

Subchapter 8

Schools

37.111.801 DEFINITIONS (1) "Approved" means acceptable to the department, based on its determination of conformance with this subchapter and good public health practices.

(2) "Bin placement" means placing sample results into the correct cell within Table 1 in ARM 37.111.832, to determine the required response to those results.

(3) "Bin placement sample" means those samples that will be used to determine bin placement in ARM 37.111.832.

(4) "Chemical" means any substance which has been assigned an EPA Hazardous Waste Number.

(5) "Contamination" means impairment or other alteration of the physical, chemical, or biological properties of water, including causing violation of the maximum contaminant levels for public water supplies contained in ARM Title 17, chapter 38, subchapter 2 or otherwise creating a hazard to human health.

(6) "Department" means the Department of Public Health and Human Services.

(7) "First-draw sample" means a 250 milliliter sample of tap water that has stood motionless in the plumbing pipes for at least six hours and is collected without flushing the tap.

(8) "Fixtures" means any shower, toilet, toilet seat, urinal, lavatory, drinking fountain, kitchen sink, janitor and custodial sink, utensil sink, handwashing sink, eye washing station, emergency shower, and all exposed plumbing integral to them.

(9) "Floors" means floor covering of all rooms including stairways, hallways, and lobbies.

(10) "Foot Candles" is the unit as defined as the amount of illumination the inside surface of a one-foot-radius sphere would be receiving if there were a uniform point source of one candela in the exact center of the sphere.

(11) "Furnishings" means draperies, curtains, blinds, light fixtures, chairs, tables, desks, shelves, and bookcases.

(12) "Green products" means products and services that have a lesser or reduced negative effect on human health and the environment when compared with competing products or services that serve the same purpose. This comparison applies to raw materials, manufacturing, packaging, distribution, use, reuse, operation, maintenance, and disposal. These products have a "Green Approval Stamp" certified by at least one of the following organizations: Green Seal, UL ECOLOGO®, the EPA Safer Choice, and the USDA Bio-Preferred.

(13) "Human consumption fixture (HCF)" means any endpoint device that provides or may reasonably provide water for human consumption or for food preparation.

(14) "Inactive" means the student population is not accessing the school for a period of more than 3 days. This includes, but is not limited to: holidays, summer vacation, or emergency situations.

(15) "Laboratory" or "Lab" is any space where hazardous chemicals are used for educational purposes.

(16) "Local education agency (LEA)" means the local school district board of trustees recognized as the administrative agency for a public elementary or secondary school.

(17) "Local health authority" means a local health officer, local sanitarian, or their authorized agents.

(18) "Pest" means any animal, plant, or other organism which has a harmful effect on humans, their food, or the conditions of their school, workplace, home, or recreation sites.

(19) "Radon" is a colorless, odorless, tasteless gas and comes from the natural breakdown of uranium in the ground.

(20) "Sanitarian" means a person, by reason of the person's special knowledge of the physical, biological, and chemical sciences and the principles and methods of public health acquired by professional education and practical experience through inspectional, educational, or enforcement duties, who is qualified to practice the profession of sanitarian.

(21) "School" means a building or structure, or portion thereof occupied for the teaching of individuals, the curriculum of which satisfies the basic instructional program approved by the Board of Public Education for pupils in any combination of kindergarten through grade 12, but excludes home schools as that term is defined in 20-5-102(2)(e), MCA.

(22) "School administrator" has the meaning provided for under ARM 10.55.602.

(23) "School site" means the ground immediately adjacent to a school used on a regular basis for school-related activity. (History: 50-1-206, MCA; IMP, 50-1-203, 50-1-206, MCA; NEW, 1986 MAR p. 546, Eff. 4/11/86; TRANS, from DHES, 2001 MAR p. 2425; AMD, 2020 MAR p. 47, Eff. 1/18/20.)

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

(a) Department of Public Health and Human Services and Department of Environmental Quality "Recommendations for Outdoor Activities Based on Air Quality for School and Child Care Facilities" (2018 edition).

(b) 29 CFR 1910.1450 "Occupational exposure to hazardous chemicals in laboratories" (effective January 22, 2013).

(c) ARM Title 17, chapter 38, subchapter 2, setting forth public water supply requirements.

(d) United States Consumer Product Safety Commission "Public Playground Safety Handbook" (2010 edition).

(e) United States Department of Justice "2010 ADA Standards for Accessible Design."

(f) Department of Environmental Quality Circular 4, "Montana Standards for Subsurface Wastewater Treatment Systems (2013 edition), setting forth construction and operation standards for sewage systems.

(g) The definition of "school administrator" provided for under ARM 10.55.602.

(2) Copies of these publications may be obtained from the Department of Public Health and Human Services, Chronic Disease Prevention and Health Promotion Bureau, chronicdiseaseprevention@mt.gov; 1(844)684-5848, CDPHP Bureau, P.O. Box

202951, 1400 Broadway, Suite C317, Helena MT 59601. (History: 50-1-206, MCA; IMP, 50-1-203, 50-1-206, MCA; NEW, 2020 MAR p. 47, Eff. 1/18/20.)

Rule 37.111.803 reserved

37.111.804 PRECONSTRUCTION REVIEW (1) Before construction commences, plans for construction of a new school or an addition to or an alteration of an existing school must be submitted to the department or local health authority for review and approval. Plans must include the following where applicable:

(a) location and detail of classrooms used for science or science laboratories, consumer science, art classrooms, art supply rooms, mechanic/carpentry, and industrial arts, including location and ventilation detail of lockable storage area of chemicals and other hazardous products;

(b) location and detail of janitorial facilities;

(c) specifications for the sewage treatment and disposal system to serve the school, except as provided in (2);

(d) specifications for the water supply to serve the school, except as provided in (2);

(e) locations for all emergency eyewash and shower stations, which must meet the American National Standard for Emergency Eyewash and Shower Equipment (ANSI/ISEA Z358.1);

(f) location and detail of laundry facilities including description of equipment and a flow chart indicating the route of laundry through sorting, washing, drying, ironing, folding, and storage;

(g) specifications for the final finishes of floors, walls and ceilings in toilet, locker and shower rooms, laundries, and janitorial closets;

(h) a statement from the designer of the facilities that lighting capable of meeting the minimum requirements of ARM 37.111.830 will be provided;

(i) location and detail of the solid waste storage facilities;

(j) name of DEQ-approved sanitary landfill which will receive solid waste from the school;

(k) specifications for a food service to serve the school unless the food service has been previously approved by the department and/or local health department;

(l) any other information requested by the department or local health authority relating to the health, sanitation, safety, and physical well-being of the teachers, staff, and students;

(m) specifications for any new or modified playground equipment, which must comply with the standards of the United States Consumer Product Safety Commission's Handbook for Public Playground Safety (2010 edition) and the requirements of the 2010 ADA Standards for Accessible Design;

(n) specifications for any new or modified air intakes; and

(o) specifications for any radon-resistant technique used in the building process.

(2) If the sewage treatment or disposal system or water supply has been previously approved by the department and/or DEQ and is designed to handle any increased load necessitated by the school's use, the applicant need not submit system specifications, but must submit written certification that the owner of the system has agreed to provide service.

(3) Schools must be constructed in locations which present the least risk of exposure to pollutants or other health hazards originating onsite or offsite. If potential environmental concerns are identified during the preconstruction process, and the Local Education Agency (LEA) still desires to consider the site, a more comprehensive environmental review must be performed with the help of the department, the local health authority, or DEQ.

(4) The topography of the site must permit good drainage of surface water away from the school building to eliminate significant areas of standing water and infiltration of surface water into the school building.

(5) All chemical storage areas in new construction must be constructed to maintain negative air pressure to eliminate contamination of the school's indoor air quality by being vented to the outside of the building.

(6) Gas supply lines serving science laboratories, consumer science, industrial arts, and other rooms utilizing multiple outlets must have a master shut-off valve that is readily accessible to the instructor or instructors-in-charge without leaving the classroom or storage area.

(7) Industrial arts classrooms or buildings and other rooms using electrically operated instruction equipment which presents a significant safety hazard to the student utilizing such equipment must be supplied with a master electric switch readily accessible to the instructor or instructors-in-charge without leaving the classroom or storage area.

(8) Janitorial storage spaces must be constructed to meet the following requirements:

(a) must be lockable;

(b) must include a storage area for equipment and chemicals; and

(c) must be vented to the outside of the building.

(9) Hot and cold water must be provided to handwashing sinks and shower facilities. Hot water must not be below 100° F nor exceed a temperature of 120° F.

(10) The department recommends the use of radon prevention strategies in new construction.

(11) Construction may not commence until all plans required by (1) through (9) have been approved by the department or local health authority. The department or local health authority must complete this review within 60 days after submission to them of complete plans and specifications. Construction must be in accordance with the plans as approved unless permission is granted in writing by the department or local health authority to make changes.

(12) Approval will be granted for a period not to exceed 3 years, after which, if construction has not been completed, plans must again be submitted to the department or local health authority for re-evaluation. (History: 50-1-206, MCA; IMP, 50-1-203, 50-1-206, MCA; NEW, 1986 MAR p. 546, Eff. 4/11/86; TRANS, from DHES, 2001 MAR p. 2425; AMD, 2020 MAR p.47, Eff. 1/18/20.)

37.111.805 EXISTING BUILDING: CHANGE OF USE (1) An existing building not currently used as a school may not be used as a school without the prior approval of the department or local health authority.

(a) When a proposal to use an existing building as a school involves physical modification, plans meeting the requirements of ARM 37.111.804 (1) through (9) must be submitted to the department or local health authority for review and approval. If no physical modification is involved, the department or local health authority may waive the requirement for submission of plans if an inspection by the department or local health authority indicates that the proposed school meets the requirements of this subchapter.

(b) The use of modular or mobile buildings in response to temporary or permanent closure of the existing school facility, segments thereof, or classroom overflow may be granted a one-year written exemption from the requirements of ARM 37.111.804 by the department or local health authority. Plans to continue use of modular or mobile buildings past one year must be shared with the local health authority or department. (History: 50-1-206, MCA; IMP, 50-1-203, 50-1-206, MCA; NEW, 1986 MAR p. 546, Eff. 4/11/86; TRANS, from DHES, 2001 MAR p. 2425; AMD, 2020 MAR p. 47, Eff. 1/18/20.)

37.111.806 STATE-LOCAL COORDINATION (1) If plans for a new or existing building are submitted for review to the local health authority pursuant to ARM 37.111.804 or 37.111.805 and the local health authority determines that it will be unable to conduct the review within a reasonable period of time, the local authority shall transmit the plans to the department within ten days after receipt, and shall notify the applicant that the review will be conducted by the department.

(2) If a local health authority conducts a plan review pursuant to ARM 37.111.804 or 37.111.805 and approves the plans, the local health authority shall submit written certification of such approval to the department no later than 30 days following such approval. (History: 50-1-206, MCA; IMP, 50-1-203, 50-1-206, MCA; NEW, 1986 MAR p. 546, Eff. 4/11/86; TRANS, from DHES, 2001 MAR p. 2425.)

Rules 37.111.807 through 37.111.809 reserved

37.111.810 INSPECTION (1) Representatives of the department or local health authority must be permitted to enter any school at any reasonable time for the purpose of making inspections to determine compliance with this subchapter. Annual inspections must be conducted by a school administrator, facility manager, or other staff member approved by the school administration, as well as having a department or local health authority inspection once a year, or as necessary. The department or local health authority may determine that special circumstances or local conditions warrant inspections with greater or less frequency. Upon receiving a complaint, the local health authority may determine if more inspections are necessary.

(2) Inspections of school facilities must be done using forms approved by the department.

(3) Inspection records must be kept on file at the school for at least three years from the time of inspection.

(4) Following each inspection, representatives of the department or local health authority must give the school administration a copy of an inspection report which notes any deficiencies and sets a time schedule for compliance. The report must document deficiencies. (History: 50-1-206, MCA; IMP, 50-1-203, 50-1-206, MCA; NEW, 1986

MAR p. 546, Eff. 4/11/86; TRANS, from DHES, 2001 MAR p. 2425; AMD, 2020 MAR p. 47, Eff. 1/18/20.)

37.111.811 PHYSICAL REQUIREMENTS (1) A school must comply with the following physical requirements:

(a) Floors, walls, and ceilings in toilet, locker, and shower rooms, laundries, janitorial closets, and similar rooms subject to large amounts of moisture must be maintained in a smooth and non-absorbent condition. Non-absorbent, non-skid floor matting may be used where appropriate to prevent injury.

(b) Adequate coat/jacket and book storage for each student must be provided.

(c) Beginning September 1, 2021, the school shall have and follow written policies and procedures regarding the storage, administration, and lawful disposal of prescription, nonprescription, and over-the-counter medication.

(d) All non-emergency medication must be kept in a locked, nonportable container, stored in its original container with the original prescription label. Epinephrine, naloxone, and student emergency medication may be kept in portable containers and transported by the school nurse or other authorized school personnel.

(e) Food is not allowed to be stored in refrigeration units with medications.

(f) Schools must comply with the applicable requirements of Section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C 207) and 39-2-215, MCA, requiring employers to provide a nursing mother reasonable break time and a place to express breast milk after the birth of her child.

(g) The school must provide reasonable accommodations for students and staff on the school campus to express breast milk, breastfeed an infant child, or address other needs related to breastfeeding. Reasonable accommodations include, but are not limited to:

(i) access to a place, that is shielded from view and free from intrusion from the public, students, and other staff, to express breast milk or breastfeed an infant child;

(ii) permission to bring onto a school campus a breast pump and any other equipment used to express breast milk;

(iii) access to a power source for a breast pump or any other equipment used to express breast milk; and

(iv) access to a place to store expressed breast milk safely.

(h) The school must take measures consistent with the programmatic and developmental needs of its students to ensure the safe use and secure storage of any equipment including but not limited to: kitchen appliances, industrial arts equipment, maintenance tools, and hazardous art supplies.

(i) To reduce the spread of animal-borne diseases, livestock and poultry must be located more than 50 feet from food service areas, offices, or classrooms except those offices and classrooms associated with animal husbandry activities or other demonstrations as approved by the school administration. In classrooms, offices, or food service areas where livestock and poultry are approved by the administrator, animals must not have contact with eating or serving surfaces.

(2) In addition to compliance with this subchapter, school officials must comply with the Building and Fire Safety Codes administered by the State Building Codes Division and the State Fire Marshal or by local building officials (see Title 50, chapters

60 and 61, MCA, and rules adopted thereunder). (History: 50-1-206, MCA; IMP, 50-1-203, 50-1-206, MCA; NEW, 1986 MAR p. 546, Eff. 4/11/86; TRANS, from DHES, 2001 MAR p. 2425; AMD, 2020 MAR p. 47, Eff. 1/18/20.)

37.111.812 SAFETY REQUIREMENTS (1) Janitorial and other storage areas that contain toxic or hazardous materials must be kept locked between periods of use. Custodial closets, boiler rooms, and other areas where hazardous or poisonous compounds are stored must be inaccessible to students.

(2) All cleaning compounds and other toxic chemicals not stored in the product container or package in which it was obtained must be stored in a labeled container that clearly identifies the product by name.

(3) Chemicals must be stored as specified by the chemical's Safety Data Sheet (SDS).

(4) The school and school site must be free of objects or conditions which create unreasonable or unnecessary dangers to health or safety.

(5) First aid kits and AEDs must be provided and stored in accessible locations that are easily identifiable to staff and trained personnel.

(6) Playground and school yards must be inspected every month by the facility manager or other school personnel and the inspection must be recorded and records kept on the school site. Inspections must be conducted using a playground safety checklist approved by the department.

(7) Playground inspection results must be made available for review by the local health authority or the department upon request.

(8) Periodic maintenance and repair must be performed on playground equipment according to the manufacturer's specifications. Repairs, not including the leveling of fall protection material, must be documented.

(9) Playground equipment must be maintained in a safe condition.

(History: 50-1-206, MCA; IMP, 50-1-203, 50-1-206, MCA; NEW, 1986 MAR p. 546, Eff. 4/11/86; TRANS, from DHES, 2001 MAR p. 2425; AMD, 2020 MAR p. 47, Eff. 1/18/20.)

37.111.813 SCIENCE, INDUSTRIAL ARTS, AND ART LABORATORY SAFETY

(1) Schools must comply with the Montana Employee and Community Hazardous Chemical Information Act (ECHCIA), 50-78-101, MCA, et seq.

(2) Schools containing science labs, industrial arts classrooms or buildings, and art labs that use and store hazardous chemicals must maintain a Chemical Hygiene Plan (CHP) and designate a Chemical Hygiene Officer (dCHO) in accordance with the requirements of the Occupational Safety and Health Administration (OSHA) Occupational Exposure to Hazardous Chemicals in Laboratories standard 29 CFR 1910.1450.

(3) CHPs must include plans for appropriate selection, storage, inventory, use, and disposal of hazardous chemicals, and biological materials.

(a) The dCHO has primary responsibility for ensuring the implementation of all components of the CHP.

(b) The school Chemical Hygiene Officer (sCHO) must oversee the implementation and enforcement of the schools' CHP at their school(s). A science

chairperson, equivalently qualified faculty member, or staff member with knowledge of the chemicals used in the school may be designated as the sCHO.

(4) Safety Data Sheets (SDS) for all materials in science labs, industrial arts classrooms or buildings, art labs, and lab storage rooms will be stored in those rooms and be accessible at all times.

(a) The SDS must also be kept in a secure, remote site outside of the science labs, industrial arts classroom or buildings, art labs, and lab storage rooms.

(5) All storage areas must be kept clean and organized according to OSHA Standard 29 CFR 1910.1450.

(6) Unused hazardous materials must be disposed of in a timely manner as stated by the manufacturer and approved by the DEQ. Schools must consult with the DEQ and the department for additional information about how they can properly discard hazardous material. (History: 50-1-206, MCA; IMP, 50-1-203, 50-1-206, MCA; NEW, 2020 MAR p. 47, Eff. 1/18/20.)

Rules 37.111.814 through 37.111.824 reserved

37.111.825 HEALTH SUPERVISION AND MAINTENANCE (1) Soap and disposable towels or other hand-drying devices must be available at all handwashing sinks. Common-use towels are prohibited.

(2) Sanitary napkin disposal must be provided for girls of age ten or older and in teachers' toilet rooms and nurses' toilet rooms. The school must provide either sanitary napkin dispensers in the girls', nurses', and teachers' toilet rooms or some other readily available on-site access to sanitary napkins.

(3) If a student or a staff member develops symptoms of any reportable communicable or infectious illness as defined by ARM 37.114.203 while at school, the responsible school officials shall do the following:

(a) isolate the student or staff member immediately from other children;

(b) if the individual is a student, inform the parent or guardian as soon as possible about the illness and request him or her to pick up the student; and

(c) consult with a physician, other qualified medical professional, or the local county health department to determine if the case should be reported to the local health officer pursuant to 37-2-301, MCA.

(4) Schools shall develop and enforce policies on first aid which include, at a minimum, the following:

(a) obtaining emergency phone numbers for parents or guardians;

(b) procedures to be followed in the event of accidents, injuries, or chronic disease exacerbations; and

(c) emergency coverage, including the presence of a person with a valid American Red Cross, American Heart Association, or American Health and Safety Institute CPR and first aid certification from an equivalent first aid course, during school-sponsored activities, including field trips, athletic, and other off-campus events. Recommendations for first aid supplies, health history tracking, emergency contact forms, chronic disease management training, and policies may be secured from the Department of Public Health and Human Services, Public Health and Safety Division,

Food and Consumer Safety Section and the Chronic Disease Prevention and Health Promotion Bureau, 1400 Broadway, P.O. Box 202951, Helena, Montana 59620-2951.

(5) In addition to the requirements of 50-40-104 and 20-1-220, MCA, "no tobacco use/electronic cigarette" signs must be posted at school building entrances and should be clearly visible. Tobacco/electronic cigarette use must be prohibited in school vehicles at all times.

(6) In addition to the requirements of this rule, school officials should also be aware of the need to comply with the laws and rules relating to the immunization of children in ARM Title 37, chapter 114 and communicable disease reporting in 37-2-301, MCA. Copies of these requirements may be obtained from the Department of Public Health and Human Services, Public Health and Safety Division, Communicable Disease and Epidemiology Section, 1400 Broadway, P.O. Box 202951, Helena, Montana 59620-2951, or by visiting the website at <https://dphhs.mt.gov/publichealth/epidemiology>.

(7) Pursuant to the advisory authority of 50-1-202, MCA, the department recommends that students be evaluated by registered professional nurses or other appropriately qualified health professionals on a periodic basis in order to identify those health problems which have the potential for interfering with learning, including:

(a) assessment of student's health and developmental status;

(b) vision screening;

(c) hearing screening;

(d) chemical and alcohol abuse;

(e) mental health screening;

(f) nutritional screening; and

(g) dental screening. (History: 50-1-206, MCA; IMP, 50-1-203, 50-1-206, MCA; NEW, 1986 MAR p. 546, Eff. 4/11/86; TRANS, from DHES, 2001 MAR p. 2425; AMD, 2006 MAR p. 1296, Eff. 5/19/06; AMD, 2020 MAR p. 47, Eff. 1/18/20.)

37.111.826 INDOOR AIR QUALITY (1) Ventilation systems must undergo annual checks by the school facility manager, school administrator, or administrator-approved staff to ensure they are operating within manufacturer parameters.

(2) Air filters must have a minimum efficiency reporting value of between 8 and 13 as recommended by the National Air Filtration Association and the Environmental Protection Agency (EPA) unless other types of non-MERV rated filters are used.

(a) The department recommends that schools with ventilation systems using MERV rated air filters change their filters to MERV 13 or greater during times of poor outdoor air quality.

(b) Schools using electrostatic air filters must clean the filters according to manufacturer specifications.

(3) The school facility manager, school administrator, lead teacher, or other administrator-approved staff must complete annual indoor air quality inspections using the Walk Through Inspection Checklist from EPA's Indoor Air Quality Tools for Schools or other department-approved inspection form.

(a) Schools must maintain records of indoor air quality inspection on site for no less than three years and the records must be made available to the local health authority and the department upon request. (History: 50-1-206, MCA, IMP, 50-1-206, MCA; NEW, 2020 MAR p. 47, Eff. 1/18/20.)

37.111.827 OUTDOOR AIR QUALITY (1) Schools must reference the Recommendations for Outdoor Activities Based on Air Quality for School and Child Care Facilities developed by the Montana Department of Public Health and Human Services and the Montana Department of Environmental Quality to determine local air quality conditions and choose to cancel outdoor recess and delay or not delay outdoor school-sponsored events.

(2) Schools must have a protocol in place on how to limit the infiltration of outside air into the school during poor air quality conditions. (History: 50-1-206, MCA, IMP, 50-1-206, MCA; NEW, 2020 MAR p. 47, Eff. 1/18/20.)

Rules 37.111.828 through 37.111.829 reserved

37.111.830 LIGHTING The following standards are advisory, rather than mandatory:

(1) Sources of illumination, both natural and artificial, should be provided with light diffusion means, or should be of a type and design which limits excessive glare.

(2) The following minimum lighting, measured in foot-candles, should be maintained during all periods of use:

(a) hallways, corridors, storerooms, locker rooms, shower rooms, auditoriums (not for study) -- 10;

(b) cafeterias, reception rooms, swimming rooms, gymnasiums, toilet rooms, laundry rooms -- 20;

(c) classrooms, study halls, lecture rooms, art rooms, libraries -- 50;

(3) In shops, laboratories, drafting rooms, typing rooms, home economics rooms, or other areas where pupils use specific machines or equipment, a minimum of 100 footcandles should be maintained on such machinery or equipment while in use. (History: 50-1-206, MCA; IMP, 50-1-203, 50-1-206, MCA; NEW, 1986 MAR p. 546, Eff. 4/11/86; TRANS, from DHES, 2001 MAR p. 2425.)

37.111.831 HEATING (REPEALED) (History: 50-1-206, MCA; IMP, 50-1-203, 50-1-206, MCA; NEW, 1986 MAR p. 546, Eff. 4/11/86; TRANS, from DHES, 2001 MAR p. 2425; REP, 2020 MAR p. 47, Eff. 1/18/20.)

37.111.832 WATER SUPPLY SYSTEM (1) The department adopts and incorporates by reference ARM Title 17, chapter 38, subchapters 1 and 2, which set forth standards for design, operation, and maintenance of public water supplies; DEQ Circulars 1, 3, and PWS 5, published by the Department of Environmental Quality, which sets construction, operation, and maintenance standards for small water systems, and the Department Nonpublic Water Supply Circular Food and Consumer Safety 1-2016 (FCS 1-2016). Copies of these publications may be obtained from the Department of Public Health and Human Services, Public Health and Safety Division, Food and Consumer Safety Section, 1400 Broadway, P.O. Box 202951, Helena, Montana 59620-2951.

(2) In order to ensure an adequate and potable supply of water, a school must either:

(a) connect to a water supply system meeting the requirements of ARM Title 17, chapter 38, subchapters 1 and 2; or

(b) if the school is not utilized by more than 25 persons daily at least 60 days out of the calendar year, including staff and students, and an adequate public water supply system satisfying the requirements of ARM Title 17, chapter 38, subchapters 1 and 2, is not accessible, utilize a non-public system whose construction and use meet the standards set in Nonpublic Water Supply Circular Food and Consumer Safety 1-2016 published by the department.

(3) A water supply system of a type other than described in this rule may be utilized only if it is designed by a professional engineer and offers equivalent sanitary protection as determined by the department or local health authority.

(4) If a water supply system is used other than described in (2)(a) above, a school must submit a water sample at least quarterly to a laboratory licensed by the department to perform microbiological analysis of the water supplied in order to determine that the water does not exceed the maximum microbiological contaminant levels stated in ARM 17.38.207 and following all testing requirements in Circular FCS 1-2016.

(5) A school must replace or repair the water supply system serving it whenever the water supply:

(a) contains microbiological contaminants in excess of the maximum levels contained in ARM 17.38.207;

(b) exceeds the Maximum Contaminant Level (MCL) for all other contaminants in Circular FCS 1-2016; or

(c) does not have the capacity to provide adequate water for drinking, cooking, personal hygiene, laundry, and water-carried waste disposal.

(6) Common drinking cups or containers are prohibited.

(7) Where water under pressure cannot be made available, the drinking water from an approved source must be stored in a clean and sanitized container having a tight-fitting lid and a suitable faucet apparatus for filling individual cups. Single service drinking cups must be provided.

(8) Schools must sample all water fountains and sinks used for food preparation. All other potential human consumption fixtures (HCF) must be sampled, unless the school or school district submits a testing plan to the DEQ to test a representative sample of potential HCFs in the school. Proposed testing plans will be approved or denied by the DEQ. Initial samples must be taken by December 31, 2021. All samples must be analyzed by a Montana certified lab using EPA-approved standard drinking water methods for the detection and quantification of lead.

(a) Schools must submit to the department a basic schematic and inventory identifying plumbing materials, all fixture locations, and those fixtures meeting the definition of a HCF. Templates for creating the schematic and inventory are available from the department or the Montana Department of Environmental Quality (DEQ) and can be used to complete this requirement. Lead service lines must be clearly identified in the inventory and should be considered for replacement.

(b) The schematic and inventory must be maintained by the school and shall record any repair, modification, or change in water source that may result in a change in

lead exposure from water. Sample results for each HCF must also be maintained in conjunction with the plan and inventory.

(c) All samples collected must be first-draw samples unless otherwise requested or approved by the department or DEQ and samples must be reported to DEQ.

(d) Each first-draw sample for lead must be 250 milliliters in volume and must have stood motionless in the plumbing system of each sampling site for at least six hours. For fixtures with hot and cold water, first-draw samples must only be collected from the cold water. First-draw samples may be collected by a school representative instructed in the proper sampling procedures specified in this rule.

(e) All sample results must be submitted electronically to DEQ in a format approved by the department. All sample results must be submitted to DEQ no later than 72 hours after the school has received the results. Sample results may be submitted to DEQ by certified labs on behalf of the school.

(f) All samples will be considered bin placement samples and must be placed into the appropriate bin in Table 1 unless otherwise designated by the department or DEQ. Follow-up actions are required for each HCF based on the bin placement.

(g) All schools must conduct follow-up sampling of each HCF according to the requirements of Table 2.

(h) Schools must make test results publicly available.

(9) By September 1, 2021, all schools must create and implement a flushing program unless the school meets the waiver requirements indicated under (9)(c).

(a) Schools must use the template provided by the department to produce their flushing program.

(b) Flushing will be required following any period of time during which the school is inactive.

(c) Schools may apply to DEQ for a flushing program waiver based on materials inventory and certification by the school that the school meets the lead-free definition as defined in Section 1417 of the Safe Drinking Water Act.

Table 1.

| Bin Placement | Lead Detection | Follow-up Actions |
|---------------|--------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 | Above 15.0 ug/L | Immediately discontinue use of the affected HCF by physical removal or plumbing disconnection. Remediation is required before the school can resume use of the HCF, subject to the follow-up sampling requirements of Table 2. |
| 2 | 5.0 ug/L up to 15.0 ug/L | Evaluate the conditions at the affected HCF. Determine appropriate remedial action(s) to reduce lead concentration(s) to below 5.0 ug/L. Remediation is required before the school can resume use of the HCF, subject to the follow-up sampling requirements of Table 2. Schools may continue to use the HCF until remediation has occurred only if a daily flushing program for the HCF is implemented. |

| | | |
|---|----------------|-----------------------------------------------------------------------------------------------------------------------------|
| 3 | Below 5.0 ug/L | HCF below 5.0 ug/L does not require remedial action but routine monitoring must be conducted as stated in Bin 3 of Table 2. |
|---|----------------|-----------------------------------------------------------------------------------------------------------------------------|

Table 2.

| Bin Placement | Follow-up Sampling Requirement |
|---------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 | Each Bin 1 HCF will be required to be resampled after remediation to show effectiveness of the remediation effort before it is returned to service. The HCF must be resampled within one year of the sample taken after the remediation that returned the fixture to service to confirm that the HCF continues to deliver water below 5.0 ug/L. |
| 2 | Each Bin 2 HCF must be resampled after remediation. The HCF must be resampled within one year of the HCF's last sample. |
| 3 | Routine Monitoring - Each Bin 3 HCF must be sampled once every 3 calendar years to confirm that the HCFs continue to deliver water below 5.0 ug/L. Schools may submit a waiver to sample HCFs on an alternative frequency. Waivers must be submitted to the DEQ in writing using a form approved by the department. Sampling frequency may be adjusted by the DEQ based on test results and inventory. |

(History: 50-1-206, MCA; IMP, 50-1-203, 50-1-206, MCA; NEW, 1986 MAR p. 546, Eff. 4/11/86; TRANS, from DHES, 2001 MAR p. 2425; AMD, 2020 MAR p. 47, Eff. 1/18/20.)

37.111.833 WASTE WATER SYSTEM (1) In order to ensure waste water is completely and safely disposed of, a school must:

(a) connect to a public waste water system meeting the requirements of ARM Title 17, chapter 38, subchapter 1; or

(b) if the school is not utilized by more than 25 persons daily at least 60 days out of the calendar year, including staff and students, and an adequate public waste water system satisfying the requirements of ARM Title 17, chapter 38, subchapter 1 is not available, utilize a non-public system whose construction and use meet the construction and operation standards contained in DEQ Circular 4.

(2) Where pit privies are currently in use, the privies must be operated and maintained in compliance with the standards specified in DEQ Circular 4.

(3) A waste water system design of a type other than described in this rule may be utilized only if it is designed by a professional engineer and offers equivalent sanitary protection as determined by the department, DEQ, or local health authority.

(History: 50-1-206, MCA; IMP, 50-1-203, 50-1-206, MCA; NEW, 1986 MAR p. 546, Eff. 4/11/86; TRANS, from DHES, 2001 MAR p. 2425; AMD, 2020 MAR p. 47, Eff. 1/18/20.)

37.111.834 SOLID WASTE (1) In order to ensure that solid waste is safely stored and disposed of, a school must:

(a) store all solid waste between collections in containers which have lids, are corrosion-resistant, and are constructed to minimize pest attraction and harborage;

(b) clean all solid waste containers with sufficient frequency to maintain them in a condition which minimizes pest attraction;

(c) for exterior containers other than dumpsters or compactors, utilize stands which prevent the containers from being tipped, protect them from deterioration, and allow easy cleaning below and around them;

(i) dumpsters or compactors must be located on or above a smooth surface of non-absorbent material, such as concrete or asphalt, that is maintained in clean and good condition;

(d) transport, or utilize a private or municipal hauler to transport, the solid waste at least weekly to a landfill site approved by the Department of Environmental Quality in a covered vehicle or covered containers.

(2) Solid waste includes recycling material. (History: 50-1-206, MCA; IMP, 50-1-203, 50-1-206, MCA; NEW, 1986 MAR p. 546, Eff. 4/11/86; TRANS, from DHES, 2001 MAR p. 2425; AMD, 2020 MAR p. 47, Eff. 1/18/20.)

Rules 37.111.835 through 37.111.839 reserved

37.111.840 LAUNDRY FACILITIES (1) Laundries operated in conjunction with or utilized by a school must be provided with:

(a) a mechanical washer and hot air tumble dryer. Manual washing and line drying of towels and other laundry items is prohibited. Dryers must be properly vented to prevent maintenance problems and buildup of moisture.

(b) a hot water supply system capable of supplying water at a temperature of 120°F to the washer during all periods of use.

(c) sufficient separation between the area used for sorting and storing soiled laundry and the area used for folding and storing clean laundry to prevent the possibility of cross-contamination.

(d) separate carts for transporting soiled and clean laundry.

(e) handwashing facilities including sink, soap, and disposable towels. A soak sink may double as a handwashing sink.

(2) Towels and other laundry items must be machine washed at a minimum temperature of 120°F for a minimum time of ten minutes and dried to greater or equal to 130°F for ten minutes in a hot air tumble dryer. (History: 50-1-206, MCA; IMP, 50-1-203, 50-1-206, MCA; NEW, 1986 MAR p. 546, Eff. 4/11/86; TRANS, from DHES, 2001 MAR p. 2425; AMD, 2020 MAR p. 47, Eff. 1/18/20.)

37.111.841 CLEANING AND MAINTENANCE (1) A school must comply with the following cleaning and maintenance requirements:

(a) Daily cleaning and maintenance services must be provided whenever the school is in use.

(b) Each janitor room must be kept clean, ventilated, lockable, and free from odors.

(c) Soiled mop heads must be changed frequently, using laundered replacements.

(d) Toilets, lavatories, and showers must not be used for washing and rinsing of mops, brooms, brushes, or any other cleaning device.

(e) Cleaners used in cleaning showers, lavatories, urinals, toilet bowls, toilet seats, and floors must contain fungicides or germicides.

(f) Deodorizers and odor-masking agents must not be used.

(g) Toilet bowl brushes, mops and sponges must be used only for cleaning toilet bowls and urinals and must be stored separately from other cleaning devices. Cleaning devices used for lavatories and showers may not be used for any other purposes.

(h) Dry dust mops and dry dust cloths for cleaning purposes are prohibited, except for use on gymnasium floors. Only treated mops, wet mops, treated cloths, moist cloths or other means approved by the department or health authority which will not spread soil from one place to another may be used for dusting and cleaning, with the exception of gymnasium floors.

(i) All furnishings, fixtures, floors, walls, and ceilings must be clean and in good repair.

(j) Cleaning compounds and pesticides must be stored, used, and disposed of in accordance with the manufacturer's instructions.

(k) Safety data sheets must be kept with all cleaning supplies in the area where the cleaning supplies are located.

(l) As current non-green cleaning supplies are depleted it is recommended that they are replaced with cleaning products that are "Green Products."

(m) All cleaning supplies need to have an EPA registration number, a "use by" reading letter, be stored with approved ventilation, and stored out of the reach of students.

(n) There must be an approved district policy on how to safely clean up vomit, blood, and fecal matter including diarrhea. Cleaning supplies used for vomit, blood, and fecal matter must be disposed of per approved district policy.

(o) Whenever therapeutic whirlpools are used, they must be constructed and maintained for easy cleaning. Whirlpools must be drained and sanitized after each use. Individuals with open sores or infections are prohibited from using therapeutic whirlpools. (History: 50-1-206, MCA; IMP, 50-1-203, 5-1-206, MCA; NEW, 1986 MAR p. 546, Eff. 4/11/86; TRANS, from DHES, 2001 MAR p. 2425; AMD, 2020 MAR p. 47, Eff. 1/18/20.)

37.111.842 FOOD SERVICE REQUIREMENTS (1) Whenever a food service is operated as an integral part of a school, compliance with ARM Title 37, chapter 110, subchapter 2, rules for food service establishments, is required.

(a) If the food service is available only to staff and students of the school and their guests, licensure as a food service establishment is not required, but compliance with ARM Title 37, chapter 110, subchapter 2, rules for food service establishments, is required. (History: 50-1-206, MCA; IMP, 50-1-203, 50-1-206, MCA; NEW, 1986 MAR p. 546, Eff. 4/11/86; TRANS, from DHES, 2001 MAR p. 2425; AMD, 2020 MAR p. 47, Eff. 1/18/20.)

Rules 37.111.843 through 37.111.845 reserved

37.111.846 NOXIOUS PLANT AND ANIMAL CONTROL (1) The school and school site must be maintained free of harborage for insects, rodents, and other pests. Extermination methods and other measures to control pests must conform with the requirements of the department or the local health authority.

(2) All areas must be maintained free of accumulation of debris or standing water which may provide harborage for pests.

(3) Storage areas must be maintained so as to prevent pest harborage. Lumber, pipe, and other building materials must be stored neatly.

(4) The growth of brush, weeds, and grass must be controlled to prevent harborage of pests. School grounds must be maintained to prevent the growth of noxious weeds considered detrimental to health.

(5) Schools must develop and implement an approved Integrated Pest Management (IPM) program beginning September 1, 2021. Students, parents, and staff must be notified when chemicals for IPM are going to be used.

(6) The school IPM must include strategies to prevent the spread of pests.

(7) The school administrator must, whenever practical, ensure the use of nonchemical methods to control pests, including proper sanitation practices, structural repair, and window screens.

(8) Except as provided in (9)(c), at least 24 hours before the application of a pesticide to an area of the school that is used by or is accessible to students, the school administrator must notify parents or guardians of students of the application. A notice of application must include:

(a) a description of the area where the pesticide will be applied;

(b) the date and approximate time of application;

(c) the common or brand name of each pesticide to be used;

(d) the targeted pests to be controlled by the pesticide;

(e) each active ingredient in the pesticide;

(f) the EPA registration number;

(g) the telephone contact number, if any, on the label of the pesticide for additional information about each pesticide; and

(h) a contact name and telephone number at the school.

(i) If the application will be outdoors, the notification must also include three dates in chronological order in case the preceding date is canceled due to weather.

(9) During the school term the required notification must be made by individual notice delivered by phone, face-to-face oral communication, electronic mail, postal mail, or facsimile. A school or school district may also develop a registration system to provide this notification only to those parents who wish to receive the notification. If the school or school district develops a registration system, the school administrator must provide written notice to the parents or guardians of the students at the beginning of the school year, or upon a student's enrollment, that pesticides may be used in or around the school, and must explain to each parent or guardian how to register to be notified at least 24 hours before a pesticide treatment.

(a) If pesticides are used outside the school term and the school is open or to be accessible by the public, the notification required must be prominently posted in a

conspicuous location on the school premises at least 24 hours before the pesticide treatment is scheduled to begin.

(b) Immediately before starting the application of a pesticide, the certified applicator must post in the area of the school where the pesticide is to be applied, a sign 8.5x11-inch in size, or greater. Fonts must be no smaller than 26 point (one-fourth inch). The school administrator must ensure the sign remains posted and students are kept out of the treated area until the reentry interval on the label, if any, has expired, or, if the label does not specify a reentry interval, for at least 24 hours.

(c) A school administrator may authorize an immediate pesticide treatment without prior notification if the school administrator determines an emergency exists. An emergency includes an immediate and unanticipated threat to the health and safety of the individuals at the school. An emergency does not exempt the school from the requirements of (10).

(d) The following pesticide applications are not subject to the notification or posting requirements of this rule:

- (i) applications of antimicrobial pesticides;
- (ii) an application where the school remains unoccupied for a continuous 72-hour period following the application of the pesticide;
- (iii) applications of rodenticides in tamper-resistant bait stations or in areas inaccessible to students; and
- (iv) applications of silica gels and other ready-to-use pastes, foams, or gels that will be used in areas inaccessible to students.

(10) A school administrator must keep records of pesticide applications subject to the notification and posting requirements of this rule.

- (a) Records must include:
- (i) a copy of each notice issued;
 - (ii) the date of application;
 - (iii) the name and employer of the individual who applied the pesticide, including the individual's certification number;
 - (iv) the rate of application;
 - (v) the concentration of the pesticide applied; and
 - (vi) the total amount of pesticide used.

(b) If a school administrator authorizes a pesticide application under (9)(c), all the information that is required in a notice under (8) must be included in the record.

(c) Records must be kept for at least five years and must be made available to the local health authority, the department, or the public for review upon request.

(History: 50-1-206, MCA; IMP, 50-1-203, 50-1-206, MCA; NEW, 1986 MAR p. 546, Eff. 4/11/86; TRANS, from DHES, 2001 MAR p. 2425; AMD, 2020 MAR p. 47, Eff. 1/18/20.)