DEPARTMENT OF HEALTH AND MENTAL HYGIENE
BOARD OF HEALTH

NOTICE OF INTENTION TO AMEND VARIOUS SECTIONS OF ARTICLE 11
OF THE
NEW YORK CITY HEALTH CODE

NOTICE OF PUBLIC HEARING

In compliance with Section 1043(b) of the New York City Charter and pursuant to the authority granted to the Board of Health by Section 558 of said Charter, notice is hereby given of the proposed amendment of various provisions of Article 11 of the New York City Health Code.

NOTICE IS HEREBY GIVEN THAT THE DEPARTMENT WILL HOLD A PUBLIC HEARING ON THE PROPOSAL ON AUGUST 15, 2005 FROM 2:00PM TO 4:00PM IN THE THIRD FLOOR BOARDROOM AT 125 WORTH STREET, NEW YORK, NEW YORK 10013.

PERSONS INTERESTED IN PRE-REGISTERING TO SPEAK SHOULD NOTIFY, IN WRITING, RENA BRYANT, SECRETARY TO THE BOARD OF HEALTH, 125 WORTH STREET CN-31, NEW YORK, NEW YORK 10013; (212) 788-5010 BY AUGUST 12, 2005. PLEASE INCLUDE A TELEPHONE NUMBER WHERE, IF NECESSARY, YOU MAY BE REACHED DURING NORMAL WORKING HOURS. SPEAKERS WILL BE LIMITED TO FIVE (5) MINUTES.

PERSONS WHO REQUEST THAT A SIGN LANGUAGE INTERPRETER OR OTHER FORM OF REASONABLE ACCOMMODATION FOR A DISABILITY BE PROVIDED AT THE HEARING ARE ASKED TO NOTIFY RENA BRYANT, SECRETARY TO THE BOARD OF HEALTH, 125 WORTH STREET CN-31, NEW YORK, NEW YORK 10013; (212) 788-5010 BY AUGUST 1, 2005.

REGISTRATION WILL BE ACCEPTED AT THE DOOR UNTIL 2P.M. HOWEVER, PREFERENCE WILL BE GIVEN TO THOSE WHO PREREGISTER.

WRITTEN COMMENTS REGARDING THE PROPOSAL MUST BE SUBMITTED TO RENA BRYANT, SECRETARY TO THE BOARD OF HEALTH, 125 WORTH STREET CN-31, NEW YORK, NEW YORK 10013, OR BY EMAIL TO THIS ADDRESS, RESOLUTIONCOMMENTS@HEALTH.NYC.GOV OR BY FAX ADDRESSED TO RENA BRYANT AT (212) 788-4315, ON OR BEFORE AUGUST 15, 2005.

WRITTEN COMMENTS RECEIVED BY THE SECRETARY TO THE BOARD OF HEALTH AND A TRANSCRIPT OF THE PUBLIC HEARING WILL BE AVAILABLE FOR PUBLIC INSPECTION WITHIN A REASONABLE TIME AFTER RECEIPT, BETWEEN THE HOURS OF 9:00 A.M. AND 5:00 P.M., AT THE OFFICE OF THE SECRETARY.

STATUTORY AUTHORITY

These amendments to the New York City Health Code ("Health Code") are promulgated pursuant to Sections 556, 558 and 1043 of the New York City Charter ("Charter"). Section 556 of the Charter grants the Department of Health and Mental Hygiene ("Department") jurisdiction to regulate matters affecting health in the City of New York. Specifically, Section 556(c)(2) of the Charter authorizes the Department to supervise the reporting and control of communicable and chronic diseases. Section 558(b) and (c) of the Charter empower the Board of Health to amend the Health Code and to include in the Health Code all matters to which the Department's authority extends. Section 1043 of the Charter grants the Department of Health rule making powers.

STATEMENT OF BASIS AND PURPOSE

Section 11.03 of the Health Code identifies the various diseases and conditions which are required to be reported to the Department. The Department is proposing to amend Section 11.03 (a) of the Health Code to designate as reportable certain diseases/conditions that have recently emerged, or have become of greater public health concern, and to remove certain diseases that are of diminished public health concern. A number of the diseases/conditions which the Department proposes to add to its list of reportable diseases/conditions are currently required to be reported to the Department pursuant to the New York State Sanitary Code, applicable in New York City [*See* Public Health Law Section 228]. In addition, the Department is proposing changes to Section 11.03 to clarify the time frame and manner of reporting to the Department.

Furthermore, the Department proposes to amend Section 11.64 of the Health Code with regard to animal diseases. Specifically, certain animal diseases are being added to the list of those required to be reported to the Department immediately and modifications are being made regarding the manner of reporting to the Department in relation to animal diseases.

PROPOSED ADDITIONS TO SECTION 11.03 (a)

- **Hepatitis D, Hepatitis E and other suspected infectious viral hepatitides**

The Department proposes that "Hepatitis D" (also known as "Delta Hepatitis"), "Hepatitis E" and "other suspected infectious viral hepatitides" be added to the list of diseases and conditions reportable under Section 11.03(a) of the Health Code. Hepatitis D, or Delta Hepatitis, is clinically similar to hepatitis B. It can be severe, and it is always associated with a coexistent hepatitis B infection. Infection can be self-limited or may become chronic. Outbreaks of hepatitis D have been documented in other countries in Africa and South America, and have been most commonly linked to injecting drug use. Hepatitis D can be controlled through hepatitis B vaccination efforts. Therefore, it is important for hepatitis D to be reported in a timely fashion.

Hepatitis E is clinically similar to hepatitis A; there is no evidence of a chronic form. Hepatitis E most often occurs in developing countries with inadequate sanitation. In 2003, two

hepatitis E outbreaks were documented in Japan, associated with consumption of raw meat. By adding hepatitis E to the list of reportable diseases, the Department will be able to more accurately describe the epidemiology of this infection, particularly in New York City residents returning from travel to developing countries, as well as to recognize local transmission. Given the continued recognition of new strains of viral hepatitides, the Department is also adding "other suspected infectious viral hepatitides" in order to facilitate the identification of new hepatitis viruses.

- **Influenza, laboratory-confirmed**

The Department proposes that "Influenza, laboratory-confirmed" be added to the list of diseases and conditions reportable under Section 11.03 (a). Influenza is a common cause of respiratory illness in the United States during the months of October through May. Influenza illness results in significant morbidity and mortality yearly among the very young, the elderly, and those persons with chronic illness. The Centers for Disease Control and Prevention estimates national mortality from influenza illness is approximately 36,000 deaths per year. Outbreaks of influenza in long-term care facilities and in communities can also challenge an already burdened healthcare system. A pandemic of influenza would have the capability to cause substantial illness and death, disruption of healthcare and other social services, and widespread panic. The yearly impact of influenza illness and the possibility of a pandemic give impetus for enhancing current influenza surveillance systems for early detection of illness and implementation of control measures.

Influenza is currently reportable in many states, including New York State. The Department is proposing to require only laboratories that electronically submit files through the Electronic Clinical Laboratory Reporting System (ECLRS) to report positive influenza laboratory test results. Laboratories that do not use the ECLRS reporting methods above may of course, report positive influenza test results but are not being required to report. The addition of laboratory- confirmed influenza will enhance influenza reporting and surveillance efforts and provide more comprehensive and complete information on influenza activity, including season-to-season comparisons of the number of cases and age groups affected. Adding laboratory confirmed influenza to the reportable disease list would also bring the Health Code into compliance with the New York State Sanitary Code, which was amended to include laboratory confirmed influenza on December 1, 2004.

- **Influenza, highly pathogenic**

The Department proposes that "Influenza, highly pathogenic" be added to the list of diseases and conditions reportable under Section 11.03 (a). Widespread epizootics due to a highly pathogenic influenza virus, such as avian Influenza A (H5N1), have been intermittently reported among wild and domestic birds in Asia since 1997. The most recent epizootic began in early 2004 and has been difficult to eradicate. Countries that have had confirmed Influenza A (H5N1) include China, Thailand, Vietnam, Laos, Indonesia, Cambodia, South Korea and Japan. Large culling operations have taken place to prevent further spread of the virus among fowl, and to reduce the risk of transmission to humans, with variable success.

To date, there have been 108 confirmed cases of human Influenza A (H5N1) in Vietnam (87), Thailand (17) and Cambodia (4). Among these, 54 (50%) patients have died. There is still no definitive evidence of sustained person-to-person transmission of Influenza A (H5N1) and it is believed that most human H5N1 cases have resulted from direct contact with infected birds or surfaces contaminated with excretions from infected birds. However, the concern remains regarding the potential for reassortment among avian and human influenza viruses. Such a reassortment could allow for sustained person-to-person transmission and has the potential to set off a global influenza pandemic.

- **Influenza-related deaths in children less than 18 years of age**

The Department proposes that "Influenza-related deaths in children less than 18 years of age" be added to the list of diseases and conditions reportable under Section 11.03 (a). Influenza is a well-recognized cause of mortality in the elderly and individuals with preexisting health conditions. Pediatric deaths have been thought to account for a small fraction of overall annual influenza mortality. During the 2003-04 influenza season, reports of influenza-related deaths in children brought this problem into greater focus. More information on severe influenza in children is needed to understand the epidemiology and target appropriate prevention. There were 142 influenza-related pediatric deaths nationally, five of which occurred in New York City, from October 11, 2003 to March 22, 2004. Preliminary data suggests that previously well children over the age of 2 years were affected, a group not presently targeted for vaccination. There were fewer cases of influenza-related pediatric deaths in 2004-5, with 33 cases in the United States and only 2 laboratory confirmed cases in New York City. More information is needed on the risk factors for infection, complications, therapeutics, causes of deaths and strain genetics in order to construct an effective prevention strategy.

- **Monkeypox**

The Department proposes that "Monkeypox" be added to the list of diseases and conditions reportable under Section 11.03 (a). Monkeypox is a viral illness and a member of the *Orthopoxvirus* group. It is primarily an illness of rodents but can cause disease in primates including man. The illness manifests with pustular lesions that resemble smallpox and can be fatal in up to 10 % of cases. Person-to-person transmission has been documented in outbreaks. In June of 2003, the first ever outbreak of human monkeypox occurred in the United States. An imported rodent from Africa infected domestic prairie dogs that then infected 72 humans in 6 Midwestern states. Adding monkeypox to the reportable disease list also brings the Health Code into compliance with the New York State Sanitary Code, which was amended to include monkeypox on July 11, 2003.

- **Severe Acute Respiratory Syndrome**

The Department proposes that "Severe Acute Respiratory Syndrome (SARS)" be added to the list of diseases and conditions reportable under Section 11.03 (a). SARS emerged in the Guangdong Province of China in the fall of 2002 and rapidly gave rise to outbreaks in 29 countries, particularly in health care settings. After a non-specific viral prodrome, the disease can cause pneumonia and death particularly in the elderly or infirm. Evidence has shown that a

coronavirus is the causative agent. In 2003, the United States had eight confirmed SARS cases; none were in New York City. Due to the explosive potential for nosocomial outbreaks should a single case of SARS occur, especially if the patient is not rapidly placed in isolation, it is necessary for the Department to immediately be notified of a suspect or confirmed case of SARS. Adding SARS to the reportable disease list also brings the Health Code into compliance with the New York State Sanitary Code, which was amended to include SARS on February 25, 2004.

- **Shiga toxin-producing *Escherichia coli***

The Department proposes that "Shiga toxin producing *Escherichia coli* (STEC)" be added to the list of diseases and conditions reportable under Section 11.03 (a). The current case definition and reporting for *E. coli* O157:H7 requires modification to accommodate changes in clinical laboratory practice. Revision would also allow reporting of illness caused by other serotypes of pathogenic Shiga toxin-producing *E. coli* (STEC). *E. coli* O157:H7 infection was made reportable in October 1994 in recognition of its public health importance as a serious foodborne pathogen. Other serotypes of Shiga toxin-producing *E. coli* are also capable of causing diarrhea, hemorrhagic colitis, and hemolytic uremic syndrome (HUS). Non-O157 enterhemorrhagic E. coli (EHEC) have caused several outbreaks of diarrhea and HUS in the United States and, in small studies, have been isolated from diarrheal stool samples with similar frequency as *E. coli* O157:H7.

- ***Staphylococcus aureus* with reduced susceptibility to Vancomycin (SARSV)**

The Department proposes that "*Staphylococcus aureus* with reduced susceptibility to Vancomycin (SARSV)" be added to the list of diseases and conditions reportable under Section 11.03 (a). *Staphylococcus aureus (S. aureus)* is an important source of nosocomial infections, causing diseases ranging from mild skin and soft tissue infections to potentially fatal systemic diseases like invasive necrotizing pneumonia, endocarditis and toxic shock syndrome. During the 1950s, widespread resistance to penicillin developed and in the 1970s, resistance developed to the newer class of semisynthetic pencillinase resistant antimicrobials (e.g., methicillin, oxacillin) leading to increasing use of vancomycin to treat methicillin resistant *S. aureus* (MRSA). By the late 1990s, resistance to vancomycin was beginning to be reported in a few locations around the world and in late 2002, the first two cases of vancomycin resistant *S. aureus* (VRSA) were documented in the United States. Vancomycin is ineffective in the treatment of VRSA, which is defined as having a Minimum Inhibitory Concentration (MIC) >32 ug/mL. However, we know that there are *S. aureus* that have intermediate sensitivity to vancomycin, defined as VISA (vancomycin intermediate *S. aureus)*, with MICs between 8-16 ug/mL, and vancomycin is less effective in treating these organisms.

Emerging resistance to one of the last remaining effective antimicrobials for *S. aureus* makes it critical to identify suspected resistant or intermediately susceptible organisms so that measures can be put in place rapidly to curtail its transmission within the health care setting. Since MRSA are known to be highly transmissible in health care settings, it is reasonable to assume that SARSV isolates would be no less transmissible given the opportunity. Identification of SARSV infection in a health care setting should prompt a thorough epidemiologic

investigation and implementation of control measures to prevent transmission. By making *Staphylococcus aureus* with reduced susceptibility to Vancomycin (SARSV) reportable, the Department will be able to better monitor the incidence of this emerging nosocomial pathogen. Tracking trends over time would allow the Department to monitor the effectiveness of these measures in limiting the spread of SARSV in health care settings.

- **Vaccinia disease**

The Department proposes that vaccinia disease be added to the list of diseases and conditions reportable under Section 11.03(a). In 2003, smallpox vaccination resumed, as part of bioterrorism preparedness planning in the event of a smallpox outbreak. Over 500,000 persons have been vaccinated in the United States, including 369 in New York City and although the rates of some adverse events were less than expected, adverse events that had not been previously recognized were also identified, such as myocarditis/pericarditis. Smallpox vaccination of health care and public health response teams is expected to continue in New York City to ensure sufficient staff capacity to respond to the initial patients affected by a smallpox outbreak, should one occur due to an intentional release of the virus. Continued surveillance of adverse events is necessary to ensure safe and proper usage of the vaccine and to expedite optimal treatment of individuals with more severe adverse events. By making vaccinia infections reportable, the Department will be able to monitor for complications of smallpox vaccination efforts among persons vaccinated as well as their contacts, and request on a timely basis vaccinia immune globulin and/or cidofovir to treat severe adverse reactions, when indicated.

The Department proposes that the term "vaccinia disease" shall mean:

1. Persons with vaccinia infection due to contact transmission; and,
2. Persons with the following complications from vaccination: eczema vaccinatum, erythema multiforme major or Stevens-Johnson syndrome, fetal vaccinia, generalized vaccinia, inadvertent inoculation, myocarditis or pericarditis, ocular vaccinia, post-vaccinial encephalitis or encephalomyelitis, progressive vaccinia, pyogenic infection of the vaccination site, and any other serious adverse events (i.e., those resulting in hospitalization, permanent disability, life-threatening illness or death).

Adding vaccinia disease to Section 11.03(a) is consistent with the New York State Sanitary Code, which was amended to include vaccinia disease on December 17, 2003.

PROPOSED DELETIONS FROM SECTION 11.03 (a)

- **Hepatitis, Non-A, Non-B**

Currently, Section 11.03 (a) of the Health Code specifies that Hepatitis A, B, C and Non-A, Non-B are required to be reported to the Department. The Department proposes that "Non-A, Non-B" be removed from the list of diseases and conditions reportable under Section 11.03 (a) since such terminology is no longer necessary. The term "Non-A, Non-B" hepatitis was coined

some thirty years ago to describe hepatitis that was transmitted similarly to hepatitis B but failed to react on standard serological tests. Medical knowledge and technology have advanced such that numerous viruses (designated by the letters A, B, C, D, E, and G) have been found to cause hepatitis. The majority of hepatitis infections formerly classified as Non-A, Non-B are believed to be due to hepatitis C. The Department has proposed that the known types of hepatitis viruses be reportable as specified above.

- **Visceral larva migrans (Toxocariasis)**

The Department proposes that visceral larva migrans (Toxocariasis) be removed from the list of diseases and conditions reportable under Section 11.03 (a). Visceral larva migrans (VLM) is a helminth infection caused by *Toxocara canis* and other species. Dogs are the normal host and infection in humans, particularly young children, can result in fever, liver enlargement and rarely death. Dog feces are the major environmental source and eggs can remain viable even under harsh conditions. In 1978, New York State passed a law banning the disposal of canine and feline waste on streets and parks in large cities, including New York City. [*See* Public Health Law Section 1310]. Three cases of VLM have been reported since 1989 and none since 1992.

PROPOSED ADDITIONS TO SECTION 11.64

The Department proposes to add Influenza, highly pathogenic; Monkeypox and Severe Acute Respiratory Syndrome (SARS) to the list of animal diseases required to be reported to the Department immediately by telephone. As discussed above, these diseases present an epidemic threat to public health. In light of the significant risk to public health, the Department also proposes requiring acute arboviral encephalitis in animals to be reported to the Department immediately, instead of within 24 hours of diagnosis.

The proposal is as follows:

Note- matter in brackets [ ] to be deleted
matter underlined is new

RESOLVED, that subsection (a) of Section 11.03 of the New York City Health Code as last amended by resolution, on the ----------date----------, be and the same hereby is amended, to be printed together with explanatory notes, to read as follows:

§ 11.03 **Diseases and conditions reportable.**

(a) Cases and carriers affected with any of the following diseases and conditions, and persons who at the time of their death were apparently so affected, shall be reported to the Department.

[by telephone, by facsimile or electronic transmission and within 24 hours of diagnosis. Such report shall also be made in writing unless the Department determines that a written report is unnecessary]:

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Hepatitis A; B; C; [Non-A; Non-B]; D (“Delta Hepatitis”); E and other suspected infectious viral hepatitides

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Influenza, highly pathogenic

Influenza, laboratory-confirmed (through the Electronic Clinical Laboratory Reporting System (ECLRS))

Influenza-related deaths of children less than 18 years of age

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Monkeypox

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Severe Acute Respiratory Syndrome (SARS)

Shiga toxin producing *Escherichia coli* (STEC which includes but is not limited to *E. coli* O157:H7).

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Staphylococcus aureus with reduced susceptibility to Vancomycin (SARSV)

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Vaccinia disease, defined as:

(1) Persons with vaccinia infection due to contact transmission; and

(2) Persons with the following complications from vaccination: eczema vaccinatum, erythema multiforme major or Stevens-Johnson syndrome, fetal vaccinia, generalized vaccinia, inadvertent inoculation, myocarditis or pericarditis, ocular vaccinia, post-vaccinial encephalitis or encephalomyelitis, progressive vaccinia, pyogenic infection of the vaccination site, and any

other serious adverse events (i.e., those resulting in hospitalization, permanent disability, life-threatening illness or death)

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[Visceral larva migrans]

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(c) [Case of acute arboviral infections, animal bites, anthrax, botulism, brucellosis, carbon monoxide poisoning, cholera, diptheria, measles, poliomyelitis, hantavirus, plague, Q fever, rabies, smallpox, tularemia, yellow fever, and cases of food poisoning which occur in a group of three or more, shall, in lieu of the manner and time of reporting specified in subsection (a), be immediately reported by telephone.] Any suspected or confirmed case or carrier of the following diseases or conditions, and persons who at the time of death were apparently so affected shall be immediately reported to the Department by telephone: Animal bites, Anthrax; acute arboviral infections, botulism; brucellosis; carbon monoxide poisoning; cholera; diphtheria; food poisoning in a group of 3 or more persons; glanders; hantavirus; Hemophilus influenza; hepatitis A in a foodhandler, or in an enrollee or staff member of a day care facility, or in a patient or staff member of a health care facility, or in an inmate or staff of a correctional facility, or in a resident or staff member of a homeless facility; highly pathogenic influenza; measles; melioidosis; meningococcal meningitis; monkeypox; plague; poliomyelitis; Q fever; rabies or exposure to rabies; SARS; smallpox; Staphylococcus aureus with reduced susceptibility to vancomycin; Staphylococcal enterotoxin B poisoning; trachoma; tularemia; vaccinia disease; viral hemorrhagic fever; yellow fever; or any enteric disease (amebiasis, campylobacteriosis, cryptosporidiosis, giardiasis, salmonellosis, shigellosis or typhoid fever) occurring in a foodhandler, or in an enrollee or staff member of a day care facility, or in a patient or staff member of a health care facility, or in an inmate or staff member of a correctional facility, or in a resident or staff member of a homeless facility. Such report shall also be made in writing by submission of a report form via facsimile, mail or electronic transmission acceptable to the Department unless the Department determines that a written report is unnecessary. All other diseases or conditions required to be reported in subsection (a) shall be reported to the Department within 24 hours of diagnosis by telephone or in writing by submission of a report form via facsimile, mail or in an electronic transmission acceptable to the Department.

Notes: The Department proposes to amend subsection (a) to require the reporting of the following diseases and conditions: Hepatitis D and E and Hepatitis due to or possibly due to other infectious agents; Influenza, highly pathogenic; Influenza, laboratory confirmed (through the Electronic Clinical Laboratory Reporting System (ECLRS)); Influenza-related deaths in children less than 18 years of age; Monkeypox; Severe Acute Respiratory Syndrome (SARS); Shiga toxin-producing *Escherichia coli* (STEC); *Staphylococcus aureus* with reduced susceptibility to Vancomycin (SARSV); and, Vaccinia disease. Additionally, the Department proposes to amend subsection (a) to remove from the list of reportable diseases Hepatitis non-A, non-B and Visceral larva migrans. The Department also proposes removing the time frame and

manner of reporting in subsection (a) and addressing this in proposed modifications to subsection (c).

RESOLVED, that Article 11 of the New York City Health Code as last amended by resolution, on the ----------date----------, be and the same hereby is amended, to be printed together with explanatory notes, to read as follows:

§ 11.64. **Reports and control of animal diseases communicable to humans**.

(a) *Diseases reportable*. (1) Animals affected with or suspected of having any of the following diseases shall be reported to the Department immediately by telephone, and [confirmed] in writing [,either by mail, facsimile or electronic transmission acceptable to the Department,] within 24 hours [after] of diagnosis by submission of a report form via facsimile, mail or electronic transmission acceptable to the Department unless the Department determines that a written report is unnecessary .

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Arboviral Encephalitis, acute

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Influenza, highly pathogenic

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Monkeypox

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Severe Acute Respiratory Syndrome (SARS)

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(2) Animals affected with any of the following diseases shall be reported to the Department [, in writing,] within 24 hours of diagnosis by telephone or in writing by submission of a report form via facsimile, mail or in an electronic transmission acceptable to the Department :

[Arboviral Encephalitis, Acute]

Notes: The Department proposes to amend paragraph (1) of subsection (a) to include arboviral encephalitis, acute; influenza, highly pathogenic; Monkeypox; and, Severe Acute Respiratory

Syndrome (SARS) as reportable animal diseases, as well as clarifying the manner of reporting. The Department proposes to amend paragraph (2) of subsection (a) to delete the reference to arboviral encephalitis, acute and also to clarify the manner of reporting.

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