

MONTANA ADMINISTRATIVE REGISTER

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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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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 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) 444-9000.

Page Number

TABLE OF CONTENTS

PROPOSAL NOTICE SECTION

AGRICULTURE, Department of, Title 4

4-19-258 Notice of Public Hearing on Proposed Adoption and Amendment - Hemp Processing and Associated Fees. 698-701

4-19-259 Notice of Proposed Repeal - Certified Natural Beef Cattle Marketing Program. No Public Hearing Contemplated. 702-705

LABOR AND INDUSTRY, Department of, Title 24

24-159-87 (Board of Nursing) Notice of Public Hearing on Proposed Amendment - Definitions - Nonroutine Applications - Educational Facilities for Programs - Program Annual Report - Program Faculty - Curriculum Goals and General Requirements for Programs - Renewals - Alternative Monitoring Track - Biennial Continuing Education Requirements - Auditing of Contact Hours. 706-713

LIVESTOCK, Department of, Title 32

32-19-297 Notice of Proposed Amendment - Subject Diseases or Conditions - Importation of Restricted or Prohibited Alternative Livestock. No Public Hearing Contemplated. 714-722

PUBLIC HEALTH AND HUMAN SERVICES, Department of, Title 37

37-886 Notice of Public Hearing on Proposed Amendment - Migrating Billing to Medicaid Management Information System (MMIS). 723-726

REVENUE, Department of, Title 42

42-1000 Notice of Public Hearing on Proposed Adoption and Amendment - Industry Trade Shows - Catering Endorsements - Catered Events. 727-735

RULE ADOPTION SECTION

ADMINISTRATION, Department of, Title 2

2-43-583 (Public Employees' Retirement Board) Notice of Amendment - Investment Policy Statements for the Defined Contribution Retirement Plan and the 457(b) Deferred Compensation Plan. 736

COMMERCE, Department of, Title 8

8-94-165 Notice of Amendment - Administration of the 2020 Biennium Treasure State Endowment Program–Planning Grants. 737-738

8-119-164 Notice of Amendment - Tourism Advisory Council. 739

FISH, WILDLIFE AND PARKS, Department of, Title 12

12-508 (Fish and Wildlife Commission) Notice of Amendment - Recreational Use on the Bitterroot River. 740-742

12-518 Notice of Adoption of Emergency Rule - Closing Cooney State Park in Carbon County. 743-744

12-519 Notice of Adoption of Emergency Rule - Closing the Medicine River Fishing Access Site in Cascade County. 745-746

12-520 Notice of Adoption of Emergency Rule - Closing the Fort Shaw Fishing Access Site in Cascade County. 747-748

LABOR AND INDUSTRY, Department of, Title 24

24-213-21 (Board of Respiratory Care Practitioners) Notice of Amendment - Abatement of Renewal Fees - Continuing Education Requirements. 749

SPECIAL NOTICE AND TABLE SECTION

Function of Administrative Rule Review Committee.	750-751
How to Use ARM and MAR.	752
Recent Rulemaking by Agency.	753-760

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the adoption of New) NOTICE OF PUBLIC HEARING ON
Rules I and II, and the amendment of) PROPOSED ADOPTION AND
ARM 4.19.101 pertaining to hemp) AMENDMENT
processing and associated fees)

TO: All Concerned Persons

1. On June 28, 2019, at 9:00 a.m., the Department of Agriculture will hold a public hearing in Room 225 of the Scott Hart Building, at 302 N. Roberts, Helena, Montana, to consider the proposed adoption and amendment of the above-stated rules.

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 the Department of Agriculture no later than 5:00 p.m. on June 24, 2019, to advise us of the nature of the accommodation that you need. Please contact Cort Jensen, Department of Agriculture, P.O. Box 200201, Helena, Montana, 59620-0201; telephone (406) 444-3144; fax (406) 444-5409; or e-mail agr@mt.gov.

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

NEW RULE I HEMP PROCESSING LICENSE AND FEE (1) A Montana Hemp Processing License for hemp floral and root extracts is required.

(a) The fee for processing hemp floral and root extracts is \$2,500 per year.

(b) All other hemp processors of hemp grain, seed, seed oil, and fiber may apply for a Hemp Processing License for \$1,000 per year.

(2) Persons compliant with other state and federal licensing requirements specific to processing and manufacturing of hemp plants and plant parts are exempt from this processing license.

(a) A Hemp Processing License is required to be exempt from the Commodity Dealer License requirement.

(3) Licensed hemp growers may process their own hemp production without a Hemp Processing License.

(4) Hemp Processing Licenses expire on December 31 each year.

(5) A hemp processor is subject to inspection, THC testing, pesticide testing, and any other testing requested by law enforcement or the Montana Department of Agriculture. Both the hemp stored therein, and the products derived from the hemp must comply with state and federal law.

(6) Hemp processing derivatives may include products for food, fiber, oils, supplements, or drugs except for THC production. THC extracted from hemp plants or hemp floral extraction must be legally disposed of in a manner consistent with state and federal regulations.

(7) Manufacturers purchasing from licensed hemp processors in Montana are not required to possess a Hemp Processing License.

(8) Hemp processors must comply with city, county, and tribal ordinances and laws. Such ordinances may prohibit hemp processing and/or specify additional requirements.

(9) Use of hemp and its derived products in food is subject to the laws and regulations of the United States Food and Drug Association (FDA) and the Montana Department of Public Health and Human Services (DPHHS).

AUTH: 80-18-107, MCA

IMP: 80-18-102, 80-18-103, 80-18-107, MCA

REASON: The department created a simple system for hemp processing license requirements to provide consistency and comply with new United States Department of Agriculture (USDA) oversight established in the 2018 Farm Bill. The proposed rule will help the Department of Agriculture avoid jurisdictional confusion with the Department of Public Health and Human Services (DPHHS) and allow new businesses to have some degree of regulatory certainty. The rule also mandates hemp processors comply with city, county, and tribal ordinances. The proposed \$2,500 fee adequately covers the cost of performing the necessary regulatory services and interactions with federal and state counterparts.

NEW RULE II HEMP PROCESSING FOR A COMMODITY DEALER (1) A person or entity with a Hemp Processing License for calendar year 2019 to 2020 may contract with licensed Montana hemp producers without a Commodity Dealer License under the following conditions:

(a) the hemp producer acknowledges the hemp processor is not a licensed commodity dealer in Montana, meaning the processor does not have a commodity dealer bond, by signing a written statement;

(b) the total amount of contracted hemp does not exceed \$10 million; and

(c) they are purchasing or processing hemp stalks for fiber.

(2) Hemp processors are subject to all remedies of the department included in 80-4-612, MCA, and powers of inspection included in 80-4-601, MCA.

(a) In the event a hemp processor does not pay a licensed hemp producer possessing a contract that would otherwise be subject to Agricultural Commodity Dealer laws, the department may pursue remedies.

AUTH: 80-4-402, 80-4-601, 80-18-107, MCA

IMP: 80-4-402, 80-4-601, 80-18-102, MCA

Reason: Hemp processing regulations are subject to federal laws that are not yet defined. The department recognizes a need for regulatory flexibility to allow new market entrants and provides this rule pertaining to commodity dealers to issue caution to producers of the potential dangers associated with doing business with non-bonded processors. The hemp industry has associated risks that are not inherent to traditional commodity trading. The department will act as a resource for hemp producers and processors which is expected to have little direct economic

impact. Commodity dealers operating under this rule will likely benefit from avoiding the time and costs associated with financial disclosure law compliance, but the exact amount of savings cannot be calculated.

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

4.19.101 DEFINITIONS (1) and (2) remain the same.

(3) "Hemp plant extract" means a processed product from hemp plant or floral material including but not limited to oil, powder, cake, pellet, etc.

(4) "Hemp root extract" means a processed product that includes exclusively hemp root material including but not limited to oil, powder, cake, pellet, etc.

(5) "Hemp seed oil" means oil extracted exclusively from hemp seeds.

(3) remains the same but is renumbered (6).

(7) "Manufacturing" means further processing hemp plants that have already been processed from a raw, unaltered state.

(4) remains the same but is renumbered (8).

(9) "Processing" means heating, mixing, grinding, separating, extracting, cutting, freezing, or otherwise physically or chemically altering hemp plants or plant parts from a raw, unaltered state or changing the physical characteristics of hemp plants or plant parts from a raw, unaltered state.

(5) and (6) remain the same but are renumbered (10) and (11).

AUTH: 80-18-107, MCA

IMP: 80-18-101, 80-18-102, 80-18-103, 80-18-106, 80-18-107, 80-18-110, 80-18-111, MCA

Reason: Definition additions are necessary to clarify the intent of the new hemp processing rules. No fiscal impact is associated with amendments to ARM 4.19.101.

5. 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, P.O. Box 200201, Helena, Montana, 59620-0201; telephone (406) 444-3156; fax (406) 444-5409; or e-mail agr@mt.gov, and must be received no later than 5:00 p.m., July 19, 2019.

6. Cort Jensen, Department of Agriculture, has been designated to preside over and conduct this hearing.

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 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 5 above 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 and amendments of the above-referenced rules will not significantly and directly impact small businesses. The department estimates between 5-20 businesses require a Hemp Processing License and associated fees will generate approximately \$5,000 - \$20,000 per year.

/s/ Cort Jensen
Cort Jensen
Rule Reviewer

/s/ Ben Thomas
Ben Thomas
Director
Agriculture

Certified to the Secretary of State May 28, 2019.

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the repeal of ARM)	NOTICE OF PROPOSED
4.18.101 through 4.18.106 and)	REPEAL
4.18.112 pertaining to the Certified)	
Natural Beef Cattle Marketing)	NO PUBLIC HEARING
Program)	CONTEMPLATED

TO: All Concerned Persons

1. On July 26, 2019, the Department of Agriculture proposes to repeal the above-stated rules.

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 the Department of Agriculture no later than 5:00 p.m. on July 5, 2019, to advise us of the nature of the accommodation that you need. Please contact Chelsi Bay, Department of Agriculture, P.O. Box 200201, Helena, Montana, 59620-0201; telephone (406) 444-3156; fax (406) 444-5409; or e-mail agr@mt.gov.

3. The department proposes to repeal the following rules:

4.18.101 DEFINITIONS

AUTH: 80-11-801, MCA
IMP: 80-11-801, MCA

REASON: House Bill 51, sponsored by Representative Jacob Bachmeier and signed by Governor Steve Bullock in the 66th Regular Session of the Montana Legislature, repealed the Montana certified natural beef cattle marketing program. The program had a very low utilization rate since it was founded by the Legislature in 2007 and did not provide for any certification measures.

4.18.102 APPLICATION AND PROGRAM AGREEMENT

AUTH: 80-11-801, MCA
IMP: 80-11-801, MCA

REASON: House Bill 51, sponsored by Representative Jacob Bachmeier and signed by Governor Steve Bullock in the 66th Regular Session of the Montana Legislature, repealed the Montana certified natural beef cattle marketing program. The program had a very low utilization rate since it was founded by the Legislature in 2007 and did not provide for any certification measures.

4.18.103 PROGRAM REQUIREMENTS

AUTH: 80-11-801, MCA
IMP: 80-11-801, MCA

REASON: House Bill 51, sponsored by Representative Jacob Bachmeier and signed by Governor Steve Bullock in the 66th Regular Session of the Montana Legislature, repealed the Montana certified natural beef cattle marketing program. The program had a very low utilization rate since it was founded by the Legislature in 2007 and did not provide for any certification measures.

4.18.104 RECORD KEEPING

AUTH: 80-11-801, MCA
IMP: 80-11-801, MCA

REASON: House Bill 51, sponsored by Representative Jacob Bachmeier and signed by Governor Steve Bullock in the 66th Regular Session of the Montana Legislature, repealed the Montana certified natural beef cattle marketing program. The program had a very low utilization rate since it was founded by the Legislature in 2007 and did not provide for any certification measures.

4.18.105 INSPECTIONS AND AUDITS

AUTH: 80-11-801, MCA
IMP: 80-11-801, MCA

REASON: House Bill 51, sponsored by Representative Jacob Bachmeier and signed by Governor Steve Bullock in the 66th Regular Session of the Montana Legislature, repealed the Montana certified natural beef cattle marketing program. The program had a very low utilization rate since it was founded by the Legislature in 2007 and did not provide for any certification measures.

4.18.106 FEES AND COSTS

AUTH: 80-11-801, MCA
IMP: 80-1-103, 80-11-801, MCA

REASON: House Bill 51, sponsored by Representative Jacob Bachmeier and signed by Governor Steve Bullock in the 66th Regular Session of the Montana Legislature, repealed the Montana certified natural beef cattle marketing program. The program had a very low utilization rate since it was founded by the Legislature in 2007 and did not provide for any certification measures.

4.18.112 ENFORCEMENT

AUTH: 80-11-801, MCA
IMP: 80-11-801, MCA

REASON: House Bill 51, sponsored by Representative Jacob Bachmeier and signed by Governor Steve Bullock in the 66th Regular Session of the Montana Legislature, repealed the Montana certified natural beef cattle marketing program. The program had a very low utilization rate since it was founded by the Legislature in 2007 and did not provide for any certification measures.

4. Concerned persons may submit their data, views, or arguments concerning the proposed actions in writing to: Cort Jensen, Department of Agriculture, P.O. Box 200201, Helena, Montana, 59620-0201; telephone (406) 444-3144; fax (406) 444-5409; or e-mail agr@mt.gov, and must be received no later than 5:00 p.m., July 5, 2019.

5. If persons who are directly affected by the proposed actions 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 Cort Jensen at the above address no later than 5:00 p.m., July 5, 2019.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent 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 1 person based on the Certified Natural Beef Cattle Marketing Program having 13 producers enrolled as of January 2019.

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 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.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted by email on May 22, 2019.

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

/s/ Cort Jensen
Cort Jensen
Rule Reviewer

/s/ Ben Thomas
Ben Thomas
Director
Agriculture

Certified to the Secretary of State May 28, 2019.

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

In the matter of the amendment of)
ARM 24.159.301 definitions,)
24.159.403 nonroutine applications,)
24.159.606 educational facilities for)
programs, 24.159.612 program annual)
report, 24.159.655 program faculty,)
24.159.670 curriculum goals and)
general requirements for programs,)
24.159.1037 and 24.159.1237)
renewals, 24.159.2020 alternative)
monitoring track, 24.159.2102 biennial)
continuing education requirements,)
24.159.2106 auditing of contact hours)

NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENT

TO: All Concerned Persons

1. On July 2, 2019, at 10:00 a.m., a public hearing will be held in the Small Conference Room, 301 South Park Avenue, 4th Floor, Helena, Montana, to consider the proposed amendment of the above-stated rules.

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 Nursing (board) no later than 5:00 p.m., on June 25, 2019, to advise us of the nature of the accommodation that you need. Please contact Missy Poortenga, Board of Nursing, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2380; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or nurse@mt.gov (board's e-mail).

3. GENERAL STATEMENT OF REASONABLE NECESSITY: Following a 2014 National Council of State Boards of Nursing study published by the Journal of Nursing Regulation, several Montana nursing education programs approached the board in early 2018 to establish regulatory oversight of simulation in the clinical setting. The study demonstrated that up to 50 percent of clinical hours may be replaced with simulation hours without a difference in outcomes for NCLEX results or new graduates' initial clinical practice. An initial task force was established to consider the requests.

In October 2018, the board created a rules task force to review and recommend updates to the current administrative rules. At the same time, the board reconvened the simulation task force to consider any rule changes necessary to define and regulate clinical simulation in prelicensure education programs. The

simulation task forces met several times and made final recommendations that the full board reviewed and discussed at the April 2019 meeting.

Therefore, the board determined it is reasonably necessary to amend several rules to incorporate task force suggestions including defining "simulation" and adding requirements to faculty, curriculum, and annual report rules regarding simulation to better ensure the adequate clinical preparation of Montana licensed nurses. Where additional specific bases for a proposed action exist, the board will identify those reasons immediately following that rule.

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

24.159.301 DEFINITIONS (1) remains the same.

(2) "Advanced Practice Registered Nurse" or "APRN" means a registered nurse licensed by the board to practice as an advanced practice registered nurse pursuant to 37-8-202, MCA, ~~and ARM 24.159.1414~~. Four APRN roles are recognized by Montana law:

(a) through (38) remain the same.

(39) "Simulation" means instructional techniques designed to replace or amplify real clinical nursing experiences with guided experiences that evoke or replicate substantial aspects of the real world in a fully interactive manner. The evidence-based learning shall replicate patient care scenarios and are designed to foster clinical decision-making and critical thinking. Scenarios may include the use of medium or high-fidelity mannequins, standardized patients, role playing, and computer-based critical thinking simulations. An instructional simulation scenario shall include the elements of pre-briefing, replication of a patient care scenario, and debriefing. Skill acquisition and task training alone, as in the traditional use of a skills laboratory, do not qualify as simulated client care and therefore do not meet the requirements for direct client care hours.

(39) through (46) remain the same but are renumbered (40) through (47).

AUTH: 37-1-131, 37-8-202, MCA

IMP: 37-1-131, 37-8-101, 37-8-102, 37-8-202, 37-8-422, MCA

REASON: The board is amending (2) to remove a reference to a repealed rule. The board is adding a definition for "simulation" to give structure and clarity to the simulation task force-recommended changes to ARM 24.159.612, 24.159.655, and 24.159.670 in this notice. This definition is consistent with national trends and best practice definitions.

24.159.403 NONROUTINE APPLICATIONS (1) through (2)(e) remain the same.

(f) the applicant's conviction of:

(i) a felony crime, unless the conviction occurred more than ten years prior to the date of application and all court-ordered conditions have been fully satisfied or discharged;

(ii) through (4) remain the same.

AUTH: 37-1-131, 37-8-202, MCA

IMP: 37-1-101, 37-1-131, 37-8-405, 37-8-406, 37-8-415, 37-8-416, 37-8-421, MCA

REASON: The board is amending this rule to limit those felony convictions that classify an application as nonroutine that requires board review prior to licensure. Recently, board staff noticed several applications deemed nonroutine solely due to 20+ year-old felony convictions. Because most very old felonies do not provide any basis for denying or issuing a conditional license, the board concluded this provision unnecessarily delayed applicants' ability to test or gain employment. Many states and other Montana professional licensing boards limit how a resolved felony conviction can impact an application for licensure, consistent with the legislature's policy to contribute to the rehabilitation of criminal offenders. The board determined that this amendment will continue ensuring qualified licensees while allowing the board to be more consistent with that policy.

24.159.606 EDUCATIONAL FACILITIES FOR PROGRAMS (1) through (4) remain the same.

(a) Cooperative agreements between nursing programs and clinical agencies must be current, in writing, signed by the responsible officers of each, and must set forth the following:

(i) and (ii) remain the same.

(iii) agency's roles and responsibilities for student oversight and communication with faculty; and

~~(iv) student responsibilities; and~~

(v) remains the same but is renumbered (iv).

AUTH: 37-8-202, 37-8-301, MCA

IMP: 37-8-202, 37-8-301, MCA

REASON: During several school site visits, staff noted that the student responsibilities section was missing from the contracts between clinical agencies and nursing education programs. It was discovered that the clinical sites, usually hospitals, utilize a standard template for all clinical arrangements and the standard language does not include student responsibilities. Following suggestions by the rules task force, the board concluded that the nursing education programs adequately address student responsibilities within the student handbooks and is striking this requirement from the cooperative agreements.

24.159.612 PROGRAM ANNUAL REPORT (1) remains the same.

(2) The purpose of the annual report is to provide current data for ongoing program evaluation by the board. The report must include:

(a) through (e) remain the same.

(f) description of progress made by program on improvements recommended by the board or program's accrediting body; ~~and~~

(g) use of clinical simulation; and

(g) remains the same but is renumbered (h).

AUTH: 37-8-202, 37-8-301, MCA

IMP: 37-8-202, 37-8-301, 37-8-302, MCA

24.159.655 PROGRAM FACULTY (1) through (4) remain the same.

(5) Faculty involved in simulations, both didactic and clinical, shall have training in best practices in the use of simulation.

(5) through (9) remain the same but are renumbered (6) through (10).

AUTH: 37-8-202, 37-8-301, MCA

IMP: 37-8-202, 37-8-301, MCA

24.159.670 CURRICULUM GOALS AND GENERAL REQUIREMENTS FOR PROGRAMS (1) remains the same.

(2) The faculty shall develop, review, and update the curriculum on an ongoing basis. The curriculum must meet the following general criteria:

(a) remains the same.

(b) contain content, clinical experiences, and strategies of active learning directly related to program or course goals and objectives, in order to develop safe and effective nursing practice; and

(c) demonstrate that simulation activities are linked to programmatic outcomes; and

(c) remains the same but is renumbered (d).

(3) through (5) remain the same.

(6) For each course utilizing simulation, no more than 50 percent of clinical hours shall be replaced with simulation hours.

AUTH: 37-8-202, 37-8-301, MCA

IMP: 37-8-202, 37-8-301, MCA

24.159.1037 RENEWALS (1) ~~Renewal notices will be sent as specified in ARM 24.101.414.~~ The licensee must fill out the renewal application and return it to the board by the date set by ARM 24.101.413, together with the renewal fee. Upon receiving the renewal application and fee, the board shall issue a certificate of renewal for the two-year period following the renewal date set by ARM 24.101.413. If the renewal application is postmarked after the renewal deadline, it is subject to the late penalty fee specified in ARM 24.101.403.

(2) remains the same.

AUTH: 37-1-131, 37-1-141, 37-8-202, MCA

IMP: 37-1-134, 37-1-141, 37-8-202, MCA

REASON: The board is amending this rule and ARM 24.159.1237 to remove the references to a repealed division rule.

24.159.1237 RENEWALS (1) ~~Renewal notices will be sent as specified in ARM 24.101.414.~~ The licensee must fill out the renewal application and return it to the board by the date set by ARM 24.101.413, together with the renewal fee. Upon receiving the renewal application and fee, the board shall issue a certificate of renewal for the two-year period following the renewal date set by ARM 24.101.413. If the renewal application is postmarked after the renewal deadline, it is subject to the late penalty fee specified in ARM 24.101.403.

(2) remains the same.

AUTH: 37-1-131, 37-1-141, 37-8-202, MCA

IMP: 37-1-134, 37-1-141, 37-8-202, MCA

24.159.2020 ALTERNATIVE MONITORING TRACK (1) remains the same.

(2) With the exception of criminal charges and convictions, licensees may be reported by employers directly to the NAP in lieu of a formal complaint to the board. Failure to enroll or ~~comply~~ with the NAP will result in a formal complaint to the board by the NAP. Failure to comply with the assistance program may result in a formal complaint to the board by the assistance program.

(3) remains the same.

AUTH: 37-8-202, MCA

IMP: 37-8-202, MCA

REASON: Following suggestions from the board's screening panel, the board is amending (2) to no longer require the assistance program submit a complaint to the board for every failure to comply. After reviewing complaints and dismissing several for very minor compliance violations, the screening panel members concluded the current reporting requirement is unnecessarily restrictive. The board determined this amendment will allow the assistance program some reasonable discretion in reporting compliance with the alternative monitoring track.

24.159.2102 BIENNIAL CONTINUING EDUCATION REQUIREMENTS

(1) All licensees must ~~verify on the renewal application the completion of continuing education contact hours during the two-year license renewal period;~~ affirm an understanding of their recurring duty to comply with CE requirements as part of license renewal.

(a) ~~practical~~ Practical nurses must complete a minimum of 24 contact hours during the two-year renewal period;_

(b) ~~registered~~ Registered nurses must complete a minimum of 24 contact hours during the two-year renewal period;_and_

(c) through (5) remain the same.

(6) Licensees may submit a written request prior to the renewal deadline for ~~a waiver or time extension for all or a portion of continuing education requirements on the grounds of extreme~~ an exemption from CE requirements due to hardship. Requests will be considered by the board.

AUTH: 37-1-131, 37-1-319, ~~37-8-202~~, MCA

IMP: 37-1-131, 37-1-306, 37-1-319, MCA

REASON: Following a recommendation by department legal staff, the board is amending (1) to align the affirmation of CE required at renewal with 37-1-306, MCA. The changes align with standardized department procedures and forms by having licensees with mandatory CE affirm an understanding of the requirement and the potential of being audited for compliance.

The board is amending (6) by removing licensees' ability to request CE extensions to align CE provisions with standardized department procedures. Under the standardized audit processes, licensees are provided with adequate time to cure any audit deficiencies and additional extensions are no longer necessary.

Authority citations are being amended to accurately reflect the statutory sources of the board's rulemaking authority.

24.159.2106 AUDITING OF CONTACT HOURS (1) The board may ~~conduct a retrospective random audit of the completion of continuing education by licensees during each two-year renewal period~~ randomly audit up to 50 percent of renewed licensees.

~~(2) The board shall notify licensees of the audit by U.S. mail.~~

~~(3) Licensees shall respond to the notice of audit by the date specified in the notice by submitting proof of completion of continuing education for the renewal period specified by the board. Proof may consist of copies of the continuing education certificates issued by the continuing education provider, transcripts with course descriptions or other verified documentation of course completion.~~

~~(4) (2) Licensees must retain proof of completion of continuing education for the period of no less than two years following the last day of the renewal period during which the continuing education was obtained. All CE must be documented to show proof of completion. Licensees are responsible for maintaining these records for two years following the renewal cycle reporting period and making the records available upon board request. Documentation must include the following:~~

~~(a) licensee name;~~

~~(b) course title and description of content;~~

~~(c) presenter or sponsor;~~

~~(d) course date(s); and~~

~~(e) number of CE hours earned.~~

~~(5) The audit may include five percent of each license category during each renewal period.~~

~~(6) (3) Failure to respond to a board notice of audit may result in disciplinary action against the licensee. Licensees found to be in noncompliance with CE requirements may be subject to administrative suspension.~~

AUTH: 37-1-131, 37-1-319, ~~37-8-202~~, MCA

IMP: 37-1-131, 37-1-306, 37-1-319, 37-1-321, MCA

REASON: The board is amending this rule and striking outdated provisions to align with and further facilitate the department's standardized renewal, administrative

suspension, and audit procedures. The amendments will further streamline the rule for better organization and ease of use for the reader.

The board is amending (1) to allow flexibility in conducting random CE audits. This amendment will allow the board to respond to staffing and budget issues by adjusting the number of licensees audited, while remaining consistent with the statutory maximum of 50 percent in 37-1-306, MCA.

It is reasonably necessary to amend (2) and specify the CE documentation requirements for responding to a random audit. The clarification is necessary to address licensee questions and provide needed guidance to audit personnel.

The board is clarifying in (3) that licensees not in compliance with CE may be subject to administrative suspension per 37-1-321, MCA, and in accordance with standardized department audit processes.

Authority and implementation citations are being amended to accurately reflect all statutes implemented through the rule and provide the complete sources of the board's rulemaking authority.

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 the Board of Nursing, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to nurse@mt.gov, and must be received no later than 5:00 p.m., July 5, 2019.

6. An electronic copy of this notice of public hearing is available at <http://nurse.mt.gov> (department and board's web site). Although the department strives to keep its web sites accessible at all times, concerned persons should be aware that web sites may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing a web site do not excuse late submission of comments.

7. 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 that 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 Nursing, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to nurse@mt.gov; or made by completing a request form at any rules hearing held by the agency.

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

9. Regarding the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.159.301, 24.159.403, 24.159.606, 24.159.612, 24.159.655, 24.159.670, 24.159.1037, 24.159.1237, 24.159.2020, 24.159.2102, and 24.159.2106 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determination is available upon request to the Board of Nursing, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2380; facsimile (406) 841-2305; or to nurse@mt.gov.

10. Missy Poortenga, Executive Officer, has been designated to preside over and conduct this hearing.

BOARD OF NURSING
SHARON SWEENEY FEE, PHD, RN, CNE
PRESIDENT

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

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

Certified to the Secretary of State May 28, 2019.

BEFORE THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PROPOSED
ARM 32.3.104 subject diseases or) AMENDMENT
conditions and 32.4.502 pertaining to)
importation of restricted or prohibited) NO PUBLIC HEARING
alternative livestock) CONTEMPLATED

TO: All Concerned Persons

1. The Department of Livestock proposes to amend the above-stated rules.

2. The Department of Livestock will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Livestock no later than 5:00 p.m. on July 1, 2019, to advise us of the nature of the accommodation that you need. Please contact the Department of Livestock, 301 N. Roberts St., Room 308, P.O. Box 202001, Helena, MT 59620-2001; telephone: (406) 444-9321; TTD number: 1 (800) 253-4091; fax: (406) 444-1929; e-mail: MDOLcomments@mt.gov.

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

32.3.104 SUBJECT DISEASES OR CONDITIONS (1) Diseases or conditions affecting multiple species that require reporting, and quarantine when indicated, under department rules are:

- ~~(a) Anthrax (Bacillus anthracis) (quarantine);~~
- ~~(b) Bluetongue;~~
- ~~(c) Brucellosis, bovine (Brucella abortus) (quarantine);~~
- ~~(d) Brucellosis, caprine and ovine (Brucella melitensis) (quarantine);~~
- ~~(e) Brucellosis, porcine (Brucella suis) (quarantine);~~
- ~~(f) Crimean Congo hemorrhagic fever (quarantine);~~
- ~~(g) Echinococcosis/hydatidosis;~~
- ~~(h) Foot and mouth disease (FMD) (quarantine);~~
- ~~(i) Heartwater (Cowdria ruminantium) (quarantine);~~
- ~~(j) Heartworm;~~
- ~~(k) Japanese encephalitis (quarantine);~~
- ~~(l) Leishmaniasis;~~
- ~~(m) Leptospirosis;~~
- ~~(n) Listeriosis;~~
- ~~(o) Mange, psoroptic (Psoroptes ovis) (quarantine);~~
- ~~(p) Mange, chorioptic (Chorioptes bovis);~~
- ~~(q) Mange, sarcoptic (Sarcoptes scabiei bovis);~~
- ~~(r) New and Old World Screwworm (Cochliomya [Callitroga] hominivorax Chrysomya bezziana) (quarantine);~~

- ~~(s) Paratuberculosis (Johne's Disease, *Mycobacterium paratuberculosis*);~~
- ~~(t) Plague (*Yersinia pestis*);~~
- ~~(u) Pseudorabies (Aujeszky's disease) (quarantine);~~
- ~~(v) Q Fever (*Coxiella burnetti*);~~
- ~~(w) Rabies (quarantine);~~
- ~~(x) Rift Valley fever (quarantine);~~
- ~~(y) Rinderpest (quarantine);~~
- ~~(z) Salmonellosis (*Salmonella enteritidis enteritidis*);~~
- ~~(aa) Trichinellosis (*Trichinella spiralis*);~~
- ~~(ab) Tuberculosis (*Mycobacterium bovis*) (quarantine);~~
- ~~(ac) Tularemia (*Francisella tularensis*);~~
- ~~(ad) Vesicular stomatitis (VS) (quarantine);~~
- ~~(ae) West Nile fever/encephalitis (WNV).~~
- ~~(2) Diseases or conditions affecting bovines that require reporting, and quarantine when indicated, under department rules are:~~
 - ~~(a) Bovine anaplasmosis (*Anaplasma marginale*, *A. centrale*);~~
 - ~~(b) Bovine babesiosis (*Babesia bovis*, *B. bigemina*) (quarantine);~~
 - ~~(c) Bovine genital campylobacteriosis (*Campylobacter fetus venerealis*);~~
 - ~~(d) Bovine spongiform encephalopathy (BSE) (quarantine);~~
 - ~~(e) Bovine viral diarrhea (BVD);~~
 - ~~(f) Contagious bovine pleuropneumonia (*Mycoplasma mycoides mycoides*) (quarantine);~~
 - ~~(g) Enzootic bovine leukosis (BLV);~~
 - ~~(h) Hemorrhagic septicemia (*Pasteurella multocida*, serotypes B/Asian or E/African);~~
 - ~~(i) Infectious bovine rhinotracheitis/infectious pustular vulvovaginitis (IBR/IPV);~~
 - ~~(j) Lumpy skin disease (quarantine);~~
 - ~~(k) Malignant catarrhal fever (MCF, Bovine malignant catarrh, wildebeest associated);~~
 - ~~(l) Theileriosis (*Theileria annulata*, *T. parva*) (quarantine);~~
 - ~~(m) Trichomoniasis (*Tritrichomonas* [*Trichomonas*] *foetus*) (quarantine);~~
 - ~~(n) Trypanosomosis (Tse-tse borne, *Trypanosoma congolense*, *T. vivax*, *T. brucei brucei*) (quarantine).~~
- ~~(3) Diseases or conditions affecting caprines or ovines that require reporting, and quarantine when indicated, under department rules are:~~
 - ~~(a) Caprine arthritis/encephalitis (CAE);~~
 - ~~(b) Contagious agalactia (*Mycoplasma agalactiae*, *M. capricolum*, *M. putrefaciens*, *M. mycoides mycoides*, *M. mycoides mycoides* LC) (quarantine);~~
 - ~~(c) Contagious caprine pleuropneumonia (*Mycoplasma capricolum capripneumoniae*) (quarantine);~~
 - ~~(d) Contagious footrot (*Bacteroides nodosus* and *Fusobacterium necrophorum*) (quarantine);~~
 - ~~(e) Enzootic abortion of ewes (Ovine psittacosis, *Chlamydia psittaci*);~~
 - ~~(f) Nairobi sheep disease (quarantine);~~
 - ~~(g) Ovine epididymitis (*Brucella ovis*);~~
 - ~~(h) Ovine progressive pneumonia/Maedi-Visna (OPP);~~

- ~~(i) Pediculosis (*Linognathus ovillus*, *L. pedalis*, *L. oviformis*, *L. stenopsis*, *Damalinia ovis*, *D. caprae*, *D. limbatus*, or *Holokartikos crassipes*) (quarantine);~~
- ~~(j) Peste des petits ruminants (quarantine);~~
- ~~(k) Salmonellosis (*Salmonella abortusovis*);~~
- ~~(l) Scrapie (quarantine);~~
- ~~(m) Sheep pox and goat pox (quarantine).~~
- ~~(4) Diseases or conditions affecting equines that require reporting, and quarantine when indicated, under department rules are:~~
 - ~~(a) African horse sickness (quarantine);~~
 - ~~(b) Contagious equine metritis (*CEM*, *Taylorella equigenitalis*) (quarantine);~~
 - ~~(c) Dourine (*Trypanosoma equiperdum*) (quarantine);~~
 - ~~(d) Equine encephalomyelitis (Eastern [EEE] or Western [WEE]);~~
 - ~~(e) Equine infectious anemia (EIA) (quarantine);~~
 - ~~(f) Equine influenza (Virus Type A);~~
 - ~~(g) Equine piroplasmosis (Babesiosis, *Babesia* [*Piroplasma*] *equi*, *B. caballii*) (quarantine);~~
 - ~~(h) Equine rhinopneumonitis (EHV-1 and EHV-4);~~
 - ~~(i) Equine viral arteritis (EVA) (quarantine);~~
 - ~~(j) Glanders (*Pseudomonas mallei*) (quarantine);~~
 - ~~(k) Surra (*Trypanosoma evansi*) (quarantine);~~
 - ~~(l) Venezuelan equine encephalomyelitis (VEE) (quarantine).~~
- ~~(5) Diseases or conditions affecting porcines that require reporting, and quarantine when indicated, under department rules are:~~
 - ~~(a) African swine fever (quarantine);~~
 - ~~(b) Classical swine fever (Hog cholera) (quarantine);~~
 - ~~(c) Nipah virus encephalitis (quarantine);~~
 - ~~(d) Porcine cysticercosis (*Cysticercus cellulosae*);~~
 - ~~(e) Porcine reproductive and respiratory syndrome (PRRS);~~
 - ~~(f) Swine vesicular disease (quarantine);~~
 - ~~(g) Transmissible gastroenteritis (TGE).~~
- ~~(6) Diseases or conditions affecting avians that require reporting, and quarantine when indicated, under department rules are:~~
 - ~~(a) Avian chlamydiosis (Ornithosis and psittacosis, *Chlamydia psittaci*);~~
 - ~~(b) Avian infectious bronchitis;~~
 - ~~(c) Avian infectious laryngotracheitis (ILT);~~
 - ~~(d) Avian mycoplasmosis (*Mycoplasma gallisepticum* or *M. synoviae*);~~
 - ~~(e) Duck virus hepatitis (DVH);~~
 - ~~(f) Exotic Newcastle disease (END) (quarantine);~~
 - ~~(g) Fowl cholera (Avian pasteurellosis, *Pasteurella multocida*);~~
 - ~~(h) Fowl typhoid (*Salmonella gallinarum*) (quarantine);~~
 - ~~(i) Highly pathogenic avian influenza (HPAI, fowl plague) (quarantine);~~
 - ~~(j) Infectious bursal disease (Gumboro disease);~~
 - ~~(k) Marek's disease;~~
 - ~~(l) Pullorum disease (*Salmonella pullorum*) (quarantine);~~
 - ~~(m) Turkey rhinotracheitis (Avian pneumovirus).~~
- ~~(7) Diseases or conditions affecting aquaculture (commercial food fish) that require reporting, and quarantine when indicated, under department rules are:~~

- (a) ~~Viral hemorrhagic septicemia;~~
- (b) ~~Spring viremia of carp;~~
- (c) ~~Infectious hematopoietic necrosis;~~
- (d) ~~Epizootic hematopoietic necrosis;~~
- (e) ~~Oncorhynchus masou virus disease.~~
- (8) ~~Diseases and conditions affecting cervids that require reporting, and quarantine when indicated, under department rules are:~~
- (a) ~~Chronic wasting disease (CWD) (quarantine).~~
- (9) ~~Diseases and conditions affecting lagomorphs that require reporting, and quarantine when indicated, under department rules are:~~
- (a) ~~Myxomatosis;~~
- (b) ~~Rabbit hemorrhagic disease (quarantine).~~
- (10) ~~Other diseases or conditions may become subject to the rules of this subchapter by the order of the state veterinarian.~~
- (11) ~~Diseases or conditions listed above requiring procedures which are specifically covered elsewhere in department rules are subject to the rules of this subchapter upon the order of the state veterinarian.~~
- (a) Akabane virus;
- (b) Anthrax (*Bacillus anthracis*) (quarantine);
- (c) Bluetongue;
- (d) Brucellosis, bovine (*Brucella abortus*) (quarantine);
- (e) Brucellosis, caprine and ovine (*Brucella melitensis*) (quarantine);
- (f) Brucellosis, porcine (*Brucella suis*) (quarantine);
- (g) Crimean Congo hemorrhagic fever (quarantine);
- (h) Echinococcosis/hydatidosis;
- (i) Foot and mouth disease (FMD) (quarantine);
- (j) Heartwater (*Cowdria ruminantium*) (quarantine);
- (k) Heartworm;
- (l) Japanese encephalitis (quarantine);
- (m) Leishmaniasis;
- (n) Longhorned tick;
- (o) Mange, psoroptic (*Psoroptes ovis*) (quarantine);
- (p) Mange, chorioptic (*Chorioptes bovis*);
- (q) Mange, sarcoptic (*Sarcoptes scabiei bovis*);
- (r) Melioidosis;
- (s) New and Old World Screwworm (*Cochliomya* [*Callitroga*] *hominivorax* *Chrysomya bezziana*) (quarantine);
- (t) Paratuberculosis (Johne's Disease, *Mycobacterium paratuberculosis*);
- (u) Plague (*Yersinia pestis*);
- (v) Pseudorabies (Aujeszky's disease) (quarantine);
- (w) Q-Fever (*Coxiella burnetti*);
- (x) Rabies (quarantine);
- (y) Rift Valley fever (quarantine);
- (z) Rinderpest (quarantine);
- (aa) Salmonellosis (*Salmonella enteritidis enteritidis*);
- (ab) Trichinellosis (*Trichinella spiralis*);
- (ac) Tuberculosis (*Mycobacterium bovis*) (quarantine);

- (ad) Tularemia (*Francisella tularensis*);
- (ae) Vesicular stomatitis (VS) (quarantine);
- (af) West Nile fever/encephalitis (WNV).
- (2) Diseases or conditions affecting bovines that require reporting, and quarantine when indicated, under department rules are:
 - (a) Bovine anaplasmosis (*Anaplasma marginale*, *A. centrale*);
 - (b) Bovine babesiosis (*Babesia bovis*, *B. bigemina*) (quarantine);
 - (c) Bovine genital campylobacteriosis (*Campylobacter fetus venerealis*);
 - (d) Bovine spongiform encephalopathy (BSE) (quarantine);
 - (e) Bovine viral diarrhea (BVD);
 - (f) Cattle fever tick (*Boophilus annulatus*, *B. microplus*) (quarantine);
 - (g) Contagious bovine pleuropneumonia (*Mycoplasma mycoides mycoides*) (quarantine);
 - (h) Enzootic bovine leukosis (BLV);
 - (i) Hemorrhagic septicemia (*Pasteurella multocida*, serotypes B/Asian or E/African);
 - (j) Infectious bovine rhinotracheitis/infectious pustular vulvovaginitis (IBR/IPV);
 - (k) Lumpy skin disease (quarantine);
 - (l) Malignant catarrhal fever (MCF, Bovine malignant catarrh, wildebeest associated) (quarantine);
 - (m) Theileriosis (*Theileria annulata*, *T. parva*) (quarantine);
 - (n) Trichomoniasis (*Tritrichomonas* [*Trichomonas*] *foetus*) (quarantine);
 - (o) Trypanosomiasis (Tse-tse borne, *Trypanosoma congolense*, *T. vivax*, *T. brucei brucei*) (quarantine).
- (3) Diseases or conditions affecting caprines or ovines that require reporting, and quarantine when indicated, under department rules are:
 - (a) Caprine arthritis/encephalitis (CAE);
 - (b) Contagious agalactia (*Mycoplasma agalactiae*, *M. capricolum*, *M. putrefaciens*, *M. mycoides mycoides*, *M. mycoides mycoides* LC) (quarantine);
 - (c) Contagious caprine pleuropneumonia (*Mycoplasma capricolum capripneumoniae*) (quarantine);
 - (d) Contagious footrot (*Bacteroides nodosus* and *Fusobacterium necrophorum*) (quarantine);
 - (e) Enzootic abortion of ewes (*Ovine psittacosis*, *Chlamydia psittaci*);
 - (f) Nairobi sheep disease (quarantine);
 - (g) Ovine epididymitis (*Brucella ovis*);
 - (h) Ovine progressive pneumonia/Maedi-Visna (OPP);
 - (i) Peste des petits ruminants (quarantine);
 - (j) Salmonellosis (*Salmonella abortusovis*);
 - (k) Scrapie (quarantine);
 - (l) Sheep pox and goat pox (quarantine).
- (4) Diseases or conditions affecting equines that require reporting, and quarantine when indicated, under department rules are:
 - (a) African horse sickness (quarantine);
 - (b) Contagious equine metritis (CEM, *Taylorella equigenitalis*) (quarantine);
 - (c) Dourine (*Trypanosoma equiperdum*) (quarantine);

- (d) Equine encephalomyelitis (Eastern [EEE] or Western [WEE]) (quarantine);
- (e) Equine infectious anemia (EIA) (quarantine);
- (f) Equine influenza (Virus Type A);
- (g) Equine piroplasmiasis (Babesiosis, Babesia [Piroplasma] equi, B. caballi) (quarantine);
- (h) Equine rhinopneumonitis (EHV-1 and EHV-4);
- (i) Equine viral arteritis (EVA) (quarantine);
- (j) Glanders (Pseudomonas mallei) (quarantine);
- (k) Hendra virus (quarantine);
- (l) Surra (Trypanosoma evansi) (quarantine);
- (m) Strangles;
- (n) Pigeon fever;
- (o) Venezuelan equine encephalomyelitis (VEE) (quarantine).
- (5) Diseases or conditions affecting porcines that require reporting, and quarantine when indicated, under department rules are:
 - (a) African swine fever (quarantine);
 - (b) Classical swine fever (Hog cholera) (quarantine);
 - (c) Delta corona virus;
 - (d) Nipah virus encephalitis (quarantine);
 - (e) Porcine cysticercosis (Cysticercus cellulosae);
 - (f) Porcine epidemic diarrhea;
 - (g) Porcine reproductive and respiratory syndrome (PRRS);
 - (h) Seneca Valley virus/Seneca virus A (quarantine);
 - (i) Swine influenza;
 - (j) Swine vesicular disease (quarantine);
 - (k) Transmissible gastroenteritis (TGE);
 - (l) Vesicular exanthema (quarantine).
- (6) Diseases or conditions affecting avians that require reporting, and quarantine when indicated, under department rules are:
 - (a) Avian chlamydiosis (Ornithosis and psittacosis, Chlamydia psittaci);
 - (b) Avian infectious bronchitis;
 - (c) Avian infectious laryngotracheitis (ILT);
 - (d) Avian mycoplasmosis (Mycoplasma gallisepticum or M. synoviae);
 - (e) Exotic Newcastle disease (END) (quarantine);
 - (f) Fowl typhoid (Salmonella gallinarum) (quarantine);
 - (g) Highly pathogenic avian influenza (HPAI, fowl plague) (quarantine);
 - (h) Low pathogenic avian influenza (quarantine);
 - (i) Infectious bursal disease (Gumboro disease);
 - (j) Pullorum disease (Salmonella pullorum) (quarantine);
 - (k) Turkey rhinotracheitis (Avian pneumovirus).
- (7) Diseases or conditions affecting aquaculture (commercial food fish) that require reporting, and quarantine when indicated, under department rules are:
 - (a) Epizootic hematopoietic necrosis;
 - (b) Epizootic ulcerative syndrome;
 - (c) Gyrocactylosis;
 - (d) Infectious hematopoietic necrosis;

- (e) Infectious salmon anemia;
- (f) Koi herpesvirus disease;
- (g) Red sea bream iridoviral disease;
- (h) Salmonid alphavirus;
- (i) Spring viremia of carp;
- (j) Viral hemorrhagic septicemia (quarantine).
- (8) Diseases and conditions affecting cervids that require reporting, and quarantine when indicated, under department rules are:
 - (a) Chronic wasting disease (CWD) (quarantine);
 - (b) Epizootic hemorrhagic disease.
- (9) Diseases and conditions affecting lagomorphs that require reporting, and quarantine when indicated, under department rules are:
 - (a) Myxomatosis;
 - (b) Rabbit hemorrhagic disease (quarantine).
- (10) Diseases and conditions affecting canids that require reporting, and quarantine when indicated, under department rules are:
 - (a) Brucella canis.
- (11) Other diseases or conditions may become subject to the rules of this subchapter by the order of the state veterinarian.
- (12) Diseases or conditions listed above requiring procedures which are specifically covered elsewhere in department rules are subject to the rules of this subchapter upon the order of the state veterinarian.

AUTH: 81-2-102, 81-2-103, 81-20-101, MCA
IMP: 81-2-102, 81-20-101, MCA

REASON: The department proposes necessary changes to ARM 32.3.104 that will allow the department to track and manage diseases of special interest to Montana's livestock industries.

The proposed changes will also assist the department with reporting responsibilities to national and international animal health officials.

32.4.502 IMPORTATION OF RESTRICTED OR PROHIBITED ALTERNATIVE LIVESTOCK (1) through (1)(b) remain the same.

~~(c) Wild or captive elk, mule deer, and whitetail deer may not be imported or transported from a geographic area or alternative livestock farm where chronic wasting disease is endemic or has been diagnosed unless they meet all importation requirements, transportation requirements and any other requirements mandated by statute, rule or order of the state veterinarian under the authority of Title 81, chapter 2, MCA.~~ Importation of wild or captive elk, mule deer, and whitetail deer into Montana, except direct to slaughter, is restricted except pursuant to a diagnostic technique and test protocol for the antemortem detection of chronic wasting disease that is approved by the state veterinarian. No animal may be imported from a geographic area or alternative livestock area where chronic wasting disease is endemic or has been diagnosed.

(2) through (4) remain the same.

AUTH: 87-4-422, MCA
IMP: 87-4-422, MCA

REASON: Due to the increasing numbers of detections of chronic wasting disease and the percentage of these detections in certified herds, the department is proposing that the importation of cervids to Montana for reasons other than slaughter be prohibited until an acceptable antemortem test for CWD is available, to protect both alternative livestock and wildlife in Montana.

4. Concerned persons may submit their data, views, or arguments in writing concerning the proposed action to the Executive Officer, Department of Livestock, 301 N. Roberts St., Room 308, P.O. Box 202001, Helena, MT 59620-2001, by faxing to (406) 444-1929, or by e-mailing to MDOLcomments@mt.gov to be received no later than 5:00 p.m., July 5, 2019.

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 a written request for a hearing and submit this request along with any written comments they have to the same address as above. The written request for hearing must be received no later than 5:00 p.m., July 5, 2019.

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 businesses 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 public hearing will be held at a later date. Notice of the public hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 4, based upon those current producers who hold an active alternative livestock license and 71 active veterinarians who would be required to report and quarantine animals having the diseases listed in ARM 32.3.104.

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 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.

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 amendment of the above-referenced rules will not significantly and directly impact small businesses.

BY: /s/ Michael S. Honeycutt
Michael S. Honeycutt
Board of Livestock
Department of Livestock

BY: /s/ Cinda Young-Eichenfels
Cinda Young-Eichenfels
Rule Reviewer

Certified to the Secretary of State May 28, 2019.

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 37.34.3005 pertaining to) PROPOSED AMENDMENT
migrating billing to Medicaid)
Management Information System)
(MMIS))

TO: All Concerned Persons

1. On June 28, 2019, at 11:00 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 of 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 the Department of Public Health and Human Services no later than 5:00 p.m. on June 18, 2019, to advise us of the nature of the accommodation that you need. Please contact Gwen Knight, 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 rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

37.34.3005 REIMBURSEMENT FOR SERVICES OF MEDICAID FUNDED DEVELOPMENTAL DISABILITIES HOME AND COMMUNITY-BASED SERVICES (HCBS) WAIVER PROGRAMS (1) remains the same.

(2) The department adopts and incorporates by this reference the rates of reimbursement for the delivery of services and items available through each Home and Community-Based Services Waiver Program as specified in the ~~Montana Developmental Disabilities Program Manual of Service Rates and Procedures of Reimbursement for Home and Community-Based Services (HCBS) 1915c, 0208, and 0667 Waiver Programs, effective July 1, 2018, as revised and labeled "version 3~~ Montana Developmental Disabilities Program Services Manual, effective July 1, 2019." A copy of the manual may be obtained through the Department of Public Health and Human Services, Developmental Services Division, Developmental Disabilities Program, 111 N. Sanders, P.O. Box 4210, Helena, MT 59604-4210 and at <http://dphhs.mt.gov/dsd/developmentaldisabilities/DDPratesinf>.

AUTH: 53-2-201, 53-6-402, MCA
IMP: 53-2-201, 53-6-402, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.34.3005, which pertains to reimbursement for services of Medicaid-funded developmental disabilities 0208 Home and Community-Based 1915(c) for Individuals with Developmental Disabilities waiver programs. Pursuant to 53-6-402, MCA, the Montana Legislature has directed the department to use the administrative rulemaking process to implement each program of home and community-based services.

The proposed rule amendment adopts and incorporates an updated manual, which would have an effective date retroactive to July 1, 2019. The updated manual:

- (1) revises rates to reflect the appropriation by the 2019 Montana Legislature;
- (2) establishes billing codes and procedures necessary to simplify the billing process and accommodate migration to a reimbursement system called Medicaid Management Information System (MMIS); and
- (3) reformats the prior manual to provide more clarity for providers and make it compliant with the Americans with Disabilities Act (ADA).

Proposed Provider Rate Changes

The department is proposing provider rate changes effective July 1, 2019, for 0208 Home and Community-Based 1915(c) for Individuals with Developmental Disabilities waiver services in accordance with the funding appropriated by the Montana Legislature during the 2019 regular session.

Additionally, some daily rates that were previously based on an hourly reimbursement would be converted to daily tier-based reimbursement. Reimbursement tiers are proposed to reflect the wide range of individual needs of members receiving congregate living and congregate work/day/retirement services. Each proposed tier encompasses a range of hours of service tied to the plan of care as outlined in a member's Individual Cost Plan. The daily rate for each proposed tier was calculated using the highest hourly rate for residential habilitation, and multiplying by the number of daily hours in that tier. Reimbursement is based on the provider meeting the individual plan of care requirements.

Further reasons for changing some services from hourly to daily rates are set forth below.

MMIS

The developmental disabilities program currently uses a system called Agency Wide Accounting and Client System (AWACS) for billing and payments, and as a data-base for maintaining client demographic information. The department is working toward migrating to MMIS for all applicable programs. MMIS will provide ease of

use and uniformity for providers and it will simplify the billing process. The department recently requested an amendment to the 0208 Home and Community-Based 1915(c) for Individuals with Developmental Disabilities waiver to seek approval for the change to daily rates, as above, to meet constraints and business rules in MMIS.

Reformatting

The department is proposing reformatting the manual to provide more clarity for providers. The proposed manual includes a table of contents and greater navigability. In addition, it is presented in a manner that can more easily be reproduced in a format compliant with the ADA.

Summary of Proposed Amendments – Developmental Disabilities Program

ARM 37.34.3005

The department proposes to amend the rule for the purposes of:

(1) Effective June 30, 2019, terminate the Montana Developmental Disabilities Program Manual of Service Rates and Procedures of Reimbursement for Home and Community-Based Services (HCBS) 1915c 0208 and Waiver Program, and now reference the Montana Developmental Disabilities Program Services Manual, effective July 1, 2019.

Fiscal Impact

The department estimates that the proposed amendment would cost approximately \$3,041,996 federal dollars and \$1,246,679 state general fund dollars.

5. 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: Gwen Knight, 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., July 5, 2019.

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

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 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 5 above 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, apply and have been fulfilled. The primary bill sponsor was notified by email on May 28, 2019.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rule may have a positive impact on small businesses that contract with the Developmental Disability Program to deliver waiver services.

Approximately 50 percent of Developmental Disability waiver contractors have fewer than 50 full-time employees. The amendment provides a rate increase for the identified services, and therefore a probable increase in revenue. The amendment will direct providers to bill directly through the state's Medicaid system (MMIS), which allows for billing on a more frequent basis than was previously allowed. In addition, the reimbursement for congregate services has been simplified and moved to daily rates.

10. Section 53-6-196, MCA, requires that the department, when adopting by rule proposed changes in the delivery of services funded with Medicaid monies, make a determination of whether the principal reasons and rationale for the rule can be assessed by performance-based measures and, if the requirement is applicable, the method of such measurement. The statute provides that the requirement is not applicable if the rule is for the implementation of rate increases or of federal law.

The department has determined that the proposed program changes presented in this notice are not appropriate for performance-based measurement and therefore are not subject to the performance-based measures requirement of 53-6-196, MCA.

/s/ Jennifer C. Kaleczyc
Jennifer C. Kaleczyc
Rule Reviewer

/s/ Laura Smith, Deputy Director for
Sheila Hogan, Director
Public Health and Human Services

Certified to the Secretary of State May 28, 2019.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the adoption of New Rule I and the amendment of ARM 42.12.106 and 42.12.128 pertaining to industry trade shows, catering endorsements, and catered events) NOTICE OF PUBLIC HEARING ON PROPOSED ADOPTION AND AMENDMENT))))

TO: All Concerned Persons

1. On June 28, 2019, at 10:00 a.m., the Department of Revenue will hold a public hearing in the Third Floor Reception Area Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana, to consider the proposed adoption and amendment of the above-stated rules. The conference room is most readily accessed by entering through the east doors of the building.

2. The Department of Revenue 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, please advise the department of the nature of the accommodation needed, no later than 5 p.m. on June 14, 2019. Please contact Todd Olson, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or todd.olson@mt.gov.

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

NEW RULE I ALCOHOLIC BEVERAGE INDUSTRY TRADE SHOWS

(1) An all-beverage licensee may host an industry trade show at the licensee's licensed premises or may cater an industry trade show pursuant to ARM 42.12.128.

(2) For the purpose of this rule, an industry trade show means an event sponsored by a nonprofit association representing an alcoholic beverage industry, and where alcoholic beverages are provided to attendees for promotional purposes. An industry trade show shall not be open to the public. A nonprofit association may not sponsor more than one industry trade show per year.

(3) All attendees of an industry trade show must be admitted by the event sponsor and have an affiliation to the alcoholic beverage industry or a related industry or are a family member or partner of such persons and may include public office holders and candidates for public office.

(4) A vendor, as defined in ARM 42.11.105, with a current vendor permit, as provided in ARM 42.11.213, may request a trade show case from the department for use at an industry trade show. A trade show case means a case of liquor product used by a registered vendor representative for promoting a vendor's liquor products to attendees of an industry trade show. A liquor product that has not been approved by the department may not be included in a trade show case.

(a) Except as provided in 16-4-311, MCA, the vendor must ship the trade

show case to the state liquor warehouse at no charge to the department.

(b) In order for an industry trade show case to be removed from bailment at the state liquor warehouse, a vendor must submit a request electronically on a form provided by the department at least seven days prior to the requested ship date to the agency liquor store.

(c) A trade show case must be purchased by a registered vendor representative, as defined in ARM 42.11.211, from an agency liquor store at a cost of \$12.00 per case.

(d) A vendor is limited to providing a maximum of nine liters of each liquor product per calendar year.

(5) An alcoholic beverage manufacturer who intends to provide beer or table wine at an industry trade show must purchase the beer or table wine from the licensee hosting the trade show for no more than the ordinary retail price.

(6) At the conclusion of an industry trade show, any remaining alcoholic beverages may be retained by the alcoholic beverage manufacturer or vendor, the alcoholic beverage manufacturer or vendor's employees, or registered vendor representatives for a future industry trade show; used for sampling purposes; or given to attendees of the industry trade show at the discretion of the alcoholic beverage manufacturer or vendor, the alcoholic beverage manufacturer or vendor's employees or registered vendor representatives.

(7) A licensee who hosts an industry trade show is ultimately responsible for ensuring compliance with all alcoholic beverage laws and regulations, violations of which may subject the licensee to administrative action.

AUTH: 16-1-303, MCA

IMP: 16-3-107, 16-4-201, 16-4-204, 16-4-311, MCA

REASONABLE NECESSITY: Alcoholic beverage industry trade shows have been conducted in the state of Montana for several years. It has come to the department's attention, based on vendor and industry association feedback, that carrying out a successful and lawful trade show event has been logistically difficult under current administrative rules.

The department proposes to adopt New Rule I to provide an initial framework of administrative rules which outline permissible activities and assign responsibilities regarding the operation of alcoholic beverage industry trade shows to ensure that licensees are in full compliance with Montana's alcoholic beverage laws and regulations.

New Rule I contains seven sections to provide the following:

Section (1) proposes only all-beverage licensees may host or cater industry trade shows. This initial selection is necessary because only all-beverage licensees sell liquor, beer, and wine, and industry trade shows typically showcase all alcoholic beverage types. Other retail alcoholic beverage license types, such as retail on-premises consumption beer licenses or restaurant beer and wine licenses, are not allowed to provide liquor on their premises. In the event the trade show sponsor's venue does not have alcoholic beverage service available to it, then the proposed rule would permit an all-beverage licensee with a catering endorsement to cater the industry trade show event pursuant to Montana law.

Section (2) defines an industry trade show, which is necessary since the term is new and the alcoholic beverage industry needs an understanding of the term. The department proposes to limit industry trade show sponsorship to nonprofit alcoholic beverages associations which are designed to educate and inform licensees and others in the industry about alcoholic beverage products that are available in the state. Given this function of an association, the department believes it is necessary to require trade shows to be closed to the public. The department further proposes to place a sponsor limitation of one industry trade show event per year to prevent overuse of industry trade shows.

Section (3) provides which industry-affiliated individuals can attend an industry trade show. The proposal to limit attendance is intended to maintain the purpose of an industry trade show; and since industry associations are influenced by, or develop their own policy agendas, the inclusion of public office candidates or incumbents was deemed necessary as public officials are often invited to speak on policy matters that affect association memberships.

Section (4) proposes to create a new trade show case for a vendor's liquor products and provide a procedure as to how liquor product is routed from the vendor to the industry trade show. The department proposes to define a trade show case, which is necessary since the term is new and the alcoholic beverage industry needs an understanding of the term. The ability to request a trade show case, the fee to the department, and the regulation of who can purchase a trade show case along with the \$12.00 cost are necessary and mirror current rules for liquor sample products. The department proposes that a vendor with a current permit submit the request and a registered vendor representative purchase the product at an agency liquor store to ensure compliance with 16-3-107, MCA. The proposed \$12.00 cost offsets the processing of the request by the department. The department also proposes a maximum allowance of trade show case product that can be provided by a vendor in (4)(d). This restriction is necessary to ensure large quantities of liquor products are not circumventing the normal distribution process.

Section (5) provides the method for an alcoholic beverage manufacturer to provide beer or table wine at an industry trade show. The department proposes that the alcoholic beverage manufacturer be charged no more than ordinary retail price for the beer or table wine to ensure the host licensee does not overcharge the manufacturer for participating in an industry trade show. This provision is necessary to maintain compliance with state law as to how alcoholic beverages are distributed, purchased, and obtained by the alcoholic beverage manufacturer since it is the all-beverage licensee who is the host or caterer of the industry trade show.

Section (6) specifies the disposition of any remaining alcoholic beverage products at the end of an industry trade show. Since the alcoholic beverage manufacturer or vendor purchased the product for their use at an industry trade show, the department proposes to allow the alcoholic beverage manufacturer or vendor to dispose of the product as they choose. This procedure is reasonably necessary and follows current manufacturer protocols for other alcoholic beverage samples.

Section (7) provides that the all-beverage licensee is ultimately responsible for ensuring compliance with all alcoholic beverage laws and regulations during an industry trade show. This is necessary because it is the licensee who is hosting or

catering the industry trade show, and this is an application of existing law where a licensee cannot delegate ultimate responsibility for the service of alcoholic beverages to any other person.

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

42.12.106 DEFINITIONS The following definitions apply to this chapter:

(1) through (7) remain the same.

~~(8) "Catering" means the act of providing, pursuant to a written contract between a licensee with a valid catering endorsement and an unlicensed individual or entity, alcoholic beverages at an event hosted by the unlicensed individual or entity.~~

(8) "Catered event" means a special event for which there is an outcome, conclusion, or result, and where the sale and service of alcoholic beverages is conducted by a licensee who has obtained a catering endorsement.

(9) through (14) remain the same.

(15) "Event barrier" means a barrier enclosing the perimeter of a catered event. The construction, installation, and use criteria of an event barrier is provided in ARM 42.12.128.

(15) through (31) remain the same but are renumbered (16) through (32).

(33) "Registered vendor representative" means the same as provided in ARM 42.11.105.

(32) through (37) remain the same but are renumbered (34) through (39).

~~(38)~~ (40) "Special event," as it relates to special permits and catering, catered events, means a short, infrequent, out-of-the-ordinary occurrence such as a picnic, fair, festival, reception, seasonal event, or sporting event for which there is an outcome, conclusion, or result.

(39) through (43) remain the same but are renumbered (41) through (45).

AUTH: 16-1-303, MCA

IMP: 16-1-302, MCA

REASONABLE NECESSITY: The department proposes to strike the definition for "catering" and replace it with "catered event" in (8) because the contents of the catering definition are contained within the language of ARM 42.12.128 and the amendment minimizes unnecessary redundancy.

The department proposes to add a definition of "event barrier" in proposed (15), which is necessary since the term is new in the context of its application to catered events and the alcoholic beverage industry needs to base an understanding of the term. The definition will be utilized with proposed amendments to ARM 42.12.128 to provide additional guidance to licensees' use of a catered event area enclosure, which is a primary requirement in the licensee's obligation to the public and law enforcement - to indicate where the sale and consumption of catered alcoholic beverages is allowed.

The department proposes to adopt into proposed (33) the definition of "registered vendor representative," which is already provided in ARM 42.11.105, and

relates to the representative's role in industry trade shows in New Rule I.

The department proposes to amend the definition for "special event" in proposed (40) to conform to the new definition of "catered event."

42.12.128 CATERING ENDORSEMENT; CATERED EVENTS; EVENT BARRIERS (1) Any licensee having obtained a catering endorsement under the provisions of 16-4-111 or 16-4-204, MCA, is authorized to sell alcoholic beverages authorized under the license to persons attending a special catered event sponsored by someone other than the licensee and at a locations not otherwise licensed or operating under a special permit. ~~Only the licensee or the licensee's employees are authorized to sell and serve alcoholic beverages at the special event.~~

~~(2) The holder of a catering endorsement may sell and serve alcoholic beverages at retail only at a booth, stand, or other fixed place of business within the exhibition enclosure, confined to specified premises or designated areas described in the notice given to the local law enforcement agency that has jurisdiction over the premises where the event is to be catered. Such a licensee, or the licensee's agents or employees may also sell and serve beer, in the case of an all beverages licensee, or beer and wine, in the case of a beer/wine licensee, in the grandstand or bleacher.~~

~~(3) A catered event may only last for a maximum of three days, except that each licensee may have one special event per year that lasts up to seven days for a fair. A fair is defined in ARM 42.12.106.~~

~~(4) Licensees granted approval to cater such special events are subject to the provisions of 16-3-306, 16-4-111, and 16-4-204, MCA, and ARM 42.13.101.~~

~~(5) Every licensee holding a catering endorsement shall report, on or before the 15th day of each month, those events the licensee catered in the previous month. The report shall include the date, time, the sponsor of the event, and place of the catered event. This report can be provided to the department in letter format.~~

(2) Prior to selling or serving alcoholic beverages at the catered event, the licensee shall:

(a) have an executed written agreement with the event's sponsor;

(b) notify the local law enforcement agency that has jurisdiction over the area where the catered event will be held using a form provided by the department;

(c) pay the local law enforcement agency a \$35 fee, as provided in 16-4-111 and 16-4-204, MCA; and

(d) ensure compliance with the alcoholic beverages sales restrictions provided in 16-3-306, MCA.

(3) A catered event may have more than one licensee cater the event.

Licensees shall prevent the consumption of alcoholic beverages that were not sold or provided at the catered event.

(4) A catered event may last for a maximum of three days, except a licensee may have one catered event per year that lasts up to seven days for a fair, as defined in ARM 42.12.106. For catered events lasting more than one day, the storage of alcoholic beverages may occur at the catered event until the conclusion of the catered event if the alcoholic beverages are in a secured location that prevents service by anyone other than the licensee or licensee's employees.

(5) Alcoholic beverages may be sold and served at the catered event from a booth, stand, or other fixed place of business as designated and described in the

notice given to the local law enforcement agency and may include grandstands or bleachers, as provided for in 16-4-111 and 16-4-204, MCA.

(6) When a licensee conducts a catered event outdoors, when the indoor venue is an open floorplan where the licensee has no control or limited control of patron access in the venue, or when two or more licensees are catering the same event, an event barrier shall be required to clearly mark where the service and consumption of each licensee's alcoholic beverages are allowed. The event barrier:

(a) shall be constructed in a manner that directs or impedes ordinary foot traffic and clearly defines the boundary of the event area;

(b) shall be at least three feet in height at all points;

(c) shall have a clearly defined entrance permitting access to the catered area;

(d) may be shared with an adjoining licensee to define their respective catered event service areas; and

(e) may have a portion consisting of an existing natural or artificial barrier.

(7) When a licensee caters an event that is within 15 feet of its licensed premises, patrons may take alcoholic beverages between the licensed premises and the area authorized for the catered event if the licensee:

(a) notifies the department at least ten days prior to the start of the catered event;

(b) incorporates into the event barrier, a clearly marked path or paths from the public entry of the licensed premises to the public entry of the catered event;

(c) posts signs along the path or paths informing patrons as to where the consumption of alcoholic beverages is allowed and not allowed; and

(d) obtains approval from local government officials for the use of the path or paths.

(8) The sale and service of alcoholic beverages at the catered event may be conducted by:

(a) the licensee or licensee's employees;

(b) volunteers of the licensee; or

(c) the alcoholic beverage manufacturer or vendor, its employees, or registered vendor representatives if:

(i) the licensee gives their explicit consent;

(ii) the alcoholic beverage manufacturer or vendor holds a current alcoholic beverage license, registration, or permit from the department; and

(iii) each person listed in (c) serving alcoholic beverages is current with the Responsible Alcohol Sales and Service Act, provided in 16-4-1005, MCA, prior to the commencement of the catered event.

(9) On or before the 15th day of each month, the licensee shall electronically report, on a form provided by the department, those events the licensee catered in the previous month and shall include a copy of the notification form signed by local law enforcement and a copy of the executed written agreement between the licensee and event sponsor for each catered event.

(10) The licensee who catered the event is ultimately responsible for ensuring compliance with all alcoholic beverage laws and regulations, violations of which may subject the licensee to administrative action.

AUTH: 16-1-303, MCA

IMP: 16-3-103, 16-4-111, 16-4-204, MCA

REASONABLE NECESSITY: In addition to the proposed amendments of ARM 42.12.106, the department also deems it reasonably necessary to propose several amendments to ARM 42.12.128. The department believes that the proposed relocation and restatement of rule content provides better organization of purpose and greater clarity about procedural requirements licensees must address prior to catering an event. The department contends the proposed amendments are necessary to provide additional information regarding catering requirements due to licensee misapplication of catered event requirements.

The department first proposes to amend the catchphrase or title of the rule to include catered events and event barriers. This is necessary for better clarity and referencing of the rule's subject matter and meets the requirements of ARM 1.2.214.

Section (1) proposes to clarify that a catered event cannot be self-sponsored by the licensee or occur concurrently at a location where a special permit to sell beer and table wine has been issued. The department proposes to prohibit conducting a catered event at a location operating under a special permit to prevent the consumption of alcoholic beverages that were not acquired from the licensee and to ensure law enforcement and the public are aware of which entity is responsible for the consumption of alcoholic beverages. The department also proposes striking the last sentence regarding persons authorized to sell and serve alcoholic beverages and proposes a revised version in proposed (8).

Sections (2) through (5) are proposed to be stricken and replaced with restated versions in proposed (2) through (6).

Proposed (2)(a) transfers a requirement found in the current definition of "catering" in ARM 42.12.106(8) that catered events are performed pursuant to the terms of a written agreement between a licensee and its customer. Proposed (2)(b) through (d) relocate and specify the requirements listed in current (4) instead of merely citing to the legal authority; this is necessary for increased clarity. The department also proposes in (2)(b) to require licensees to use a form provided by the department for notifying local law enforcement to ensure this statutory requirement has been conducted.

Section (3) is proposed in order to codify current department practice by explaining that a catered event may be catered by more than one licensee provided that each licensee prevents the consumption of alcoholic beverages at that licensee's catered event space that were not purchased from that licensee. The second proposed requirement would clarify that existing operational conditions at a licensee's premises regarding overconsumption, consumption by underage persons, and preventing consumption of alcoholic beverages that were not purchased from the licensee, apply to catered events.

Section (4) proposes to transfer language from current (3) and adds related catered event requirements for the storage of alcoholic beverages. The department believes the storage requirements are necessary to address the storage and security of the licensee's alcoholic beverages in a uniform manner.

Section (5) is transferred content from current (2), minus the reference to who it is that may serve alcoholic beverages on behalf of the licensee. The provisions

are still pertinent and remain necessary.

Section (6) proposes the requirement that a licensee have an event barrier in place to define the area where the consumption of alcoholic beverages is permissible for the public and law enforcement. The event barrier requirements are much like the requirements for a perimeter barrier that encloses a patio or deck for a licensee's licensed premises as defined in ARM 42.12.106. The department believes this distinct event barrier requirement is necessary as catered events are temporary, and yet they are used in the same context as a licensee's premises - providing a licensee-controlled area to consume alcoholic beverages and preventing overconsumption, consumption by underage persons, and consumption of alcoholic beverages that were not purchased from the licensee.

Section (7) describes an exception for events catered by a licensee within 15 feet of the same licensee's premises. The department understands that in these situations it is common for attendees to want to go back and forth between the catered area and the licensed premises. The department proposes to allow alcoholic beverages to be brought back and forth as the alcoholic beverages were obtained by the licensee in both situations. The department proposes additional requirements, such as clearly marked paths and signage, to ensure law enforcement and the public are aware of the permissible areas to consume alcoholic beverages. The department further proposes advance notice to the department in instances where licensees utilize the exception in (7). The department believes the advance notice requirement is necessary to ensure the department and its investigators and law enforcement are aware of patrons taking alcoholic beverages between the licensed premises and the area authorized for the catered event.

Section (8) proposes to relocate and restate existing language in current (2), together with the requirements of current licensure and registration in (8)(c)(ii) and Responsible Alcohol Sales and Service Act training in (8)(c)(iii). This expanded list of authorized servers is necessary to reflect the alcohol service interactions contemplated at industry trade shows, as provided in the department's proposed New Rule I.

Section (9) proposes to modify existing language in current (5) to require electronic submission of catered event reports together with a copy of the written agreement between the licensee and event sponsor and the signed local law enforcement notification form to verify that catered events are conducted in accordance with Montana law. The department believes the proposed amendment is necessary because of licensee noncompliance with the timeliness and content of catering reports under the current requirements. The move towards online reporting is also consistent with many other department efforts to institute the electronic submission of tax reports and required disclosures. The department maintains a safe, secure online program that allows licensees to submit information and electronic filing will increase efficiency in department processing and review of these reports.

Section (10) provides that the all-beverage licensee is ultimately responsible for ensuring compliance with all alcoholic beverage laws and regulations during a catered event. This is necessary because it is the licensee who is catering alcoholic beverages at events and this is an application of existing law where a licensee cannot delegate ultimate responsibility in the service of alcoholic beverages to any

other person.

5. 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: Todd Olson, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail todd.olson@mt.gov and must be received no later than 5:00 p.m., July 5, 2019.

6. Todd Olson, Department of Revenue, Director's Office, has been designated to preside over and conduct the hearing.

7. The Department of Revenue 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 that the person wishes to receive notice regarding particular subject matter or matters. Notices will be sent by e-mail unless a mailing preference is noted in the request. A written request may be mailed or delivered to the person in 5 above or faxed to the office at (406) 444-3696 or may be made by completing a request form at any rules hearing held by the Department of Revenue.

8. An electronic copy of this notice is available on the department's web site at www.revenue.mt.gov, or through the Secretary of State's web site at sosmt.gov/ARM/register.

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

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

/s/ Todd Olson
Todd Olson
Rule Reviewer

/s/ Gene Walborn
Gene Walborn
Director of Revenue

Certified to the Secretary of State May 28, 2019.

BEFORE THE PUBLIC EMPLOYEES' RETIREMENT BOARD
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 2.43.3502 pertaining to the)
investment policy statement for the)
Defined Contribution Retirement Plan)
and ARM 2.43.5102 pertaining to the)
investment policy statement for the)
457(b) Deferred Compensation Plan)

TO: All Concerned Persons

1. On April 26, 2019, the Public Employees' Retirement Board published MAR Notice No. 2-43-583 pertaining to the proposed amendment of the above-stated rules at page 410 of the 2019 Montana Administrative Register, Issue Number 8.

2. The Public Employees' Retirement Board has amended the above-stated rules as proposed.

3. No comments or testimony were received.

/s/ Melanie A. Symons
Melanie A. Symons
Chief Legal Counsel
and Rule Reviewer

/s/ Marty Tuttle
Marty Tuttle
President
Public Employees' Retirement Board

Certified to the Secretary of State May 28, 2019.

BEFORE THE DEPARTMENT OF COMMERCE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 8.94.3817 pertaining to the)
administration of the 2020 Biennium)
Treasure State Endowment Program)
– Planning Grants)

TO: All Concerned Persons

1. On April 26, 2019, the Department of Commerce published MAR Notice No. 8-94-165 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 415 of the 2019 Montana Administrative Register, Issue Number 8.

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

3. 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 NO. 1: Due to the limited amount of time given to communities to apply for Delivering Local Assistance (DLA) funding and the assumption that Commerce will require a Preliminary Engineering Report (PER) to have a complete funding proposal we would like you to consider a one-time-only exemption to allow all costs incurred on or after the date Governor Bullock signs HB 11 to be eligible for reimbursement from TSEP planning grant funds. Specifically, Paragraph B of "Eligible and Ineligible Expenses" included in the draft "2021 Biennium Administration Guidelines & Application for Infrastructure Planning Grants" reads:

Costs that have been incurred before a grantee receiving its Notice of Award letter are ineligible for reimbursement with TSEP Infrastructure Planning grant funds. Costs incurred before the date that the Governor signed the bill containing the TSEP Infrastructure Planning funds are ineligible for the match. The costs of preparing TSEP other grant applications, including responding to the statutory priorities, are ineligible for reimbursement but may be counted as match.

We would request Paragraph B be modified to read:

Costs that have been incurred before the date that the Governor signed the bill containing the TSEP Infrastructure Planning funds are ineligible for reimbursement with TSEP Infrastructure Planning grant funds or match. The costs of preparing TSEP other grant applications, including responding to the statutory priorities, are ineligible for reimbursement but may be counted as match.

The modified language would be consistent with the waiver included in the Administrative Rules of the TSEP Infrastructure Planning Grant Program, so there is some precedent. Most importantly, the requested exemption for the 2021 Biennium would allow consultants to begin work on PERs immediately after the Governor signs HB 11 and would improve the quality of the PERs and the DLA funded projects they would support.

Of course, the applicant would assume the risk of being responsible for the proposed TSEP planning grant funds if their application was not successful, in addition to the required one-to-one match. We feel this will be an acceptable risk to many communities to take advantage of the new DLA grant opportunities.

RESPONSE NO. 1: Thank you for your comment. Commerce understands the needs of applicants and will consider changing the allowable timeframe to incur eligible match expenses. This will be finalized in the final draft made available.

/s/ Garrett Norcott
Garrett Norcott
Rule Reviewer

/s/ Tara Rice
Tara Rice
Director
Department of Commerce

Certified to the Secretary of State May 28, 2019.

BEFORE THE DEPARTMENT OF COMMERCE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 8.119.101 pertaining to the)
Tourism Advisory Council)

TO: All Concerned Persons

1. On April 26, 2019, the Department of Commerce published MAR Notice No. 8-119-164 pertaining to the proposed amendment of the above-stated rule at page 417 of the 2019 Montana Administrative Register, Issue Number 8.
2. The department has amended the above-stated rule as proposed.
3. No comments or testimony were received.

/s/ Garrett Norcott
Garrett Norcott
Rule Reviewer

/s/ Tara Rice
Tara Rice
Director
Department of Commerce

Certified to the Secretary of State May 28, 2019.

BEFORE THE FISH AND WILDLIFE COMMISSION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 12.11.6302 and 12.11.6306)
pertaining to recreational use on the)
Bitterroot River)

TO: All Concerned Persons

1. On February 22, 2019, the Fish and Wildlife Commission (commission) published MAR Notice No. 12-508 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 193 of the 2019 Montana Administrative Register, Issue Number 4.

2. The commission has amended ARM 12.11.6302 and 12.11.6306 as proposed.

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

Comment 1: The commission received multiple comments in support of the rule language as proposed.

Response 1: The commission appreciates the participation and support in the rulemaking process.

Comment 2: The commission received multiple comments opposing the rule amendments because they believe this will increase the total number of commercial boats on the river.

Response 2: The commission amended ARM 12.11.6302 to change "floats" to "launches" due to feedback received from commercial users on the Bitterroot in response to the rules adopted in 2017. The commission does not foresee this amendment increasing the number of commercial boats on the river. The number of Bitterroot River Commercial Use Permits issued is not increasing and commercial users are still restricted to two boats per section per day. The amendment from "float" to "launch" provides clarification that a permit holder may stop during a float and continue downstream without it being considered a second float. The department will continue to monitor the use of the river and report to the commission any concerns that may arise.

Comment 3: The commission received multiple comments opposing the amendments because the river and fishery are overused.

Response 3: The commission adopted the rules establishing the Bitterroot River Commercial Use Permit in 2018 to address concerns about congestion of the river and social conflicts between river users and were based on the recommendations of a citizen advisory council. The commission does not foresee this amendment increasing the use on the river or impact to the fishery. The department will continue to monitor the use of the river and the fishery and report to the commission any concerns that may arise.

Comment 4: The commission received a few comments opposing the rules because they unfairly target outfitters.

Response 4: The commission adopted the rules establishing the Bitterroot River Commercial Use Permit in 2018 to address concerns about congestion of the river and social conflicts between river users and were based on the recommendations of a citizen advisory council. The commission recognizes that the public prefers to recreate on rivers without controls on their recreational experience; however the commission also seeks to provide a full variety of quality recreation for a diverse public and has identified a need for management intervention to maintain the quality of the recreational experience on the Bitterroot River for all user groups. The rules do apply to commercial operators in order to address the problem of overcrowding and displacement due to high commercial use in this portion of the Bitterroot River as identified by surveys and data collection by the department.

In response to the permit holders, these amendments relax the restrictions placed on the permit holders by providing a time frame from June 1 to September 15 for the launch restrictions per section of the river instead of the restriction being year-round.

Comment 5: The commission received a few comments stating that the rule amendments will negatively affect the threatened habitat of the West Fork.

Response 5: The department will be continually monitoring the use and conditions of the river and report to the commission any concerns that may arise.

Comment 6: The commission received a few comments against the rules because they do not consider historical use.

Response 6: The commission adopted rules restricting the use of the upper Bitterroot River and West Fork of the Bitterroot River based on historic use of the river using outfitter logs instead of allocating specific number of days.

Comment 7: The commission received multiple comments opposing the rules and offering different management strategies.

Response 7: The commission is not considering alternative plans at this time and will be reviewing the rules governing recreational use on the Bitterroot River every five years starting in 2022.

Comment 8: The commission received some comments opposing the rules because they will move the crowding around, not solve it.

Response 8: The department will be continually monitoring the use and conditions of the river and report to the commission any concerns that may arise and the commission will be reviewing the rules governing recreational use on the Bitterroot River every five years starting in 2022.

Comment 9: The commission received a few comments opposing the rules because they feel the social conflicts will increase.

Response 9: The department will be continually monitoring the use and conditions of the river and report to the commission any concerns that may arise, and the commission will be reviewing the rules governing recreational use on the Bitterroot River every five years starting in 2022.

Comment 10: The commission received a few comments opposing the rules because there is not enough data.

Response 10: Prior to the adoption of these rules in 2018, the department conducted multiple surveys indicating that users identified crowding due to commercial use as a problem on the Upper and West Fork of the Bitterroot River displacing local users and noncommercial users from the river. The department will be continually monitoring the use and conditions of the river and report to the commission any concerns that may arise, and the commission will be reviewing the rules governing recreational use on the Bitterroot River every five years starting in 2022.

Comment 11: The commission received a few comments opposed to the rules because they do not help wade anglers.

Response 11: ARM 12.11.610 prohibits all users from floating between Painted Rocks Forest Service Site and Applebury Forest Service Site on Fridays providing a wade angling section one day a week. This was a compromise made during the CAC meetings in 2017.

/s/ Rebecca Dockter
Rebecca Dockter
Rule Reviewer
Department of Fish, Wildlife and Parks

/s/ Richard Stuker
Richard Stuker
Vice-Chair
Fish and Wildlife Commission

Certified to the Secretary of State May 28, 2019.

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

In the matter of the adoption of an) NOTICE OF ADOPTION OF AN
emergency rule closing Cooney State) EMERGENCY RULE
Park in Carbon County)

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of an emergency rule:

(a) The dangerous conditions include high water levels which have flooded portions of Cooney State Park including roadways, campsites, parking areas, and boat launches. In several flooded areas, electric utility poles are in standing water.

(b) Persons recreating in the flooded portions of the site are at risk of:

(i) injury or drowning due to unexpected changes to topography obscured by flood waters, electrocution, and possible exposure to contaminated waters from flooded latrines.

(c) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, and this threat cannot be averted or remedied by any other administrative act, the department adopts the following 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 an emergency rule in Issue No. 11 of the 2019 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 June 21, 2019, to advise us of the nature of the accommodation that you need. Please contact Kaedy Gangstad, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; or e-mail kgangstad@mt.gov.

3. The emergency rule is effective May 28, 2019, when this rule notice is filed with the Secretary of State.

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

NEW RULE I COONEY STATE PARK EMERGENCY CLOSURE

(1) Cooney State Park is located in Carbon County.

(2) Cooney State Park is closed to all public occupation and recreation as signed.

(3) This rule is effective as long as water is flooding the park.

(4) This rule will expire as soon as the department determines the park is again safe for occupation and recreation. This will depend on the extent and

duration of the flooding in the area. Signs closing the state park will be removed when the rule is no longer effective.

AUTH: 2-4-303, 23-1-106, MCA

IMP: 2-4-303, 23-1-106, MCA

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

6. Concerned persons are encouraged to submit their comments to the department. Please submit comments along with names and addresses to: Elizabeth LaBroad, Department of Fish, Wildlife and Parks, 1400 S. 19th Avenue, Bozeman, MT, 59718; or e-mail Betsey.LaBroad@mt.gov. Any comments must be received no later than July 5, 2019.

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/ Martha Williams

Martha Williams

Director

Department of Fish, Wildlife and Parks

/s/ Zach Zipfel

Zach Zipfel

Rule Reviewer

Certified to the Secretary of State May 28, 2019.

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

In the matter of the adoption of an) NOTICE OF ADOPTION OF AN
emergency rule closing the Medicine) EMERGENCY RULE
River Fishing Access Site in Cascade)
County)

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of an emergency rule:

(a) The dangerous conditions include fast moving, high water levels which have flooded the Medicine River Fishing Access Site including a latrine which is taking in water.

(b) Persons recreating in the flooded portions of the site are at risk of:

(i) injury or drowning due to unexpected changes to topography obscured by flood waters and possible exposure to contaminated waters from flooded latrines.

(c) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, and this threat cannot be averted or remedied by any other administrative act, the department adopts the following 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 an emergency rule in Issue No. 11 of the 2019 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 June 21, 2019, to advise us of the nature of the accommodation that you need. Please contact Kaedy Gangstad, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; or e-mail kgangstad@mt.gov.

3. The emergency rule is effective May 28, 2019, when this rule notice is filed with the Secretary of State.

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

NEW RULE I MEDICINE RIVER FISHING ACCESS SITE EMERGENCY CLOSURE (1) The Medicine River Fishing Access Site is located in Cascade County.

(2) The Medicine River Fishing Access Site is closed to all public occupation and recreation as signed.

(3) This rule is effective as long as water is flooding the site.

(4) This rule will expire as soon as the department determines the site is again safe for occupation and recreation. This will depend on the extent and

duration of the flooding in the area. Signs closing the site will be removed when the rule is no longer effective.

AUTH: 2-4-303, 87-1-202, MCA

IMP: 2-4-303, 87-1-202, MCA

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

6. Concerned persons are encouraged to submit their comments to the department. Please submit comments along with names and addresses to: Jessica Snyder, Department of Fish, Wildlife and Parks, P.O. Box 100701, Helena, MT, 59620-0701; or e-mail jesssnyder@mt.gov. Any comments must be received no later than July 5, 2019.

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/ Martha Williams

Martha Williams

Director

Department of Fish, Wildlife and Parks

/s/ Zach Zipfel

Zach Zipfel

Rule Reviewer

Certified to the Secretary of State May 28, 2019.

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

In the matter of the adoption of an) NOTICE OF ADOPTION OF AN
emergency rule closing the Fort Shaw) EMERGENCY RULE
Fishing Access Site in Cascade)
County)

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of an emergency rule:
(a) The dangerous conditions include fast moving, high water levels which have flooded the Fort Shaw Fishing Access Site.
(b) Persons recreating in the flooded portions of the site are at risk of:
(i) injury or drowning due to unexpected changes to topography obscured by flood waters.
(c) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, and this threat cannot be averted or remedied by any other administrative act, the department adopts the following 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 an emergency rule in Issue No. 11 of the 2019 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 June 21, 2019, to advise us of the nature of the accommodation that you need. Please contact Kaedy Gangstad, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; or e-mail kgangstad@mt.gov.

3. The emergency rule is effective May 28, 2019, when this rule notice is filed with the Secretary of State.

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

NEW RULE I FORT SHAW FISHING ACCESS SITE EMERGENCY CLOSURE (1) The Fort Shaw Fishing Access Site is located in Cascade County.

(2) The Fort Shaw Fishing Access Site is closed to all public occupation and recreation as signed.

(3) This rule is effective as long as water is flooding the site.

(4) This rule will expire as soon as the department determines the site is again safe for occupation and recreation. This will depend on the extent and duration of the flooding in the area. Signs closing the site will be removed when the rule is no longer effective.

AUTH: 2-4-303, 87-1-202, MCA
IMP: 2-4-303, 87-1-202, MCA

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

6. Concerned persons are encouraged to submit their comments to the department. Please submit comments along with names and addresses to: Jessica Snyder, Department of Fish, Wildlife and Parks, P.O. Box 100701, Helena, MT, 59620-0701; or e-mail jesssnyder@mt.gov. Any comments must be received no later than July 5, 2019.

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/ Martha Williams
Martha Williams
Director
Department of Fish, Wildlife and Parks

/s/ Zach Zipfel
Zach Zipfel
Rule Reviewer

Certified to the Secretary of State May 28, 2019.

BEFORE THE BOARD OF RESPIRATORY CARE PRACTITIONERS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 24.213.403 abatement of)
renewal fees and 24.213.2101)
continuing education requirements)

TO: All Concerned Persons

1. On January 25, 2019, the Board of Respiratory Care Practitioners (board) published MAR Notice No. 24-213-21 regarding the public hearing on the proposed amendment of the above-stated rules, at page 106 of the 2019 Montana Administrative Register, Issue No. 2.
2. On March 1, 2019, a public hearing was held on the proposed amendment of the above-stated rules in Helena. No comments were received by the March 4, 2019 deadline.
3. The board has amended ARM 24.213.403 and 24.213.2101 exactly as proposed.

BOARD OF RESPIRATORY CARE
PRACTITIONERS
LEONARD BATES, RCP
PRESIDING OFFICER

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

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

Certified to the Secretary of State May 28, 2019.

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.

Water Policy Interim Committee (where the primary concern is the quality or quantity of water):

- 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 an online 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 recent rulemaking 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. |

RECENT RULEMAKING BY AGENCY

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 December 31, 2018. This table includes notices in which those rules adopted during the period November 16, 2018, through May 24, 2019, occurred 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 December 31, 2018, this table, and the table of contents of this issue of the Register.

This table indicates the department name, title number, notice numbers in ascending order, the subject matter of the notice, and the page number(s) at which the notice is published in the 2018 or 2019 Montana Administrative Registers.

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

ADMINISTRATION, Department of, Title 2

- 2-13-580 Statewide Emergency Telephone System, p. 1991, 2399
- 2-13-585 of Proposed Amendment - Public Safety Answering Point (PSAP)
Certification and Funding, p. 558
- 2-59-572 Definitions for Credit Unions, p. 2357, 290

(Public Employees' Retirement Board)

- 2-43-578 Adopting by Reference the Amended State of Montana Public Employees Pooled Trust in the Defined Contribution Retirement Plan - Adopting by Reference the Amended Stable Value Fund Investment Policy Statement in the Defined Contribution Retirement Plan and the 457(b) Deferred Compensation Plan - Adopting by Reference the Amended State of Montana Public Employees Pooled Trust in the 457(b) Deferred Compensation Plan, p. 1, 288
- 2-43-582 Investment Policy Statements for the Defined Contribution Retirement Plan and the 457(b) Deferred Compensation Plan, p. 251, 424
- 2-43-583 Investment Policy Statements for the Defined Contribution Retirement Plan and the 457(b) Deferred Compensation Plan, p. 410

(State Lottery Commission)

- 2-63-579 General Provisions - Retailer Commission - Duplicate Licenses - Prizes - Acceptable Forms of Payment, p. 6, 291

AGRICULTURE, Department of, Title 4

- 4-18-251 Financial Responsibility, p. 2271
- 4-18-252 Potato Commodity Assessment Collection, p. 2359, 292
- 4-19-253 Industrial Hemp, p. 121
- 4-19-254 Industrial Hemp, p. 75
- 4-19-255 Hemp, p. 254, 532
- 4-19-256 Financial Responsibility, p. 264, 537
- 4-19-257 State Noxious Weed List, p. 413

STATE AUDITOR, Office of, Title 6

(Commissioner of Securities and Insurance)

- 6-245 Long-Term Care Insurance, p. 2120, 126
- 6-249 Replacement of Life Insurance or Annuities, p. 11, 293

COMMERCE, Department of, Title 8

- 8-22-161 Board of Horse Racing, p. 1847, 2400
- 8-94-163 Administration of the 2018 and 2019 Program Year Federal Community Development Block Grant (CDBG) Program - Public Facilities Projects - Affordable Housing Projects, p. 2277, 39
- 8-94-165 Administration of the 2020 Biennium Treasure State Endowment Program—Planning Grants, p. 415
- 8-94-166 Administration of the Delivering Local Assistance (DLA) Program, p. 562
- 8-99-159 Implementation of the Big Sky Economic Development Trust Program, p. 1850, 2401
- 8-99-160 Implementation of the Primary Sector Workforce Training Program, p. 1852, 2403
- 8-111-162 Definitions - Housing Credit Allocation Procedure, p. 1994, 2404
- 8-119-164 Tourism Advisory Council, p. 417

EDUCATION, Title 10

(Office of Public Instruction)

- 10-1-131 Soliciting Applications for Membership on a Negotiated Rulemaking Committee to Amend ARM 10.55.606 Pertaining to the Procedures in Determining Accreditation Status Using Student Performance Measures Based on Results of the Required Statewide Assessments, p. 80, 163
- 10-16-132 Special Education, p. 165

(Board of Public Education)

- 10-55-286 Hazard and Emergency Plans, p. 564
- 10-56-285 Student Assessment, p. 567
- 10-57-284 Teacher Licensure, p. 1940, 2405

10-57-287 Educator Licensure, p. 573

(Montana State Library)

10-102-1801 Depository Procedures for State Publications, p. 2157, 2496

FISH, WILDLIFE AND PARKS, Department of, Title 12

- 12-509 Closing the Ennis Fishing Access Site and the Valley Garden Fishing Access Site in Madison County, p. 204
- 12-510 Closing the York's Islands Fishing Access Site in Broadwater County, p. 295
- 12-511 Closing the Rosebud Isle Fishing Access Site in Stillwater County, p. 297
- 12-512 Closing the Smith River From Camp Baker to Eden Bridge, p. 393
- 12-513 Closing the Mallard's Rest Fishing Access Site in Park County, p. 395
- 12-514 Pilot Program for Aquatic Invasive Species in the Flathead Basin, p. 577

(Fish and Wildlife Commission)

- 12-484 Recreating on the Helena Valley Regulating Reservoir, p. 2160, 294
- 12-505 Grizzly Bear Demographic Objectives for the Northern Continental Divide Ecosystem, p. 1641, 2497
- 12-507 No Wake Zones on Canyon Ferry Reservoir, p. 2163, 273, 538
- 12-508 Recreational Use on the Bitterroot River, p. 193

GOVERNOR, Office of, Title 14

- 14-5 Implementation of the Greater Sage-Grouse Stewardship Act, p. 1997, 41

ENVIRONMENTAL QUALITY, Department of, Title 17

- 17-401 Adoption by Reference of the Most Current Version of the Montana Risk-Based Corrective Action (RBCA) Guidance for Petroleum Releases, p. 2424, 174

(Board of Environmental Review)

- 17-399 401 Certification, p. 1645, 2517
- 17-402 Implementing a Registration System for Certain Facilities That Currently Require a Montana Air Quality Permit, p. 2430, 425
- 17-403 Ground Water Standards Incorporated by Reference Into Department Circular DEQ-7, p. 2446, 196
- 17-404 Definitions - Department Circulars DEQ-1, DEQ-2, and DEQ-3 - Setbacks Between Water Wells and Sewage Lagoons, p. 2455

TRANSPORTATION, Department of, Title 18

- 18-172 Motor Carrier Services Electronic Weigh Station Bypass Systems, p. 2479, 175
18-173 Motor Carrier Services Safety Requirements, p. 314, 543

JUSTICE, Department of, Title 23

- 23-3-253 Third-Party CDL Skills Testing Program - Commercial Driver's License Testing, p. 1766, 176, 338
23-12-432 Locking Arrangements in Educational Occupancies, p. 299
23-16-256 Authorization and Regulation of 50/50 Raffles and 50/50 Raffle Electronic Processing Systems - Definitions - Grounds for a Denial of a License - Cross-References to Alcoholic Beverages Licenses - Credit Play - Administrative Procedure - Card Dealer Licensure - Raffles - Card Dealer Licensure, p. 2482, 302

(Public Safety Officers Standards and Training Council)

- 23-13-254 Certification of Public Safety Officers, p. 1342, 2518

LABOR AND INDUSTRY, Department of, Title 24

Boards under the Business Standards Division are listed in alphabetical order by chapter following the department notices.

- 24-11-341 Unemployment Insurance Contributions, p. 2005, 2525
24-17-342 Prevailing Wage Rates for Public Works Projects, p. 2280, 134
24-21-346 Registered Apprenticeship, p. 579
24-29-339 Workers' Compensation, p. 1506, 2527
24-29-340 Utilization and Treatment Guidelines - Drug Formulary - Workers' Compensation, p. 2010, 2531
24-29-343 Medical Utilization and Treatment Guidelines for Workers' Compensation Purposes, p. 317
24-29-345 Medical Fee Schedules for Workers' Compensation Purposes, p. 390
24-30-344 Occupational Safety and Health Rules for Public Sector Employees, p. 320
24-117-33 Licensure and Regulation of Professional Boxing, p. 324, 544

(Board of Architects and Landscape Architects)

- 24-114-37 Architect Examination - Architect Licensure by Examination - Education and Experience Required for Landscape Architect Licensure - Architect Continuing Education Requirements - Unprofessional Conduct, p. 275

(Board of Athletic Trainers)

- 24-118-5 Definitions - Fee Schedule - Renewals - Unprofessional Conduct - Limit on Nonlicensee Conduct, p. 170, 427

(Board of Clinical Laboratory Science Practitioners)

24-129-18 Fees - Inactive Status - Continuing Education Requirements, p. 1943, 178

(Board of Dentistry)

24-138-75 Definition of Nonroutine Application - General Standards for Specialties - Specialty Advertising, p. 2361, 429

(Board of Hearing Aid Dispensers)

24-150-40 Fees - Inactive Status - Military Training or Experience - Continuing Education Requirements - Unprofessional Conduct - Proof of Attendance, p. 1948, 52

24-150-41 Fees - Record Retention - Fee Abatement - Traineeship Requirements and Standards - Minimum Testing - Transactional Document Requirements—Form and Content - Continuing Education Requirements - Unprofessional Conduct - Standards for Approval, p. 582

(Board of Medical Examiners)

24-156-85 Definitions - Unprofessional Conduct - Reporting to the Board - ECP Licensure Qualifications - ECP License Application - Substantially Equivalent Education - Continuing Education and Refresher Requirements - Expired License - Fees - Medical Direction - Levels of ECP Licensure Including Endorsements - Endorsement Application - Procedures for Revision of Montana ECP Practice Guidelines or Curriculum - Scope of Practice - Training Courses - Final Pre-Licensing Examinations - Complaints - ECP License Renewal - ECP Training Program/Course Application and Approval - Examinations - Initial ECP Course Requirements - Post-Course Requirements - ECP Clinical Requirements, p. 83, 431

(Board of Occupational Therapy Practice)

24-165-23 Fees - Continuing Education - Unprofessional Conduct - Board Filing Practices - Renewals, p. 2283, 140

24-165-24 Definitions - Fees - Military Training or Experience - Examinations - Supervision - Deep Modality Endorsement - Recognized Education Programs - Standards of Practice - Approved Modality Instruction - Approved Training - Endorsement to Apply Topical Medications - Use of Topical Medications - Protocols for Use of Topical Medications - Debriding Agents Protocols - Anesthetic Agents Protocols - Nonsteroidal Anti-Inflammatory Agents Protocols - Antispasmodic Agents Protocols - Adrenocortico-Steroid Agent Protocols - Protocol for Use of an Approved Medication as a Neuropathic Pain Agent - Temporary Practice Permit - Inactive Status - Continuing Education - Continuing Education—Exemption - Unprofessional Conduct - Bactericidal Agents Protocols - Applications for Licensure - Pass-Fail

Criteria - Supervision–Methods - Documentation of Instruction and Training - Approval to Use Sound and Electrical Physical Agent Modalities Endorsement - Documenting Education and Competence to Perform Sound and Electrical Physical Agent Modalities–Out-of-State Practitioners, p. 509

(Board of Outfitters)

24-171-39 Fees - Outfitter Records - Safety and First Aid Provisions - Insurance for Outfitters - Guide License, p. 280

(Board of Professional Engineers and Professional Land Surveyors)

24-183-43 Definitions - Fee Schedule - Teaching of Advanced Engineering Subjects in Montana - Certificate of Authorization - Applications - Exhibits of Land Surveying Projects - Comity for Professional Engineers and for Professional Land Surveyors - Classification of Land Surveying Experience - Continuing Professional Competence-Continuing Education - Unprofessional Conduct, p. 13, 635

(Board of Public Accountants)

24-201-51 Fee Schedule - Use of CPA/LPA Designation - Applicant for Initial License - Certified Public Accountant Examination - Out-of-State Licensees Seeking a Montana License - Foreign Licensees Seeking a Montana License - Application Review - Peer Review Enrollment - Alternatives and Exemptions - Approved Peer Review Sponsoring Organizations, Programs, and Peer Review Standards - Standards for CPE Reporting - Reporting Requirements - Extension or Hardship Exception, p. 1359, 2406

(Board of Real Estate Appraisers)

24-207-42 Appraisal Review - USPAP Exemption - Definitions - Examination - Application Requirements - Approval of Qualifying and Continuing Education Courses - Ad Valorem Appraisal Experience - Qualifying Experience - Inactive License/Certification - Inactive to Active License - Trainee Requirements - Mentor Requirements - Registration and Renewal of Appraisal Management Companies - Continuing Education-Compliance and Auditing - Unprofessional Conduct for Appraisers - Unprofessional Conduct for Appraisal Management Companies - Incorporation by Reference of the Real Property Appraiser Qualification Criteria - Appraiser Reporting Obligations to the Board - Appraisal Management Company Reporting Obligations to the Board - Regulatory Reviews - Experience-Number of Hours Required - Qualifying Education Requirements for Licensed Real Estate Appraisers - Qualifying Education Requirements for Residential Certification - Qualifying Education Requirements for General Certification - Scope of Practice - Continuing Education Noncompliance, p. 2166, 53, 636

24-207-43 Ad Valorem Tax Appraisal Experience, p. 420

(Board of Realty Regulation)

24-210-45 Fee Schedule - Applications for Examination and License in General–
Broker and Salesperson - New Licensee Mandatory Continuing
Education–Salespersons - Continuing Real Estate Education -
Continuing Property Management Education - Waiver of Experience
Requirement for Broker Licensing Prohibited - Board Approval of
Courses, Providers, and Instructors, p. 588

(Board of Respiratory Care Practitioners)

24-213-21 Abatement of Renewal Fees - Continuing Education Requirements, p.
106

(Board of Behavioral Health)

24-219-32 Renewal Dates and Requirements - Military Training or Experience -
Continuing Education Procedures and Documentation - Procedural
Rules - Fee Schedules - Continuing Education Requirements -
Accreditation and Standards - Reporting Requirements - Continuing
Education Noncompliance, p. 20, 339
24-219-33 Licensed Addiction Counselors, p. 207

(Board of Speech-Language Pathologists and Audiologists)

24-222-28 Renewal Dates and Requirements - Definitions - Supervisor
Responsibility - Functions of Speech-Language Pathology Aides or
Assistants - Delivery of Telepractice Services - Continuing Education–
Speech Language Pathologists and Audiologists - Screening Panel -
License Renewal - Schedule of Supervision–Contents, p. 1368, 2306

LIVESTOCK, Department of, Title 32

32-18-294 Definitions - Testing of Exposed Equids, p. 1708, 2542
32-19-295 Manner, Positioning, and Size of Labeling, p. 285, 448

NATURAL RESOURCES AND CONSERVATION, Department of, Title 36

36-22-199 Burlington Northern and Santa Fe Somers Site Controlled
Groundwater Area, p. 1781, 2408

(Board of Water Well Contractors)

36-22-194 Location of Wells, p. 2494, 111

PUBLIC HEALTH AND HUMAN SERVICES, Department of, Title 37

37-847 Wholesale Foods and Food Standards, p. 598
37-849 Home Health Program, p. 2287, 141
37-867 Big Sky Rx, p. 2293, 60
37-868 Hospice Reimbursement, p. 2297, 61

- 37-869 Updating the Effective Dates of Medicaid Fee Schedules, p. 2024, 2409
- 37-870 Updated Medicaid Rates Manual, p. 2034, 2543
- 37-871 Pools, Spas, and Other Water Features, p. 2301, 62
- 37-872 Clinic Services Requirements, p. 32, 341
- 37-874 Update of the Healthcare Effectiveness Date and Information Set (HEDIS), p. 198, 397
- 37-875 Updating the Composite Rate for Outpatient Maintenance Dialysis Clinic, p. 112, 343
- 37-876 Adult Protective Services, p. 35, 344
- 37-878 Medicaid Rates, Services, and Benefit Changes, p. 618
- 37-879 Low Income Weatherization Assistance Program (LIWAP), p. 331, 545
- 37-881 Healthy Montana Kids (HMK) Dental Benefits, p. 335, 546
- 37-882 Nursing Facility Reimbursement, p. 631
- 37-883 Updating the Federal Poverty Index Guidelines for the Montana Telecommunications Access Program (MTAP), p. 529

PUBLIC SERVICE REGULATION, Department of, Title 38

- 38-5-242 Pipeline Safety, p. 2366, 179

REVENUE, Department of, Title 42

- 42-2-995 Deduction Provided Under IRC 199A - Not Allowed for the Determination of Montana Net Income, p. 1153, 2311
- 42-2-996 Reappraisal Cycles for Residential, Commercial, Forest, and Agricultural Properties - Development of a Reappraisal Plan and Valuation Manuals, p. 2038, 2410
- 42-2-997 Tax Increment Financing Districts, p. 2193, 345
- 42-2-998 Agricultural Land Valuation, p. 2205, 2546
- 42-2-999 Trended Depreciation Schedules for Valuing Personal Property, p. 2369, 115, 209

SECRETARY OF STATE, Office of, Title 44

(Commissioner of Political Practices)

- 44-2-231 Payment Threshold--Inflation Adjustment for Lobbyists, p. 2304, 63

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