MONTANA ADMINISTRATIVE REGISTER

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ISSUE NO. 23

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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

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BEFORE THE DEPARTMENT OF COMMERCE
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 8.94.3816 pertaining to the administration of the 2021 and 2023 Biennia Treasure State Endowment Program – Emergency Grants	)))))	NOTICE OF PROPOSED AMENDMENT NO PUBLIC HEARING CONTEMPLATED

TO: All Concerned Persons

1. On January 7, 2020, the Department of Commerce proposes to amend the above-stated rule.

2. The Department of Commerce 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 Commerce no later than 5:00 p.m., December 30, 2019, to advise us of the nature of the accommodation that you need. Please contact Bonnie Martello, Department of Commerce, 301 South Park Avenue, P.O. Box 200523, Helena, Montana 59620-0523; telephone (406) 841-2596; TDD 841-2702; fax (406) 841-2771; or e-mail docadministrativerules@mt.gov.

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

8.94.3816 INCORPORATION BY REFERENCE OF RULES FOR THE ADMINISTRATION OF THE TREASURE STATE ENDOWMENT PROGRAM (TSEP) – EMERGENCY GRANTS (1) The Department of Commerce adopts and incorporates by reference the ~~2017~~ 2021 and 2023 ~~Biennium~~ Biennia Emergency Grant Application Guidelines for TSEP Emergency Grants as rules for the administration of the ~~2017~~ 2021 and 2023 ~~Biennium~~ Biennia Treasure State Endowment Program – Emergency Grants.

(2) remains the same.

(3) Copies of the regulations adopted by reference in (1) may be obtained from the Department of Commerce, Community Development Division ~~Planning Bureau~~, 301 South Park Avenue, P.O. Box 200523, Helena, Montana 59620-0523, or on the Community Development Division ~~Planning Bureau~~ website at ~~http://comdev.mt.gov/planningbureau/planningbureau.mcpx~~ https://comdev.mt.gov/Programs/TSEP/EmergencyGrants.

AUTH: 90-6-701, MCA
IMP: 90-6-701, MCA

REASON: It is reasonably necessary to amend this rule to incorporate updated information in the 2023 biennium guidelines.

4. Concerned persons may submit their data, views, or arguments in written form or as a request for opportunity to submit data, views, or arguments in oral form to: Bonnie Martello, Department of Commerce, 301 South Park Avenue, P.O. Box 200523, Helena, Montana, 59620-0523; telephone (406) 841-2596; TDD (406) 841-2731; facsimile (406) 841-2771 or e-mail to docadministrativerules@mt.gov, and must be received no later than 5:00 p.m., January 3, 2020.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments at the above address no later than 5:00 p.m., January 3, 2020.

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. Ten percent of those directly affected has been determined to be 29, based on the 292 cities, counties, towns, tribes, and water-sewer districts that are eligible to apply for an emergency grant. Notice of the hearing will be published in the Montana Administrative Register.

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 rule will not significantly and directly impact small businesses.

/s/ Amy Barnes
Amy Barnes
Rule Reviewer

/s/ Tara Rice
Tara Rice
Director
Department of Commerce

Certified to the Secretary of State November 26, 2019.

BEFORE THE DEPARTMENT OF TRANSPORTATION
OF THE STATE OF MONTANA

In the matter of the adoption of NEW RULES I through VIII pertaining to Aeronautics Division Aircraft Registration	)))))	NOTICE OF PROPOSED ADOPTION NO PUBLIC HEARING CONTEMPLATED

TO: All Concerned Persons

1. On January 6, 2020, the Department of Transportation proposes to adopt the above-stated rules.

2. The Department of Transportation 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 Transportation no later than 5:00 p.m. on December 27, 2019, to advise us of the nature of the accommodation that you need. Please contact Matt Lindberg, Department of Transportation, Aeronautics Division, P.O. Box 200507, Helena, Montana, 59620-0507; telephone (406) 444-9568; fax (406) 444-2519; TTY Service (800) 335-7592 or through the Montana Relay Service at 711; or e-mail mlindberg@mt.gov.

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

NEW RULE I AIRCRAFT REGISTRATION DEFINITIONS (1) "Aircraft" means any manned aerial vehicle including airplane, helicopter, glider, ultralight (with or without Federal Aviation Administration N number), balloon, homebuilt aircraft (including experimental amateur-built), other aircraft listed in 67-3-206, MCA, or other similar aerial vehicle.

(2) "Customarily kept" means an aircraft primarily based in Montana, which is housed or stored in this state for a period of time exceeding 180 non-contiguous days (six months) within any calendar year.

(3) "Department" means the Montana Department of Transportation or the Montana Department of Transportation Aeronautics Division.

(4) "Destroyed" or "salvaged" aircraft means an aircraft which will never return to an airworthy condition.

(5) "Dismantled" or "nonflyable" aircraft means an aircraft which has been disassembled or which requires a major repair to return the aircraft to an airworthy condition. The term does not include an aircraft not current or out of compliance with FAA inspection requirements.

(6) "Owner" means an individual, partnership, or corporation which owns an aircraft singly or in shares.

AUTH: 67-3-101, MCA

IMP: 67-3-101, 67-3-102, 67-3-103, 67-3-104, 67-3-201, 67-3-202, 67-3-203, 67-3-204, 67-3-206, MCA

REASON: Proposed New Rule I is necessary to define words and phrases which will be used throughout the proposed new rules on aircraft registration.

NEW RULE II REQUIRED AIRCRAFT REGISTRATION (1) All civil aircraft which meet the requirements of 67-3-201, MCA, and are customarily kept in this state must be registered by the owner with the Federal Aviation Administration (FAA) and the department prior to operation within this state.

(2) All civil aircraft must be initially registered by the owner with the department within the first 30 days of ownership.

(3) A registration fee under 67-3-206, MCA is assessed for each registration application or renewal, unless exempt by 67-3-102 or 67-3-201, MCA, or these rules.

(4) The aircraft owner is responsible for registration fees regardless of whether any registered agent, lessee, or other owner's agent has been identified.

(5) Registration must be renewed each year on or before March 1 upon payment of a renewal fee.

(6) No aircraft subject to Montana registration may operate in this state unless it displays a decal on the aircraft as visual proof of current registration.

AUTH: 67-3-101, MCA
IMP: 67-3-101, 67-3-102, 67-3-103, 67-3-201, 67-3-202, 67-3-203, 67-3-204, 67-3-206, MCA

REASON: Proposed New Rule II is necessary to set forth the department's current aircraft registration process so aircraft owners may be advised of statutory registration requirements, and the department's process for all affected aircraft owners to comply with the statutes.

NEW RULE III AIRCRAFT INITIAL REGISTRATION PROCESS (1) Initial registration for an aircraft is required when:

(a) the aircraft is newly purchased by an owner who intends to customarily keep the aircraft in Montana;

(b) the aircraft has previously been registered or kept in another state or country and is brought to Montana to be customarily kept in Montana; or

(c) the aircraft is newly registered with the FAA with a Montana address.

(2) Initial registration aircraft owners must contact the department to provide information for department calculation of the prorated fee and department issuance of the registration fee invoice. The owner must:

(a) provide the correct and current aircraft owner name (individual or entity), address, email address, and telephone number;

(b) provide responsible person's (e.g., agent, lessee, employee) name, address, email address, and telephone number if different from owner's information;

(c) provide a power of attorney or corporate authorization (if any) for the aircraft owner's designee to obtain an aircraft registration on the aircraft owner's

behalf. All terms and conditions of the aircraft registration apply to an owner's designee;

(d) provide all required supplemental information or materials requested on the invoice;

(e) obtain an access code to pay online or elect to have an invoice mailed to the owner or designee to remit payment by check; and

(f) pay the correct non-refundable registration fee.

(3) Upon receipt of payment, the department shall mail a registration card and decal to the aircraft owner.

(4) Payments must be postmarked or online time-stamped no later than 30 calendar days from the date of invoice.

(5) The owner may request in writing a one-time hardship or unusual circumstances 30-day extension on the department's agency action form available on the department's website, without department imposition of penalty fees. The department may grant a properly requested extension, in writing, at its sole discretion. An extension is not a waiver of fees owed.

(6) If payment is not timely received, the department will assess a statutory penalty fee under 67-3-206, MCA of five times the registration amount, and send a delinquent payment notice.

(7) Fees not received within 14 days of issuance of a delinquency notice will be referred for collection action on the full penalty amount.

(8) Aircraft registration and registration fees are non-transferable. Each new aircraft owner must register the aircraft in the new owner's name and pay the appropriate prorated fees.

(9) Owners of aircraft which are statutorily exempt from registration fees may, prior to the invoice due date, submit a completed fee exemption affidavit, on the invoice provided by the department. Failure to provide a timely fee exemption affidavit will void the exemption and the department must assess and collect the full registration fee and penalty amount.

AUTH: 67-3-101, MCA
IMP: 67-3-101, 67-3-102, 67-3-103, 67-3-201, 67-3-202, 67-3-203, 67-3-204, 67-3-206, MCA

REASON: Proposed New Rule III is necessary to inform aircraft owners of the Department's existing initial aircraft registration process, including the statutory requirement of penalty fees for late fee payment, the process for delinquency notices, and the ability to return a fee exemption affidavit.

NEW RULE IV RENEWALS (1) All aircraft registrations must be renewed before March 1 of each calendar year. Registration of an aircraft in the owner's name for the year immediately preceding the year for which a registration renewal invoice is sent is *prima facie* evidence the aircraft has been based in Montana during the year for which registration renewal is sought by the department.

(2) The department sends an annual renewal notice via surface mail to each registered aircraft owner at the address listed in department records three months prior to the March 1 renewal date. Failure of the aircraft owner to advise the

department of address changes may result in undeliverable mail and assessment of statutory penalty fees due to delinquent payments.

(3) If payment is not received, the department sends a second renewal notice prior to the March 1 renewal date.

(4) If payment is not received with a postmark or online time stamp prior to or on March 1, the department will assess a statutory penalty fee under 67-3-202, MCA of five times the registration amount added to the original registration fee and send a delinquent payment notice.

(5) Fees and assessed penalties not received within 14 days of issuance of a delinquency notice will be referred for collection action on the full fee plus penalty amount.

(6) Owners of aircraft which are statutorily exempt from registration fees must submit a completed fee exemption affidavit, on the invoice provided by the department, which must be received by the department on or before March 1 of each year. Failure to provide a timely fee exemption affidavit may void the exemption and the department must assess and collect the full registration fee and penalty amount.

AUTH: 67-3-101, MCA
IMP: 67-3-101, 67-3-102, 67-3-103, 67-3-201, 67-3-202, 67-3-203, 67-3-204, 67-3-206, MCA

REASON: Proposed New Rule IV is necessary to set forth the Department's existing renewal process for aircraft registrations, including the statutory requirement of penalty fees for late fee payment, the process for delinquency notices, and the ability to return a fee exemption affidavit.

NEW RULE V FEES (1) The appropriate fee in lieu of tax imposed on aircraft is based on the age and type of aircraft. The 67-3-206, MCA (rounded) fee schedule is:

(a)

AIRCRAFT TYPE	MANUFACTURE DATE (Years)				
	0-5	6-10	11-20	21-30	31-40
Type 1 – Single Engine, Fixed Gear, 200 HP & under	$450	$263	$150	$75	$38
Type 2 – Single Engine, Fixed Gear, Over 200 HP	$750	$375	$225	$113	$75
Type 3 – Single Engine, Retractable Gear, 200 HP & under	$900	$450	$263	$150	$113
Type 4 – Single Engine, Retractable Gear, Over 200 HP	$1,050	$600	$300	$188	$150
Type 5 – Multi-Engine, Piston	$1,200	$750	$375	$263	$225

Type 6 – Helicopter, Piston	$1,050	$675	$338	$225	$188
Type 7 – Single Engine, Jet/Helicopter, Prop Jet	$2,250	$1,050	$675	$450	$263
Type 8 – Multi-Engine, Helicopter, Prop Jet	$3,000	$1,500	$900	$600	$300
Type 9 – Jet Engine, No Propeller (Fan)	$4,500	$2,250	$1,200	$750	$375

(b) Type 10 – Glider, Ultralight, Gyrocopter, Balloon, Homebuilt, Experimental Amateur Built, or Antiques (any aircraft over 40 years old) $30.

AUTH: 67-3-101, MCA
IMP: 67-3-206, MCA

REASON: Proposed New Rule V is necessary to set forth aircraft registration fees as set by the Montana Legislature in statute at 67-3-206, MCA. The fee amounts are included in Proposed New Rule V for ease of aircraft owner use in determining the correct registration fee amount based on type of aircraft being registered.

The proposed fee increase set by the 2019 Legislature will impact approximately 4829 registered aircraft owners based on estimated registrations and renewals for SFY 2020, resulting in an estimated revenue increase of approximately $255,150 annually.

NEW RULE VI FEE EXEMPTIONS (1) Aircraft newly registered with the FAA are invoiced on a prorated basis for the remaining calendar year between registration date on invoice and December 31.

(2) Owners of aircraft which are statutorily exempt from registration fees must complete the Department's fee exemption affidavit on the invoice and provide proof of exemption status showing the aircraft is:

(a) dismantled or nonflyable;

(b) destroyed or salvaged;

(c) owned and held by an aircraft dealer solely for the purpose of resale and not used for any flights other than sales demonstration, for which the owner provides a current, valid FAA dealer certificate;

(d) sold to a different owner, for which the previous owner provides a valid FAA Bill of Sale;

(e) an aircraft registered with the FAA with a Montana address, for which the owner provides out-of-state registration information and documentation of out-of-state registration fee payment showing the aircraft is registered and customarily kept in another state or country;

(f) operated by an airline company and regularly scheduled for the primary purpose of carrying persons or property for hire in interstate or international transportation; or

(g) owned and operated by the federal government, the State of Montana, or any political subdivision of the State of Montana.

AUTH: 67-3-101, MCA
IMP: 67-3-101, 67-3-102, 67-3-201, MCA

REASON: Proposed New Rule VI is necessary to set forth aircraft fee exemptions found in 67-3-201, MCA, so aircraft owners may be advised of existing statutory fee exemptions which may apply to the owner's aircraft.

NEW RULE VII PENALTIES – WAIVER – COLLECTION ACTION (1) The department must assess a penalty of five times the annual registration fee for failure to renew an aircraft registration and submit full fee payment before March 1 each year, or initially register an aircraft within 30 days of the date of invoice.

(2) Under 67-3-202, MCA, a person who owns or causes or authorizes an aircraft to be operated or who operates an aircraft required to be registered in this state without displaying a decal of current registration issued by the department commits a misdemeanor.

(3) An aircraft owner may, at the department's sole discretion, receive department waiver of the late fee penalty, upon completion of the department's agency action form found on the department's website. The owner must meet the following criteria:

(a) be a member of the United States Armed Forces who is deployed and unable to receive a registration renewal invoice. A copy of military deployment orders must be submitted to the department; or

(b) owner provides documentation of legitimate inability to timely pay (e.g., medical situations).

(4) An aircraft owner who fails to pay all assessed registration fees and any assessed penalty fees by the appropriate deadline is subject to department collection actions. Collection actions may include:

(a) filing of judicial complaint seeking a judgment against the aircraft owner;

(b) all judicial collection remedies including seizure of personal or real property and garnishment of wages;

(c) county attorney prosecution as a misdemeanor;

(d) department placement of an FAA lien against the aircraft title which shall not be released until the full assessed registration fees and all penalties are paid in full to the department.

AUTH: 67-3-101, MCA
IMP: 67-3-104, 67-3-202, 67-3-203, MCA

REASON: Proposed New Rule VII is necessary to set forth existing department processes for assessment of fee penalties and waivers so aircraft owners may be advised of existing statutory penalties, and owner ability to request a qualifying fee

waiver. Proposed New Rule VII also sets forth available department collection actions to advise aircraft owners of possible collection actions against them through existing court or FAA processes.

NEW RULE VIII REQUEST FOR AGENCY ACTION (1) An aircraft owner requesting a one-time 30-day payment due date exception, or who disputes any portion of the registration process, including registration fee assessment or penalty assessment, must submit a request for agency action on a form provided by the Department and available on the Department's website. A due date exception request must be received by the Department before the invoice due date for initial registrations, or before March 1 for renewal registration.

(2) The request for agency action must include:

(a) Aircraft FAA registration N number;

(b) FAA registered owner name (individual or entity);

(c) FAA registered owner street address and email address;

(d) FAA registered owner telephone number;

(e) Responsible person's (e.g., agent, lessee, employee) name, address, email address, and telephone number if different from owner's information;

(f) Specific action or accommodation being requested; and

(g) Owner's basis for the request, including supporting information or documentation.

(3) The department may request additional information or documentation which must be supplied within 30 days, and if not timely received will result in denial of the owner's extension or claim.

(4) The department will issue its decision and provide the decision in writing within 30 days of receipt of a properly completed and supported request form.

(5) Department consideration of agency action requests is at its sole discretion. Owner completion of an agency action request does not automatically grant deadline extension or waiver of fees or penalties.

AUTH: 67-3-101, MCA
IMP: 67-3-104, 67-3-202, 67-3-203, MCA

REASON: Proposed New Rule VIII is necessary to set forth the process, forms, and documentation which allows an aircraft owner to request an extension to fee due date or dispute a department fee or statutory penalty assessment. Proposed New Rule VIII sets forth the process by which a department agency action may be requested, as well as the department's issuance of a written decision on the owner's request.

4. Concerned persons may submit their data, views, or arguments concerning the proposed actions in writing to: Matt Lindberg, Department of Transportation, Aeronautics Division, P.O. Box 200507, Helena, Montana, 59620-0507; telephone (406) 444-9568; fax (406) 444-2519; or e-mail mlindberg@mt.gov, and must be received no later than 5:00 p.m., January 3, 2020.

5. If persons who are directly affected by the proposed action[s] 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 Matt Lindberg at the above address no later than 5:00 p.m., January 3, 2020.

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 483 persons based on the approximately 4829 registered aircraft owners in 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. An electronic copy of this proposal notice is available on the Department of Transportation website at www.mdt.mt.gov.

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

11. With regard to the requirements of 2-15-142, MCA, the department has determined the adoption of the above-referenced rules will not have direct tribal implications.

/s/ Carol Grell Morris
Carol Grell Morris
Rule Reviewer

/s/ Michael T. Tooley
Michael T. Tooley
Director
Department of Transportation

Certified to the Secretary of State November 26, 2019.

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

In the matter of the amendment of ARM 24.101.413 and the repeal of ARM 24.181.301, 24.181.402, 24.181.403, 24.181.404, 24.181.501, 24.181.505, 24.181.601, 24.181.603, 24.181.605, 24.181.607, 24.181.608, 24.181.609, 24.181.610, 24.181.611, 24.181.612, 24.181.613, 24.181.615, 24.181.616, 24.181.620, 24.181.621, 24.181.622, 24.181.623, 24.181.624, 24.181.625, 24.181.626, 24.181.627, 24.181.628, 24.181.701, 24.181.704, 24.181.706, 24.181.708, 24.181.710, 24.181.711, 24.181.716, 24.181.717, 24.181.718, 24.181.719, 24.181.722, 24.181.723, 24.181.724, 24.181.728, 24.181.730, 24.181.802, 24.181.803, 24.181.807, 24.181.810, and 24.181.2101, pertaining to private alternative adolescent residential or outdoor programs obsolete rules	)	NOTICE OF PROPOSED AMENDMENT AND REPEAL NO PUBLIC HEARING CONTEMPLATED

TO: All Concerned Persons

1. On January 7, 2020, the Department of Labor and Industry (department) proposes to amend and repeal the above-stated rules.

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 this notice. If you require an accommodation, contact the department no later than 5:00 p.m., on December 20, 2019, to advise us of the nature of the accommodation that you need. Please contact Grace Berger, Business Standards Division, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2244; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or gberger@mt.gov.

3. GENERAL STATEMENT OF REASONABLE NECESSITY: The Department of Labor and Industry determined it is reasonably necessary to amend ARM 24.101.413 and repeal ARM Title 24, chapter 181 because these rules are no longer in force. The 2019 Montana Legislature enacted Chapter 293, Laws of 2019 (Senate Bill 267), an act to terminate the Board of Private Alternative Adolescent Residential or Outdoor Programs and transfer the licensing and regulatory duties of the board to the Department of Public Health and Human Services (DPHHS). The

bill was signed by the Governor on May 3, 2019 and became effective on July 1, 2019.

The DPHHS and interested stakeholders met and drafted new administrative rules to implement Senate Bill 267 and facilitate DPHHS's regulation of Private Alternative Adolescent Residential or Outdoor Programs. The new rules became effective November 8, 2019, and the Department of Labor and Industry's rules are no longer valid or necessary.

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

24.101.413 RENEWAL DATES AND REQUIREMENTS

(1) through (5)(z) remain the same.

~~(aa)~~	~~Private Alternative Adolescent Residential or Outdoor Programs~~	~~Program~~	~~Annually~~	~~June 30~~

(ab) through (am) remain the same but are renumbered (aa) through (al).

(6) and (7) remain the same.

AUTH: 37-1-101, 37-1-141, MCA
IMP: 37-1-101, 37-1-141, MCA

5. The rules proposed to be repealed are as follows:

24.181.301 DEFINITIONS

AUTH: 37-1-131, 37-48-103, MCA
IMP: 37-1-131, 37-48-103, MCA

24.181.402 LICENSING FEE SCHEDULE

AUTH: 37-1-131, 37-48-103, MCA
IMP: 37-1-134, 37-48-103, 37-48-106, MCA

24.181.403 FEE ABATEMENT

AUTH: 37-1-131, 37-48-103, MCA
IMP: 17-2-302, 17-2-303, 37-1-134, MCA

24.181.404 BOARD MEETINGS

AUTH: 37-1-131, 37-48-103, MCA
IMP: 37-1-131, 37-48-101, 37-48-103, MCA

24.181.501 APPLICATION FOR LICENSURE

AUTH: 37-1-131, 37-48-103, MCA

IMP: 37-1-131, 37-48-103, MCA

24.181.505 ONSITE INSPECTIONS

AUTH: 37-48-103, 37-48-115, MCA
IMP: 37-48-103, 37-48-115, MCA

24.181.601 PROGRAM ADMINISTRATION

AUTH: 37-48-103, 37-48-113, MCA
IMP: 37-48-103, 37-48-106, 37-48-113, MCA

24.181.603 RIGHTS AND RESPONSIBILITIES OF PROGRAM PARTICIPANTS

AUTH: 37-48-113, MCA
IMP: 37-48-113, MCA

24.181.605 REQUIRED PERSONNEL SCREENING

AUTH: 37-48-108, 37-48-113, MCA
IMP: 37-48-108, 37-48-113, MCA

24.181.607 PROGRAM PARTICIPANT PROTECTION

AUTH: 37-48-108, 37-48-113, MCA
IMP: 37-48-108, 37-48-113, MCA

24.181.608 PHYSICAL ENVIRONMENT

AUTH: 37-48-113, MCA
IMP: 37-48-113, MCA

24.181.609 PERSONNEL ADMINISTRATION

AUTH: 37-48-113, MCA
IMP: 37-48-113, MCA

24.181.610 RECORD KEEPING

AUTH: 37-48-113, MCA
IMP: 37-48-113, MCA

24.181.611 ADMISSIONS

AUTH: 37-48-113, MCA
IMP: 37-48-113, MCA

24.181.612 DELIVERY OF SERVICES

AUTH: 37-48-113, MCA
IMP: 37-48-113, MCA

24.181.613 INCIDENTS, CRISIS INTERVENTION, AND EMERGENCY PLANS AND SAFETY

AUTH: 37-48-113, MCA
IMP: 37-48-113, MCA

24.181.615 PARTICIPANT TRANSFER AND DISCHARGE

AUTH: 37-48-113, MCA
IMP: 37-48-113, MCA

24.181.616 BEHAVIORAL MANAGEMENT

AUTH: 37-48-113, MCA
IMP: 37-48-113, MCA

24.181.620 CHEMICAL DEPENDENCY TREATMENT

AUTH: 37-48-113, MCA
IMP: 37-48-113, MCA

24.181.621 MEDICAL SERVICES

AUTH: 37-48-113, MCA
IMP: 37-48-113, MCA

24.181.622 MEDICATIONS

AUTH: 37-48-113, MCA
IMP: 37-48-113, MCA

24.181.623 INFECTIOUS DISEASES

AUTH: 37-48-113, MCA
IMP: 37-48-113, MCA

24.181.624 FINANCIAL REQUIREMENTS

AUTH: 37-48-113, MCA
IMP: 37-48-113, MCA

24.181.625 PHYSICAL ENVIRONMENT

AUTH: 37-48-113, MCA
IMP: 37-48-113, MCA

24.181.626 FOOD SERVICES

AUTH: 37-48-113, MCA
IMP: 37-48-113, MCA

24.181.627 CLOTHING

AUTH: 37-48-113, MCA
IMP: 37-48-113, MCA

24.181.628 TRANSPORTATION

AUTH: 37-48-113, MCA
IMP: 37-48-113, MCA

24.181.701 ADMINISTRATION-OUTDOOR PROGRAMS

AUTH: 37-48-103, 37-48-113, MCA
IMP: 37-48-103, 37-48-113, MCA

24.181.704 DEFINITIONS-OUTDOOR PROGRAMS

AUTH: 37-48-113, MCA
IMP: 37-48-113, MCA

24.181.706 OUTDOOR PROGRAM STAFF REQUIREMENTS

AUTH: 37-48-113, MCA
IMP: 37-48-113, MCA

24.181.708 OUTDOOR PROGRAM STAFF TRAINING

AUTH: 37-48-113, MCA
IMP: 37-48-113, MCA

24.181.710 OUTDOOR PROGRAM PARTICIPANT ADMISSION REQUIREMENTS

AUTH: 37-48-113, MCA
IMP: 37-48-113, MCA

24.181.711 RATIO OF OUTDOOR PROGRAM PARTICIPANTS TO STAFF

AUTH: 37-48-113, MCA
IMP: 37-48-113, MCA

24.181.716 OUTDOOR PROGRAM PHYSICAL ENVIRONMENT

AUTH: 37-48-113, MCA
IMP: 37-48-113, MCA

24.181.717 OUTDOOR PROGRAM TOOLS AND POTENTIALLY HAZARDOUS MATERIALS

AUTH: 37-48-113, MCA
IMP: 37-48-113, MCA

24.181.718 OUTDOOR PROGRAM HYGIENE

AUTH: 37-48-113, MCA
IMP: 37-48-113, MCA

24.181.719 OUTDOOR PROGRAM WATER, FOOD, AND NUTRITION

AUTH: 37-48-113, MCA
IMP: 37-48-113, MCA

24.181.722 OUTDOOR PROGRAM MEDICAL AND MEDICATION MANAGEMENT, STORAGE, AND ADMINISTRATION

AUTH: 37-48-113, MCA
IMP: 37-48-113, MCA

24.181.723 OUTDOOR PROGRAM EMERGENCY AND EVACUATION PLANS

AUTH: 37-48-113, MCA
IMP: 37-48-113, MCA

24.181.724 OUTDOOR PROGRAM SOLO EXPERIENCE

AUTH: 37-48-113, MCA
IMP: 37-48-113, MCA

24.181.728 OUTDOOR PROGRAM EDUCATION

AUTH: 37-48-113, MCA
IMP: 37-48-113, MCA

24.181.730 OUTDOOR PROGRAM HIGH ADVENTURE REQUIREMENTS

AUTH: 37-48-113, MCA
IMP: 37-48-113, MCA

24.181.802 ADMINISTRATION-RESIDENTIAL PROGRAMS

AUTH: 37-48-103, 37-48-113, MCA
IMP: 37-48-103, 37-48-113, MCA

24.181.803 DEFINITIONS - RESIDENTIAL PROGRAMS

AUTH: 37-48-113, MCA
IMP: 37-48-113, MCA

24.181.807 STAFFING

AUTH: 37-48-113, MCA
IMP: 37-48-113, MCA

24.181.810 FOOD SERVICE

AUTH: 37-48-113, MCA
IMP: 37-48-113, MCA

24.181.2101 RENEWALS

AUTH: 37-1-131, 37-48-103, 37-48-113, MCA
IMP: 37-1-131, 37-1-134, 37-1-141, 37-48-103, 37-48-113, MCA

6. Concerned persons may submit their data, views, or arguments concerning the proposed amendment and repeal in writing to Private Alternative Adolescent Residential or Outdoor Programs, Business Standards Division, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to gberger@mt.gov, to be received no later than 5:00 p.m., January 3, 2020.

7. 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 Grace Berger at the above address no later than 5:00 p.m., January 3, 2020.

8. If the department receives requests for a public hearing on the proposed amendment and repeal from either 10 percent or 25, whichever is less, of the persons who are directly affected by the proposed rules; from the appropriate administrative rule review committee of the Legislature; from a governmental

subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be zero persons based on the department no longer issuing these license types.

9. An electronic copy of this notice is available through the Secretary of State's web site at https://sosmt.gov/arm/. 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.

10. The department maintains a list of interested persons who wish to receive notices of rulemaking actions. 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 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 Grace Berger, Business Standards Division, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to gberger@mt.gov, or made by completing a request form at any rules hearing held by the agency.

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

12. Regarding the requirements of 2-4-111, MCA, the department has determined that the amendment and repeal of the above-stated rules will not significantly and directly impact small businesses.

/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 November 26, 2019.

BEFORE THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES OF THE
STATE OF MONTANA

In the matter of the amendment of ARM 37.40.815, 37.40.816, and 37.40.830 pertaining to Hospice Rate Increase	))))	NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT

TO: All Concerned Persons

1. On December 27, 2019, at 9:00 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 rules.

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 December 20, 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 rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

37.40.815 HOSPICE, ELECTION AND WAIVER OF OTHER BENEFITS

(1) through (3) remain the same.

(4) The department adopts and incorporates by reference the following sections of 42 CFR as amended ~~August 22, 2014~~ August 6, 2019:

(a) through (8) remain the same.

AUTH: 53-6-113, MCA
IMP: 53-6-101, MCA

37.40.816 HOSPICE, REVOCATION OF ELECTION (1) remains the same.

(2) The department adopts and incorporates by reference 42 CFR 418.28, as amended ~~August 22, 2014~~ August 6, 2019, which sets forth the Medicare requirements for revoking the election of hospice care. Copies of 42 CFR 418.28 are available from the Department of Public Health and Human Services, Health Resources Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.

(3) remains the same.

AUTH: 53-6-113, MCA

IMP: 53-6-101, MCA

37.40.830 HOSPICE, REIMBURSEMENT (1) through (11) remain the same.

(12) The hospice fee schedules are effective ~~October 1, 2018~~ October 1, 2019. Copies of the department's current fee schedules are posted at http://medicaidprovider.mt.gov and may be obtained from the Department of Public Health and Human Services, Health Resources Division, 1401 East Lockey, P.O. Box 202951, Helena, MT 59602-2951.

AUTH: 53-6-113, MCA
IMP: 53-6-101, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) proposes to amend the hospice care administrative rules in two ways. First, the department proposes to amend ARM 37.40.830 to update the Medicaid hospice reimbursement fee schedule referenced in (12), in accordance with changes in federal hospice reimbursement rates set by the Centers for Medicare and Medicaid Services (CMS) in the Federal Register effective October 1, 2019.

Second, the department proposes to amend ARM 37.40.815 and 37.40.816 for the rules to reference recent changes to the Federal Code of Regulations (CFR) in the final Medicare Hospice rule published on August 6, 2019 (CMS-1714-F). The federal changes require an addendum to be added to all hospice election and revocation statements beginning on or after October 1, 2020, that includes information aimed at increasing coverage transparency for patients under a hospice election.

The proposed rule amendments are necessary to pay Medicaid providers according to the current Medicare fee schedule effective October 1, 2019, and to adopt by reference the current applicable federal regulations related to determination of payment rates. In order to pay Medicaid hospice providers according to the Medicare fee schedule and rate methodology, the rules must be updated to provide adoption and incorporation of current federal regulations. Failure to update these rules will result in hospice reimbursement rates no longer staying current with federal changes and providers not having clarity on which federal regulations are applicable for Medicaid hospice services and reimbursement.

The increase in hospice rates will be retroactive to October 1, 2019. Any decreases in hospice rates will not be applied retroactively and would be effective upon adoption of the proposed rule amendments.

Fiscal Impact

The proposed amendment to ARM 37.40.830 will have a fiscal impact on the hospice program. Funds impacted will be from federal Medicaid fund source

(03585) and general fund source (01100). In Fiscal Year (FY) 2019, approximately 409 Medicaid recipients received the hospice benefit.

Much of the Medicaid hospice program's budget provides reimbursement for hospice services provided in nursing facilities in the form of room and board for inpatient nursing facility hospice.

The proposed fee schedule implements an approximate, aggregate reimbursement rate increase of 2.6%, as computed and published by CMS, which will apply to providers in all 56 counties. The adoption of this rate structure rebases the FY 2020 continuous home care (CHC), in-patient respite care (IRC), and general in-patient care (GIP) per diem payment rates.

Montana hospice rates are affected by a wage index applied geographically by county. The 2020 wage index has increased for Carbon, Yellowstone, and Golden Valley Counties by approximately 4.82% and Cascade County by 3.79%. Missoula County's wage index decreased by approximately 2.17%. All other Montana counties are subject to the Montana rural wage index rate which decreased by approximately 2.91%.

Additionally, two hospice providers will see a hospice reimbursement rate decrease of 2% for failure to comply with the federal quality data submission requirements during the prior fiscal year. A copy of the proposed hospice fee schedule can be found at https://medicaidprovider.mt.gov/proposedfs.

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., January 3, 2020.

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, 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.

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/ Robert Lishman
Robert Lishman
Rule Reviewer

/s/ Sheila Hogan
Sheila Hogan, Director
Public Health and Human Services

Certified to the Secretary of State November 26, 2019.

BEFORE THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES OF THE
STATE OF MONTANA

In the matter of the amendment of ARM 37.81.304 pertaining to Big Sky Rx premium change	)))	NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT

TO: All Concerned Persons

1. On December 30, 2019, at 1:00 p.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 December 23, 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:

37.81.304 AMOUNT OF THE BIG SKY RX BENEFIT (1) An applicant eligible for the Big Sky Rx PDP premium assistance may receive a benefit not to exceed ~~$35.80~~ $35.40 per month. The benefit amount will not exceed ~~$35.80~~ $35.40 regardless of the cost of the premium for the PDP the individual chooses.

(a) If a portion of the applicant's PDP premium is paid through the Extra Help Program, the Big Sky Rx Program will pay the applicant's portion of the PDP premium up to ~~$35.80~~ $35.40 per month.

(b) remains the same.

(c) All expenditures are contingent on legislative appropriation. The amount of the monthly benefit, ~~$35.80~~ $35.40, extends the Social Security Extra Help benefit amount to Montana residents with income up to 200% FPL. The department's total expenditure for the program will be based on appropriation and the number of enrolled applicants.

AUTH: 53-2-201, 53-6-1004, MCA
IMP: 53-2-201, 53-6-1001, 53-6-1004, 53-6-1005, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.81.304.

The Big Sky Rx program contributes to the cost of an eligible Montana resident's premium payment in a federally approved Medicare Prescription Drug Plan (PDP). This rule proposal, if adopted, will decrease the maximum amount that Big Sky Rx will contribute to pay the eligible enrollee's monthly premium for a PDP program from $35.80 per month to $35.40 per month. The department is proposing this change in order to match the federally established Low Income Subsidy (LIS) monthly benefit benchmark, which is established each year by the Centers for Medicare and Medicaid Services posted at: https://www.cms.gov/Medicare/Health-Plans/MedicareAdvtgSpecRateStats/Downloads/RegionalRatesBenchmarks2020.pdf.

These proposed amendments are necessary to ensure the monthly benefit does not exceed the federal LIS benefit set for this region, rounded to the nearest 5 cents. Since the inception of Big Sky Rx, the benefit has mirrored the LIS premium benefit benchmark to ensure a reasonable and prudent monthly benefit for enrolled members.

Fiscal Impact

The rule proposal will affect 2,894 Montanans, who will see a 40-cent decrease in the amount of monetary assistance from Big Sky Rx for their monthly PDP premium. The rule proposal will decrease state special fund spending by $1,157.60 per month or $13,891.20 on an annual basis.

The department proposes that these changes become effective upon publication of the final rule notice.

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., January 3, 2020.

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, 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 rule will not significantly and directly impact small businesses.

/s/ Brenda K. Elias	/s/ Shelia Hogan
Brenda K. Elias	Sheila Hogan, Director
Rule Reviewer	Public Health and Human Services

Certified to the Secretary of State November 26, 2019.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the adoption of New Rule I, the amendment of ARM 42.20.675, and the repeal of ARM 42.20.660, 42.20.665, 42.20.670, and 42.20.680 pertaining to agricultural land valuation	))))))	NOTICE OF PUBLIC HEARING ON PROPOSED ADOPTION, AMENDMENT, AND REPEAL

TO: All Concerned Persons

1. On January 3, 2020, at 10:30 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, amendment, and repeal 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 December 13, 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. GENERAL STATEMENT OF REASONABLE NECESSITY. ARM Title 42, chapter 20, subchapter 6, contains several administrative rules which describe how the department gathers agricultural land data and how it is used in the valuation and application of 15-7-201, MCA. In its review of these administrative rules, the department observes that certain rules contain redundancies to statute, follow outdated language usage or writing styles, and in some cases, do not reflect current department practices.

The department proposes to adopt New Rule I as a means of consolidating content from ARM 42.20.660, 42.20.665, 42.20.670, and 42.20.680, which describe how the department calculates agricultural land's productivity value per acre for non-irrigated summer fallow farm land, non-irrigated continuously cropped farm land, non-irrigated continuously cropped hay land, and grazing land. The adoption of New Rule I and the proposed repeal of ARM 42.20.660, 42.20.665, 42.20.670, and 42.20.680 are necessary to remove repetition of what is present in 15-7-201, MCA, or within the subchapter's rules.

The department also proposes amendments to ARM 42.20.675 to address redundancies to statute, outdated language usage or writing styles, and updates to current practices.

If adopted as proposed, this rulemaking will result in two primary rules to address the valuation of all non-irrigated farm land and irrigated farm land, respectively, that are clear, concise, and easier to reference.

While this general statement of reasonable necessity covers the basis for the following proposed rulemaking, it is supplemented below, where necessary, to explain rule-specific changes.

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

NEW RULE I NON-IRRIGATED AGRICULTURAL LAND VALUATION

(1) The department calculates productivity per acre values for non-irrigated agricultural land subclasses described in (3) and (4) using the statutory formula provided in 15-7-201, MCA. However, the department applies the formula per industry standard as I/R = V.

(2) The department calculates net income per acre (I) for the land subclasses in (3) by:

(a) multiplying the land's soil productivity by the average commodity price provided in ARM 42.20.681 to determine the gross income per acre; and

(b) multiplying the gross income per acre by the land owner's typical crop share percentage.

(3) The land owner's typical crop share percentage for non-irrigated summer fallow farm land is 12.5% and for non-irrigated continuously cropped farm land and non-irrigated continuously cropped hay land is 25%.

(4) For grazing land, the department determines net income per acre by deducting the land owner's expenses of 25% from the gross income per acre value.

AUTH: 15-1-201, MCA
IMP: 15-7-103, 15-7-201, MCA

REASONABLE NECESSITY: In addition to the general statement of reasonable necessity, in New Rule I, the department proposes consolidating the most relevant provisions from ARM 42.20.660(1), 42.20.665(1), 42.20.670(1), and 42.20.680(1), and revising them into proposed (1) through (4). New Rule I is necessary for the department to achieve its goal to minimize its rules, when possible, for multiple rules that contain substantially the same subject matter and procedures.

The department also proposes restating the statutory productive capacity value formula in (1) in a fashion that reflects how the department and the valuation industry read and apply the formula: with the equal sign (=) and quotient (V) placed to the right of the dividend (I) and divisor (R). The department believes this restatement of the department's application of the statutory formula is necessary to confirm the understanding between the department and the valuation industry on the application of the formula.

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

42.20.675 IRRIGATED AGRICULTURAL FARM LAND VALUATION

(1) The department calculates productivity per acre values for ~~i~~irrigated farm land ~~values for each year are:~~ using the formula provided in 15-7-201, MCA. However, the department applies the formula per industry standard as I/R=V.

~~(a) Calculated by using the formula defined in 15-7-201, MCA, where the agricultural land productivity valuation formula is:~~

~~(i) V = I/R;~~

~~(ii) V is the productivity value of the agricultural land;~~

~~(iii) I is the net income attributed to the acre of land using a crop share approach, which means applying the percentage of income from production (the share) that is attributed to the landlord (owner) of the land; and~~

~~(iv) R is the capitalization rate or the rate that converts an ongoing income stream into an estimate of value.~~

~~(b) The per acre irrigated farm land value is calculated as follows:~~

~~(i) Gross income per acre = Number of tons per acre times the average price per ton for alfalfa;~~

~~(ii) Net income per acre = Gross income per acre times 25 percent, which is the landlord's crop share percentage for irrigated farm land;~~

~~(iii) Less water cost = Net income per acre minus water cost allowance; and~~

~~(iv) Productivity value per acre = Net income per acre less water cost allowance divided by the capitalization rate.~~

~~(c) The allowable water cost classes for irrigated farm land are as follows:~~

~~WATER COST CLASSES (WC)~~

~~WC2~~	~~WC3~~	~~WC4~~	~~WC5~~	~~WC6~~	~~WC7~~
~~$20.00~~	~~$25.00~~	~~$30.00~~	~~$35.00~~	~~$40.00~~	~~$45.00~~
~~$24.99~~	~~$29.99~~	~~$34.99~~	~~$39.99~~	~~$44.99~~	~~$49.99~~

~~(2) Water costs are the combination of allowable labor costs, on-farm energy costs, and a $15 base water cost which is applicable to every acre of irrigated land. Total allowable water costs may not exceed $50 for each acre of irrigated land.~~

~~(3) Allowable labor costs which pertain to this rule are $15 for flood irrigation, $10 for sprinkler irrigation, and $5 for pivot irrigation, as provided in 15-7-201, MCA.~~

~~(4) Allowable energy costs, expressed as cost per acre, are the actual costs incurred in the energy cost base year, which is the calendar year immediately preceding the year published by the department in ARM 42.18.124, for energy to provide water from a definitive source to identifiable fields by use of commonly accepted irrigation system practices.~~

~~(5) Energy costs shall be documented with electrical or fuel statements. The taxpayer shall furnish specific information about the irrigation system and pumps. If receipts for the taxpayer's irrigation energy costs cannot be separated from the overall farm operation, a letter to the department explaining how the irrigation energy costs were calculated will be sufficient.~~

(2) The department calculates net income per acre (I) by:

(a) multiplying the land's soil productivity by the average commodity price provided in ARM 42.20.681 to determine the gross income per acre;

(b) multiplying the gross income per acre by the land owner's typical crop share percentage for irrigated farm land which is 25%; and

(c) subtracting allowable water costs per acre of irrigated farm land from the value determined in (2)(b). The department calculates allowable water costs as provided in 15-7-201, MCA, and the department's Montana Agricultural Land Classification and Valuation Manual, adopted and incorporated by reference in ARM 42.18.121.

(3) The department calculates the minimum value of irrigated farm land by determining net income per acre (I) by:

(a) multiplying a productivity of 23 bushels of spring wheat per acre by the commodity price provided in ARM 42.20.681 to determine gross income per acre; and

(b) multiplying the gross income per acre by the land owner's typical crop share percentage for non-irrigated continuously cropped farm land which is 25%.

(4) Pursuant to 15-7-201, MCA, the department assigns the irrigated farm land the higher per acre value as calculated in (2) and (3).

~~(6)~~ (5) ~~By July 1 of the year following the energy cost base year, all irrigated land taxpayers must provide all required irrigation type, irrigated acreage, and energy cost information incurred in the energy cost base year to the department on the prescribed forms. Failure to provide the required information will result in no energy cost deduction to the irrigated land value calculated by the department for property tax purposes.~~ If the land owner fails to provide their energy costs to the department, as required by 15-7-201, MCA, the department will calculate the irrigated farm land productivity value without an energy cost deduction.

~~(7) The minimum value of irrigated land is determined by using 23 bushels of spring wheat and the nonirrigated continuously cropped farm land methodology.~~

~~(8) To make changes in the irrigated land values for tax years after the year published by the department in ARM 42.18.124, irrigated land taxpayers must provide to the department updated information by the first Monday in June of the current tax year or within 30 days of receiving a notice of classification and appraisal, whichever is later. That information will be limited to land use and irrigation system changes. A change in ownership is not a basis for using energy costs from a different year other than the energy cost base year. Failure to provide the updated information by the deadline will result in no change being made in the irrigated land values previously calculated by the department.~~

~~(9)~~ (6) The department may ~~conduct field reviews and~~ gather energy cost data and conduct property field reviews and energy cost audits. ~~on energy costs to ensure equality of treatment for all irrigated land taxpayers. The department may adjust the irrigated land values if information supports that action. The irrigated land taxpayer will be notified in writing of that action.~~

AUTH: 15-1-201, MCA
IMP: 15-7-103, 15-7-201, MCA

REASONABLE NECESSITY: In addition to the general statement of reasonable necessity provided above, the department proposes amending ARM

42.20.675 to update the catchphrase of the rule to more closely align with New Rule I and comply with ARM 1.2.214.

The department proposes to add into (1) the restatement of the department's application of the statutory productive capacity value formula for the same reasons expressed for New Rule I. Based on the amendment, the text in current (1)(a) becomes unnecessary and is proposed for removal.

The department proposes revising and relocating net income per acre calculation methodologies from (1)(b) to proposed (2)(a) and (b). The amendments are necessary for consistency between 15-7-201, MCA, the rule, and the Montana Agricultural Land Classification and Valuation Manual (Ag. Manual).

The department proposes removing the water cost table, allowable water, labor, and energy costs text in current (1)(c) through (5) and replacing it with proposed (2)(c) stating the department uses calculated allowable water costs provided in 15-7-201, MCA, and the Ag. Manual. The amendments are necessary for consistency between15-7-201, MCA, the rule, and the Ag. Manual. The removal of text in current (5) is necessary because the text is outdated and does not reflect current department practice. Land owners no longer provide electrical or fuel receipts to the department when reporting their energy costs because any reporting of such data is made to the department through an online process.

The department proposes relocating and revising text from (7) to proposed (3), regarding the department's methodology for determining minimum value of irrigated land. The proposed amendments clarify a valuation process and provide necessary cross-referencing to a component of the calculation which is provided in ARM 42.20.681. The department also believes that the relocation of this text to proposed (3) is better for subject matter organization.

The department proposes (4) to notify land owners that the department determines value of irrigated farm land at the higher of the two values calculated under the processes in (2) and (3), as required by 15-7-201, MCA. The department believes it is necessary to reference the department's statutory authority and process in rule in the event the net income value of a land owner's irrigated farm land is less than if the land were not irrigated.

The department proposes (5) which removes text that is redundant to that found in 15-7-201, MCA, and revises the section to describe the department's process for calculating the irrigated farm land productivity value when the land owner does not submit their energy costs to the department. This is necessary because the department must complete its valuation duties and also inform land owners of the consequences of not providing the department with this required information.

The department further proposes to remove (8) which contains language currently present in 15-7-102, MCA, regarding timely requests for informal review of valuation, and an obsolete cross-reference to ARM 42.18.124, which was repealed in 2018.

Lastly, the department proposes revising, for brevity, proposed (6) to clarify the necessity that energy cost audits may be performed by the department to ensure appropriate costs were provided by land owners to the department.

6. The department proposes to repeal the following rules:

42.20.660 NONIRRIGATED SUMMER FALLOW FARM LAND

AUTH: 15-1-201, MCA
IMP: 15-7-103, 15-7-201, MCA

42.20.665 NONIRRIGATED, CONTINUOUSLY CROPPED FARM LAND

AUTH: 15-1-201, MCA
IMP: 15-7-103, 15-7-201, MCA

42.20.670 NONIRRIGATED CONTINUOUSLY CROPPED HAY LAND

AUTH: 15-1-201, MCA
IMP: 15-7-103, 15-7-201, MCA

42.20.680 GRAZING LAND

AUTH: 15-1-201, MCA
IMP: 15-7-103, 15-7-201, MCA

7. 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., January 10, 2020.

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

9. 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 number 7 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.

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

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

12. With regard to the requirements of 2-4-111, MCA, the department has determined that the adoption, amendment, and repeal 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 November 26, 2019.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the adoption of New Rule I pertaining to mobile home exemption ownership determination	)))	NOTICE OF PUBLIC HEARING ON PROPOSED ADOPTION

TO: All Concerned Persons

1. On January 3, 2020, at 11:00 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 of the above-stated rule. 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 December 13, 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 MOBILE HOME EXEMPTION OWNERSHIP DETERMINATION (1) As provided in 15-6-241, MCA, certain mobile homes, manufactured homes, or housetrailers are exempt from taxation.

(2) An owner of three or more mobile homes, manufactured homes, or housetrailers that meet the criteria for the exemption may only receive the exemption on two units with the lowest appraised values, as determined by the department. All non-exempt units remain taxable according to 15-6-134, MCA.

(3) For purposes of determining ownership in (2), the department shall aggregate properties with similar names and addresses as one owner when the properties reasonably appear to be owned by the same individual(s) or entities. Examples of when similar names and addresses would be aggregated as one owner include properties held under:

(a) an individual's current legal name;

(i) a former legal name, maiden name, and married name;

(ii) an abbreviated or derivative of a legal name (e.g., Bob for Robert);

(iii) nicknames; and

(iv) an individual's assumed business name, if applicable; and

(b) a business entity's name and assumed business name.

(4) Unique or unusual circumstances of similar ownership will be evaluated by the department on a case-by-case basis.

(5) This rule is effective for tax years beginning after December 31, 2019.

AUTH: 15-1-201, MCA
IMP: 15-6-134, 15-6-241, MCA

REASONABLE NECESSITY: The department proposes to adopt New Rule I to implement 15-6-241, MCA, created by Senate Bill 204 from the 2019 Montana Legislature. The new statute provides an exemption from taxation for mobile homes, manufactured homes, or housetrailers that possess certain attributes in age, value, and classification.

The department proposes to cross-reference statutory authority in (1) regarding the exemption's eligibility requirements, which the department contends is advisable for the benefit of the reader.

The department proposes (2) which confirms the exemption's limitations and clarifies how the department will apply the tax rate for any non-exempt units. The department believes there are taxpayers who own more than three mobile homes, and providing the process and authority for the non-exempt units is necessary for inclusion in rule.

The department proposes (3) to state how the department will review variances in individual and business entity names for determination of ownership and application of the exemption under 15-6-241, MCA. Resolving variances in how assets are titled is necessary because individuals commonly do not title assets identically and (3) describes the general methodology of how the department intends to complete the task of name aggregation.

The department proposes (4) to provide in unique or unusual circumstances of ownership, the department will review ownership on a case-by-case basis. This provision is necessary because the department believes that unique circumstances may arise that the department could not contemplate, and not providing a means of resolution could be problematic for both the taxpayer and the department.

Lastly, the department proposes (5) to provide an applicable year reference which is current department practice and necessary to advance the applicability of the rule to the entire tax year.

4. 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., January 10, 2020.

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

6. 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 number 4 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.

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

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 November 5, 2019 and November 20, 2019.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the adoption of the above-referenced rule 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 November 26, 2019.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 2.4.401, 2.4.402, 2.4.403, 2.4.404, 2.4.405, 2.4.406, 2.4.409, 2.4.410, and 2.4.411 pertaining to accounting and financial reporting standards, report filing fees, filing penalties, waivers and extensions of penalties, audit and audit reporting standards, the roster of independent auditors, resolution and corrections of audit findings, financial reviews, and incorporation by reference of various standards, accounting policies, and federal laws and regulations and the repeal of ARM 2.4.408 pertaining to audit contracts	)	NOTICE OF AMENDMENT AND REPEAL

TO: All Concerned Persons

1. On June 21, 2019, the Department of Administration published MAR Notice No. 2-4-581 pertaining to the public hearing on the proposed amendment and repeal of the above-stated rules at page 761 of the 2019 Montana Administrative Register, Issue Number 12. On July 26, 2019, the department published the amended notice of proposed amendment and repeal at page 987 of the 2019 Montana Administrative Register, Issue Number 14.

2. The department has thoroughly considered the comments and testimony received. A summary of the comments received and the department's responses follow:

Comments #1 through #8 relate to ARM 2.4.401:

COMMENT #1: Commenters requested that the department use the term "local government entities" as defined in 2-7-501, MCA, instead of "special purpose districts," because the term "special purpose district" could be confused with special districts internal to a county, city, or town (e.g., assessment districts).

RESPONSE #1: The department agrees using the term "local government entities" instead of "special purpose districts" provides additional clarity.

COMMENT #2: Multiple commenters expressed support for allowing smaller local government entities to use the Small Government Financial Reporting Framework (SGFRF).

RESPONSE #2: The department appreciates all comments received during the rulemaking process.

COMMENT #3: Some commenters requested confirmation that the Governmental Accounting Standards Board (GASB) compliance requirement in ARM 2.4.401(1) will not apply to local government entities that qualify for and choose to use the SGFRF. These commenters suggested adding "Except as provided in (2)" at the beginning of ARM 2.4.401(1) to differentiate between the rule of general application in (1) and the exception in (2).

RESPONSE #3: The department confirms the GASB compliance requirement in ARM 2.4.401(1) will not apply to local government entities approved to use the SGFRF. The department agrees the suggested modification will provide clarity and is amending ARM 2.4.401(1) accordingly.

COMMENT #4: Commenters, including the initial bill sponsor, requested that the department increase the population limit for a local government entity to be eligible to use the SGFRF to a population of 5,000 or less. Commenters contend entities with population of 5,000 or less are relatively small, have small budgets, and have resource difficulties similar to the entities the department originally proposed including in the SGFRF. Given the similarities, these entities should be eligible to use a framework that will save them money, reduce issues of training and retention, and streamline the financial reporting process.

RESPONSE #4: The department agrees and has amended the rule and the SGFRF to increase the population limit to 5,000 or less.

COMMENT #5: Some commenters opposed the proposed SGFRF application requirement. The commenters proposed striking the application requirement and allowing all local government entities with a population of 5,000 or less to use the SGFRF if they choose. They consider the application requirement unnecessary, bureaucratic, and time-consuming.

RESPONSE #5: The department disagrees that the SGFRF application is unnecessary. The application process is necessary to ensure consistent and comparable financial reporting by controlling the frequency of framework changes. If a local government entity switches frameworks frequently, the year-to-year financial statements will not be comparable and, therefore, will lack usefulness in terms of their ability to demonstrate accountability. Also, the application provides the department the ability to reject an application if it is known to the department that the local government entity is subject to a requirement to issue financial statements in accordance with Generally Accepted Accounting Principles. Such requirements are often provided through state and federal grant and loan programs but also may be provided in statutes related to specific entity types, such as school districts. The application process also allows the department to address specific provisions in audit standards regarding the auditor's assessment of the appropriateness of a financial reporting framework and the auditor's classification of low-risk entities. For

example, without the control provided by the application approval process, auditors conducting audits in accordance with federal regulation (2 CFR 200) will be required to classify those local government entities as high-risk entities (2 CFR 200.520). As a result, the auditor will be required to perform procedures on twice as much (i.e., from 20 percent to 40 percent - 2 CFR 200.518(f)) of those entities' applicable federal expenditures. This would increase audit costs unnecessarily for those entities.

COMMENT #6: Some commenters asked the department to directly adopt the SGFRF standards into the rules and not incorporate them by reference because direct adoption could improve clarity and transparency.

RESPONSE #6: The department agrees and has adopted the provisions of the SGFRF at ARM 2.4.401(2) and (3) and removed the incorporation by reference from ARM 2.4.411.

COMMENT #7: Commenters questioned whether the proposed rules should include requirements for SGFRF audit contracts when a local government entity issues audited SGFRF financial statements.

RESPONSE #7: The department does not believe the rules should be amended to address SGFRF audit contracts because the department does not have rulemaking authority regarding audit contracts.

COMMENT #8: Commenters asked the department to address whether it plans to proceed with verbal indications that the auditor for a local government entity will now be required to do the GASB statements for the entity. If so, the commenters ask the department to incorporate those requirements into the ARM and explain the reasonable necessity for the requirements. The commenters argue this will add another layer of unnecessary, costly, time-consuming, and bureaucratic requirements that will further exacerbate the challenge of finding and retaining qualified accountants and auditors.

RESPONSE #8: The department does not plan to require auditors to prepare financial statements for local government entities. Such a requirement would not be proper given that it could potentially impair auditor independence.

Comment #9 relates to ARM 2.4.403:

COMMENT #9: Some commenters sought to confirm the department proposed deleting ARM 2.4.403(1) because it duplicates 2-7-517(4), MCA.

RESPONSE #9: The department confirms it deleted ARM 2.4.403(1) because it needlessly repeated 2-7-517(4), MCA.

Comment #10 relates to ARM 2.4.403 and 2.4.404:

COMMENT #10: Some commenters recommended the department combine ARM 2.4.403 and 2.4.404 into one rule to streamline the administrative rules.

RESPONSE #10: The department considered combining the two rules; however, after review, the department determined the change could create confusion regarding the differences between the penalties in the two rules.

Comments #11 through #13 relate to ARM 2.4.405:

COMMENT #11: Some commenters suggested adding "except as provided in (2)" at the beginning of ARM 2.4.405(1).

RESPONSE #11: The department does not agree with the suggestion because it would create an inappropriate exception to federal audit requirements. The exception would cause the entity to be noncompliant with federal regulation (2 CFR 200).

COMMENT #12: Commenters hoped the department would work with other state agencies that use GAAP compliance language in their contracts and their federal agency partners, if necessary, to help them understand the changes and assist in creating alternative language that allows local government entities, where possible, to use SGFRF and still be eligible for state and federal grants, loans, and other funding. These commenters argued this is a critical piece of the success of SGFRF as a relief for smaller local governments, nearly all of whom have some type of infrastructure funding agreement with a Montana state agency for state or federal grants or loans.

RESPONSE #12: The department plans to continue to provide awareness about the administrative and regulatory options available to state agencies as a result of the new SGFRF through correspondence, newsletters, and other direct communications.

COMMENT #13: Some commenters requested clarification about whether the SGFRF will be available to communities that qualify for the SGFRF but also receive a federal grant, loan, or other funding award. Commenters asked the following questions. "Is this simply a matter of whether the contract reflects the appropriate accounting standards in the contract with the federal agency? If SGFRF will not be available to any local government entity that receives a federal award, how long will that prohibition last? Is there a possibility that there are particular federal award auditing and reporting standards that can be used, so that SGFRF can continue to be used but supplemented with the necessary reporting and auditing information pertaining to items relevant to the federal award?"

RESPONSE #13: These comments exceed the scope of the proposed rulemaking because the proposed rules did not, and could not, address these topics. The answers to these questions will depend on the requirements of other programs and the specific circumstances of each situation. The department recommends local

government entities communicate with their specific grant or loan program administrators to discuss their reporting requirements and the potential implications of reporting in accordance with the SGFRF.

Comments #14 through #21 relate to ARM 2.4.409:

COMMENT #14: Several commenters questioned whether the terms "corrective action plan" and "planned corrective measure" refer to the same requirement. Commenters noted that 2-7-515(1), MCA, requires a local government to submit a "corrective action plan" that details what action or actions they plan to take on any findings or recommendations contained in the audit report. Existing ARM 2.4.409(1) uses similar language. The proposed amendments to ARM 2.4.409 refer only to "planned corrective measures."

RESPONSE #14: The terms are not interchangeable. The "corrective action plan" is the local government entity's submission to the department that includes the entity's "planned corrective measures."

COMMENT #15: Multiple commenters request a 180-day deadline before publication of delinquent audit responses on the department's website. Commenters argue publication of delinquent audit responses should align with ARM 2.4.403, which provides that publication of delinquent audit reports occurs 180 days after the statutory deadline.

RESPONSE #15: The department disagrees that there should be coordination between the two publication requirements because the risks and facts of the two requirements are different. Section 2-7-517, MCA, provides that if a financial report or audit is not filed with the department within 180 days of the dates set forth in 2-7-503, MCA, the department shall provide public notice of the delinquent audit or report. Section 2-7-515(1), MCA, on the other hand, mandates that within 30 days following receipt of an audit, a governing body of each audited local government entity shall in writing notify the department what action it plans to take on any recommendation or deficiency. The department believes that given this 30-day mandate, the legislature intended that the department notify the public of the delinquency within a much quicker timeframe than the 180-day period. If the department implemented the 180-day request, it would allow too much time to elapse between the time the local government learned of the audit finding and the public's eventual awareness that the local government is delinquent in responding to it, which is not in the public interest.

COMMENT #16: Commenters requested that ARM 2.4.409(2) be reordered or restructured to reflect that rejecting a recommended measure or taking no corrective measure may also be an acceptable response to a noted deficiency in an audit or financial review report. The commenters argued 2-7-515(2), MCA, allows a local government entity to reject noted deficiencies or proposed recommendations for improvement.

RESPONSE #16: The department agrees the rule should be amended and reordered to clarify that a local government entity may reject a finding or recommendation for improvement as a response to a noted deficiency in an audit or a financial review report. As such, the department amended (1) and (2) to clarify that the entity may submit to the department a response or planned corrective measures. The department also reordered (2) and (3) from the previous proposal to state that responses or planned corrective measures will be first evaluated against the risks, facts, and circumstances of the findings and of the entity before the department determines whether planned corrective measures are responsive to and provide for a probable resolution of a finding.

COMMENT #17: Commenters request that the department provide detail regarding the internal process the department will follow in determining acceptableness of the local government entity's planned corrective measures. The commenters argue because Senate Bill 302, L. 2019, includes penalties and potential legal liability for failing to resolve significant audit findings or implement corrective measures, which implicates a discretionary determination that will involve a weighing of the evidence and findings being made, the process the department engages in when making a final determination should be transparent, understandable, and provide due process.

RESPONSE #17: The commenters' request is beyond the scope of the proposed rule amendments and cannot be done in a final rule notice because parties will not have had a chance to comment on the details regarding the internal process if implemented in this final notice; however, the department may consider this request in a future proposal.

COMMENT #18: Some commenters asked the department to define the term "significant" as used in 2-7-515, MCA, as amended by SB 302. The commenters request additional bounds on the department's discretion to determine significance of findings that pose a risk to the entity of ongoing concern, significantly distressed operations, or a failure to protect a substantial public interest. Also, the bill sponsor of Senate Bill 302, L. 2019 expressed concern that the department should not consider late report submission findings significant and should not equate such findings with other findings of noncompliance.

RESPONSE #18: The department has qualified circumstances it considers "significant" in (5). In response to the comment, the department has changed (5) to better describe circumstances that could lead to a determination that a finding is significant. The significance of findings will be based on risks to the entity of a doubtful going concern, significantly distressed operations, and a failure to protect a substantial public interest. The department considered but ultimately rejected commenters' suggestion to add a qualifier regarding "a risk to the entity of ongoing concern," because this language is not commonly used in the accounting and auditing profession and may lead to confusion. The department confirms it will not classify late reporting findings as significant.

COMMENT #19: Two commenters suggested deleting provisions subjecting findings of financial reviews to the same process as audits. Commenters contend the department does not have statutory authority to apply the process used for audit findings to financial review findings because 2-7-515, MCA, expressly refers to findings identified in audits and does not expressly refer to findings identified in financial reviews. In addition, SB 302 did not address or affect financial review findings.

RESPONSE #19: The existing language of ARM 2.4.410(11), renumbered (8), provides: "The provisions of 2-7-522, MCA, regarding audit report reviews by the department apply to financial review reports." This provision existed in rule prior to being transferred to the department from the Department of Commerce in 2002, and it falls within the department's broad rulemaking authority regarding financial review reports in 2-7-503, MCA. Although the department does not agree with commenters' rationale for removing references to financial review reports from (1) and (8) of ARM 2.4.409, the department deleted the references to avoid unnecessarily repeating the material found in ARM 2.4.410.

COMMENT #20: Noting that SB 302's amendment of 2-7-515, MCA, provides for a conference between the local government entity and the department if the department rejects the entity's proposed corrective measures, some commenters asked the department to add language addressing this process at the beginning of ARM 2.4.409(4).

RESPONSE #20: While the department recognizes and has historically implemented the statutory requirement for a conference when the department and local government entity do not agree as to the entity's proposed corrective measures, the department does not agree to add the commenters' proposed language to the rule because it would unnecessarily duplicate the requirement in 2-7-515, MCA, as amended. The statutory requirement is clear, and pursuant to 2-4-305(2), MCA, rules may not unnecessarily repeat statutory language.

COMMENT #21: Multiple commenters request a good cause exception to withholding financial assistance upon the first occurrence of a significant finding similar to the good cause exception allowed when a finding is repeated in a subsequent audit report. The commenters express concern that the rules do not describe when or why financial assistance might be withheld upon an initial significant finding.

RESPONSE #21: The department agrees to provide a good cause exception for the first occurrence of a significant finding in addition to the previously proposed exception for subsequent repetitions of a finding. Accordingly, the department has amended the rule so that it is no longer specific to the repetition of findings. In addition, the department moved (8)(a), (b), and (c) to new (9), (10), and (11) to enhance readability.

GENERAL COMMENTS:

COMMENT #22: Commenters encouraged the department to further streamline the Single Audit Act rules and to adopt rules that maximize the benefits of simpler accounting standards and processes for small local government entities.

RESPONSE #22: The department will continue to engage with local government entities to streamline the rules while continuing to meet the needs of other stakeholders that provide resources to local governments, including local taxpayers, state agencies, and federal entities. In this rulemaking, the department removed rules that unnecessarily duplicated statutes, avoided proposing rules that would overly complicate the rules, and removed provisions that were unnecessary or outdated. While the department cannot make significant amendments to the rules in this final notice, it encourages the commenters to submit their specific proposals to the department for possible incorporation in a future rulemaking.

COMMENT #23: Some commenters contend there are less resources available to smaller local government entities, citing relocation of field office staff to Helena and the loss of two employees who were familiar with local government accounting and auditing standards.

RESPONSE #23: This comment exceeds the scope of this rule proposal. The commenters are encouraged to contact the department for further explanation or assistance.

3. The department has amended the following rules as proposed: ARM 2.4.402, 2.4.403, 2.4.404, 2.4.405, 2.4.406, and 2.4.410.

4. The department has repealed the following rule as proposed: ARM 2.4.408.

5. The department has amended the following rules as proposed, but with the following changes, new matter underlined, deleted matter interlined:

2.4.401 ACCOUNTING AND FINANCIAL REPORTING STANDARDS

(1) ~~All counties, cities, towns, and special purpose districts, other than school districts and special education cooperatives,~~ Except as provided in (2), all local government entities, as defined by 2-7-501(7), MCA, shall adhere to the accounting and financial reporting standards applicable to the reporting period adopted by the Governmental Accounting Standards Board (see ARM 2.4.411).

(2) If approved by the department, a local government entity shall adhere to the provisions described in the Small Government Financial Reporting Framework instead of the provisions provided in (1) ~~(see ARM 2.4.411)~~. The department shall not approve an application to report in accordance with the Small Government Financial Reporting Framework if the following circumstances are known to the department:

(a) the local government entity is subject to a compliance requirement prescribing the use of the provisions of (1); or

(b) the local government entity has a population of 5,000 or more as reported in the most recent decennial survey issued by the United States Census Bureau.

(3) The reporting provisions of the Small Government Financial Reporting Framework include:

(a) all aspects of accounting and reporting in accordance with generally accepted accounting principles, updated through June 30, 2019, as defined by the Governmental Accounting Standards Board, or its successor, excluding the following:

(i) the government-wide statement of net position and the government-wide statement of activities, which also excludes:

(A) reporting of discretely presented component units;

(B) reconciliations related to the government-wide statements; and

(C) notes related to the government-wide financial statements;

(ii) actuarially determined post-employment benefit information, which also excludes:

(A) recognition of non-employer contributions;

(B) related notes to the financial statements; and

(C) related required supplementary information;

(iii) the following supplementary information required by the Governmental Accounting Standards Board:

(A) the management's discussion and analysis;

(B) certain revenue and claims development information of public entity risk pools; and

(C) the schedules of assessed condition and estimated and actual maintenance and preservation costs for the modified approach for infrastructure assets;

(b) financial statements must include as basic financial statements:

(i) a statement of changes in governmental capital assets; and

(ii) a statement of changes in governmental long-term debt;

(c) financial statements must include major fund budgetary comparison information, including related required notes, as supplementary information, as defined by the Governmental Accounting Standards Board, when applicable; and

(d) financial statements must include the schedules of proportionate shares and required contributions, excluding related notes, prepared for the local government entity by the Montana Public Employee Retirement Administration and the Montana Teachers' Retirement System as other information, when applicable.

2.4.409 ACTIONS BY GOVERNING BODIES TO RESOLVE OR CORRECT AUDIT FINDINGS AND PENALTY FOR FAILURE TO DO SO (1) If a local government entity does not submit its responses or planned corrective measures to findings reported in audit ~~and financial review~~ reports required by Title 2, chapter 7, part 5, MCA, to the department within 30 days of the report issuance date, the department shall notify the entity of the delinquency and publish notice of the delinquency on the department's website.

~~(2) The planned corrective measures must be responsive to the findings identified and provide for a probable resolution of the findings within a reasonable period.~~

~~(3) The department shall base a determination of the acceptableness of the local government entity's planned corrective measures on the risks, facts, and circumstances of the findings and of the entity.~~

(2) The department shall determine acceptability of the local government entity's responses or planned corrective measures based on the risks, facts, and circumstances of the findings and of the entity.

(3) The planned corrective measures must be responsive to the findings identified and provide for a probable resolution of the findings within a reasonable period.

(4) remains as proposed.

(5) The department shall ~~base~~ determine the significance of findings based on the risks to the entity of a doubtful going concern, significantly distressed operations, or ~~substantially unprotected public interest~~ a failure to protect a substantial public interest.

(6) and (7) remain as proposed.

(8) If the subsequent audit ~~or financial review~~ report repeats a significant finding, the department shall withhold financial assistance from the entity.

~~(a)~~ (9) The financial assistance withholding process may be ~~halted~~ suspended if the entity demonstrates good cause for the ~~repeat finding~~ failure to resolve the finding or implement corrective measures. Good cause may be demonstrated with sufficient evidence of:

(i) through (iii) remain as proposed but are renumbered (a) through (c).

(b) and (c) remain as proposed but are renumbered (10) and (11).

(9) remains as proposed but is renumbered (12).

2.4.411 INCORPORATION BY REFERENCE OF VARIOUS STANDARDS, ACCOUNTING POLICIES, AND FEDERAL LAWS AND REGULATIONS (1) remains as proposed.

~~(2) The department adopts and incorporates by reference the Small Government Financial Reporting Framework established by the department as of June 30, 2019, as provided by ARM 2.4.401, available at https://sfsd.mt.gov/LGSB~~.

~~(a) The framework defines an alternative basis of accounting to generally accepted accounting principles for small governments to use for financial reporting and auditing purposes. This alternative basis of accounting excludes some of the more complex accounting calculations and disclosures required by generally accepted accounting principles as immaterial for a small government.~~

~~(3)~~ (2) The department adopts and incorporates by reference the Government Auditing Standards, 2011 and 2018 revisions, established by the Comptroller General of the United States, as provided by ARM 2.4.406.

(a) Government Auditing Standards incorporated by reference in ~~(3)~~ (2) contain standards to be followed by an independent auditor in conducting financial audits of local government entities, including general standards, field work standards, and reporting standards.

(4) and (5) remain as proposed but are renumbered (3) and (4).

By: /s/ John Lewis
John Lewis, Director
Department of Administration

By: /s/ Michael P. Manion
Michael P. Manion, Rule Reviewer
Department of Administration

Certified to the Secretary of State November 26, 2019.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 2.59.104 pertaining to the semiannual assessment for banks	)))	NOTICE OF AMENDMENT

TO: All Concerned Persons

1. On October 4, 2019, the Department of Administration published MAR Notice No. 2-59-587 pertaining to the proposed amendment of the above-stated rule at page 1682 of the 2019 Montana Administrative Register, Issue Number 19.

2. No comments were received.

3. The department has amended ARM 2.59.104 exactly as proposed.

By: /s/ John Lewis
John Lewis, Director
Department of Administration

By: /s/ Don Harris
Don Harris, Rule Reviewer
Department of Administration

Certified to the Secretary of State November 26, 2019.

BEFORE THE STATE LOTTERY AND SPORTS WAGERING COMMISSION
DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the adoption of NEW RULES I through IV pertaining to sports wagering accounts, self-exclusion, responsible gaming and age verification, the amendment of ARM 2.63.203, 2.63.204, 2.63.401, 2.63.402, 2.63.403, 2.63.404, 2.63.405, 2.63.406, 2.63.407, 2.63.603, 2.63.604, 2.63.606, 2.63.609, 2.63.611, 2.63.612, 2.63.801, 2.63.1002, 2.63.1004, 2.63.1005, 2.63.1201, and 2.63.1202 pertaining to general provisions, place of sale, licensing, fees, electronic fund transfers, accounting, retailer commission, notices, investigative cooperation, prizes and redemptions to implement sports wagering, and the repeal of ARM 2.63.409 pertaining to forms of payment	))	NOTICE OF ADOPTION, AMENDMENT, AND REPEAL

TO: All Concerned Persons

1. On October 4, 2019, the State Lottery and Sports Wagering Commission published MAR Notice No. 2-63-580 pertaining to the public hearing on the proposed adoption, amendment, and repeal of the above-stated rules at page 1685 of the 2019 Montana Administrative Register, Issue Number 19.

2. The commission has thoroughly considered the comments and testimony received. A summary of the comments received, and the commission's responses are:

General Comments:

Comment #1: Several individuals expressed the wish to be able to place wagers electronically at Montana Lottery terminals across the state.

Response #1: A player will be able to place wagers electronically through a mobile device and Montana Lottery sports wagering terminals located at licensed locations.

Comment #2: A commenter wanted to ensure persons could play fantasy sports online through DraftKings and FanDuel.

Response #2: This comment is beyond the scope of this rulemaking. Currently, both DraftKings and FanDuel are illegal in Montana. These are internet-based fantasy sports leagues, and under 23-5-802, MCA, it is unlawful to wager on a fantasy sports league by using the internet.

Comment #3: Multiple commenters encouraged the commission to proceed with the rulemaking proposal and to adopt rules implementing sports wagering as soon as possible. One commenter specifically suggested it is better to regulate and allow legal sports wagering, because it reduces incentives to engage in illegal gambling and the revenue would benefit the state.

Response #3: The commission appreciates all comments received. The commission recognizes the benefits of regulated sports wagering under 2019 HB 725 (Chapter 284, Laws of 2019) but must proceed carefully to ensure all procedural and substantive requirements are met.

Comment #4: One commenter opposed the lottery managing sports wagering.

Response #4: The commission acknowledges the comment; however, it is beyond the scope of this rulemaking. The 2019 Legislature enacted HB 725, which made the lottery responsible for sports wagering.

Comment #5: The commission received a comment suggesting that Chapter 284, section 1, L. 2019 (codified at 23-7-104, MCA) be removed from implementation citations for rules adopted and amended as a result of this proposal, because it only provides that sports wagering is lawful when conducted in accordance with Title 23, chapter 7, MCA, and the commission's rules. The commenter noted the statute is not directly implemented by the new rules and amendments as indicated in the proposal.

Response #5: The commission agrees and has removed the citation from the adopted and amended rules accordingly.

Comments #6 and #7 relate to New Rule I (ARM 2.63.1301):

Comment #6: One commenter asked how a person could make an "anonymous wager" at a sports wagering facility as described in proposed New Rule I(2) if the person was also required to verify that he or she was eligible to participate in sports wagering.

Response #6: The commission acknowledges use of the word "anonymous" in this context could create confusion because a player participating in sports wagering without a sports wagering account will be required to verify eligibility. This will require the player to provide identifying information. The commission has revised New Rule I(2) to describe the means of wagering without a sports wagering account and deleted the word "anonymous" to avoid suggesting players will not be

required to provide identifying information to a sales agent to confirm that the player is of legal age to place a wager.

Comment #7: The commission received a comment suggesting that 23-7-102, MCA, be removed from implementation citations for New Rule I.

Response #7: The commission agrees and has removed the citation.

Comment #8 relates to New Rule IV (ARM 2.63.410):

Comment #8: The commission received a comment suggesting that 23-7-301, MCA, be listed as a statute implemented by New Rule IV.

Response #8: The commission agrees and has added the citation.

Comment #9 relates to ARM 2.63.203:

Comment #9: The commission received a comment suggesting that 23-7-302, MCA, be listed as a statute implemented by ARM 2.63.203.

Response #9: The commission agrees and has added the citation.

Comments #10 through #12 relate to ARM 2.63.204:

Comment #10: Several individuals commented regarding the type of wagers that should be offered. Some requested specific wager types while others noted the absence of definition in rule.

Response #10: The commission will determine the type of wagers permitted when setting parameters for sports wagering games as described in ARM 2.63.204. Both proposition and spread wagers were mentioned in the comments and will be considered. Game parameters are exempt from the administrative rule process under 2-4-102, MCA. This allows the lottery to adjust the type of games and wagers offered in response to the wishes of the public.

Comment #11: A commenter noted game parameters under 2-4-102, MCA, must be adopted by the lottery commission rather than the lottery director.

Response #11: The commission agrees with the comment and has amended ARM 2.63.204(6) to replace "director" with "commission."

Comment #12: A commenter suggested the lottery commission should not use its authority to adopt parameters relating to specific lottery games under 2-4-102, MCA, to create rules of general application regarding subjects that must be addressed in rule as provided in 23-7-202(10), MCA. These subjects include "acceptance of wagers on a sports event or a series of sports events," "player exclusion requirements," and "protections for an individual placing a wager."

Response #12: The commission agrees with the comment.

Comments #13 through #17 relate to ARM 2.63.401:

Comment #13: A commenter expressed concern that "gaming supplier" is not defined.

Response #13: Gaming supplier is described in 23-7-310, MCA, as "a person, firm, association, or corporation that submits a bid or proposal for a contract to supply the lottery of sports wagering equipment, tickets, or other material, or consultant services for use in the operation of the state lottery."

Comment #14: Numerous commenters supported implementing a requirement for sports wagering sales agents to hold an alcoholic beverage license as proposed in ARM 2.63.401(2)(c). Some commenters indicated that the 2019 legislature intended for sports wagering to be limited to locations that hold licenses to serve alcohol. Other commenters noted that gambling operators that are licensed to serve alcohol are already familiar with gaming.

Response #14: The commission appreciates all comments received during the rulemaking process.

Comment #15: A minority of commenters opposed the alcoholic beverage license prerequisite in ARM 2.63.401(2)(c).

One commenter expressed a concern that limiting sports wagering to locations with alcoholic beverage licenses would result in riskier wagers by intoxicated players. In addition, the commenter presumed that some sports wagering players who do not drink alcoholic beverages would not want to be limited to placing wagers in locations that serve alcohol.

Two commenters argued the lottery cannot impose a beverage license limitation because the limitation was not envisioned by the legislature.

Response #15: The lottery acknowledges the concern about intoxicated players; however, because the legislature allowed players to participate in sports wagering at gambling operator locations that serve alcoholic beverages, there is no practical way to prevent players from participating in sports wagering when intoxicated.

The commission disagrees with the commenters who believe the beverage license requirement is not consistent with legislative intent. Under 23-7-301(2), MCA, the legislature granted the lottery authority to determine the places at which state lottery games and sports wagering tickets may be sold. The lottery is authorized to adopt rules relating to "sales agent licensing requirements" (23-7-202, MCA). The legislature required the lottery to consider "financial responsibility and security," "accessibility," and "sufficiency of existing licenses to serve the public convenience and the volume of expected sales." Based on these statutory standards in 23-7-301(3)(a), MCA, the lottery determined that requiring an alcoholic

beverage license would satisfy the lottery's statutory duties in a manner consistent with legislative intent. The lottery can leverage the established liquor licensing process to accomplish its statutory mandates in 23-7-301(3)(a), MCA.

Section 23-7-103(10), MCA, also requires that a sports wagering facility must have a gambling operator's license; however, requiring a gambling operator's license alone will not ensure compliance with the statutory requirements in 23-7-301(3)(a), MCA. The gambling operator license, which more broadly includes licenses to operate Calcutta pools, bingo parlors, and casino nights, does not include limits on the geographic distribution of such establishments. The beverage license requirement in ARM 2.63.401(2)(d) addresses the geographic distribution requirement in 23-7-301(3)(a)(iii), MCA, because alcoholic beverage licenses are limited under a quota system (16-4-201, MCA) and other geographic dispersal requirements (e.g., 16-4-105, MCA). Without such limits, relying solely on the gambling operator license would not satisfy legislative intent.

Comment #16: A commenter advised deleting the unique address requirement in ARM 2.63.401(2)(d), because it duplicates the unique address requirement for a gambling operator license in 23-5-117(2)(b), MCA.

Response #16: The commission agrees and has deleted ARM 2.63.401(2)(d).

Comment #17: The commission received a comment suggesting that 23-7-103, MCA, be listed as a statute implemented by ARM 2.63.401.

Response #17: The commission agrees and has added the citation.

Comment #18 relates to ARM 2.63.403:

Comment #18: A commenter expressed concern about paying a $50 application fee to engage in sports wagering.

Response #18: The commenter was apparently mistaken. The application fee only applies to locations that want to be licensed as sales agents to offer sports wagering. There is no application fee associated with placing a wager by a player.

Comment #19 relates to ARM 2.63.407:

Comment #19: Some commenters requested clarification regarding the 6% commission for sports wagering sales agents. One commenter asked the commission to clarify whether $10,000 in sports wagers made at a sports wagering facility would result in a $600 commission for the licensed sales agent.

Response #19: Under ARM 2.63.407, "sales agents who offer sports wagers are entitled to a 6 percent base commission of the value of sports wagers made." If a location has $10,000 in sports wagering sales for the month, the sales agent would be entitled to $600.

Comments #20 through #22 relate to ARM 2.63.603:

Comment #20: A commenter noted the signage requirements in ARM 2.63.603 do not address sports wagering by coaches, referees, and players. The commenter appeared to believe coaches, referees, and players were prohibited from participating in sports wagering under 23-7-301, MCA.

Response #20: Section 23-7-301, MCA, addresses the licensing of sales agents. Under the statute, coaches, referees, and players who are participating in collegiate or professional sports may not become licensed as sales agents. The statute does not address sports wagering by coaches, referees, and players. Because 23-7-301, MCA, pertains to sales agent licensing and not sports wagering, it would be inappropriate for the commission to implement the notice requirement requested by the commenter.

Comment #21: Regarding ARM 2.63.603(3)(b)'s requirement for sales agents to post information about responsible gambling resources approved by the director, a commenter questioned whether the resources approved by the director would be merely informational or formal programs and activities created by the lottery. The commenter observed that rules for "contribution and participation in responsible gaming and consumer protection activities" would require authorization by the lottery commission as provided in 23-7-202(10)(i), MCA. Merely informational materials, however, could be approved by the lottery director.

Response #21: ARM 2.63.603(3)(b) is intended to describe the lottery director's role in approving the information that must be posted concerning responsible gaming and consumer protection activities. The commission acknowledges its duty under 23-7-202(10)(i), MCA, to adopt rules relating to contribution and participation in responsible gaming and consumer protection activities. The commission, not the lottery director, will authorize these activities and programs as required by the statute.

Comment #22: The commission received a comment suggesting that 23-7-202, MCA, be listed as an authority statute for ARM 2.63.603.

Response #22: The commission agrees and has added the citation.

Comments #23 through #25 relate to ARM 2.63.1201:

Comment #23: A commenter recommended using the term "individual" rather than "person" to refer to a natural person in ARM 2.63.1201(3) to avoid creating confusion with respect to who can redeem a winning ticket.

Response #23: The department agrees and has amended ARM 2.63.1201(3) to use the word "individual" when referring to a natural person. A winning lottery

ticket may be redeemed only by an organization with a federal employer's identification number or by a natural person.

Comment #24: The commission received a comment suggesting that 23-7-311, MCA, be listed as an authority statute for ARM 2.63.1201.

Response #24: The commission agrees and has added the citation.

Comment #25: The commission received a comment suggesting that 23-7-108, MCA, be listed as a statute implemented by ARM 2.63.1201.

Response #25: The commission agrees and has added the citation.

3. The department has amended the following rules as proposed: ARM 2.63.1002 and 2.63.1005.

4. The department has repealed the following rule as proposed: ARM 2.63.409.

5. The department has adopted the following rules as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

NEW RULE I (ARM 2.63.1301) SPORTS WAGERING ACCOUNTS

(1) remains as proposed.

(2) The lottery may accept ~~anonymous~~ wagers at a sports wagering facility through a sports wagering terminal without the player establishing a sports wagering account.

(3) through (14) remain as proposed.

AUTH: 23-7-202, MCA
IMP: ~~23-7-102,~~ 23-7-103, 23-7-110, 23-7-202, MCA~~; Chapter 284, section 1, L. 2019~~

NEW RULE II (ARM 2.63.1304) SELF-EXCLUSION PROGRAM (1) through (5) remain as proposed; however, the implementation citation is amended as follows:

IMP: 23-7-202, MCA~~; Chapter 284, section 1, L. 2019~~

NEW RULE III (ARM 2.63.1305) RESPONSIBLE GAMING (1) through (5) remain as proposed; however, the implementation citation is amended as follows:

IMP: 23-7-202, MCA~~; Chapter 284, section 1, L. 2019~~

NEW RULE IV (ARM 2.63.410) AGE VERIFICATION (1) through (3) remain as proposed; however, the implementation citation is amended as follows:

IMP: 23-7-202, 23-7-301, 23-7-302, MCA~~; Chapter 284, section 1, L. 2019~~

6. The department has amended the following rules as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

2.63.203 DEFINITIONS (1) through (8) remain as proposed; however, the implementation citation is amended as follows:

IMP: 23-7-301, 23-7-302, MCA~~; Chapter 284, section 1, L. 2019~~

2.63.204 GENERAL PROVISIONS (1) through (5) remain as proposed.

(6) The ~~director~~ commission shall adopt parameters for sports wagering games, including but not limited to:

(a) through (k) remain as proposed.

(7) remains as proposed.

AUTH: 23-7-202, MCA

IMP: 23-7-110, 23-7-202, 23-7-211, 23-7-212, 23-7-301, MCA~~; Chapter 284, section 1, L. 2019~~

2.63.401 SALES AGENT PLACES OF SALE (1) through (2)(c) remain as proposed.

~~(d) that has a unique address assigned by the local government in which the premises is located;~~

(e) through (j) remain as proposed but are renumbered (d) through (i).

AUTH: 23-7-202, 23-7-301, MCA

IMP: 23-7-103, 23-7-301, 23-7-306, 23-7-307, MCA~~; Chapter 284, section 1, L. 2019~~

2.63.402 SALES AGENT RESIDENCY (1) remains as proposed; however, the implementation citation is amended as follows:

IMP: 23-7-301, MCA~~; Chapter 284, section 1, L. 2019.~~

2.63.403 SALES AGENT APPLICATIONS AND FEES (1) through (3) remain as proposed; however, the implementation citation is amended as follows:

IMP: 23-7-202, 23-7-301, MCA~~; Chapter 284, section 1, L. 2019~~

2.63.404 SALES AGENT REQUIRED RULE READING (1) remains as proposed; however, the implementation citation is amended as follows:

IMP: 23-7-202, 23-7-301, MCA~~; Chapter 284, section 1, L. 2019~~

2.63.405 SALES AGENT ELECTRONIC FUNDS TRANSFER AND ACCOUNTING (1) through (3) remain as proposed; however, the implementation citation is amended as follows:

IMP: 23-7-301, MCA~~; Chapter 284, section 1, L. 2019~~

2.63.406 SALES AGENT BONDING (1) through (2) remain as proposed; however, the implementation citation is amended as follows:

IMP: 23-7-301, MCA~~; Chapter 284, section 1, L. 2019~~

2.63.407 SALES AGENT COMMISSION (1) through (6) remain as proposed; however, the implementation citation is amended as follows:

IMP: 23-7-202, 23-7-301, MCA~~; Chapter 284, section 1, L. 2019~~

2.63.603 DISPLAY OF LICENSE, NOTICES, AND RESTRICTIONS (1) through (3) remain as proposed; however, the authority and implementation citations are amended as follows:

AUTH: 23-7-202, 23-7-301, MCA
IMP: 23-7-301, 23-7-302, MCA~~; Chapter 284, section 1, L. 2019~~

2.63.604 LICENSE LOCATIONS (1) through (4) remain as proposed; however, the implementation citation is amended as follows:

IMP: 23-7-301, MCA~~; Chapter 284, section 1, L. 2019~~

2.63.606 DUPLICATE LICENSES (1) through (5) remain as proposed; however, the implementation citation is amended as follows:

IMP: 23-7-211, 23-7-301, MCA~~; Chapter 284, section 1, L. 2019~~

2.63.609 CHANGE OF LOCATION (1) and (2) remain as proposed; however, the implementation citation is amended as follows:

IMP: 23-7-301, MCA~~; Chapter 284, section 1, L. 2019~~

2.63.611 REVOCATION OR SUSPENSION OF LICENSE (1) through (5) remain as proposed; however, the implementation citation is amended as follows:

IMP: 23-7-301, MCA~~; Chapter 284, section 1, L. 2019~~

2.63.612 TEMPORARY LICENSES (1) through (2) remain as proposed; however, the implementation citation is amended as follows:

IMP: 23-7-301, MCA~~; Chapter 284, section 1, L. 2019~~

2.63.801 ELECTRONIC FUNDS TRANSFER (1) through (5) remain as proposed; however, the implementation citation is amended as follows:

IMP: 23-7-301, MCA~~; Chapter 284, section 1, L. 2019~~

2.63.1004 LOTTERY TICKETS - SALES AGENT (1) remains as proposed; however, the implementation citation is amended as follows:

IMP: 23-7-202, 23-7-301, MCA~~; Chapter 284, section 1, L. 2019~~

2.63.1201 PRIZES (1) through (2) remain as proposed.

(3) A winning lottery or sports wager ticket may be redeemed only by an organization with a federal employer's identification number or by ~~a person~~ an individual.

(4) through (15) remain as proposed.

AUTH: 23-7-202, 23-7-311, MCA
IMP: 23-7-108, 23-7-202, 23-7-211, MCA~~; Chapter 284, section 1, L. 2019~~

2.63.1202 LOTTERY TICKET WINNER REDEMPTIONS (1) remains as proposed; however, the implementation citation is amended as follows:

IMP: 23-7-202, MCA~~; Chapter 284, section 1, L. 2019~~

By: /s/ Wilbur Rehmann
Wilbur Rehmann, Chair
Montana Lottery Commission

By: /s/ Don Harris
Don Harris, Rule Reviewer
Department of Administration

Certified to the Secretary of State November 26, 2019.

BEFORE THE DEPARTMENT OF COMMERCE
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 8.111.602 definitions and 8.111.603 housing credit allocation procedure	))))	NOTICE OF AMENDMENT

TO: All Concerned Persons

1. On October 18, 2019, the Department of Commerce published MAR Notice No. 8-111-173 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 1762 of the 2019 Montana Administrative Register, Issue Number 20.

2. No comments or testimony were received.

3. The department has amended the above-stated rules as proposed.

/s/ Garrett Norcott
Garrett Norcott
Rule Reviewer

/s/ Tara Rice
Tara Rice
Director
Department of Commerce

Certified to the Secretary of State November 26, 2019.

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

In the matter of the amendment of ARM 24.174.503 administration of vaccines by pharmacists and 24.174.1712 prescription drug registry fee	))))	NOTICE OF AMENDMENT

TO: All Concerned Persons

1. On October 4, 2019, the Board of Pharmacy (board) published MAR Notice No. 24-174-72 regarding the public hearing on the proposed amendment of the above-stated rules, at page 1731 of the 2019 Montana Administrative Register, Issue No. 19.

2. On November 1, 2019, a public hearing was held on the proposed amendment of the above-stated rules in Helena. Two comments were received by the November 1, 2019 deadline.

3. The board has thoroughly considered the comments received. A summary of the comments and the board responses are as follows:

COMMENT 1: One commenter expressed support for all the amendments proposed in MAR Notice No. 24-174-72.

RESPONSE 1: The board appreciates all comments received during the rulemaking process.

COMMENT 2: One commenter supported the amendments to ARM 24.174.503 and believed the changes will enhance public health by enabling pharmacists to administer vaccines to a greater number of patients.

RESPONSE 2: The board appreciates all comments received during the rulemaking process.

4. The board has amended ARM 24.174.503 and 24.174.1712 as proposed.

BOARD OF PHARMACY
TONY KING, PharmD
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 November 26, 2019.

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

In the matter of the amendment of ARM 24.213.2101 continuing education requirements, 24.213.2104 acceptable continuing education, 24.213.2121 waiver of continuing education requirement, and the repeal of 24.213.2107 traditional education by nonsponsored organizations, 24.213.2111 teaching, 24.213.2114 papers, publications, journals, exhibits, videos, independent study, and college course work	)))))))))))	NOTICE OF AMENDMENT AND REPEAL

TO: All Concerned Persons

1. On July 26, 2019, the Board of Respiratory Care Practitioners published MAR Notice No. 24-213-22 regarding the public hearing on the proposed amendment and repeal of the above-stated rules, at page 1007 of the 2019 Montana Administrative Register, Issue No. 14.

2. On August 29, 2019, a public hearing was held on the proposed amendment and repeal of the above-stated rules in Helena. No comments were received by the August 30, 2019 deadline.

3. The board has amended ARM 24.213.2101, 24.213.2104, and 24.213.2121 exactly as proposed.

4. The board has repealed ARM 24.213.2107, 24.213.2111, and 24.213.2114 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 November 26, 2019.

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of ARM 24.301.109 definitions, 24.301.131 incorporation by reference of International Building Code, 24.301.138 calculation of fees, 24.301.142 modifications to the International Building Code applicable only to the department's code enforcement program, 24.301.146 modifications to the International Building Code applicable to both the department's and local government code enforcement programs, 24.301.154 incorporation by reference of International Residential Code, 24.301.171 incorporation by reference of International Existing Building Code, 24.301.172 incorporation by reference of International Mechanical Code, 24.301.173 incorporation by reference of International Fuel Gas Code, 24.301.175 incorporation by reference of International Swimming Pool and Spa Code, 24.301.181 incorporation by reference of International Wildland-Urban Interface Code, 24.301.201 extent of local programs, 24.301.203 funding of code enforcement program, 24.301.208 incorporation by reference of Independent Accountant's Reporting Format for Applying Agreed-Upon Procedures During Audits of Certified City, County, or Town Building Code Enforcement Programs, 24.301.301 incorporation by reference of Uniform Plumbing Code, 24.301.351 minimum required plumbing fixtures, 24.301.401 incorporation by reference of National Electrical Code, 24.301.511 definitions, 24.301.514 enforcement generally, and 24.301.904 site accessibility	)	NOTICE OF AMENDMENT

TO: All Concerned Persons

1. On August 23, 2019, the Department of Labor and Industry (department) published MAR Notice No. 24-301-347 regarding the public hearing on the proposed amendment of the above-stated rules, at page 1273 of the 2019 Montana Administrative Register, Issue No. 16.

2. On September 16, 2019, a public hearing was held on the proposed amendment of the above-stated rules in Helena. Many comments were received by the September 20, 2019 deadline.

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

COMMENT 1: Several commenters supported amending the rules to adopt more recent versions of nationally recognized building codes.

RESPONSE 1: The department appreciates all comments received during the rulemaking process.

COMMENT 2: One commenter requested the department amend ARM 24.301.351, Minimum Number of Required Plumbing Fixtures. The commenter stated that this rule has not been revised for some time and is not consistent with Subsection 2902.1, Minimum Number of Fixtures, of the 2018 IBC, which includes specific descriptions of certain assembly spaces, i.e., casinos, indoor and outdoor sporting events, and educational spaces, to allow for more reasonable fixture counts than in ARM 24.301.351. The commenter asked the department to consider adopting Subsection 2902.1, Minimum Number of Fixtures, of the 2018 IBC.

RESPONSE 2: The department recognizes that the table at ARM 24.301.351 is not consistent with Subsection 2902.1, Minimum Number of Fixtures, of the 2018 IBC or Subsection 422.0, Minimum Plumbing Fixtures, of the 2018 UPC. While the department did not propose amending ARM 24.301.351 in this rulemaking project, the department appreciates the commenter's point regarding the different types of assembly spaces and the number of fixtures and will review the rule for possible amendment in the future.

COMMENTS 3 THROUGH 7 PERTAIN TO ARM 24.301.146:

COMMENT 3: One commenter proposed deleting or amending Subsection 903.2.1.7, Multiple Fire Areas, of the 2018 IBC, noting that many areas in the state have inadequate water supplies to have properly functioning fire suppression systems. The commenter gave an example of a building with a 200-occupant bowling alley, a 75-occupant bar/casino, and a 75-occupant restaurant that all share the same main lobby entrance or exit. Even if each fire area had two required exits, under Subsection 903.2.1.7 of the 2018 IBC a fire suppression system would be required in all areas or occupancies. If adding to an existing building, this

subsection could require adding a fire suppression system to the existing portion of the structure. In areas without a public water supply or with an inadequate private water supply, storage tanks and fire pumps would be required as part of the fire suppression system which will add tens of thousands of dollars to the project's cost. The commenter suggested deleting Subsection 903.2.1.7 or amending it to allow each fire area to be counted separately.

RESPONSE 3: The department notes that Subsection 903.2.1.7 was first added to the 2015 IBC and that comments against adopting this subsection were received during the community listening sessions. Additionally, the department recognizes that inadequate water supplies can make compliance with this subsection impracticable. Therefore, the department will not adopt Subsection 903.2.1.7 at this time. Instead the department is amending ARM 24.301.146 to delete this subsection which will effectively continue the existing requirements of the 2012 IBC.

COMMENT 4: One commenter proposed amending ARM 24.301.146(12) to require fire sprinklers in all residential occupancies as in Subsection 903.2.8 of the 2018 IBC. Since 2003, the IBC has required fire sprinklers in all residential occupancies; however, the department adopted a modified residential sprinkler requirement. The commenter stated that, under this modified residential sprinkler requirement, fire sprinklers can be eliminated in certain residential occupancies without requiring any other fire protection in the building. The commenter further stated that depending on the definition of the term "transient guestroom," a building used as a bed and breakfast would require fire sprinklers and the same building would not if used as a short-term rental. The commenter provided statistics attributed to the U.S. Fire Administration, National Fire Incident Reports System, that since 2003, 156 civilians have died in fires in residential occupancies in Montana and that 26 of those died in buildings covered by the International Building Code and fire codes. Without fire sprinklers in all residential occupancies, occupants are without protection while they are sleeping and most vulnerable. The commenter asserted that by allowing exemptions from the fire sprinklers in certain residential occupancies, the department is not fulfilling the intent of the IBC to safeguard life and property from fire and to provide for the safety of firefighters and emergency responders during emergency operations.

RESPONSE 4: The department only proposed renumbering this subsection and updating the references to the 2018 IBC, with no substantive changes. Further, the department received no comments during the community listening sessions around the state or from the Building Codes Council in favor of requiring fire sprinklers in all residential occupancies.

COMMENT 5: One commenter stated that the proposed change to ARM 24.301.146(16) is unnecessary because Subsection 1006.3.3. of the 2018 IBC pertains to R-1 and R-2 occupancies, not R-3 and R-4 occupancies. The commenter further stated that the tables and footnotes to Subsection 1006.3.3 of the 2018 IBC meet the original intent of the proposed amendment and therefore the proposed amendment should be withdrawn.

RESPONSE 5: The department agrees and will withdraw the proposed amendment.

COMMENT 6: One commenter proposed amending ARM 24.301.146(18) to revise Table 1020.1, associated with Subsection 1020.1 of the 2018 IBC, for R occupancies to: change the Occupant Load Served by a Corridor from "Greater than 10" to "All"; and change the Required Fire-Resistance Rating (hours) for R occupancies without a sprinkler system from "Not Permitted" to "1" (hour).

RESPONSE 6: The department reviewed the corridor provisions in Table 1020.1 and determined these requirements are not consistent with the automatic sprinkler provisions for "R" occupancies in ARM 24.301.146(12). The department is therefore striking "greater than 10" in the "Occupant Load Served by Corridor" column for R occupancy and inserting "greater than 8". The commenter's proposed amendment would require any corridor in an R occupancy to have both an automatic sprinkler system and a fire rated corridor. It is not practical to require fire rated corridors in all R occupancies, specifically those with an occupant load of 8 or fewer occupants.

COMMENT 7: Two commenters suggested amending ARM 24.301.146(24) that amends Subsection 3001.2 of the 2018 IBC regarding emergency elevator communication equipment systems for the deaf, hard of hearing, and speech impaired. The commenters stated that the language in the subsection is too vague because it lacks technical criteria and could result in a wide variety of communication systems. The commenters stated that the National Elevator Industry, Inc. (NEII) has worked closely with the American Society of Mechanical Engineers (ASME) Emergency Operations Committee to develop technical standards for a communication system to meet the intent of the Subsection 3001.2 of the 2018 IBC and that these standards have been approved for the 2019 edition of ASME A17.1/CSA B44 Safety Code for Elevators and Escalators. The commenters proposed amending Subsection 3001.2 of the 2018 IBC to reference the provisions of ASME A17.1/CSA B44 and National Fire Protection Association (NFPA) 72, National Fire Alarm and Signaling Code.

RESPONSE 7: The department recognizes that Subsection 3001.2 of the 2018 IBC does not reference a technical standard and therefore elevator owners, the department, and the public will lack consistency in emergency elevator communication equipment for the deaf, hard of hearing, and speech impaired. The department appreciates that the NEII and ASME have developed technical standards for a communication system to implement Subsection 3001.2 and that these standards will be included in the 2019 edition of the ASME A17.1/CSA B44 Safety Code for Elevators and Escalators. Therefore, instead of delaying the effective date of Subsection 3001.2, the department will amend the rule to reference ASME A17.1/CSA B44 and NFPA 72 as suggested.

COMMENTS 8 THROUGH 11 PERTAIN TO ARM 24.301.154:

COMMENT 8: One commenter asked the department to adopt the plumbing provisions of the 2018 IRC, specifically chapters 25 through 33. The commenter stated that the IRC plumbing provisions recognize new and innovative technologies which result in quicker installation and more flexibility in design which reduces the time and cost of construction.

RESPONSE 8: The department did not propose adopting the plumbing provisions of the 2018 IRC in the proposal notice and cannot do so in the final notice. Additionally, the Building Codes Council did not support adopting the IRC plumbing provisions.

COMMENT 9: One commenter asked the department to adopt both the 2018 UPC and 2018 IRC plumbing provisions, at Part VII and including chapters 25 through 33, and allow local jurisdictions to choose which plumbing code to adopt and enforce. The IRC plumbing provisions have been adopted in 29 other states. The commenter stated that complying with the IRC plumbing provisions would lower the cost of installing plumbing by three to nine percent for materials and eight to ten percent for labor.

RESPONSE 9: The department did not propose adopting the plumbing provisions of the 2018 IRC in the proposal notice and cannot do so in the final notice. Additionally, the Building Codes Council did not support adopting the IRC plumbing provisions.

COMMENT 10: Two commenters asked the department to adopt Appendix F, Radon Control Methods, of the 2018 IRC. The commenters noted that adoption by the department is necessary before local building code enforcement authorities could adopt and enforce Appendix F. One commenter believed that, based on the community listening sessions conducted by the department, the department intended to adopt Appendix F until the Building Codes Council recommended omitting Appendix F.

RESPONSE 10: The department did not propose adopting Appendix F, Radon Control Methods, in the proposal rulemaking notice and is unable to do so in the final notice. The Building Codes Council considered the issue and advised the department against adopting Appendix F due to the anticipated increased construction costs of complying with it. While local building code enforcement authorities cannot require compliance with Appendix F, individual property owners may choose to utilize those radon control methods in construction.

COMMENT 11: Two commenters supported the department's adoption of Appendix Q, Tiny Houses, of the 2018 IRC.

RESPONSE 11: The department is adopting Appendix Q as proposed.

COMMENT 12 PERTAINS TO ARM 24.301.175:

COMMENT 12: Two commenters asked the department to adopt Chapter 8, Permanent Inground Residential Swimming Pools, of the 2018 ISPSC. One commenter stated that residential pools are a known hazard to health and safety and that local building code enforcement authorities should permit and inspect them during construction. Without the adoption of Chapter 8, the local building codes enforcement authority cannot apply these standards. The commenter further stated that while Title 50, chapter 53, part 1, MCA, pertains to public swimming pools, the chapter does not exclude residential swimming pools and therefore should not be construed to exempt residential swimming pools from construction standards.

RESPONSE 12: The current rule at (3) provides that the ISPSC is not applicable to residential occupancies. The implemented statutes in Title 50, chapter 53, part 1, MCA, specifically state that the statutes apply to public swimming pools. Accordingly, the statute does not grant authority over private swimming pools. The department did not propose adopting Chapter 8 of the 2018 ISPSC in the proposal notice and is unable to do so in the final notice.

COMMENT 13 PERTAINS TO ARM 24.301.203:

COMMENT 13: One commenter asked that the department not amend ARM 24.301.203(2) and noted that department certified city building code enforcement programs have "life-safety inspectors" that conduct both construction inspections and also "occupancy inspections" to ensure existing buildings are maintained to the building code under which they were permitted. The commenter opined that certificates of occupancy do not guarantee that a building meets all building code provisions because modifications often begin with the first tenant and that city building code enforcement programs' life-safety inspectors often identify building code deficiencies requiring correction and permits. The commenter believed the city has a collaborative and team-focused life-safety inspection program and to artificially dictate responsibilities based solely on funding would be inefficient and ineffective.

RESPONSE 13: The current rule prohibits a certified city, county, or town building program from using building permit fees for any purpose other than building plan review, inspection, and code enforcement of new construction or alteration requiring a building permit. This rule implements 50-60-106, MCA, which provides that building permit fees charged by a certified city, county, or town must be used for the enforcement of building codes as adopted by the department. The statute does not grant authority to use permit fees for occupancy or maintenance inspections of existing buildings.

The department understands that occupants may modify a building to deviate from the building codes; however, certified cities must stop using building permit fees for occupancy or maintenance inspections of existing buildings. The department notes that this comment demonstrates the need for additional clarification to the rule and the department is amending the rule as proposed.

COMMENT 14 PERTAINS TO ARM 24.301.301:

COMMENT 14: One commenter supported the department adopting the UPC as proposed, stating the UPC is progressive, innovative, increasingly conservation- and sustainability-oriented, and has a demonstrated history of protecting the public health and safety for decades in Montana and for nearly 100 years since its inception.

The commenter attended all six of the department's community listening sessions around the state and believed that the plumbing industry consistently advocated for continued UPC adoption.

The commenter disagreed that adoption of the IRC plumbing provisions, known as the International Plumbing Code (IPC), or dual adoption of both the UPC and the IPC, would result in a significant savings and believed that adopting two different plumbing codes would cause confusion, tend to increase costs, and be counterproductive.

RESPONSE 14: The department agrees and is amending the rule as proposed.

COMMENTS 15 THROUGH 17 PERTAIN TO ARM 24.301.401:

COMMENT 15: One commenter supported the department's proposed exclusion of kitchens from adoption of Subsection 210.12, Arc-Fault Circuit-Interrupter (AFCI) Protection, as set out in the 2017 NEC.

RESPONSE 15: The Building Codes Council advised the department to exclude kitchens from the areas required to have AFCIs due to numerous "nuisance trips." The Building Codes Council noted that AFCIs were not required in kitchens prior to the 2014 NEC and that appliance technology may lag behind the AFCI's resulting in the nuisance trips.

COMMENT 16: Several commenters asked the department to adopt Subsection 210.12, Arc-Fault Circuit-Interrupter (AFCI) Protection, as set out in the 2017 NEC. The commenters opposed the department's proposed amendment to delete all references to "kitchen" or "kitchens," and thereby not require AFCIs in kitchens. The commenters stated excluding kitchens from AFCI protection was unnecessary and created a safety hazard.

Several commenters noted AFCIs distinguish between harmless arcs (incidental to normal operation of switches and plugs) and potentially dangerous arcs (i.e., a lamp cord which has a broken conductor) and will stop arcing before a fire can occur. They noted kitchens are a common place for electrical fires.

One commenter stated that AFCIs were first required in the 1999 NEC in bedrooms and have since expanded to include most outlets in dwelling units. Another commenter (Smith at Eaton) stated that the U.S. Fire Administration and the Federal Emergency Management Agency (FEMA) has recorded a 22% reduction nationally in residential electrical fires since the adoption and expansion of AFCI technology in the NEC.

One commenter noted that Underwriters Laboratories, LLC (UL) is a safety testing and certification company approved by the U.S. Occupational Safety and Health Administration as a Nationally Recognized Testing Laboratory. The

commenter stated that UL first issued a standard for AFCIs, UL 1699, twenty years ago and that AFCIs have been widely recognized for contributing to fire safety in homes. UL 1699 addresses four different types of arcing events, including series and parallel arcing with different types of supply/load conductors and electrical insulation failure conditions. There are comprehensive unwanted operation tests, also known as "nuisance tripping" tests, such as challenging the AFCI with inrush currents, normal operation arcing, non-sinusoidal waveforms, and light bulb burnouts. Additionally, there are tests of the AFCI representing operation inhibition, environmental conditioning, overloads, and short circuits. To earn UL certification, AFCIs must pass all these tests. If there are concerns regarding the performance of a UL-certified AFCI, a Product Incident Report (PIR) may be filed with UL at www.ul.com/ahjreport allowing UL to confirm the facts and determine if any corrective actions are warranted. In 2018 through September 10, 2019, UL has received no reports of nuisance tripping of UL-certified AFCIs in household kitchens.

Two commenters stated that the National Electrical Manufacturers Association (NEMA) collaborates with both UL and the Association of Home Appliance Manufacturers (AHAM) to field reports of unwanted tripping of branch circuits protected by AFCI technology. One commenter stated that, although there are an estimated 50,000+ branch circuits in Montana protected with AFCI technology, they have not received any reports of unwanted tripping.

Two commenters stated that there is a web resource, www.afcisafety.org, for installers and homeowners to report unwanted AFCI tripping to AFCI manufacturers. After a report is made, the specific AFCI manufacturer will follow up appropriately until the problem is solved. One commenter speculated that Montana homebuilders may not be aware of this resource.

One commenter stated that there is a free web-based course, www.afcisafety.org/ul-training-course/, developed by NEMA and UL and updated by UL that provides information and troubleshooting methods for AFCIs.

RESPONSE 16: The department notes that the Building Codes Council provided anecdotal information about nuisance trips. Specific information regarding any attempts to report nuisance trips to UL, NEMA, or AHAM and the outcome of those attempts was not provided.

Other jurisdictions have adopted the NEC with amendments providing that AFCIs are not required in kitchens, for refrigeration appliances, etc. to eliminate nuisance trips.

Oregon adopted the 2017 NEC, but the Oregon Electrical Specialty Code (OESC) amended Subsection 210.12 to provide that AFCI protection shall not be required on branch circuits supplying receptacles located in kitchens or laundry areas, for dedicated outlets that supply equipment known to cause unwanted tripping of AFCI devices, or for branch circuits that serve an appliance that is not easily moved or that is fastened in place. See OESC 210.12 in Table 1-E at Or. Admin. R. 918-305-0105.

Both Arkansas and New Jersey adopted the 2014 NEC with amendments to provide that AFCI protection is not required in kitchens or laundry areas. See Ark. Reg. 010.13-008 and N.J.A.C. 5:23-3.16(b).

North Dakota adopted the 2017 NEC but amended Subsection 210.12(A) to provide that AFCI protection is not required for refrigeration appliances provided that a single receptacle on a dedicated circuit is installed. See N.D. Admin. Code § 24.1-06-02-10 (NEC 210 Branch Circuits).

Idaho adopted the 2017 NEC, but amended Subsection 210.12 to provide that, in dwelling units, AFCI protection shall only be required on branch circuits and outlets in bedrooms. All other locations in dwelling units are exempt from the requirements of 210.12. See IDAPA 07.01.06.011.01.r.

Also, the National Association of Home Builders (NAHB) developed proposed amendments to the 2017 NEC at Subsection 210.12(A) to remove AFCI protection for residential dwelling units while leaving it in place for hotels, motels, and dormitories. NAHB noted that, when AFCIs initially appeared in the 1999 NEC, including AFCIs was largely based on several U.S. Consumer Product Safety Commission (CPSC) reports which appeared to overstate the number of incidents because it was several times higher than in later reports. Additionally, NAHB noted that while the AFCI protection requirement applies predominately in new homes, the highest incidence of electrical distribution fires was in dwellings over 40 years old according to the June 2015 issue of the U.S. Fire Administration's Topical Fire Report Series. The NAHB stated that the data did not show that AFCIs were necessary when they were first introduced in the NEC and has not supported the continued expansion of AFCIs in successive versions of the NEC. See NAHB 2017 National Electrical Code Suggested Amendments issued 5/1/2017.

There is sufficient evidence that nuisance trips of AFCIs are a problem. Accordingly, the department is amending the rule as proposed and as consistent with the Building Codes Council recommendation.

COMMENT 17: Two commenters asked the department to consider requiring a dedicated branch circuit for a receptacle outlet in a kitchen if an AFCI would not be required. The commenters stated the dedicated circuit should use rigid metal conduit, intermediate metal conduit, electrical metallic tubing, Type MC or steel armored Type AC cables meeting the requirements of Subsection 250.118 of the 2017 NEC with metal outlet and junction boxes between the branch-circuit over current device and the dedicated receptacle outlet to prevent damage to the circuit during construction and the use of the dwelling.

RESPONSE 17: Using dedicated branch circuits instead of AFCIs is allowed under the 2014 NEC as adopted by the department and would be allowed under the proposed adoption of the 2017 NEC. Additionally, requiring dedicated branch circuits for receptacle outlets in kitchens will increase the cost of construction without a significant showing of improved safety for the public.

As stated in Responses 15 and 16, the Building Codes Council advised the department to exclude kitchens from the areas required to have AFCIs due to numerous nuisance trips. Additionally, several other states have adopted the NEC with amendments to exclude AFCIs from kitchens, refrigeration appliances, etc. The NAHB noted that the data did not show that AFCIs were necessary when they were first included in the NEC and has not supported the continued expansion of AFCIs in

successive versions of the NEC. See NAHB 2017 National Electrical Code Suggested Amendments issued 5/1/2017.

The department will continue to monitor the situation but is amending the rule as proposed.

4. The department has amended ARM 24.301.109, 24.301.131, 24.301.138, 24.301.142, 24.301.154, 24.301.171, 24.301.172, 24.301.173, 24.301.175, 24.301.181, 24.301.201, 24.301.203, 24.301.208, 24.301.301, 24.301.351, 24.301.401, 24.301.511, 24.301.514, and 24.301.904 exactly as proposed.

5. The department has amended ARM 24.301.146 with the following changes, stricken matter interlined, new matter underlined:

24.301.146 MODIFICATIONS TO THE INTERNATIONAL BUILDING CODE APPLICABLE TO BOTH THE DEPARTMENT'S AND LOCAL GOVERNMENT CODE ENFORCEMENT PROGRAMS (1) through (11) remain as proposed.

(12) Subsection 903.2.1.7, Multiple Fire Areas, is deleted in its entirety.

(12) through (15) remain as proposed but are renumbered (13) through (16).

~~(16) Subsection 1006.3.3, Single Exits, item 4, is amended to read: "4. Group R-3 and R-4 occupancies shall be permitted to have one exit or access to a single exit if equipped throughout with an automatic sprinkler system or there are no sleeping rooms above or below the level of the exit discharge."~~

(17) remains as proposed.

(18) For "R" occupancies that are exempt from the requirements of a fire sprinkler system, pursuant to ARM 24.301.146~~(15)~~(16), Table 1020.1, referenced in subsection 1020.1, shall be amended in regard to "R" occupancies by the deletion of the language "Greater than 10" and insertion of the language "Greater than 8" under the heading "Occupant Load Serviced By Corridor." ~~"Not Permitted" under the heading "Required Fire-Resistive Rating (hours) – Without sprinkler system" for "R" occupancies with an occupant load served by corridor of greater than ten. Under that same location where "Not Permitted" is to be deleted, the language "1" shall be inserted instead, which will require those corridors to have one-hour fire-resistive ratings.~~

(19) through (23) remain as proposed.

(24) Subsection 3001.2, Emergency elevator communication equipment systems for the deaf, hard of hearing, and speech impaired, is amended as follows: "Emergency elevator communication systems for the deaf, hard of hearing and speech impaired. An emergency two-way communication system shall be provided in accordance with the provisions of ASME A17.1/CSA B44 and NFPA 72." ~~shall become effective on January 1, 2021.~~

(25) through (44) remain as proposed.

/s/ DARCEE L. MOE	/s/ GALEN HOLLENBAUGH
Darcee L. Moe	Galen Hollenbaugh, Commissioner
Rule Reviewer	DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State November 26, 2019.

BEFORE THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES OF THE
STATE OF MONTANA

In the matter of the amendment of ARM 37.40.307 and 37.85.105 pertaining to assisted living and nursing facility reimbursement	))))	NOTICE OF AMENDMENT

TO: All Concerned Persons

1. On October 4, 2019, the Department of Public Health and Human Services published MAR Notice No. 37-898 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 1735 of the 2019 Montana Administrative Register, Issue Number 19. On October 18, 2019, the department published an amended MAR Notice No. 37-898 at page 1835 of the 2019 Montana Administrative Register, Issue Number 20.

2. The department has amended the above-stated rules 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 #1: A commenter stated even very modest inflation to bring the costs to Fiscal Year (FY) 2020 would bring actual costs to about $237 per day, while a rate of $208 is being proposed under ARM 37.40.307. The commenter indicated the statement of reasonable necessity does not adequately address the factors that are to be considered in setting the statewide price under applicable law.

RESPONSE #1: ARM 37.40.307(2)(c) sets forth a non-exhaustive list of factors that may be considered in the establishment of the statewide price for nursing facility services. Section 53-6-113, MCA, also sets forth a non-exhaustive list of factors, including the availability of appropriated funds the department may consider in establishing the average statewide price. Actual cost of services is one of several factors the department may consider in establishing the average statewide price. In balancing the factors that may be considered, the department's primary consideration was the availability of appropriated funds. The average statewide price proposed by the department appropriately balances the factors that may be considered.

COMMENT #2: A commenter stated there are fact issues related to cost, quality, and access that should be addressed in setting the nursing facility services statewide price. The commenter provided examples of how the statewide price impacts access to nursing facility services and the ability of facilities to recruit and retain qualified staff.

RESPONSE #2: The department considered the non-exhaustive list of factors set forth in 53-6-113, MCA and ARM 37.40.307(2)(c). Access to services was considered primarily by reviewing facility reports showing the percentage of beds paid by Medicaid and other payors, as well as any changes in the number of beds in facilities and the number of open facilities.

COMMENT #3: A commenter expressed their support for the proposed nursing facility services statewide rate because it is a step in the right direction in terms of moving Medicaid rates for nursing facility services closer to where they need to be to assure quality and access.

RESPONSE #3: The department thanks the commenter for their support.

COMMENT #4: A commenter stated that for future rulemaking the department should provide information about how it determines the nursing facility services statewide price and identify and explain the factors considered.

RESPONSE #4: The information provided in the rule notice is sufficient to enable comment on the proposed rule. The department will consider for future rule changes the commenter's suggestions.

COMMENT #5: A commenter stated for future rulemaking the department should consider quality and cost of providing services as important factors in determining an appropriate reimbursement rate for nursing facility services.

RESPONSE #5: The information provided in the rule notice is sufficient to enable comment on the proposed rule. The department will consider for future rule changes the commenter's suggestions.

COMMENT #6: A commenter indicated the statement of reasonable necessity should refer to a spreadsheet the department uses to set individual nursing facility rates. The commenter stated there are many factors that go into determining each facility's rate, and facilities cannot determine if their rate is correct or appropriate based on just a list of rates. The commenter also suggested the department provide certain information as part of future rulemaking.

RESPONSE #6: The rule notice meets the requirements of the Montana Administrative Procedure Act, and the information provided in the notice is sufficient to enable comment on the proposed rule. The notice provides the public with the proposed substantive rule changes, including the change in rates. The department adopts rates through rulemaking, and nursing facility rates are readily available to the public and to the industry.

COMMENT #7: A commenter expressed support for the proposed nursing rate.

RESPONSE #7: The department thanks the commenter for their support.

COMMENT #8: A commenter expressed support for the proposed assisted living rate.

RESPONSE #8: The department thanks the commenter for their support.

COMMENT #9: A commenter indicated the statement of reasonable necessity does not adequately explain how the assisting living rate was calculated or how it will be applied and distributed. The commenter stated they presume the funding will be distributed as a flat rate of $78.80 for each adult residential day and that they support this method of distribution.

RESPONSE #9: The information provided in the rule notice is sufficient to enable comment on the proposed rule. The fee schedule increase to $78.80 (daily) is based on an increase of 2.27%. The fee schedule added to the room and board cost equals the maximum daily rate. It is not a flat rate increase to all individuals. The calculation to determine each member's daily rate is based on the sum of their room and board cost, level of care determination, and service package. The room and board cost ($545) did not change and the level of care multiplier ($34) did not change. The service package was increased by 2.27%. The calculation for assisted living facilities with regard to room and board of $545 is based on the Medically Needy Income Level (MNIL) in ARM 37.82.1106. The MNIL standard is $525, and members are allowed a general income exclusion in the eligibility calculation setting the room and board amount to $545.

COMMENT #10: A commenter recommended the rule be amended to clarify that the room and board payment for assisted living will increase to account for inflation since 2009 when the room and board rate was established.

RESPONSE #10: The department is not proposing to adjust the room and board rate as part of this rulemaking.

COMMENT #11: A commenter stated the proposed assisting living rate is too low and the current rate is causing serious access problems. The commenter recommended the department take steps to improve Medicaid client access to assisted living services or explain how the obligation to assure access and choice are being met given that about half of all licensed facilities are not currently serving Medicaid clients and about three-quarters of those who do accept Medicaid strictly limit the number of clients served.

RESPONSE #11: The department is required by the Centers for Medicare and Medicaid Services (CMS) to ensure that rates are adequate to maintain an ample provider base and to ensure quality of services. At the same time, the department is limited to serve the number of individuals by the State Legislature according to the program budget allocation. There are different methods to use when establishing rates for services provided through the program. The department will be creating a work group of assisted living providers and other interested parties to address some

of these concerns. The group will examine the current rate methodology and discuss other potential options.

COMMENT #12: A commenter stated that a shortage of available employees has required raising starting wages from $8.50/hr. to $10+/hr. at their assisted living facility, which is still too low, considering the job the employees perform. The commenter indicated the assisted living rate needs to be increased to help reduce problems with access to assisted living and to cover actual expenses. The commenter stated lack of access to assisted living results in an increase in the use of skilled care, which is more costly. The commenter summarized approaches taken by other states to address access issues.

RESPONSE #12: As stated in the response to comment #11, the department will be creating a work group of assisted living providers and other interested parties to address some of these concerns. The group will examine the current rate methodology and discuss other potential options.

COMMENT #13: A commenter asked the department to consider increasing the Assisted Living Medicaid Waiver rates within the department's Senior and Long-Term Care budget. The commenter stated that significant fiscal savings could be achieved by the movement of some nursing facility residents to assisted living facilities and by the creation of a simplified method. The commenter stated that low reimbursement rates and billing problems are creating access issues.

RESPONSE #13: As stated in the response to comment #11, the department will be creating a work group of assisted living providers and other interested parties to address some of these concerns. The group will examine the current rate methodology and discuss other potential options.

COMMENT #14: A commenter stated they operate a 32-bed assisted living facility and usually do not take more than three Medicaid residents. The commenter indicated they avoid taking on additional Medicaid residents because the Medicaid rate does not adequately cover actual costs.

RESPONSE #14: As stated in the response to comment #11, the department will be creating a work group of assisted living providers and other interested parties to address some of these concerns. The group will examine the current rate methodology and discuss other potential options.

COMMENT #15: A commenter stated assisted living facilities are being reimbursed at the Medicaid rate of $77.05 per day, while nursing facilities are reimbursed at $204.30 per day. The commenter indicated the low rate of reimbursement for assisting living facilities results in facilities limiting or refusing to take Medicaid waiver residents. The commenter stated these access issues result in many Medicaid waiver residents being placed in nursing facilities at significantly increased cost. The commenter suggested the department increase the assisted living rate,

which the commenter believes will result in significant fiscal savings by avoiding the payment of nursing facility Medicaid rates for those who do not need such services.

RESPONSE #15: As stated in response to comment #11, the department will be creating a work group of assisted living providers and other interested parties to address some of these concerns. The group will examine the current rate methodology and discuss other potential options.

4. The department intends to apply these rules retroactively to October 1, 2019. A retroactive application of the proposed rules does not result in a negative impact to any affected party.

/s/ Robert Lishman	/s/ Sheila Hogan
Robert Lishman	Sheila Hogan, Director
Rule Reviewer	Public Health and Human Services

Certified to the Secretary of State November 26, 2019.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the adoption of New Rule I and amendment of ARM 42.12.145 and 42.13.103 pertaining to access control systems (ACS)	))))	NOTICE OF ADOPTION AND AMENDMENT

TO: All Concerned Persons

1. On September 20, 2019, the Department of Revenue published MAR Notice No. 42-1005 pertaining to the public hearing on the proposed adoption and amendment of the above-stated rules at page 1622 of the 2019 Montana Administrative Register, Issue Number 18.

2. On October 15, 2019, a public hearing was held to consider the proposed adoption and amendment. No proponents were present and no proponent oral testimony was received. Neil Peterson of the Gaming Industry Association of Montana (GIA) appeared and provided oral comments as an opponent. The department received no written comments in support or opposition.

3. The department adopts New Rule I (42.13.1106) and amends ARM 42.12.145 and 42.13.103 as proposed

4. The department has thoroughly considered the comments received. A summary of the comments received and the department's responses are as follows:

COMMENT 1: Mr. Peterson made several comments regarding the passage of Senate Bill 119 (SB 119) by the 2019 Montana Legislature, such as simplicity of the bill, purported discussions between members of industry, the department, and the Legislature that led to amendments, fiscal impact, and the final form of the bill as enacted. Mr. Peterson comments that SB 119 is a simple piece of legislation that addresses safety and security for licensees and the public for casinos off the beaten path.

RESPONSE 1: The department attended the 2019 legislative committee hearings for SB 119 and is familiar with the intent of this legislation. The department agrees with Mr. Peterson that the bill was amended several times during the legislative process.

COMMENT 2: Mr. Peterson commented that during SB 119's legislative process, the requirement for a form for a licensee to complete and the corresponding approval of the ACS by the department and local law enforcement was amended to that of licensee notification to both agencies. These changes eliminated costs to the department in the creation and approval of an application. Mr. Peterson asks why the department is creating paperwork and procedural hoops that are not necessary

or contemplated under SB 119, when an email to the department and local law enforcement should suffice.

RESPONSE 2: Through the legislative process, SB 119 was amended to remove the requirement that a licensee apply to the department for approval of the use of an ACS and the corresponding requirement that the department develop an application form for the licensee to request the use of an ACS. The final amended bill only requires licensee notification to the department and local law enforcement and also grants the department rulemaking authority. Using this authority, the department proposed that licensees wishing to utilize an ACS notify the department on a department-created notification form. The department has created a one-page notification form, at minimal cost, which it will adopt to require minimal, necessary information in order to process the notification and update systems.

COMMENT 3: Mr. Peterson comments that under New Rule I, the department has established a new violation type and is setting up licensees for a paperwork violation or a violation of not timely notifying the department in New Rule I. Mr. Peterson asks how the department came up with the three-day notification in New Rule I(1) and how will the department enforce New Rule I.

RESPONSE 3: ARM 42.13.101 provides licensees must conduct their premises in compliance with all Montana alcoholic beverage laws and rules. Failure to comply with the requirements of Montana law or department rule may subject the licensee to administrative action. See 16-4-406, MCA. As such, the department does not agree that it has established a new violation type. Instead, the Legislature has created new requirements under Montana law. Failure to comply with these statutory requirements may result in administrative action, so to place licensees on notice of the potential ramifications for failure to comply with the notification requirements, the department has proposed New Rule I(3) to outline instances where a licensee may be subject to administrative action.

Licensees now have a statutory requirement to notify the department prior to implementing an ACS. SB 119 did not address how soon the licensee must provide the notice. Three days prior notice was proposed as this allows enough time for the department to process the notice and notify the Department of Justice, Gambling Control Division. As with other violations alleged under the Montana Alcoholic Beverage Code, enforcement of the notification requirement depends on the facts of the case.

COMMENT 4: Mr. Peterson commented that New Rule I(3) references that a licensee is in violation of the rule if they do not provide "immediate access" to the premises as required in 16-6-103, MCA. What passage of time is immediate access?

RESPONSE 4: The department directs Mr. Peterson to 16-6-103(4)(b), MCA, amended by SB 119, which provides a definition for "immediate access." The department agrees with Mr. Peterson that the definition does not state a specific

amount of time, but the department cannot respond beyond its observation that the definition contemplates authorities being "unreasonably denied access to the premises." As the determination of whether an ACS provides "immediate access" requires the consideration of the specific facts and circumstances of each instance, the specific passage of time prior to access being granted to the department or local law enforcement may vary between each specific scenario. As such, the department declines the request to set forth a specific period of time by rule.

COMMENT 5: Mr. Peterson commented that the department should discontinue its adoption of the notification form and remove the proposed process that was not contemplated under SB 119.

RESPONSE 5: The department disagrees for the reasons contained in its responses and adopts the rule as originally proposed. SB 119 requires department notification to implement and cease using an ACS. The department's one-page form for this notification process is a reasonable request that does not put an undue burden on the licensee. The department also refers Mr. Peterson to Response 2.

COMMENT 6: As a part of the GIA's general comments, Mr. Peterson commented that the Montana Tavern Association (MTA) was in support of the GIA's comments in opposition to this rulemaking.

RESPONSE 6: The department acknowledges Mr. Peterson's statement that the MTA was in support of the GIA's comments. However, no co-authored, written comments were provided by the GIA and MTA, and no MTA representative was present at the October 15 rules hearing. Furthermore, no separate written comments were provided by MTA. The department cannot respond or assume the MTA's position regarding the proposed rulemaking absent written or personal, oral comments or testimony. The department responded to the GIA's comments in all its responses.

/s/ Todd Olson
Todd Olson
Rule Reviewer

/s/ Gene Walborn
Gene Walborn
Director of Revenue

Certified to the Secretary of State November 26, 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 June 30, 2019. This table includes notices in which those rules adopted during the period June 7, 2019, through November 22, 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 June 30, 2019, 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 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.

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