

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

In the matter of the adoption of New ) NOTICE OF PUBLIC HEARING ON  
Rule I pertaining to marijuana testing ) PROPOSED ADOPTION  
laboratory licensure )

TO: All Concerned Persons

1. On July 29, 2021, at 11:00 a.m., the Department of Public Health and Human Services will hold a public hearing via remote conferencing to consider the proposed adoption 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/85402298459>, meeting ID: 854 0229 8459; or

(b) Dial by telephone +1 646 558 8656, meeting ID: 854 0229 8459. Find your local number: <https://mt-gov.zoom.us/u/kjLSGAcoH>.

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 July 23, 2021, to advise us of the nature of the accommodation that you need. Please contact Heidi Clark, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail [dphhslegal@mt.gov](mailto:dphhslegal@mt.gov).

3. The rule as proposed to be adopted provides as follows:

NEW RULE I DEFINITIONS As used in this subchapter, the following definitions apply:

(1) "Applicant" means a person applying for a testing laboratory license.

(2) "Batch" means:

(a) a quantity of usable marijuana from a harvest lot; or

(b) a quantity of cannabinoid concentrate or extract or cannabinoid product from a process lot.

(3) "CBD" means cannabidiol.

(4) "CBDA" means cannabidiolic acid.

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

(6) "Harvest lot" has the meaning provided for under ARM 42.39.102.

(7) "ISO" means International Organization for Standardization.

(8) "Licensee" means any person licensed by the department to operate a testing laboratory.

(9) "Limited access area" means a building, room, or other contiguous area upon the registered premises where marijuana is grown, cultivated, stored, weighed, packaged, sold, or processed for sale, under the control of the licensee.

(10) "Marijuana items" means:

- (a) marijuana;
- (b) usable marijuana;
- (c) dried leaves and flowers of the marijuana plant;
- (d) marijuana derivatives, concentrates, extracts, resins, infused products, edible products, ointments, tinctures, suppositories, topicals; and
- (e) other marijuana-related products.

(11) "Process lot" has the meaning provided for under ARM 42.39.102.

(12) "Property owner permission form" means a completed, signed, and notarized form which gives an applicant, or licensee renting or leasing the property, permission from the property owner to operate the testing laboratory on the property.

(13) "Test batch" means a portion of a harvest or process lot that has been submitted for quality assurance testing.

(14) "THC" means tetrahydrocannabinol.

(15) "THCA" means tetrahydrocannabinolic acid.

AUTH: 50-46-344, MCA

IMP: 50-46-303, 50-46-307, 50-46-308, 50-46-310, 50-46-318, 50-46-344, MCA

#### 4. STATEMENT OF REASONABLE NECESSITY

The department is proposing to adopt New Rule I to define terms commonly used within the marijuana testing laboratory administrative rules under ARM Title 37, chapter 107, subchapter 3.

The terms defined within this proposed rule were previously defined under ARM 37.107.110. As the result of passage and implementation of House Bill 701 during the 2021 Legislative Session, ARM 37.107.110 has been transferred to the Department of Revenue. See MAR Notice No. 42-1030. Due to this transfer, the rule is no longer applicable to the department's marijuana testing laboratory rules.

New Rule I is necessary to ensure terms commonly used within the marijuana testing laboratory rules continue to be defined. The rule guides readers in terms used within the marijuana testing laboratory rules that are undefined within statute.

In proposing this rule, the approach taken by the department was to adopt in substance the same definitions that applied to marijuana testing laboratories under ARM 37.107.110. Many of the same terms and definitions from ARM 37.107.110 are used within this proposed new rule. Terms within ARM 37.107.110 having no application to marijuana testing laboratories are not included within this new rule.

#### Fiscal Impact

There is no anticipated fiscal impact associated with the proposed rule adoption.

The department intends the proposed rule to be effective on the date of adoption.

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: Heidi Clark, 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](mailto:dphhslegal@mt.gov), and must be received no later than 5:00 p.m., August 6, 2021.

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 adoption of the above-referenced rule will not significantly and directly impact small businesses.

/s/ Robert Lishman  
Robert Lishman  
Rule Reviewer

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

Certified to the Secretary of State June 29, 2021.