

Montana Administrative Rules

Proposed Rule Adoption, Amendments, and Repeals

37.111.8: Schools

This document provides an overview of the proposed changes to the DPHHS administrative rules 37.111.8 and the changes made in response to public comment.

Proposed New Rules

New Rule I: INDOOR AIR QUALITY

Implications for Schools

- Air filters in school HVAC systems must meet minimum industry efficiency standards
- Ventilation systems must undergo annual internal inspections
- Annual indoor air quality inspections must be conducted

Changes in Response to Public Comment

- The Department clarified that schools must maintain IAQ inspection records for no less than three years.
- The Department included a recommendation that new constructions use radon prevention strategies.

New Rule II: OUTDOOR AIR QUALITY

Implications for Schools

- Schools must reference outdoor air quality and activity guidelines developed by DPHHS, DEQ, and OPI when determining to delay or cancel school sponsored events during times of poor air quality. Schools are responsible for making the final decision.
- Schools must have a written protocol for minimizing the infiltration of outdoor air into school buildings to the best of their ability during poor outdoor air quality conditions. Examples of strategies to include in written protocols will be shared by the Department.

Changes in Response to Public Comment

- Schools are required to consult the outdoor air quality and activity guidelines as part of their decision-making process to determine whether outdoor events should proceed or be cancelled/rescheduled.

New Rule III: SCIENCE LAB, INDUSTRIAL ART, AND ART LAB SAFETY

Implications for Schools

- Schools containing science labs, industrial arts classrooms/buildings, and art labs must maintain a Chemical Hygiene Plan (CHP) and designate a school Chemical Hygiene Officer (sCHO).
- The school Chemical Hygiene Officer must oversee implementation and enforcement of the CHP.
- Safety Data Sheets (SDS) for all materials in science labs, industrial arts classrooms/buildings, and art labs must be stored in those rooms and accessible at all times. Duplicates must also be stored in another location.
- Unused hazardous chemicals must be disposed of properly according to DEQ regulations.

Changes in Response to Public Comment

- A delayed implementation date gives schools until September 1, 2021 to name a sCHO and establish a CHP.
- Language allowing the Department to work with the DLI to determine if stop work orders are necessary was removed.



Signification Changes to Existing Rules

Subsection: 37.111.801 DEFINITIONS

- The definition of “school” was edited to remove the condition that the building or structure be occupied or used at least 180 days per year.
- LEA, pest, and radon were added to the definition section.

Subsection: 37.111.804 PRECONSTRUCTION REVIEW

- Language requiring the following built environment changes was moved to this section from other subsections of the rules.
 - o Topography must permit good drainage of surface water away from the school building.
 - o Janitorial storage spaces must be lockable, include storage area for equipment and chemicals, and must be vented to the outside of the building.
 - o Hot and cold water must be provided to handwashing sinks and shower facilities.
- The department added a recommendation that schools use radon prevention strategies in new constructions.


Subsection: 37.111.805 EXISTING BUILDING: CHANGE OF USE

- The Department clarified that the use of modular or mobile buildings are subject to the requirements of the pre-construction review section, but schools may be granted a one-year exemption in response to temporary or permanent closure of the existing school facility or section thereof.

Subsection: 37.111.810 INSPECTION

- Local health authority inspection reports must document deficiencies, but the reports will not need to include written citations for rule violations.

Subsection: 37.111.811 PHYSICAL REQUIREMENTS

- Janitorial facility requirements were moved to the pre-construction section
 - A delayed implementation date gives schools until September 1, 2021 to establish written policies and procedures regarding the storage, administration, and lawful disposal of medication.
 - Medication storage requirements were updated allow emergency medication to be stored outside of locked, non-portable containers.
 - Language was added prohibiting food storage in refrigeration units with medications.
 - Schools will not be required to provide private and secure rooms for mothers who need to breastfeed, express breast milk, or attend to other matters related to breastfeeding. Language was changed requiring schools to provide 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”.
 - Language was added requiring that in schools where livestock and poultry are approved to be in classrooms or offices, animals must not have contact with eating or serving surfaces.
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Subsection: 37.111.812 SAFETY REQUIREMENTS

- Handwashing sink requirements and topography/drainage requirements were moved to the pre-construction section of the rules.
- Playground inspection results must be made available to the local health authority or the Department only upon request.

Subsection: 37.111.825 HEALTH SUPERVISION AND MAINTENANCE

- Language was changed requiring school officials to consult with a physician, other qualified health professional, or the local county health department to determine if symptoms resembling a reportable communicable or infectious illness should be reported to the local health officer.
- CPR and first aid certifications may be obtained from the American Heart Association, American Health and Safety Institute, or an equivalent first course.
- Tobacco/electronic cigarette signage requirements were changed so that signage is only required at school building entrances. Language was also updated prohibiting tobacco/electronic cigarette use in school vehicles at all times.

Subsection: 37.111.832 WATER SUPPLY SYSTEM

- Lead testing requirements underwent multiple changes to provide flexibility and reduce the potential burden on schools.
 - Schools have until December 31, 2021 to collect initial samples.
 - Schools must test all drinking fountains and sinks used for food preparation. All other potential 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.
 - Remediation timelines were removed. Instead, schools may not use HCF testing above the established threshold until remediation has occurred. Schools may continue to use fixtures testing between 5ug/L and 15 ug/L until remediation has occurred if a daily flushing program is implemented.
 - The size of the samples was reduced significantly from 1 liter to 250 milliliters, bringing down potential shipping costs associated with testing.
 - A delayed implementation date gives schools until September 1, 2021 to establish a flushing program or apply to DEQ for a waiver based on plumbing materials and inventory.
 - Schools may submit a waiver to DEQ to conduct future sampling on an alternative frequency based on test results and inventory.

Subsection: 37.111.846 NOXIOUS PLANT AND ANIMAL CONTROL

- A delayed implementation date was established giving schools until September 1, 2021 to establish and implement Integrated Pest Management programs.
 - Pesticide application records must be made available to the local health authority, the Department, or the public for review upon request only.
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