



ADMINISTRATIVE RULES OF MONTANA



17.36.116 CERTIFICATION OF LOCAL DEPARTMENT OR BOARD OF HEALTH AS THE REVIEWING AUTHORITY

- (1) A local department or board of health, if it requests certification, must be certified as the reviewing authority within the scope of 76-4-104(3), MCA, if the following requirements are met and the sanitarian or engineer is qualified as described in (3):
 - (a) the local department or board of health employs a registered sanitarian or a professional engineer responsible to perform the actual review. Those local governments employing more than one registered sanitarian or professional engineer shall designate one such person to be responsible for the review program;
- (2) The local department or board of health is required, pursuant to a written contract, to review subdivision applications according to the requirements of Title 76, chapter 4, MCA, and this chapter.
- (3) A registered sanitarian or registered professional engineer must complete the following before becoming certified to perform subdivision reviews:
 - (a) pass, with a score of at least 90 percent, a written examination administered by the department that demonstrates knowledge of:
 - (i) Title 76, chapter 4, MCA;
 - (ii) this chapter;
 - (iii) applicable department circulars;
 - (iv) Title 75, chapter 5, MCA;
 - (v) ARM Title 17, chapter 30, subchapters 5 and 7; and
 - (vi) other applicable laws and regulations;
 - (b) have a minimum of one year's experience performing subdivision review under the direct supervision of the department or of a certified registered sanitarian or professional engineer; and
 - (c) for individuals previously certified under this subsection, complete at least one subdivision review in the preceding two years. Previously certified individuals who have not completed at least one subdivision review in the preceding two years shall, prior to performing subdivision review, satisfy the requirements in (3)(a).
- (4) The department's oversight of a certified local reviewing authority's review of subdivision applications shall be limited to the following:

- (a) within the statutory review period, the department shall determine, by reference to the local reviewing authority's review checklist or by other means, whether the local reviewer has conducted an element review and a completeness review of the application and whether the local reviewer has completed a compliance review of all systems designated by the contract between the department and the local reviewing authority. If the department determines that any part of these tasks was not completed, the department may return the application to the local reviewing authority for further review or may itself complete the review;
 - (b) within the statutory review period, the department may check the accuracy of the local reviewing authority's review of subdivision applications. The department's accuracy checks must be limited to ten percent of the applications submitted to the department by the local reviewing authority, except that the department may also review an application:
 - (i) upon the request of the local reviewing authority; or
 - (ii) when the department has reason to question the local reviewing authority's determination for a particular application;
 - (c) if the department identifies possible errors or discrepancies in the local reviewer's determination regarding an application, the department shall consult with the local reviewer. If, after consultation, the department does not agree with the local reviewer's determination regarding an application's compliance with applicable state laws, rules, and circulars, the department may, prior to the expiration of the review period for the application, modify the local determination regarding the state requirements;
 - (d) the department may conduct an annual audit of a representative sample of locally reviewed applications.
- (5) The department retains the right to suspend or revoke the certification of the local department or board of health if the department determines that the local reviewing authority is not complying with the sanitation in subdivisions act or other applicable statutes or rules.

Authorizing statute(s): 76-4-104, MCA

Implementing statute(s): 76-4-104, 76-4-105, MCA

History: NEW, 1986 MAR p. 1509, Eff. 9/12/86; AMD, 1992 MAR p. 2145, Eff. 9/25/92; TRANS, from DHES, 1996 MAR p. 1499; AMD, 2002 MAR p. 1465, Eff. 5/17/02; AMD, 2011 MAR p. 2278, Eff. 10/28/11; AMD, 2014 MAR p. 2098, Eff. 9/19/14; AMD, 2018 MAR p. 1588, Eff. 8/11/18; AMD, 2023 MAR p. 324, Eff. 4/15/23.