

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF MONTANA

In the matter of the adoption of New)	NOTICE OF PROPOSED
Rules I through IX pertaining to vessel)	ADOPTION
pumpout facilities)	
)	(VESSEL PUMPOUT FACILITIES)
)	
)	NO PUBLIC HEARING
)	CONTEMPLATED

TO: All Concerned Persons

1. On August 17, 2015, the Department of Environmental Quality proposes to adopt the above-stated rules.

2. The department 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 Elois Johnson, Paralegal, no later than 5:00 p.m., July 27, 2015, to advise us of the nature of the accommodation that you need. Please contact Elois Johnson at Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2630; fax (406) 444-4386; or e-mail ejohnson@mt.gov.

3. The proposed new rules provide as follows:

NEW RULE I GENERAL (1) Construction of vessel pumpout facilities at watercraft terminals located on or adjacent to state waters is encouraged by the Clean Vessel Act of 1992, which is contained in PL-92-587. Proper construction, operation, and maintenance of these facilities will protect water quality and reduce the potential for the spread of water-borne diseases.

(2) Boaters are encouraged to learn how to use marina pumpout stations.

AUTH: 23-2-522, MCA

IMP: 23-2-522, MCA

REASON: This rule is proposed to encourage installation and proper use of marine pumpout stations, which help to reduce vessel sewage discharges and should reduce the potential for the spread of disease as well as protect water quality.

Section 23-2-522, MCA, requires the department to adopt rules that provide guidelines for the installation, construction, operation, and maintenance of vessel pumpout facilities. These rules are adopted to comply with that requirement. Compliance with these guidelines is not required and these rules will not be enforceable by any state agency. These guidelines are simply recommended practices for use by the public and, to the extent authorized by law, local government. However, compliance with these guidelines would reduce the risk of violation of 23-2-522(1), MCA, which makes it unlawful to discharge or cause,

permit, or allow discharges of sewage from a vessel into, upon, or near the waters at a stream, river, or lake.

NEW RULE II LOCATION (1) Stationary pumping equipment should generally be located as close to the boat off-loading point as possible and where boats need to maneuver the least. All components of the vessel pumpout station should meet the setback distances required in ARM Title 17, chapter 36, subchapters 3 or 9, as applicable, except that compliance with the setback requirement between a holding tank and surface water is not included in this recommendation.

(2) Holding tanks should be located where they are readily accessible for inspection and maintenance. The bottom of the tank should not be deeper than 12 feet from the finished grade or access road for ease of pumping and maintenance.

AUTH: 23-2-522, MCA
IMP: 23-2-522, MCA

REASON: This proposed rule identifies the minimum setbacks between vessel pumpout stations, water supplies, and natural features as defined in ARM 17.36.323 and will protect public health. Vessel pumpout stations are intended to serve water craft. The proposed rule would provide guidance to applicants for placement of holding tanks to ensure ease of maintenance and pumping. This will protect water quality by promoting usage and reliability of pumpout stations.

NEW RULE III DESIGN (1) Vessel pumpout stations should include means of flushing tanks, lines, and other components that contact sewage. In addition, a pumpout facility should be equipped with a wash-down system to allow cleaning of portable toilets.

(2) Vessel pumpout stations should include a secondary spill containment system to prevent discharge to surface waters from spills, leaks, maintenance, servicing, or storage.

AUTH: 23-2-522, MCA
IMP: 23-2-522, MCA

REASON: This proposed rule recommends that vessel pumpout stations include cleaning equipment for use of boaters and system operators to ensure proper maintenance and operation of wastewater systems. The proposed rule also recommends that a secondary spill containment system be included for the station to ensure protection of the environment from potential pollution during facility use and maintenance.

NEW RULE IV PIPES, FITTINGS, AND HOSES (1) All tanks, pumps, lines, hoses, and other equipment should be clearly marked as "nonpotable" with a permanent label placed in a conspicuous location.

(2) All discharge piping should be made of flexible, heavy-duty material that will be non-collapsing and non-kinking with locking interconnectors. Corrugated or

ribbed hoses should not be used.

(3) Lines should be watertight and appropriately fastened or secured to the dock or pier. Forced main systems should contain appropriate "thrust" blocks and other security fastenings.

(4) All lines and hoses should have an approved backflow prevention device that meets the requirements of ARM Title 17, chapter 38, subchapter 3.

(5) A valve should be provided on the discharge line at the pump and on the suction hose at the nozzle. If a suction hose is to be installed in such a manner that sewage would discharge from the line when the pump is removed for service, a gate valve should be provided on the pump end of the suction hose.

(6) Positive locking connections on the end of the discharge line should be provided to prevent it from coming loose during discharge. A friction nozzle (right angle preferred) or wand-type attachment should be provided on the end of the suction hose. Adapters should be provided to fit any discharge connection from one and one-half to four inches in diameter.

(7) Discharge lines should be protected from freezing and prevented from leaking into the water.

(8) Suction hoses should be equipped with clear tubing or a sight glass on the suction end of the hose to allow the attendant to determine when pumping is complete.

(9) The connection between a suction hose and a vessel should include pipe splash guards or positive locking connections to prevent spilling from the suction hose or disconnection during waste discharge.

AUTH: 23-2-522, MCA

IMP: 23-2-522, MCA

REASON: Marking of equipment as nonpotable will protect public health by notifying persons that the water may not be fit for drinking. In addition, the proposed rule would include provisions for hose connection requirements and freezing protections to safeguard against impacts to the environment. Minimum piping construction, fastening devices, valves, nozzles, and connection standards are necessary to ensure ease of use and maintenance.

NEW RULE V PUMPING EQUIPMENT (1) Pumpout stations should meet the requirements of Department Circular DEQ-4, Subchapter 4.2, except where they conflict with this chapter.

(2) Pumps should be of a macerator type or have sufficient size suction and discharge openings to prevent clogging. Manually operated pumps should not be used.

(3) An event or hour meter should be installed on each pump.

AUTH: 23-2-522, MCA

IMP: 23-2-522, MCA

REASON: This proposed rule recommends standards for wastewater pumpout stations established in Department Circular DEQ-4 to protect public health.

The proposed rule also would describe the type of pump necessary for pumpout stations and would provide the information necessary to ensure that vessel pumpout facilities function properly once they become operational. An event or hour meter is recommended for ease of maintenance.

NEW RULE VI HOLDING TANK (1) Holding tanks should meet the requirements of Department Circular DEQ-4, Subchapter 8.1, except where they conflict with this chapter.

(2) Vessel pumpout holding tanks should be sized to meet the requirements of Table 1 for the volume of sewage generated and the frequency of removal of material from the holding tank.

Table 1

<u>Total Number of Boats Served with Holding Tank Between Licensed Septic Pumper Servicings</u>	<u>Minimum Holding Tank Volume (Gallons)</u>
1-20	500
21-40	600
41-60	900
61-80	1200
81-100	1500
100+	2000

AUTH: 23-2-522, MCA

IMP: 23-2-522, MCA

REASON: This proposed rule would adopt existing design standards for holding tanks established in Department Circular DEQ-4 to protect public health. Proposed minimum volume requirements for holding tanks are set forth in Table 1 and are necessary to ensure functionality of the system and to ensure protection of the environment from potential pollution during facility use and maintenance.

NEW RULE VII PORTABLE SANITATION DEVICES (1) Pumpout facilities designed to receive waste from portable marine sanitation devices should have a unit opening of a minimum of 12 inches in diameter and be equipped with a water tight cover that completely covers the receiving unit.

AUTH: 23-2-522, MCA

IMP: 23-2-522, MCA

REASON: This proposed rule recommends a 12-inch minimum opening for facilities designed to receive waste from portable devices to ensure ease of use. The proposed rule also would be consistent with recommendations made by the

U.S. Fish and Wildlife Service's Pumpout Station and Dump Station Technical Guidelines under the Clean Vessel Act.

NEW RULE VIII CONSTRUCTION (1) All discharge from a vessel pumpout facility should be directed to a holding tank meeting the requirements of this chapter with removal and disposal by a licensed septic hauler as defined in ARM Title 17, chapter 50, subchapter 8.

(2) All collection systems should meet the requirements of Department Circular DEQ-4, Subchapter 4.1, unless modified by this chapter.

AUTH: 23-2-522, MCA

IMP: 23-2-522, MCA

REASON: This proposed rule recommends utilizing Department Circular DEQ-4, Subchapter 4.1, construction standards, and compliance with ARM Title 17, chapter 50, subchapter 8, which provides for the removal and disposal of waste by a licensed septic hauler, to provide protection of public health during facility use and maintenance.

NEW RULE IX OPERATION, MAINTENANCE, CERTIFICATION, AND AS-BUILTS (1) Operation and maintenance of vessel pumpout facilities should generally conform to the requirements in Department Circular DEQ-4, Appendix D, with the following additions:

(a) for public facilities, hours of operation for vessel pumpout stations should be posted in a conspicuous place where readily observable by the public;

(b) hoses, pumps, and equipment should be flushed after each use by pumping clean water through the system which empties into an approved disposal area (never onto the ground or into the water) and to disinfect all suction connections; and

(c) the operator should wear appropriate protective clothing, such as gloves, and should wash his or her hands following contact with the system.

AUTH: 23-2-522, MCA

IMP: 23-2-522, MCA

REASON: This proposed rule recommends utilizing existing Department Circular DEQ-4 standards relating to wastewater operation, maintenance, certification, and as-builts to protect public health. The proposed rule also recommends that information be provided regarding hours of operation, along with requiring provisions for cleaning equipment to ensure that a system is used in the manner in which it is designed. Requiring gloves and other protective clothing is necessary to protect public health.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to Elois Johnson at Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2630; fax (406) 444-4386; or e-mail ejohnson@mt.gov, no later than

August 13, 2015. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

5. 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 they have to Elois Johnson at Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2630; fax (406) 444-4386; or e-mail ejohnson@mt.gov, no later than August 13, 2015.

6. If the department receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons who are 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 persons directly affected has been determined to be six based on 60 liable or potentially liable persons under 75-10-715, MCA, who have received notice letters at facilities DEQ is currently addressing.

7. 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 that the person wishes to receive notices regarding: air quality; hazardous waste/waste oil; asbestos control; water/wastewater treatment plant operator certification; solid waste; junk vehicles; infectious waste; public water supply; public sewage systems regulation; hard rock (metal) mine reclamation; major facility siting; opencut mine reclamation; strip mine reclamation; subdivisions; renewable energy grants/loans; wastewater treatment or safe drinking water revolving grants and loans; water quality; CECRA; underground/above ground storage tanks; MEPA; or general procedural rules other than MEPA. 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 Elois Johnson, Paralegal, Department of Environmental Quality, 1520 E. Sixth Ave., P.O. Box 200901, Helena, Montana 59620-0901, faxed to the office at (406) 444-4386, e-mailed to Elois Johnson at ejohnson@mt.gov, or may be made by completing a request form at any rules hearing held by the department.

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

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

Reviewed by:

DEPARTMENT OF ENVIRONMENTAL
QUALITY

/s/ John F. North

JOHN F. NORTH

Rule Reviewer

BY: /s/ Tom Livers

TOM LIVERS, Director

Certified to the Secretary of State, July 6, 2015.