

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 1

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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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 print 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) 444-2055.

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BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 4.6.202 pertaining to annual) PROPOSED AMENDMENT
potato assessment)

TO: All Concerned Persons

1. On February 6, 2013, at 1:00 p.m., the Department of Agriculture will hold a public hearing in Room 225 of the Scott Hart Building, at Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The Department of Agriculture 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 Department of Agriculture no later than 5:00 p.m. on January 24, 2013, to advise us of the nature of the accommodation that you need. Please contact Cort Jensen, Department of Agriculture, 302 North Roberts, Helena, Montana, 59620; telephone (406) 444-3144; fax (406) 444-5409; or e-mail cojensen@mt.gov.

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

4.6.202 ANNUAL POTATO COMMODITY ASSESSMENT-COLLECTION

(1) remains the same.

(2) The assessment shall be ~~\$.02~~ \$.03 per hundredweight on all potatoes grown and marketed commercially in Montana by those growers producing and marketing more than 50,000 pounds annually.

(3) remains the same.

AUTH: 80-11-504, MCA

IMP: 80-11-515, MCA

REASON: The department proposes to amend ARM 4.6.202, to update the assessment amount in (2). The increase is necessary to bring financial stability to the program so that it will not run a deficit and to provide funding sufficient to complete all of the research and marketing needs of the potato industry. The department estimates the impact on the typical grower will be \$375 per year.

4. 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: Cort Jensen, Department of Agriculture, 302 N. Roberts, Helena, Montana, 59620; telephone (406) 444-3144; fax (406) 444-5409; or e-mail cojensen@mt.gov, and must be received no later than 5:00 p.m., February 14, 2013.

5. Cort Jensen, Chief Legal Counsel, Department of Agriculture, has been designated to preside over and conduct this hearing.

6. The Department of Agriculture 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 4 above or may be made by completing a request form at any rules hearing held by the department.

7. An electronic copy of this proposal notice is available through the department's web site at agr.mt.gov, under the Administrative Rules section. The department strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

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

/s/ Cort Jensen
Cort Jensen
Rule Reviewer

/s/ Ron de Yong
Ron de Yong
Director
Department of Agriculture

Certified to the Secretary of State January 7, 2013.

BEFORE THE FISH, WILDLIFE AND PARKS COMMISSION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 12.11.501, 12.11.2204 and the) PROPOSED AMENDMENT AND
adoption of NEW RULE I and II) ADOPTION
regarding recreational use on Echo)
Lake, Abbott Lake, and Peterson)
Lake)

TO: All Concerned Persons

1. On February 19, 2013, at 7:00 p.m., the Fish, Wildlife and Parks Commission (commission) will hold a public hearing at the Hampton Inn, 1140 Hwy 2 West, Kalispell, Montana, to consider the proposed amendment and adoption of the above-stated rules.

2. The commission 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 January 31, 2013, to advise us of the nature of the accommodation that you need. Please contact Jessica Snyder, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, Montana 59620-0701; telephone (406) 444-9785; fax (406) 444-7456; or e-mail jesssnyder@mt.gov.

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

12.11.501 LIST OF WATER BODIES The following is a list of specific regulations on bodies of water with the reference where the rules regarding those bodies of water are located:

- (1) Abbott Lake [NEW RULE I]
- (1) through (19) remain the same but are renumbered (2) through (20).
- (21) Brush Lake 12.11.5303
- (20) through (38) remain the same but are renumbered (22) through (40).
- (41) Flathead River 12.11.2206
- (39) through (62) remain the same but are renumbered (42) through (65).
- (66) Kilbrennan Lake 12.11.3423
- (63) through (86) remain the same but are renumbered (67) through (90).
- (91) Peterson Lake [NEW RULE II]
- (87) through (113) remain the same but are renumbered (92) through (118).

AUTH: 23-1106, 87-1-301, 87-1-303, MCA
IMP: 23-1-106, 87-1-303, MCA

Reasonable Necessity: ARM 12.11.501 lists bodies of water with specific regulations and references the rule pertaining to the bodies of water. The

commission adopted regulations on Brush Lake, Flathead River, and Kilbrennan Lake on May 26, 2011. These bodies of water were inadvertently not included in ARM 12.11.501. The commission is proposing amending ARM 12.11.501 to include Brush Lake, Flathead River, and Kilbrennan Lake from 2011 along with Abbott Lake (NEW RULE I) and Peterson Lake (NEW RULE II).

12.11.2204 ECHO LAKE (1) Echo Lake is located in Flathead County.

(2) Echo Lake is limited to a controlled no wake speed pursuant to ARM 12.11.115 except for the following areas:

(a) the upper three islands in the southwest corner of section 5, approximately 1/4 mile southeast of the entrance of Blackies Bay; and

(b) the narrow corridor that serves as the entrance and exit to Blackies Bay located in the northwest corner of Echo Lake; ~~and~~

~~(c) the narrow corridor that serves as the entrance and exit to Causeway Bay located in the northeast corner of Echo Lake.~~

(3) All watercraft within Causeway Bay are limited to a controlled no wake speed as defined in ARM 12.11.101.

(4) All watercraft are limited to a controlled no wake speed as defined in ARM 12.11.101 when Echo Lake is at flood stage. Flood stage is determined when the surface of the water is 5 feet or less from the survey pin located on the deck of the Causeway Bridge.

(5) All watercraft are prohibited from using any method to increase or enhance the watercraft's wake. Methods include but are not limited to water sacks, ballast or submersible wings, and disproportionate distribution of passenger weight.

AUTH: 23-1-106, 87-1-303, MCA

IMP: 23-1-106, 87-1-303, MCA

Reasonable Necessity: The commission received three petitions requesting recreational use changes on Echo Lake. The commission is proposing amendments as requested in the petitions.

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

NEW RULE I ABBOTT LAKE (1) Abbott Lake is located in Flathead County.

(2) Abbott Lake is limited to a controlled no wake speed pursuant to ARM 12.11.115.

(3) All watercraft are limited to a controlled no wake speed as defined in ARM 12.11.101 when Echo Lake is at flood stage as defined in ARM 12.11.2204.

AUTH: 23-1-106, 87-1-303, MCA

IMP: 23-1-106, 87-1-303, MCA

NEW RULE II PETERSON LAKE (1) Peterson Lake is located in Flathead County.

(2) Peterson Lake is limited to a controlled no wake speed pursuant to ARM 12.11.115.

(3) All watercraft are limited to a controlled no wake speed as defined in ARM 12.11.101 when Echo Lake is at flood stage as defined in ARM 12.11.2201.

AUTH: 23-1-106, 87-1-303, MCA

IMP: 23-1-106, 87-1-303, MCA

Reasonable Necessity: In the summer of 2011 the commission adopted an emergency rule prohibiting wake speeds on Echo Lake due to flooding. At that time, the use on Abbot Lake and Peterson Lake increased and became congested and unsafe. The commission is proposing rules prohibiting wake speeds on Abbot Lake and Peterson Lake when Echo Lake is at flood stage to address these safety concerns.

5. Concerned persons may present their data, views, or arguments either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Martha Abbrescia, Fish, Wildlife and Parks, 490 North Meridian Road, Kalispell, MT, 59901; fax 406-247-0349; e-mail mabbrescia@mt.gov, and must be received no later than February 22, 2013.

6. Jim Satterfield or another hearing officer appointed by the department has been designated to preside over and conduct the hearings.

7. The Department of Fish, Wildlife and Parks maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the commission or department. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing address of the person to receive the notices and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1712 9th Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the commission or department.

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

/s/ Bob Ream

Bob Ream, Chairman
Fish, Wildlife and Parks Commission

/s/ Rebecca Jakes Dockter

Rebecca Jakes Dockter
Rule Reviewer

Certified to the Secretary of State January 7, 2013

BEFORE THE BOARD OF PHYSICAL THERAPY EXAMINERS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the adoption of New) NOTICE OF PUBLIC HEARING ON
Rule I treatments performed) PROPOSED ADOPTION
exclusively by the physical therapist)

TO: All Concerned Persons

1. On February 12, 2013, at 10:00 a.m., a public hearing will be held in room 439, 301 South Park Avenue, Helena, Montana, to consider the proposed adoption of the above-stated rule.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Physical Therapy Examiners (board) no later than 5:00 p.m., on February 6, 2013, to advise us of the nature of the accommodation that you need. Please contact Linda Grief, Board of Physical Therapy Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2395; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdtpt@mt.gov.

3. The proposed new rule provides as follows:

NEW RULE I TREATMENTS PERFORMED EXCLUSIVELY BY THE PHYSICAL THERAPIST (1) Treatments that require immediate and continuous examination and evaluation throughout the intervention must be performed exclusively by the physical therapist. Such procedural treatments include, but are not limited to:

- (a) spinal and peripheral joint mobilization/manipulation, as components of manual therapy; and
- (b) sharp selective debridement, as a component of wound management.

AUTH: 37-1-131, 37-11-201, MCA
IMP: 37-1-131, 37-11-101, 37-11-104, MCA

REASON: The board determined this new rule is reasonably necessary to help ensure that only physical therapists, and not physical therapist assistants, perform mobilization/manipulation and wound management. Mobilization/manipulation is within the realm of physical measures used within the scope of physical therapy and requires a physical therapist license. Additionally, the University of Montana physical therapy curriculum for physical therapy students includes wound management (sharps debridement) and mobilization/manipulation.

The board believes this new rule will help address licensee concern and confusion, as demonstrated by the number of licensee questions received on this topic, by clarifying that only physical therapists can perform these procedures.

4. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Physical Therapy Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdptp@mt.gov, and must be received no later than 5:00 p.m., February 20, 2013.

5. An electronic copy of this Notice of Public Hearing is available through the department and board's web site on the World Wide Web at www.pt.mt.gov. The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

6. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. 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 the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Physical Therapy Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsdptp@mt.gov; or made by completing a request form at any rules hearing held by the agency.

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

8. Anne O'Leary, attorney, has been designated to preside over and conduct this hearing.

BOARD OF PHYSICAL THERAPY EXAMINERS
BRIAN MILLER, PT, PRESIDING OFFICER

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

/s/ PAM BUCY
Pam Bucy, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State January 7, 2013

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

In the matter of the amendment of) NOTICE OF PROPOSED
ARM 37.108.507 pertaining to) AMENDMENT
healthcare effectiveness data and)
information set (HEDIS) measures) NO PUBLIC HEARING
) CONTEMPLATED

TO: All Concerned Persons

1. On February 16, 2013, the Department of Public Health and Human Services proposes to amend the above-stated rule.

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 Department of Public Health and Human Services no later than 5:00 p.m. on February 6, 2013, to advise us of the nature of the accommodation that you need. Please contact Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena MT 59604-4210; telephone (406) 444-4094; 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:

37.108.507 COMPONENTS OF QUALITY ASSESSMENT ACTIVITIES

(1) Annually, the health carrier shall evaluate its quality assessment activities by using the following HEDIS year ~~2012~~ 2013 measures:

- (a) childhood immunization;
- (b) breast cancer screening;
- (c) cervical cancer screening;
- (d) comprehensive diabetes care; and
- (e) HEDIS/Consumer Assessment of Health Plan Survey (CAHPS) for adults.

(2) The health carrier shall record organizational components that affect accessibility, availability, comprehensiveness, and continuity of care, including:

- (a) referrals;
- (b) case management;
- (c) discharge planning;
- (d) appointment scheduling and waiting periods for all types of health care services;
- (e) second opinions, as applicable;
- (f) prior authorizations, as applicable;
- (g) provider reimbursement arrangements that contain financial incentives that may affect the care provided; and

(h) other systems, procedures, or administrative requirements used by the health carrier that affect the delivery of care.

(3) The health carrier may meet the requirements in (2) by submitting information to the department regarding network adequacy as specified in ARM 37.108.201, et seq., as long as the information is consistent with what is required in (2).

(4) The department adopts and incorporates by reference the HEDIS year ~~2012~~ 2013 measures for the categories listed in (1)(a) through (e). The HEDIS year ~~2012~~ 2013 measures are developed by the National Committee for Quality Assurance and provide a standardized mechanism for measuring and comparing the quality of services offered by managed care health plans. Copies of HEDIS ~~2012~~ 2013 measures are available from the National Committee for Quality Assurance, 1100 13th St. NW, Suite 1000, Washington, D.C. 20005 or on the internet at www.ncqa.org.

AUTH: 33-36-105, MCA

IMP: 33-36-105, 33-36-302, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.108.507 to update the healthcare effectiveness data and information set (HEDIS).

The Managed Care Plan Network Adequacy and Quality Assurance Act (Title 33, Chapter 36, MCA) establishes standards for health carriers offering managed care plans and for the implementation of quality assurance standards in administrative rules. ARM 37.108.501 through 521 were adopted in 2001 to establish mechanisms for the department to evaluate quality assurance activities of health carriers providing managed care plans in Montana. ARM 37.108.507 requires health carriers to report their quality assessment activities to the department using HEDIS measures, nationally utilized measures that are updated annually. Since the HEDIS standards change somewhat every year, the rule must also be updated annually to reflect the current year's measures and ensure that national comparisons are possible, since the other states will also be using the same updated measures.

The option of not updating the HEDIS measure was considered and rejected because these are national quality measures which allow comparison among health plans. If the measures are not kept current, this function is lost.

The changes from adopted 2012 measures to the proposed 2013 measures are indicated below:

Changes to HEDIS 2013

- (1) Childhood Immunization Status
 - (a) Revised dosing requirement for hepatitis A.

- (b) Added ICD-9-CM Diagnosis code 999.42 to Table CIS-B.
- (c) Added a footnote to Table CIS-B that 999.4 (without a fifth digit) is valid only if the date of service is prior to October 1, 2011.
- (2) Breast Cancer Screening
 - (a) Added CPT modifier codes RT and LT to Table BCS-B and revised the optional exclusion for bilateral mastectomy to include instances where a mastectomy is performed on the right side and the left side of the body on the same date of service.
- (3) Cervical Cancer Screening
 - (a) No changes to this measure.
- (4) Comprehensive Diabetes Care
 - (a) Added sitagliptin-simvastatin to the description of "Antidiabetic combinations" in Table CDC-A.
 - (b) Deleted CPT codes 92002, 92004, 92012, 92014 from Table CDC-C.
 - (c) Added ICD-9-CM Diagnosis code 425 to Table CDC-P and clarified in the hybrid specification that cardiomyopathy is considered chronic heart failure (a required exclusion for HbA1c control [$<7.0\%$] for a selected population).
 - (d) Added thoracic aortic aneurysm to the required exclusions for HbA1c control ($<7.0\%$) for a selected population and added corresponding codes to Table CDC-P.
 - (e) Added instructions to use only facility claims to identify CABG for the required exclusion for the HbA1c control ($<7.0\%$) for a selected population (do not use professional claims).
 - (f) Clarified that codes from Table CDC-D should be used to identify the most recent HbA1c test for the HbA1c control indicators.
 - (g) Clarified that a negative dilated eye exam in the year prior to the measurement year meets criteria for the Eye Exam indicator.
 - (h) Deleted ICD-9-CM Procedure codes (which identify procedures that occur in an inpatient setting) from Table CDC-G: Codes to Identify Eye Exams. The intent of the measure is to identify eye visits performed in an outpatient setting, which are identified by CPT and HCPCS.
 - (i) Clarified that codes from Table CDC-H should be used to identify the most recent LDL-C test for the LDL-C control indicator.
 - (j) Deleted obsolete CPT code 36145 from Table CDC-K.
 - (k) Deleted obsolete HCPCS codes G0392, G0393 from Table CDC-K.
 - (l) Deleted Aliskiren-hydrochlorothiazide-amlodipine from the "Antihypertensive combinations" description in Table CDC-L.
 - (m) Clarified that an incomplete reading is not compliant for the BP control indicators.
 - (n) Clarified that the Friedewald equation may not be used if a direct or calculated result is present in the medical record for the most recent LDL-C test.
- (5) HEDIS/Consumer Assessment of Health Plan Survey (CAHPS) Health Plan Survey 5.0H, Adult Version
 - (a) This measure is collected using survey methodology. Detailed specifications and summary of changes are contained in *HEDIS 2013, Volume 3: Specifications for Survey Measures*.

Corrections, policy changes and clarifications to HEDIS 2013, Volume 2, Technical Specifications

Updated Random Number Table for Measures using the Hybrid Method

- (1) Cervical Cancer Screening
 - (a) Table CCS-B
 - (i) Add ICD-9-CM Diagnosis code 752.43 to Table CCS-B.
 - (2) Comprehensive Diabetes Care
 - (a) Administrative Specification—*Required exclusions for HbA1c Control <7% for a Selected Population indicator*
 - (i) Replace the second bullet with the following.
CABG or PCI. Members discharged alive for CABG or PCI in the measurement year or the year prior to the measurement year. Refer to Table CMC-A and use codes for PCI and CABG only. CABG cases should be from inpatient claims only. Use both facility and professional claims to identify CABG. Include all cases of PCI, regardless of setting (e.g., inpatient, outpatient, ED).
 - (b) Table CDC-D
 - (i) Add LOINC code 71875-9 to Table CDC-D.
 - (c) Table CDC-H
 - (i) Add LOINC code 69419-0 to Table CDC-H.
5. The department intends the proposed rule amendments to be applied retroactively to January 1, 2013. There is no negative impact to the affected health insurance companies by applying the rule amendment retroactively.
6. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Kenneth Mordan, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena MT 59604-4210, no later than 5:00 p.m. on February 14, 2013. Comments may also be faxed to (406) 444-9744 or e-mailed to dphslegal@mt.gov.
7. 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 written request for a hearing and submit this request along with any written comments to Kenneth Mordan at the above address no later than 5:00 p.m., February 14, 2013.
8. If the agency receives requests for a public hearing on the proposed action from either 10% 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 directly affected has been determined to be one based on the two health insurance providers affected by this rule change.

9. 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 7 above or may be made by completing a request form at any rules hearing held by the department.

10. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

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

/s/ Kurt R. Moser
Rule Reviewer

/s/ Wendy Nicolai, Acting Director
Anna Whiting Sorrell, Director
Public Health and Human Services

Certified to the Secretary of State January 7, 2013

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 37.114.101, 37.114.105,) PROPOSED AMENDMENT AND
37.114.201, 37.114.203, 37.114.204,) REPEAL
37.114.205, 37.114.301, 37.114.312,)
37.114.313, 37.114.314, 37.114.315,)
37.114.501, 37.114.503, 37.114.512,)
37.114.515, 37.114.530, 37.114.531,)
37.114.540, 37.114.542, 37.114.546,)
37.114.552, 37.114.561, 37.114.563,)
37.114.571, and 37.114.583, and the)
repeal of ARM 37.114.504,)
37.114.506, 37.114.507, 37.114.509,)
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37.114.551, 37.114.554, 37.114.555,)
37.114.557, 37.114.558, 37.114.560,)
37.114.565, 37.114.566, 37.114.568,)
37.114.570, 37.114.573, 37.114.574,)
37.114.575, 37.114.577, 37.114.578,)
37.114.579, 37.114.581, 37.114.582,)
37.114.585, 37.114.588, 37.114.589,)
37.114.591, 37.114.592, and)
37.114.595, pertaining to)
communicable disease control)

TO: All Concerned Persons

1. On February 6, 2013, at 10:00 a.m., the Department of Public Health and Human Services will hold a public hearing in the Auditorium of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana, to consider the proposed amendment and repeal of the above-stated rules.

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 Department of Public Health and Human Services no later than 5:00 p.m. on January 31, 2013, to advise us of the nature of the accommodation that you need. Please contact Kenneth Mordan, 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.

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

37.114.101 DEFINITIONS Unless otherwise indicated, the following definitions apply throughout this chapter:

(1) "Case" means a person who is confirmed or suspected to have a reportable disease or condition as listed in ARM 37.114.203.

(2) "Clean" means to remove infectious agents and/or organic matter from surfaces on which and in which infectious agents and/or organic matter may be able to live and remain virulent, by scrubbing and washing as with hot water and soap or detergent.

(3) "Communicable disease" means an illness due or suspected to be due to a specific infectious agent or its toxic products, which results from transmission of that agent or its products to a susceptible host, directly or indirectly.

(4) "Concurrent disinfection" means the use of a method which will destroy any harmful infectious agents present immediately after the discharge of infectious material from the body of an infected person, or after the soiling of articles with such infectious discharges before there is opportunity for any other contact with them.

(5) "Contact" means a person or animal that may have had an opportunity to acquire an infection due to the contact's association with a suspected or confirmed infected person or animal or a contaminated environment.

(6) "Contamination" means the presence of a disease-causing agent upon a living body surface or within or upon any inanimate article or substance.

(7) "Control of Communicable Diseases Manual" means the "Control of Communicable Diseases Manual, An Official Report of the American Public Health Association", ~~(18th edition, 2004)~~ (19th edition, 2008). ~~A copy of the "Control of Communicable Diseases Manual" may be obtained from the American Public Health Association, 800 I Street NW, Washington, DC 20001.~~

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

(9) "2007 Guideline for Isolation Precautions in Hospitals: Preventing Transmission of Infectious Agents in Healthcare Settings" means the guideline published by the ~~federal Government Printing Office~~ Centers for Disease Control and Prevention in association with the Healthcare Infection Control Practices Advisory Committee. ~~A copy of the guideline may be obtained from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161, phone: (703)487-4650. Any orders should refer to the publication number PB96138102 for the "Guideline for Isolation Precautions in Hospitals" (1996).~~

(10) "Health care" means health care as defined in 50-16-504, MCA.

(11) "Health care facility" is a facility as defined in 50-5-101, MCA.

(12) "Health care provider" means a health care provider as defined in 50-16-504, MCA.

(13) "HIV infection" means infection with the human immunodeficiency virus.

(14) "Household contact" is a person or animal living within the household of an infected person.

(15) "Infected person" means a person who harbors an infectious agent whether or not illness is currently discernible.

(16) "Infection" means the entry and development or multiplication of an infectious agent in the body of man or animals.

(17) "Infection control precautions" means those measures necessary to prevent the transmission of disease from an infected person to another person, taking into consideration the specific suspected or confirmed communicable disease and the specific circumstances of the case. The infection control precautions required for a case admitted to a hospital or other health care facility are those measures identified as isolation precautions applicable to the specific disease in the "2007 Guideline for Isolation Precautions in Hospitals: Preventing Transmission of Infectious Agents in Healthcare Settings" (1996) adopted in ARM 37.114.105. The infection control precautions required for a case not admitted to a hospital or other health care facility are those measures identified as methods of control applicable to the specific disease in the "Control of Communicable Diseases Manual, An Official Report of the American Public Health Association", ~~(18th edition, 2004)~~ (19th edition, 2008), adopted in ARM 37.114.105. Infection control precautions are required, as stated in this rule, whether or not the person is subject to isolation.

(18) "Infectious agent" means an organism, ~~chiefly a microorganism, but including helminths,~~ (including but not limited to virus, rickettsia, bacteria, fungus, protozoan, prion, or helminth) that is capable of producing an infection or infectious disease.

(19) "Infectious disease" means a clinically manifest disease of man or animals resulting from an infection.

(20) "Infectious person" means a person from whom another person may acquire an infectious agent by touch or proximity.

(21) "Isolation" means separation during the period of communicability of an infected or probably infected person from other persons, in places and under conditions approved by the department or local health officer and with observance of all applicable infection control precautions.

(22) "Laboratory" means any facility or other area used by microbiological, serological, chemical, hematological, immuno-hematological, molecular, biophysical, cytological, pathological or other examinations of human body fluids, secretions, excretions, or excised or exfoliated tissues, for the purpose of providing information for the diagnosis, prevention or treatment of any human disease or impairment, for the assessment of human health.

~~(22)~~ (23) ~~"Laboratorian"~~ "Laboratory Professional" means any person who supervises or works in a laboratory.

~~(23)~~ (24) "Local health officer" means a county, city, city-county, or district health officer appointed by a local board of health. As used in these rules, the term will include the authorized representative of a local health officer.

~~(24)~~ (25) "Outbreak" means an incidence of a disease or infection ~~significantly~~ exceeding the incidence normally observed in a population of people over a period of time specific to the disease or infection in question.

~~(25)~~ (26) "Physician" means a person licensed to practice medicine in any jurisdiction in the United States or Canada.

~~(26)~~ (27) "Potential outbreak" means the presence or suspected presence of a communicable disease in a population where the number of susceptible persons and the mode of transmission of the disease may cause further ~~spread~~ transmission of that disease.

~~(27)~~ (28) "Quarantine" means those measures required by a local health officer or the department to prevent transmission of disease to or by those individuals who have been or are otherwise likely to be in contact with an individual with a communicable disease.

~~(28)~~ (29) "Reportable disease" means any disease, the occurrence or suspected occurrence of which is required to be reported by ARM 37.114.203.

~~(29)~~ (30) "Sensitive occupation" means an occupation described in ARM 37.114.301.

~~(30)~~ (31) "Sexually transmitted disease" means human immunodeficiency virus (HIV) infection, syphilis, gonorrhea, chancroid, lymphogranuloma venereum, granuloma inguinale, or all chlamydia trachomatis infections including chlamydial genital infections.

~~(31)~~ (32) "Sexually Transmitted Diseases Treatment Guidelines ~~2002, 2010~~" means the guidelines published by the U.S. Centers for Disease Control and Prevention. A copy of the 2002 guidelines is available from the Department of Public Health and Human Services, Public Health and Safety Division, HIV/STD Section, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951, phone: (406)444-3565.

~~(32)~~ (33) "Surveillance" means scrutiny of all aspects of occurrence and ~~spread~~ transmission of a disease that are pertinent to effective control.

~~(33)~~ (34) "Susceptible" means having insufficient resistance against a disease and likely to contract the disease if exposed.

AUTH: 50-1-202, 50-2-116, 50-17-103, MCA

IMP: 50-1-202, 50-17-103, 50-18-101, MCA

37.114.105 INCORPORATION BY REFERENCE (1) The department adopts and incorporates by reference the following publications:

(a) The "Control of Communicable Diseases Manual, An Official Report of the American Public Health Association", ~~(18th edition, 2004)~~ (19th edition, 2008), which lists and specifies control measures for communicable diseases. A copy of the "~~Control of Communicable Diseases Manual~~" this document may be obtained from the American Public Health Association, 800 I Street NW, Washington, DC 20001.

(b) The "2007 Guideline for Isolation Precautions in Hospitals: Preventing Transmission of Infectious Agents in Healthcare Settings" ~~(1996)~~, published by the U.S. Centers for Disease Control and Prevention, which specifies precautions that should be taken to prevent transmission of communicable diseases for cases admitted to a hospital or other health care facility. ~~A copy of the guideline may be obtained from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161, phone: (703) 487-~~

~~4650. Any orders should refer to the publication number PB96138102 for the "Guideline for Isolation Precautions in Hospitals" (1996). A copy of this document is available from the Department of Public Health and Human Services, Public Health and Safety Division, Communicable Disease Epidemiology Section, 1400 Broadway, P.O. Box 202951, Helena, Montana 59620-2951, phone: (406) 444-0272.~~

(c) The "~~Sexually Transmitted Diseases Guidelines for Treatment Guidelines, 2010 2002~~" are published by the U.S. Centers for Disease Control and Prevention in the ~~May 10, 2002~~ December 17, 2010, Morbidity and Mortality Weekly Report, volume 51, ~~which~~ and specify the most currently accepted effective treatments for sexually transmitted diseases. A copy of the ~~2002 guidelines~~ this document is available from the Department of Public Health and Human Services, Public Health and Safety Division, HIV/STD Section, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951, phone: (406) 444-3565.

AUTH: 50-1-202, MCA
IMP: 50-1-202, MCA

37.114.201 REPORTERS (1) With the exception noted in (3) and (4) below, any person, including but not limited to a physician, dentist, nurse, medical examiner, other health care practitioner, administrator of a health care facility or laboratory, public or private school administrator, or ~~laboratorian~~ laboratory professional who knows or has reason to believe that a case exists of a reportable disease or condition defined in ARM 37.114.203 shall must immediately report to the local health officer the information specified in ARM 37.114.205(1) ~~through~~ and (2).

(2) A local health officer must submit to the department, on the schedule noted in ARM 37.114.204, the information specified in ARM 37.114.205 concerning each confirmed or suspected case of which the officer is informed.

(3) A state-funded anonymous testing site for HIV infection is not subject to the reporting requirement in (1) with regard to HIV testing.

(4) With the exception of a licensed healthcare provider, reporters under (1) may report directly to the department at the department's request with approval of the local health authority.

AUTH: 50-1-202, 50-17-103, 50-18-105, MCA
IMP: 50-1-202, 50-2-118, 50-17-103, 50-18-102, 50-18-106, MCA

37.114.203 REPORTABLE DISEASES AND CONDITIONS (1) The following communicable diseases and conditions are reportable:

(a) AIDS, as defined by the ~~centers for disease control~~ Centers for Disease Control and Prevention, ~~or~~ and HIV infection, as determined by a positive result from a test approved by the Federal Food and Drug Administration for the detection of HIV, including but not limited to antibody, antigen, ~~or~~ all HIV nucleic acid tests irrespective of result, and CD4 and other tests used to monitor HIV disease;

(b) Amebiasis Anaplasmosis;

(c) Anthrax;

(d) Arboviral Disease (California serogroup, Eastern equine encephalitis, Powassan, Saint Louis encephalitis, West Nile Virus, Western equine encephalitis);

- (e) Babesiosis;
- ~~(d)~~ (f) Botulism (including infant botulism);
- ~~(e)~~ (g) Brucellosis;
- (f) (h) Campylobacter enteritis;
- ~~(g)~~ (i) Chancroid;
- ~~(h)~~ Chickenpox;
- (i) (j) Chlamydial trachomatis genital infection;
- (j) (k) Cholera;
- ~~(k)~~ (m) Colorado tick fever;
- (l) (n) Cryptosporidiosis;
- (m) (l) Cytomegaloviral illness Coccidioidomycosis;
- ~~(n)~~ Diarrheal disease outbreak;
- (o) Cyclosporiasis;
- (p) Denque virus infections;
- ~~(o)~~ (q) Diphtheria;
- ~~(p)~~ Encephalitis;
- (r) Erlchiosis;
- ~~(q)~~ (s) Escherichia coli 0157:H7 enteritis Escherichia coli, shiga toxin-producing (STEC);
- (t) (t) Gastroenteritis outbreak;
- ~~(s)~~ (u) Giardiasis;
- (t) (v) Gonorrhea Gonorrheal infection;
- ~~(u)~~ Gonococcal ophthalmia neonatorum;
- (v) (w) Granuloma inguinale;
- ~~(w)~~ (x) Haemophilus influenzae B invasive disease (meningitis, epiglottitis, pneumonia, and septicemia);
- (x) (y) Hansen's disease (leprosy);
- (y) (z) Hantavirus pulmonary syndrome or infection;
- (z) (aa) Hemolytic uremic syndrome, post diarrheal;
- (aa) Hepatitis A, B (acute or chronic), or C (acute or chronic);
- (ab) Kawasaki disease Hepatitis A, acute;
- (ac) Hepatitis B, acute, chronic, perinatal;
- (ad) Hepatitis C, acute, infection, past or present;
- ~~(ae)~~ (ae) Influenza;
- ~~(ad)~~ (af) Lead poisoning (levels \geq 10 micrograms per deciliter) (blood levels \geq than 5 micrograms per deciliter for children 13 years of age or younger);
- ~~(ae)~~ (ag) Legionellosis;
- ~~(af)~~ (ah) Listeriosis;
- ~~(ag)~~ (ai) Lyme disease;
- (ah) (aj) Lymphogranuloma venereum;
- (ai) (ak) Malaria;
- (aj) (al) Measles (rubeola);
- ~~(ak)~~ (am) Meningitis, bacterial or viral Meningococcal disease (Neisseria meningitidis);
- (al) (an) Mumps;
- ~~(am)~~ Ornithosis (psittacosis);
- (an) (ao) Pertussis (whooping cough);

- ~~(ao)~~ (ap) Plague;
- ~~(ap)~~ (aq) Poliomyelitis, paralytic or non-paralytic;
- ~~(ar)~~ (ar) Psittacosis;
- ~~(aq)~~ (as) Q-fever;
- ~~(ar)~~ (at) ~~Rabies or rabies exposure (human)~~ Rabies in a human or animal; exposure to a human by a species susceptible to rabies infection;
- ~~(as)~~ (as) ~~Reye's syndrome;~~
- ~~(at)~~ (au) ~~Rocky Mountain spotted fever~~ Rickettsiosis (spotted fever);
- ~~(au)~~ (av) Rubella (including congenital);
- ~~(av)~~ (aw) Salmonellosis;
- ~~(aw)~~ (ax) ~~Severe acute respiratory syndrome (SARS)~~ Severe Acute Respiratory Syndrome-associated Coronavirus (SARS-CoV) disease;
- ~~(ax)~~ (ay) Shigellosis;
- ~~(ay)~~ (az) Smallpox;
- ~~(az)~~ (ba) Streptococcus pneumoniae invasive disease, drug-resistant;
- ~~(bb)~~ (bb) Streptococcal toxic shock syndrome;
- ~~(ba)~~ (bc) Syphilis;
- ~~(bb)~~ (bd) Tetanus;
- ~~(be)~~ (be) Tickborne relapsing fever;
- ~~(bf)~~ (bf) Toxic shock syndrome (nonstreptococcal);
- ~~(bd)~~ (bg) Transmissible spongiform encephalopathies;
- ~~(be)~~ (bh) Trichinosis Trichinellosis (Trichinosis);
- ~~(bf)~~ (bi) Tuberculosis;
- ~~(bg)~~ (bj) Tularemia;
- ~~(bh)~~ (bk) Typhoid fever;
- ~~(bi)~~ (bl) Varicella;
- ~~(bm)~~ (bm) Vibriosis;
- ~~(bn)~~ (bn) Viral hemorrhagic fevers;
- ~~(bi)~~ (bo) Yellow fever; and
- ~~(bj)~~ (bj) Yersiniosis;
- ~~(bk)~~ (bk) Illness occurring in a traveler from a foreign country;
- ~~(bl)~~ (bl) An occurrence in a community or region of a case or cases of any communicable disease in the "Control of Communicable Diseases Manual, An Official Report of the American Public Health Association", (18th edition, 2004), 2000, with a frequency in excess of normal expectancy; and
- ~~(bm)~~ (bp) Any unusual incident of unexplained illness or death in a human or animal with potential human health implications.

AUTH: 50-1-202, 50-17-103, 50-18-105, 50-18-106, MCA

IMP: 50-1-202, 50-2-118, 50-17-103, 50-18-102, 50-18-106, MCA

37.114.204 REPORTS AND REPORT DEADLINES (1) A local health officer must immediately report (within four hours) to the department by telephone the information cited in ARM 37.114.205(1) through (2) whenever a case of one of the following diseases is suspected or confirmed:

- (a) Anthrax;
- (b) Botulism ~~(including infant botulism);~~

- ~~(c) Diphtheria;~~
- ~~(d) Measles (rubeola);~~
- ~~(e) (c) Plague;~~
- ~~(d) Poliomyelitis, paralytic or nonparalytic;~~
- ~~(f) Rabies or rabies exposure (human);~~
- ~~(g) (e) Severe acute respiratory syndrome (SARS) Severe Acute Respiratory Syndrome-associated Coronavirus (SARS-CoV) disease;~~
- ~~(h) (f) Smallpox;~~
- ~~(i) (g) Tularemia;~~
- ~~(j) Typhoid fever; or~~
- ~~(h) Viral hemorrhagic fevers.~~
- ~~(k) Any unusual incident of unexplained illness or death in a human or animal.~~

(2) A local health officer must ~~mail or~~ transmit by telephone or a secure electronic means to the department the information required by ARM 37.114.205(1) ~~through and~~ (2) for each suspected or confirmed case of one of the following diseases, within the time limit noted for each:

(a) Information about a case of one of the following diseases should be submitted ~~on the same day it is received~~ within 24 hours by telephone by the local health officer:

- ~~(i) Chancroid Brucellosis;~~
- ~~(ii) Cholera Diphtheria;~~
- ~~(iii) Diarrheal disease outbreak Gastroenteritis outbreak;~~
- ~~(iv) Escherichia coli 0157:H7 enteritis Influenza-associated mortality,~~
~~pediatric;~~
- ~~(v) Gastroenteritis outbreak Novel influenza A virus infection;~~
- ~~(vi) Gonorrhea Measles;~~
- ~~(vii) Gonococcal ophthalmia neonatorum Rabies in a human;~~
- ~~(viii) Granuloma inguinale Rabies in an animal;~~
- ~~(ix) Haemophilus influenzae B invasive disease (meningitis, epiglottitis,~~
~~pneumonia, and septicemia);~~
- ~~(x) Hantavirus pulmonary syndrome;~~
- ~~(xi) Hemolytic uremic syndrome;~~
- ~~(xii) Listeriosis;~~
- ~~(xiii) Lymphogranuloma venereum;~~
- ~~(xiv) Meningitis, bacterial or viral;~~
- ~~(xv) Pertussis (whooping cough);~~
- ~~(xvi) Poliomyelitis, paralytic or non-paralytic;~~
- ~~(xvii) (ix) Rubella (including congenital);~~
- ~~(xviii) (x) Syphilis; and~~
- ~~(xix) Tetanus;~~
- ~~(xx) (xi) Yellow fever;~~
- ~~(xxi) Illness occurring in a traveler from a foreign country; and~~
- ~~(xxii) An occurrence in a community or region of a case or cases of any communicable disease in the "Control of Communicable Diseases Manual, An Official Report of the American Public Health Association", (18th edition, 2004), with a frequency in excess of normal expectancy.~~

(b) Information about a case of one of the following diseases should be submitted within seven calendar days after it is received by the local health officer:

- (i) Amebiasis AIDS or HIV infection;
- (ii) Brucellosis Anaplasmosis;
- (iii) Arboviral Disease (neuroinvasive and non-neuroinvasive);
- (iv) Babesiosis;
- ~~(iii)~~ (v) Campylobacter enteritis;
- (vi) Chancroid;
- ~~(iv)~~ Chickenpox (varicella);
- ~~(v)~~ (vii) Chlamydial trachomatis genital infection;
- (viii) Coccidioidomycosis;
- (ix) Colorado Tick Fever;
- ~~(vi)~~ (x) Cryptosporidiosis;
- (xi) Cyclosporiasis;
- ~~(vii)~~ Cytomegaloviral illness;
- (xii) Denque virus infections;
- ~~(viii)~~ Encephalitis;
- ~~(vix)~~ (xiii) Giardiasis;
- (xiv) Gonorrhea;
- (xv) Haemophilus influenzae, invasive disease;
- ~~(x)~~ (xvi) Hansen's disease (leprosy);
- (xvii) Hantavirus pulmonary syndrome or infection;
- (xviii) Hemolytic uremic syndrome, post diarrheal;
- ~~(xi)~~ Hepatitis, A, B (acute or chronic), or C (acute or chronic);
- (xix) Hepatitis A, acute;
- (xx) Hepatitis B, acute, chronic, perinatal;
- (xxi) Hepatitis C, acute, infection past or present;
- ~~(xii)~~ Kawasaki disease;
- ~~(xiii)~~ (xxii) Lead poisoning (levels \geq 10 micrograms per deciliter) (blood levels \geq 5 micrograms per deciliter for children 13 years of age or younger);
- ~~(xiv)~~ (xxiii) Legionellosis;
- (xxiv) Listeriosis;
- ~~(xv)~~ (xxv) Lyme disease;
- ~~(xvi)~~ (xxvi) Malaria;
- (xxvii) Meningococcal disease (Neisseria meningitidis);
- ~~(xvii)~~ (xxviii) Mumps;
- (xxix) Pertussis;
- (xxx) Psittacosis;
- ~~(xviii)~~ Ornithosis (Psittacosis);
- ~~(xix)~~ (xxxi) Q-fever;
- ~~(xx)~~ Reye's syndrome;
- ~~(xxi)~~ (xxxii) Rocky Mountain spotted fever Rickettsiosis (Spotted Fever);
- ~~(xxii)~~ (xxxiii) Salmonellosis;
- ~~(xxiii)~~ (xxxiv) Shigellosis;
- ~~(xxiv)~~ (xxxv) Streptococcus pneumoniae, invasive disease, drug-resistant;
- (xxxvi) Streptococcal toxic shock syndrome;
- (xxxvii) Tetanus;

~~(xxv)~~ (xxxviii) Tickborne relapsing fever;
(xxxix) Toxic shock syndrome (non-streptococcal);
~~(xxvi)~~ (xl) Transmissible spongiform encephalopathies;
~~(xxvii)~~ (xli) Trichinosis Trichinellosis (Trichinosis);
~~(xxviii)~~ (xlii) Tuberculosis; or
~~(xxix)~~ Yersiniosis.
(xlili) Typhoid Fever;
(xliv) Varicella;
(xlv) Vibrio cholera infection (Cholera); and
(xlvi) Vibriosis.

(3) Each week during which a suspected or confirmed case of influenza is reported to the local health officer, the officer must ~~mail or~~ transmit by secure electronic means to the department on Friday of that week the total number of the cases of influenza reported.

(4) For any animal bite to a human by a species susceptible to rabies infection, the local health officer must report by secure electronic means to the department documentation of a rabies post-exposure prophylaxis recommendation and/or administration on a form provided by the department within seven calendar days of the recommendation or administration.

~~(4)~~ (5) A laboratory that performs a blood lead analysis must submit to the department, by the 15th day following the month in which the test was performed, a copy of all blood lead analyses performed that month, including analyses in which lead was undetectable.

~~(5) A laboratory that performs tuberculosis, hepatitis B surface antigen, or sexually transmitted disease testing must submit to the department by the 15th day following each month, a report on a form supplied by the department indicating the number of tests with negative or positive results which were done that month for each of those diseases.~~

~~(6) In the event of a chickenpox outbreak, the local health officer may elect to report a weekly summary count of suspected and confirmed cases in lieu of individual case reports. Individual case reports will resume when the health officer determines the outbreak has ended.~~

AUTH: 50-1-202, 50-17-103, 50-18-105, MCA

IMP: 50-1-202, 50-17-103, 50-18-102, 50-18-106, MCA

37.114.205 REPORT CONTENTS (1) A report of a case of reportable disease or a condition which is required by ARM 37.114.204(1) or (2) must include, if available:

(a) ~~name and age of the case~~ first and last name and middle initial, physical address including city, state and zip code, date of birth, gender, race, and ethnicity of the case;

(b) dates of onset of the disease or condition and the date the disease or condition was reported to the health officer;

(c) whether or not the case is suspected or confirmed;

(d) name and address of the case's physician; and

(e) name of the reporter or other person the department can contact for further information regarding the case.

(2) The information required by (1) must be supplemented by any other information in the possession of the reporter which the department or local health officer requests and which is related to case management and/or investigation of the case.

~~(3) The laboratory reports required by ARM 37.114.204(5) and the numerical report required by ARM 37.114.204(3) need contain only the information specified in those sections.~~

(4) ~~(3)~~ The name or other identifying information of any case with a reportable disease or condition and the name and address of the reporter of any such case are confidential and not open to public inspection.

AUTH: 50-1-202, 50-17-103, 50-18-105, MCA

IMP: 50-1-202, 50-17-103, 50-18-102, 50-18-106, MCA

37.114.301 SENSITIVE OCCUPATIONS (1) A local health officer or the department may restrict a person employed or engaged in direct care of children, the elderly, or individuals who are otherwise at a high risk for disease from practicing an occupation or activity while infected by a reportable disease if, given the means of transmission of the disease in question, the nature of the person's work would tend to ~~spread~~ transmit the disease.

(2) No infectious person may engage in any occupation or activity involving the preparation, serving, or handling of food, including milk, to be consumed by others than his/her immediate family, until a local health officer determines him/her to be free of the infectious agent or unlikely to transmit the infectious agent due to the nature of his/her particular work.

AUTH: 50-1-202, MCA

IMP: 50-1-202, MCA

37.114.312 IMPORTATION OF DISEASE (1) No person who has a reportable disease for which subchapter 5 of this chapter prescribes isolation may be brought within the boundaries of the state without prior notice to the department and approval of measures to be taken within Montana to prevent disease transmission.

~~(2) Whenever a person knows or has reason to believe that an infected person, whether or not infectious, has been brought within the boundaries of the state, he shall report the name and location of the infected person to the department, with the exception of those individuals who are HIV positive; in the latter case, only the information described in ARM 37.114.205 must be provided to the department.~~

AUTH: 50-1-202, MCA

IMP: 50-1-202, MCA

37.114.313 CONFIRMATION OF DISEASE (1) Subject to the limitation in (2), if a local health officer receives information about a case of any of the following

diseases, the officer must ensure that a specimen from the case is submitted to the department, when possible, which will be analyzed to confirm the existence or absence of the disease in question, or for use in surveillance:

- (a) Anthrax;
- (b) Botulism (~~foodborne~~);
- (c) Brucellosis;
- (d) Campylobacteriosis;
- ~~(d)~~ (e) Cholera;
- ~~(e) Diarrheal disease outbreak;~~
- (f) Diphtheria;
- (g) Escherichia coli, shiga toxin-producing (STEC);
- (h) Gastroenteritis outbreak;
- (i) Gonorrhea;
- (j) Haemophilus influenzae invasive disease;
- ~~(g)~~ (k) Hantavirus pulmonary syndrome or infection;
- ~~(h)~~ (l) Human immunodeficiency virus (HIV);
- ~~(i)~~ (m) Influenza;
- (n) Listeriosis;
- ~~(j)~~ (o) Measles (rubeola);
- (p) Meningococcal disease (Neisseria meningitidis);
- ~~(k)~~ (q) Pertussis (whooping cough);
- ~~(l)~~ (r) Plague;
- ~~(m)~~ (s) Poliomyelitis, paralytic or non-paralytic;
- ~~(n)~~ (t) Rabies (human);
- ~~(o)~~ (u) Rubella (including congenital);
- (v) Salmonellosis;
- ~~(p)~~ (w) Severe acute respiratory syndrome (SARS) Severe Acute Respiratory Syndrome-associated Coronavirus (SARS-CoV) disease;
- (x) Shigellosis;
- ~~(q)~~ (y) Smallpox;
- ~~(r)~~ (z) Syphilis;
- ~~(s)~~ (aa) Trichinosis Trichinellosis (Trichinosis);
- ~~(t)~~ (ab) Tuberculosis; and
- ~~(u)~~ (ac) Typhoid fever;
- (ad) Vancomycin-intermediate Staphylococcus aureus (VISA);
- (ae) Vancomycin-resistant Staphylococcus aureus (VRSA); and
- (af) Vibriosis.

(2) In the event of an outbreak of ~~diarrheal disease~~ gastroenteritis, influenza, ~~or~~ measles, or pertussis, analysis of specimens from each case is unnecessary after the disease organism is determined by the department.

(3) A laboratorian laboratory professional or any other person in possession of a specimen from a case of a disease listed in (1)(a) through ~~(u)~~ (af) must submit the specimen to the ~~local health officer~~ department upon request.

(4) If no specimen from the case is otherwise available and the case refuses to allow a specimen to be taken for purposes of (1), the case will be assumed to be infected and must comply with whatever control measures are imposed by the department, or the local health officer.

AUTH: 50-1-202, 50-1-204, MCA
IMP: 50-1-202, 50-1-204, MCA

37.114.314 INVESTIGATION OF A CASE (1) Immediately after being notified of a case or an outbreak of a reportable disease, a local health officer must investigate and take whatever steps are necessary to prevent ~~spread~~ transmission of the disease.

(2) If the local health officer finds that the nature of the disease and the circumstances of the case or outbreak warrant such action, the local health officer must:

(a) examine or ensure that a health care provider examines any infected person in order to verify the diagnosis;

(b) make an epidemiologic investigation to determine the source and possible ~~spread~~ transmission of infection;

(c) take appropriate steps, as outlined in the "Control of Communicable Diseases Manual, An Official Report of the American Public Health Association"; ~~(18th edition, 2004)~~ (19th edition, 2008), to prevent or control the ~~spread~~ transmission of disease; and

(d) notify contacts as defined in ARM 37.114.101 of the case and give them the information needed to prevent contracting the disease.

(3) Whenever the identified source of a reportable disease or a person infected or exposed to a reportable disease who should be quarantined, interviewed, or placed under surveillance is located outside of the jurisdiction of the local health officer, the local health officer must:

~~(a) notify the department or the local health officer of the jurisdiction in which the source or person is located if within Montana; or~~

~~(b) notify the department who will then notify the health officer of the relevant jurisdiction if the source or person is located outside of Montana.~~

AUTH: 50-1-202, 50-2-118, 50-17-103, 50-18-105, MCA

IMP: 50-1-202, 50-2-118, 50-17-103, 50-17-105, 50-18-102, 50-18-107, 50-18-108, MCA

37.114.315 POTENTIAL OUTBREAKS (1) Whenever a disease listed in ARM 37.114.204(1) is ~~confirmed~~ reported or whenever any other communicable disease listed in the "Control of Communicable Diseases Manual, An Official Report of the American Public Health Association"; ~~(18th edition, 2004)~~ (19th edition, 2008), or other communicable disease which constitutes a threat to the health of the public becomes so prevalent as to endanger an area outside of the jurisdiction where it first occurred, the local health officer of the jurisdictional area in which the disease occurs must ~~notify the~~ and cooperate with the department ~~and cooperate with the department's epidemiologist or the epidemiologist's representative~~ to control the ~~spread~~ transmission of the disease in question.

AUTH: 50-1-202, MCA

IMP: 50-1-202, 50-2-118, MCA

37.114.501 MINIMAL CONTROL MEASURES (1) ~~The department, except as otherwise provided in this subchapter, adopts and incorporates by reference the control measures in the "Control of Communicable Diseases Manual, An Official Report of the American Public Health Association" (19th edition, 2008). This subchapter contains minimal control measures to prevent the spread of disease. The~~ Unless a particular control measure specifies who is responsible, the local health officer or the authorized representative of a local health officer ~~officer's designee~~ must: ~~either employ the minimal control measures or ensure that a representative of the department when assisting a local health officer with a case, a health care provider treating a person with a reportable disease, or any other person caring for a person with a reportable disease does so, with the exception that if a particular control measure specifies who is responsible for carrying it out, only that person is responsible.~~

(a) employ the minimum control measures; or

(b) ensure that minimal control measures are employed by a health care provider or other person caring for a person with a reportable disease.

~~(2) If a reportable disease is not listed in this subchapter, no minimum control measures for the disease are required.~~

AUTH: 50-1-202, 50-2-116, 50-2-118, MCA

IMP: 50-1-202, 50-2-116, 50-2-118, MCA

37.114.503 ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) AND HIV INFECTION (1) Whenever human immunodeficiency virus (HIV) infection occurs, infection control fluid precautions must be used for the duration of the infection.

~~(2) If a test confirms HIV infection, the department will contact the health care provider submitting the test or another health care provider designated by the subject of the test in order to determine whether acquired immune deficiency syndrome is present. If AIDS exists, the provider must submit a report pursuant to ARM 37.114.205.~~

(3) (2) The department or local health officer must ensure that the following actions are taken: Either a health care provider treating an individual with HIV infection for that infection or a representative of the department or local health department must:

(a) instruct the case how to prevent spreading transmitting the HIV infection to others;

(b) provide the case with information about any available services relevant to the case's health status and refer the case to appropriate services;

(c) interview the infected person to determine the person's contacts; and

(d) locate each contact, counsel each contact, advise the contact to receive testing to determine the contact's HIV status, and refer the contact for appropriate services.

~~(4) (3) The health care provider may perform the required actions under (2) must either conduct the interview with the case and assist the case with contact~~

~~notification at the discretion of or request the department or local health officer to assist in conducting the interview and/or notifying contacts.~~

AUTH: 50-1-202, 50-2-118, 50-16-1004, MCA

IMP: 50-1-202, 50-2-118, 50-16-1004, MCA

~~37.114.512 CHANCROID (1) A person infected with chancroid must be directed not to engage in sexual contact until all chancroid lesions are healed. The local health officer or the department must either employ or ensure that control measures as outlined in the Centers for Disease Control and Prevention "Sexually Transmitted Diseases Treatment Guidelines, 2010" are followed.~~

AUTH: 50-1-202, 50-2-118, 50-18-105, MCA

IMP: 50-1-202, 50-2-118, 50-18-102, MCA

~~37.114.515 CHLAMYDIAL GENITAL INFECTION (1) The local health officer or the department must either employ or ensure that control measures as outlined in the Centers for Disease Control and Prevention "Sexually Transmitted Diseases Treatment Guidelines, 2010" are followed. An individual with a chlamydial genital infection must be directed to undergo appropriate antibiotic therapy and to avoid sexual contact until seven days have elapsed since the commencement of effective treatment prescribed by the Centers for Disease Control and Prevention in the "Sexually Transmitted Diseases Treatment Guidelines 2002".~~

(2) An individual who contracts the infection must be interviewed by the local health officer to determine the person's sexual contacts, and those contacts must be provided with appropriate medical treatment.

AUTH: 50-1-202, 50-2-118, 50-18-105, MCA

IMP: 50-1-202, 50-2-118, 50-18-102, 50-18-107, MCA

~~37.114.530 GONORRHEA (1) The local health officer or the department must either employ or ensure that control measures as outlined in the Centers for Disease Control and Prevention "Sexually Transmitted Diseases Treatment Guidelines, 2010" are followed. A person who contracts genital gonorrhea must be directed to undergo appropriate antibiotic therapy and to avoid sexual contact until seven days have elapsed since the commencement of effective treatment prescribed by the Centers for Disease Control and Prevention in the "Sexually Transmitted Diseases Treatment Guidelines 2002". Individuals who have contracted genital gonorrhea must also be treated for Chlamydia.~~

(2) The local health officer must interview an individual who contracts the infection in order to determine the person's sexual contacts, and must ensure that those contacts are examined and receive the medical treatment indicated by clinical or laboratory findings.

AUTH: 50-1-202, 50-2-118, 50-18-105, MCA

IMP: 50-1-202, 50-2-118, 50-18-102, 50-18-107, MCA

37.114.531 GRANULOMA INGUINALE (1) The local health officer or the department must either employ or ensure that control measures as outlined in the Centers for Disease Control and Prevention "Sexually Transmitted Diseases Treatment Guidelines, 2010" are followed. ~~Contact with lesions must be avoided until after the lesions are healed.~~

~~(2) The local health officer or the officer's designee must identify and treat sexual contacts.~~

AUTH: 50-1-202, 50-2-118, 50-18-105, MCA

IMP: 50-1-202, 50-2-118, 50-18-102, MCA

37.114.540 HEPATITIS TYPE B (ACUTE OR CHRONIC) (1) For a case of type B hepatitis not involving a pregnant woman, control measures outlined in Control of Communicable Diseases Manual must be applied.:

~~(a) Infection control precautions must be imposed until it is determined that viremia no longer exists.~~

~~(b) The local health officer designee must identify contacts and advise them how to prevent acquisition of the disease, given the nature of their relationship to the case.~~

(2) In the event a hepatitis B surface antigen (HbsAg) is positive in a pregnant woman, the local health officer must:

(a) ensure appropriate health care providers and the birthing facility are aware of the mother's status and the infant's need for prophylaxis;

(b) ensure that hepatitis B immunoglobulin (HBIG) and vaccine are readily available at the birthing facility at the expected time of delivery;

(c) confirm the administration of HBIG and vaccine after delivery and submit the report form provided by the department within seven days after delivery and counsel the mother and provider regarding the need for further vaccination and testing;

(d) at one to two months and again at six to seven months after delivery contact the health care provider or guardian of the infant to confirm the vaccine was given and provide an update to the department using a form provided by the department; and

(e) at nine to 15 months after delivery, confirm testing of the infant for the surface antigen and antibody to the hepatitis B virus (HBV), counsel as appropriate, and provide an update to the department using a form provided by the department.

AUTH: 50-1-202, 50-2-118, 50-19-101, MCA

IMP: 50-1-202, 50-2-118, 50-19-101, MCA

37.114.542 HEPATITIS C (ACUTE OR CHRONIC) (1) The local health officer must ensure that each case:

~~(a) is counseled regarding prevention of transmission to others and provided with referrals to counseling and medical care as appropriate.;~~ ~~and~~

~~(b) (2) In cases of acute Hepatitis C, the local health officer must identify, is encouraged to notify, and refer at-risk contacts for testing.~~

(3) In cases of chronic Hepatitis C, the local health officer may notify and refer at-risk contacts for testing, or encourage the case to do so, or to request assistance of the local public health officer with contact notification.

AUTH: 50-1-202, 50-2-118, MCA
IMP: 50-1-202, 50-2-118, MCA

37.114.546 LEAD POISONING: ELEVATED BLOOD LEAD LEVELS IN CHILDREN (1) When an elevated capillary test of a child aged 13 or under shows an elevated blood lead level (EBL) greater than or equal to 10 micrograms per deciliter (ug/dl), the health care provider who ordered the capillary test must confirm the results as soon as possible by a venous draw. An elevated blood lead level is defined as being greater than or equal to 5 micrograms per deciliter (ug/dl) in children 13 years of age or younger. If the blood lead level was determined by capillary blood method, then the test result must be confirmed by venous method as soon as possible. The elevated blood lead level of concern is based on 2012 guidance from the Centers for Disease Control and Prevention (CDC). A copy of this document is available from the Department of Public Health and Human Services, Public Health and Safety Division, Communicable Disease Epidemiology Section, 1400 Broadway, P.O. Box 202951, Helena, Montana 59620-2951, telephone (406) 444-0273.

(2) In the case of an elevated venous level, the health care provider must retest the blood lead level at intervals recommended by the federal Centers for Disease Control and Prevention (CDC), until two consecutive tests taken at least two months apart show a level of less than 40 5 ug/dl.

(3) The department hereby adopts and incorporates by reference the recommendations for blood lead testing intervals for children with elevated venous levels published in the May 2012 MMWR announcement cited above, the November 1997 by the federal Centers for Disease Control and Prevention (CDC) and contained in CDC's manual "Screening Young Children for Lead Poisoning: Guidance for State and Local Public Health Officials", and the March 2002 CDC manual "Managing Elevated Blood Lead Levels Among Young Children: Recommendations from the Advisory Committee on Childhood Lead Poisoning Prevention," which contains guidance for identifying children with dangerous blood lead levels and intervening to protect them. A copy of the manual is available from the Centers for Disease Control, MASO Publications Distribution Facility, 5665 New Peachtree Road (PO7), Atlanta, GA 30341. A copy of this document is available from the Department of Public Health and Human Services, Public Health and Safety Division, Communicable Disease Epidemiology Section, 1400 Broadway, P.O. Box 202951, Helena, Montana 59620-2951, telephone (406) 444-0273.

AUTH: 50-1-202, MCA
IMP: 50-1-202, MCA

37.114.552 LYMPHOGRANULOMA VENEREUM (1) The local health officer or the department must either employ or ensure that control measures as outlined in the Centers for Disease Control and Prevention "Sexually Transmitted

Diseases Treatment Guidelines, 2010" are followed. A person who contracts lymphogranuloma venereum must be instructed to avoid sexual contact until after the lesions heal.

~~(2) An individual who contracts the disease must be interviewed by the local health officer or the officer's designee to determine who that individual's contacts are, and the local health officer must ensure that those contacts are examined and receive the medical treatment indicated by clinical and laboratory findings.~~

AUTH: 50-1-202, 50-2-118, 50-18-105, MCA

IMP: 50-1-202, 50-2-118, 50-18-102, MCA

37.114.561 ORNITHOSIS (PSITTACOSIS) (1) Infection control precautions must be imposed upon a case of ornithosis as long as the fever lasts. For a case of Psittacosis, control measures outlined in Control of Communicable Diseases Manual must be applied.

(2) The local health officer must inquire whether a bird epidemiologically linked to a case of ~~ornithosis~~ psittacosis was obtained from an aviary, and, if so, determine the location of the aviary and report it to the Montana State Veterinarian, Department of Livestock.

AUTH: 50-1-202, 50-2-118, MCA

IMP: 50-1-202, 50-2-118, MCA

37.114.563 PERTUSSIS (WHOOPING COUGH) (1) Infection control precautions must be imposed upon a case of pertussis for five days after the start of antibiotic therapy, or 21 days after the date of onset of symptoms if no antibiotic therapy is given.

(2) An individual identified by the local health officer as a close contact must be referred by the officer to a physician for chemoprophylaxis.

(3) A person identified by the local health officer as a close contact must be monitored by the local health officer for respiratory symptoms for 20 days after the person's last contact with the case.

(4) If a close contact shows respiratory symptoms consistent with pertussis, the health officer must order the contact to avoid contact with anyone outside of the contact's immediate family until a medical evaluation indicates that the contact is not developing pertussis.

(5) Surveillance for susceptible contacts must be initiated immediately by the local health officer and immediate immunizations recommended by the officer must be administered to identified susceptible contacts.

AUTH: 50-1-202, 50-2-118, MCA

IMP: 50-1-202, 50-2-118, MCA

37.114.571 RABIES EXPOSURE (1) Control measures outlined in Control of Communicable Diseases Manual must be applied for confirmed or suspected exposures to a human by a species susceptible to rabies infection. The following actions must be reported to the local health officer if they are committed by an

animal other than a rabbit, hare, or rodent whose species can be infected with rabies:

- ~~(a) biting of a human being;~~
- ~~(b) contamination of a mucous membrane, scratch, abrasion, or open wound of a human by the saliva or other potentially infectious material from an animal that exhibits:
 - ~~(i) paralysis or partial paralysis of the limbs;~~
 - ~~(ii) marked excitation, muscle spasms, difficulty swallowing, apprehensiveness, delirium, or convulsions; or~~
 - ~~(iii) unusual aggressive or unnatural behavior toward a person, animal, or inanimate object.~~~~

(2) The local health officer shall must investigate each report of possible rabies exposure and gather, at a minimum, information about the circumstances of the possible rabies exposure; nature of the exposure; name, age, and address of the exposed individual; vaccination status of the animal in question; treatment of the exposed person; and eventual outcome for both animal and person involved.

(3) As soon as possible after investigating a report of possible rabies exposure, the local health officer must inform the exposed person or the individual responsible for the exposed person if that person is a minor whether or not treatment is recommended to prevent rabies and provide a referral to a health care provider.

(4) Whenever the circumstances described in (1) involve a dog, cat, or ferret, the local health officer must either:

(a) arrange for the animal to be observed for signs of illness during a ten-day quarantine period at an animal shelter, veterinary facility, or other adequate facility, and ensure that any illness in the animal during the confinement or before release is evaluated by a veterinarian for signs suggestive of rabies; or

(b) if the symptoms ~~described in (1)(b) above exist~~ observed are consistent with rabies, order the animal killed euthanized and the head sent to the Department of Livestock's diagnostic laboratory at Bozeman for rabies analysis. The local health officer may also order an animal killed euthanized subsequent to isolation, and the brain analyzed.

~~(5) Additional rabies reporting and control requirements are contained in ARM 32.3.1201 through 32.3.1207, rules of the Department of Livestock.~~

~~(6) The department hereby adopts and incorporates by reference ARM 32.3.1205, which contains the standards for proper vaccination against rabies. A copy of ARM 32.3.1205 may be obtained from the Department of Livestock, Animal "444-2043.~~

AUTH: 50-1-202, 50-2-118, MCA

IMP: 50-1-202, 50-2-118, MCA

37.114.583 SYPHILIS (1) The local health officer or the department must either employ or ensure that control measures as outlined in the Centers for Disease Control and Prevention "Sexually Transmitted Diseases Treatment Guidelines, 2010" are followed. ~~A person with a case of infectious syphilis must be instructed to refrain from activities in which body fluids are shared (such as sexual intercourse)~~

~~until 48 hours after effective treatment has been commenced and must either receive treatment or be isolated until treatment is received.~~

~~(2) A person with syphilis must be interviewed by the local health officer or the officer's designee to identify the following types of contacts, depending upon the disease stage in question:~~

~~(a) for primary syphilis, all sexual contacts during the three months prior to the onset of symptoms;~~

~~(b) for secondary syphilis, all sexual contacts during the six months preceding diagnosis;~~

~~(c) for early latent syphilis, those sexual contacts during the year preceding diagnosis, if the time that primary and secondary lesions appeared cannot be established;~~

~~(d) for late latent syphilis, marital partners and children of infected mothers;~~

~~(e) for congenital syphilis, all members of the immediate family of the case.~~

~~(3) All identified contacts of confirmed cases of early syphilis must be examined to determine if they have syphilis, directed to refrain from activities in which body fluids are shared, and, if they consent, immediately be given appropriate treatment. Laboratory specimens must be taken during the examination.~~

AUTH: 50-1-202, 50-2-118, 50-18-105, MCA

IMP: 50-1-202, 50-2-118, 50-18-102, 50-18-107, MCA

4. The department proposes to repeal the following rules:

37.114.504 AMEBIASIS is found on page 37-28864 of the Administrative Rules of Montana.

AUTH: 50-1-202, 50-2-118, MCA

IMP: 50-1-202, 50-2-118, MCA

37.114.506 ANTHRAX is found on page 37-28867 of the Administrative Rules of Montana.

AUTH: 50-1-202, 50-2-118, MCA

IMP: 50-1-202, 50-2-118, MCA

37.114.507 BOTULISM: INFANT BOTULISM is found on page 37-28868 of the Administrative Rules of Montana.

AUTH: 50-1-202, 50-2-118, MCA

IMP: 50-1-202, 50-2-118, MCA

37.114.509 BRUCELLOSIS is found on page 37-28871 of the Administrative Rules of Montana.

AUTH: 50-1-202, 50-2-118, MCA

IMP: 50-1-202, 50-2-118, MCA

37.114.510 CAMPYLOBACTER ENTERITIS is found on page 37-28871 of the Administrative Rules of Montana.

AUTH: 50-1-202, 50-2-118, MCA
IMP: 50-1-202, 50-2-118, MCA

37.114.514 CHICKENPOX (VARICELLA) is found on page 37-28875 of the Administrative Rules of Montana.

AUTH: 50-1-202, MCA
IMP: 50-1-202, MCA

37.114.516 CHOLERA is found on page 37-28878 of the Administrative Rules of Montana.

AUTH: 50-1-202, 50-2-118, MCA
IMP: 50-1-202, 50-2-118, MCA

37.114.518 COLORADO TICK FEVER is found on page 37-28881 of the Administrative Rules of Montana.

AUTH: 50-1-202, 50-2-118, MCA
IMP: 50-1-202, 50-2-118, MCA

37.114.519 CRYPTOSPORIDIOSIS is found on page 37-28882 of the Administrative Rules of Montana.

AUTH: 50-1-201, MCA
IMP: 50-1-202, MCA

37.114.521 DIARRHEAL DISEASE OUTBREAK is found on page 37-28885 of the Administrative Rules of Montana.

AUTH: 50-1-202, 50-2-118, MCA
IMP: 50-1-202, 50-2-118, MCA

37.114.522 DIPHTHERIA is found on page 37-28886 of the Administrative Rules of Montana.

AUTH: 50-1-202, 50-1-204, 50-2-118, MCA
IMP: 50-1-202, 50-1-204, 50-2-118, MCA

37.114.524 ENCEPHALITIS is found on page 37-28889 of the Administrative Rules of Montana.

AUTH: 50-1-202, 50-2-118, MCA

IMP: 50-1-202, 50-2-118, MCA

37.114.525 ESCHERICHIA COLI 0157:H7 ENTERITIS is found on page 37-28889 of the Administrative Rules of Montana.

AUTH: 50-1-202, 50-2-118, MCA

IMP: 50-1-202, 50-2-118, MCA

37.114.528 GIARDIASIS is found on page 37-28891 of the Administrative Rules of Montana.

AUTH: 50-1-202, 50-2-118, MCA

IMP: 50-1-202, 50-2-118, MCA

37.114.533 HAEMOPHILUS INFLUENZA B INVASIVE DISEASE is found on page 37-28897 of the Administrative Rules of Montana.

AUTH: 50-1-202, 50-2-118, MCA

IMP: 50-1-202, 50-2-118, MCA

37.114.534 HANSEN'S DISEASE (LEPROSY) is found on page 37-28897 of the Administrative Rules of Montana.

AUTH: 50-1-202, 50-1-204, 50-2-118, MCA

IMP: 50-1-202, 50-1-204, 50-2-118, MCA

37.114.536 HANTAVIRUS PULMONARY SYNDROME is found on page 37-28899 of the Administrative Rules of Montana.

AUTH: 50-1-202, 50-2-118, MCA

IMP: 50-1-202, 50-2-118, MCA

37.114.537 HEMOLYTIC UREMIC SYNDROME is found on page 37-28899 of the Administrative Rules of Montana.

AUTH: 50-1-202, MCA

IMP: 50-1-202, MCA

37.114.539 HEPATITIS TYPE A is found on page 37-28901 of the Administrative Rules of Montana.

AUTH: 50-1-202, 50-2-118, MCA

IMP: 50-1-202, 50-2-118, MCA

37.114.544 INFLUENZA is found on page 37-28905 of the Administrative Rules of Montana.

AUTH: 50-1-202, 50-2-118, MCA
IMP: 50-1-202, 50-2-118, MCA

37.114.548 LEGIONELLOSIS is found on page 37-28909 of the Administrative Rules of Montana.

AUTH: 50-1-202, 50-2-118, MCA
IMP: 50-1-202, 50-2-118, MCA

37.114.549 LISTERIOSIS OUTBREAK is found on page 37-28909 of the Administrative Rules of Montana.

AUTH: 50-1-202, 50-2-118, MCA
IMP: 50-1-202, 50-2-118, MCA

37.114.551 LYME DISEASE is found on page 37-28911 of the Administrative Rules of Montana.

AUTH: 50-1-202, 50-2-118, MCA
IMP: 50-1-202, 50-2-118, MCA

37.114.554 MALARIA is found on page 37-28913 of the Administrative Rules of Montana.

AUTH: 50-1-202, 50-2-118, MCA
IMP: 50-1-202, 50-2-118, MCA

37.114.555 MEASLES: RUBEOLA is found on page 37-28913 of the Administrative Rules of Montana.

AUTH: 50-1-202, 50-1-204, 50-2-118, MCA
IMP: 50-1-202, 50-1-204, 50-2-118, MCA

37.114.557 MENINGITIS: BACTERIAL OR VIRAL is found on page 37-28915 of the Administrative Rules of Montana.

AUTH: 50-1-202, 50-1-204, 50-2-118, MCA
IMP: 50-1-202, 50-1-204, 50-2-118, MCA

37.114.558 MUMPS is found on page 37-28915 of the Administrative Rules of Montana.

AUTH: 50-1-205, 50-2-118, MCA
IMP: 50-1-202, 50-2-118, MCA

37.114.560 OPHTHALMIA NEONATORUM is found on page 37-28917 of the Administrative Rules of Montana.

AUTH: 50-1-202, 50-2-118, MCA
IMP: 50-1-202, 50-1-118, MCA

37.114.565 PLAGUE is found on page 37-28921 of the Administrative Rules of Montana.

AUTH: 50-1-202, 50-1-204, 50-2-118, MCA
IMP: 50-1-202, 50-1-204, 50-2-118, MCA

37.114.566 POLIOMYELITIS is found on page 37-28922 of the Administrative Rules of Montana.

AUTH: 50-1-202, 50-2-118, MCA
IMP: 50-1-202, 50-2-118, MCA

37.114.568 Q-FEVER (QUERY FEVER) is found on page 37-28923 of the Administrative Rules of Montana.

AUTH: 50-1-202, 50-2-118, MCA
IMP: 50-1-202, 50-2-118, MCA

37.114.570 RABIES: HUMAN is found on page 37-28923 of the Administrative Rules of Montana.

AUTH: 50-1-202, 50-1-204, 50-2-118, MCA
IMP: 50-1-202, 50-1-204, 50-2-118, MCA

37.114.573 ROCKY MOUNTAIN SPOTTED FEVER is found on page 37-28929 of the Administrative Rules of Montana.

AUTH: 50-1-202, 50-2-118, MCA
IMP: 50-1-202, 50-2-118, MCA

37.114.574 RUBELLA is found on page 37-28929 of the Administrative Rules of Montana.

AUTH: 50-1-202, 50-2-118, MCA
IMP: 50-1-202, 50-2-118, MCA

37.114.575 RUBELLA: CONGENITAL is found on page 37-28930 of the Administrative Rules of Montana.

AUTH: 50-1-202, 50-2-118, MCA
IMP: 50-1-202, 50-2-118, MCA

37.114.577 SALMONELLOSIS (OTHER THAN TYPHOID FEVER) is found on page 37-28933 of the Administrative Rules of Montana.

AUTH: 50-1-202, 50-2-118, MCA
IMP: 50-1-202, 50-2-118, MCA

37.114.578 SEVERE ACUTE RESPIRATORY SYNDROME (SARS) is found on page 37-28934 of the Administrative Rules of Montana.

AUTH: 50-1-202, MCA
IMP: 50-1-202, MCA

37.114.579 SHIGELLOSIS is found on page 37-28935 of the Administrative Rules of Montana.

AUTH: 50-1-202, 50-2-118, MCA
IMP: 50-1-202, 50-2-118, MCA

37.114.581 SMALLPOX is found on page 37-28937 of the Administrative Rules of Montana.

AUTH: 50-1-202, MCA
IMP: 50-1-202, MCA

37.114.582 STREPTOCOCCUS PNEUMONIAE INVASIVE DISEASE, DRUG RESISTANT is found on page 37-28939 of the Administrative Rules of Montana.

AUTH: 50-1-202, MCA
IMP: 50-1-202, MCA

37.114.585 TRICHINOSIS is found on page 37-28943 of the Administrative Rules of Montana.

AUTH: 50-1-202, 50-2-118, MCA
IMP: 50-1-202, 50-2-118, MCA

37.114.588 TULAREMIA is found on page 37-28945 of the Administrative Rules of Montana.

AUTH: 50-1-205, 50-2-118, MCA
IMP: 50-1-202, 50-2-118, MCA

37.114.589 TYPHOID FEVER is found on page 37-28946 of the Administrative Rules of Montana.

AUTH: 50-1-202, 50-2-118, MCA

IMP: 50-1-202, 50-2-118, MCA

37.114.591 YELLOW FEVER is found on page 37-28947 of the Administrative Rules of Montana.

AUTH: 50-1-202, 50-2-118, MCA

IMP: 50-1-202, 50-2-118, MCA

37.114.592 YERSINIOSIS is found on page 37-28947 of the Administrative Rules of Montana.

AUTH: 50-1-202, 50-2-118, MCA

IMP: 50-1-202, 50-2-118, MCA

37.114.595 ILLNESS IN TRAVELER FROM FOREIGN COUNTRY is found on page 37-28951 of the Administrative Rules of Montana.

AUTH: 50-1-202, 50-1-204, 50-2-118, MCA

IMP: 50-1-202, 50-1-204, 50-2-118, MCA

5. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (the department) is proposing amendments to the Communicable Disease Control Rules to address redundancies, update and better align the rules with Centers for Disease Control and Prevention (CDC) Council for State and Territorial Epidemiologists (CSTE) "2012 Case Definitions: Nationally Notifiable Conditions Infectious and Non-Infectious Case. (2012)." In addition, control measures are being edited to "control" by reference and align with the American Public Health Association "Control of Communicable Diseases Manual." Many of the proposed amendments are simple clarifications, grammatical errors, or internal inconsistencies. The substantive changes are specifically outlined below.

ARM 37.114.101

The department is proposing to amend, update, and add new definitions to clearly explain terms used in these rules.

ARM 37.114.105

The department is proposing to update the referenced documents to the most recent versions of those documents.

ARM 37.114.201

The department is proposing to update and clarify terminology. The department is also proposing to add language to allow reporting entities other than licensed

providers to submit electronic reports directly to the department. This change will accommodate the department's efforts to implement a statewide electronic surveillance system that supports the needs of local and state public health agencies. Licensed healthcare providers are excluded due to the fact that they are providing direct care to cases needing reporting and must comply with specific reporting statutes.

ARM 37.114.203

The department is proposing to add and remove diseases and conditions to align with national recommendations outlined in CDC/CSTE "2012 Case Definitions: Nationally Notifiable Conditions Infectious and Non-Infectious Case. (2012)."

ARM 37.114.204

The department is proposing to align the rule with case definitions and the reporting time frames associated with the CDC/CSTE "2012 Case Definitions: Nationally Notifiable Conditions Infectious and Non-Infectious Case. (2012)." The Department is also proposing to remove language for conditions that no longer serve any useful purpose.

ARM 37.114.205

The department is proposing to add language to include nationally required minimal data elements and to remove language for a report no longer asked for or needed under ARM 37.114.204.

ARM 37.114.301

The department proposes minor modifications to clarify those persons, other than paid employees, who may engage in sensitive occupations and will be subject to the rule.

ARM 37.114.312

The department proposes removing language that is redundant with other reporting requirements outlined elsewhere in this chapter.

ARM 37.114.313

The department proposes adding language to align language with the CDC/CSTE "2012 Case Definitions: Nationally Notifiable Conditions Infectious and Non-Infectious Case. (2012)" and to ensure specimens and isolates of significant interest to public health are submitted for confirmation and/or analysis to the state public health laboratory.

ARM 37.114.314

The department proposes changing language to update referenced documents and to clarify cross jurisdictional reporting in order to address miscommunication issues that have occurred as a result of the old language.

ARM 37.114.315

The department proposes changing language to improve the timeliness of reporting for diseases requiring "immediate" reporting under ARM 37.114.204(1). Use of the older "confirmed" language could delay the reporting of diseases that represent extreme public health threats including the potential for bioterrorism.

ARM 37.114.501

The department proposes amending this rule by changing language to utilize the proposed reference to guide control measures under this subchapter in a way that encompasses more diseases and aligns control measures to national standardized approaches. The department proposes to clarify the role and responsibility of local health officers relative to employing control measures.

ARM 37.114.503

The department proposes to remove language that is no longer necessary due to evolving case definitions of this disease and the addition of language under ARM 37.114.203(a) and clarify responsibilities for actions to be taken.

ARM 37.114.512

The department proposes amending this rule by adding the language that references the control measures in the Centers for Disease Control and Prevention "Sexually Transmitted Diseases Treatment Guidelines, 2010" and removing older language that does not fully encompass necessary control measures. This rule addresses a sexually transmitted disease as defined under 50-18-101, MCA as distinct from other communicable diseases.

ARM 37.114.515

The department proposes amending this rule by adding the language which aligns with the CDC/CSTE "2012 Case Definitions: Nationally Notifiable Conditions Infectious and Non-Infectious Case. (2012)" and that references the control measures in the Centers for Disease Control and Prevention "Sexually Transmitted Diseases Treatment Guidelines, 2010" and removing older language that does not fully encompass necessary control measures. This rule addresses a sexually transmitted disease as defined under 50-18-101, MCA as distinct from other communicable diseases.

ARM 37.114.530 and 37.114.531

The department proposes amending ARM 37.114.530 and 37.114.531 by adding the language that references the control measures in the Centers for Disease Control and Prevention "Sexually Transmitted Diseases Treatment Guidelines 2010" and removing older language that does not fully encompass necessary control measures. ARM 37.114.530 and 37.114.531 address sexually transmitted diseases as defined under 50-18-101, MCA as distinct from other communicable diseases.

ARM 37.114.540, 37.114.542, and 37.114.561

The department is proposing to add and remove language to clarify the control measures associated with these rules.

ARM 37.114.546

The department proposes amending this rule by adding the language that references the control measures in the Centers for Disease Control and Prevention "Response to the Advisory Committee on Childhood Lead Poisoning Prevention Report, Low Level Lead Exposure Harms Children: A Renewed Call for Primary Prevention", May 25, 2012/61(20);383 and removing older language that does not fully encompass necessary control measures.

ARM 37.114.552

The department proposes amending this rule by adding the language that references the control measures in the Centers for Disease Control and Prevention "Sexually Transmitted Diseases Treatment Guidelines, 2010" and removing older language that does not fully encompass necessary control measures. This rule addresses a sexually transmitted disease as defined under 50-18-101, MCA as distinct from other communicable diseases.

ARM 37.114.563

The department proposes removing language determined to be unnecessary.

ARM 37.114.571

The department is proposing to add and remove language to this rule to clarify the responsibilities of the local health officer and to remove language that is redundant and unnecessary due to changes in reportables under ARM 37.114.203.

ARM 37.114.583

The department proposes amending this rule by adding the language that references the control measures in the Centers for Disease Control and Prevention "Sexually Transmitted Diseases Treatment Guidelines, 2010" and removing older language that does not fully encompass necessary control measures. This rule

addresses a sexually transmitted disease as defined under 50-18-101, MCA as distinct from other communicable diseases.

ARM 37.114.504, 37.114.506, 37.114.507, 37.114.509, 37.114.510, 37.114.514, 37.114.516, 37.114.518, 37.114.519, 37.114.521, 37.114.522, 37.114.524, 37.114.525, 37.114.528, 37.114.533, 37.114.534, 37.114.536, 37.114.537, 37.114.539, 37.114.544, 37.114.548, 37.114.549, 37.114.551, 37.114.554, 37.114.555, 37.114.557, 37.114.558, 37.114.560, 37.114.565, 37.114.566, 37.114.568, 37.114.570, 37.114.573, 37.114.574, 37.114.575, 37.114.577, 37.114.578, 37.114.579, 37.114.581, 37.114.582, 37.114.585, 37.114.588, 37.114.589, 37.114.591, and 37.114.592

The department is proposing to repeal these rules. Since these rules were enacted there have been ongoing and dynamic changes to control measures for specific diseases. The department proposes utilizing the "Control of Communicable Diseases Manual, An Official Report of the American Public Health Association" (19th edition, 2008) addressed in ARM 37.114.501 to guide minimal control measures for the diseases falling under these rules.

ARM 37.114.595

The department is proposing to repeal this rule as it is unnecessary.

6. 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: Kenneth Mordan, 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., February 14, 2013.

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

8. 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 6 above or may be made by completing a request form at any rules hearing held by the department.

9. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed

text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

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

/s/ Shannon L. McDonald
Rule Reviewer

/s/ Anna Whiting Sorrell
Anna Whiting Sorrell, Director
Public Health and Human Services

Certified to the Secretary of State January 7, 2013

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the adoption of New) NOTICE OF PUBLIC HEARING ON
Rule I pertaining to delegated) PROPOSED ADOPTION
authority for the disposal of public)
records)

TO: All Concerned Persons

1. On February 7, 2013, a public hearing will be held at 9:00 a.m. in the Secretary of State's Office Conference Room, Room 260, State Capitol Building, Helena, Montana, to consider the proposed adoption of the above-stated rule.

2. The Secretary of State will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Secretary of State no later than 5:00 p.m. on January 31, 2013, to advise us of the nature of the accommodation that you need. Please contact Jorge Quintana, Secretary of State's Office, P.O. Box 202801, Helena, MT 59620-2801; telephone (406) 461-5173; fax (406) 444-4249; TDD/Montana Relay Service (406) 444-9068; or e-mail jquintana@mt.gov.

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

RULE I DELEGATION AUTHORITY FOR DISPOSAL OF PUBLIC RECORDS (1) Per 2-6-203, MCA, it is the duty of the secretary of state to ensure the proper management and safeguarding of public records as defined in 2-6-202, MCA.

(2) The state records committee, as established by 2-6-208, MCA, whose presiding officer is the secretary of state, is authorized to approve, modify, or disapprove of agency requests to dispose of public records.

(3) Per 2-6-213, MCA, each executive branch agency of state government is mandated to administer its records management function.

(4) Any state agency with a records management program that meets established records retention, disposition, and archiving criteria may apply for and be granted authority to independently dispose of its public records by entering into a delegation agreement with the secretary of state and the state records committee.

(5) The secretary of state and the state records committee shall evaluate an agency's ability to manage its records independently based on a review of the following agency resources:

(a) management support;

(b) dedicated human resources;

(c) current internal policies and procedures;

(d) annual activity regarding retention schedule modifications and disposal requests; and

(e) negotiate directly with the Montana historical society state archives to establish a mutually acceptable preservation process.

(6) A delegation agreement will be in effect for one year with renewal dependent on an annual review by the secretary of state and the state records committee to determine if modifications are necessary.

AUTH: 2-6-203, MCA

IMP: 2-6-203, 2-6-204, 2-6-205, 2-6-212, 2-6-213, MCA

REASON: The adoption of this rule is reasonably necessary to create a method for the Secretary of State and the State Records Committee to delegate authority to state agencies to independently dispose of their public records. This method will allow qualified state agencies to more efficiently administer their records management function. It will also ensure that all parties, the Secretary of State, the State Records Committee, and the state agency, are meeting their statutory duties and responsibilities with respect to the management of public records.

4. 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: Jorge Quintana, Secretary of State's Office, P.O. Box 202801, Helena, Montana 59620-2801; telephone (406) 461-5173; fax (406) 444-4240; or e-mail jquintana@mt.gov, and must be received no later than 5:00 p.m., February 15, 2013.

5. Jorge Quintana, Secretary of State's Office, has been designated to preside over and conduct this hearing.

6. The Secretary of State 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 4 above or may be made by completing a request form at any rules hearing held by the Secretary of State.

7. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

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

/s/ JORGE QUINTANA
Jorge Quintana
Rule Reviewer

/s/ LINDA MCCULLOCH
Linda McCulloch
Secretary of State

Dated this 7th day of January, 2013.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT AND
ARM 2.59.1728 and adoption of New) ADOPTION
Rule I pertaining to written exemption)
form for requesting a mortgage)
licensing exemption)

TO: All Concerned Persons

1. On September 20, 2012, the Department of Administration published MAR Notice No. 2-59-471 pertaining to the proposed amendment and adoption of the above-stated rules at page 1805 of the 2012 Montana Administrative Register, Issue Number 18.

2. No comments were received.

3. The department has amended ARM 2.59.1728 exactly as proposed.

4. The department has adopted New Rule I (ARM 2.59.1749) exactly as proposed.

By: /s/ Sheryl Olson
Sheryl Olson, Deputy Director
Department of Administration

By: /s/ Michael P. Manion
Michael P. Manion, Rule Reviewer
Department of Administration

Certified to the Secretary of State, January 7, 2013.

BEFORE THE FISH, WILDLIFE AND PARKS COMMISSION
OF THE STATE OF MONTANA

In the matter of the adoption of a) NOTICE OF ADOPTION OF A
temporary emergency rule closing the) TEMPORARY EMERGENCY RULE
Yellowstone River in Park County)

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department), after consulting with the Fish, Wildlife and Parks Commissioner, Dan Vermillion, has determined the following reasons justify the adoption of a temporary emergency rule:

(a) Construction is occurring on the Highway 89/Park Avenue bridge that crosses the Yellowstone River and a work bridge that spans the channel is in place downstream of the existing bridge.

(b) The current is strong and boaters may not be able to escape hazards. One fishing boat has become trapped against the work bridge.

(c) Due to these conditions, persons floating the Yellowstone River could be subjected to strong current that could cause:

(i) collisions with structures; or

(ii) drowning.

(d) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, the department adopts the following temporary emergency rule. The emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties, and published as a temporary emergency rule in Issue No. 1 of the 2013 Montana Administrative Register.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on January 31, 2013, to advise us of the nature of the accommodation that you need. Please contact Jessica Snyder, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-9785; fax (406) 444-7456; or e-mail jesssnyder@mt.gov.

3. The temporary emergency rule is effective December 13, 2012 when this rule notice is filed with the Secretary of State.

4. The text of the temporary emergency rule provides as follows:

RULE I YELLOWSTONE RIVER TEMPORARY EMERGENCY CLOSURE

(1) A portion of the Yellowstone River is located in Park County.

(2) The Yellowstone River is closed:

(a) to all floating from Mayor's Landing Fishing Access Site to Highway 89 Bridge Fishing Access Site; and

(b) to all public occupation and recreation including, but not limited to, floating, swimming, wading, and boating 100 feet above and below the bridge.

(3) Vessels, equipment, and employees necessary for completion of the Highway 89/Park Avenue bridge construction are permitted to occupy the restricted and closed areas of the Yellowstone River.

(4) This rule is effective as long construction efforts on the Yellowstone River pose safety risks and until the department repeals this rule.

(5) This rule will expire as soon as the department determines Yellowstone River is again safe for floating. This will depend on the extent and duration of the construction in the area. Signs restricting use of the Yellowstone River will be removed when the rule is no longer effective.

AUTH: 2-7-303, 87-1-303, MCA

IMP: 2-7-303, 87-1-303, MCA

5. The rationale for the temporary emergency rule is as set forth in paragraph 1.

6. Concerned persons are encouraged to submit their comments to the department. They should submit their comments along with their names and addresses to Jessica Snyder, Legal Unit, Department of Fish, Wildlife and Parks, 1712 9th Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-9785; fax (406) 444-7456; or e-mail jesssnyder@mt.gov. Any comments must be received no later than February 15, 2013.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the department.

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

/s/ David Risley

David Risley, Acting Director
Department of Fish, Wildlife and Parks

/s/ Rebecca Jakes Dockter

Rebecca Jakes Dockter
Rule Reviewer

Certified to the Secretary of State December 13, 2012.

BEFORE THE DEPARTMENT OF CORRECTIONS
OF THE STATE OF MONTANA

In the matter of the adoption of New Rule I and II, the amendment of ARM 20.9.101, and the amendment and transfer of 20.9.129 and 20.9.135 pertaining to youth placement committees) NOTICE OF ADOPTION,) AMENDMENT, AND AMENDMENT) AND TRANSFER)))))

TO: All Concerned Persons

1. On November 8, 2012 the Department of Corrections published MAR Notice No. 20-9-54 pertaining to the proposed adoption, amendment, and amendment and transfer of the above-stated rules at page 2243 of the 2012 Montana Administrative Register, Issue Number 21.

2. The department has adopted the above-state rules as proposed: New Rule I (20.9.201), and II (20.9.210) as proposed.

3. The department has amended 20.9.101 as proposed.

4. The department has amended and transferred the rules as proposed:

<u>OLD</u>	<u>NEW</u>	
20.9.129	20.9.204	ALLOCATION OF JUVENILE PLACEMENT FUNDS TO THE OFFICE OF COURT ADMINISTRATOR, JUVENILE PAROLE, JUDICIAL DISTRICTS, AND COST CONTAINMENT POOL
20.9.135	20.9.207	MONITORING JUDICIAL DISTRICTS AND PROCESSING PAYMENTS

5. No comments or testimony were received.

/s/ Diana L. Koch
Diana L. Koch
Rule Reviewer

/s/ Mike Ferriter
Mike Ferriter
Director
Department of Corrections

Certified to the Secretary of State January 7, 2013.

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT,
ARM 24.101.413 renewal dates and) ADOPTION, AND REPEAL
requirements, 24.122.301,)
24.122.405, 24.122.410, and)
24.122.505 boiler operating engineer)
licensure, 24.142.301, 24.142.302,)
24.142.402, 24.142.404, 24.142.502,)
24.142.503, 24.142.504, 24.142.506,)
24.142.507, 24.142.509,)
24.142.2101, 24.142.2102,)
24.142.2103, and 24.142.2401)
licensure of elevator contractors,)
inspectors, and mechanics,)
24.301.401 national electrical code,)
24.301.602, 24.301.606, 24.301.607,)
24.301.610, and 24.301.623 elevator)
code, 24.301.710, 24.301.711,)
24.301.718, 24.301.719, and)
24.301.724 boiler safety, the adoption)
of NEW RULES I definitions and II)
tag-out and lock-out - stop orders,)
and the repeal of ARM 24.142.401)
and 24.142.501 elevator licensing,)
24.301.608, 24.301.609, and)
24.301.611 elevator inspection and)
variances)

TO: All Concerned Persons

1. On October 11, 2012, the Department of Labor and Industry (department) published MAR notice no. 24-301-268 regarding the public hearing on the proposed amendment, adoption, and repeal of the above-stated rules, at page 1932 of the 2012 Montana Administrative Register, issue no. 19.

2. On November 1, 2012, a public hearing was held on the proposed amendment, adoption, and repeal of the above-stated rules in Helena. No comments were received by the November 9, 2012, comment deadline.

3. The department has amended ARM 24.101.413, 24.122.301, 24.122.405, 24.122.410, 24.122.505, 24.142.301, 24.142.302, 24.142.402, 24.142.404, 24.142.502, 24.142.503, 24.142.504, 24.142.506, 24.142.507, 24.142.509, 24.142.2101, 24.142.2102, 24.142.2103, 24.142.2401, 24.301.401, 24.301.602, 24.301.606, 24.301.607, 24.301.610, 24.301.623, 24.301.710, 24.301.711, 24.301.718, 24.301.719, and 24.301.724 exactly as proposed.

4. The department has adopted NEW RULES I (24.301.603) and II (24.301.624) exactly as proposed.

5. The department has repealed ARM 24.142.401, 24.142.501, 24.301.608, 24.301.609, and 24.301.611 exactly as proposed.

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

/s/ PAM BUCY
Pam Bucy, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State January 7, 2013

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

In the matter of the adoption of New) NOTICE OF ADOPTION
Rules I through XI pertaining to)
licensing of specialty hospitals)

TO: All Concerned Persons

1. On August 9, 2012, the Department of Public Health and Human Services published MAR Notice No. 37-594 pertaining to the public hearing on the proposed adoption of the above-stated rules at page 1598 of the 2012 Montana Administrative Register, Issue Number 15.

2. The department has adopted New Rule I (37.106.801), II (37.106.802), IV (37.106.804), and VIII (37.106.810) as proposed.

3. The department has adopted the following rules as proposed with the following changes from the original proposal. Matter to be added is underlined. Matter to be deleted is interlined.

NEW RULE III (37.106.803) DEFINITIONS (1) remains as proposed.

(2) "Charity care" or "financial assistance" means free or discounted health services provided to persons who meet the organization's criteria for financial assistance and are unable to pay for all or a portion of the services ~~provision of services to those who are unable to pay. This includes all of the under reimbursed costs of caring for low income patients who either are enrolled in a government program, such as Medicaid, or those who are uninsured, or underinsured.~~

(3) through (6) remain as proposed.

(7) "Joint venture relationship" means an express ~~or implied~~ agreement or contract between two or more parties to create the joint venture.

(8) remains as proposed.

(9) "Transfer of care" means relocating an individual to the care of another health care facility or health care provider consistent with federal transfer requirements imposed by EMTALA when an adequate continuum of care is not possible.

AUTH: 50-5-103, 50-5-245, MCA

IMP: 50-5-101, 50-5-121, 50-5-245, 50-5-246, MCA

NEW RULE V (37.106.805) IMPACT STUDY (1) remains as proposed.

(2) The impact study process will consist of:

(a) notification of specialty hospital formation intent;

(b) public participation on impact study consultant selection and scope;

(c) selection of impact study consultant and scope finalization;

(d) impact study completion and submission; and

(e) department review and determination.

(3) The consultant selection process will include:

(a) department review of consultant qualifications;

(b) consideration of public comment on consultants; and

(c) consultant selection.

(4) Consultant responsibilities include:

(a) measure and analyze changes to health care access in service area; and

(b) prepare and submit report of findings.

(5) The scope of the impact study will focus on health care cost, access, and impact to existing health care facilities.

(2) through (7) remain as proposed, but are renumbered (6) through (11).

AUTH: 50-5-103, 50-5-245, MCA

IMP: 50-5-245, 50-5-246, MCA

NEW RULE VI (37.106.806) LICENSE APPLICATION PROCESS (1) through (1)(b) remain as proposed.

(c) a signed transfer of care agreement with a hospital capable of providing emergency care services and acceptable continuum of care services; and

(c) remains as proposed, but is renumbered (d).

(i) through (6) remain as proposed.

AUTH: 50-5-103, 50-5-245, MCA

IMP: 50-5-111, 50-5-201, 50-5-202, 50-5-203, 50-5-204, 50-5-207, 50-5-245, 50-5-246, MCA

NEW RULE VII (37.106.809) FACILITY TRANSFER OF CARE AGREEMENT (1) Prior to accepting patients, a specialty hospital must have in place a signed transfer of care agreement with a hospital capable of providing emergency care services appropriate to the patient's medical needs. A specialty hospital must also have written policies that result in medically appropriate transfers.

(2) remains as proposed.

AUTH: 50-5-103, 50-5-245, MCA

IMP: 50-5-122, 50-5-245, MCA

NEW RULE IX (37.106.811) CHARITY CARE POLICY (1) and (2) remain as proposed.

(3) For any specialty hospital that has a For Profit tax status, the facility's charity care policy must be commensurate to the policies which exist for any nonprofit hospital in the community service area.

(4) remains as proposed.

AUTH: 50-5-103, 50-5-245, MCA

IMP: 50-5-121, 50-5-245, MCA

NEW RULE X (37.106.812) JOINT VENTURE RELATIONSHIP REQUIREMENTS (1) remains as proposed.

(2) To qualify as a joint venture, the agreements must contain the following four elements:

(a) an express ~~or implied~~ agreement or contract creating and defining the joint venture;

(b) through (d) remain as proposed.

AUTH: 50-5-103, 50-5-245, MCA

IMP: 50-5-245, MCA

NEW RULE XI (37.106.815) LICENSE DENIAL (1) remains as proposed.

(2) If an application for a specialty hospital is denied for any reason, the department will issue a written denial of the license, the grounds for denial, and the right of the applicant to an appeal pursuant to 50-5-208, MCA.

(3) A decision to deny an application or to impose conditions upon an applicant or licensee may be appealed by the applicant by filing a request for a hearing, in writing, to the department's Office of Fair Hearings.

(4) remains as proposed.

AUTH: 50-5-103, 50-5-245, MCA

IMP: 50-5-207, 50-5-208, 50-5-245, 50-5-246, MCA

4. The department has thoroughly considered the comments and testimony received. A summary of the comments received and the department's responses are as follows:

COMMENT #1: The department received a comment indicating commenter's belief that department captured the intent of SB 446.

RESPONSE #1: The department acknowledges the comment.

COMMENT #2: A commenter recommended that the second sentence of New Rule III(2) be deleted and that the department could also reference the HFMA Principles and Practices Board Statement 15: Valuation and Financial Statement Presentation of Charity Care and Bad Debts by Institutional Healthcare Providers for additional information.

RESPONSE #2: The department agrees and is deleting the second sentence, but will not make reference to Statement 15. Instead, the department will modify the rule to more closely model IRS usage as indicated in relationship to Form 990.

COMMENT #3: A commenter recommended that New Rule III(7) be modified to define a joint venture relationship to mean "an express agreement or contract between an applicant for a specialty hospital and a hospital located in the same community to create the joint venture." Commenter does not believe an implied agreement is sufficient to meet the statutory requirement that a joint venture

relationship be considered. Commenter also believes the definition should be cross referenced to New Rule X.

RESPONSE #3: The department thinks that the rule language is sufficient as it is written, but the reference to "implied" will be deleted in both New Rule III and new Rule X. New Rule X identifies the joint venture relationship requirements. Cross referencing these requirements in the definition is not appropriate.

COMMENT #4: A commenter is concerned that a specialty hospital not be allowed to transfer an individual from its hospital to an emergency room or another provider that does not provide the services required by the patient to be transferred. An example of this situation might be a surgical patient requiring a higher level of care being transferred to the emergency department of a hospital that does not offer the type of services required by the patient. Commenter also acknowledges that any hospital licensed in Montana is subject to federal EMTALA transfer requirements and recommends that the department add the statement "consistent with federal transfer requirements imposed by EMTALA" to the definition.

RESPONSE #4: The department has added the suggested language to the definition of transfer of care in New Rule III(9).

COMMENT #5: Commenter believes the department has addressed the process for the conduct of the impact study required of the applicant for a specialty hospital. Commenter recommends the department consider organizing the regulation to clarify the impact study process, the selection and responsibilities of consultants and the content of the impact study. Commenter indicates reorganizing this text will help differentiate the roles and actions of the parties involved in the process.

RESPONSE #5: The department has added additional language to clarify the rule.

COMMENT #6: Commenter recommends that the applicant submit a copy of the transfer agreement required in New Rule VII to the list of documents contained in New Rule VI(1).

RESPONSE #6: The department has added language to New Rule VI to require that the signed transfer of care agreement be submitted to the department as part of the license application process. In doing so, the specialty hospital will have the transfer agreement in place prior to accepting patients.

COMMENT #7: Commenter recommends the department add a statement at New Rule VI(3)(a) to state that provisional license may not be issued prior to the completion of the impact statement required in New Rule V. Alternatively, the department could delete the provisional license option from the rule.

RESPONSE #7: The department declines to add a statement to New Rule VI or delete the provisional license option. New Rule V(1) clearly indicates the impact study must be completed and submitted as part of the application for licensure

process. Furthermore, a license would not be issued without the completion of the license application requirements identified in New Rule VI.

The provisional license option is not deleted as 50-5-203, MCA, provides for a specialty hospital temporary or provisional license through attestation.

COMMENT #8: A commenter repeats concern that the specialty hospital comply with federal EMTALA requirements, and that the transfer of care for emergency services be appropriate for the conditions arising at the specialty hospital. Commenter recommends the department add the phrase "appropriate to the patient's medical needs" to the end of the first sentence in New Rule VII(1).

RESPONSE #8: The department has added the suggested language to New Rule VII(1).

COMMENT #9: A commenter supports the language proposed to address the requirement for a charity care policy consistent with other hospitals with one exception. The department uses the term "community" in the rule. The commenter is concerned that the term "community" could be construed to mean the city limits or other geographic expression that excludes existing hospitals from consideration of the policy. Commenter recommends using the term "service area" in place of "community" in the rule.

RESPONSE #9: The department has utilized the suggested language in New Rule IX(3).

COMMENT #10: A commenter believes the conditions to mitigate impacts on applicant and the potential approval of a specialty hospital license should carry appeal rights for other interested parties. Existing hospitals or members of the public may not agree with mitigating conditions imposed upon an applicant. The objection may include that recommended mitigating conditions are not approved by the department, or that an application is approved.

The commenter recommends the department either modify the rule to include more broadly stated appeal rights, or elsewhere in the rule provide information about appeal rights of the department's administrative decisions available to other concerned parties.

RESPONSE #10: The department disagrees with the comment and will modify the rule to clarify the applicant may appeal the department's decision. Opportunity for the public to comment is provided prior to the specialty license application process. Comments received during the impact study preparation process will be considered by the department when rendering a decision on specialty hospital licensing and mitigation of adverse community impacts. The specialty hospital applicant or license applicant is afforded appeal rights through the department. Other aggrieved parties may appeal the decision through the courts.

/s/ John Koch
Rule Reviewer

/s/ Wendy Nicolai, Acting Director
Anna Whiting Sorrell, Director
Public Health and Human Services

Certified to the Secretary of State January 7, 2013

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 37.78.102 pertaining to)
incorporating TANF manual)

TO: All Concerned Persons

1. On October 25, 2012, the Department of Public Health and Human Services published MAR Notice No. 37-611 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 2145 of the 2012 Montana Administrative Register, Issue Number 20.

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

3. No comments or testimony were received.

4. The department intends to apply this rule retroactively to January 1, 2013. A retroactive application of the proposed rule does not result in a negative impact to any affected party.

/s/ Geralyn Driscoll
Rule Reviewer

/s/ Wendy Nicolai, Acting Director
Anna Whiting Sorrell, Director
Public Health and Human Services

Certified to the Secretary of State January 7, 2013.

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 37.70.406, 37.70.408, and)
37.70.601 pertaining to annual)
update to LIEAP)

TO: All Concerned Persons

1. On November 23, 2012, the Department of Public Health and Human Services published MAR Notice No. 37-612 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 2314 of the 2012 Montana Administrative Register, Issue Number 22.

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

3. No comments or testimony were received.

4. The department intends to apply these rules retroactively to October 1, 2012. A retroactive application of the proposed rules does not result in a negative impact to any affected party.

/s/ Barbara B. Hoffmann
Rule Reviewer

/s/ Wendy Nicolai, Acting Director
Anna Whiting Sorrell, Director
Public Health and Human Services

Certified to the Secretary of State January 7, 2013.

BEFORE THE DEPARTMENT OF PUBLIC SERVICE REGULATION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 38.5.2202 and 38.5.2302,)
pertaining to pipeline safety)

TO: All Concerned Persons

1. On November 23, 2012, the Department of Public Service Regulation (PSC) published MAR Notice No. 38-5-216 pertaining to the proposed amendment of the above-stated rules at page 2330 of the 2012 Montana Administrative Register, Issue Number 22.
2. The PSC has amended ARM 38.5.2202 and 38.5.2302 as proposed.
3. No comments, testimony, or requests for public hearing were received.
4. The proposed amendment of ARM 38.5.2202 and 38.5.2302 as adopted went into effect December 27, 2012.

/s/ TRAVIS KAVULLA
Travis Kavulla, Chairman
Public Service Commission

/s/ DENNIS LOPACH
Dennis Lopach
Rule Reviewer

Certified to the Secretary of State, January 7, 2013.

FIRE CODE - Montana Code Annotated § 50-61-102 provides a rural fire district with the authority to adopt and enforce the State fire code upon approval of the Department of Justice;

FIRE DISTRICTS - Montana Code Annotated § 50-61-102 provides a rural fire district with the authority to adopt and enforce the State fire code upon approval of the Department of Justice;

ADMINISTRATIVE RULES OF MONTANA - Sections 23.12.601 to 23.12.606;

MONTANA CODE ANNOTATED - Title 7, chapter 33; sections 7-33-2105, -2402, -4208, 50-3-103(3), 50-61-102, (2).

HELD: While rural fire districts are not authorized to independently adopt a fire code, Mont. Code Ann. § 50-61-102 provides a district with the authority to adopt and enforce the State fire code upon approval of the Department of Justice.

December 21, 2012

Mr. Bernard G. Cassidy
Lincoln County Attorney
512 California Avenue
Libby, MT 59923

Dear Mr. Cassidy:

You have requested my opinion as to the following questions that I have rephrased as:

1. Whether a rural fire district possesses the legal authority to independently adopt and enforce a fire code.
2. Whether Mont. Code Ann. § 50-61-102 provides a rural fire district with the authority to adopt and enforce the State fire code upon approval of the Department of Justice.

Your letter regarding the authority of a rural fire district to independently adopt a fire code was precipitated by a request from Lincoln County Rural Fire District #1 for your opinion on the subject. You determined that a rural fire district does not have the authority to adopt a fire code, but does have the authority to "conduct inspections within its jurisdiction under the Uniform Fire Code adopted by the Montana Department of Justice." Rural Fire District #1, however, had also sought an opinion from private legal counsel, who opined that state law does in fact allow a "fire agency," which includes a rural fire district, to adopt a fire code. You now seek my opinion on the subject.

You are correct that rural fire districts are not expressly granted the authority to adopt a fire code, unlike a municipality or fire service area. *Compare* Mont. Code Ann. § 7-33-2105 (listing "powers and duties" of rural fire district without mentioning adoption of a fire code) to Mont. Code Ann. § 7-33-4208 (authorizing a municipality to "adopt technical fire codes") and Mont. Code Ann. § 7-33-2402 (authorizing fire service area to "submit a fire code and a plan for enforcement to the department of justice" after obtaining "approval of the county commissioners"). As such, a rural fire district may not independently adopt a fire code or a plan for enforcement of a fire code.

While rural fire districts are not authorized to independently adopt a fire code, Mont. Code Ann. § 50-61-102(2) provides that the Department of Justice "may approve a municipal or governmental fire agency fire inspection program for local enforcement." The "governmental fire agency" referred to is specifically one "organized under Title 7, chapter 33." A rural fire district is a governmental fire agency authorized under Title 7, chapter 33. Montana Code Annotated § 50-61-102 therefore applies to rural fire districts and authorizes the Department to approve a rural fire district's fire inspection program.

As noted above, a rural fire district may not independently adopt a fire code. If a rural fire district wishes to be authorized to conduct local fire inspections under Mont. Code Ann. § 50-61-102, it must submit the fire code adopted by the Department of Justice as the approved "fire code" in its "plan for enforcement." At this time the State fire code is the 2009 edition of the International Fire Code, though certain sections have not been adopted or have been altered. See Mont. Code Ann. § 50-3-103(3); Mont. Admin. R. 23.12.601 to 606.

THEREFORE, IT IS MY OPINION:

While rural fire districts are not authorized to independently adopt a fire code, Mont. Code Ann. § 50-61-102 provides a district with the authority to adopt and enforce the State fire code upon approval of the Department of Justice.

Sincerely,

/s/ Steve Bullock
STEVE BULLOCK
Attorney General

sb/jss/jym

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.

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 a soft back, bound 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 the accumulative table 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. |

ACCUMULATIVE TABLE

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 September 30, 2012. This table includes those rules adopted during the period October 1, 2012, through December 31, 2012, 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 September 30, 2012, this table, and the table of contents of this issue of the MAR.

This table indicates the department name, title number, rule numbers in ascending order, catchphrase or the subject matter of the rule, and the page number at which the action is published in the 2012 Montana Administrative Register.

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

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