

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
OF THE STATE OF MONTANA

In the matter of the amendment of)	NOTICE OF PUBLIC HEARING ON
ARM 24.30.102 and the repeal of)	PROPOSED AMENDMENT AND
ARM 24.30.105, 24.30.106, and)	REPEAL
24.30.107 pertaining to occupational)	
safety and health rules for public)	
sector employers)	

TO: All Concerned Persons

1. On April 19, 2019, at 1:30 p.m., the Department of Labor and Industry (department) will hold a public hearing in conference rooms A and B of the Beck Building, 1805 Prospect Avenue, Helena, Montana, to consider the proposed amendment and repeal of the above-stated rules.

2. The 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 department no later than 5:00 p.m., on April 12, 2019, to advise us of the nature of the accommodation that you need. Please contact Bryan Page, Employment Relations Division, P.O. Box 8011, Helena, Montana 59604-8011; telephone (406) 444-1605; facsimile (406) 444-4140; Montana TTD (406) 444-5549; or e-mail BPage@mt.gov.

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

24.30.102 OCCUPATIONAL SAFETY AND HEALTH CODE FOR PUBLIC SECTOR EMPLOYMENT (1) remains the same.

(2) As used in the rules adopted by reference in (3) and (4)(a) below, unless the context clearly requires otherwise, the following definitions apply:

(a) "Act" means the Montana Occupational Safety and Health Act (50-71-111 through ~~50-71-123~~ 50-71-128, MCA).

(b) through (d) remain the same.

(e) "Establishment" means a single physical location where business is conducted or where services or industrial operations are performed. For activities where employees do not work at a single physical location, such as construction, transportation, communications, electric, gas and sanitary services, and similar operations, an establishment exists at each main or branch office, terminal, station, etc., that either supervise such activities or are the base from which personnel carry out these activities.

(f) "Injury or illness" means an abnormal condition or disorder.

(i) An injury includes cases such as, but not limited to, a cut, fracture, sprain, or amputation.

(ii) An illness includes both acute and chronic illnesses, such as, but not limited to, a skin disease, respiratory disorder, or poisoning.

(3) The Department of Labor and Industry adopts a safety code for every place of employment conducted by a public sector employer. This safety code adopts by reference the following occupational safety and health standards found in the Code of Federal Regulations, as of July 1, ~~2014~~ 2018:

(a) and (b) remain the same.

(4) The Department of Labor and Industry adopts reporting requirements related to occupational safety and health for every place of employment conducted by a public sector employer.

(a) The reporting requirements adopted by reference are the following occupational safety and health reporting requirements found in the Code of Federal Regulations, as of July 1, 2018:

(i) 29 CFR 1904.4 through 1904.11;

(ii) 29 CFR 1904.29 through 1904.33;

(iii) 29 CFR 1904.35 and 1904.36; and

(iv) 29 CFR 1904.39 through 1904.42.

(b) For the purposes of reporting fatalities, hospitalizations, amputations, and loss of an eye pursuant to 29 CFR 1904.39, the employer is to contact the Montana Department of Labor and Industry safety bureau by:

(i) electronic submission to the reporting application at the safety bureau's public web site at <http://erd.dli.mt.gov/safety-health>; or

(ii) telephone at 1-844-669-5461 (toll free).

~~(4)~~ (5) All sections adopted by reference are binding on every public sector employer even though the sections are not separately printed in a separate state pamphlet and even though they are omitted from publication in the Montana Administrative Register and the Administrative Rules of Montana. The safety standards and reporting requirements adopted ~~above~~ by this rule and printed in the Code of Federal Regulations, Title 29, as of July 1, ~~2014~~ 2018, are considered under this rule as the printed form of the safety code, and shall be used by the department and all public sector employers, employees, and other persons when referring to the provisions of the safety code. All the provisions, remedies, and penalties found in the Montana Occupational Safety and Health Act apply to the administration of the provisions of the safety code and reporting requirements adopted by this rule.

(5) remains the same, but is renumbered (6).

AUTH: 50-71-114, MCA

IMP: 50-71-112, 50-71-114, 50-71-115, ~~50-47-118~~ 50-71-118, MCA

REASONABLE NECESSITY: The department finds that there is reasonable necessity to amend ARM 24.30.102 in order to consolidate the occupational injury and illness reporting requirements for public sector employers with the safety rules applicable to those employers. The proposed amendments incorporate by reference applicable portions of the federal rules on reporting and recordkeeping. The department believes that public sector employers should be held to the same occupational safety and health rules as private sector employers, including reporting requirements. There is reasonable necessity to only adopt portions of 29 CFR Part

1904, because certain portions of the reporting requirements (such as change of ownership) are inapplicable to public sector employers.

The Code of Federal Regulations, Title 29, as of July 1, 2018, can be accessed at <https://www.govinfo.gov/app/collection/cfr/2018/>.

There is reasonable necessity to correct an IMP citation error while otherwise amending the rule. The correction fixes transposed digits in the citation.

4. The department proposes to repeal the following rules:

24.30.105 RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES: PURPOSE AND SCOPE

AUTH: 50-71-114, MCA
IMP: 50-71-117, 50-71-119, MCA

24.30.106 RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES: DEFINITIONS

AUTH: 50-71-114, MCA
IMP: 50-71-117, MCA

24.30.107 RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES: LOG AND SUMMARY

AUTH: 50-71-114, MCA
IMP: 50-71-112, 50-71-113, 50-71-117, MCA

REASONABLE NECESSITY: The department finds that with the proposed amendments to ARM 24.30.102 that incorporate by reference federal reporting requirements, the rules proposed for repeal are no longer needed, and that it is reasonably necessary to repeal the rules at the same time as ARM 24.30.102 is amended.

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 Bryan Page, Employment Relations Division, P.O. Box 8011, Helena, MT 59604-8011; fax (406) 444-4140; or e-mail to BPage@mt.gov, and must be received no later than 5:00 p.m., on April 26, 2019.

6. 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, which includes the name and e-mail or mailing address of the person to receive notices, and specifies the particular subject matter or matters regarding which the person wishes to receive notices. Such written request may be mailed or delivered to the Department of Labor and Industry, attention: Mark Cadwallader, 1315 E. Lockey Avenue, P.O. Box 1728, Helena, Montana 59624-1728, faxed to the department at (406) 444-1394, or

e-mailed to mcadwallader@mt.gov, or may be made by completing a request form at any rules hearing held by the agency.

7. An electronic copy of this notice of public hearing is available through the Secretary of State's web site at <https://sosmt.gov/arm/>. 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 a person's difficulties in sending an e-mail do not excuse late submission of comments.

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

9. Pursuant to 2-4-111, MCA, the department has determined that the rule changes proposed in this notice do not have a significant and direct impact upon small businesses.

10. The department's Office of Administrative Hearings has been designated to preside over and conduct this hearing.

/s/ MARK CADWALLADER
Mark Cadwallader
Alternate Rule Reviewer

/s/ GALEN HOLLENBAUGH
Galen Hollenbaugh, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State March 19, 2019.