contamination assessment, and decontamination work, and dispose disposal of contaminated material, pursuant to this subchapter and post-decontamination final sampling performed in accordance with department-approved work plans;~~

(b) ~~file a preparation and submittal of an assessment, work, or final clearance plan with, and obtain written approval of the plan from, for the department review and written approval prior to beginning site assessment, a decontamination work, or final clearance sampling project; and~~

(c) ~~perform all work in accordance with the department approved work plan; and~~

(d)(c) ~~have final clearance sampling~~ final clearance sampling is conducted by an independent certified methamphetamine cleanup contractor who is not employed

by the certified methamphetamine cleanup contractor or employed by the certified methamphetamine cleanup contractor that performing performed the decontamination work.

(2) Department approval of a an assessment, work, or final clearance plan does not relieve a certified methamphetamine cleanup contractor from compliance with any other applicable requirements including, ~~but not limited to,~~ state and local building codes, occupational safety and health standards, and the solid waste, hazardous waste, and asbestos requirements in ARM Title 17, chapters 50, 53, and 74.

AUTH: 75-10-1304, MCA

IMP: 75-10-1304, MCA

REASON: The proposed amendments to (1) and (2) are necessary to clarify the roles and responsibilities of certified methamphetamine cleanup contractors and the department's role in reviewing and approving site assessment plans, work plans, and final clearance plans so that the department can verify decontamination is achieved under 75-10-1306, MCA. The proposed amendments to (1)(c) are necessary to ensure final clearance plan sampling is conducted by an independent certified methamphetamine cleanup contractor who is not the certified methamphetamine cleanup contractor, or an employee of the certified methamphetamine cleanup contractor who conducted the decontamination work. It is necessary to strike (1)(c) because that provision is redundant and covered in (1)(a).

17.74.508 CONTRACTOR CERTIFICATION AND RENEWAL (1) An applicant for department certification as a ~~CML~~ methamphetamine cleanup decontamination contractor shall:

(a) provide evidence of successful completion of HAZWOPER training, consisting of an including initial 40-hour HAZWOPER ~~and~~ or current eight-hour HAZWOPER refresher, conducted pursuant to 29 CFR 1910.120; ~~and~~

(b) provide evidence of successful completion of successfully complete the a department-approved initial 16-hour ~~CML~~ methamphetamine cleanup decontamination contractor course and submit to the department ~~within 60 days after completing the course:~~

(i) ~~written evidence of successful completion of the initial course~~ a copy of the methamphetamine cleanup contractor certificate of course completion issued by the training provider pursuant to ARM 17.74.514(2)(f); or

(ii) a copy of the training provider's initial methamphetamine cleanup contractor course roster, which includes the applicant's name;

~~(ii)(c)~~ a completed application for CML decontamination certification as methamphetamine cleanup certified contractor application; and

~~(iii)(d)~~ the fee established in ARM 17.74.518; and

~~(e)~~ if the applicant completed the initial methamphetamine cleanup contractor course more than six months prior to the application date, written evidence of completion of an eight-hour refresher class.

(2) A ~~CML~~ methamphetamine cleanup decontamination contractor certificate

is valid for two years from the date of ~~issuance~~ training certification.

(3) ~~In order to renew a A person renewing as a CML decontamination certified methamphetamine cleanup contractor certificate, shall submit the following information shall be submitted to the department for approval at least ten days before the expiration of the current certificate within one year of the expiration of the prior methamphetamine cleanup contractor certificate:~~

(a) a completed methamphetamine cleanup contractor certification renewal application form provided by the department;

(b) written evidence the renewal applicant has successfully completed a an eight-hour department-sponsored or department-approved refresher training course within six months of the date of the application; and

(c) remains the same.

(4) If a previously certified methamphetamine cleanup contractor does not apply for a renewal of a ~~contractor~~ certification under (3) within one year following the expiration of the contractor's methamphetamine cleanup contractor certification, the ~~person must obtain certification must be obtained under the provisions (1) of this rule.~~

(5) A ~~CML decontamination certified~~ methamphetamine cleanup contractor shall make the ~~CML decontamination contractor certificates issued in (2), or other acceptable proof of methamphetamine cleanup contractor certification~~, available for inspection at all times during a an CML inhabitable property decontamination project that is being performed pursuant to this subchapter.

AUTH: 75-10-1304, MCA

IMP: 75-10-1304, MCA

REASON: The proposed amendments to ARM 17.74.508 are necessary to provide language consistent with HB 116, which expanded disclosure requirements to inhabitable properties contaminated by smoke from the use of methamphetamine as well as chemical contamination from CMLs. The proposed amendments to ARM 17.74.508 are also necessary to clarify methamphetamine cleanup contractor certification standards and requirements under 75-10-1304, MCA, and ensure the title "certified methamphetamine cleanup contractor" is used throughout the rules. The proposed changes address the documentation required for the department to verify required methamphetamine cleanup contractor training course attendance information, to clarify the length of time methamphetamine cleanup contractor training remains valid, to address time allowed for a methamphetamine cleanup contractor course participant to apply for department certification, to address time allowed to apply for renewal of methamphetamine cleanup contractor certification, and to establish the minimum methamphetamine cleanup contractor training required to maintain methamphetamine cleanup contractor certification. Additionally, the proposed amendment of (3)(b) is necessary to strike language pertaining to department-sponsored refresher training courses as the department is not sponsoring methamphetamine cleanup contractor training courses .

17.74.511 INITIAL TRAINING COURSE CONTENT REQUIREMENTS

(1) ~~For departmental approval, initial~~ Initial CML methamphetamine cleanup

decontamination contractor training courses must be taught by a person with a current methamphetamine cleanup contractor training provider certificate issued pursuant to ARM 17.74.514 and must include, at a minimum of 16 hours of methamphetamine cleanup contractor training that covers:

(a) ~~information on~~ state and federal laws, rules, and regulations applicable to clandestine methamphetamine manufacturing or the smoke from the use of methamphetamine sites including, but not limited to:

(i) and (ii) remain the same.

(b) chemical terminology, classifications, and properties related to clandestine methamphetamine manufacturing or the smoke from the use of methamphetamine;

(c) characteristics of clandestine methamphetamine laboratory laboratories and the smoke from the use of methamphetamine characteristics;

(d) remains the same.

(e) adverse health effects of exposure to clandestine methamphetamine manufacturing or the smoke from the use of methamphetamine including, but not limited to:

(i) and (ii) remain the same.

(f) compatibility of chemicals related to ~~CML~~ inhabitable property decontamination;

(g) techniques and equipment used for ~~CML~~ inhabitable property decontamination;

(h) and (i) remain the same.

(j) techniques for obtaining information to make site assessments, including:

(i) ~~initial baseline site~~ assessments;

(ii) ~~initial baseline site~~ sampling;

(iii) through (vi) remain the same.

(2) To receive certification, the initial methamphetamine cleanup contractor training course attendee must pass a written or electronic test with a minimum score of 70 percent. The test must be comprised of no less than 50 questions, with no less than 50 percent of the questions specific to this subchapter or the provisions of 75-10-1301 through 75-10-1306, MCA.

AUTH: 75-10-1304, MCA

IMP: 75-10-1304, MCA

REASON: The proposed amendment to the title of ARM 17.74.511 is necessary to better reflect the purpose of the rule, which is not to describe the required content of initial methamphetamine cleanup contractor training courses but to list minimum requirements necessary to successfully obtain methamphetamine cleanup contractor certification. Additionally, the department is not approving methamphetamine cleanup contractor training courses, but establishing requirements and procedures for certification of methamphetamine cleanup contractors as authorized by 75-10-1304, MCA. The proposed amendment to (1) is necessary to clarify that initial methamphetamine cleanup contractor training courses must be taught by a person with a current department-issued methamphetamine cleanup contractor training provider certificate pursuant to ARM 17.74.514.

Proposed amendments to (1) are also necessary to incorporate changes to the Methamphetamine Cleanup Act by HB 116, which expands methamphetamine cleanup contractor training requirements to contractors working on inhabitable properties contaminated by smoke from the use of methamphetamine as well as chemical contamination from CMLs. The addition of (2) is necessary to add a testing requirement to verify methamphetamine cleanup contractors have met the requirements for certification under 75-10-1304, MCA, and this subchapter.

17.74.512 REFRESHER TRAINING COURSE REQUIREMENTS (1) ~~For department approval, CML decontamination~~ Certified methamphetamine cleanup contractor refresher training courses must be taught by a person with a current training provider certificate issued pursuant to ARM 17.74.514 and must include, at a minimum, eight hours of training. This training must include:

(a) through (d) remain the same.

(2) A training provider may maintain their certification as an inhabitable property decontamination contractor by either:

(a) attending a refresher training course that meets all the requirements in (1); or

(b) teaching a refresher course that meets all the requirements of (1) and is attended by three or more students, not including the training provider.

AUTH: 75-10-1304, MCA

IMP: 75-10-1304, MCA

REASON: The proposed amendment to the title of ARM 17.74.512 is necessary to reflect the purpose of the rule, which is to describe the requirements to maintain current training as a methamphetamine cleanup contractor. The proposed amendments to (1) are necessary to clarify that the department is not approving refresher training courses but establishing requirements and procedures for methamphetamine cleanup contractors to maintain current certification pursuant to the department's authority in 75-10-1304, MCA. The proposed amendments to (1) are also necessary to clarify that initial methamphetamine cleanup contractor training courses must be taught by a person with a current department-issued training provider certificate pursuant to ARM 17.74.514, and to incorporate changes to the Methamphetamine Cleanup Act by HB 116, which expands methamphetamine decontamination requirements to inhabitable properties contaminated by smoke from the use of methamphetamine as well as chemical contamination from CMLs.

The proposed amendment in (2) allows two options for training providers to maintain current certification as methamphetamine cleanup contractors: 1) attend a refresher course that meets all the requirements in ARM 17.74.512(1); or 2) teach a refresher course to three or more students. This change is made in response to stakeholder comments and formalizes the department's process for maintaining current certification for training providers.

17.74.513 RECIPROCITY (1) remains the same.

(2) An applicant for reciprocity shall submit to the department:

(a) a completed application form ~~for the type of certification being requested~~

for certification as a methamphetamine cleanup contractor under ARM 17.74.508;

(b) documentation of specialized training for ~~CML~~ methamphetamine decontamination, which may include a certificate of training course completion that meets the requirements in ARM 17.74.508;

(c) evidence of successful completion of HAZWOPER training, consisting of an ~~including~~ initial 40-hour HAZWOPER ~~and or~~ current eight-hour HAZWOPER refresher, ~~and HAZWOPER supervisor training conducted pursuant to 29 CFR 1910.120;~~ and

(d) remains the same.

(3) Prior to certificate approval, the department may require the applicant to:

(a) submit additional information; or

(b) successfully complete a refresher course; or

~~(c) pass a department administered examination.~~

AUTH: 75-10-1304, MCA

IMP: 75-10-1304, MCA

REASON: The proposed amendments to ARM 17.74.513 are necessary to incorporate changes to the Methamphetamine Cleanup Act by HB 116, which expands methamphetamine disclosure requirements to inhabitable properties contaminated by smoke from the use of methamphetamine as well as chemical contamination from CMLs. The proposed amendment to (2)(b) is necessary to describe documentation that would provide satisfactory evidence to the department that the applicant for reciprocity has completed training that is similar to the requirements for training and certification in this subchapter. The proposed amendment to (2)(c) is necessary to remove the HAZWOPER supervisor training requirement, which was eliminated as a training requirement in previous amendments to the methamphetamine cleanup rules but overlooked in ARM 17.74.513, the reciprocity rule. The amendment to (3)(c) is necessary to remove the examination requirement because the department intends to assess other state certification requirements to determine whether they are comparable to the training requirements in this subchapter rather than require an applicant to take a department-administered examination.

17.74.514 TRAINING PROVIDER CERTIFICATION (1) A person may not provide initial or refresher ~~CML decontamination contractor~~ training for department certification of methamphetamine cleanup contractors, unless the without a current department- has approved the instructors and courses and issued a methamphetamine cleanup contractor training provider certificate to the person.

(2) An applicant for methamphetamine cleanup contractor training provider certification shall submit to the department at least 45 working days before the requested methamphetamine cleanup contractor training approval provider certification start date:

(a) a completed ~~training provider~~ application for methamphetamine cleanup contractor training provider certification, on a form provided by the department;

(b) a list of all ~~instructors and~~ methamphetamine cleanup contractor training providers with a description of their each methamphetamine cleanup contractor

training provider's qualifications, including their proof that at least one methamphetamine cleanup contractor training provider has of current department methamphetamine cleanup contractor certification and a description of the instructor's knowledge and experience to properly train contractors, and documentation of academic or field experience in CML decontamination;

(c) and (d) remain the same.

(e) a list of 50 questions for development of an a final examination that is comprised of a minimum of 50 questions, with no less than 50 percent specific to this subchapter or the provisions of 75-10-1301 through 75-10-1306, MCA;

(f) a copy of the methamphetamine cleanup contractor certificate that will be provided to attendees who successfully complete the course and pass the examination. A copy of the methamphetamine cleanup contractor certificate shall be submitted to the department. Each certificate must be identified with a unique number assigned by the methamphetamine cleanup contractor training provider and include:

(i) the methamphetamine cleanup contractor certification course completed;

(ii) the course attendee's name and address;

(iii) the date of the methamphetamine cleanup contractor examination;

(iv) the signature of the methamphetamine cleanup contractor course

instructor;

(v) the inclusive dates of the methamphetamine cleanup contractor course;

(vi) the name, address, and telephone number of the methamphetamine cleanup contractor training provider who issued the methamphetamine cleanup contractor certificate;

(vii) the name and address of the state or agency that approved the methamphetamine cleanup contractor course;

(viii) a statement that the person receiving the methamphetamine cleanup contractor certificate has completed the methamphetamine cleanup contractor training required for methamphetamine cleanup contractor certification under this subchapter;

(ix) a statement that the trainee, by name, has successfully passed the examination for the methamphetamine cleanup contractor course;

(x) a methamphetamine cleanup contractor training expiration date of two years after the date upon which the person successfully completed the methamphetamine cleanup contractor course and examination; and

(xi) a clear notation if the methamphetamine cleanup contractor course was performed in person or online;

(f)(g) copies of all methamphetamine cleanup contractor training course materials proposed for use, when requested by the department; and

(g) remains the same but is renumbered (h).

(3) remains the same.

(4) Upon the department's determination that an applicant for methamphetamine cleanup contractor training provider certification has met all the requirements for methamphetamine cleanup contractor training provider certification in (2), the department shall certify the methamphetamine cleanup contractor training provider and assign a three-digit methamphetamine cleanup contractor training provider certification number.

AUTH: 75-10-1304, MCA
IMP: 75-10-1304, MCA

REASON: The proposed amendments to (1) are necessary to incorporate changes to the Methamphetamine Cleanup Act by HB 116, which expands methamphetamine decontamination training and certification requirements to persons who will train and certify contractors to assess, decontaminate, and clear inhabitable properties contaminated by smoke from the use of methamphetamine as well as chemical contamination from CMLs. Section 75-10-1304, MCA, authorizes the department to provide procedures and standards for methamphetamine cleanup contractor training and certification. The department's proposed amendments to (2) are necessary to extend the review time to 45 working days from 45 calendar days to allow adequate time for the department to review and certify the training course provider. The proposed amendments to (2)(a) through (h) are necessary to list the documentation of training provider qualifications including current methamphetamine cleanup contractor certification in (2)(b), a list of exam questions to ensure the certification requirements in ARM 17.74.511 will be met in (2)(e), a copy of the certificate that will be provided on successful course completion in (2)(f), and a copy of training course materials in (2)(g). The proposed amendments are necessary to ensure the department has information necessary to verify training courses will ensure methamphetamine cleanup contractors will be trained to perform methamphetamine decontaminations that meet the standards and requirements of this subchapter and the provisions of the Methamphetamine Cleanup Act, 75-10-1301 through 75-10-1306, MCA.

Proposed (4) is necessary to assist the department in verifying completion of methamphetamine training provider certification so the department can meet its obligation to ensure contractors are properly trained and maintain current training under 75-10-1304, MCA, and this subchapter.

17.74.515 CERTIFIED TRAINING PROVIDER RESPONSIBILITIES (1) A certified ~~CML decontamination~~ methamphetamine cleanup contractor training provider shall:

(a) notify the department in writing at least ~~ten~~ 10 working days before any methamphetamine cleanup contractor training is scheduled to begin. The notification must include the dates and times of the methamphetamine cleanup contractor training, the methamphetamine cleanup contractor training provider(s), and the address of ~~the location~~ where methamphetamine cleanup contractor training will be conducted;

(b) and (c) remain the same.

(d) ~~obtain~~ notify the department approval in writing ~~in advance of~~ at least 10 working days before any methamphetamine cleanup contractor training is scheduled to begin of any changes to the methamphetamine cleanup contractor training including, but not limited to, changes involving the ~~course instructor~~ methamphetamine cleanup contractor training provider(s) or changes in methamphetamine cleanup contractor training course materials.

(2) remains the same.

(3) A methamphetamine cleanup contractor training provider shall submit to the department a list of attendees within ~~ten~~ 10 working days following the completion of the methamphetamine cleanup contractor training course. The list must identify:

(a) and (b) remain the same.

(c) the names and signatures of each participant;

(d) each participant's methamphetamine cleanup contractor certificate number, which is assigned by the methamphetamine cleanup contractor training provider as follows:

(i) the first four digits are the year the methamphetamine cleanup contractor training course was completed;

(ii) the next three digits are the methamphetamine cleanup contractor training provider's certification number assigned by the department pursuant to ARM 17.74.514;

(iii) the last three digits are the methamphetamine cleanup contractor's certification number assigned by the methamphetamine cleanup contractor training provider in consecutive order beginning with 001 for each year the certified methamphetamine cleanup contractor training provider issues methamphetamine cleanup contractor training certificates; and

(e) and (4) remain the same.

AUTH: 75-10-1304, MCA

IMP: 75-10-1304, MCA

REASON: The proposed amendment to (1) is necessary to incorporate changes to the Methamphetamine Cleanup Act by HB 116, which expands methamphetamine cleanup contractor training and certification requirements to persons who will train and certify methamphetamine cleanup contractors to assess, decontaminate, and clear inhabitable properties contaminated by smoke from the use of methamphetamine as well as chemical contamination from CMLs. The department's proposed amendments to (1)(a) through (d) are necessary to extend the timeframe for notice to the department of a methamphetamine cleanup contractor training course to 10 working days from 10 calendar days and clarify the contents of the methamphetamine cleanup contractor training course notification. This will provide adequate notice to the department and information necessary for the department to ensure methamphetamine cleanup contractor training requirements, assessments, testing, and proof of training in accordance with 75-10-1304, MCA, are met by methamphetamine cleanup contractor training providers. Additionally, the changes to (1)(d) and (3) are necessary to clarify that the department is not approving methamphetamine cleanup contractor training courses but establishing requirements and procedures for certification of methamphetamine cleanup contractors as authorized by 75-10-1304, MCA. The proposed amendments to (3) are necessary to: 1) specify that the timeframe to provide a list of methamphetamine cleanup contractor training course attendees to the department is 10 working days following course completion; and 2) to specify the requirement to provide signatures and methamphetamine cleanup contractor certificate numbers for each attendee. The department is also proposing a method

for assignment of methamphetamine cleanup contractor certificate numbers to prescribe a number that provides useful information to the department. The department is proposing the first four numbers are the date of methamphetamine cleanup contractor course completion, the next three digits identify the methamphetamine cleanup contractor training provider, and the last three are assigned in consecutive order beginning with 001 as methamphetamine cleanup contractor training certificates are issued by the methamphetamine cleanup contractor training provider. For example, 2021-001-001 would indicate methamphetamine cleanup contractor course completion in 2021, the methamphetamine cleanup contractor training provider was issued certificate 001, and the methamphetamine cleanup contractor was issued certificate 001 by methamphetamine cleanup contractor training provider 001. This information will assist the department in verifying completion of methamphetamine cleanup contractor training so the department can meet its obligation to certify methamphetamine cleanup contractors under 75-10-1304, MCA, and this subchapter.

17.74.516 TRAINING PROVIDER CERTIFICATION RENEWAL

(1) An applicant for renewal of ~~CML decontamination~~ methamphetamine cleanup contractor training provider certification shall submit the following to the department at least 30 working days before expiration of the current certificate:

(a) a completed methamphetamine cleanup contractor training provider application as prescribed in ARM 17.74.514(2); and

(b) a copy of the current methamphetamine cleanup contractor certification issued by the department;

~~(b)~~(c) the fee prescribed in ARM 17.74.518; and

(d) any information required under ARM 17.74.514 and requested by the department, to verify the methamphetamine cleanup contractor training provider will offer courses that are up to date and will adequately train methamphetamine cleanup contractors to perform methamphetamine assessment, decontamination work, and final clearances to meet the standards and requirements of this subchapter and the provisions of the Methamphetamine Cleanup Act, 75-10-1301 through 75-10-1306, MCA.

AUTH: 75-10-1304, MCA

IMP: 75-10-1304, MCA

REASON: The proposed amendments to (1) are necessary to incorporate changes which provide consistency to persons who will train and certify contractors to assess, decontaminate, and clear inhabitable properties contaminated by smoke from the use of methamphetamine as well as chemical contamination from CMLs. The amendment to (1) is proposed to extend the timeframe for submitting information to the department for renewal of methamphetamine cleanup contractor training provider certification to 30 working days from 30 calendar days. The proposed amendments to (1)(a) through (d) are necessary to clarify the information necessary for the department to verify the methamphetamine cleanup contractor training course curriculum remains valid and current to ensure adequate training of

methamphetamine cleanup contractors in assessment, remediation, and testing of inhabitable properties for methamphetamine residue.

17.74.517 DENIAL, SUSPENSION, AND REVOCATION OF CERTIFICATION (1) The department may deny, suspend, or revoke the certification of a ~~CML decontamination~~ methamphetamine cleanup contractor or methamphetamine cleanup contractor training provider who fails to meet any of the requirements of this subchapter.

(2) The department may suspend or revoke the certification of a methamphetamine cleanup contractor or methamphetamine cleanup contractor training provider who obtains a certificate as either a methamphetamine cleanup contractor or methamphetamine cleanup contractor training provider by error, fraud, or misrepresentation.

(3) When the department believes ~~that there is cause for denial, suspension, or revocation of the certification of a methamphetamine cleanup contractor or methamphetamine cleanup contractor training provider under (1) or (2) a violation of a rule in this subchapter has occurred~~, it shall serve written notice of the violation personally or by certified mail on the alleged violator or the alleged violator's agent of the department's determination and the basis for the department's action to deny, suspend, or revoke certification. The notice must specify the reason for denial, suspension, or revocation of a methamphetamine cleanup contractor or methamphetamine cleanup contractor training provider certification and provision of the rule alleged to have been violated and the facts alleged to constitute a violation. The notice shall include an order to take necessary corrective action within a reasonable period of time ~~stated in the order~~. An order becomes final unless, within 30 working days after the order is received, the person named requests, in writing, a hearing before the department.

AUTH: 75-10-1304, MCA

IMP: 75-10-1304, MCA

REASON: The proposed amendments to (1) and (2) are necessary to incorporate changes to the Methamphetamine Cleanup Act by HB 116, which expands methamphetamine cleanup contractor requirements to inhabitable properties contaminated by smoke from the use of methamphetamine as well as chemical contamination from CMLs. The proposed amendments to (3) are necessary to simplify and clarify the department's procedures for providing notice of failure to meet requirements of the Methamphetamine Cleanup Act and this subchapter, which may provide cause for denial, suspension, or revocation of a methamphetamine cleanup contractor or methamphetamine cleanup contractor training provider certificate. The proposed amendment to (3) also eliminates the requirement to serve the alleged violator personally or by certified mail and extends the timeframe to request a hearing before the department to 30 working days.

17.74.518 FEES (1) ~~For any CML decontamination training and testing of training providers or contractors provided by the department, or through a contract with a third party trainer, the department shall ensure fees cover the cost of the~~

training and testing.

~~(2)~~(1) Concurrent with submittal of an application under this subchapter, the applicant shall pay the following fees:

(a) \$500 for each initial, renewal, or reciprocal ~~GML~~ methamphetamine cleanup contractor certificate application; and

(b) \$500 for each initial or renewal ~~GML~~ methamphetamine cleanup contractor decontamination training provider certificate application.

~~(3)~~(2) ~~Fees are nonrefundable and must be paid by check or money order made payable to the department. The department shall not refund any fee except as provided in this rule. The department shall review all applicable information in evaluating refund requests.~~

(a) The department may refund fees unnecessarily paid by an applicant receiving an incorrect methamphetamine cleanup contractor certification or methamphetamine cleanup contractor training provider approval due to an error by the department.

(b) The director, or the director's designee, may authorize a refund of fees due to extenuating circumstances causing the methamphetamine cleanup contractor certification or methamphetamine cleanup contractor training provider to be unable to use the accreditation or permit because of, but not limited to:

(i) declaration of war or police action; or

(ii) catastrophic, major natural disaster, or any event that requires assistance from a state or federal emergency management agency.

(3) The department may request documentation from a certified methamphetamine cleanup contractor or methamphetamine cleanup contractor training provider seeking a refund under this rule.

(4) In those cases where refunds are granted, an administrative fee of 15 percent shall be retained by the department.

AUTH: 75-10-1304, MCA

IMP: 75-10-1304, MCA

REASON: The proposed amendments to ARM 17.74.518 eliminate (1) because DEQ is not offering or sponsoring methamphetamine cleanup contractor training courses, testing methamphetamine cleanup contractor training course providers, or testing methamphetamine cleanup contractors and will not collect related fees. The proposed amendment in renumbered (1) is necessary to incorporate changes to the Methamphetamine Cleanup Act by HB 116, which expands disclosure requirements to sites where consumption of methamphetamine has occurred. The proposed amendments to (2) and (3) are necessary to establish criteria for refunding fees. Under this proposal the department will only issue a fee refund in the event the department makes an error or extenuating circumstances, out of the certified methamphetamine cleanup contractor or training provider's control, or there is an occurrence that make use of the certification impossible. A refund policy is necessary to save the department time and costs incurred in processing refunds. The department has based this proposed refund policy on Montana Fish, Wildlife, and Parks Department ARM 12.3.402 refund policy for hunting, fishing, and trapping licenses and the asbestos fee refund policy in ARM

17.74.409. The department proposes to amend (4) as it is necessary to withhold a portion of the refunded fee to cover the department's administrative costs in reviewing and processing refunds.

4. The rules proposed to be adopted provide as follows:

NEW RULE I SAMPLING PROCEDURES (1) The following sampling procedures must be followed to assess contamination and to verify the attainment of the decontamination standards within inhabitable structures:

- (a) all sample locations shall be photographed prior to sampling;
- (b) all samples shall be collected in accordance with a department-approved assessment plan from areas representative of materials or surfaces where contamination is suspected, confirmed, or was known to be present;
- (c) all samples shall be obtained, preserved, handled, and maintained under chain of custody protocol in accordance with industry standards and department-approved plans for the types of samples and analytical testing to be conducted;
- (d) the individual conducting the sampling shall put on a new pair of gloves to obtain each sample;
- (e) all reusable sampling equipment shall be decontaminated prior to sampling;
- (f) each sample shall be placed in a sterile sample container and sealed tightly. Security seals must be used on sample containers to maintain integrity of the sample from time of sampling to sample analysis. The sample container shall be labeled with site or project identification number, date, time, and sample location; and
- (g) each sample shall be analyzed for methamphetamine using NIOSH Manual of Analytical Method (NMAM) 9111 or equivalent method approved by the department in advance. The reagent utilized for the collection of samples shall be methanol;
- (h) at least three samples must be taken in accordance with the assessment plan from each location of the inhabitable property where methamphetamine manufacturing or smoking is suspected to have occurred, including:
 - (i) at least three samples must be taken from each location of the inhabitable property where methamphetamine is suspected to have been stored;
 - (ii) at least three samples must be taken from each location of the inhabitable property where chemical staining is observed;
 - (iii) at least three samples must be taken from representative areas of the inhabitable property's heating, ventilation, and air conditioning (HVAC) system;
 - (iv) at least three samples must be taken from each bathroom countertop, sink, toilet, shower/bath tub, and any other bathroom surface where methamphetamine contamination is suspected;
 - (v) at least three samples must be taken from any other enclosed space within the inhabitable property where methamphetamine activities are suspected to have occurred, hazardous materials associated with methamphetamine use or manufacture are suspected to have been stored, or where chemical staining or contamination is observed; and
 - (vi) at least three samples must be taken from any other areas where

methamphetamine contamination is suspected.

(2) Separate samples shall be obtained from surface material in each room or from each location within the inhabitable structure where methamphetamine contamination is suspected. Samples shall not be composited and, to avoid contamination, sample media shall not be combined or mixed with other sampling media.

(3) Each sampling event shall include a minimum of one laboratory blank, identified in a manner that avoids identification as a blank.

(4) Each sampling plan shall include a minimum of two discretionary samples, to be utilized at the methamphetamine certified contractor's discretion based on updated field observations. When utilized these samples will be incorporated into the chain of custody, analysis by the laboratory, and final report.

AUTH: 75-10-1303, MCA

IMP: 75-10-1303, MCA

REASON: The department is proposing NEW RULE I to establish the number and location of surface material samples based on the circumstances of contamination and acceptable testing methods in accordance with 75-10-1303, MCA. Proposed NEW RULE I is necessary to establish consistent sampling protocols so that the department can meet its obligation to confirm the decontamination standard is met after the inhabitable structure has been remediated. NEW RULE I is necessary to adopt standardized analytical methodology, based on established NIOSH protocols and sampling standards. Adoption of these standardized testing and sampling protocols is necessary to reduce variables and ensure consistency in the assessment, decontamination, and final clearance of methamphetamine-contaminated inhabitable structures to the standard in 75-10-1303, MCA. In (1)(g), DEQ is specifying the use of methanol because methanol allows for an efficacy of 87 percent as opposed to 64 percent for isopropanol. This increase in collection efficiency ensures the requirements under 75-10-1303, MCA, are met. NEW RULE I(1)(h) lists areas for sample collection where surface materials are likely to be contaminated within an inhabitable structure contaminated by smoke from the use of methamphetamine or by a CML. The sampling at an inhabitable structure will be based on the circumstances of the contamination and in accordance with the assessment plan.

NEW RULE I(2) is necessary to disallow composite sampling because composite sampling is ineffective to ensure the decontamination standard of 1.5 micrograms is achieved and contaminated surfaces in an inhabitable property are remediated. For example, if four walls were sampled using composite methodologies a given result may be provided as 1.4 micrograms for all four walls, when wall A was 0, wall B was 0, wall C was 0, and wall D was 5.6 micrograms. Composite sampling would not identify the contaminated surface and ensure required remediation and final clearance of all surface contamination.

NEW RULE I(3) provides for a sample "blank," which is necessary for quality assurance to ensure no cross contamination or interference in the sample media, containers, collection methods, and laboratory performance.

NEW RULE I(4) provides for the collection of surface material samples from

two discretionary locations determined at the methamphetamine certified cleanup contractor's discretion. The inclusion of discretionary samples is necessary to allow for flexibility so that additional samples may be obtained based on site conditions, field observations, and other variables without the need to vary from the assessment or final clearance plan.

NEW RULE II RECORDKEEPING, REPORTS, AND SUBMITTALS

(1) Each assessment, work, and final clearance plan must:

- (a) be prepared by the certified methamphetamine cleanup contractor;
- (b) be submitted to the department no less than 10 working days before the intended plan implementation;
- (c) include the following:
 - (i) assessment plans shall include the information in (3)(a) through (h), (j), and (k);
 - (ii) work plans shall include the information in (3)(a) through (c), (i), and (k);
 - (iii) final clearance plans shall include the information in (3)(a) through (h), (j), and (k).

(2) The certified methamphetamine cleanup contractor must address any comments by the department in an assessment, work, or final clearance plan submittal, and resubmit until the plan is approved. The completed and department-approved version of an assessment, work, or final clearance plan shall be retained by the certified methamphetamine cleanup contractor and inhabitable property owner for a minimum of three years.

(3) The completed version of each plan shall include information and documentation necessary for the department to determine decontamination is achieved including:

- (a) information identifying the contaminated inhabitable property, including the street address, mailing address, owner(s), legal description, latitude/longitude, and vehicle identification numbers of mobile homes or motorized vehicles;
- (b) the name, certification number, and expiration date of the certified methamphetamine cleanup contractor who will implement the department approved plan;
- (c) a detailed description of assessment, work, or final clearance activities planned at the site;
- (d) photographs documenting the assessment or final clearance activities showing each sample location;
- (e) a drawing or sketch of all structures on the property depicting proposed sample locations;
- (f) a description of the sampling procedure used for each material sampled;
- (g) a copy of the chain of custody and testing results from each analytical laboratory;
- (h) a written discussion interpreting the test results for all analytical testing and recommendation(s) from the methamphetamine cleanup contractor(s);
- (i) the work plan shall include a letter from the intended landfill showing planned acceptance of methamphetamine-contaminated debris from the site. To complete the approved work plan, the contractor must submit documentation of the

waste characterization, transportation, and disposal documents, including bills of lading, weight tickets, and/or manifests for all materials removed from the property;

(j) to complete an assessment plan or final clearance plan a written discussion summarizing the sample results with a comparison to the decontamination standard in 75-10-1303, MCA; and

(k) a written summary of any deviations from the department-approved plan(s) by the certified methamphetamine cleanup contractor.

(4) Once each completed plan is executed, the plan should be supplemented to verify completion of the tasks described in the completed and approved version.

AUTH: 75-10-1306, MCA

IMP: 75-10-1306, MCA

REASON: The department is proposing NEW RULE II to meet the department's obligation to confirm the decontamination standard is met after the inhabitable structure has been remediated. NEW RULE II is necessary to promote consistency and efficiency and reduce the variability in the documentation provided by certified methamphetamine cleanup contractors. Since 2015, the department has provided informal guidance in the form of check lists that cover items (3)(a) through (k) to ensure proper documentation. Section 75-10-1306, MCA, allows the department to establish by rule the reasonable requirements for sufficiency of documentation provided to the department. The consistency of a standardized format for work plan submittals allows for reduced review times by department staff and will provide for a protective regulatory framework.

NEW RULE III INCORPORATION BY REFERENCE (1) For the purposes of this subchapter, the department adopts and incorporates by reference the National Institute for Occupational Safety and Health (NIOSH) method 9111, METHAMPHETAMINE on Wipes by Liquid Chromatography/Mass Spectrometry. As specified in [NEW RULE I], the reagent used for the collection of samples shall be limited to methanol.

(2) Copies of the documents incorporated by reference in (1) may be obtained from the Department of Environmental Quality, Waste Management and Remediation Division, P.O. Box 200901, Helena, MT 59620-0901.

AUTH: 75-10-1306, MCA

IMP: 75-10-1306, MCA

REASON: NEW RULE III is necessary to incorporate consistent sampling methodology and analytical processes. Adopting the NIOSH standard by reference will provide consistency in analysis and confirmation that the decontamination standard in 75-10-1303, MCA, is achieved. Standardized analytical methodology will reduce variables in the sampling process and assure that the decontamination standard established in 75-10-1303, MCA, is reported consistently. NIOSH 9111 is the national standard for wipe sampling using liquid methodology for analysis and provides a scientifically proven methodology for the analysis of samples for methamphetamine. NIOSH 9111 provides high accuracy and affordability,

increasing the number of samples that may be obtained economically to ensure decontamination of inhabitable structures and protection of the public.

5. 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 the Department of Environmental Quality, 1520 E. Sixth Avenue, P.O. Box 200901, Helena, Montana 59620-0901; faxed to (406) 444-4386; or emailed to DEQMETHAMPHETAMINECLEANUP@mt.gov, no later than 5:00 p.m., April 26, 2022. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

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, e-mail, 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 supply; public sewage systems regulation; hard rock (metal) mine reclamation; major facility siting; opencut mine reclamation; strip mine reclamation; subdivisions; renewable energy grants/loans; wind energy, 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 the Department of Environmental Quality, 1520 E. Sixth Ave., P.O. Box 200901, Helena, Montana 59620-0901, faxed to the office at (406) 444-4386, e-mailed to DEQMETHAMPHETAMINECLEANUP @mt.gov, or may be made by completing a request form at any rules hearing held by the department.

7. Kirsten Bowers, attorney for the department, has been designated to preside over and conduct the hearing.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply. The bill sponsor was notified by a letter on June 3, 2021, and again on January 24, 2022.

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

10. The stringency provisions at 75-10-107, MCA, do not apply because there are no comparable federal regulations or guidelines that address decontamination of inhabitable structures contaminated by methamphetamine.

/s/ Angela Colamaria
ANGELA COLAMARIA
Rule Reviewer

BY: /s/ Christopher Dorrington
CHRISTOPHER DORRINGTON
Director
Department of Environmental Quality

Certified to the Secretary of State March 15, 2022.

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF MONTANA

In the matter of the amendment of)	NOTICE OF PROPOSED
ARM 17.8.802 pertaining to)	AMENDMENT
Incorporation by Reference of 40)	
CFR Part 51, Appendix W)	(AIR QUALITY)
)	
)	NO PUBLIC HEARING
)	CONTEMPLATED

TO: All Concerned Persons

1. On May 13, 2022, the Department of Environmental Quality (department) proposes to amend ARM 17.8.802 to incorporate by reference the most current version of the federal guidelines on air quality models as codified in 40 CFR part 51, Appendix W.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Environmental Quality no later than 5:00 p.m., on April 25, 2022, to advise us of the nature of the accommodation that you need. Please contact Loryn Johnson at the Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-1388; fax (406) 444-4386; or e-mail Loryn.Johnson2@mt.gov.

3. The rule proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

17.8.802 INCORPORATION BY REFERENCE (1) For the purposes of this subchapter, the ~~board~~ department adopts and incorporates by reference the following:

(a) 40 CFR 51.102, pertaining to requirements for public hearings for state programs;

(b) 40 CFR Part 51, Appendix W, pertaining to the Guideline on Air Quality Models, as published January 17, 2017, and effective May 22, 2017;

(c) 40 CFR Part 60, pertaining to standards of performance for new stationary sources;

(d) 40 CFR Part 61, pertaining to emission standards for hazardous air pollutants;

(e) 40 CFR 81.327, pertaining to the air quality attainment status designations for Montana; and

(f) the Standard Industrial Classification Manual (1987), Office of Management and Budget (PB 87-100012), pertaining to a system of industrial classification and definition based upon the composition and structure of the economy.

(2) Copies of materials incorporated by reference in this subchapter may be obtained as referenced in ARM 17.8.102(3) and (4).

AUTH: 75-2-111, 75-2-203, MCA

IMP: 75-2-202, 75-2-203, 75-2-204, MCA

REASON: The department adopts and incorporates by reference federal regulations to ensure that Montana's air quality rules are at least as stringent as federal air quality regulations, to maintain primacy, and federal delegation of Montana's air quality program. As, after the 2021 Legislative Session, the department is responsible for adopting rules, the department has changed "board" to "department."

The Clean Air Act (CAA) section 110(a)(2)(K) requires that state implementation plans (SIPs) provide for (i) the performance of air quality modeling as the administrator may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of any air pollutant for which the administrator has established a NAAQS, and (ii) the submission, upon request, of data related to such air quality modeling to the administrator.

The department fulfills the CAA section 110(a)(2)(K) requirement by incorporating by reference the federal guidelines on air quality models codified in 40 CFR part 51, appendix W (Appendix W) (January 17, 2017, 82 FR 5182). Through incorporation of these guidelines, the department is ensuring it will apply the current EPA models and requirements for SIP and air permit modeling needs as required in Clean Air Act section 110(a)(2)(K).

4. Concerned persons may submit their data, views, or arguments in writing to: Loryn Johnson at the Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-1388; fax (406) 444-4386; or e-mail Loryn.Johnson2@mt.gov, and must be received no later than 5:00 p.m., April 25, 2022.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make a written request for a hearing and submit this to Loryn Johnson at the above address no later than 5:00 p.m., April 25, 2022.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 80, based on the approximately 800 persons on the interested persons list for air quality matters that is maintained by the department. Because 25 persons is fewer

than 80, the department will hold a hearing if it receives hearing requests from at least 25 persons.

7. 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, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. 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 the contact person, Loryn Johnson, stated above or may be made by completing a request form at any rules hearing held by the department.

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sosmt.gov/ARM/Register>.

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

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

/s/ Angela Colamaria
ANGELA COLAMARIA
Rule Reviewer

/s/ Christopher Dorrington
CHRISTOPHER DORRINGTON
Director
Department of Environmental Quality

Certified to the Secretary of State March 15, 2022.

BEFORE THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 37.85.105 pertaining to) PROPOSED AMENDMENT
Medicaid fee schedules and effective)
dates)

TO: All Concerned Persons

1. On April 14, 2022, at 10:00 a.m., the Department of Public Health and Human Services will hold a public hearing via remote conferencing to consider the proposed amendment of the above-stated rule. Interested parties may access the remote conferencing platform in the following ways:

(a) Join Zoom Meeting at: <https://mt-gov.zoom.us/j/85173394119> meeting ID: 851 7339 4119; Password: 222901 or

(b) Dial by telephone +1 646 558 8656, meeting ID: 851 7339 4119. Find your local number: <https://mt-gov.zoom.us/j/85173394119>

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on April 4, 2022, to advise us of the nature of the accommodation that you need. Please contact Valerie St. Clair, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-6863; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

3. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

37.85.105 EFFECTIVE DATES, CONVERSION FACTORS, POLICY ADJUSTERS, AND COST-TO-CHARGE RATIOS OF MONTANA MEDICAID PROVIDER FEE SCHEDULES (1) and (2) remain the same.

(3) The department adopts, and incorporates by reference, the fee schedule for the following programs within the Health Resources Division, on the date stated.

(a) through (j) remain the same.

(k) Montana Medicaid adopts and incorporates by reference the Region D Supplier Manual, effective ~~January 1, 2022~~ April 1, 2022, which outlines the Medicare coverage criteria for Medicare covered durable medical equipment, local coverage determinations (LCDs), and national coverage determinations (NCDs), as provided in ARM 37.86.1802, effective ~~January 1, 2022~~ April 1, 2022. The prosthetic devices, durable medical equipment, and medical supplies fee schedule, as provided in ARM 37.86.1807, is effective ~~January 1, 2022~~ April 1, 2022.

(l) through (6) remain the same.

AUTH: 53-2-201, 53-6-113, MCA
IMP: 53-2-201, 53-6-101, 53-6-125, 53-6-402, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.85.105, pertaining to updating the effective dates of Medicaid fee schedules.

The department administers the Montana Medicaid and non-Medicaid program to provide health care to Montana's qualified low-income, elderly, and disabled residents. Medicaid is a public assistance program paid for with state and federal funds appropriated to pay health care providers for the covered medical services they deliver to Medicaid members.

The proposed fee schedule can be found at the following web address:
<http://medicaidprovider.mt.gov/proposedfs>.

The proposed amendments are explained below, regarding the specific subsection of ARM 37.85.105.

(3)(k) Prosthetic Devices, Durable Medical Equipment, and Medical Supplies

The department proposes to update the fee schedule date for prosthetic devices, durable medical equipment, and medical supplies to April 1, 2022. This update is necessary to adopt updates to procedure codes that the federal Medicare program will enact in April 2022. The federal updates include new code additions, code deletions, and changes to existing code descriptions. Montana Medicaid uses Medicare procedure codes for billing and, therefore, must adopt the changes for the state program.

Fiscal Impact

This proposed rule amendment is expected to be budget neutral and will impact 501 Montana Healthcare Programs Durable Medical Equipment providers.

The department intends for the proposed amendments to be effective retroactive to April 1, 2022.

5. 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: Valerie St. Clair, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail dphhslegal@mt.gov, and must be received no later than 5:00 p.m., April 22, 2022.

6. The Office of Legal Affairs, Department of Public Health and Human Services, has been designated to preside over and conduct this hearing.

7. 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, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. 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 the contact person in 5 above or may be made by completing a request form at any rules hearing held by the department.

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

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

10. Section 53-6-196, MCA, requires that the department, when adopting by rule proposed changes in the delivery of services funded with Medicaid monies, make a determination of whether the principal reasons and rationale for the rule can be assessed by performance-based measures and, if the requirement is applicable, the method of such measurement. The statute provides that the requirement is not applicable if the rule is for the implementation of rate increases or of federal law.

The department has determined that the proposed program changes presented in this notice are not appropriate for performance-based measurement and therefore are not subject to the performance-based measures requirement of 53-6-196, MCA.

/s/ Brenda K. Elias
Brenda K. Elias
Rule Reviewer

/s/ Adam Meier
Adam Meier, Director
Public Health and Human Services

Certified to the Secretary of State March 15, 2022.

BEFORE THE DEPARTMENT OF COMMERCE
OF THE STATE OF MONTANA

In the matter of the adoption of New) NOTICE OF ADOPTION
Rule I pertaining to the deadline for the)
second cycle for the Community)
Development Block Grant (CDBG) –)
Community and Public Facilities)
Projects Application and Guidelines)

TO: All Concerned Persons

1. On January 28, 2022, the Department of Commerce published MAR Notice No. 8-94-194 pertaining to the proposed adoption of the above-stated rule at page 98 of the 2022 Montana Administrative Register, Issue Number 2.
2. No comments or testimony were received.
3. The department has adopted New Rule I (8.94.3734) as proposed.

/s/ Amy Barnes
Amy Barnes
Rule Reviewer

/s/ Adam Schafer
Adam Schafer
Deputy Director
Department of Commerce

Certified to the Secretary of State March 15, 2022.

BEFORE THE DEPARTMENT OF COMMERCE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 8.119.101 pertaining to the)
Tourism Advisory Council)

TO: All Concerned Persons

1. On January 28, 2022, the Department of Commerce published MAR Notice No. 8-119-193 pertaining to the proposed amendment of the above-stated rule at page 100 of the 2022 Montana Administrative Register, Issue Number 2.

2. No comments or testimony were received.

3. The department has amended the above-stated rule as proposed.

MONTANA BOARD OF HOUSING
Patrick E. Melby, Chair

/s/ Amy Barnes
Amy Barnes
Rule Reviewer

/s/ Adam Schafer
Adam Schafer
Deputy Director
Department of Commerce

Certified to the Secretary of State March 15, 2022.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 10.66.112 and 10.66.113)
pertaining to adult secondary)
education credentials)

TO: All Concerned Persons

1. On January 28, 2022, the Board of Public Education (board) published MAR Notice No. 10-66-101 pertaining to the proposed amendment of the above-stated rules at page 142 of the 2022 Montana Administrative Register, Issue Number 2.

2. The board has amended the above-stated rules as proposed.

3. No comments or testimony were received.

/s/ McCall Flynn
McCall Flynn
Rule Reviewer

/s/ Tammy Lacey
Tammy Lacey
Chair
Board of Public Education

Certified to the Secretary of State March 15, 2022.

BEFORE THE BOARD OF PHARMACY
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 24.174.701 pharmacy technician)
registration requirements, 24.174.711)
ratio of pharmacy technicians and)
interns to supervising pharmacists,)
and 24.174.712 application for)
approval of utilization plan)

TO: All Concerned Persons

1. On January 14, 2022, the Board of Pharmacy (board) published MAR Notice No. 24-174-78 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 32 of the 2022 Montana Administrative Register, Issue Number 1.

2. On February 4, 2022, a public hearing was held on the proposed amendment of the above-stated rules via videoconference and telephonic platform. Five comments were received by the February 11, 2022, deadline.

3. The department has thoroughly considered the comments made. A summary of the comments and the board's responses are as follows:

COMMENT #1: Several commenters offered general support for the proposed rule changes.

RESPONSE #1: The board appreciates all comments received during the rulemaking process.

COMMENT #2: Several commenters stated that requiring in ARM 24.174.712(1) that a pharmacy's pharmacist-in-charge submit a technician utilization plan for approval, including updates, would be inefficient and may reduce and/or impact consistency between pharmacies. The commenters requested the board amend the rule to allow a corporation to collaborate with their pharmacists-in-charge to ensure the technician utilization plan is submitted on behalf of all the locations in the state.

RESPONSE #2: The board concluded that changing the party responsible for submitting technician utilization plan(s) would be a substantive change that cannot be accomplished in a final notice. The board appreciates the consideration for administrative consistency but intends for the amendment to focus on the responsibilities of the pharmacist-in-charge for each location to better ensure their awareness, and their staff's awareness, of the provisions outlined in the technician utilization plan. The board will provide outreach and education to licensees regarding the requirement and will work with corporate and similar staff on

implementation procedures. The board may consider such potential changes in future rulemaking discussions.

COMMENT #3: Numerous commenters expressed support for the board taking action to address pharmacy staffing issues to improve a patient's access to vaccines, including the use of other health care licensees to assist pharmacists in vaccine administration when those licensees are authorized to administer vaccines under their own scope of practice.

RESPONSE #3: The board appreciates all comments received during the rulemaking process.

COMMENT #4: Numerous commenters expressed support for pharmacists' authority to order and administer vaccines independently, without a collaborative pharmacy practice agreement with a prescriber, as defined in 37-7-105, MCA.

RESPONSE #4: The board appreciates all comments received during the rulemaking process. Regarding the commenters' description of state-authorized vaccine authority as defined in 37-7-105, MCA, the board clarifies that currently there is also additional federal authority for pharmacists to order and administer COVID-19 vaccines and tests, and other vaccines, as authorized in the Public Readiness and Emergency Preparedness Act (PREP Act) and corresponding PREP Act amendments.

COMMENT #5: Numerous commenters expressed ongoing support for pharmacists to order and/or administer vaccines pursuant to a collaborative pharmacy practice agreement with a prescriber(s).

RESPONSE #5: The board appreciates all comments received during the rulemaking process, but the comments are outside the scope of the proposed rule notice.

4. The board has amended ARM 24.174.701, 24.174.711, and 24.174.712 exactly as proposed.

BOARD OF PHARMACY
TONY KING, RPh
PRESIDENT

/s/ DARCEE L. MOE
Darcee L. Moe
Rule Reviewer

/s/ LAURIE ESAU
Laurie Esau, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State March 15, 2022.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the repeal of ARM) NOTICE OF REPEAL
42.39.307 pertaining to former)
DPHHS regulations for failed)
laboratory test samples)

TO: All Concerned Persons

1. On February 11, 2022, the Department of Revenue published MAR Notice No. 42-1047 pertaining to the proposed repeal of the above-stated rule at page 223 of the 2022 Montana Administrative Register, Issue Number 3.

2. No requests for a public hearing were received. The department did not receive any written comments in support of or opposition to the proposed repeal.

3. The department has repealed ARM 42.39.307 as proposed.

/s/ Todd Olson
Todd Olson
Rule Reviewer

/s/ David R. Stewart
David R. Stewart
Authorized Signor
for the Department of Revenue

Certified to the Secretary of State March 15, 2022.

BEFORE THE COMMISSIONER OF POLITICAL PRACTICES
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 44.11.403, 44.11.501,)
44.11.608, and 44.11.702 pertaining)
to child-care expenses and)
campaigns)

TO: All Concerned Persons

1. On February 11, 2022, the Office of the Commissioner of Political Practices (COPP) published MAR Notice No. 44-2-254 pertaining to the proposed amendment of the above-stated rules at page 225 of the 2022 Montana Administrative Register, Issue Number 3.

2. The office has amended the above-stated rules as proposed.

3. No comments or testimony were received.

/s/ Jaime MacNaughton
Jaime MacNaughton
Rule Reviewer

/s/ Jeffrey Mangan
Jeffrey Mangan
Commissioner
Office of the Commissioner of Political Practices

Certified to the Secretary of State March 11, 2022.

NOTICE OF FUNCTION OF ADMINISTRATIVE RULE REVIEW COMMITTEE

Interim Committees and the Environmental Quality Council

Administrative rule review is a function of interim committees and the Environmental Quality Council (EQC). These interim committees and the EQC have administrative rule review, program evaluation, and monitoring functions for the following executive branch agencies and the entities attached to agencies for administrative purposes.

Economic Affairs Interim Committee:

- Department of Agriculture;
- Department of Commerce;
- Department of Labor and Industry;
- Department of Livestock;
- Office of the State Auditor and Insurance Commissioner; and
- Office of Economic Development.

Education and Local Government Interim Committee:

- State Board of Education;
- Board of Public Education;
- Board of Regents of Higher Education; and
- Office of Public Instruction.

Children, Families, Health, and Human Services Interim Committee:

- Department of Public Health and Human Services.

Law and Justice Interim Committee:

- Department of Corrections; and
- Department of Justice.

Energy and Telecommunications Interim Committee:

- Department of Public Service Regulation.

Revenue and Transportation Interim Committee:

- Department of Revenue; and
- Department of Transportation.

State Administration and Veterans' Affairs Interim Committee:

- Department of Administration;
- Department of Military Affairs; and
- Office of the Secretary of State.

Environmental Quality Council:

- Department of Environmental Quality;
- Department of Fish, Wildlife and Parks; and
- Department of Natural Resources and Conservation.

Water Policy Interim Committee (where the primary concern is the quality or quantity of water):

- Department of Environmental Quality;
- Department of Fish, Wildlife and Parks; and
- Department of Natural Resources and Conservation.

These interim committees and the EQC have the authority to make recommendations to an agency regarding the adoption, amendment, or repeal of a rule or to request that the agency prepare a statement of the estimated economic impact of a proposal. They also may poll the members of the Legislature to determine if a proposed rule is consistent with the intent of the Legislature or, during a legislative session, introduce a bill repealing a rule, or directing an agency to adopt or amend a rule, or a Joint Resolution recommending that an agency adopt, amend, or repeal a rule.

The interim committees and the EQC welcome comments and invite members of the public to appear before them or to send written statements in order to bring to their attention any difficulties with the existing or proposed rules. The mailing address is P.O. Box 201706, Helena, MT 59620-1706.

HOW TO USE THE ADMINISTRATIVE RULES OF MONTANA
AND THE MONTANA ADMINISTRATIVE REGISTER

Definitions: **Administrative Rules of Montana (ARM)** is a looseleaf compilation by department of all rules of state departments and attached boards presently in effect, except rules adopted up to three months previously.

Montana Administrative Register (MAR or Register) is an online publication, issued twice-monthly, containing notices of rules proposed by agencies, notices of rules adopted by agencies, and interpretations of statutes and rules by the Attorney General (Attorney General's Opinions) and agencies (Declaratory Rulings) issued since publication of the preceding Register.

Use of the Administrative Rules of Montana (ARM):

- | | |
|---------------|--|
| Known Subject | 1. Consult ARM Topical Index.
Update the rule by checking recent rulemaking and the table of contents in the last Montana Administrative Register issued. |
| Statute | 2. Go to cross reference table at end of each number and title which lists MCA section numbers and department corresponding ARM rule numbers. |

RECENT RULEMAKING BY AGENCY

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies that have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through December 31, 2021. This table includes notices in which those rules adopted during the period October 8, 2021, through March 11, 2022, occurred and any proposed rule action that was pending during the past 6-month period. (A notice of adoption must be published within six months of the published notice of the proposed rule.) This table does not include the contents of this issue of the Montana Administrative Register (MAR or Register).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through December 31, 2021, this table, and the table of contents of this issue of the Register.

This table indicates the department name, title number, notice numbers in ascending order, the subject matter of the notice, and the page number(s) at which the notice is published in the 2021 or 2022 Montana Administrative Registers.

To aid the user, this table includes rulemaking actions of such entities as boards and commissions listed separately under their appropriate title number.

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| 2-59-612 | Standardized Forms and Procedures of the NMLS for Consumer Loan Licenses, Escrow Business Licenses, Sales Finance Company Licenses, and Deferred Deposit Lender Licenses - Consumer Loan License Surrender - Definitions for Mortgage Licensees - Revocation, Suspension, or Surrender of Mortgage Licenses - Initial Applications Through NMLS for Consumer Loan Licenses, Escrow Business Licenses, Sales Finance Company Licenses, and Deferred Deposit Lender Licenses - Consumer Loan License Amendments and Fees - Escrow Business License Amendments, Surrender, and Fees - Sales Finance Company License Amendments, Surrender, and Fees - Deferred Deposit Lender License Amendments, Surrender, and Fees - Table Funding Requiring Licensure for Mortgage Licensees, p. 1815, 228 |
| 2-59-615 | Mutual Savings and Loan Associations - Savings and Loan Associations—Real estate - Examination and Supervisory Fees for Savings and Loan Associations, p. 1827, 230 |
| 2-59-616 | Investment Policies - Report of Declaration and Payment of Dividend—Dividend Approval Request Form - Oaths of Directors - Parity With National Banks, p. 1872, 234 |
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- 17-418 Incorporation by Reference - Hazardous Waste Fees, p. 14
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EXECUTIVE BRANCH APPOINTEES AND VACANCIES

Section 2-15-108, MCA, passed by the 1991 Legislature, directed that all appointing authorities of all appointive boards, commissions, committees, and councils of state government take positive action to attain gender balance and proportional representation of minority residents to the greatest extent possible.

One directive of 2-15-108, MCA, is that the Secretary of State publish monthly in the ***Montana Administrative Register*** a list of executive branch appointees and upcoming vacancies on those boards and councils.

In this issue, appointments effective in February 2022 appear. Potential vacancies from April 1, 2022 through April 30, 2022, are also listed.

IMPORTANT

Membership on boards and commissions changes constantly. The following lists are current as of March 1, 2022.

For the most up-to-date information of the status of membership, or for more detailed information on the qualifications and requirements to serve on a board, contact the appointing authority.

EXECUTIVE BRANCH APPOINTEES FOR FEBRUARY 2022

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
9-1-1 Advisory Council			
Chief Doug Colombik Miles City	Governor	Curt Stinson	2/3/2022 9/3/2023
Qualifications (if required): Mt Assn of Chiefs of Police			
Board of Housing			
Ms. Tonya Plummer Hays	Governor	Robert Gauthier	2/7/2022 1/1/2023
Qualifications (if required): Experience in housing, economics, or finance			
Board of Medical Examiners			
Ms. Ana Diaz Billings	Governor	Reappointed	2/1/2022 9/1/2025
Qualifications (if required): Public member not a medical practitioner			
Ms. Christine Emerson Helena	Governor	Reappointed	2/1/2022 9/1/2025
Qualifications (if required): Licensed Nutritionist			
Dr. James Guyer Billings	Governor	Reappointed	2/1/2022 9/1/2025
Qualifications (if required): Doctor of Medicine (MD)			

EXECUTIVE BRANCH APPOINTEES FOR FEBRUARY 2022

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Medical Examiners Cont.			
Mr. Tony Pfaff Deer Lodge	Governor	C.E. Abramson	2/1/2022 9/1/2025
Qualifications (if required): public member not a medical practitioner			
Ms. Connie Wethern Glasgow	Governor	Brian Reed	2/1/2022 9/1/2025
Qualifications (if required): volunteer emergency medical tech			
Ms. Brooke Yates Red Lodge	Governor	Tammy Scott	2/1/2022 9/1/2025
Qualifications (if required): Licensed physician assistant			
Board of Plumbers			
Mr. Karl Carlson Billings	Governor	Denver Frasier	2/7/2022 5/1/2023
Qualifications (if required): DEQ Rep with experience in regulation of drinking water systems			
Board of Psychologists			
Ms. Loretta Bolyard Butte	Governor	DOLI	2/7/2022 9/1/2026
Qualifications (if required): Psychologist in healthcare industry			

EXECUTIVE BRANCH APPOINTEES FOR FEBRUARY 2022

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Public Education			
Ms. Renee Rasmussen Clancy Qualifications (if required): District 1 - Republican	Governor	Darlene Schottle	2/1/2022 1/31/2029
Board of Sanitarians			
Ms. Megan Bullock Boulder Qualifications (if required): Registered Sanitarian	Governor	Reappointed	2/7/2022 7/1/2026
Historical Records Advisory Council			
Mr. Rich Aarstad Helena Qualifications (if required): State Archivist	Governor	Jodie Foley	2/1/2022 9/30/2023
Ms. Anne L. Foster Gardiner Qualifications (if required): PublicArchivist	Governor	Reappointed	2/1/2022 9/30/2023
Ms. Aubrey Japp Butte Qualifications (if required): PublicArchivist	Governor	Reappointed	2/1/2022 9/30/2023

EXECUTIVE BRANCH APPOINTEES FOR FEBRUARY 2022

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Historical Records Advisory Council Cont.			
Ms. Rachel Phillips Bozeman Qualifications (if required): Private Archivist	Governor	Kathleen Mumme	2/1/2022 9/30/2023
Ms. Megan Sanford Great Falls Qualifications (if required): Private Archivist	Governor	Kathryn Kramer	2/1/2022 9/30/2023
Ms. Anita Scheetz Poplar Qualifications (if required): Research Institution representative	Governor	Heather Hultman	2/1/2022 9/30/2023
Ms. Eileen A. Wright Billings Qualifications (if required): Research Institution	Governor	Reappointed	2/1/2022 9/30/2023
Montana Public Safety Officer Standards and Training Council			
Mr. Jim Anderson Helena Qualifications (if required): Department of Corrections representative	Governor	Kevin Olson	2/7/2022 1/1/2023

EXECUTIVE BRANCH APPOINTEES FOR FEBRUARY 2022

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Montana Public Safety Officer Standards and Training Council Cont.			
Mr. Mark Kraft Sidney	Governor	Ryan Oster	2/7/2022 1/1/2023
Qualifications (if required): Chief of Police			
Mr. Mike McCarthy Helena	Governor	Tia Robbin	2/7/2022 1/1/2023
Qualifications (if required): Citizen at-large experienced in law enforcement			

EXECUTIVE BRANCH VACANCIES – APRIL 1, 2022 THROUGH APRIL 30, 2022

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Board of Architects and Landscape Architects		
Ms. Shelly Marie Engler, Bozeman Qualifications (if required): Licensed landscape architect	Governor	4/1/2022
Mr. Nathan Gary Steiner, Billings Qualifications (if required): Licensed landscape architect	Governor	4/1/2022
Mr. Steven Thomas Small, Billings Qualifications (if required): Representative of the public	Governor	4/1/2022
Ms. Marie O'Neill Conrad, Bozeman Qualifications (if required): Licensed architect who is on the staff of MSU	Governor	4/1/2022
Board of Dentistry		
Mr. Clifford R. Christenot, Libby Qualifications (if required): Denturist	Governor	4/1/2022
Mr. James B. Corson, Billings Qualifications (if required): Public Representative	Governor	4/1/2022
Mr. James B. Corson, Billings Qualifications (if required): Public Representative	Governor	4/1/2022
Ms. Diedri Durocher, Great Falls Qualifications (if required): Dental hygienist	Governor	4/1/2022

EXECUTIVE BRANCH VACANCIES – APRIL 1, 2022 THROUGH APRIL 30, 2022

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Board of Dentistry Cont. Dr. Leslie A. Hayes, Belgrade Qualifications (if required): Dentist	Governor	4/1/2022
Mr. Allen L. Casteel, Great Falls Qualifications (if required): Denturist	Governor	4/1/2022
Equal Pay For Equal Work Task Force Representative Diane Sands, Missoula Qualifications (if required): Elected Official	Governor	4/1/2022
Ms. Carole Lankford, Pablo Qualifications (if required): Tribal Member	Governor	4/1/2022
President Seth Bodner, Missoula Qualifications (if required): Higher Education	Governor	4/1/2022
Representative Laurie Bishop, Livingston Qualifications (if required): Elected Official	Governor	4/1/2022
Director Tara Rice, Helena Qualifications (if required): Co-Chair	Governor	4/1/2022
Commissioner Brenda Nordlund, Helena Qualifications (if required): Co-Chair	Governor	4/1/2022

EXECUTIVE BRANCH VACANCIES – APRIL 1, 2022 THROUGH APRIL 30, 2022

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Equal Pay for Equal Work Task Force Cont.		
Ms. Jennifer Euell, Missoula Qualifications (if required): Non-profit	Governor	4/1/2022
Ms. Lauren Caldwell, Helena Qualifications (if required): Labor/Workers	Governor	4/1/2022
Mr. John Cummings, Helena Qualifications (if required): Business	Governor	4/1/2022
Ms. Lilly Corning Thompson, Billings Qualifications (if required): Business	Governor	4/1/2022
Mr. Paddy Fleming, Bozeman Qualifications (if required): Business	Governor	4/1/2022
Ms. Tracy McIntyre, Great Falls Qualifications (if required): Economic Development	Governor	4/1/2022
Ms. Jamie Palagi, Helena Qualifications (if required): State Agency Director Designee	Governor	4/1/2022
Ms. Jen Perry, Bozeman Qualifications (if required): Business	Governor	4/1/2022

EXECUTIVE BRANCH VACANCIES – APRIL 1, 2022 THROUGH APRIL 30, 2022

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Family Support Services Advisory Council		
Ms. Danielle McCarthy, Helena Qualifications (if required): Agency representative, OPI part B	Governor	4/1/2022
Ms. Laura McKee, Billings Qualifications (if required): Parent representative, At large	Governor	4/1/2022
Ms. Hollin Marie Buck, Missoula Qualifications (if required): Provider of Part C services, Child Development Center	Governor	4/1/2022
Ms. Patricia Butler, Helena Qualifications (if required): Agency representative, DPHHS Early Childhood Services Bureau	Governor	4/1/2022
Ms. Laura Christiaens, Valier Qualifications (if required): Provider of Part C services, Family Support Specialist/Service Coordinator	Governor	4/1/2022
Ms. Jeannie Keller, Helena Qualifications (if required): Agency representative, Commissioner of Securities and Insurance	Governor	4/1/2022
Dr. Christine Lux, Bozeman Qualifications (if required): Personnel Preparation representative	Governor	4/1/2022
Mr. David Munson, Billings Qualifications (if required): Provider of part C services, Early Childhood Intervention	Governor	4/1/2022
Ms. Catherine Murphy, Helena Qualifications (if required): Agency representative, DPHHS Developmental Disabilities Program	Governor	4/1/2022

EXECUTIVE BRANCH VACANCIES – APRIL 1, 2022 THROUGH APRIL 30, 2022

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Family Support Services Advisory Council Cont.		
Ms. Daylinda Radley, Helena Qualifications (if required): Provider of part C services, Speech-Language Therapists' Assoc. representative	Governor	4/1/2022
Ms. Kathleen Rich, Helena Qualifications (if required): Head Start representative	Governor	4/1/2022
Ms. Karen Thornton, Great Falls Qualifications (if required): Provider of part C services, Physical Therapist representative	Governor	4/1/2022
Ms. Bonnie Lesley Ramage, Billings Qualifications (if required): Parent representative, region 3	Governor	4/1/2022
Ms. Leslie Lee, Helena Qualifications (if required): Agency representative, DPHHS Healthy MT families	Governor	4/1/2022
Mrs. Abigail Harris, Forsyth Qualifications (if required): Parent representative, region 1	Governor	4/1/2022
Representative Kathy Kelker, Billings Qualifications (if required): State legislator	Governor	4/1/2022
Ms. Amber Bell, Helena Qualifications (if required): Agency representative, DPHHS Children's Special Health	Governor	4/1/2022
Mrs. Carol Clayton-Bye, Geraldine Qualifications (if required): Montana School for the Deaf & Blind	Governor	4/1/2022

EXECUTIVE BRANCH VACANCIES – APRIL 1, 2022 THROUGH APRIL 30, 2022

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Family Support Services Advisory Council Cont.		
Mrs. Stephanie Davis Goble, Missoula Qualifications (if required): Medical professional	Governor	4/1/2022
Ms. Nicole Lynn Goeddel, Missoula Qualifications (if required): Parent representative, region 1	Governor	4/1/2022
Mrs. Kiera Kirschner, Bozeman Qualifications (if required): Parent representative, region 4	Governor	4/1/2022
Ms. Brandi Loch, Great Falls Qualifications (if required): Agency representative, DPHHS Child Protective Services	Governor	4/1/2022
Ms. Karen Underwood, Laurel Qualifications (if required): Early childhood intervention service provider	Governor	4/1/2022
Ms. Breanne Main, Harlem Qualifications (if required): District 5 parent rep	Governor	4/1/2022
Ms. Jessie Counts, Helena Qualifications (if required): OPI representative	Governor	4/1/2022
Ms. Susan Brown, Helena Qualifications (if required): Commissioner of Insurances representative	Governor	4/1/2022
Mr. Jack O'Connor, Helena Qualifications (if required): OPI coordinator of education of homeless children and youth	Governor	4/1/2022

EXECUTIVE BRANCH VACANCIES – APRIL 1, 2022 THROUGH APRIL 30, 2022

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Family Support Services Advisory Council Cont. Rep. Sue Vinton, Billings Qualifications (if required): Representative of the State Legislature	Governor	4/1/2022
Public Employees' Retirement Board Ms. Julie A. McKenna, Helena Qualifications (if required): Public employee who is an active member of a public retirement system	Governor	4/1/2022
Ms. Terri Lynn Hogan, Helena Qualifications (if required): Active Member of the Public Retirement System Defined Contribution Plan	Governor	4/1/2022
Mr. Aaron L. Pratt, Helena Qualifications (if required): Public Employee, active member of the public retirement system	Governor	4/1/2022

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