

# MONTANA ADMINISTRATIVE REGISTER

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# MONTANA ADMINISTRATIVE REGISTER

## ISSUE NO. 8

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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

In the matter of the adoption of New	)	NOTICE OF PUBLIC HEARING ON
Rules I and II, the amendment of	)	PROPOSED ADOPTION,
ARM 6.10.101, 6.10.102 securities	)	AMENDMENT, AND TRANSFER
regulation; 6.10.208, 6.10.209,	)	
6.10.210 for filings, 6.10.302,	)	
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6.10.501, 6.10.503, 6.10.504,	)	
6.10.506, 6.10.507, and 6.10.510	)	
broker-dealers and investment	)	
advisers, and the transfer of ARM	)	
6.10.608 transactional exemption	)	

TO: All Concerned Persons

1. On May 21, 2020, at 10:00 a.m., the Commissioner of Securities and Insurance, Montana State Auditor (CSI), will hold a public hearing via teleconference in the 2nd floor conference room, at the Office of the Commissioner of Securities and Insurance, Montana State Auditor, 840 Helena Avenue, Helena, Montana, to consider the proposed adoption, amendment, and transfer of the above-stated rules.

2. Due to the guidance issued by the Governor of the State of Montana on March 26, 2020, regarding the coronavirus pandemic, no in-person attendance will be permitted. The public hearing will be available via electronic and/or telephonic means and will be recorded. You will need to register in advance with Zoom.us so you can join in the hearing by going to:

<https://us02web.zoom.us/meeting/register/v5UpduypqDoitb7hkVIEivQhv-60QwOa8A>

After registering, you will receive a confirmation email containing information about joining the meeting.

3. The CSI 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 CSI no later than 5:00 p.m. on May 11, 2020, to advise us of the nature of the accommodation that you need. Please contact Ramona Bidon, CSI, 840 Helena Avenue, Helena, Montana, 59601; telephone (406) 444-2726; TDD (406) 444-3246; fax (406) 444-3499; or e-mail [rbidon@mt.gov](mailto:rbidon@mt.gov).

4. The new rules as proposed to be adopted are as follows:

NEW RULE I NOTICE FILING RULE FOR REGULATION A-TIER 2 OFFERINGS (1) An issuer planning to offer and sell securities in this state in an offering exempt under Tier 2 of federal Regulation A shall submit the following at least 21 days prior to the initial sale in this state:

- (a) a completed Regulation A-Tier 2 notice filing form or copies of all documents filed with the Securities and Exchange Commission;
- (b) a consent to service of process on Form U-2 if not filing on the Regulation A-Tier 2 notice filing form; and
- (c) the filing fee prescribed in 30-10-209(1)(a), MCA.

(2) The initial filing shall remain effective for twelve months from the date of filing.

(3) For each additional twelve-month period in which the same offering is continued, an issuer conducting a Tier 2 offering under federal Regulation A may renew its notice filing by filing the following on or before the expiration of the notice filing:

- (a) the Regulation A-Tier 2 notice filing form marked "renewal" and/or cover letter or other document requesting renewal; and
- (b) the renewal fee prescribed by 30-10-209(1)(b), MCA.

(4) An issuer may increase the amount of securities offered in this state by submitting a Regulation A-Tier 2 notice filing form marked "amendment" or other document describing the transaction and a fee calculated pursuant to 30-10-209(1)(a), MCA, to cover the increase in the amount of securities being offered prior to selling additional securities in this state.

AUTH: 30-10-107, MCA

IMP: 30-10-202, 30-10-211, MCA

REASON: The CSI proposes a new rule to adopt the North American Securities Administrators Association model notice filing rule for Regulation A-Tier 2 Offerings. The new rule is necessary to remain current with updated federal and model rules. Additionally, the new rule is necessary to ensure Montana remains current with the federal exemptions, which allow for these filings to be made. The rule creates the form for people to use so there is no confusion as to when and how they can file notice with the CSI.

NEW RULE II MERGER AND ACQUISITION BROKER EXEMPTION (1) In this rule:

(a) "Control" means the power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise. There is a presumption of control for any person who:

(i) is a director, general partner, member, or manager of a limited liability company, or officer exercising executive responsibility (or has similar status or functions);

(ii) has the right to vote 20 percent or more of a class of voting securities or the power to sell or direct the sale of 20 percent or more of a class of voting securities; or

(iii) in the case of a partnership or limited liability company, has the right to receive upon dissolution, or has contributed, 20 percent or more of the capital.

(b) "Eligible privately held company" means a company meeting both of the following conditions:

(i) the company does not have any class of securities registered, or required to be registered, with the United States Securities and Exchange Commission under Section 12 of the Securities Exchange Act of 1934, 15 U.S.C. 781, or with respect to which the company files, or is required to file, periodic information, documents, and reports under subsection (d), 15 U.S.C. 78o(d); and

(ii) in the fiscal year ending immediately before the fiscal year in which the services of the merger and acquisition broker are initially engaged with respect to the securities transaction, the company meets either or both of the following conditions (determined in accordance with the historical financial accounting needs of the company):

(A) the earnings of the company before interest, taxes, depreciation, and amortization are less than \$25,000,000; and

(B) the gross revenues of the company are less than \$250,000,000.

(c) "Merger and Acquisition Broker" means any broker and any person associated with a broker engaged in the business of effecting securities transactions solely in connection with the transfer of ownership of an eligible privately held company, regardless of whether that broker acts on behalf of a seller or buyer, through the purchase, sale, exchange, issuance, repurchase, or redemption of, or a business combination involving, securities or assets of the eligible privately held company:

(i) if the broker reasonably believes that upon consummation of the transaction, any person acquiring securities or assets of the eligible privately held company, acting alone or in concert, will control and, directly or indirectly, will be active in the management of the eligible privately held company or the business conducted with the assets of the eligible privately held company; and

(ii) if any person is offered securities in exchange for securities or assets of the eligible privately held company, such person will, prior to becoming legally bound to consummate the transaction, receive or have reasonable access to the most recent fiscal year-end financial statements of the issuer of the securities as customarily prepared by its management in the normal course of operations and, if the financial statements of the issuer are audited, reviewed, or compiled, any related statement by the independent accountant; a balance sheet dated not more than 120 days before the date of the exchange offer; and information pertaining to the management, business, results of operations for the period covered by the foregoing financial statements, and any material loss contingencies of the issuer.

(d) "Public shell company" means a company that at the time of a transaction with an eligible privately held company:

(i) has any class of securities registered, or required to be registered, with the United States Securities and Exchange Commission under Section 12, 15 U.S.C. 78o(d); and

(ii) has no or nominal operations; and

(iii) has no or nominal assets; assets consisting solely of cash and cash equivalents; or assets consisting of any amount of cash and cash equivalents and nominal other assets.

(2) Except as provided in (3) and (4), a merger and acquisition broker shall be exempt from registration pursuant to 30-10-202, MCA, under this section.

(3) A merger and acquisition broker is not exempt from registration under this rule if such broker does any of the following:

(a) directly or indirectly, in connection with the transfer of ownership of an eligible privately held company, receives, holds, transmits, or has custody of the funds or securities to be exchanged by the parties to the transaction;

(b) engages on behalf of an issuer in a public offering of any class of securities that is registered, or is required to be registered, with the United States Securities and Exchange Commission under Section 12 of the Securities Exchange Act of 1934, 15 U.S.C. 78l or with respect to which the issuer files, or is required to file, periodic information, documents, and reports under the Securities Exchange Act of 1934 Section 15 subsection (d), 15 U.S.C. 78o(d); or

(c) engages on behalf of any party in a transaction involving a public shell company.

(4) A merger and acquisition broker is not exempt from registration under this rule if such broker is subject to:

(a) suspension or revocation of registration under Section 15(b)(4) of the Securities Exchange Act of 1934, 15 U.S.C. 78o(b)(4);

(b) a statutory disqualification described in section 3(a)(39) of the Securities Exchange Act of 1934, 15 U.S.C. 78c(a)(39);

(c) a disqualification under the rules adopted by the United States Securities and Exchange Commission under Section 926 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (15 U.S.C. 77d note); or

(d) a final order described in paragraph (4)(H) of Section 15(b) of the Securities Exchange Act of 1934, 15 U.S.C. 78o(b)(4)(H).

(5) Nothing in this rule shall be construed to limit any other authority of the commissioner to exempt any person, or any class of persons, from any provision of ARM Title 6, chapter 10, or from any provision of any rule or regulation therein.

(6) On the date that is five years after the date of adoption of this rule, and every five years thereafter, each dollar amount in section (1)(b)(2) shall be adjusted by:

(a) dividing the annual value of the Employment Cost Index for Wages and Salaries, Private Industry Workers (or any successor index), as published by the Bureau of Labor Statistics, for the calendar year preceding the calendar year in which the adjustment is being made by the annual value of such index (or successor) for the calendar year ending December 31, 2012; and

(b) multiplying the dollar amount by the quotient obtained under (6)(a).

(7) Each dollar amount determined under (6) shall be rounded to the nearest multiple of \$100,000.

AUTH: 30-10-105, 30-10-107, MCA

IMP: 30-10-105, MCA



REASON: The CSI proposes adoption of the Model Rule Exempting Certain Merger & Acquisition Brokers (M&A Brokers) from registration as adopted September 29, 2015 by the North America Securities Administrators Association. This new rule should be designated ARM 6.10.308. The new rule is necessary to remain current with updated federal and model rules. Moreover, the rule increases clarity in merger registration requirements and exemptions so that persons involved the trades know exactly what characteristics the CSI is looking for when contemplating an exemption.

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

6.10.101 APPLICABILITY OF CHAPTER SUBCHAPTER (1) This chapter applies to the securities and transactions involving securities, subject to the Securities Act of Montana, Title 30, chapter 10, parts 1 through 3, MCA; and to restitution assistance provided subject to the Securities Restitution Assistance Fund Act of Montana, Title 30, chapter 10, part 10, MCA.

AUTH: 30-10-107, MCA

IMP: 30-10-107, MCA

REASON: The CSI proposes to amend the rule to reflect the prior adoption of the rules in subchapter 7. That subchapter was adopted in 2012, several years after the most recent amendment to ARM 6.10.101. Subchapter 7 implements the Securities Restitution Assistance Fund Act of Montana, which though related falls outside the scope of the Securities Act of Montana. This change is necessary to reflect that ARM Title 6, chapter 10 now contains content applicable to circumstances subject to Title 30, chapter 10, part 10, MCA.

6.10.102 DEFINITIONS As used in this subchapter, unless the context indicates otherwise:

(1) through (4) remain the same.

(5) "Investment adviser" means a person who is:

(a) an insurance agent who, for a fee, provides investment advice to a client and who must be licensed as an investment adviser or investment adviser representative;

(b) an insurance agent, who, for a fee, performs an analysis of a client's estate and who must be licensed as an investment adviser or investment adviser representative.

(c) an insurance agent who receives a commission from the sale of insurance to a client who makes such purchase with the proceeds of securities the insurance agent recommended be sold and who must be licensed as an investment adviser or investment adviser representative;

(d) an insurance agent or other person who advertises or otherwise holds themselves out as a provider of investment advice.

(5) through (8) remain the same but are renumbered (6) through (9).

(10) "Resident" is defined as a person who has physically resided in Montana at the person's primary home for 180 consecutive days and who meets the following criteria immediately before making application for any license:

(a) the person's principal or primary home is in Montana;

(b) the person files Montana state income tax returns as a resident (if required to file);

(c) the person licenses and titles in Montana any vehicles that the person owns and operates in Montana; and

(d) if the person registers to vote, the person registers only in Montana.

~~(9)~~(11) "Sales material" means an advertisement, display, pamphlet, brochure, form letter, article, or communication published in a newspaper, magazine, periodical, internet or electronic communication network, or a script, recording, radio or television announcement, broadcast, or commercial to be used or circulated in connection with the offer or sale of a security to a person in this state.

(10) and (11) remain the same but are renumbered (12) and (13).

AUTH: 30-10-107, MCA

IMP: 30-10-104, 30-10-107, MCA

REASON: The CSI proposes to amend this rule to update the definition of "sales material." Since this rule was previously amended, the CSI has increasingly seen issuers utilize new forms of media, especially electronic media, in connection with the offer and sale of products. This change is necessary to ensure these newer forms of media are held to the same regulatory standard as information transmitted using more traditional methods. Additionally, the CSI proposes to amend this rule to explicitly add a definition of Montana resident for the purposes of additions to ARM 6.10.501 due to Legislative amendments to 30-10-209, MCA. Additionally, the CSI proposes to amend this rule to clarify an insurance agent who, for a fee, provides investment advice; analyzes a client's estate and recommends that a client either purchase or sell either specific securities or specific types of securities; or receives a commission from the sale of insurance the insurance agent recommended to be sold; must be licensed as an investment adviser or investment adviser representative. Additionally, the CSI proposes to clarify that one who advertises or otherwise holds oneself out as a provider of investment advice must be registered as an investment adviser or investment adviser representative.

#### 6.10.208 NOTICE FILINGS FOR OFFERINGS OF INVESTMENT

COMPANY SECURITIES (1) through (6) remain the same.

(7) Any filing or renewal required under ARM Title 6, chapter 10, subchapter 2 must be submitted to the commissioner through the Electronic Filing Depository (EFD), or other CSI-approved filing system, and must comply with the following:

(a) all filing or renewal fees shall likewise be submitted through the EFD or CSI-approved filing system;

(b) a person duly authorized by the issuer shall affix his or her electronic signature to the filing by typing his or her name in the appropriate fields and submitting the filing through the EFD, or other CSI-approved filing system, which

shall constitute irrefutable evidence of legal signature by the individual whose name is typed on the filing; and

(c) any documents or fees required under (1) to be filed with the commissioner that are not permitted to be filed with, or cannot be accepted by, the EFD, or other CSI-approved filing system must be filed directly with the commissioner, and must be accompanied by a statement from the issuer providing the date the filing was attempted through the EFD, or other CSI-approved filing system.

AUTH: 30-10-107, MCA  
IMP: 30-10-202, 30-10-211, MCA

REASON: It is reasonably necessary to amend this rule for notice filings because the use of the EFD has expanded to cover more than 506 offerings. Moreover, the rule allows flexibility should an alternative electronic filing system be made available and which is acceptable to the commissioner. The changes are not substantive and will streamline the filing process for industry.

6.10.209 NOTICE FILINGS FOR OFFERINGS OF FEDERAL COVERED SECURITIES UNDER 18(b)(3) OR (4) OF THE SECURITIES ACT OF 1933

(1) through (3) remain the same.

(4) Any filing or renewal required under ARM Title 6, chapter 10, subchapter 2 must be submitted to the commissioner through the Electronic Filing Depository (EFD), or other CSI-approved filing system, and must comply with the following:

(a) All filing or renewal fees shall likewise be submitted through the EFD or CSI-approved filing system;

(b) A person duly authorized by the issuer shall affix his or her electronic signature to the filing by typing his or her name in the appropriate fields and submitting the filing through the EFD, or other CSI-approved filing system, which shall constitute irrefutable evidence of legal signature by the individual whose name is typed on the filing; and

(c) Any documents or fees required under (1) to be filed with the commissioner that are not permitted to be filed with, or cannot be accepted by, the EFD, or other CSI-approved filing system must be filed directly with the commissioner, and must be accompanied by a statement from the issuer providing the date the filing was attempted through the EFD, or other CSI-approved filing system.

AUTH: 30-10-107, MCA  
IMP: 30-10-107, 30-10-201, MCA

REASON: It is reasonably necessary to amend this rule for notice filings because the use of the EFD has expanded. Moreover, the rule allows flexibility should an alternative electronic filing system be made available and which is acceptable to the commissioner. The changes are not substantive and will streamline the filing process for industry.

6.10.210 NOTICE FILING PROCEDURES FOR RULE 506 OFFERINGS

(1) and (2) remain the same.

(3) Any Form D filing or renewal required under (1) must be submitted to the commissioner through the Electronic Filing Depository (EFD), or other CSI-approved filing system ~~operated by the North American Securities Administrators Association, Inc.~~, and must comply with the following:

(a) All filing or renewal fees shall likewise be submitted through the EFD or other CSI-approved filing system;

(b) A person duly authorized by the issuer shall affix his or her electronic signature to the Form D filing by typing his or her name in the appropriate fields and submitting the filing through the EFD, or other CSI-approved filing system, which shall constitute irrefutable evidence of legal signature by the individual whose name is typed on the filing; and

(c) Any documents or fees required under (1) to be filed with the commissioner that are not permitted to be filed with, or cannot be accepted by, the EFD, or other CSI-approved filing system, must be filed directly with the commissioner, and must be accompanied by a statement from the issuer providing the date the filing was attempted through the EFD, or other CSI-approved filing system.

AUTH: 30-10-107, MCA

IMP: 30-10-202, 30-10-211, MCA

REASON: It is reasonably necessary to amend this rule because the commissioner should have flexibility if other methods of electronic filing besides the EFD become available for notice filings. The commissioner is still required to approve that system, but it is not necessary that it be limited to the EFD. The changes are not substantive and will streamline the filing process for industry.

6.10.302 FOREIGN SAVINGS AND LOAN ASSOCIATION EXEMPTION

(1) and (1)(a) remain the same.

(b) the issuer is a member of the federal deposit insurance corporation; or

(c) remains the same.

AUTH: 30-10-105, 30-10-107, MCA

IMP: 30-10-105, MCA

REASON: The CSI proposes to amend this rule to resolve a potential ambiguity relating to the listed exemption requirements. As written, the list of transactional exemption requirements is neither conjunctive nor disjunctive; in other words, it is unclear whether all three must be satisfied to qualify for an exemption, or whether each constitutes an independent ground for exemption. The amendment resolves this ambiguity by making clear the list is disjunctive; satisfying any of the requirements is sufficient to qualify for an exemption.

6.10.305 FOREIGN SECURITY EXEMPTION (1) through (1)(a)(ii) remain the same.

(A) The most recent edition of Mergent's Manual or Standard & Poor's Corporation Records, or the periodic supplements to such publications, as well as all commonly recognized formats of the manuals including ~~CD-ROM~~ and electronic dissemination over the internet, contains a description of the issuer's business or operations, the names of the issuer's officers and directors (or their corporate equivalents in the issuer's country of domicile), an externally audited balance sheet of the issuer as of a date within 18 months of the date of the transaction and audited profit and loss statements for each of the issuer's two fiscal years immediately preceding the date of such balance sheet (such statements to be prepared in accordance with U.S. or foreign GAAP); or

(B) through (iii)(D) remain the same.

(E) For the issuer's securities in the United States, there are at least two market makers who are registered broker-dealers under the Securities Exchange Act of 1934 and who ~~has~~ have an excess net capital of at least U.S. \$10,000,000.

(b) remains the same.

AUTH: 30-10-107, MCA

IMP: 30-10-104, 30-10-107, MCA

REASON: The CSI proposes to amend this rule to eliminate a potentially archaic reference and correct a typographical error. The rule's reference to CD-ROM is stricken; this medium has become less commonly used in recent years, and the reference is unnecessary as the rule contains an expansive definition of manual formats (which encompasses CD-ROM). Additionally, the singular "has" is replaced with the plural "have," as the subsection refers to multiple market makers.

#### 6.10.306 TRANSACTIONAL EXEMPTIONS FOR COOPERATIVE

ASSOCIATIONS (1) A cooperative association organized under another state's laws that are substantially the same as the provisions of Title 35, chapter 15, MCA, is entitled to a transactional exemption from the registration requirements of the ~~Montana~~ Securities Act of Montana, provided that the association has furnished the commissioner with a general written description of the security to be offered or sold in Montana. For the purposes of 33-10-105, MCA, the commissioner has determined that the following states' laws authorizing the organization of the corresponding types of cooperative organizations are substantially the same as the provisions of Title 35, chapter 15, MCA:

(a) through (2) remain the same.

AUTH: 30-10-105, 30-10-107, MCA

IMP: 30-10-105, MCA

REASON: It is reasonably necessary to update this rule because the current rule includes an incorrect reference to the Securities Act of Montana.

6.10.401 FRAUDULENT AND UNETHICAL PRACTICES PROHIBITED BY BROKER-DEALERS AND SALESMEN (1) through (1)(n)(i) remain the same.

(ii) entering an order for the purchase or sale of a security with the knowledge that an order of substantially the same size, at substantially the same time and substantially the same price, for the sale of the security, has been or will be entered by or for the same or different parties for the purpose of creating a false or misleading appearance of active trading in the security or a false or misleading ~~appearing appearance~~ with respect to the market for the security. A broker-dealer may, however, enter a bono fide agency cross transaction for its customers.

(iii) through (2) remain the same.

AUTH: 30-10-107, MCA

IMP: 30-10-201, 30-10-301, MCA

REASON: The CSI proposes to amend this rule to correct a typographical error. The rule is adopted from the North American Securities Administrators Association (NASAA) Dishonest or Unethical Business Practices of Broker-Dealers and Agents model rule. The text of the model rule clarifies that "misleading appearing" is intended to read "misleading appearance." This is consistent with the prior reference within the same subsection to "misleading appearance."

6.10.402 FRAUDULENT AND UNETHICAL PRACTICES PROHIBITED BY INVESTMENT ADVISERS, AND INVESTMENT ADVISER REPRESENTATIVES, AND FEDERAL COVERED ADVISERS (1) A person who is a federal covered adviser, investment adviser, or an investment adviser representative is a fiduciary and has a duty to act for the benefit of its clients. The provisions of this rule apply to federal covered advisers to the extent that the conduct alleged is fraudulent, deceptive, or as otherwise permitted by the National Securities Markets Improvement Act of 1996 (PL 104-290). While the extent and nature of this duty varies according to the nature of the relationship between an investment adviser, investment adviser representative, or a federal covered adviser and its clients and the circumstances of each case, an investment adviser, investment adviser representative, or a federal covered adviser shall not engage in unethical business practices, or prohibited, fraudulent, deceptive, or manipulative conduct, including but not limited to the following:

(a) Recommending to a client, to whom investment supervisory, management or consulting services are provided, the purchase, sale, or exchange of a security without reasonable grounds to believe that the recommendation is suitable for the client on the basis of information furnished by the client after reasonable inquiry concerning the client's investment objectives, financial situation and needs, and any other information known by the investment adviser, investment adviser representative, or federal covered adviser;

(b) Exercising any discretionary power in placing an order for the purchase or sale of a security for a client without ~~first~~ obtaining written discretionary authority from the client within ten business days after the date of the first transaction placed pursuant to oral discretionary authority, unless the discretionary power relates solely to the price at which, or the time when, an order involving a definite amount of a specified security shall be executed, or both;

(c) inducing trading in a client's account that is excessive in size or frequency in view of the financial resources, investment objectives, and character of the account if the investment adviser, investment adviser representative or federal covered adviser can directly or indirectly benefit from the number of securities transactions effected in a client's account;

(d) placing an order to purchase or sell a security for the account of a client without authority to do so;

(e) placing an order to purchase or sell a security for the account of a client upon instructions of a third party without first having obtained written third party trading authorization from the client;

(f) borrowing money or securities from a client unless the client is a broker-dealer, an affiliate of the investment adviser, investment adviser representative, or of a federal covered adviser, or a financial institution engaged in the business of loaning funds or securities;

(g) loaning money or securities to a client unless the investment adviser, investment adviser representative, or federal covered adviser is a financial institution engaged in the business of loaning funds, or the client is an affiliate of the investment adviser, investment adviser representative, or a federal covered adviser;

(h) misrepresenting to ~~a client, or prospective client,~~ an advisory client, or prospective advisory client, the qualifications of the investment adviser, investment adviser representative, or federal covered adviser, or an employee or affiliate of the investment adviser, investment adviser representative, or federal covered adviser; misrepresenting the nature of the advisory services being offered or fees to be charged for the investment advisory service; or omitting to state a material fact necessary to make the statements made regarding qualifications, services, or fees, in light of the circumstances under which they are made, not misleading;

(i) providing a report or recommendation to a client prepared by someone other than the investment adviser, investment adviser representative, or federal covered adviser without disclosing that fact. This prohibition does not apply to a situation where the investment adviser, investment adviser representative, or federal covered adviser uses a published research report or statistical analysis to render advice or where an investment adviser, investment adviser representative, or federal covered adviser orders such a report in the normal course of providing service.

(j) charging a client an advisory fee that is unreasonable in light of the type of services to be provided, the experience and expertise of the investment adviser, investment adviser representative, or federal covered adviser, the sophistication and bargaining power of the client, and whether the investment adviser, investment adviser representative, or federal covered adviser has disclosed that a lower fee for comparable services may be available from other sources;

(k) failing to disclose to a client in writing before any advice is rendered a material conflict of interest relating to the investment adviser, investment adviser representative, or federal covered adviser or any of its employees or affiliated persons which could reasonably be expected to impair the rendering of unbiased and objective advice including but not limited to:

(i) compensation arrangements connected with advisory services to a client which are in addition to compensation from the client for the services; and

(ii) charging a client an advisory fee for rendering advice when a commission for executing securities transactions pursuant to the advice will be received by the investment adviser, investment adviser representative, or federal covered adviser or its employees or affiliates;

(iii) serving as an officer, or in a similar capacity, for any outside company or other entity;

(l) guaranteeing a client that a specific result will be achieved (gain or no loss) with advice which will be rendered;

(m) publishing, circulating, or distributing sales material which does not comply with 17 C.F.R. 275.206(4)-1;

(n) disclosing to a third party the identity, affairs, other financial information, or investment of a client or former client unless:

(i) and (ii) remain the same.

(o) taking action, directly or indirectly, with respect to those securities or funds in which a client has a beneficial interest, if the investment adviser, investment adviser representative, or federal covered adviser has custody or possession of the securities or funds when the investment adviser's, investment adviser representative's, or federal covered adviser's action is subject to, and does not comply with, the requirements of 17 C.F.R. 275.206(4)-2, or the investment adviser, investment adviser representative, or federal covered adviser is exempt from these requirements by virtue of 17 C.F.R. 275.206(4)-2(b);

(p) entering into, extending, or renewing an investment advisory contract, other than a contract for impersonal services, unless the contract is in writing and discloses, in substance, the services to be provided, the term of the contract, the advisory fee, the formula for computing the fee, the amount of or the manner of calculation of the prepaid fee to be returned in the event of contract termination or nonperformance, and whether the contract grants discretionary power to the investment adviser, investment adviser representative, or federal covered adviser or its representative, and that no assignment of such contract shall be made by the investment adviser, investment adviser representative, or federal covered adviser without the consent of the other party;

(q) failing to disclose to a client or prospective client each material fact with respect to:

(i) the financial condition of the investment adviser, investment adviser representative, or federal covered adviser that is reasonably likely to impair the ability of the investment adviser, investment adviser representative, or federal covered adviser to meet contractual commitments to a client, if the investment adviser, investment adviser representative, or federal covered adviser has express or implied discretionary authority or custody over the client's funds or securities or requires prepayment of advisory fees of more than \$500 from the client, six months or more in advance; or

(ii) a legal or disciplinary action that is material to an evaluation of the investment adviser's, investment adviser representative's, or federal covered adviser's integrity or ability to meet contractual commitments to a client;

(r) through (t) remain the same

(u) engaging in any act, practice, or course of business which is fraudulent, deceptive, or manipulative, or contrary to the provisions of section 206(4) of the



Investment Advisers Act of 1940, 15 U.S.C. 80b-6(4), which is adopted and incorporated herein by this reference, notwithstanding the fact that such investment adviser, investment adviser representative, or federal covered adviser is not registered or required to be registered under section 203 of the Investment Advisers Act of 1940, 15 U.S.C. 80b-3. Section 206(4) of the Investment Advisers Act of 1940, 15 U.S.C. 80b-6(4) establishes prohibited practices in the investment advisory business, and may be obtained from the Commissioner of Securities CSI, 840 Helena Avenue, Helena, MT 59601;

(v) remains the same.

(w) accessing a client's account by using the client's own unique identifying information, except where:

(i) the investment adviser, investment adviser representative, or federal covered adviser does not know, or have access to, the client's passwords;

(ii) there is an agreement between a data aggregation software company and the custodian(s)/online account platform which permits some form of "back-door" access; and

(iii) the data is in a read-only format;

(x) While acting as principal for its own advisory account, to knowingly sell any security to or purchase any security from a client, or while acting as broker-dealer for a person other than the client, to knowingly effect any sale or purchase of any security for the account of the client, without disclosing to the client in writing before the completion of the transaction the capacity in which the investment adviser, investment adviser representative, or federal covered adviser is acting and obtaining the consent of the client to the transaction.

(i) the prohibitions of this rule shall not apply to any transaction with a customer of a broker-dealer if the broker-dealer is not acting as an investment adviser, investment adviser representative, or federal covered adviser in relation to the transaction.

(ii) the prohibitions of this subsection shall not apply to any transaction with a customer of a broker-dealer if the broker-dealer acts as investment adviser, investment adviser representative, or federal covered adviser solely:

(A) by means of publicly distributed written materials or publicly made oral statements;

(B) by means of written materials or oral statements not purporting to meet the objectives or needs of specific individuals or accounts;

(C) through the issuance of statistical information containing no expressions of opinion as to the investment merits of a particular security; or

(D) by any combination of the foregoing services.

(iii) publicly distributed written materials or publicly made oral statements shall disclose that, if the purchaser of the advisory communications uses the investment adviser's, investment adviser representative's, or federal covered adviser's services in connection with the sale or purchase of a security which is a subject of the communication, the investment adviser, investment adviser representative, or federal covered adviser may act as principal for its own account or as agent for another person. Compliance by the investment adviser, investment adviser representative, or federal covered adviser with the foregoing disclosure

requirement shall not relieve it of any other disclosure obligations under 15 U.S. C. § 206(3):

(iv) definitions for purposes of (x):

(A) "publicly distributed written materials" means written materials which are distributed to 35 or more persons who pay for those materials.

(B) "publicly made oral statements" means oral statements made simultaneously to 35 or more persons who pay for access to those statements.

(y) the prohibitions of this rule shall not apply to an investment adviser, investment adviser representative, or federal covered adviser effecting an agency cross transaction for an advisory client provided the following conditions are met:

(i) the advisory client executes a written consent prospectively authorizing the investment adviser, investment adviser representative, or federal covered adviser to effect agency cross transactions for such client;

(ii) before obtaining such written consent from the client, the investment adviser, investment adviser representative, or federal covered adviser makes full written disclosure to the client that, with respect to agency cross transactions, the investment adviser, investment adviser representative, or federal covered adviser will act as broker-dealer for, receive commissions from, and have a potentially conflicting division of loyalties and responsibilities regarding both parties to the transactions;

(iii) at or before the completion of each agency cross transaction, the investment adviser, investment adviser representative, or federal covered adviser or any other person relying on this rule sends the client a written confirmation. The written confirmation shall include:

(A) a statement of the nature of the transaction;

(B) the date the transaction took place;

(C) an offer to furnish, upon request, the time when the transaction took place; and

(D) the source and amount of any other remuneration the investment adviser, investment adviser representative, or federal covered adviser received or will receive in connection with the transaction. In the case of a purchase, if the investment adviser, investment adviser representative, or federal covered adviser was not participating in a distribution, or, in the case of a sale, if the investment adviser, investment adviser representative, or federal covered adviser was not participating in a tender offer, the written confirmation may state whether the investment adviser, investment adviser representative, or federal covered adviser has been receiving or will receive any other remuneration and that the investment adviser, investment adviser representative, or federal covered adviser will furnish the source and amount of such remuneration to the client upon the client's written request;

(iv) at least annually, and with or as part of any written statement or summary of the account from the investment adviser, investment adviser representative, or federal covered adviser, the investment adviser, investment adviser representative, or federal covered adviser or any other person relying on this rule sends each client a written disclosure statement identifying:

(A) the total number of agency cross transactions during the period for the client since the date of the last such statement or summary; and

(B) the total amount of all commissions or other remuneration the investment adviser, investment adviser representative, or federal covered adviser received or will receive in connection with agency cross transactions for the client during the period.

(v) each written disclosure and confirmation required by this rule must include a conspicuous statement that the client may revoke the written consent required under (x)(i) of this rule at any time by providing written notice to the investment adviser, investment adviser representative, or federal covered adviser.

(vi) no agency cross transaction may be effected in which the same investment adviser, investment adviser representative, or federal covered adviser recommended the transaction to both any seller and any purchaser.

(vii) for purposes of this rule, "agency cross transaction for an advisory client" means a transaction in which a person acts as an investment adviser, investment adviser representative, or federal covered adviser in relation to a transaction in which the investment adviser, investment adviser representative, or federal covered adviser, or any person controlling, controlled by, or under common control with such investment adviser, investment adviser representative, or federal covered adviser, acts as a broker-dealer for both the advisory client and another person on the other side of the transaction. When acting in this capacity the person is required to be registered as a broker-dealer in this state unless excluded from the definition.

(viii) nothing in this rule shall be construed to relieve an investment adviser, investment adviser representative, or federal covered adviser from acting in the best interests of the client, including fulfilling their duty with respect to the best price and execution for the particular transaction for the client nor shall it relieve any investment adviser, investment adviser representative, or federal covered adviser of any other disclosure obligations imposed by the Act.

(z) making, in the solicitation of clients, any untrue statement of a material fact, or omitting to state a material fact necessary in order to make the statement made, in light of the circumstances under which they are made, not misleading.

(aa) failing to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the misuse of material nonpublic information contrary to the provisions of Section 204A of the Investment Advisers Act of 1940.

(ab) taking any action, directly or indirectly, with respect to those securities or funds in which any client has a beneficial interest, where the investment adviser, investment adviser representative, or federal covered adviser has custody or possession of such securities or funds when the action of the investment adviser, investment adviser representative, or federal covered adviser, is subject to and does not comply with the requirements of ARM 6.10.508; and

(w)(ac) engaging in other conduct such as nondisclosure, incomplete disclosure, or deceptive practices.

AUTH: 30-10-107, MCA  
IMP: 30-10-201, 30-10-301, MCA

REASON: The CSI proposes to adopt amendments to the NASAA Prohibited Conduct of Investment Advisers, Investment Adviser Representatives and Federal

Covered Investment Advisers Model Rule USA 2002 502(b) and NASAA Unethical Business Practices of Investment Advisers, Investment Adviser Representatives, and Federal Covered Advisers Model Rule 102(a)(4)-1. The change is necessary to remain current with updated federal and state securities laws. Additionally, the rule is necessary to pinpoint exactly who is requesting a transaction, thus ensuring CSI investigations protect consumers and registered persons.

6.10.501 REGISTRATION AND EXAMINATION - SECURITIES SALESPERSON, INVESTMENT ADVISER REPRESENTATIVES, BROKER-DEALERS, AND INVESTMENT ADVISERS (1) through (3)(b) remain the same.

(c) notwithstanding (3) of this rule, the electronic filing of any particular document and the collection of related processing fees shall not be required until such time as IARD provides for receipt of such filings and fees. Any documents or fees required to be filed with the commissioner that are not permitted to be filed with or cannot be accepted by IARD shall be filed directly with the commissioner; and

(d) pursuant to 30-10-209, MCA, those in-state salespersons and investment adviser representatives that file applications on the Form U-4 must submit a Resident Affidavit form with a form W-9 within 30 days of acceptance of the Form U-4 to receive a refund of the difference between out-of-state registration and in-state registration fees.

(4) through (6) remain the same.

AUTH: 30-10-107, 30-10-209, MCA  
IMP: 30-10-201, MCA

REASON: With the enactment of HB 694 in 2019, the Legislature created an in-state fee and an out-of-state fee for salespersons and investment adviser representatives. Due to constraints caused by FINRA's CRD fee collection, this rule change is to detail the process by which the fee overpayment will be refunded to in-state individuals.

6.10.503 MINIMUM FINANCIAL REQUIREMENTS AND FINANCIAL REPORTING OF BROKER-DEALERS (1) and (2) remain the same.

(3) The commissioner adopts and incorporates by reference the rules cited in (1) and (2), which establish net capitalization requirements, customer free credit balance requirements, customer protection reserves, net capital decline reporting requirements, and capitalization reporting requirements. A copy of these rules may be obtained from the ~~Securities Department~~ Office of the Montana State Auditor, 840 Helena Avenue, Helena, MT 59601.

AUTH: 30-10-107, MCA  
IMP: 30-10-107, 30-10-201, MCA

REASON: The CSI proposes to amend this rule for conformity with the CSI's current naming convention for the agency.

6.10.504 BROKER-DEALER BOOKS AND RECORDS (1) Unless otherwise provided by order of the commissioner, each registered broker-dealer shall make, maintain, and preserve books and records in compliance with the United States Securities and Exchange Commission rules 17a-3 (17 CFR 240.17a-3 ), 17a-4 (17 CFR 240.17a-4 ), and 15c2-11 (17 CFR 240.15c2-11 ) which are adopted and incorporated by this reference, and establish recordkeeping requirements related to the conduct of the business as a securities broker-dealer. Copies of these rules may be obtained from the ~~Commissioner of Securities~~ Office of the Montana State Auditor, 840 Helena Avenue, Helena, MT 59601.

(2) remains the same.

AUTH: 30-10-107, MCA

IMP: 30-10-201, MCA

REASON: The CSI proposes to amend this rule for conformity with the CSI's current naming convention for the agency.

6.10.506 MINIMUM FINANCIAL REQUIREMENTS FOR INVESTMENT ADVISERS (1) remains the same.

(2) An investment adviser registered or required to be registered under the Act who has custody or discretion of client funds or securities, but does not meet the minimum net worth requirements in (1) shall be bonded in the amount of the net worth deficiency rounded up to the nearest \$5,000. Any bond required by this section shall be:

(a) in the form determined by the ~~director~~ commissioner;

(b) through (9) remain the same.

AUTH: 30-10-107, MCA

IMP: 30-10-107, 30-10-201, MCA

REASON: The CSI proposes to amend this rule to correctly reference the Commissioner of Securities and Insurance, Office of the Montana State Auditor (commissioner). The current version of the rule refers to "director," a term found in the model upon which this rule is based.

6.10.507 BONDING REQUIREMENTS FOR CERTAIN INVESTMENT ADVISERS (1) and (1)(a) remain the same.

(b) every investment adviser registered or required to be registered under the Act who has custody or discretion of client funds or securities who does not meet the minimum net worth standard in ~~ARM 6.10.140(4)~~ 6.10.506(1) shall be bonded in the amount of the net worth deficiency rounded up to the nearest \$5,000.

(2) remains the same.

AUTH: 30-10-107, MCA

IMP: 30-10-107, 30-10-201, MCA

REASON: The CSI proposes to amend this rule to correct a reference to a rule which has been previously transferred. The rule cites ARM 6.10.140, which has been transferred to ARM 6.10.506.

6.10.510 INVESTMENT ADVISER BOOKS AND RECORDS (1) and (1)(a) remain the same.

(b) all trial balances, financial statements prepared in accordance with generally accepted accounting principles, and internal audit working papers relating to the investment adviser's business as an investment adviser. For purposes of this rule, "financial statements" means balance sheets, income statements, cash flow statements and net worth computations as required by ARM 6.6.140 6.10.506;

(c) through (3) remain the same.

(4) Every investment adviser registered or required to be registered shall establish, implement, update, and enforce written physical security and cybersecurity policies and procedures reasonably designed to ensure the confidentiality, integrity, and availability of physical and electronic records and information. The policies and procedures must be tailored to the investment adviser's business model, taking into account the size of the firm, type(s) of services provided, and the number of locations of the investment adviser.

(a) The physical security and cybersecurity policies and procedures must:

(i) protect against reasonably anticipated threats or hazards to the security or integrity of client records and information;

(ii) ensure that the investment adviser safeguards confidential client records and information; and

(iii) protect any records and information the release of which could result in harm or inconvenience to any client.

(b) The physical security and cybersecurity policies and procedures must cover at least five functions:

(i) the organizational understanding to manage information security risk to systems, assets, data, and capabilities;

(ii) implementation of the appropriate safeguards to ensure delivery of critical infrastructure services;

(iii) implementation of the appropriate activities to identify the occurrence of an information security event;

(iv) implementation of the appropriate activities to take action regarding a detected information security event; and

(v) implementation of the appropriate activities to maintain plans for resilience and to restore any capabilities or services that were impaired due to an information security event.

(c) The investment adviser must review, no less frequently than annually, and modify, as needed, these policies and procedures to ensure the adequacy of the security measures and the effectiveness of their implementation.

(5) The investment adviser must deliver upon the investment adviser's engagement by a client, and on an annual basis thereafter, a privacy policy to each client that is reasonably designed to aid in the client's understanding of how the investment adviser collects and shares, to the extent permitted by state and federal law, non-public personal information. The investment adviser must promptly update

and deliver to each client an amended privacy policy if any of the information in the policy becomes inaccurate.

(6) Every investment adviser shall establish, implement, and maintain written procedures relating to a Business Continuity and Succession Plan. The plan shall be based upon the facts and circumstances of the investment adviser's business model including the size of the firm, type(s) of services provided, and the number of locations of the investment adviser. The plan shall provide for at least the following:

(a) The protection, backup, and recovery of books and records.

(b) Alternate means of communications with customers, key personnel, employees, vendors, service providers (including third-party custodians), and regulators, including, but not limited to, providing notice of a significant business interruption or the death or unavailability of key personnel or other disruptions or cessation of business activities.

(c) Office relocation in the event of temporary or permanent loss of a principal place of business.

(d) Assignment of duties to qualified responsible persons in the event of the death or unavailability of key personnel.

(e) Otherwise minimizing service disruptions and client harm that could result from a sudden significant business interruption.

~~(4)~~ (7) To the extent that the securities and exchange commission promulgates changes to the rules of the Investment Advisers Act of 1940 incorporated by reference into these rules, investment advisers in compliance with such rules as amended shall not be subject to enforcement action by the commissioner for violation of this rule to the extent that the violation results solely from the investment adviser's compliance with the amended rule.

~~(5)~~ (8) Every investment adviser that has its principal place of business in a state other than this state shall be exempt from the requirements of this rule, provided the investment adviser is licensed in such state and is in compliance with the state's record keeping requirements.

AUTH: 30-10-107, MCA

IMP: 30-10-201, MCA

REASON: The CSI proposes to amend this rule to correct a reference to a rule which has been transferred. The rule cites ARM 6.10.140, which has previously been transferred to ARM 6.10.506. The additions are in reference to the NASAA Model Rule on Business Continuity and Succession Planning Model Rule 203(a)-1A, and Investment Adviser Information Security and Privacy Rule. This change is necessary to remain current with applicable federal and model rule updates. The cybersecurity elements are reasonably necessary as more information is now stored electronically than on paper. The rule contemplates the needs of registered entities to maintain current with cybersecurity threats and the potential harm such threats might cause investors, especially in regard to personal identifying information. The business continuity model rule is reasonably necessary as an investment advisory business may be harmed in a death/incapacitation event which would directly harm clients who could no longer be able to access their funds.

6. The CSI proposes to transfer the following rule:

<u>OLD</u>	<u>NEW</u>	
6.10.608	6.10.307	FILINGS REQUIREMENT FOR TRANSACTIONAL EXEMPTION PURSUANT TO 30-10-105(15), MCA

REASON: The CSI proposes to transfer this rule to a subchapter more relevant to its contents. Its current subchapter 6 deals with senior citizen consumer protection issues; ARM 6.10.608 addresses transactional securities exemptions, which are addressed under subchapter 3.

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: Lynne Egan, Deputy Securities Commissioner, CSI, 840 Helena Ave., Helena, Montana, 59601; telephone (406) 444-4388; fax (406) 444-3497; or e-mail [legan@mt.gov](mailto:legan@mt.gov), and must be received no later than 5:00 p.m., May 29, 2020.

8. Lynne Egan has been designated to preside over and conduct this hearing.

9. The CSI 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 may sign up by clicking on the blue button on the CSI's website at: <http://csimt.gov/laws-rules/> to specify 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. Request may also be sent to the CSI in writing. Such written request may be mailed or delivered to the contact information in 3 above, or may be made by completing a request form at any rules hearing held by the CSI.

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

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

/s/ Tom M. Melton  
Tom M. Melton  
Rule Reviewer

/s/ Michelle Dietrich  
Michelle Dietrich  
Chief Legal Counsel

Certified to the Secretary of State on April 21, 2020.



BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE  
MONTANA STATE AUDITOR

In the matter of the adoption of New )  
Rules I through VIII pertaining to Surety ) NOTICE OF PUBLIC HEARING ON  
Insurance Producers Who Sell, Solicit, ) PROPOSED ADOPTION  
or Negotiate Commercial Bail Bonds )

TO: All Concerned Persons

1. On May 28, 2020, at 10:00 a.m., the Commissioner of Securities and Insurance, Office of the Montana State Auditor (CSI), will hold a public hearing via recorded teleconference via Zoom.us, in the second floor conference room, at the Office of the Montana State Auditor, Commissioner of Securities and Insurance, 840 Helena Avenue, Helena, Montana, to consider the proposed adoption of the above-stated rules.

2. Due to the guidance issued by the Governor of the State of Montana on March 26, 2020, regarding the coronavirus pandemic, no in-person attendance will be permitted. The public hearing will be available via electronic and/or telephonic means and will be recorded. You will need to register in advance with Zoom.us so you can join in the hearing by going to:

<https://zoom.us/meeting/register/upAtdOqqqj4quCmvmQNAwAEUzoVvEQsznQ>

After registering, you will receive a confirmation email containing information about joining the meeting.

3. The CSI will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process via teleconference or need an alternative accessible format of this notice. If you require an accommodation, contact the CSI no later than 5:00 p.m., on May 11, 2020, to advise us of the nature of the accommodation that you need. Please contact Ramona Bidon, CSI, 840 Helena Avenue, Helena, Montana, 59601; telephone (406) 444-2726; TDD (406) 444-3246; fax (406) 444-3499; or e-mail [rbidon@mt.gov](mailto:rbidon@mt.gov).

4. The new rules proposed to be adopted are as follows:

NEW RULE I DEFINITIONS For the purposes of this subchapter, the following terms have the following meanings:

(1) "90-day surety arrest period" means the 90-day period, during which a surety bail insurance producer is allowed to arrest and surrender a principal, pursuant to 46-9-503 and 46-9-510, MCA, commencing upon the issuance by a court of an "Order of Forfeiture" and ending 90 days thereafter.

(2) "Bail bond agency" means a surety bail insurance producer agency which may be a corporation, limited liability company, partnership, limited partnership, limited liability partnership, sole proprietorship, or other legal entity which is owned

by, employs, or contracts with one or more individual surety bail insurance producers.

(3) "Commercial bail bond surety insurer" means a surety insurer who sells, solicits, or negotiates commercial bail bonds.

(4) "Indemnitor" is a person who, by agreement with a surety bail insurance producer, accepts liability for loss of the surety bail insurance producer in the event that a principal fails to perform according to the standards agreed upon between the principal and the surety bail insurance producer.

(5) "Premium" means the cost of a surety insurance bond, issued pursuant to 33-26-101, et seq., MCA, and contained in the contract with the principal.

(6) "Principal" is a defendant or a witness who has been admitted to bail and who is obligated to appear in court as required upon penalty of forfeiting bail under a commercial bail bond.

(7) "Surety bail insurance producer" or "producer" means an insurance producer who sells, solicits, or negotiates commercial bail bonds, pursuant to 33-26-101, et seq. and 46-9-401, MCA.

AUTH: 33-1-313, 33-26-108, MCA

IMP: 33-26-108, MCA

NEW RULE II FINANCIAL RESPONSIBILITY REQUIREMENTS -- CLAIMS AGAINST BONDS (1) Each surety bail insurance producer shall purchase and maintain a surety bond in the amount of \$25,000 issued by a surety company authorized to do business in this state.

(2) A surety on a surety bail insurance producer's bond referred to in (1) may not cancel the bond without giving at least 21 days' written notice of cancellation to the surety bail insurance producer and the commissioner. If the commissioner receives notice of a surety's intention to cancel a surety bail insurance producer's bond, the commissioner shall notify the affected surety bail insurance producer that unless the surety bail insurance producer files another \$25,000 surety bond with the commissioner, the surety bail insurance producer may no longer transact insurance as a surety bail insurance producer in this state.

(3) The surety bond required by this rule must be issued on the form found in Appendix A of [NEW RULE VIII], and must be established in favor of a person, and the commissioner on behalf of a person injured as a result of a violation of the Montana Insurance Code, or an administrative rule promulgated thereunder. The surety bond must cover any restitution or fine ordered by the commissioner.

(4) Each surety bail insurance producer licensed in this state as of the effective date of this rule shall file with the commissioner a copy of a surety bond, together with a power of attorney, on a form supplied by the surety company within 90 days of the effective date of this rule. Each surety bail insurance producer who becomes licensed after the effective date of this rule shall file with the commissioner a copy of a surety bond purchased pursuant to (1), together with a power of attorney on a form supplied by the surety company within 45 days prior to commencing business in this state.

AUTH: 33-1-313, 33-26-108, MCA

IMP: 33-17-1001, 33-26-108, MCA

NEW RULE III BOND INSTRUMENTS (1) A surety bail insurance producer may not sign or countersign bail bonds in blank. A surety bail insurance producer may not give power of attorney to, or otherwise authorize, anyone to countersign the surety bail insurance producer's signature to bonds.

(2) Bail bonds shall be signed by the principal and the surety bail insurance producer, and an executed copy shall be given to the principal.

(3) Surety bail insurance producers shall maintain copies of all bail bonds issued for not less than three years.

AUTH: 33-1-313, 33-26-108, MCA

IMP: 33-17-201, 33-26-108, MCA

NEW RULE IV COLLATERAL, TRUST ACCOUNTS, RECORDS OF ARREST AND SURRENDER, LIST OF FORFEITURES, COSTS, NOTICE OF INCARCERATION (1) Any collateral security required by a surety bail insurance producer must be commercially reasonable in relation to the amount of the bond.

The value of any collateral security received by a surety bail insurance producer must not exceed two-and-one-half times (250%) the amount of the bond unless no other collateral is available. Any collateral must be acquired and secured by a signed security agreement and in accordance with Montana law.

(2) A surety bail insurance producer who accepts collateral shall give the principal the security agreement and a written receipt for the collateral. The receipt must give a detailed description of the collateral received.

(3) Collateral security must be held and maintained in trust. When collateral security is received in the form of cash, check, or other negotiable instrument, the surety bail insurance producer shall deposit the cash or instrument, within five banking days after receipt, in a trust account in a bank insured by the Federal Deposit Insurance Corporation. The trust account may not contain operating or personal funds.

(4) When personal property is received as collateral, the surety bail insurance producer must comply with the Montana Uniform Commercial Code-Secured Transactions, 30-9A-101, et seq, MCA.

(5) Each surety bail insurance producer shall keep records identifying all collateral received, the source of funds placed into all trust accounts, security agreements, and the terms of all commercial bail bond transactions. The records are open to inspection without notice by the commissioner.

(6) If the court exonerates a bail bond or pays the premium for the bail bond, the surety bail insurance producer shall return all collateral or other security to the person entitled to it within five business days after receipt of written notification of exoneration. All collateral or security must be returned in the condition it was received, and at the location it was received, at the principal's address, or the parties may mutually agree to another location.

(7) Each surety bail insurance producer shall maintain and retain for three years, and update on a continual basis:

(a) a list of forfeitures, which must include the names of the principal and indemnitor, the case name and number, the date of the forfeiture; and

(b) a list of arrests and surrenders, which must include the names of the principal and indemnitor, the case name and number, and the date of the failure of the principal to appear.

(8) A surety bail insurance producer may bill the principal for actual and reasonable costs, listed in this rule, which the surety bail insurance producer incurs in securing the appearance or arrest of a principal during the 90-day period defined in [NEW RULE I](1). A surety bail insurance producer shall keep receipts for actual costs for a period of three years. The costs which a surety bail insurance producer may recover from the principal, in addition to the premium or bail amount, are limited to the actual and reasonable direct expenses, including but not limited to gasoline, and food and lodging, incurred in searching for, arresting, and transporting (to a detention facility) the principal during the 90-day surety arrest period.

(9) If collateral is liquidated it must be done according to commercially reasonable standards and lawful procedures, and the balance, if any, must be returned to the principal or indemnitor as appropriate within ten business days of liquidation. For purposes of this rule, "balance" means the amount obtained by lawful liquidation of the collateral, minus the amount of premium or bail and costs allowed pursuant to [NEW RULE IV](8), which are due to the surety bail insurance producer. Prior to initiating any liquidation process, the principal must be given 30 days' written notice from the surety bail insurance producer, and an opportunity to pay all costs and fees in lieu of liquidation. The surety bail insurance producer cannot send this notice or initiate any liquidation process until 90 days after a court issues an order of forfeiture pursuant to 46-9-503(2), MCA.

(10) If the surety bail insurance producer fails to return the collateral or violates any provision of these rules or other Montana laws in the liquidation or the failure to return the collateral, the surety bail insurance producer shall be subject to a maximum penalty of three times the value of the collateral, or \$1000, whichever is greater.

AUTH: 33-1-313, 33-26-108, MCA

IMP: 33-17-1001, 33-17-1102, 33-26-108, MCA

NEW RULE V PROHIBITED PRACTICES (1) A surety bail insurance producer may not:

(a) pay a fee or rebate, or give or promise anything of value, directly or indirectly to any public official, employee, or agent, who has power to arrest or hold in custody, in order to secure a settlement, compromise, remission, or reduction of the amount of any bail bond, or the forfeiture thereof;

(b) pay a fee or rebate, or give, or promise anything of value to the principal or anyone on his or her behalf;

(c) participate in the capacity of an attorney at a trial or hearing of a person on whose bond the surety bail insurance producer is a surety;

(d) advise or assist the principal for the purpose of forfeiting bond;

(e) fail to report, preserve without use, retain separately, or return after payment in full collateral taken as security on any bail bond to the party entitled to the collateral;

(f) arrest, attempt to arrest, enter a principal's residence, detain, conduct surveillance, or surrender a principal to law enforcement authorities, until after the principal has failed to appear before a court as required, and an order of forfeiture has been issued by a court, and only during the 90-day period thereafter, as defined in [NEW RULE I](1);

(g) arrest, attempt to arrest, detain, or surrender a principal to law enforcement authorities, for any of the following reasons:

(i) the principal's failure to comply with any condition of release imposed by the court, other than for non-appearance and during the 90-day surety arrest period;

(ii) failure of the principal to make payments on a deferred premium payment agreement or promissory note;

(iii) the principal's breach of any condition of the agreement with the surety bail insurance producer;

(iv) the principal's release of an indemnitor of the payment agreement with the surety bail insurance producer;

(v) alleged or actual fraud in the principal's application for the bond;

(vi) a belief or concern that the principal may not appear in court as required, regardless of the basis for the belief or concern;

(vii) violation of the principal's conditions of release set by the court.

(viii) for any other reason, other than after the principal's failure to appear at the time and date ordered by the court, and after the court enters an order of forfeiture.

(h) fail to return collateral within five business days of receiving written notice of exoneration;

(i) fail to purchase and maintain the surety bond required by [NEW RULE II];

(j) gain access to a prospective principal in a prisoner confinement facility for the purpose of solicitation by misrepresenting to facility officials that the prospective principal or someone on the prospective principal's behalf had so requested; or

(k) sell, solicit, or negotiate surety bail insurance while employed as an investigator with the Office of the Public Defender.

AUTH: 33-1-313, 33-26-108, MCA

IMP: 33-17-1001, 33-17-1103, 33-18-210, 33-18-212, 33-26-108, 46-9-401, 46-9-402, 46-9-502, 46-9-503, 46-9-505, 46-9-510, 46-9-511, 46-9-512, MCA

#### NEW RULE VI PORTION OF BOND PREMIUM PAYMENTS DEFERRED

(1) If an agreement between the principal and surety bail insurance producer calls for some portion of the bond premium payments to be deferred or paid after the principal is released from custody, the surety bail insurance producer shall keep the agreement on file and provide a copy to the principal and indemnitor, if applicable.

The agreement must contain the following information:

(a) the amount of the premium payment deferred, or not yet paid, at the time the principal is released from custody;

(b) the method and schedule of payment to be made by the principal or indemnitor to the surety bail insurance producer, including the dates of payment and amount to be paid on each date; and

(c) the interest rate.

(2) For the agreement to be enforceable, interest and finance charges on any unpaid premium must comply with 31-1-107, MCA.

AUTH: 33-26-108, MCA

IMP: 31-1-107, 33-18-213, 33-26-108, 46-9-403, MCA

NEW RULE VII BAIL BOND DOCUMENTS (1) The following requirements apply to documentation a surety bail insurance producer uses in connection with transacting business:

(a) an indemnity agreement must:

(i) be in writing;

(ii) be signed by the principal;

(iii) be signed by the indemnitor, if any;

(iv) be signed by the surety bail insurance producer;

(v) set forth the amount of bail, the name of the principal, the amount and type of collateral held by the surety bail insurance producer, and the conditions under which the collateral is to be returned, in compliance with these rules;

(vi) state that the principal and the indemnitor have received copies of signed and dated disclosure forms referred to in (1)(e);

(vii) if the principal or indemnitor is illiterate or does not read English, state that the surety bail insurance producer or a third party has read or translated the agreement for the principal or indemnitor; and,

(viii) conform to all requirements of, and use the forms designated by the surety company.

(b) if used in the bail bond transaction, a promissory note must be:

(i) in writing;

(ii) signed by the surety bail insurance producer;

(iii) signed by the principal or indemnitor; and

(iv) in an amount not in excess of the premium due from the principal.

(c) a collateral receipt must:

(i) be dated;

(ii) be in writing;

(iii) be signed by the surety bail insurance producer;

(iv) be signed by the principal or indemnitor;

(v) be prenumbered;

(vi) contain a full description of the collateral, including the condition of the collateral at the time it is taken into custody;

(vii) set forth the amount of bail, the name of the principal, the court case number, the court where the bond is executed, the amount of premium, the amount and type of collateral held by the surety bail insurance producer, and the conditions under which the collateral is to be returned; and

(viii) include a provision stating that the acquisition, liquidation, and disposition of all collateral must comply with these rules, and provisions of Montana law governing the liquidation of collateral.

(d) a prenumbered, signed receipt for payments made pursuant to a promissory note must be given to the person tendering payment for each payment received. The payment receipt must contain the date, the principal's name, a description of the consideration and amount of money received, the purpose for which it was received, the amount of the bail bond, and the name of the person tendering payment; and

(e) a surety bail insurance producer shall provide an advance written disclosure of any and all charges, in addition to the premium, that the principal or indemnitor may incur including, but not limited to, costs and interest, to the extent allowed by these rules. The disclosure must be:

- (i) in writing;
- (ii) dated;
- (iii) signed by the surety bail insurance producer; and
- (iv) signed by the principal or indemnitor.

(2) All bail bond documentation must be consistent and comply with the producer's agreement with the surety company, the surety company's policies and procedures, and these rules. In the event of a conflict, these rules supersede any agreements, policies, or procedures.

(3) In all bail bond documents, any interest or finance charges must comply with 31-1-107, MCA.

(4) Bail bond documents and agreements must comply with Montana law, including but not limited to 33-15-301 through 33-15-303, MCA. The agreement (surety insurance policy) between the bail bond company and the policyholder must contain the entire contract between the parties, and provisions must be plainly expressed in the policy.

AUTH: 33-26-108, MCA

IMP: 33-17-1001, 33-17-1102, 33-18-213, 33-26-108, 46-9-403, MCA

NEW RULE VIII FORM (1) The following form must be used pursuant to [NEW RULE II](3):

(a) APPENDIX A

**STATE OF MONTANA  
SURETY BAIL INSURANCE PRODUCER BOND**

**BOND NO.** \_\_\_\_\_  
**BOND AMOUNT \$25,000.00**

**KNOW ALL PERSONS BY THESE PRESENTS:**

That we, \_\_\_\_\_ as PRINCIPAL, and \_\_\_\_\_, a corporation duly organized and existing under the laws of the state of \_\_\_\_\_, and authorized to do business in the state of Montana, as SURETY, are held and firmly bound unto the state of Montana, in the penal sum of \$25,000 lawful money of

the United States for the payment of which sum, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

**WHEREAS**, the PRINCIPAL is subject to the provisions of the Montana Insurance Code, Mont. Code Ann. § 33-1-101 et seq. (Code), and the administrative rules promulgated thereunder (Rules), and shall faithfully comply with the provisions thereof;

**WHEREAS**, this bond is established in favor of a person, and the Montana State Auditor, Commissioner of Securities and Insurance (Commissioner) on behalf of a person injured as a result of a violation or violations of the Code or the Rules by the PRINCIPAL; and

**WHEREAS**, this bond is established in favor of the Commissioner on behalf of the state of Montana for any fines levied, or restitution ordered, as against the PRINCIPAL and SURETY for a violation or violations of the Code or the Rules by the PRINCIPAL.

**NOW THEREFORE, THE CONDITIONS OF THIS OBLIGATION ARE SUCH** that if the above bonded PRINCIPAL shall faithfully comply with the provisions of the Code, the Rules, and Orders of the Commissioner pursuant thereto, then and in that event the forgoing obligation shall be void, but otherwise to remain in full force and effect.

**PROVIDED HOWEVER, AND UPON THE FOLLOWING EXPRESS CONDITIONS** that any person, an issuing commercial bail surety insurer, or a court claiming against the bond for a violation of the Code or Rules occurring during the time period during which this bond is in effect may maintain an action at law against the PRINCIPAL and SURETY, or may file a consumer complaint with the Office of the Montana State Auditor, Commissioner of Securities and Insurance, which may result in fines and/or restitution after notice and opportunity for hearing before the Commissioner. The aggregate liability of the SURETY may not exceed the amount of this surety bond.

**PROVIDED FURTHER**, that the SURETY may terminate its liability hereunder as to future acts of the PRINCIPAL at any time by giving twenty-one (21) days written notice of such termination to the Commissioner.

This bond is for a definite term beginning \_\_\_\_\_, and ending \_\_\_\_\_, and may be continued by a Continuation Certificate.

**SIGNED, SEALED, and DATED** this \_\_\_\_\_ day of \_\_\_\_\_.

**PRINCIPAL, Surety bail insurance producer**

By \_\_\_\_\_



(Signature)

\_\_\_\_\_  
(Printed Name)

**SURETY, Attorney in Fact**

By: \_\_\_\_\_,  
(Signature)

\_\_\_\_\_  
(Printed Name)

[Affix Power of Attorney]

AUTH: 33-1-313, 33-26-108, MCA  
IMP: 33-17-1001, 33-26-108, MCA

REASON: The Montana State Auditor, Commissioner of Securities and Insurance, Matthew Rosendale (commissioner), is the statewide elected official responsible for administering the Montana Insurance Code and regulating the business of insurance.

In 2003, the legislature granted the commissioner rulemaking authority for surety insurance producers who sell, solicit, or negotiate commercial bail bonds pursuant to 33-26-108, MCA. The commissioner has received consumer complaints, and is aware of incidents, indicating the need for regulation of surety bail insurance producers. Additionally, the commissioner has received requests for regulation from members of the industry seeking specific rules in order to give guidance to the industry, to proscribe against certain conduct, to prevent abuse against consumers, and to level the field in order to prevent unfair methods of competition. Therefore, the commissioner has determined that new rules should be proposed in accord with 33-26-108, MCA.

NEW RULE I is proposed to be adopted in order to define terms used in these rules.

NEW RULE II is proposed to be adopted in order to establish the requirement of the posting of a surety bond by each surety bail insurance producer so as to protect or indemnify persons, and the commissioner on behalf of persons injured as a result of a violation of an administrative rule or the Montana Insurance Code. The commissioner has determined that the proposed rule is reasonably necessary so as to ensure against financial irresponsibility of surety bail insurance producers, and to provide a mechanism to redress harm resulting to consumers and other persons involved in the surety bail industry.

NEW RULE III is proposed to be adopted in order to prohibit the signing of blank bail bonds and the utilization of unlicensed surety bail insurance producers. The

proposed rule is reasonably necessary to prevent the illegal utilization of unlicensed surety bail insurance producers.

NEW RULE IV is proposed to be adopted in order to establish rules relating to collateral and trust accounts, and to establish the requirement that surety bail insurance producers keep records of arrests and lists of forfeitures. It also seeks to clarify that surety bail insurance producers may bill for actual specified costs. The proposed rule is reasonably necessary so as to ensure that adequate records are maintained for collateral security, that lawful procedures are followed for the acquisition, holding, and liquidation of collateral, and that collateral security conditions, costs, and fees are reasonable.

NEW RULE V is proposed to be adopted in order to establish proscriptions against certain conduct in the surety bail bond industry. The proposed rule is reasonably necessary in order to clearly delineate specific types of conduct prohibited under the Montana Insurance Code, other Montana Code provisions, other rules herein, and conduct that has been the subject of consumer complaints. These prohibitions all serve the goals of protecting insurance consumers, the integrity of the producers, and promoting fair competition in this industry.

NEW RULE VI is proposed to be adopted in order to establish rules for surety bail insurance producers who defer payment of full premium. The proposed rule is reasonably necessary to protect consumers from usurious interest rates and so that consumers will be reasonably informed of the terms and conditions of their payment agreement.

NEW RULE VII is proposed to be adopted to establish minimum requirements for documents relating to the surety bail bond industry. The proposed rule is reasonably necessary to ensure that documents used in bail bond transactions meet minimum legal requirements in order to provide full disclosure and to protect insurance consumers.

NEW RULE VIII is proposed to be adopted to provide a template for the surety bond required under NEW RULE II. The proposed rule is reasonably necessary to allow surety bail insurance producers to fulfill the requirements of NEW RULE II, which requires the use of an approved surety bond.

5. Concerned persons may submit their data, views, or arguments concerning the proposed actions either orally or in writing prior to the hearing. Written data, views, or arguments may also be submitted to Thomas M. Melton, Office of the Commissioner of Securities and Insurance, Montana State Auditor, 840 Helena Ave., Helena, Montana, 59601; telephone (406) 444-2726; fax (406) 444-3499; or e-mail [rbidon@mt.gov](mailto:rbidon@mt.gov), and must be received no later than 5:00 p.m., June 5, 2020.

6. Thomas M. Melton, has been designated to preside over and conduct this hearing.

7. The CSI 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 may sign up by clicking on the blue button on the CSI's website at: <http://csimt.gov/laws-rules/> and may specify the subject matter they are interested in. Notices will be sent by e-mail unless a mailing preference is noted in the request. Requests may also be sent to the CSI in writing. Such written request may be mailed or delivered to the contact information in 3 above or may be made by completing a request form at any rules hearing held by the CSI.

8. Pursuant to 2-4-302, MCA, the bill sponsor contact requirement applies. Senator Jim Keane, sponsor of 2003 HB 169, was notified directly by mail through the U.S. Postal Service by mailing him a copy of this notice on April 21, 2020.

9. With regard to the requirements of 2-4-111, MCA, the CSI has determined that the adoption of the above-referenced rules will significantly and directly impact small businesses.

/s/ Tom M. Melton  
Tom M. Melton  
Rule Reviewer

/s/ Michelle Dietrich  
Michelle Dietrich  
Chief Legal Counsel

Certified to the Secretary of State April 21, 2020.

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW  
OF THE STATE OF MONTANA

In the matter of the amendment of ARM )  
17.30.1202, 17.30.1203, 17.30.1304, )  
17.30.1322, 17.30.1331, 17.30.1340, )  
17.30.1341, 17.30.1342, 17.30.1344, )  
17.30.1345, 17.30.1346, 17.30.1350, )  
17.30.1354, 17.30.1361, and 17.30.1372 )  
pertaining to MPDES program updates )

NOTICE OF PUBLIC HEARING  
ON PROPOSED AMENDMENT  
  
(WATER QUALITY)

TO: All Concerned Persons

1. On June 16, 2020, at 1:00 p.m., the Board of Environmental Review (board) will hold a public hearing in Room 111 of the Metcalf Building, 1520 E. Sixth Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The board 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 Sandy Scherer no later than 5:00 p.m., June 9, 2020, to advise us of the nature of the accommodation that you need. Please contact Sandy Scherer at the Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2630; fax (406) 444-4386; or e-mail [sscherer@mt.gov](mailto:sscherer@mt.gov).

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

17.30.1202 DEFINITIONS The following definitions, in addition to those in 75-5-103, MCA, apply throughout this subchapter:

(1) through (29) remain the same.

(30) "New facility" means any building, structure, facility, or installation that meets the definition of a "new source" in ~~ARM 17.30.1304(37)(a) and (b)~~ or "new discharger" in ~~ARM 17.30.1304(36)~~ and that is a greenfield or stand-alone facility, commences construction after January 17, 2002, and uses either a newly constructed cooling water intake structure, or an existing cooling water intake structure whose design capacity is increased to accommodate the intake of additional cooling water. New facilities include only "greenfield" and "stand-alone" facilities. A greenfield facility is a facility that is constructed at a site at which no other source is located, or that totally replaces the process or production equipment at an existing facility. A stand-alone facility is a new, separate facility that is constructed on property where an existing facility is located and whose processes are substantially independent of the existing facility at the same site. New facility does not include new units that are added to a facility for purposes of the same general industrial operation (for example, a new peaking unit at an electrical generating station).

(a) through (38) remain the same.

AUTH: 75-5-304, MCA  
IMP: 75-5-304, 75-5-401, MCA

REASON: The board is proposing to amend (30) to correct the references for the definitions of "new source" and "new discharger" by removing the erroneous subsections referred to in ARM 17.30.1304.

17.30.1203 CRITERIA AND STANDARDS FOR IMPOSING TECHNOLOGY-BASED TREATMENT REQUIREMENTS IN MPDES PERMITS - VARIANCE PROCEDURES (1) remains the same.

(2) For POTWs, effluent limitations must be based upon:

~~(a) secondary treatment as defined in 40 CFR Part 133, from date of permit issuance; and,~~

~~(b) the best practicable waste treatment technology, not later than July 1, 1983.~~

(3) through (14) remain the same.

AUTH: 75-5-304, MCA  
IMP: 75-5-304, 75-5-401, MCA

REASON: The board is proposing to amend (2) to maintain consistency with the federal regulations at 40 CFR 125.3, the federal rule implementing technology-based treatment requirements in permits. The board proposes to delete ARM 17.30.1203(2)(b) because it is outdated, and its corresponding federal requirement has been removed from 40 CFR 125.3.

The board is also proposing the editorial change of combining (2) and (2)(a) into one rule.

17.30.1304 DEFINITIONS In this subchapter, the following terms have the meanings or interpretations indicated below and shall be used in conjunction with and are supplemental to those definitions contained in 75-5-103, MCA.

(1) and (2) remain the same.

~~(3)(a)~~ "Animal feeding operation" means:

(a) a lot or facility (other than an aquatic animal production facility) where the following conditions are met:

(i) animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period; and

(ii) crops, vegetation forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

(b) Two or more animal feeding operations under common ownership are considered, for the purposes of these rules, to be a single animal feeding operation if they adjoin each other or if they use a common area or system for the disposal of wastes.

(4) through (50) remain the same.

(51) "Pesticide discharges from pesticide application" means the discharges that result from the application of biological pesticides, and the application of chemical pesticides that leave a residue, from point sources into surface water. In the context of this definition, this does not include agricultural storm water discharges and return flows from irrigated agriculture.

(52) "Pesticide residue" means that portion of a pesticide application that is discharged from a point source into surface water and no longer provides pesticidal benefits. It also includes any degradates of the pesticide.

(51) through (79) remain the same but are renumbered (53) through (81).

AUTH: 75-5-201, 75-5-401, MCA

IMP: 75-5-401, MCA

REASON: The board is proposing to amend the definitions found in ARM 17.30.1304 to maintain consistency with requirements at 40 CFR 122.2, the federal rule defining terms used in the National Pollutant Discharge Elimination System regulations. The definitions will ensure consistency with federal regulatory updates found in 40 CFR 122.2.

The board is proposing editorial changes to (3) to maintain consistency with current Secretary of State formatting procedures.

The board is proposing to add (51) pesticide discharges from pesticide application to increase clarity regarding discharges that require MPDES permit coverage, and to be consistent with the federal regulations at 40 CFR 122.2.

The board is proposing to add a definition of pesticide residue to clarify which discharges from application of pesticides will require MPDES permits. Proposed (52) is consistent with the federal definition of pesticide residue at 40 CFR 122.2.

The board is also proposing to renumber current definitions (51) through (79) as (53) through (81).

17.30.1322 APPLICATION FOR A PERMIT (1) Any person who discharges or proposes to discharge pollutants and who does not have an effective permit, except persons covered by general permits under ARM 17.30.1341, excluded under ARM 17.30.1310, or a user of a privately owned treatment works unless the department requires otherwise under ARM 17.30.1344, shall submit a complete application to the department in accordance with this rule and ARM 17.30.1364 and 17.30.1365, 17.30.1370 through 17.30.1379, and 17.30.1383.

(a) All applicants for MPDES permits shall submit applications on department permit application forms. More than one application form may be required from a facility depending on the number and types of discharges or outfalls found there. Application forms may be obtained by contacting the Water Protection Bureau at (406) 444-~~3080~~ 5546; Department of Environmental Quality, Water Protection Bureau, 1520 East Sixth Avenue, P.O. Box 200901, Helena, MT 59620-0901; or on the department's web site at <http://deq.mt.gov/default.mcp>.

(b) through (5) remain the same.

(6) All applicants for MPDES permits, other than POTWs, shall provide the following information to the department, using the department's application Form 1. Additional information required of applicants is set forth in (7) through (17):

(a) and (b) remain the same.

(c) up to four standard industrial category (SIC) codes and up to four North American Industry Classification System (NAICS) codes which best reflect the principal products or services provided by the facility;

(d) the operator's name, address, telephone number, electronic mail address, ownership status, and status as federal, state, private, public, or other entity;

(e) through (g)(iii) remain the same.

(iv) those wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant in the map area; ~~and~~

(h) a brief description of the nature of the business-;

(i) an indication of whether the facility uses cooling water and the source of the cooling water; and

(j) an indication of whether the facility is requesting any of the variances at (13), if known at the time of the application.

(7) Existing manufacturing, commercial, mining, and silvicultural dischargers applying for MPDES permits, except for those facilities subject to the requirements of (8), shall provide the following information to the department, using application forms provided by the department:

(a) through (g)(ix)(B) remain the same.

(x) where quantitative data are required in (7)(g)(i) through (ix), existing data may be used, if available, in lieu of sampling done solely for the purpose of application, provided that:

(A) all data requirements are met; sampling was performed, collected, and analyzed no more than four and one-half years prior to submission;

(B) all data are representative of the discharge; and

(C) all available representative data are considered in the values reported;

(h) through (9) remain the same.

(10) New manufacturing, commercial, mining, and silvicultural dischargers applying for MPDES permits (except for new discharges of facilities subject to the requirements of (8) or new discharges of storm water associated with industrial activity that are subject to the requirements of (11)) shall provide the following information to the department, using application forms provided by the department:

(a) through (e)(vi) remain the same.

(vii) No later than ~~two years~~ 24 months after the commencement of discharge from the proposed facility, the applicant is required to complete and submit forms prescribed by the department. However, the applicant need not complete those portions of the forms requiring tests which he has already performed and reported under the discharge monitoring requirements of his MPDES permit;

(f) through (11) remain the same.

(12) Unless otherwise indicated, all new and existing publicly owned treatment works (POTWs) and other dischargers designated by the department, shall provide, at a minimum, the information in (a) through (h) to the department, using Form 2A. Permit applicants shall submit all information available at the time of permit application. The information may be provided by referencing information previously submitted to the department. The department may waive any requirement of (a) through (h), if the department has access to substantially identical information. The department may also waive any requirement of (a) through (h) that

is not of material concern for a specific permit, if approved by EPA. The waiver request to the EPA must include the department's justification for the waiver. The EPA's disapproval of the proposed waiver does not constitute final agency action, but does provide notice to the department and permit applicant that EPA may object to any MPDES permit issued in the absence of the required information.

(a) All applicants shall provide the following basic information:

(i) remains the same.

(ii) name, mailing address, ~~and~~ telephone number, and electronic mail address of the applicant and indication as to whether the applicant is the facility's owner, operator, or both;

(iii) through (viii)(C) remain the same.

(D) for effluent sent to another facility for treatment prior to discharge:

(I) remains the same.

(II) the name, mailing address, contact person, ~~and~~ phone number, and electronic mail address of the organization transporting the discharge, if the transport is provided by a party other than the applicant;

(III) the name, mailing address, contact person, phone number, electronic mail address, and MPDES permit number (if any) of the receiving facility; and

(IV) through (E) remain the same.

(ix) An indication of whether the applicant is operating under or requesting to operate under a variance as specified at (14), if known at the time of application.

(b) and (c) remain the same.

(d) As specified in (i) through (ix), all applicants shall submit to the department effluent monitoring information for samples taken from each outfall through which effluent is discharged to state surface waters. The department may allow applicants to submit sampling data for only one outfall, on a case-by-case basis, where the applicant has two or more outfalls with substantially identical effluent. The department may also allow applicants to composite samples from one or more outfalls that discharge into the same mixing zone. For POTWs applying prior to commencement of discharge, data shall be submitted no later than 24 months after the commencement of discharge.

(i) through (ix) remain the same.

(e) All applicants shall provide an identification of any whole effluent toxicity tests conducted during the four and one-half years prior to the date of the application on any of the applicant's discharges or on any receiving water near the discharge. For POTWs applying prior to commencement of discharge, data shall be submitted no later than 24 months after the commencement of discharge.

(i) through (ix) remain the same.

(f) Applicants shall submit the following information about industrial discharges to the POTW:

(i) number of significant industrial users (SIUs) and non-significant categorical industrial users (NSCIUs), including SIUs and NSCIUs that truck or haul waste, discharging to the POTW; and

(ii) through (h) remain the same.

(i) All applicants shall provide the name, mailing address, telephone number, electronic mail address, and responsibilities of all contractors responsible for any operational or maintenance aspects of the facility.



(j) through (18) remain the same.

AUTH: 75-5-201, 75-5-401, MCA  
IMP: 75-5-401, MCA

REASON: The board is proposing to amend MPDES permit application requirements in this rule to maintain consistency with the federal rules in 40 CFR 122.21, which were amended in June 2019 to improve application consistency, accuracy, and usability. As an authorized state program, the MPDES program must collect all application information required in federal regulations at 40 CFR 122.21.

The board is proposing to amend (1)(a) to maintain consistency with the federal update at 40 CFR 122.21(a)(2) by updating department contact information for obtaining application forms. Providing up-to-date contact information will save the permitting authorities and the public time when they seek to inquire about application requirements.

The board is proposing to amend (6)(c) to maintain consistency with the federal rule at 40 CFR 122.21(f)(3). This federal rule requires all facilities except publicly owned treatment works to include North American Industry Classification System (NAICS) codes in addition to the Standard Industrial Classification (SIC) codes that reflect the products or services provided by the facility. While some Clean Water Act regulations use SIC codes, they have not been updated since 1987. The NAICS codes are the federal data standard typically used to identify and classify industrial operations. Applicants will be required to provide both codes.

The board is proposing to amend (6)(d) to maintain consistency with the federal rule at 40 CFR 122.21(f)(4). This federal rule requires applicants that are not POTWs to provide an electronic mailing address (email).

The board is proposing to amend (6) by adding (6)(i) and (6)(j) to maintain consistency with the federal rules found at 40 CFR 122.21(f)(9) and (f)(10), respectively. The new provision of (6)(i) will require applicants to indicate whether the facility uses cooling water, and the source of cooling water. The new provision of (6)(j) will require applicants to indicate whether the facility is requesting any of the variances at (13). By requiring indication of the use and source of cooling water, or the intent to request a variance, DEQ will receive key information necessary to effectively develop an MPDES permit for the facility.

The board is proposing to add new (7)(g)(x) to maintain consistency with the federal rule at 40 CFR 122.21(g)(7)(ix), which allows existing non-publicly-owned treatment works (Non-POTW) applicants to use data up to four and one-half years prior to the date of application, but does not require four and one-half years of data. This new regulation also clarifies that existing data may only be used where they remain representative of the current discharge characteristics.

The board is proposing to amend (10)(e)(vii) to maintain consistency with the federal rule 40 CFR 122.21(k)(5)(vi). This is an editorial change that provides clarity to the allowed timeframe for new dischargers to submit data.

The board is proposing to amend (12)(a)(ii) to maintain consistency with the federal rule at 40 CFR 122.21(j)(1)(ii) in requiring applicants to provide an electronic mailing address (email) of the facility's owner, operator, or both.

The board is proposing to amend (12)(a)(viii)(D)(II) to maintain consistency

with the rule at 40 CFR 122.21(j)(1)(viii)(D)(2) in requiring POTW applicants that send effluent to another facility for treatment prior to discharge to provide the email address of the organization transporting the effluent.

The board is proposing to amend (12)(a)(viii)(D)(III) to maintain consistency with the federal rule at 40 CFR 122.21(j)(1)(viii)(D)(3) in requiring POTW applicants that send effluent to another facility for treatment prior to discharge to provide the email address of the facility that receives the transported effluent.

The board is proposing new (12)(a)(ix) to maintain consistency with the federal rule at 40 CFR 122.21(j)(1)(ix). This federal rule requires new and existing POTWs to indicate on their application whether they are operating or requesting to operate under a variance as specified at (14).

The board is proposing to amend (12)(d) and (12)(e) to maintain consistency with the federal rules at 40 CFR 122.21(j)(4)(i) and (j)(5)(i), respectively. These federal rules specify deadlines for new POTW dischargers to submit data after commencement of discharge.

The board is proposing to amend (12)(f)(i) to maintain consistency with the federal rule at 40 CFR 122.21(j)(6)(i). This federal rule requires POTW applicants to indicate the number of non-significant categorical industrial users (NSCIUs) instead of categorical industrial users (CIUs). This will clarify whether wastewater accepted from these facilities might be uncharacteristic of domestic sewage, because CIUs are categorized as either SIUs or NSCIUs. The proposed amendment also requires applicants to include SIUs and NSCIUs that truck or haul waste to ensure that the reported number include all SIUs and NSCIUs that contribute waste to the POTW, not only those directly connected to the POTW.

The board is proposing to amend (12)(i) to maintain consistency with the federal rule at 40 CFR 122.21(j)(9) in requiring applicants to provide an electronic mailing address of contractors responsible for operational and maintenance of the facility.

17.30.1331 CONCENTRATED AQUATIC ANIMAL PRODUCTION FACILITIES AND AQUACULTURE PROJECTS (1) through (5) remain the same.

(6) The board hereby adopts and incorporates herein by reference Appendix C of 40 CFR Part 122 which is an appendix to a federal agency rule setting forth criteria for determining whether a facility or operation merits classification as a concentrated aquatic animal production facility. ~~See ARM 17.30.1303 for complete information about all materials incorporated by reference.~~

AUTH: 75-5-201, 75-5-401, MCA  
IMP: 75-5-401, MCA

REASON: The board is proposing to amend (6) by removing the reference to ARM 17.30.1303, which was repealed in 2012.

17.30.1340 NEW SOURCES AND NEW DISCHARGERS (1) Except as otherwise provided in an applicable new source performance standard, a source is a new source if it meets the definition of new source in ARM 17.30.1304(37), and:  
(a) through (c) remain the same.

(2) A source meeting the requirements of (1)(a), (b), or (c) is a new source only if a new source performance standard is independently applicable to it. If there is no such independently applicable standard, the source is a new discharger. (See ARM 17.30.1304(36).)

(3) remains the same.

(4) Construction of a new source as defined under ARM 17.30.1304(37) has commenced if the owner or operator has:

(a) through (9) remain the same.

~~(10) The board hereby adopts and incorporates herein by reference 40 CFR 125.3, which is a federal agency rule setting forth technology-based treatment requirements for point source dischargers. See ARM 17.30.1303 for complete information about all materials incorporated by reference.~~

AUTH: 75-5-201, 75-5-401, MCA

IMP: 75-5-401, MCA

REASON: The board is proposing to amend (1) and (4) to eliminate the incorrect referenced section of ARM 17.30.1304(37), which refers to indirect discharger instead of new source. The board is proposing to amend (2) by removing the incorrect referenced section of ARM 17.30.1304(36), which refers to impingement instead of new discharger. ARM 17.30.1304 is the board's rule that is equivalent to 40 CFR 122.2, the federal rule definitions terms for the NPDES program.

The board is proposing to remove as redundant (10). The board has internal rules at ARM 17.30.1203 which are equivalent to 40 CFR 125.3, the federal rules setting forth technology-based treatment requirements for point source dischargers. The changes will also maintain consistency with federal rules at 40 CFR 122.29, the federal rules which sets forth conditions for new sources and new dischargers. The board is proposing to remove the reference to ARM 17.30.1303, which was repealed in 2012.

17.30.1341 GENERAL PERMITS (1) through (3) remain the same.

(4) A person owning or proposing to operate a point source who wishes to operate under a MPDES general permit shall complete a standard MPDES application or notice of intent form available from the department for the particular general permit. Except for notices of intent, the department shall, within 30 days of receiving a completed application, either issue to the applicant an authorization to operate under the MPDES general permit, or shall notify the applicant that the source does not qualify for authorization under a MPDES general permit, citing one or more of the following reasons as the basis for denial:

(a) the specific source applying for authorization appears unable to comply with the following requirements:

(i) through (v) remain the same.

(vi) prohibition of any discharge which is in conflict with a plan or amendment thereto approved pursuant to section 208(b) of the federal Clean Water Act; and

(vii) through (13) remain the same.

AUTH: 75-5-201, 75-5-401, MCA  
IMP: 75-5-401, MCA

REASON: The board is proposing to amend (4)(a)(vii) to clarify this reference is to the federal Clean Water Act, not the Montana Water Quality Act.

17.30.1342 CONDITIONS APPLICABLE TO ALL PERMITS The following conditions apply to all MPDES permits. Additional conditions applicable to MPDES permits are set forth in ARM 17.30.1344. All conditions applicable to MPDES permits must be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to these rules must be given in the permit.

(1) through (9) remain the same.

(10) Monitoring and records:

(a) Samples and measurements taken for the purpose of monitoring must be representative of the monitored activity.

(b) through (11) remain the same.

(12) Reporting requirements:

(a) The permittee shall give notice to the department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

(i) through (e) remain the same.

(f) Twenty-four hour reporting:

(i) The permittee shall report any noncompliance which may endanger health or the environment. Any information must be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission must also be provided within five days of the time the permittee becomes aware of the circumstances. The written submission must contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

(ii) through (h) remain the same.

(13) Other noncompliance:

(a) The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of (b) and (c).

(b) through (d) remain the same.

(14) Upset Conditions:

(a) Effect of an upset: An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of (b) are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

(b) Conditions necessary for demonstration of an upset: A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through

properly signed, contemporaneous operating logs, or other relevant evidence that:

(i) through (iv) remain the same.

(c) Burden of proof: In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

(15) The board hereby adopts and incorporates herein by reference ~~(see ARM 17.30.1303 for complete information about all materials incorporated by reference)~~:

(a) and (b) remain the same.

AUTH: 75-5-201, 75-5-401, MCA

IMP: 75-5-401, MCA

REASON: The board is proposing editorial changes to (10), (12) and (13) to maintain consistency with current Secretary of State formatting procedures.

The board is proposing editorial changes at (14) to clarify upset conditions and to maintain consistency with the current Secretary of State formatting procedures.

The board is proposing to amend (15) by removing the reference to ARM 17.30.1303, which was repealed in 2012.

17.30.1344 ESTABLISHING LIMITATIONS, STANDARDS, AND OTHER PERMIT CONDITIONS (1) remains the same.

(2) The board hereby adopts and incorporates herein by reference ~~(see ARM 17.30.1303 for complete information about all materials incorporated by reference)~~:

(a) through (i) remain the same.

AUTH: 75-5-201, 75-5-401, MCA

IMP: 75-5-401, MCA

REASON: The board is proposing to amend (2) by removing the reference to ARM 17.30.1303, which was repealed in 2012.

17.30.1345 CALCULATING MPDES PERMIT CONDITIONS (1) remains the same.

(2) Production-based limitations.

(a) remains the same.

(b)(i) Except in the case of POTW's, or as provided in (3), calculation of any permit limitations, standards, or prohibitions which are based on production (or other measure of operation) must be based not upon the designed production capacity but rather upon a reasonable measure of actual production of the facility. For new sources or new dischargers, actual production must be estimated using projected production. The time period of the measure of production must correspond to the time period of the calculated permit limitations; for example, monthly production must be used to calculate average monthly discharge limitations.

(3) and (4) remain the same.

(5) All permit effluent limitations, standards, or prohibitions for a metal must be expressed in terms of "total recoverable metal" as defined in 40 CFR Part 136

unless:

- (a) remains the same.
- (b) in establishing permit limitations on a case-by-case basis under ~~40 CFR 125.3~~ ARM 17.30.1203, it is necessary to express the limitation on the metal in the dissolved or valent or total form to carry out the provisions of the Act; or
- (c) through (7) remain the same.
- (8) Mass limitations:
  - (a) All pollutants limited in permits must have limitations, standards, or prohibitions expressed in terms of mass except:
    - (i) through (b) remain the same.
- (9) Pollutants in intake water:
  - (a) Upon request of the discharger, technology-based effluent limitations or standards must be adjusted to reflect credit for pollutants in the discharger's intake water if:
    - (i) through (e) remain the same.
- (10) Internal waste streams:
  - (a) When permit effluent limitations or standards imposed at the point of discharge are impractical or infeasible, effluent limitations or standards for discharges of pollutants may be imposed on internal waste streams before mixing with other waste streams or cooling water streams. In those instances, the monitoring required by ARM 17.30.1344, in accordance with 40 CFR 122.44(i), must also be applied to the internal waste streams.
  - (b) and (11) remain the same.
- (12) The board ~~hereby~~ adopts and incorporates ~~herein~~ by reference (~~see ARM 17.30.1303 for complete information about all materials incorporated by reference~~):
  - (a) through (f) remain the same.

AUTH: 75-5-201, 75-5-401, MCA

IMP: 75-5-401, MCA

REASON: The board is proposing editorial changes to (2) to maintain consistency with the Secretary of State formatting procedures.

The board is proposing to amend (5)(b) to correct the reference for establishing effluent limitations on a case-by-case basis from 40 CFR 125.3 to the internal reference ARM 17.30.1203. ARM 17.30.1203 is the board's rule that is equivalent to 40 CFR 125.3.

The board is proposing editorial changes to (8), (9), and (10) to maintain consistency with current Secretary of State formatting procedures.

The board is proposing to amend (12) by removing the reference to ARM 17.30.1303, which was repealed in 2012.

17.30.1346 DURATION OF PERMITS (1) through (5) remain the same.

(6) The board ~~hereby~~ adopts and incorporates ~~herein~~ by reference sections 301(b)(2)(A), (C), (E), and (F) of the federal Clean Water Act, 33 USC 1251, et seq., which set forth deadlines for achieving effluent limitations and treatment of toxic pollutants. ~~See ARM 17.30.1303 for complete information about all materials~~

incorporated by reference.

AUTH: 75-5-201, 75-5-401, MCA  
IMP: 75-5-401, MCA

REASON: The board is proposing to amend (6) by removing the reference to ARM 17.30.1303, which was repealed in 2012.

17.30.1350 SCHEDULES OF COMPLIANCE (1) The permit may, when appropriate, specify a schedule of compliance leading to compliance with the Act and rules adopted thereunder, ~~specifically including any applicable requirements under ARM Title 17, chapter 30, subchapter 12.~~

(a) Any schedules of compliance under this rule must require compliance as soon as possible, but not later than any ~~the~~ applicable statutory deadline under the Act or under the federal Clean Water Act ~~as codified at 33 USC 1311(b)(2)(A), (C), (D), (E), and (F).~~

(b) through (2) remain the same.

~~(3) The board hereby adopts and incorporates herein by reference the federal Clean Water Act 33 USC 1311(b)(2)(A), (C), (E), and (F) which set forth deadlines for achieving effluent limitations and treatment of toxic pollutants. See ARM 17.30.1303 for complete information about all materials incorporated by reference. Copies of these materials are available from the Department of Environmental Quality, P.O. Box 200901, Helena, MT 59620-0901.~~

AUTH: 75-5-201, 75-5-401, MCA  
IMP: 75-5-401, MCA

REASON: The board is proposing to amend this rule to maintain consistency with the federal rules at 40 CFR 122.47. This federal rule sets forth conditions of compliance schedules for permits. The board is proposing to amend (1) by removing the reference to ARM Title 17, chapter 30, subchapter 12, which contains the board's rules for technology-based treatment requirements, to which compliance schedules do not apply.

The board is proposing to amend (1)(a) by removing the references to 33 USC 1311(b)(2)(A), (C), (E), and (F), which are outdated and no longer applicable.

The board is proposing to remove (3), which is outdated and no longer applicable.

17.30.1354 DISPOSAL OF POLLUTANTS INTO WELLS, INTO PUBLICLY OWNED TREATMENT WORKS, OR BY LAND APPLICATION (1) through (3) remain the same.

(4) The board ~~hereby~~ adopts and incorporates ~~herein~~ by reference 40 CFR Part 125, subpart D, which is a series of federal agency rules setting forth criteria and standards for determining eligibility for a variance from effluent limitations based on fundamentally different factors (FDF). ~~See ARM 17.30.1303 for complete information about all materials incorporated by reference.~~

AUTH: 75-5-201, 75-5-401, MCA  
IMP: 75-5-401, MCA

REASON: The board is proposing to amend (4) by removing the reference to ARM 17.30.1303, which was repealed in 2012.

17.30.1361 MODIFICATION OR REVOCATION AND REISSUANCE OF PERMITS (1) and (2) remain the same.

(3) The following are causes to modify or, alternatively, revoke and reissue a permit:

(a) remains the same.

(b) the department has received notification ~~(as required in the permit, see ARM 17.30.1362(12)(e))~~ of a proposed transfer of the permit. A permit also may be modified to reflect a transfer after the effective date of an automatic transfer (ARM 17.30.1360(2)) but will not be revoked and reissued after the effective date of the transfer except upon the request of the new permittee.

(4) remains the same.

AUTH: 75-5-201, 75-5-401, MCA  
IMP: 75-5-401, MCA

REASON: The board is proposing to amend (3)(b) to maintain consistency with the equivalent federal rule at 40 CFR 122.62. This federal rule sets forth requirements for modification or revocation and reissuance of permits. The board proposes to remove the incorrect reference to ARM 17.30.1362(12)(c). The correct reference for the permittee to give notice to the department is ARM 17.30.1342, but its removal will eliminate redundancy.

17.30.1372 PUBLIC NOTICE OF PERMIT ACTIONS AND PUBLIC COMMENT PERIOD (1) through (4) remain the same.

(5) Public notice of activities described in (1)(a) must be given by the following methods:

(a) by mailing a copy of a notice to the following persons (any person otherwise entitled to receive notice under this rule may waive his or her rights to receive notice for any classes and categories of permits):

(i) through (v) remain the same.

(vi)(A) to any unit of local government having jurisdiction over the area where the facility is proposed to be located; and

~~(B)(vii)~~ to each state agency having any authority under state law with respect to the construction or operation of such facility.

(b) and (c) remain the same.

(d) any other method reasonably calculated to give actual notice of the action in question to the persons potentially affected by it, including press releases or any other forum or medium to elicit public participation-; and

(e) for major permits and MPDES general permits, in lieu of the requirement for publication of a notice in a daily or weekly newspaper, as described in (5)(b), the department may publish all notices of activities described in (1) to the permitting



authority's public website. If the department selects this option for a draft permit, as defined in ARM 17.30.1304, in addition to meeting the requirements in (6), the department must post the draft permit and fact sheet on the website for the duration of the public comment period.

(6) through (8) remain the same.

AUTH: 75-5-201, 75-5-401, MCA

IMP: 75-5-401, MCA

REASON: The board is proposing editorial changes to (5)(a) to maintain consistency with current Secretary of State formatting procedures.

The board is proposing to add (5)(e) to maintain consistency with the equivalent federal rule set forth in 40 CFR 124.10(c)(2)(iv). This federal rule sets forth requirements for public notice of permit actions. The proposed addition provides an alternative method of providing notice of permit applications and hearings, and affirms flexibility in reaching the public through a variety of methods that would expand public access to applications and draft permits.

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 Sandy Scherer, Paralegal, Department of Environmental Quality, 1520 E. Sixth Avenue, P.O. Box 200901, Helena, Montana 59620-0901; faxed to (406) 444-4386; or e-mailed to [sscherer@mt.gov](mailto:sscherer@mt.gov), no later than 5:00 p.m., June 19, 2020. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

5. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding: air quality; hazardous waste/waste oil; asbestos control; water/wastewater treatment plant operator certification; solid waste; junk vehicles; infectious waste; public water supply; public sewage systems regulation; hard rock (metal) mine reclamation; major facility siting; opencut mine reclamation; strip mine reclamation; subdivisions; renewable energy grants/loans; solar and wind energy bonding, wastewater treatment or safe drinking water revolving grants and loans; water quality; CECRA; underground/above ground storage tanks; MEPA; or general procedural rules other than MEPA. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to Sandy Scherer, Paralegal, Department of Environmental Quality, 1520 E. Sixth Ave., P.O. Box 200901, Helena, Montana 59620-0901, faxed to the office at (406) 444-4386, e-mailed to Sandy Scherer at [sscherer@mt.gov](mailto:sscherer@mt.gov), or may be made by completing a request form at any rules hearing held by the board.

6. Sarah Clerget, attorney for the board, or another attorney for the Agency Legal Services Bureau, has been designated to preside over and conduct the

hearing.

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

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

Reviewed by:

BOARD OF ENVIRONMENTAL REVIEW

/s/ Edward Hayes  
EDWARD HAYES  
Rule Reviewer

BY: /s/ Christine Deveny  
CHRISTINE DEVENY  
Chair

Certified to the Secretary of State April 21, 2020.

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW  
OF THE STATE OF MONTANA

In the matter of the adoption of New	)	NOTICE OF PUBLIC HEARING
Rule I pertaining to natural and	)	ON PROPOSED ADOPTION
nonanthropogenic water quality	)	
standards	)	(WATER QUALITY)

TO: All Concerned Persons

1. On June 17, 2020, at 10:00 a.m., the Board of Environmental Review (board) will hold a public hearing in Room 111 of the Metcalf Building, 1520 E. Sixth Avenue, Helena, Montana, to consider the proposed adoption of the above-stated rule.

2. The board 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 Sandy Scherer no later than 5:00 p.m., June 10, 2020, to advise us of the nature of the accommodation that you need. Please contact Sandy Scherer at the Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2630; fax (406) 444-4386; or e-mail [sscherer@mt.gov](mailto:sscherer@mt.gov).

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

NEW RULE I NATURAL AND NONANTHROPOGENIC WATER QUALITY STANDARDS (1) Named waterbodies, waterbody segments, or waterbodies within geographic regions listed below have natural or nonanthropogenic concentrations for one or more parameters that exceed the applicable standards. For these waterbodies, the standards specified in (2) supersede the otherwise applicable water quality standards found elsewhere in state law.

(2) No person may violate the numeric water quality standards identified below:

(a) Mainstem Yellowstone River Nonanthropogenic Standards. Water quality standards for human health for total recoverable arsenic (CASRN number 7440-38-2). Average arsenic concentrations during a calendar year may not exceed the standards, and downstream water quality and applicable beneficial uses shall continue to be maintained. The standards, specified by segment, are as follows:

(i) From the Montana/Wyoming border (44.9925, -110.5172) to the mouth of Mill Creek (45.4165, -110.6548): 28 µg/L;

(ii) From the mouth of Mill Creek (45.4165, -110.6548) to the mouth of the Boulder River (45.8530, -109.9247): 22 µg/L;

(iii) From the mouth of the Boulder River (45.8530, -109.9247) to the mouth of the Stillwater River (45.6399, -109.2829): 16 µg/L; and

(iv) From the mouth of the Stillwater River (45.6399, -109.2829) to the mouth of the Clarks Fork of the Yellowstone River (45.6510, -108.7145): 13 µg/L.

(3) Named waterbodies, waterbody segments, or waterbodies within

geographic regions specified in (2) have no assimilative capacity for the applicable natural or nonanthropogenic standards. Therefore, the department may not grant a mixing zone under ARM Title 17, chapter 30, subchapter 5 for these waterbodies and the specified standards.

AUTH: 75-5-201, 75-5-301, MCA

IMP: 75-5-222, 75-5-306, MCA

REASON: State law grants the board authority to adopt nonanthropogenic water quality standards when the otherwise applicable standards are more stringent than the nonanthropogenic condition of the waterbody. Correspondingly, the department may not apply a water quality standard to a water body that is more stringent than the nonanthropogenic condition of the waterbody (75-5-222, MCA). In such cases, the nonanthropogenic condition is the standard. Further, it is not necessary to treat wastes to a condition purer than the natural condition (75-5-306, MCA).

NEW RULE I establishes a framework for adopting water quality standards which are based on natural or nonanthropogenic conditions, and establishes nonanthropogenic-based arsenic standards for certain segments of the Yellowstone River. Natural or nonanthropogenic water quality standards are established because natural or nonanthropogenic effects on the landscape have resulted in arsenic concentrations in state surface waters that naturally exceed the otherwise applicable state water quality standards. NEW RULE I has been drafted so that standards for other named waterbodies, waterbody segments, or groups of waterbodies within specific geographic regions can all be incorporated into the rule at a later time.

The first standards being set under NEW RULE I are for arsenic concentrations in segments of the Yellowstone River. At present, there is a single human-health based arsenic standard of 10 µg/L for state waters across Montana (Department Circular DEQ-7). Arsenic concentrations are elevated above 10 µg/L in the upper and middle Yellowstone River, and this is due to natural causes—from geothermal sources in Yellowstone National Park. Geothermal sources of arsenic from the park can reasonably be considered nonanthropogenic.

In 2015, the department began a project to determine how much of the Yellowstone River's arsenic is nonanthropogenic, and to update arsenic standards for the river, if appropriate. The project included field data collection, quantification of all human-caused arsenic sources, in-house computer modeling, derivation of the new standards, and identification of methods to implement the new standards; the work is described in three reports on the department's website (DEQ. 2019a; 2019b; DEQ. 2020). From this work, the department has identified four Yellowstone River segments for which site-specific nonanthropogenic arsenic standards can be established at concentrations above the current 10 µg/L human-health based standard. The new standards are being expressed as the annual median nonanthropogenic concentration, as specified in NEW RULE I(2).

The standards are necessary because they reflect existing, nonanthropogenic water quality in one of the state's main waterways. From the human health perspective, they are the most protective expression of the nonanthropogenic

arsenic standards from among several options considered by the department (DEQ. 2020). Because the nonanthropogenic standards are more accurate, they preclude application of unnecessarily stringent water quality standards for dischargers along the Yellowstone River who have an MPDES permit limit for arsenic.

Waterbodies identified in this rule have no assimilative capacity because the standards are being established at the existing, nonanthropogenic concentration. As a result, the waterbodies cannot assimilate discharges having concentrations higher than the standard because that would result in instream concentrations elevated above the nonanthropogenic condition. Therefore, mixing zones are not allowed. Establishing the standards at the nonanthropogenic concentration and disallowing mixing zones will prevent concentrations in the waterbodies from trending up due to human causes, and will maintain the nonanthropogenic condition characterized at the time the standards were established.

The technical reports referenced above are as follows:

DEQ (Montana Department of Environmental Quality). 2019a. *Demonstration of Nonanthropogenic Arsenic Levels: Yellowstone River, Montana*. Helena, MT: Montana Dept. of Environmental Quality.

DEQ (Montana Department of Environmental Quality). 2019b. *Derivation of Nonanthropogenic Arsenic Standards for Segments of the Upper and Middle Yellowstone River*. Helena, MT: Montana Dept. of Environmental Quality.

DEQ (Montana Department of Environmental Quality). 2020. *Addendum to Derivation of Nonanthropogenic Arsenic Standards for Segments of the Upper and Middle Yellowstone River*. Helena, MT: Montana Dept. of Environmental Quality.

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 Sandy Scherer, Paralegal, Department of Environmental Quality, 1520 E. Sixth Avenue, P.O. Box 200901, Helena, Montana 59620-0901; faxed to (406) 444-4386; or e-mailed to [sscherer@mt.gov](mailto:sscherer@mt.gov), no later than 5:00 p.m., June 19, 2020. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

The technical support documents referenced above may be viewed at this department website: <https://deq.mt.gov/water/Surfacewater/standards>. Copies of any of these documents may also be obtained by contacting Dr. Michael Suplee at (406) 444-0831 or [msuplee@mt.gov](mailto:msuplee@mt.gov).

5. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding: air quality; hazardous waste/waste oil; asbestos control; water/wastewater treatment plant operator certification; solid waste; junk vehicles; infectious waste; public water supply; public sewage systems

regulation; hard rock (metal) mine reclamation; major facility siting; opencut mine reclamation; strip mine reclamation; subdivisions; renewable energy grants/loans; solar and wind energy bonding, wastewater treatment or safe drinking water revolving grants and loans; water quality; CECRA; underground/above ground storage tanks; MEPA; or general procedural rules other than MEPA. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to Sandy Scherer, Paralegal, Department of Environmental Quality, 1520 E. Sixth Ave., P.O. Box 200901, Helena, Montana 59620-0901, faxed to the office at (406) 444-4386, e-mailed to Sandy Scherer at sscherer@mt.gov, or may be made by completing a request form at any rules hearing held by the board.

6. Sarah Clerget, attorney for the board, or another attorney for the Agency Legal Services Bureau, has been designated to preside over and conduct the hearing.

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

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

Reviewed by:

BOARD OF ENVIRONMENTAL REVIEW

/s/ Edward Hayes  
EDWARD HAYES  
Rule Reviewer

BY: /s/ Christine Deveny  
CHRISTINE DEVENY  
Chair

Certified to the Secretary of State, April 21, 2020.

BEFORE THE DEPARTMENT OF TRANSPORTATION  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PROPOSED  
ARM 18.8.1502, 18.8.1503, and ) AMENDMENT  
18.8.1505, pertaining to Motor Carrier )  
Services Safety Requirements ) NO PUBLIC HEARING  
) CONTEMPLATED

TO: All Concerned Persons

1. On June 1, 2020, the Department of Transportation proposes to amend 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 May 22, 2020, to advise us of the nature of the accommodation that you need. Please contact Jeff Steeger, Department of Transportation, Motor Carrier Services Division, P.O. Box 201001, Helena, Montana, 59620-1001; telephone (406) 444-4207; fax (406) 444-9263; TTY Service (800) 335-7592 or through the Montana Relay Service at 711; or e-mail [jsteeger@mt.gov](mailto:jsteeger@mt.gov).

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

18.8.1502 FEDERAL MOTOR CARRIER SAFETY RULES AND STATE MODIFICATIONS (1) Any commercial motor vehicle or motor carrier subject to regulation by the department under 61-10-154, MCA, shall comply with and the department adopts by reference the following portions of the Federal Motor Carrier Safety Regulations of the U.S. Department of Transportation, subject to the provisions of (2). The regulations adopted are 49 CFR part 373, 49 CFR part 375, 49 CFR parts 377 through 379, 49 CFR part 382, 49 CFR part 383, 49 CFR part 385, 49 CFR part 387, 49 CFR parts 390 through 399, and Appendix G to subchapter B of chapter III, Title 49 of the Code of Federal Regulations, as updated through ~~February 22, 2019~~ April 9, 2020. Copies of the regulations may be obtained from the U.S. Government Printing Office, 732 North Capitol Street, NW, Washington, DC 20401-0001, or at [www.gpo.gov](http://www.gpo.gov).

(2) remains the same.

AUTH: 61-10-155, MCA  
IMP: 61-10-141, 61-10-154, MCA

REASON: The proposed amendment is necessary to adopt the most current published Federal Motor Carrier Safety Regulations, thereby assuring MDT's

administrative rule associated with commercial vehicle safety substantially complies with the federal motor carrier safety regulations as listed in 61-10-154, MCA.

18.8.1503 TRANSPORTATION OF HAZARDOUS MATERIALS (1) A commercial motor vehicle, motor carrier, or hazardous materials shipper shall comply with and the department adopts by reference the following federal regulations of the U.S. Department of Transportation concerning the transportation of hazardous materials: 49 CFR part 107, 49 CFR part 171, 49 CFR part 172, 49 CFR part 173, 49 CFR part 177, 49 CFR part 178, and 49 CFR part 180. The regulations adopted may be found in the Code of Federal Regulations, Title 49, chapter I, subchapters B and C, as updated through ~~February 22, 2019~~ April 9, 2020. Copies may be obtained from the U.S. Government Printing Office, 732 North Capitol Street, NW, Washington, DC 20401-0001, or at [www.gpo.gov](http://www.gpo.gov).

AUTH: 61-10-155, MCA  
IMP: 61-10-154, MCA

REASON: The proposed amendment is necessary to adopt the most current published version of the federal hazardous materials regulations.

18.8.1505 SAFETY INSPECTION PROGRAM: PURPOSE AND OUT-OF-SERVICE CRITERIA (1) remains the same.

(2) In addition to the federal regulations adopted in ARM 18.8.1502, the safety inspection program will follow Commercial Vehicle Safety Alliance (CVSA), North American Standard Out-of-Service Criteria (April 1, ~~2019~~ 2020), incorporated by reference. A copy of the North American Standard Out-of-Service Criteria may be obtained from the Commercial Vehicle Safety Alliance, 6303 Ivy Lane, Suite 310, Greenbelt, MD 20770-6319 or at [www.cvsa.org](http://www.cvsa.org).

(3) remains the same.

AUTH: 61-10-155, MCA  
IMP: 61-10-154, MCA

REASON: The proposed amendment is necessary to adopt the most current CVSA (Commercial Vehicle Safety Alliance) North American Uniform "Out-of-Service" criteria. The 2020 changes to the CVSA may be viewed at <http://cvsa.org/wp-content/uploads/OOSC-Changes-Letter.pdf>.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Jeff Steeger, Department of Transportation, Motor Carrier Services Division, P.O. Box 201001, Helena, Montana, 59620-1001; telephone (406) 444-4207; fax (406) 444-9263; TTY Service at (800) 335-7592 or the Montana Relay Service at 711; or email [jsteeger@mt.gov](mailto:jsteeger@mt.gov), and must be received no later than 5:00 p.m., May 29, 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 to Jeff Steeger at the above address no later than 5:00 p.m., May 29, 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 807 persons based on the current 8068 active USDOT accounts based in Montana.

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](http://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 that the amendment 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 that the amendment 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 April 21, 2020.

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the amendment of	)	SECOND AMENDED NOTICE OF
ARM 42.12.101, 42.12.106,	)	PUBLIC HEARING ON PROPOSED
42.12.130, 42.12.133, 42.12.209,	)	AMENDMENT AND
42.13.101, and 42.13.107, and the	)	REPEAL
repeal of ARM 42.12.207 pertaining	)	
to approval of a licensee without	)	
premises and concession	)	
agreements	)	

TO: All Concerned Persons

1. On March 13, 2020, the Department of Revenue (department) published MAR Notice No. 42-1017 pertaining to the public hearing on the proposed amendment and repeal of the above-stated rules at page 462 of the 2020 Montana Administrative Register, Issue Number 5.

2. On March 27, 2020, the department published an Amended Notice of Public Hearing on Proposed Amendment and Repeal for MAR Notice No. 42-1017 at page 566 of the 2020 Montana Administrative Register, Issue Number 6, which rescheduled the hearing, notice accommodation, and comment deadline dates in response to Governor Bullock's March 15, 2020 Executive Orders 2-2020 and 3-2020 (Orders) providing for measures to combat the spread of the COVID-19 Novel Coronavirus.

3. Based on the Orders and additional directives issued by Governor Bullock to promote the positive efforts of this public health directive, the department has decided there will be no in-person hearing on Wednesday, May 6, 2020 at 11:00 a.m., and the hearing will be held via remote conferencing only. The deadline for the submission of data, views, or arguments for the rulemaking of 5:00 p.m. on May 13, 2020 remains.

4. The department amends paragraphs 1 and 2 of its amended proposal notice as follows, new matter underlined, deleted matter interlined:

1. On May 6, 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, via remote conferencing~~ to consider the proposed amendment and repeal of the above-stated rules. ~~The conference room is most readily accessed by entering through the east doors of the building.~~ Interested persons may access the public hearing in the following ways:

(a) Join Zoom Meeting: <https://mt-gov.zoom.us/j/99042586166>, Meeting ID: 990 4258 6166;

(b) Dial by Telephone: +1 406 444-9999 or +1 646 558 8656, Meeting ID: 990 4258 6166;

(c) Join by SIP: 99042586166@zoomcrc.com;

(d) Join by H.323 (Polycom): 162.255.37.11##99042586166; or

(e) Join by Skype for Business: <https://mt-gov.zoom.us/j/99042586166>.

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 ~~April 3~~ May 4, 2020. 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](mailto:todd.olson@mt.gov).

/s/ Todd Olson  
Todd Olson  
Rule Reviewer

/s/ Gene Walborn  
Gene Walborn  
Director of Revenue

Certified to the Secretary of State April 21, 2020.

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the adoption of New ) SECOND AMENDED NOTICE OF  
Rules I through XIV pertaining to the ) PUBLIC HEARING ON PROPOSED  
Montana Economic Development ) ADOPTION  
Industry Advancement Act (MEDIAA) )

TO: All Concerned Persons

1. On March 13, 2020, the Department of Revenue (department) published MAR Notice No. 42-1019 pertaining to the public hearing on the proposed adoption of the above-stated rules at page 473 of the 2020 Montana Administrative Register, Issue Number 5.

2. On March 27, 2020, the department published an Amended Notice of Public Hearing on Proposed Adoption for MAR Notice No. 42-1019 at page 568 of the 2020 Montana Administrative Register, Issue Number 6, which rescheduled the hearing, notice accommodation, and comment deadline dates in response to Governor Bullock's March 15, 2020 Executive Orders 2-2020 and 3-2020 (Orders) providing for measures to combat the spread of the COVID-19 Novel Coronavirus.

3. Based on the Orders and additional directives issued by Governor Bullock to promote the positive efforts of this public health directive, the department has decided there will be no in-person hearing on Friday, May 8, 2020 at 1:30 p.m., and the hearing will be held via remote conferencing only. The deadline for the submission of data, views, or arguments for the rulemaking of 5:00 p.m. on May 29, 2020 remains.

4. The department amends paragraphs 1 and 2 of its amended proposal notice as follows, new matter underlined, deleted matter interlined:

1. On May 8, 2020, at 1:30 p.m., the Department of Revenue will hold a public hearing in the Fourth Floor East Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana, via remote conferencing to consider the proposed adoption of the above-stated rules. The conference room is most readily accessed by entering through the east doors of the building. Visitors must check in at the customer service window on the third floor for access to the fourth floor. Interested persons may access the public hearing in the following ways:

(a) Join Zoom Meeting: <https://mt-gov.zoom.us/j/97730791437>, Meeting ID: 977 3079 1437;

(b) Dial by Telephone: +1 406 444 9999 or +1 646 558 8656, Meeting ID: 977 3079 1437;

(c) Join by SIP: [97730791437@zoomcrc.com](mailto:97730791437@zoomcrc.com);

(d) Join by H.323 (Polycom): [162.255.37.11###97730791437](tel:162.255.37.11###97730791437); or

(e) Join by Skype for Business: <https://mt-gov.zoom.us/skype/97730791437>.

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 ~~April 3~~ May 4, 2020. 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.

/s/ Todd Olson  
Todd Olson  
Rule Reviewer

/s/ Gene Walborn  
Gene Walborn  
Director of Revenue

Certified to the Secretary of State April 21, 2020.

BEFORE THE DEPARTMENT OF AGRICULTURE  
OF THE STATE OF MONTANA

In the matter of the adoption of New ) CORRECTED NOTICE OF  
Rules I, II, III, IV, and V and ) ADOPTION AND AMENDMENT  
amendment of ARM 4.16.104 )  
pertaining to the Student Loan )  
Assistance Program )

TO: All Concerned Persons

1. On January 31, 2020, the Department of Agriculture published MAR Notice No. 4-20-264 pertaining to the public hearing on the proposed adoption and amendment of the above-stated rules at page 123 of the 2020 Montana Administrative Register, Issue Number 2. On March 27, 2020, the department published the notice of adoption and amendment at page 570 of the 2020 Montana Administrative Register, Issue Number 6.

2. This correction notice changes in ARM 4.23.102 a previously incorrect reference to another rule. The rule, as amended in corrected form, reads as follows, deleted matter interlined, new matter underlined:

4.23.102 APPLICATION PROCEDURES FOR LOAN REPAYMENT ASSISTANCE PROGRAM (1) Application forms for farmer loan repayment assistance will be published annually on the department's website.

(2) Applicants must provide all requested information and meet eligibility and documentation requirements specified in ARM ~~4.16.103~~ 4.23.103 to be considered eligible for funding.

3. The replacement pages for this corrected notice were submitted to the Secretary of State on March 31, 2020.

/s/ Cort Jensen  
Cort Jensen  
Rule Reviewer

/s/ Ben Thomas  
Ben Thomas  
Director  
Department of Agriculture

Certified to the Secretary of State April 21, 2020.

BEFORE THE MONTANA BOARD OF HORSE RACING  
DEPARTMENT OF COMMERCE  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 8.22.2705 and 8.22.3001 )  
pertaining to the Montana Board of )  
Horse Racing )

TO: All Concerned Persons

1. On March 13, 2020, the Board of Horse Racing published MAR Notice No. 8-22-181 pertaining to the proposed amendment of the above-stated rules at page 433 of the 2020 Montana Administrative Register, Issue Number 5.
2. No comments or testimony were received.
3. The board has amended the above-stated rules as proposed.

MONTANA BOARD OF HORSE RACING  
JOHN HAYES  
CHAIRPERSON

/s/ Garrett Norcott  
Garrett Norcott  
Rule Reviewer

/s/ Tara Rice  
Tara Rice  
Director  
Department of Commerce

Certified to the Secretary of State April 21, 2020.

BEFORE THE DEPARTMENT OF COMMERCE  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT AND  
ARM 8.94.3727, 8.94.3729, and ) REPEAL  
8.94.3730 and the repeal of ARM )  
8.94.3726 pertaining to the )  
administration of the CDBG program )

TO: All Concerned Persons

1. On March 13, 2020, the Department of Commerce published MAR Notice No. 8-94-182 pertaining to the public hearing on the proposed amendment and repeal of the above-stated rules at page 436 of the 2020 Montana Administrative Register, Issue Number 5.

2. The department has thoroughly considered the comment and testimony received. A summary of the comment received and the department's response are as follows:

COMMENT #1: The commenter would like to ensure that CDBG and other funding at Commerce promote community accessibility and to allow cities and towns to highlight those projects and how user-friendly communities are. The commenter would also like to see in the ranking process a rating on accessibility of the project.

RESPONSE #1: The Department of Commerce continues to support the inclusion of accessibility and visit-ability in proposed projects to the greatest extent possible, particularly when funds are used for newly constructed facilities or projects that involve ADA improvements. The department ensures ADA requirements are carried out, which includes documenting the completion of ADA self-assessment and transition plan when utilizing funds through CDBG. Facilities funded through CDBG, HOME, and HTF are required to be ADA accessible and meet Section 504 accessibility standards.

3. The department has amended ARM 8.94.3727, 8.94.3729, and 8.94.3730 as proposed and has repealed ARM 8.94.3726.

/s/ Amy Barnes  
Amy Barnes  
Rule Reviewer

/s/ Tara Rice  
Tara Rice  
Director  
Department of Commerce

Certified to the Secretary of State April 21, 2020.



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

In the matter of the adoption of NEW ) NOTICE OF ADOPTION  
RULES I, II, III, and IV pertaining to )  
Public Access Land Agreements )

TO: All Concerned Persons

1. On January 31, 2020, the Department of Fish, Wildlife and Parks (department) published MAR Notice No. 12-525 pertaining to the public hearing on the proposed adoption of the above-stated rules at page 129 of the 2020 Montana Administrative Register, Issue Number 2.

2. 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 (12.2.605) DEFINITIONS (1) through (4) remain as proposed.  
(5) "Public land" means FWP lands, and state and school trust lands as defined in 77-1-101, MCA, or federal land managed by the U.S. Department of the Interior or the U.S. Department of Agriculture.

(5) remains as proposed but is renumbered (6).

(7)(6) "Under accessible public land" means public land wholly surrounded by private land by for which there is no other legal access point within two miles via public road, trail, right of way or easement; public waters; adjacent federal, state, county, or municipal land that is open to public use. Access via public waters may also be considered under accessible if there are safety concerns which limit access by boat (due to rapids, boulders, log jams) and/or by foot while remaining within the high water mark (due to swift currents, deep water along banks, slippery substrate).

AUTH: 87-1-297, MCA  
IMP: 87-1-295, 87-1-296, MCA

NEW RULE II (12.2.606) APPLICATION FOR PUBLIC ACCESS LAND AGREEMENT (1) The PALA application must include the following information:

(a) ~~legal or detailed~~ land description of public land to which access is being proposed;

(b) through (d) remain as proposed.

(e) ~~indication~~ evidence, such as a copy of the lease or permit, as to whether the public land to be accessed is public land that is leased by the landowner; and

(f) through (4) remain as proposed.

AUTH: 87-1-297, MCA  
IMP: 87-1-295, 87-1-296, MCA

NEW RULE III (12.2.607) PUBLIC ACCESS LAND AGREEMENTS

(1) Before approving a PALA the department must exercise reasonable due diligence to verify that:

(a) remains as proposed.

(b) the private lands, or any right of way, road, or trail to be utilized are wholly owned by the applicant(s) and there is open access across the designated access route;

(c) the public has no existing right of access over the proposed route;

(c) remains as proposed but is renumbered (d).

~~(d)~~(e) access routes available to motorized vehicles must be safe and passable during dry conditions for two-wheel drive vehicles. capable of accommodating typical road use vehicles under normal conditions.

(2) through (5) remain as proposed.

(6) The department may not enter a PALA where there is an existing right of public access over the proposed access route. If the department is uncertain whether the proposed access route is public or private, or if a controversy exists over whether the proposed access route is public or private, the department shall present its findings to the PL/PW for its consideration in its recommendation.

~~(6)~~(7) Priority consideration for PALA enrollment will be given for lands to those sites that are open during commission-established hunting and or fishing seasons, or both.

(7) through (11) remain as proposed but are renumbered (8) through (12).

AUTH: 87-1-297, MCA

IMP: 87-1-295, 87-1-296, MCA

NEW RULE IV (12.2.608) LANDOWNER COMPENSATION (1) In negotiating for the annual payment to a landowner, the department shall consider:

~~(a) acres of private land over which access is provided;~~

(b) remains as proposed but is renumbered (a).

(b) the quality of fish or wildlife habitat that may be provided by the public land to be accessed;

(c) remains as proposed.

(d) mode of transportation allowed; and

(e) whether closures can be expected; and

(e) remains as proposed but is renumbered (f).

~~(2) Higher compensation will be provided to landowners who allow access during commission-established hunting and fishing seasons.~~

(3) remains as proposed but is renumbered (2).

AUTH: 87-1-297, MCA

IMP: 87-1-295, 87-1-296, MCA

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: The department received a few comments suggesting that there be a definition for "public land" to clarify if it includes both state and federal lands.

RESPONSE #1: In response to this comment, the department has amended the proposed language to define public lands eligible for agreements.

COMMENT #2: A comment was received questioning how and why the two-mile accessibility standard was reached in the definition of "Under Accessible Public Land." The commenter also questioned how and why the one linear mile standard was reached in New Rule III(1)(c)(ii).

RESPONSE #2: Regarding the two-mile accessibility standard, this measurement is relative to security areas for elk movement and hunting pressure from FWP elk research. FWP research recommends defining elk security areas as having  $\geq 13\%$  canopy cover that are  $\geq 1.71$  miles from a motorized route during the archery season, with no minimum block size requirement, and as having  $\geq 9\%$  canopy cover that are  $\geq 0.95$  miles from a motorized route, that are at least 5,000 acres during the rifle season. This also helps to restrict the number of agreements to not having multiple access agreements for a 1-mile x 1-mile 640-acre section.

Regarding the one-mile linear standard, this language mirrors existing program ARM language for the Unlocking Public Lands program (ARM 12.2.601). This restriction applies only to those agreements which are restricted only to walk-in foot traffic only.

COMMENT #3: The department received a comment suggesting striking "or detailed" from New Rule II(1)(a), as a legal description would be adequate and should be the standard.

RESPONSE #3: In response to this comment, the department has amended the proposed language to utilize the legal land description.

COMMENT #4: A few comments were received suggesting that the term "reasonable diligence" in New Rule III(1) be replaced with the term "due diligence."

RESPONSE #4: The department acknowledges that the term "due diligence" is the standard term used to describe what a reasonable person would do in a particular circumstance. The department has amended the proposed language to utilize the term "due diligence" instead of "reasonable diligence".

COMMENT #5: The department received a comment questioning what "normal ambulatory travel" means.

RESPONSE #5: Normal ambulatory travel is the language used in ARM 12.2.601 and means a person who has the ability to move around and walk up to a 1-mile distance to reach the start of the public land should a PALA be walk-in only access.

COMMENT #6: A comment was received suggesting adding "or any right of way, road, or trail to be utilized" to New Rule III(1)(b).

RESPONSE #6: In response to this comment, the department has amended the proposed language to include rights of way, roads, or trails.

COMMENT #7: Several comments were received stating that New Rule III(5) needs to be clearer and more specific. Commenters offered concerns regarding the potential for agreements to be used as evidence of permissive use to defeat historic and existing public access. Commenters stated that this was a concern brought up during the enactment of SB 341 and that Governor Bullock issued a statement directing the department enact rules that require the department to determine if the public already has access before finalizing an agreement. Comments stated that as written, New Rule III(5) is not explicit enough to offer this protection.

RESPONSE #7: In response to this comment, the department has amended the proposed language to better explicitly state the department will exercise due diligence so as not to enter into any agreements for which a right to public access already exists. In its exercise of due diligence, the department intends to use a checklist of questions and criteria to ensure that there is no existing public access. The department's checklist would include things such as checking county records to make sure the proposed route is not a county or public road and that the county does not do maintenance on it, checking with FWP field staff along with staff of the agency that manages the public land to be accessed to see if they are aware of any asserted claims or controversies related to public access, checking newspaper articles and press, and checking with local or area leaders.

COMMENT #8: A comment was received suggesting that New Rule III(6) was not necessary since the funding for the program comes out of general license dollars. It should be implicit that priority is given to lands open to hunting and fishing. Another comment was received that stated appreciation that the rule specifies that lands accessible during hunting and fishing seasons is prioritized.

RESPONSE #8: The department believes that while it may be implicit that priority is given to lands open to hunting and fishing, that it is best to make it clear and explicit in the rule so that there is no question. The department made amendments to (6) in an effort to make it as clear as possible.

COMMENT #9: A comment was received suggesting that New Rule III(8) include that the department or landowner may also deny use in addition to access due to violation of PALA rules and of FWP rules and statutes.

RESPONSE #9: A landowner, in collaboration with the department, may decide under which terms an individual(s) cannot use the PALA site. A violation of fish and wildlife game rules or statutes on public lands are generally outside the scope of a landowner denying access for a PALA unless the member of the public violated terms of the PALA.

COMMENT #10: The department received a comment suggesting that New Rule IV, Landowner Compensation, is too vague and gives no standard to how compensation will be evaluated.

RESPONSE #10: Section 87-1-295, MCA provides the terms under which the department may negotiate a PALA agreement. Negotiable terms include:

- (a) the amount of compensation and the duration of the agreement;
- (b) improvements to the land provided by the department that may facilitate public access;
- (c) the location of the access and the transportation mode by which the public may use the access;
- (d) time periods when the access may and may not be used; and
- (e) penalties for trespassing on private land not covered by the agreement.

The department will continue to work with the Private Land/Public Wildlife Advisory Committee to establish scoring and compensation criteria that will help to provide a more standardized approach to how compensation and scoring of a PALA will be conducted.

COMMENT #11: A comment was received requesting clarification on whether general recreation access outside of hunting and fishing seasons will be considered.

RESPONSE #11: Due to the funding source for PALA, other general recreation will be considered if the landowner also allows for hunting or fishing, or both. General recreation such as hiking, camping, etc., as a standalone activity for a PALA will not be considered. Since PALAs that do not allow for hunting or fishing will not be considered, the department has stricken New Rule IV(2) as this section is confusing and unnecessary.

COMMENT #12: A few comments were received regarding concerns or suggestions of language in SB 341.

RESPONSE #12: SB 341 passed in the 2019 Legislature and was codified in 87-1-295, 87-1-296, and 87-1-297, MCA. Comments regarding SB 341 are outside the authority and scope of this rulemaking.

COMMENT #13: A comment was received suggesting that the department should require a description of any known encumbrances on the private land over which a PALA would allow access in New Rule II and on the application form itself.

RESPONSE #13: The department believes that requiring PALA applicants to list any known encumbrance on their land is too broad of a request and too cumbersome on the applicant. Many common encumbrances have no impact on access and may not even be associated with that area of the property.

COMMENT #14: The department received a comment suggesting adding criteria that the department must consider when negotiating compensation, including quality of habitat for wildlife provided by the public land to be accessed, the uniqueness of the habitat, the quality of wildlife habitat on adjacent private land, whether the land to be accessed will likely be inaccessible during certain time periods due to anticipated operations or environmental factors, and extent of improvements that may need to be made to facilitate public access.

RESPONSE #14: In response to this comment, the department has amended the proposed language to include consideration for whether closures will be expected, and the quality of fish or wildlife habitat that may be provided by the public land to be accessed.

COMMENT #15: A comment was received suggesting that the department look at the extent of improvements that need to be made to facilitate access and prioritize PALAs that would require minimum improvement in order to lessen the cost and get public access available sooner.

RESPONSE #15: In the evaluation of each PALA, the department will consider the extent and cost of improvements to be negotiated as it relates to the facilitation of public access. The department will also consider the duration of the agreement as to not provide for improvements that go beyond the scope and duration of the agreement.

COMMENT #16: A comment was received questioning what the definition of "typical road use vehicles" was and if it included snow machines, ATVs, and UTVs.

RESPONSE #16: The department has amended the rule to clarify that typical road use vehicles are those that are highway capable motorized, two-wheel drive vehicles.

The landowner can also identify, through the application process, if they want to have ATV/OHV, off road motorcycles, snowmobiles, rafts, and/or electric bikes.

COMMENT #17: A comment was received seeking clarification between "under accessible" and "inaccessible."

RESPONSE #17: In response to the comment, the department has amended the definition for "under accessible public land" to clarify the definition.

COMMENT #18: The department received a comment that stated that the department should not have to purchase access, but rather, that the department has access by necessity to manage Montana's wildlife.

RESPONSE #18: The PALA program's function is to provide access to the general public, not to the department. The program is designed to compensate private

landowners who are willing to allow the general public access across their private land in order to access public lands that may otherwise not be accessible.

COMMENT #19: A comment was received that stated that these temporary access agreements that are not permanent or recordable could adversely impact efforts to obtain recordable permanent easements.

RESPONSE #19: The department will take into consideration and work with other entities that may be trying to secure perpetual public access to public lands including other programs within the department. However, the landowner who would be considering a PALA has the right to determine which program or type of access they would like to provide the public.

COMMENT #20: A comment was received that suggested that the definition for "inaccessible public land" might be too limited as it does not provide a discretionary option for situations not listed.

RESPONSE #20: The department is looking to utilize the term "under accessible" public lands in order to meet the needs of the public where legal access may exist (e.g., stream access law) but also provide improved access through an under accessible situation. The department has amended the definition of "under accessible" for clarity.

COMMENT #21: The department received a comment that suggested that annual meetings be held between the department and the U.S. Forest Service.

RESPONSE #21: The department will continue to meet with the U.S. Forest Service and other federal or state entities who may be impacted by the implementation of a PALA.

COMMENT #22: The department received a comment suggesting that there be a requirement in New Rule II that requires the landowner to include the lease or permit with their application.

RESPONSE #22: In response to this comment, the department has amended the proposed language to require the landowner to provide or include documentation that they are the leaseholder, if the public land has a lease.

COMMENT #23: A comment was received suggesting requirements be added to the rules to determine if conflicting access acquisition is apparent. Suggested language included that there be a requirement on the application that the landowner must describe any current or prior access discussions with state or federal agencies, and that the department must contact the U.S. Forest Service (USFS) before issuing a PALA.

RESPONSE #23: The department believes it is important to work with other entities who may be attempting to secure public access. If the PALA affects the USFS, the department will work with the USFS.

COMMENT #24: The department received a comment suggesting issuance of long-term commitments and avoiding annual renewals to help reliability of access and maps.

RESPONSE #24: Section 87-1-295, MCA authorizes the department to pay a maximum of up to \$15,000 dollars per year. The department recognizes the need to conduct multi-year agreements. However, payments shall not exceed \$15,000 per year.

COMMENT #25: A comment was received asking the department to look into access onto a specific piece of private land.

RESPONSE #25: The department appreciates the efforts that went into identifying specific parcels that may be considered for this program. However, it is outside the scope of this rulemaking process. The respective parcels would need to be identified and a landowner would need to make an application for these parcels to be considered for a PALA.

COMMENT #26: A few comments were received stressing the importance of promotion of the program, especially to landowner groups.

RESPONSE #26: The department will look for opportunities to promote this program, in particular to the landowner community.

COMMENT #27: The department received a comment urging that the first PALAs issued be great agreements with strong support from both the public and the landowners to ensure the program starts off strong.

RESPONSE #27: The department is committed to working diligently to try to do its best to ensure that all PALAs issued are successful agreements with both public and landowner support.

/s/ Zach Zipfel  
Zach Zipfel  
Rule Reviewer

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

Certified to the Secretary of State April 21, 2020.



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

In the matter of the adoption of ) NOTICE OF ADOPTION OF  
Temporary Emergency Rule V ) TEMPORARY EMERGENCY RULE  
pertaining to unemployment insurance )  
benefits related to the COVID-19 )  
pandemic )

TO: All Concerned Persons

1. The Department of Labor and Industry is adopting the following emergency rule for the following reasons:

A. On March 12, 2020, Governor Steve Bullock declared an emergency in the State of Montana with regards the COVID-19 pandemic in Executive Order 2-2020.

B. On March 13, 2020, President Donald J. Trump declared a national emergency due to the COVID-19 pandemic.

C. On March 14, 2020, Governor Steve Bullock extended the emergency in the State of Montana with regards the COVID-19 pandemic in Executive Order 3-2020.

D. Since then, Governor Steve Bullock has issued various emergency directives ordering Montanans to shelter in place and ordering schools and non-essential businesses to close, in order to limit the spread of COVID-19.

E. On March 27, 2020, President Donald J. Trump signed into law federal legislation, the CARES Act, providing for emergency unemployment compensation benefits in response to the COVID-19 pandemic.

F. The Commissioner of Labor and Industry also finds that under the emergency circumstances of the COVID-19 pandemic, there is an immediate peril to the public health, safety, and welfare, due to widespread temporary layoffs arising from the emergency existing shelter-in-place directives for all Montanans not engaged in essential business operations. The commissioner further finds that there is imminent peril to the public welfare, as expressed in the public policy of the State of Montana by 39-51-102, MCA, that those widespread temporary layoffs by employers will cause serious economic harm to employees and self-employed individuals who are without income during periods of layoff caused by the COVID-19 pandemic.

G. The Commissioner of Labor and Industry further finds that the emergency conditions present in Montana restrict the ability of Montanans to apply for, travel to, and interview with prospective employers. Those conditions have also changed the

availability of jobs on the job market. Additionally, the CARES Act allows tens of thousands of Montana small business owners and independent contractors, for the first time ever, to apply for emergency unemployment benefits. The Montana unemployment insurance program online and telephone benefit system is and has been experiencing unprecedented demands from Montanans who are trying to file unemployment insurance claims. Unemployment insurance claims filings have increased as much as 1,700% in the course of one week. Due to this emergency and its necessary responses, the regular requirements for unemployment insurance claimants must be altered. Normally, eligible claimants must be able, available, and actively seeking new work to continue eligibility for unemployment compensation benefits, and to maintain records showing their work search efforts. However, those requirements cannot be fully met by most applicants under the current emergency directives, and therefore those requirements must be modified in light of the COVID-19 pandemic.

H. The Commissioner of Labor and Industry further finds that the application of ARM 24.11.451, Six-Week Rule, is inappropriate, inequitable, and unworkable if applied to layoffs or separations arising during the COVID-19 pandemic. The commissioner finds that under the circumstances of the present emergency, the department should, and will, only investigate and adjudicate the most recent separation that occurred prior to the effective date of the claim.

I. There is reasonable necessity to immediately adopt a temporary emergency rule for unemployment insurance purposes in order to protect the public health, safety, and welfare, because of the emergency conditions of the COVID-19 pandemic. There is reasonable necessity to immediately adopt a temporary emergency rule pursuant to 10-3-104, MCA, affecting the operation of the state unemployment insurance program. There is reasonable necessity to immediately adopt a temporary emergency rule to ensure that the state unemployment insurance program can reasonably accommodate the expanded benefits available under the CARES Act, in order to prevent the harm of widespread unemployment due to the COVID-19 pandemic for the reasons stated by the public policy expressed in 39-51-102, MCA.

2. The temporary emergency rule is effective April 10, 2020, when this rule notice is filed with the Secretary of State.

3. The text of the temporary emergency rule provides as follows:

NEW RULE V ADDITIONAL SPECIAL EMERGENCY PROVISIONS

(1) During the duration of the emergency declarations and directives related to the COVID-19 pandemic issued by the Governor, the following apply:

(a) Regarding ARM 24.11.447, the registration and active status requirements are deemed to be fulfilled if the claimant has an account registered with MontanaWorks.com or, if filing over the phone or on paper, the department has established an account for the claimant.

(b) Regarding ARM 24.11.451, the department will only investigate and adjudicate the most recent separation that occurred prior to the effective date of the claim, if the claim was filed on or after March 16, 2020.

(c) Regarding ARM 24.11.452A(4), because Montana Job Service offices are temporarily closed to the public, a claimant is temporarily considered to be actively seeking work as long as the claimant is registered under section (1) of this rule.

(d) Regarding ARM 24.11.453A, a claimant is temporarily excused from the work search contact requirements of this rule in order to protect the public health, safety, and welfare.

(2) The provisions of this rule do not allow a claimant to refuse:

(a) to return to work if requested by the employer and suitable work can be performed in compliance with the emergency declarations and directives; or

(b) to accept suitable work if the claimant applies and is offered work that can be performed in compliance with the emergency declarations and directives.

AUTH: 10-3-104, 39-51-302, MCA

IMP: 10-3-102, 39-51-102, MCA

4. The rationale for the temporary emergency rule is set forth in paragraph 1. This temporary emergency rule will be applied to weeks of unemployment starting the week of March 15, 2020, through the expiration of the rule or the termination of the state of emergency, whichever comes first.

5. A standard rulemaking procedure will be undertaken prior to the expiration of this temporary emergency rule.

6. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request, which includes the name and e-mail or mailing address of the person to receive notices, and specifies the particular subject matter or matters regarding which the person wishes to receive notices. Such written request may be mailed or delivered to the Department of Labor and Industry, attention: Mark Cadwallader, 1315 E. Lockey Avenue, P.O. Box 1728, Helena, Montana 59624-1728, faxed to the department at (406) 444-1394, or e-mailed to [mcadwallader@mt.gov](mailto:mcadwallader@mt.gov), or may be made by completing a request form at any rules hearing held by the agency. Please note that the above fax number and e-mail address is not to be used for asking questions about unemployment insurance claims or the application of emergency unemployment compensation rules.

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

/s/ MARK CADWALLADER

Mark Cadwallader  
Alternate Rule Reviewer

/s/ BRENDA NORDLUND

Brenda Nordlund, Acting Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State April 10, 2020.

BEFORE THE BOARD OF ARCHITECTS AND LANDSCAPE ARCHITECTS  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 24.114.503 licensure of )  
applicants registered in another state )  
and 24.114.1404 landscape architect )  
licensure by endorsement )

TO: All Concerned Persons

1. On January 31, 2020, the Board of Architects and Landscape Architects (board) published MAR Notice No. 24-114-38 regarding the public hearing on the proposed amendment of the above-stated rules, at page 167 of the 2020 Montana Administrative Register, Issue No. 2.

2. On February 27, 2020, a public hearing was held on the proposed amendment of the above-stated rules in Helena. Two comments were received by the February 28, 2020 deadline.

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

COMMENT 1: A commenter supported the proposed amendments to the documentation requirements for applicants registered in another state.

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

COMMENT 2: One commenter opposed the amendments to ARM 24.114.503, stating that out-of-state applicants should be able to provide their own licensing data rather than giving NCARB an unfair advantage by requiring that applicants pay NCARB to transmit this information.

RESPONSE 2: Currently, Montana requires all applicants registered in other states to hold a current NCARB certificate and request that NCARB provide that documentation. The board concluded that requiring these applicants also obtain verification from each licensure state is redundant. The change will eliminate the time and expense to the applicant in securing that duplicative documentation.

4. The board has amended ARM 24.114.503 and 24.114.1404 exactly as proposed.

BOARD OF ARCHITECTS AND  
LANDSCAPE ARCHITECTS  
DALE NELSON, PRESIDENT

/s/ DARCEE L. MOE

Darcee L. Moe  
Rule Reviewer

/s/ BRENDA NORDLUND

Brenda Nordlund, Acting Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State April 21, 2020.

BEFORE THE BOARD OF PUBLIC ACCOUNTANTS  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 24.201.502 accounting and )  
auditing experience requirements, )  
24.201.516 granting of examination )  
credit, 24.201.723 records, )  
24.201.2106 basic continuing )  
education requirement, and )  
24.201.2138 credit for service as )  
lecturer, instructor, technical reviewer, )  
speaker, or report reviewer )

TO: All Concerned Persons

1. On February 14, 2020, the Board of Public Accountants (board) published MAR Notice No. 24-201-53 regarding the public hearing on the proposed amendment of the above-stated rules, at page 273 of the 2020 Montana Administrative Register, Issue No. 3.

2. On March 13, 2020, a public hearing was held on the proposed amendment of the above-stated rules in Helena. No comments were received by the March 13, 2020 deadline.

3. The board has amended ARM 24.201.502, 24.201.516, 24.201.723, 24.201.2106, and 24.201.2138 exactly as proposed.

BOARD OF PUBLIC ACCOUNTANTS  
RANETTA JONES, CPA  
PRESIDING OFFICER

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

/s/ BRENDA NORDLUND  
Brenda Nordlund, Acting Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State April 21, 2020.

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

In the matter of the adoption of ) NOTICE OF ADOPTION OF  
Temporary Emergency Rule I ) TEMPORARY EMERGENCY RULE  
pertaining to the waiver of fuel )  
specifications related to the COVID- )  
19 pandemic )

TO: All Concerned Persons

1. The Department of Labor and Industry (department) is adopting the following emergency rule for the following reasons:

A. On March 12, 2020, Governor Steve Bullock declared an emergency in the State of Montana with regards to the COVID-19 pandemic in Executive Order 2-2020.

B. On March 13, 2020, President Donald J. Trump declared a national emergency due to the COVID-19 pandemic.

C. On March 14, 2020, Governor Steve Bullock extended the emergency in the State of Montana with regards to the COVID-19 pandemic in Executive Order 3-2020.

D. The COVID-19 outbreak has been identified in all 50 United States and the District of Columbia. The United States and numerous individual states have declared states of emergency. Federal, state, and local governments are acting to meet Centers for Disease Control and Prevention guidelines requiring social distancing and to implement policies to reduce transmission of COVID-19.

E. Federal regulations under the Clean Air Act require the use of low volatility gasoline during summer months to limit the formation of ozone pollution. The low volatility regulations apply to refiners, importers, distributors, resellers, terminal owners and operators, and carriers beginning May 1, and to retailers and wholesale purchaser-consumers beginning June 1.

F. The COVID-19 outbreak and associated precautions have caused a dramatic decrease in gasoline demand which is preventing regulated parties ahead of retailers and wholesale purchaser-consumers from selling winter gasoline in their storage tanks and turning the storage tanks over to compliant summer gasoline by the May 1, 2020 federal deadline.

G. The United States Environmental Protection Agency (EPA) determined it is necessary to waive the federal Reid vapor pressure (RVP) requirements at C.F.R. 80.27 that apply to terminal owners, terminal operators, distributors, carriers, retailers, and wholesale purchaser-consumers throughout the United States to

minimize or prevent the disruption of an adequate gasoline supply. The federal waiver is effective May 1, 2020 and will continue through May 20, 2020.

H. In ARM 24.351.401, the Montana Department of Labor and Industry (department) has adopted regulations on fuel specifications and gasoline-oxygenate blends based on recognized standards and specifications of the National Institute of Standards and Technology (NIST). Specifically, the department has adopted regulations for Reid vapor pressure values in NIST Handbook 130, 2012 Edition, Section 2.1 in Part G, Uniform Engine Fuels and Automotive Lubrications Regulations.

I. The Commissioner of Labor and Industry finds that under the emergency circumstances of the COVID-19 pandemic, there is immediate peril to the public health, safety, and welfare through the likely disruption of an adequate gasoline supply due to the pandemic's negative impact on gasoline demand throughout the United States.

J. There is reasonable necessity to immediately adopt a temporary emergency rule to waive Montana's adoption of the Reid vapor pressure values in NIST Handbook 130, 2012 Edition, Section 2.1 in Part G, Uniform Engine Fuels and Automotive Lubrications Regulations to protect the public health, safety, and welfare by minimizing or preventing the disruption of an adequate gasoline supply due to the emergency conditions of the COVID-19 pandemic.

2. The temporary emergency rule is effective April 10, 2020, when this rule notice is filed with the Secretary of State. Section 2-4-303, MCA, provides that emergency rules may only be effective for a period not longer than 120 days. The department intends for this new rule to coincide with the term of the federal waiver, which will expire May 20, 2020. However, if the federal waiver is extended, this emergency rule will remain in effect for the duration of the extended federal waiver, not to exceed the statutory maximum of 120 days.

3. The text of the temporary emergency rule provides as follows:

NEW RULE I WAIVER OF FUEL SPECIFICATIONS AND OXYGENATE BLENDS DURING COVID-19 EMERGENCY (1) This rule is only effective when there has been a declaration by the governor of an emergency or disaster related to the COVID-19 pandemic.

(2) The regulations concerning Reid vapor pressure values in NIST Handbook 130, 2012 Edition, Section 2.1 in Part G, Uniform Engine Fuels and Automotive Lubrications Regulations and as adopted by the department in ARM 24.351.401 are hereby waived for the duration of the governor's emergency declaration.

AUTH: 10-3-104, 82-15-102, MCA

IMP: 10-3-104, 82-15-103, MCA



4. The rationale for the temporary emergency rule is set forth in paragraph 1.

5. 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 Tim Lloyd, Bureau Chief, Building and Commercial Measurements Bureau, Montana Department of Labor and Industry, P.O. Box 200516, Helena, MT 59620-0516, fax (406) 443-8163, or e-mail dmorrell@mt.gov or may be made by completing a request form at any rules hearing held by the department.

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

/s/ DARCEE L. MOE

Darcee L. Moe  
Rule Reviewer

/s/ BRENDA NORDLUND

Brenda Nordlund, Acting Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State April 10, 2020.

BEFORE THE SECRETARY OF STATE  
OF THE STATE OF MONTANA

In the matter of the adoption of	)	NOTICE OF ADOPTION OF
Temporary Emergency Rule I	)	TEMPORARY EMERGENCY RULE
pertaining to extending the deadline	)	
to submit annual reports to the	)	
Secretary of State's Office for	)	
corporations and limited liability	)	
companies doing business in the	)	
State of Montana	)	

TO: All Concerned Persons

1. The Secretary of State is adopting Temporary Emergency Rule I for the following reasons:

A. On March 12, 2020, Governor Steve Bullock declared an emergency in the State of Montana regarding the COVID-19 pandemic in Executive Order 2-2020.

B. On March 13, 2020, President Donald J. Trump declared a national emergency due to the COVID-19 pandemic.

C. On March 14, 2020, Governor Steve Bullock extended the emergency in the State of Montana regarding the COVID-19 pandemic in Executive Order 3-2020.

D. On March 21, 2020, the U.S. Treasury Department and the Internal Revenue Service announced that the federal income tax filing due date is automatically extended from April 15, 2020, to July 15, 2020.

E. The Secretary of State finds that under the emergency circumstances of the COVID-19 pandemic, there is an immediate peril to the public health, safety, and welfare requiring adoption of a rule upon fewer than 30 days' notice. As all Americans are being advised to practice social distancing, the circumstances of the COVID-19 pandemic may prevent Montana entities from attending annual meetings or conducting the business necessary to submit their annual reports by the 15th of April.

F. There is a reasonable necessity to immediately adopt a temporary emergency rule pursuant to 2-4-303, MCA, for Montana entities and businesses applicants to protect the public health, safety, and welfare because of the emergency conditions of the COVID-19 pandemic to avoid contributing to a shortage of available personnel, customers' COVID-19 concerns, and to ensure the public has sufficient access to financial and business services.

2. The Secretary of State will make reasonable accommodations for persons with disabilities who need an alternative accessible format of this notice. If you

require an accommodation, contact the Secretary of State to advise us of the nature of the accommodation that you need. Please contact Sue Ames, Office Manager, Secretary of State's Office, 1301 E. 6th Avenue, Helena, Montana, 59601; telephone (406) 444-2807; fax (406) 444-3976; TDD/Montana Relay Service/etc. (406) 444-9068; or e-mail sames@mt.gov.

3. The temporary emergency rule is effective April 16, 2020.

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

NEW RULE I EXTENSION OF THE FILING DEADLINE OF ANNUAL REPORTS DUE TO THE DECLARED EMERGENCY DERIVED FROM THE COVID-19 PANDEMIC

(1) The terms of this temporary emergency rule will expire on July 15, 2020, unless additional rulemaking is required to continue the response to the COVID-19 pandemic.

(2) The time period provided in ARM 44.5.114(3)(e) within which the fee for corporations to submit their annual reports is \$20.00 if submitted by the 15th of April is temporarily extended to the 15th of July.

(3) The time period provided in ARM 44.5.114(3)(f) within which the fee for corporations to submit their annual reports is \$20.00 if submitted by the 15th of April is temporarily extended to the 15th of July.

(4) The time period provided in ARM 44.5.115(3)(d) within which the fee for limited liability businesses to submit their annual reports is \$20.00 if submitted by the 15th of April is temporarily extended to the 15th of July.

(5) The time period provided in ARM 44.5.115(3)(e) within which the fee for limited liability businesses to submit their annual reports is \$20.00 if submitted by the 15th of April is temporarily extended to the 15th of July.

AUTH: 35-1-1104, 35-2-904, 35-3-209, 35-8-208, MCA

IMP: 2-4-303, 2-15-405, 35-1-217, 35-1-1206, 35-1-1307, 35-2-119, 35-2-1003, 35-6-201, 35-8-208, 35-8-211, 35-8-212, MCA

REASON: In addition to the rationale stated in paragraph 1, and the information provided by federal and state directives and executive orders, the Secretary of State's Office wants to afford the entities that conduct business in the state of Montana sufficient opportunity to take the steps necessary to submit their annual reports without the risk of incurring an additional \$15.00 to their annual reports filing fee or the need to disregard the directives issued by medical professionals and public health authorities concerning social distancing and quarantine. The additional \$15.00 fee will be required by all business entities that submit their reports after the 15th of July extension, unless additional rules are adopted, as a result of a continued state of emergency at the state or national level.

5. The Secretary of State 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 paragraph 2 above or may be made by completing a request form at any rules hearing held by the department.

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

/s/ Austin James  
Austin James  
Rule Reviewer  
Chief Legal Counsel

/s/ Dana Corson  
Dana Corson  
Director, Elections and  
Voter Services  
Office of Secretary of State

Dated April 14th, 2020.

## **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<br>Subject | 1. Consult ARM Topical Index.<br>Update the rule by checking recent rulemaking and the table of contents in the last Montana Administrative Register issued. |
| Statute          | 2. Go to cross reference table at end of each number and title which lists MCA section numbers and department corresponding ARM rule numbers.                |

## RECENT RULEMAKING BY AGENCY

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies that have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through December 31, 2019. This table includes notices in which those rules adopted during the period November 8, 2019, through April 17, 2020, occurred and any proposed rule action that was pending during the past 6-month period. (A notice of adoption must be published within six months of the published notice of the proposed rule.) This table does not include the contents of this issue of the Montana Administrative Register (MAR or Register).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through December 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 and 2020 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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- |          |                                                                                                                                                                                                                                                                                                                                                                                                                    |
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| 2-59-586 | Government Sponsored Enterprises - Designated Manager Supervisory Requirements - False, Deceptive, or Misleading Advertising - Internet or Electronic Advertising, p. 1917, 2338                                                                                                                                                                                                                                   |
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2-59-598 Annual Meetings Held by Banks and Credit Unions During the COVID-19 Pandemic, p. 657

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## EXECUTIVE BRANCH APPOINTEES AND VACANCIES

Section 2-15-108, MCA, passed by the 1991 Legislature, directed that all appointing authorities of all appointive boards, commissions, committees, and councils of state government take positive action to attain gender balance and proportional representation of minority residents to the greatest extent possible.

One directive of 2-15-108, MCA, is that the Secretary of State publish monthly in the ***Montana Administrative Register*** a list of executive branch appointees and upcoming vacancies on those boards and councils.

In this issue, appointments effective in March 2020 appear. Potential vacancies from May 1, 2020 through July 31, 2020, are also listed.

### IMPORTANT

Membership on boards and commissions changes constantly. The following lists are current as of April 1, 2020.

For the most up-to-date information of the status of membership, or for more detailed information on the qualifications and requirements to serve on a board, contact the appointing authority.

**EXECUTIVE BRANCH APPOINTEES FOR MARCH 2020**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Board of Nursing Home Administrators</b>			
Mr. William Otis Bronson Great Falls	Governor	Moore	3/13/2020 6/1/2022
Qualifications (if required): Profession or Institution Concerned with the Care of Chronically Ill			
Ms. Theresa DeNevi Cox Missoula	Governor	Hines	3/13/2020 6/1/2024
Qualifications (if required): Public At-Large and 55 years of age or older			
<b>Invasive Species Council</b>			
Ms. Jasmine Reimer Helena	Governor	Clark	3/13/2020 5/1/2023
Qualifications (if required): Department of Agriculture Director			
<b>Montana Small Business Development Center Advisory Council</b>			
Mr. Reed W. Bassett Great Falls	Governor	None Stated	3/13/2020 2/1/2022
Qualifications (if required): Small Business Lender			
Mr. Karl Drga Miles City	Governor	None Stated	3/13/2020 2/1/2022
Qualifications (if required): Small Business Lender			

**EXECUTIVE BRANCH APPOINTEES FOR MARCH 2020**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Montana Small Business Development Center Advisory Council Cont.</b>			
Mr. Joe Fanguy Missoula Qualifications (if required): Economic Development Professional	Governor	None Stated	3/13/2020 2/1/2022
Mr. Paddy Fleming Bozeman Qualifications (if required): Economic Development Professional	Governor	None Stated	3/13/2020 2/1/2022
Mr. Matt Harrington Browning Qualifications (if required): Small Business Owner	Governor	None Stated	3/13/2020 2/1/2022
Ms. Debbie Singer Billings Qualifications (if required): Economic Development Professional	Governor	None Stated	3/13/2020 2/1/2022
Mr. Joe Willauer Butte Qualifications (if required): Economic Developer	Governor	None Stated	3/13/2020 2/1/2022

**EXECUTIVE BRANCH APPOINTEES FOR MARCH 2020**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>State Apprenticeship Advisory Council</b>			
Mr. Dean Bentley Butte	Governor	None Stated	3/13/2020 3/1/2022
Qualifications (if required):	Chair SWIB Member		
Mr. Dale Carpenter Butte	Governor	None Stated	3/13/2020 3/1/2022
Qualifications (if required):	Union Member		
Ms. Vicki Dickenson Helena	Governor	None Stated	3/13/2020 3/1/2022
Qualifications (if required):	Union Member		
Mr. Chris Hopkins Miles City	Governor	None Stated	3/13/2020 3/1/2022
Qualifications (if required):	Non-Union Member		
Mr. Mykal D. Jorgenson Billings	Governor	None Stated	3/13/2020 3/1/2022
Qualifications (if required):	Union Member		
Mr. Scott Lemert Bozeman	Governor	None Stated	3/13/2020 3/1/2022
Qualifications (if required):	Non-Union Member		

**EXECUTIVE BRANCH APPOINTEES FOR MARCH 2020**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>State Apprenticeship Advisory Council Cont.</b>			
Mr. Chris McGowan Helena Qualifications (if required): Union Member	Governor	None Stated	3/13/2020 3/1/2022
Ms. Margaret McManus Missoula Qualifications (if required): Non-Union Member	Governor	None Stated	3/13/2020 3/1/2022
Mr. Barry Reddick Helena Qualifications (if required): Non-Union Member	Governor	None Stated	3/13/2020 3/1/2022
Mr. Brock Tessman Helena Qualifications (if required): Public Member	Governor	None Stated	3/13/2020 3/1/2022

**EXECUTIVE BRANCH VACANCIES – MAY 1, 2020 THROUGH JULY 31, 2020**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Best Beginnings Advisory Council</b>		
Ms. Lesa Evers, Helena Qualifications (if required): Tribal Relations	Governor	7/1/2020
Mr. Martin Blair, Missoula Qualifications (if required): Autism Spectrum Disorder and Other Developmental Disabilities "Act Early Initiative"	Governor	7/1/2020
Ms. Lucinda Burns, Lame Deer Qualifications (if required): Northern Cheyenne Tribe Child Care and Development Fund Program	Governor	7/1/2020
Ms. Barbara Burton, Helena Qualifications (if required): Residential Home for Pregnant and Parenting Teens	Governor	7/1/2020
Ms. Patty Butler, Helena Qualifications (if required): Early Childhood Services Bureau	Governor	7/1/2020
Ms. Dannelle Hay, Box Elder Qualifications (if required): Chippewa Cree Tribe	Governor	7/1/2020
Ms. Margaret Big Leggins, Poplar Qualifications (if required): Fort Peck Assiniboine and Sioux Tribes	Governor	7/1/2020
Ms. Terri Barclay, Helena Qualifications (if required): Office of Public Instruction, Early Grades	Governor	7/1/2020
Ms. Collete Box, Kalispell Qualifications (if required): Child Care Center	Governor	7/1/2020

**EXECUTIVE BRANCH VACANCIES – MAY 1, 2020 THROUGH JULY 31, 2020**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Best Beginnings Advisory Council Cont.</b>		
Ms. Sara Cease, Fort Harrison Qualifications (if required): Military Child Care Programs	Governor	7/1/2020
Ms. Jeanne Christopher, Ronan Qualifications (if required): Confederated Salish and Kootenai Tribes Community	Governor	7/1/2020
Dr. Kristen Day, Bozeman Qualifications (if required): Pediatrician	Governor	7/1/2020
Ms. Marion Denk, Billings Qualifications (if required): Montana Child Care Association	Governor	7/1/2020
Ms. Heather Denny, Helena Qualifications (if required): Title 1 Neglected and Delinquent Homeless Children and Youth	Governor	7/1/2020
Ms. Virginia Ervin, Missoula Qualifications (if required): Parent	Governor	7/1/2020
Ms. Tara Ferriter-Smith, Helena Qualifications (if required): Montana Preschool Development Grant	Governor	7/1/2020
Ms. Christy Hill, Helena Qualifications (if required): Montana Early Childhood Project, Pyramid Model Coordinator	Governor	7/1/2020
Ms. Lonna Johnson, Box Elder Qualifications (if required): Chippewa Cree Tribal Community	Governor	7/1/2020



**EXECUTIVE BRANCH VACANCIES – MAY 1, 2020 THROUGH JULY 31, 2020**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Best Beginnings Advisory Council Cont.</b> Ms. Mandy Johnstone, Wilsall Qualifications (if required): Child Care Family	Governor	7/1/2020
Mr. Tyson Krinke, Bozeman Qualifications (if required): Community Coalitions	Governor	7/1/2020
Ms. Beverly Matsko, Great Falls Qualifications (if required): Head Start Association	Governor	7/1/2020
Ms. Ashley McAdam, Willow Creek Qualifications (if required): Parent	Governor	7/1/2020
Ms. Danni McCarthy, Helena Qualifications (if required): Preschool and Special Education School Improvement	Governor	7/1/2020
Ms. Terry Minow, Helena Qualifications (if required): Organized Labor-Union MEA-MFT	Governor	7/1/2020
Ms. Jessica Nicklaus, Kalispell Qualifications (if required): Parent	Governor	7/1/2020
Mr. Aryon Parks, Browning Qualifications (if required): Parent	Governor	7/1/2020
Ms. Blossom Quisno, Harlem Qualifications (if required): Fort Belknap Tribal Community	Governor	7/1/2020

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Best Beginnings Advisory Council Cont.</b>		
Ms. Kathy Rich, Helena Qualifications (if required): Head Start State Collaboration	Governor	7/1/2020
Ms. Anneliese Ripley, Dillon Qualifications (if required): Early Childhood Higher Education	Governor	7/1/2020
Ms. Tawnya Rupe, Wilsall Qualifications (if required): Philanthropy	Governor	7/1/2020
Ms. Michelle Sexton, East Helena Qualifications (if required): Child Care Group Home	Governor	7/1/2020
Mr. Jeffrey Smith, St. Ignatius Qualifications (if required): Child Care Group Home	Governor	7/1/2020
Ms. Wendy Studt, Helena Qualifications (if required): Montana Milestones/Part C Early Intervention Program Coordinator	Governor	7/1/2020
Ms. Mikayla Three Irons, Hardin Qualifications (if required): Parent	Governor	7/1/2020
Ms. Stephanie Wilkins, Helena Qualifications (if required): Temporary Assistance for Needy Families Program	Governor	7/1/2020
Ms. Viola Wood, Poplar Qualifications (if required): Fort Peck Tribal Community	Governor	7/1/2020

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Best Beginnings Advisory Council Cont.</b>		
Dr. Christine Lux, Bozeman Qualifications (if required): Early Childhood Higher Education	Governor	7/1/2020
Ms. Karen Shevlin, Helena Qualifications (if required): Maternal and Early Childhood Home Visiting Section	Governor	7/1/2020
Ms. Laurie Bishop, Bozeman Qualifications (if required): Montana After School Alliance	Governor	7/1/2020
Ms. Darla Dexter, Helena Qualifications (if required): Montana Project LAUNCH Young Child Wellness	Governor	7/1/2020
Ms. Kalie Hansen, Kalispell Qualifications (if required): Child and Adult Care Food Program Sponsor	Governor	7/1/2020
Ms. Brenda Hergott, Butte Qualifications (if required): Child Care Resource and Referral Network	Governor	7/1/2020
Ms. Leigh Ann Holmes, Helena Qualifications (if required): Quality Assurance Division Licensure Bureau	Governor	7/1/2020
Ms. Janelle Jefferson Mays, Crow Agency Qualifications (if required): Director Song Bird Daycare	Governor	7/1/2020
Ms. Caitlin Jensen, Helena Qualifications (if required): B-5 Initiative	Governor	7/1/2020

**EXECUTIVE BRANCH VACANCIES – MAY 1, 2020 THROUGH JULY 31, 2020**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Best Beginnings Advisory Council Cont.</b>		
Ms. Amelea Kim, Helena Qualifications (if required): Montana State Library	Governor	7/1/2020
Ms. Leslie Lee, Helena Qualifications (if required): Child and Adult Care Food Program Manager	Governor	7/1/2020
Ms. Lanessa Littrell, Helena Qualifications (if required): Parent	Governor	7/1/2020
Ms. Heather O'Loughlin, Helena Qualifications (if required): Montana Budget and Policy Center	Governor	7/1/2020
Ms. Kathy Olson, Billings Qualifications (if required): Child Care Center	Governor	7/1/2020
Ms. Megan Peel, Helena Qualifications (if required): Children's Mental Health Bureau	Governor	7/1/2020
Ms. Brooke Pickett, Helena Qualifications (if required): Child and Adult Care Food Program	Governor	7/1/2020
Ms. Kristen Rogers, Helena Qualifications (if required): Family and Community Health Bureau	Governor	7/1/2020
Ms. Rhiannon Shook, Lewistown Qualifications (if required): Montana Association for the Education of Young Children	Governor	7/1/2020

**EXECUTIVE BRANCH VACANCIES – MAY 1, 2020 THROUGH JULY 31, 2020**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Best Beginnings Advisory Council Cont.</b> Ms. Siri Smillie, Helena Qualifications (if required): Governor's Office	Governor	7/1/2020
<b>Board of Funeral Service</b> Mr. Michael Thompson, Ronan Qualifications (if required): Licensed crematory	Governor	7/1/2020
<b>Board of Hail Insurance</b> Mr. Gary D. Gollehon, Brady Qualifications (if required): Public member and will serve as Presiding Officer	Governor	5/1/2020
<b>Board of Hearing Aid Dispensers</b> Mr. Edward Eaton, Helena Qualifications (if required): Public member who regularly uses a hearing aid	Governor	7/1/2020
Mr. Michael Spinti, Great Falls Qualifications (if required): Licensed Hearing Aid Dispenser	Governor	7/1/2020
Mr. Dennis Gene Scoggins Sr., Lima Qualifications (if required): Public Member	Governor	7/1/2020
<b>Board of Nursing</b> Ms. Shari Brownback, Helena Qualifications (if required): Licensed Practical Nurse	Governor	7/1/2020

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Board of Nursing Home Administrators</b> Ms. Kathryn Beaty, Hamilton Qualifications (if required): Nursing Home Administrator	Governor	6/1/2020
<b>Board of Pharmacy</b> Mr. Michael Bertagnolli, Three Forks Qualifications (if required): Licensed pharmacist	Governor	7/1/2020
<b>Board of Physical Therapy Examiners</b> Mrs. Holly Claussen, Missoula Qualifications (if required): Licensed Physical Therapist	Governor	7/1/2020
<b>Board of Plumbers</b> Mr. Jeffrey Gruizenga, Billings Qualifications (if required): Registered professional engineer qualified in mechanical engineering	Governor	5/1/2020
<b>Board of Private Alternative Adolescent Residential or Outdoor Programs</b> Senator Trudi Schmidt, Great Falls Qualifications (if required): General public	Governor	7/1/2020
Dr. John Santa, Marion Qualifications (if required): Adolescent Treatment Program Residential	Governor	7/1/2020
Ms. Penny James, Trout Creek Qualifications (if required): Adolescent Treatment Program Residential	Governor	7/1/2020

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Board of Private Alternative Adolescent Residential or Outdoor Programs Cont.</b>		
Ms. Pamela Carbonari, Kalispell Qualifications (if required): General Public	Governor	7/1/2020
Mr. Ricky A. Johnson, Kalispell Qualifications (if required): Adolescent Treatment Program Residential	Governor	7/1/2020
<b>Board of Public Accountants</b>		
Ms. Lucinda Willis, Polson Qualifications (if required): Certified public accountant actively engaged in the practice of public accounting	Labor and Industry	7/1/2020
Mr. John C. Melton, Chester Qualifications (if required): Public Representative	Governor	7/1/2020
<b>Board of Radiologic Technologists</b>		
Ms. Barbara Anderson, Culbertson Qualifications (if required): Licensed radiologic technologist	Governor	7/1/2020
Mr. Jeffry Lindenbaum, Billings Qualifications (if required): Radiologist	Governor	7/1/2020
Mr. Nathan David Richardson, Kalispell Qualifications (if required): Licensed radiologic technologist	Governor	7/1/2020

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Board of Real Estate Appraisers</b>		
Mr. Thomas G. Stevens, Missoula Qualifications (if required): Licensed or certified real estate appraiser	Governor	5/1/2020
Mr. Gregory Anthony Thornquist, Helena Qualifications (if required): Licensed or certified real estate appraiser	Governor	5/1/2020
<b>Board of Realty Regulation</b>		
Ms. Julie Lingle Gardner, Missoula Qualifications (if required): Licensed Real Estate Broker, salesperson, or property manager	Governor	5/1/2020
<b>Board of Regents of Higher Education</b>		
Mr. John Randall Miller, Missoula Qualifications (if required): Student Regent	Governor	6/30/2020
<b>Board of Sanitarians</b>		
Mr. Eugene Pizzini, Helena Qualifications (if required): Public at large	Governor	7/1/2020
Mrs. Tracy Nielsen, Billings Qualifications (if required): Member from the public	Governor	7/1/2020
Mr. Clayton Scott Vincent, Havre Qualifications (if required): Registered Sanitarian	Governor	7/1/2020



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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Board of Trustees of the Montana Historical Society</b> Mr. Robert J. Phares, Clyde Park Qualifications (if required): Public Representative	Governor	7/1/2020
<b>Board of Water Well Contractors</b> Mr. Kirk Waren, Butte Qualifications (if required): Technical Advisor	Director	6/30/2020
<b>Commission on Community Service</b> Ms. Danette Rector, Missoula Qualifications (if required): Representative of a nonprofit who works with Senior Citizens	Governor	7/1/2020
Mr. Charles Wetherington, Billings Qualifications (if required): Public Member	Governor	7/1/2020
Mr. Eric Strauss, Clancy Qualifications (if required): State agency representative for labor	Governor	7/1/2020
Ms. Pamela J. Carbonari, Kalispell Qualifications (if required): Representative of a nonprofit that works with Senior Citizens	Governor	7/1/2020
<b>Committee on Telecommunications Access Services for Persons with Disabilities</b> Ms. Marilyn Delores Daumiller, Helena Qualifications (if required): Person without a disability	Governor	7/1/2020

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Committee on Telecommunications Access Services for Persons with Disabilities Cont.</b>		
Mr. Andrew S. Arnot, Missoula Qualifications (if required): Independent Service Provider	Governor	7/1/2020
Dr. Lisa Claire Cannon, Clancy Qualifications (if required): Licensed Audiologist	Governor	7/1/2020
Mr. Cameron C. Tulloch, Belgrade Qualifications (if required): Person with disability, deaf or hard-of-hearing	Governor	7/1/2020
Ms. Barbara Varnum, Polson Qualifications (if required): Person without a disability, senior citizen	Governor	7/1/2020
<b>Community Service Commission</b>		
Ms. Karen Lazetich Moses, Billings Qualifications (if required): Public Representative	Governor	7/1/2020
<b>Future Fisheries Review Panel</b>		
Ms. Nancy Sue Winslow, Missoula Qualifications (if required): Expertise in mining reclamation techniques	Governor	7/1/2020
Mr. James Stone, Ovando Qualifications (if required): Expertise in irrigated agriculture	Governor	7/1/2020
Mr. William Mytton, Absarokee Qualifications (if required): Expertise in commercial agriculture	Governor	7/1/2020

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Governor’s Advisory Council on Aging</b>		
Mr. Robert C. Meyers, Great Falls Qualifications (if required): Public Representative	Governor	7/1/2020
Ms. Peggy Lynne Tombre, Bozeman Qualifications (if required): Public Representative	Governor	7/1/2020
Mr. Ryan Clark, Billings Qualifications (if required): Public Representative	Governor	7/1/2020
Mr. James E. (Curly) Burns, Helena Qualifications (if required): Public Representative	Governor	7/1/2020
<b>Interagency Coordinating Council for State Prevention Programs</b>		
Ms. Barbara A. Bessette, Great Falls Qualifications (if required): Experiences related to the private or nonprofit provision of prevention programs	Governor	7/1/2020
Ms. Shantelle Page Gaynor, Missoula Qualifications (if required): Experiences related to the private or nonprofit provision of prevention programs	Governor	7/1/2020
<b>Mental Disabilities Board of Visitors</b>		
Mr. Dan Laughlin, Anaconda Qualifications (if required): Experience with treatment and welfare of children with serious emotional disturbances	Governor	6/30/2020

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Mental Disabilities Board of Visitors Cont.</b>		
Mr. Jeffrey Folsom, Helena Qualifications (if required): Experience with treatment and welfare of adults with developmental disabilities	Governor	6/30/2020
Ms. Amy Camille Tipton, Edgar Qualifications (if required): Experience with treatment and welfare of adults with serious disabling mental illness	Governor	6/30/2020
<b>Montana Agriculture Development Council</b>		
Mr. Lars Wesley Hanson, Edgar Qualifications (if required): Actively engaged in agriculture	Governor	7/1/2020
Ms. Tara Mastel, Whitehall Qualifications (if required): Actively engaged in agriculture	Governor	7/1/2020
<b>Montana Heritage Preservation and Development Commission</b>		
Dr. Timothy Lehman, Billings Qualifications (if required): Montana Historian	Governor	5/1/2020
Mr. Jeffery Ewelt, Billings Qualifications (if required): Member of tourism advisory council	Governor	5/1/2020
Mr. Andrew J. Poole, Helena Qualifications (if required): Public at large	Governor	5/1/2020

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Montana Historical Society Board of Trustees</b>		
Mr. Jude Sheppard, Chinook Qualifications (if required): Public Representative	Governor	7/1/2020
Mr. Charles Sackett Johnson, Helena Qualifications (if required): Public Representative	Governor	7/1/2020
<b>Montana Pulse Crop Committee</b>		
Mr. Paul Kanning, Flaxville Qualifications (if required): Member from an eastern district	Governor	6/30/2020
Mrs. Jillien Streit, Chester Qualifications (if required): Member from a western district	Governor	6/30/2020
<b>Montana Wheat and Barley Committee</b>		
Mr. Alan Klempel, Bloomfield Qualifications (if required): (R) Farmer deriving an income growing wheat or barley from District VII	Governor	6/1/2020
Mr. Michael V. O'Hara, Fort Benton Qualifications (if required): (D) Farmer deriving an income growing wheat or barley from District VII	Governor	6/1/2020
<b>Noxious Weed Management Advisory Council</b>		
Mr. Jack Eddie, Dillon Qualifications (if required): Montana Weed Control Association	Governor	6/30/2020

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Noxious Weed Management Advisory Council Cont.</b>		
Mr. Joel Farkell, Brady Qualifications (if required): Consumer group	Governor	6/30/2020
Mr. Brian Ostwald, Joliet Qualifications (if required): Eastern county representative	Governor	6/30/2020
Ms. Margie Edsall, Alder Qualifications (if required): At-large member from the agriculture community	Governor	6/30/2020
Ms. Jeanette Nordahl, Lincoln Qualifications (if required): Recreationist Wildlife group	Governor	6/30/2020
<b>Petroleum Tank Release Compensation Board</b>		
Ms. Heather Marie Smith, Helena Qualifications (if required): Rep from financial or banking industry; experience in small business or property loans	Governor	7/1/2020
Mr. Edward A. Thamke, Helena Qualifications (if required): Background in environmental regulation	Governor	7/1/2020
<b>Resource Conservation Advisory Council</b>		
Mr. Bob Schroeder, Florence Qualifications (if required): Western Montana	Governor	7/1/2020

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Resource Conservation Advisory Council Cont.</b> Ms. Judi Knapp, Hysham Qualifications (if required): South Central Montana	Governor	7/1/2020
Ms. Gayla Wortman, Cascade Qualifications (if required): North Central Montana	Governor	7/1/2020
Mr. Bob Breipohl, Saco Qualifications (if required): Eastern Montana	Governor	7/1/2020
Mr. O. Ramsey Offerdal, Conrad Qualifications (if required): North Central Montana	Governor	7/1/2020
<b>State Banking Board</b> Mr. Tony Joe Ennenga, Miles City Qualifications (if required): Member of the public	Governor	7/1/2020
Mr. Thomas R. Swenson, Missoula Qualifications (if required): Active Officer in state banks of Montana	Governor	7/1/2020
<b>State Electrical Board</b> Mr. Mel Medhus III, Kalispell Qualifications (if required): Master licensed electrical contractor	Governor	7/1/2020

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>State Library Commission</b>		
Ms. Anne Kish, Twin Bridges Qualifications (if required): Public Representative	Governor	6/1/2020
Mrs. Aaron LaFromboise, Browning Qualifications (if required): Public Representative	Governor	6/1/2020
<b>State Workforce Innovation Board</b>		
Director Sheila Hogan, Helena Qualifications (if required): DPHHS Director or designee	Governor	7/1/2020
Commissioner Michael McGinley, Dillon Qualifications (if required): Local Government Elected Official	Governor	7/1/2020
Mr. Grover Bennett Aldrich, Missoula Qualifications (if required): Business Representative	Governor	7/1/2020
Ms. Vicky Rae Byrd, Clancy Qualifications (if required): Workforce Representative	Governor	7/1/2020
Commissioner Galen Hollenbaugh, Helena Qualifications (if required): Commissioner of Labor and Industry or Designee	Governor	7/1/2020
Mr. Alan Ekblad, Helena Qualifications (if required): Workforce Representative	Governor	7/1/2020



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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>State Workforce Innovation Board Cont.</b>		
Director Tara Rice, Helena Qualifications (if required): Ex-Officio Member	Governor	7/1/2020
Mrs. Jeaneen L. Campbell, Helena Qualifications (if required): Business Representative	Governor	7/1/2020
Mr. Ross R. Lane, Bozeman Qualifications (if required): Business Representative	Governor	7/1/2020
Mr. Loren Rose, Seeley Lake Qualifications (if required): Business Representative	Governor	7/1/2020
Commissioner Tom Lopach, Helena Qualifications (if required): Commissioner of Labor and Industry	Governor	7/1/2020
<b>State-Tribal Economic Development Commission</b>		
Councilman Lane Spotted Elk, Lame Deer Qualifications (if required): Northern Cheyenne Tribe Representative	Governor	7/1/2020
Ms. Shelly Fyant, Pablo Qualifications (if required): Confederated Salish and Kootenai Tribes' Representative	Governor	7/1/2020
Mr. Richard Sangray, Box Elder Qualifications (if required): Chippewa-Cree Tribe Representative	Governor	7/1/2020

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>State-Tribal Economic Development Commission Cont.</b>		
Mr. Leonard Twoteeth, Pablo Qualifications (if required): Confederated Salish and Kootenai Tribes' Alternate Representative	Governor	7/1/2020
<b>Task Force on Wage Reporting and Employee Classification in the Construction Industry</b>		
Lt. Governor Mike Cooney, Helena Qualifications (if required): Chair	Governor	6/30/2020
Commissioner Galen Hollenbaugh, Helena Qualifications (if required): Commissioner of the Department of Labor and Industry	Governor	6/30/2020
Mr. Mario Valdez Martinez, Great Falls Qualifications (if required): Representative from organized labor	Governor	6/30/2020
Ms. Kimberly Rickard-Smeltzer, Townsend Qualifications (if required): Representative from organized labor	Governor	6/30/2020
Mr. Doug Jackson, Missoula Qualifications (if required): Representative from the construction community	Governor	6/30/2020
Mr. Jack McBroom, Unknown Qualifications (if required): Representative from organized labor	Governor	6/30/2020
Ms. Deborah Poteet, Missoula Qualifications (if required): Representative from the construction contractor community	Governor	6/30/2020

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Task Force on Wage Reporting and Employee Classification in the Construction Industry Cont.</b>		
Director Gene Walborn, Helena Qualifications (if required): Director of the Department of Revenue	Governor	6/30/2020
Mr. Bob Warren, Columbia Falls Qualifications (if required): Representative from the construction contractor community	Governor	6/30/2020
Commissioner Tom Lopach, Helena Qualifications (if required): Commissioner of Labor and Industry	Governor	6/30/2020
<b>Teachers' Retirement Board</b>		
Mr. Daniel Chamberlin, Helena Qualifications (if required): Representative of the public	Governor	7/1/2020
<b>Tourism Advisory Council</b>		
Dr. Kenneth Ryan, Poplar Qualifications (if required): Member from Indian tribal governments	Governor	7/1/2020
Mr. Stephen Wahrlich, Billings Qualifications (if required): Southeast Montana Country Region Representative	Governor	7/1/2020
Ms. Jacquie Helt, Helena Qualifications (if required): Southwest Montana Region Representative	Governor	7/1/2020

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Tourism Advisory Council Cont.</b>		
Mr. Jeffery Ewelt, Billings Qualifications (if required): Southeast Montana Country Region Representative	Governor	7/1/2020
Ms. Glennis Indreland, Big Sky Qualifications (if required): Yellowstone Country Region Representative	Governor	7/1/2020
Ms. Sandra Johnson Thares, Great Falls Qualifications (if required): Central Montana Region Representative	Governor	7/1/2020
Ms. Cassandra Currio Luckey, East Helena Qualifications (if required): Southwest Montana Region Representative	Governor	7/1/2020
<b>Underground Facility Protection Advisory Council</b>		
Mr. Douglas Hardy, Great Falls Qualifications (if required): Member representing a rural electric cooperative operating in Montana	Governor	7/1/2020
Mr. Aaron Arthur, Miles City Qualifications (if required): Member rep MT telecommunications provider with fewer than 50,000 subscriber lines	Governor	7/1/2020
Mr. Jason Moothart, Billings Qualifications (if required): Member rep telecommunications provider with more than 50,000 subscriber lines in MT	Governor	7/1/2020
Mr. Theron C. Pavlik, Bozeman Qualifications (if required): Member representing excavators	Governor	7/1/2020

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Underground Facility Protection Advisory Council Cont.</b> Ms. Michelle Slyder, Laurel Qualifications (if required): Member rep owners or operators of a MT non-public underground facility	Governor	7/1/2020
Mr. Corey Sell, Billings Qualifications (if required): Member representing excavators	Governor	7/1/2020

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**COREY STAPLETON**  
SECRETARY OF STATE

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