

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, 37.114.203, and) PROPOSED AMENDMENT
37.114.204 pertaining to)
communicable disease control)

TO: All Concerned Persons

1. On May 30, 2024, at 2:00 p.m., the Department of Public Health and Human Services will hold a public hearing via remote conferencing to consider the proposed amendment of the above-stated rules. Interested parties may access the remote conferencing platform in the following ways:

(a) Join Zoom Meeting at: <https://mt-gov.zoom.us/j/81031718554?pwd=cXNnZ0ZuUk0rdkRVcGYwaXBwRFU0UT09>, meeting ID: 810 3171 8554, and password: 192321; or

(b) Dial by telephone: +1 646 558 8656, meeting ID: 810 3171 8554, and password: 192321. Find your local number: <https://mt-gov.zoom.us/u/kdVM45Dnkl>.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on May 16, 2024, to advise us of the nature of the accommodation that you need. Please contact Bailey Yuhas, 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 hhsadminrules@mt.gov.

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

37.114.101 DEFINITIONS In addition to the definitions contained in 50-1-101, MCA, 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) "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.

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

(4) "Control of Communicable Diseases Manual" means the publication adopted and incorporated by reference in ARM 37.114.105(1)(a).

(5) "Day care facility" has the meaning provided for under 52-2-703, MCA.

(6) "Directly observed therapy (DOT)" means the method whereby a trained health care worker or another trained designated person watches a patient swallow each dose of antituberculosis medication and documents it. DOT can include electronic directly observed therapy (eDOT) utilizing a video conferencing application only with express permission from the state TB program.

(7) "Form" means a paper form or electronically submitted information consisting of data elements necessary to implement effective surveillance, investigation, or mitigation of reportable diseases and outbreaks.

(8) "Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings" means the publication adopted and incorporated by reference in ARM 37.114.105(1)(b).

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

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

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

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

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

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

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

(16) "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 "Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings" adopted and incorporated by reference in ARM 37.114.105(1)(b). 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", adopted and incorporated by reference in ARM 37.114.105(1)(a). Infection control precautions are required, as stated in this rule, whether or not the person is subject to isolation.

(17) "Infectious agent" means an organism including virus, rickettsia, bacteria, fungus, protozoan, prion, or helminth that is capable of producing an infection or infectious disease.

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

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

(20) "Institutional and congregate setting" means a setting in which a group of unrelated persons reside, meet, or gather either for a limited or extended period of time in close physical proximity. The term includes correctional facilities, day care

facilities, detention centers, group homes, health care facilities as defined in 50-5-101, MCA, schools, and youth camps.

(20)(21) "Laboratory" means any facility or other area used by microbiological, serological, chemical, hematological, immunohematological, 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.

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

(22)(23) "Multidrug-Resistant Organisms (MDRO)" means microorganisms, predominantly bacteria, that are resistant to one or more classes of antimicrobial agents.

(23)(24) "Outbreak" means the occurrence of more cases of a disease than would normally be expected in a specific place or group of people over a given period of time.

(24)(25) "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 transmission of that disease.

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

(26)(27) "Sensitive occupation" means an occupation described in ARM 37.114.301.

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

(28)(29) "Sexually Transmitted Infections Treatment Guidelines" means the guidelines adopted and incorporated by reference in ARM 37.114.105(1)(c).

(29)(30) "Surveillance" means scrutiny of all aspects of occurrence and transmission of a disease that are pertinent to effective control.

(30)(31) "Susceptible" means having insufficient resistance against a disease and likely to contract the disease if exposed.

(31)(32) "Toxic Metals" means individual metals and metal compounds that may negatively affect an individual's health and shall include, for the purpose of these rules, includes arsenic, cadmium, lead, and mercury ~~for the purposes of these rules.~~

(32)(33) "Youth camp" has the meaning provided for under 50-52-101, MCA.

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

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

37.114.203 REPORTABLE DISEASES AND OTHER CONDITIONS OF PUBLIC HEALTH IMPORTANCE (1) The following communicable diseases and conditions and other conditions of public health importance are reportable:

(a) Acute flaccid myelitis (AFM);

- (a)(b) AIDS, as defined by the Centers for Disease Control and Prevention, 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 antibody, antigen, and all HIV nucleic acid tests;
- ~~(b)~~ Anaplasmosis;
- (c) Anthrax;
- (d) Arboviral diseases, neuroinvasive and nonneuroinvasive (California serogroup, Chikungunya, Eastern equine encephalitis, Powassan, Saint Louis encephalitis, West Nile virus, Western equine encephalitis, Zika virus infection);
- (e) Arsenic poisoning (≥ 70 micrograms per liter ($\mu\text{g/L}$) total arsenic in urine; or ≥ 35 $\mu\text{g/L}$ methylated plus inorganic arsenic in urine);
- (f) Babesiosis;
- (g) Botulism (including infant, foodborne, other, and wound botulism);
- (h) Brucellosis;
- (i) Cadmium poisoning (\geq five $\mu\text{g/L}$ total blood cadmium levels; or \geq three $\mu\text{g/L}$ total cadmium in urine);
- (j) *Candida auris* (*C. auris*);
- (k) Campylobacteriosis;
- (l) Carbapenemase-producing carbapenem-resistant organisms (CP-CRO);
- ~~(m)~~ Chancroid;
- ~~(n)~~ Chlamydia trachomatis infection;
- ~~(o)~~ Cholera;
- ~~(p)~~ Coccidioidomycosis;
- ~~(q)~~ Colorado tick fever;
- ~~(r)~~ Coronavirus Disease 2019 (COVID-19);
- (s) Cronobacter in infants;
- ~~(t)~~ Cryptosporidiosis;
- ~~(u)~~ Cyclosporiasis;
- ~~(v)~~ Dengue virus infections;
- ~~(w)~~ Diphtheria;
- ~~(x)~~ Ehrlichiosis;
- ~~(y)~~ Escherichia coli, Shiga toxin-producing (STEC);
- ~~(z)~~ Gastroenteritis outbreak;
- ~~(aa)~~ Giardiasis;
- ~~(ab)~~ Gonorrheal infection;
- ~~(ac)~~ Granuloma inguinale;
- (ac) Group A Streptococcus, invasive disease;
- ~~(ad)~~ Haemophilus influenzae, invasive disease;
- ~~(ae)~~ Hansen's disease (leprosy);
- ~~(af)~~ Hantavirus pulmonary syndrome or infection;
- ~~(ag)~~ Hemolytic uremic syndrome, post diarrheal;
- ~~(ah)~~ Hepatitis A, acute;
- ~~(ai)~~ Hepatitis B, acute, chronic, perinatal;
- ~~(aj)~~ Hepatitis C, acute, chronic;
- ~~(ak)~~ Influenza;
- ~~(al)~~ Lead levels in a capillary blood specimen of ≥ 3.5 micrograms per deciliter ($\mu\text{g/dL}$) in a person less than 16 years of age;

- (ak)(am) Lead levels in a venous blood specimen at any level;
- (al)(an) Legionellosis;
- (am)(ao) Leptospirosis;
- (an)(ap) Listeriosis;
- (ao)(aq) Lyme disease;
- (ap)(ar) Lymphogranuloma venereum;
- (aq)(as) Malaria;
- (ar)(at) Measles (rubeola);
- (as)(au) Melioidosis;
- (at)(av) Meningococcal disease (*Neisseria meningitidis*);
- (au)(aw) Mercury poisoning (\geq ten $\mu\text{g/L}$ total mercury in urine; or \geq ten μg elemental mercury/g creatinine in urine; or \geq ten $\mu\text{g/L}$ elemental, organic, and inorganic blood mercury levels);
- (ax) Multisystem inflammatory syndrome in children (MIS-C);
- (av)(ay) ~~Monkeypox~~; Mpox;
- (aw)(az) Mumps;
- (ax)(ba) Pertussis;
- (ay)(bb) Plague;
- (az)(bc) Poliomyelitis, paralytic or nonparalytic;
- (ba)(bd) Psittacosis;
- (bb)(be) Q-fever (acute and chronic);
- (bc)(bf) Rabies in a human or animal; exposure to a human by a species susceptible to rabies infection;
- (bg) Rickettsial diseases (including spotted fevers, flea-borne typhus, scrub typhus, anaplasmosis, and ehrlichiosis);
- (bd)(bh) Rubella (including congenital);
- (be)(bi) Salmonella Paratyphi infection;
- (bf)(bj) Salmonella Typhi infection;
- (bg)(bk) Salmonellosis;
- (bh)(bl) Severe acute respiratory syndrome-associated coronavirus (SARS-CoV) disease;
- (bi)(bm) Shigellosis;
- (bj)(bn) Smallpox;
- (bk) ~~Spotted fever rickettsiosis~~;
- (bl)(bo) Streptococcus pneumoniae, invasive disease;
- (bm)(bp) Streptococcal toxic shock syndrome (STSS);
- (bn)(bq) Syphilis;
- (bo)(br) Tetanus;
- (bp)(bs) Tickborne relapsing fevers;
- (bq)(bt) Toxic shock syndrome (TSS) (nonstreptococcal);
- (br)(bu) Transmissible spongiform encephalopathies (including Creutzfeldt Jakob Disease);
- (bs)(bv) Trichinellosis (trichinosis);
- (bt)(bw) Tuberculosis (TB) including latent tuberculosis infection;
- (bu)(bx) Tularemia;
- (bv)(by) Varicella (chickenpox);
- (bw)(bz) Vibriosis;

- ~~(bx)~~(ca) Viral hemorrhagic fevers; and
- ~~(by)~~(cb) Yellow fever.

(2) Also reportable is an outbreak of any communicable disease listed in the "Control of Communicable Diseases Manual" that occurs in an institutional or congregate setting and 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 or other condition of public health importance is suspected or confirmed:

- (a) Anthrax;
- (b) Botulism;
- (c) Plague;
- (d) Poliomyelitis, paralytic or nonparalytic;
- (e) Severe acute respiratory syndrome-associated coronavirus (SARS-CoV) disease;
- (f) Smallpox;
- (g) Tularemia; or
- (h) Viral hemorrhagic fevers.

(2) A local health officer must transmit by telephone or secure electronic means to the department the information required by ARM 37.114.205(1) 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 within 24 hours after it is received by the local health officer:

- (i) an outbreak of a disease or condition specified in ARM 37.114.203;
- (ii) any unusual incident of illness or death in a human or animal with potential human health implications;

(iii) Acute flaccid myelitis (AFM);

~~(iii)~~(iv) Brucellosis;

(v) Cronobacter in infants;

~~(iv)~~(vi) Diphtheria;

~~(v)~~(vii) Gastroenteritis outbreak;

~~(vi)~~(viii) Influenza-associated hospitalization and mortality;

~~(vii)~~(ix) Measles;

~~(viii)~~(x) Melioidosis;

~~(ix)~~(xi) Monkeypox; Mpox;

~~(x)~~(xii) Rabies in a human;

~~(xi)~~(xiii) Rabies in an animal;

~~(xii)~~(xiv) Rubella; and

~~(xiii)~~(xv) Syphilis.

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

- (i) AIDS or HIV infection;
- ~~(ii)~~ Anaplasmosis;
- ~~(iii)~~ (ii) Arboviral diseases, neuroinvasive and non-neuroinvasive (California serogroup, Chikungunya, Eastern equine encephalitis, Powassan, Saint Louis encephalitis, West Nile virus, Western equine encephalitis, Zika virus infection);
- ~~(iv)~~ (iii) Arsenic poisoning ($\geq 70 \mu\text{g/L}$ total arsenic in urine; or $\geq 35 \mu\text{g/L}$ methylated plus inorganic arsenic in urine);
- ~~(v)~~ (iv) Babesiosis;
- ~~(vi)~~ (v) Cadmium poisoning (\geq five $\mu\text{g/L}$ total blood cadmium levels; or \geq three $\mu\text{g/L}$ total cadmium in urine);
- ~~(vii)~~ (vi) Campylobacteriosis;
- ~~(viii)~~ (vii) Candida auris (C. auris);
- (viii) Carbapenemase-producing carbapenem-resistant organisms (CP-CRO);

- (ix) Chancroid;
- (x) Chlamydial trachomatis infection;
- (xi) Cholera;
- (xii) Coccidioidomycosis;
- (xiii) Colorado tick fever;
- (xiv) Coronavirus Disease 2019 (COVID-19);
- (xv) Cryptosporidiosis;
- (xvi) Cyclosporiasis;
- (xvii) Dengue virus infections;
- (xviii) Escherichia coli, Shiga toxin-producing (STEC);
- ~~(xviii)~~ (xix) Giardiasis;
- ~~(xix)~~ (xx) Gonorrhea;
- (xxi) Granuloma inguinale;
- (xxii) Group A Streptococcus, invasive disease;
- ~~(xx)~~ (xxiii) Haemophilus influenzae, invasive disease;
- ~~(xxi)~~ (xxiv) Hansen's disease (leprosy);
- ~~(xxii)~~ (xxv) Hantavirus pulmonary syndrome or infection;
- ~~(xxiii)~~ (xxvi) Hemolytic uremic syndrome, post diarrheal;
- ~~(xxiv)~~ (xxvii) Hepatitis A, acute;
- ~~(xxv)~~ (xxviii) Hepatitis B, acute, chronic, perinatal;
- ~~(xxvi)~~ (xxix) Hepatitis C, acute, chronic;
- ~~(xxvii)~~ (xxx) Lead levels in a capillary blood specimen of ≥ 3.5 micrograms per deciliter($\mu\text{g/dL}$) in a person less than 16 years of age;
- ~~(xxviii)~~ (xxxi) Lead levels in a venous blood specimen at any level;
- ~~(xxix)~~ (xxxii) Legionellosis;
- ~~(xxx)~~ (xxxiii) Leptospirosis;
- ~~(xxxi)~~ (xxxiv) Listeriosis;
- ~~(xxxii)~~ (xxxv) Lyme disease;
- ~~(xxxiii)~~ (xxxvi) Malaria;
- ~~(xxxiv)~~ (xxxvii) Meningococcal disease (Neisseria meningitidis);

~~(xxxv)~~~~(xxxviii)~~ Mercury poisoning (\geq ten $\mu\text{g/L}$ total mercury in urine; or \geq ten μg elemental mercury/g in creatinine in urine; or \geq ten $\mu\text{g/L}$ elemental, organic, and inorganic blood mercury levels);

(xxxix) Multisystem inflammatory syndrome in children (MIS-C);

~~(xxxvi)~~~~(xl)~~ Mumps;

~~(xxxvii)~~~~(xli)~~ Pertussis;

~~(xxxviii)~~~~(xlii)~~ Psittacosis;

~~(xxxix)~~~~(xlili)~~ Q-fever (acute and chronic);

(xliv) Rickettsial diseases (including spotted fevers, flea-borne typhus, scrub typhus, anaplasmosis, and ehrlichiosis);

~~(xl)~~~~(xlv)~~ Salmonella Paratyphi infection;

~~(xli)~~~~(xlvi)~~ Salmonella Typhi infection;

~~(xlii)~~~~(xlvii)~~ Salmonellosis;

~~(xliii)~~~~(xlviil)~~ Shigellosis;

~~(xliv)~~ Spotted fever rickettsiosis;

~~(xlv)~~~~(xlix)~~ Streptococcus pneumoniae, invasive disease;

~~(xli)~~~~(l)~~ Streptococcal toxic shock syndrome (STSS);

~~(xlvii)~~~~(li)~~ Tetanus;

~~(xlviii)~~~~(lii)~~ Tickborne relapsing fevers;

~~(xlix)~~~~(liii)~~ Toxic shock syndrome (nonstreptococcal) (TSS);

~~(l)~~~~(liv)~~ Transmissible spongiform encephalopathies;

~~(li)~~~~(lv)~~ Trichinellosis (trichinosis);

~~(lii)~~~~(lvi)~~ Tuberculosis (TB) including latent tuberculosis infection;

~~(liii)~~~~(lvii)~~ Varicella (chickenpox);

~~(liv)~~ Vibrio cholera infection (cholera);

~~(lv)~~~~(lviii)~~ Vibriosis; and

~~(lvi)~~~~(lix)~~ Yellow fever.

(3) Each week during which a laboratory-confirmed case of influenza is reported to the local health officer, the officer must 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 exposure that may result in a risk of rabies transmission 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 or administration on a form provided by the department within seven calendar days of the recommendation or administration.

(5) A laboratory that performs testing associated with HIV infection must report:

(a) any test result or combination of test results that indicate HIV infection;

(b) all CD4 T-lymphocyte test results unless it is known that the test was performed in association with a disease other than HIV infection or HIV-related illness;

(c) HIV nucleic acid tests, RNA or DNA, irrespective of result;

(d) all test results for assays designed to assess HIV infection subtype and resistance to antiretroviral drugs, including nucleotide sequences, in a format designated by the department; and

(e) submit a specimen utilized for surveillance purposes only, to the department's public health laboratory upon request.

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

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.114.101, 37.114.203, and 37.114.204 pertaining to communicable disease control.

These proposed amendments are necessary to keep Montana communicable disease control administrative rules current with national disease surveillance, investigation, and control recommendations. The proposed amendments are also necessary to clarify terms used within rules and make the rules more user friendly.

ARM 37.114.101

The department is proposing to add a definition for "institutional and congregate setting" to clarify the types of settings in which an outbreak of communicable disease is reportable under ARM 37.114.203(2).

ARM 37.114.203

The department is proposing to amend this rule to update the definition of reportable conditions and naming convention for certain reportable conditions. The department is also proposing to amend this rule to update the list of reportable conditions to include all conditions listed in the confirmation of disease rule, ARM 37.114.313.

ARM 37.114.204

The department is proposing to amend this rule to update the definition of reportable conditions and the associated timeline for reporting those conditions. The department is also proposing to amend this rule to update the naming convention for certain reportable conditions. Finally, the department is proposing to amend this rule to update the list of reportable conditions to contain all conditions listed in ARM 37.114.203 and 37.114.313.

Fiscal Impact

There is no anticipated fiscal impact associated with this rulemaking.

5. The proposed rule changes are intended to be effective upon the day after the date of publication of the adoption notice.

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: Bailey Yuhas, 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 hhsadminrules@mt.gov, and must be received no later than 5:00 p.m., June 7, 2024.

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.

9. An electronic copy of this notice is available on the department's web site at <https://dphhs.mt.gov/LegalResources/administrativerules>, or through the Secretary of State's web site at <http://sosmt.gov/ARM/register>.

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

11. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Robert Lishman
Robert Lishman
Rule Reviewer

/s/ Charles T. Brereton
Charles T. Brereton, Director
Department of Public Health and Human
Services

Certified to the Secretary of State April 30, 2024.