

MONTANA ADMINISTRATIVE REGISTER

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MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 3

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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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) 444-9009.

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BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

| | | |
|--|---|--------------------------|
| In the matter of the adoption of NEW |) | NOTICE OF PROPOSED |
| RULE I pertaining to activities of loan |) | ADOPTION, AMENDMENT, AND |
| production offices, the amendment of |) | REPEAL |
| ARM 2.59.104, 2.59.131, 2.59.134, |) | |
| and 2.59.1001 pertaining to |) | NO PUBLIC HEARING |
| assessments, dividends, conversion |) | CONTEMPLATED |
| applications, and merger applications, |) | |
| and the repeal of ARM 2.59.114 |) | |
| pertaining to examination fees for trust |) | |
| companies |) | |

TO: All Concerned Persons

1. On March 27, 2021, the Department of Administration proposes to adopt, amend, and repeal the above-stated rules.

2. The Department of Administration 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 Administration no later than 5:00 p.m. on February 24, 2021, to advise us of the nature of the accommodation that you need. Please contact Heather Hardman, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; telephone (406) 841-2922; TDD (406) 841-2974; facsimile (406) 841-2930; or e-mail to banking@mt.gov.

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

NEW RULE I LOAN PRODUCTION OFFICE ACTIVITIES (1) A loan production office may conduct any of the following activities, which shall not, individually or collectively, cause the loan production office to be considered a branch, as defined in 32-1-109, MCA:

- (a) solicit loans on behalf of the bank or a branch of the bank;
- (b) assemble credit information;
- (c) make property inspections and appraisals;
- (d) secure title information;
- (e) prepare applications for loans, including making recommendations with respect to action; and
- (f) solicit investors to purchase loans from the bank and to contract with the bank for servicing of such loans.

(2) A bank shall not accept deposits or loan payments, originate deposits or savings or checking accounts, approve loans, or disburse loan funds at a loan production office established pursuant to this rule.

AUTH: 32-1-211, 32-1-218, 32-1-222, MCA

IMP: 32-1-109, 32-1-222, MCA

STATEMENT OF REASONABLE NECESSITY: The 2019 Montana Legislature enacted Chapter 75, Laws of 2019 (Senate Bill 58), an act changing the requirements for bank branch and loan production office openings, relocations, and closings. The department has received questions about activities allowable at a loan production office, as opposed to a branch. This rule is necessary to provide guidance to institutions as to activities a loan production office can engage in, and what activities will cause the loan production office to be considered a branch, which will require licensure as a branch.

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

2.59.104 SEMIANNUAL ASSESSMENT (1) ~~The Division of Banking and Financial Institutions~~ department invoices banks, investment companies, and trust companies for semiannual assessments every June and December. The assessment is based on each ~~bank's~~ institution's total assets provided in its previous March and September call reports.

(2) The fee is calculated based on the total assets of the bank, investment company, or trust company multiplied by .0000375, plus the flat fee listed below.

| Total Assets | Flat Fee (\$) |
|-----------------------------------|---------------|
| \$0 to \$50 million | \$0 |
| Over \$50 to \$100 million | \$3,000 |
| Over \$100 to \$250 million | \$5,000 |
| Over \$250 million to \$1 billion | \$7,500 |
| Over \$1 billion | \$15,000 |

Example: Bank A reports total assets of \$58,873,000 x .0000375 plus \$3,000 equals \$5,207.74.

(3) and (4) remain the same.

(5) In the event of a ~~bank~~ merger between Montana state-chartered banks, investment companies, or trust companies during the second or fourth quarter of the year, the assessment fee for the acquired ~~bank~~ institution must be paid by the surviving ~~bank~~ institution.

(6) remains the same.

AUTH: 32-1-213, 32-1-218, MCA

IMP: 32-1-213, 32-1-218, MCA

GENERAL STATEMENT OF REASONABLE NECESSITY: As part of its required biennial review of rules, the department has identified necessary changes in these proposed amendments. Some of the proposed amendments are technical in nature, such as amending punctuation or updating authority and implementation

citations to accurately reflect all statutes implemented through the rules and to provide the complete sources of the department's rulemaking authority. The department is changing references to the Division of Banking and Financial Institutions of the Department of Administration from "division" to "department" for consistency with other rules in ARM Title 2, chapter 59. Where additional specific bases for a proposed action exist, the department will identify those reasons immediately following that rule.

STATEMENT OF REASONABLE NECESSITY: Amendments to ARM 2.59.104 are being proposed to make clear that the rule applies to all types of institutions listed in 32-1-213, MCA. The statute includes trust companies and investment companies as well as banks. While the department does not currently have any state-chartered trust companies or investment companies under supervision at this time, the rule should apply equally to these institutions in the event one is chartered in the future.

2.59.131 REPORT OF DECLARATION AND PAYMENT OF DIVIDEND – DIVIDEND APPROVAL REQUEST FORM (1) A bank that declares a dividend shall use the Report of Declaration and Payment of Dividend form dated June 29, 2020, which is located at www.banking.mt.gov to report to the department.

(2) A bank that requires department approval prior to paying a dividend pursuant to 32-1-452, MCA, may use the Dividend Approval Request form dated December 7, 2020, which is located on the department's website at banking.mt.gov.

(3) Upon receipt of a complete and accurate request for approval to pay a dividend, the department shall respond with a determination in not more than 10 business days.

AUTH: 32-1-211, 32-1-218, ~~32-1-232~~, MCA

IMP: 32-1-211, 32-1-232, 32-1-452, MCA

STATEMENT OF REASONABLE NECESSITY: In (1), the department proposes to remove the prefix "www" in the URL for the division's website address because it is no longer necessary to successfully navigate to the website.

The department proposes to add (2), because many state-chartered banks may soon need to seek department approval to pay a dividend. Some banks have seen significant asset growth due to COVID-19 relief programs and other related issues. These banks may be close to, or below, the 8% tier 1 leverage ratio. To aid banks seeking approval to pay a dividend, the department proposes to amend this rule to provide banks with an optional form to use when department approval is required. The form includes information the department needs to make a decision. If a bank chooses not to use the form, it may use the form as a reference to determine what information must be provided to the department in the bank's written request for approval to pay a dividend.

The department is proposing to add (3) to allow banks to plan with the expectation that the department will communicate with the bank regarding the department's decision within 10 days of submission of a complete and accurate request.

2.59.134 CONVERSION OF A NATIONAL BANK TO A STATE BANK

(1) and (2) remain the same.

(3) A bank that desires to convert from a national bank to a state bank shall use the Application for Conversion of an Existing National-Chartered Bank to a State-Chartered Bank form dated June 30, 2020, which is located on the department's website at banking.mt.gov.

AUTH: ~~32-1-211~~, ~~32-1-218~~, ~~32-1-374~~, MCA

IMP: ~~32-1-211~~, ~~32-1-374~~, MCA

STATEMENT OF REASONABLE NECESSITY: The department proposes to add (3), adopting the Application for Conversion of an Existing National-Chartered Bank to a State-Chartered Bank form because the form had been in use for several years, yet it had not been formally adopted by rule.

2.59.1001 MERGER APPLICATION (1) remains the same.

(2) An application fee of \$2,000 plus \$200 for each bank involved in the merger must be paid to the ~~division~~ department at the time of application and may not be refunded in whole or in part.

(3) If an application is incomplete in any respect, or if additional information is required, the ~~division~~ department shall notify the applicant and the applicant will be allowed up to 30 days in which to perfect the application or provide additional information. An extension of this 30-day period may be obtained from the ~~division~~ department by showing good cause why it should be extended. The ~~division~~ department may delay processing, including extending the comment period for good cause.

(4) The application must be in letter form addressed to the ~~Commissioner of Banking and Financial Institutions, Department of Administration, P.O. Box 200546, Helena, MT 59620-0546~~ commissioner of the division.

(5) The department will approve or deny merger applications within 30 days of receiving a completed application.

AUTH: 32-1-218, MCA

IMP: 32-1-370, 32-1-371, MCA

STATEMENT OF REASONABLE NECESSITY: The department proposes to amend this rule to allow a reasonable amount of time for the department to review a merger application and provide an expected response date to the applicant.

5. The department proposes to repeal the following rule:

2.59.114 TRUST COMPANY EXAMINATION FEES

AUTH: 32-1-218, MCA

IMP: 32-1-211, 32-1-214, MCA

STATEMENT OF REASONABLE NECESSITY: The department proposes to repeal this rule because 32-1-213, MCA, states, in part, that trust companies will remit an assessment payment to recover all costs of administering the program for the supervision of trust companies and that the funds are for the use of the department in its examination function. The rule currently requires trust companies to remit a payment of \$75.00 for each examiner. This is in conflict with the above statute which states that all costs and fees to administer the program, which includes conducting examinations, are to be recovered through an assessment. Therefore, the department cannot request an additional fee for examinations.

The department does not currently have any state-chartered trust companies under supervision at this time. Therefore, the department estimates eliminating the fee will not affect persons or department revenue.

6. Concerned persons may present their data, views, or arguments concerning the proposed action to Kelly O'Sullivan, Legal Counsel, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; faxed to the office at (406) 841-2930; or e-mailed to banking@mt.gov. Comments must be received no later than 5:00 p.m., March 12, 2021.

7. If persons who are directly affected by the proposed actions wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to the person listed in paragraph 6 above no later than 5:00 p.m., February 24, 2021.

8. If the Division of Banking and Financial Institutions 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 4 persons based on the 38 state-chartered banks.

9. An electronic copy of this proposal notice is available through the department's website at <http://doa.mt.gov/administrativerules>. The department strives to make its online version of the notice conform to the official published version but advises all concerned persons that if a discrepancy exists between the official version and the department's online version, only the official text will be considered. In addition, although the department works to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems.

10. The Division of Banking and Financial Institutions maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this division. Persons who wish to have their name added to the mailing list shall

make a written request that includes the name, mailing address, and e-mail address of the person to receive notices and specifies that the person wishes to receive notices regarding division rulemaking actions. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written requests may be mailed or delivered to Heather Hardman, Division of Banking and Financial Institutions, 301 S. Park, Ste. 316, P.O. Box 200546, Helena, Montana 59620-0546; faxed to the office at (406) 841-2930; e-mailed to banking@mt.gov; or may be made by completing a request form at any rules hearing held by the department.

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

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

By: /s/ Misty Ann Giles
Misty Ann Giles, Director
Department of Administration

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

Certified to the Secretary of State February 2, 2021.

BEFORE THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PROPOSED AMENDMENT
ARM 32.2.403 pertaining to)
diagnostic laboratory fees) NO PUBLIC HEARING
) CONTEMPLATED

TO: All Concerned Persons

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

2. The Department of Livestock will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Livestock no later than 5:00 p.m., March 8, 2021, to advise us of the nature of the accommodation that you need. Please contact Executive Officer, Department of Livestock, 301 N. Roberts St., Room 304, P.O. Box 202001, Helena, MT 59620-2001; telephone: (406) 444-9525; TTD number: 1 (800) 253-4091; fax: (406) 444-4316; e-mail: MDOLcomments@mt.gov.

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

32.2.403 DIAGNOSTIC LABORATORY FEES (1) and (2) remain the same.

(3) MVDL services and fees:

(a) Clinical Microbiology/Bacteriology:

| Test | Fee |
|---|---------|
| aerobic culture | \$20.00 |
| aerobic culture - additional isolate | \$10.00 |
| anaerobic culture | \$24.00 |
| anaerobic culture - additional isolate | \$10.00 |
| antibiotic sensitivity - per isolate | \$15.00 |
| brucella culture | \$20.00 |
| campylobacter culture | \$16.00 |
| dermatophyte culture | \$30.00 |
| direct microscopy | \$10.00 |
| fecal occult blood | \$11.00 |
| fungal culture | \$30.00 |
| listeria culture | \$24.00 |
| mycoplasma culture | \$20.00 |
| salmonella culture | \$20.00 |
| salmonella enteritidis confirmatory culture | \$28.00 |

| | |
|----------------------------------|----------------|
| tritrichomonas foetus culture | \$7.00 |
| <u>giardia antigen SNAP test</u> | <u>\$18.00</u> |

(b) through (f) remain the same.

(g) Molecular Diagnostics (PCR)

| Test | Fee |
|--|----------------|
| avian influenza (AI) | \$40.00 |
| Bovine coronavirus/rotavirus multiplex | \$45.00 |
| bovine virus <u>viral</u> diarrhea <u>virus</u> (BVDV): | |
| individual samples (ear notch samples) | \$40.00 |
| MVDL pooled (ear notch samples) | \$65.00 |
| E. coli - K99 | \$40.00 |
| bovine respiratory disease viral PCR panel | \$50.00 |
| Classical Swine Fever, Foot & Mouth Disease, Vesicular Stomatitis Virus, Swine Influenza Virus, or Avian Paramyxovirus PCR | \$40.00 each |
| mycobacterium avium paratuberculosis (Johne's): | |
| individual sample | \$36.00 |
| MVDL pooled (up to 5 feces samples) | \$42.00 |
| salmonella enteritidis PCR | \$36.00 |
| tritrichomonas foetus: | |
| individual sample | \$30.00 |
| MVDL pooled (up to 5 samples) | \$55.00 |
| <u>coxiella and chlamydomphila PCR</u> | <u>\$36.00</u> |
| <u>mycoplasma bovis PCR</u> | <u>\$36.00</u> |

(h) through (k) remain the same.

(l) Virology

| Test | Fee |
|---|---------|
| canine parvovirus SNAP | \$30.00 |
| fluorescent antibody (FA) testing - per agent: | |
| bovine coronavirus (BCV) | \$11.00 |
| bovine respiratory syncytial virus (BRSV) SN | \$11.00 |
| bovine virus <u>viral</u> diarrhea <u>virus</u> (BVDV) | \$11.00 |
| canine distemper (CDV) | \$11.00 |
| canine parvovirus (CPV) | \$11.00 |
| equine herpesvirus (EHV) | \$11.00 |
| feline panleukopenia (FPLV) | \$11.00 |
| feline infectious peritonitis (FIP) | \$11.00 |
| feline herpes (FHV) | \$11.00 |
| infectious bovine rhinotracheitis (IBR) | \$11.00 |
| leptospira | \$11.00 |

| | |
|---|----------------|
| parainfluenza - 3 Virus (PI-3) | \$11.00 |
| porcine parvovirus (PPV) | \$11.00 |
| chronic wasting disease IHC | \$34.00 |
| chronic wasting disease ELISA | \$14.00 |
| virus isolation (livestock only) | \$34.00 |
| <u>bovine viral diarrhea virus (BVDV) antigen SNAP test</u> | <u>\$7.00</u> |
| <u>equine virus arteritis (EVA) virus neutralization test</u> | <u>\$16.00</u> |

(m) remains the same.

AUTH: 81-1-102, 81-2-102, MCA

IMP: 81-1-301, 81-1-302, 81-2-102, MCA

REASON: The department is proposing to amend the above-stated rule with five new tests and associated fees resulting in improved quality of work for clients, decreased turnaround time for test results, a reduction in potential legal and regulatory exposure, clients being offered more diagnostically reliable and cost-effective testing options, the potential for more federal funding, lowered overhead costs, and greater operational flexibility and efficiency.

Bovine Viral Diarrhea Virus BVDV SNAP Test

The BVDV snap test would take the place of any single animal submissions that we currently perform ELISA, PCR or virus isolation on (>2000 tests in FY20). In these single animal cases, the snap test will drastically reduce our turnaround time and lab time investment from several hours/days to less than an hour. The following table illustrates the projected time to complete testing within the lab section, projected turnaround time from sample receipt to issuing results, and the associated test fee.

| Test | Test Time | Turnaround Time (days)* | Test Fee |
|----------------------|------------|-------------------------|----------|
| BVDV ELISA | 4-6 hours | 1-2 | \$6.00 |
| BVDV PCR | 8 hours | 2-3 | \$40.00 |
| BVDV Virus Isolation | 14 days | 21 | \$34.00 |
| BVDV SNAP | 30 minutes | 1 | \$7.00 |

* Based on normal operational flow

In addition to time savings for MVDL staff and decreased turnaround time for clients/producers in Montana, the proposed BVDV SNAP test fee of \$7/test will provide a significant savings over our current BVDV PCR test (\$40/test) and BVDV virus isolation assay (\$34/test).

The main benefit to the BVDV SNAP test would be when we receive a single test submission or a low number (1-5) of test submissions. The SNAP test will result in a significantly faster turnaround time for a limited number of samples and will reduce the time burden on our lab technicians for these cases. Once the samples numbers get higher (such as the testing of a large herd) it may be more efficient to do the

ELISA or PCR using the pooling option. The availability of the SNAP test option will allow our staff to mix and match testing methodologies to provide greater operational flexibility and efficiency.

Equine Virus Arteritis (EVA) Virus Neutralization Test

EVA is a National Animal Health Laboratory Network (NAHLN) scope disease and thus, we are proposing to add this test as it is in the best interest of the MVDL to become qualified to perform this diagnostic test as it increases our standing with NAHLN. The number of NAHLN scope diagnostic tests a lab is qualified to perform is an input into a capability matrix which determines the amount of annual federal funding an NAHLN lab receives.

The EVA test utilizes most of the same reagents we currently have on hand and use for other serum neutralization (SN) tests, minus the cell line and virus. The upfront investment for the additional components is \$287. Once set up and qualified, we will have exceedingly low supply overhead costs since the virus and cell line can be propagated and stored indefinitely going forward.

Giardia SNAP Test

The MVDL is currently offering a giardia ELISA test that is only validated for use in humans and is not validated for use in diagnosing animal samples. We are proposing to switch our giardia test method to the IDEXX SNAP test, which is a USDA approved diagnostic assay. The giardia ELISA is twice as expensive (\$34/test) as the giardia SNAP test (\$18/test), and the bench time required for the ELISA (60 minutes) is double that of the SNAP test (30 minutes).

In summary, switching to a USDA licensed test will reduce potential legal and regulatory exposure for the Department of Livestock compared to using an unvalidated diagnostic test. By offering this test, we will provide our clients with a more diagnostically reliable and cost-effective testing option.

Mycoplasma Bovis PCR Test

Currently, the MVDL has no diagnostic test capable of determining mycoplasma speciation. Since most of our clients know that we cannot speciate mycoplasma bovis, we suspect a lot of them either have us culture for mycoplasma in general, or they send samples directly to other labs for speciation. For mycoplasma testing specifically, often this test is incorporated as part of a respiratory PCR panel at other laboratories, something that we refer out of state with regularity. Offering this test would significantly improve the quality of our diagnostic workups for respiratory disease.

Also, offering a PCR test would result in a turnaround time for our clients of 2-3 days rather than the >7 days for a mycoplasma culture. Once the assay is online and qualified, the MVDL could consider incorporating it into a respiratory panel, a diagnostic test offering that will primarily benefit cattle producers during the fall and winter.

Coxiella/Chlamydophila PCR

The MVDL has received occasional interest from our clients regarding this testing, specifically in sheep. When we tell them we cannot currently provide this testing, we typically do not receive samples for this testing, since clients know we are going to refer it out.

These two kits use the same reagents and platforms for extraction and the expendables and turnaround time would be the same as any of our other routine PCR tests. The time and investment we would need to bring these tests online is anticipated to be the cost of verifying the tests, something we do on a regular basis for new tests, new kits, changes in reagents/suppliers, or any other material change to a diagnostic assay. Offering these assays would significantly improve the quality of our workups for livestock abortions during the winter/spring reproductive season and lay the groundwork for future incorporation of these assays into a PCR abortion panel.

The equine virus arteritis (EVA) virus neutralization test (\$16), the mycoplasma bovis PCR test (\$36), and the Coxiella/Chlamydophila PCR test (\$36) do not replace any existing tests, and the overall economic impact from the new fees are expected to be negligible due to low test numbers. The giardia SNAP test will replace a \$36 test with an \$18 test, resulting in a cumulative decrease, but this decrease is expected to be negligible due to low test numbers. The \$7 BVDV SNAP test will replace three prior BVDV tests, the highest volume of which is the \$6 BVDV ELISA test (<2000 in FY20), resulting in less than a \$2000 cumulative annual increase. This increase is anticipated to be offset by the BVDV SNAP test also replacing the \$40 BVDV PRC test and the \$34 BVDV virus isolation test, but this effect is expected to be negligible due to low test numbers. There are approximately 600 veterinary submitters, at least 150 nonveterinary submitters, and 100 governmental entities only minimally affected by the proposed fee adjustments.

4. Concerned persons may submit their data, views, or arguments in writing concerning the proposed action to Department of Livestock, 301 N. Roberts St., Room 306, P.O. Box 202001, Helena, MT 59620-2001, by faxing to (406) 444-1929, or by e-mailing to MDOLcomments@mt.gov, to be received no later than 5:00 p.m., March 12, 2021.

5. If persons who are directly affected by the proposed action wish to express their data, views, and arguments orally or in writing at a public hearing, they must make a written request for a hearing and submit this request along with any written comments they have to the same address as above. The written request for hearing must be received no later than 5:00 p.m., March 12, 2021.

6. If the department receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a public

hearing will be held at a later date. Notice of the public hearing will be published in the Montana Administrative Register. Ten percent of those entities directly affected has been determined to be 85 based upon approximately 600 veterinary submitters, at least 150 nonveterinary submitters, and 100 governmental entities affected by the proposed fee adjustments.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the department.

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

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

/s/ Michael S. Honeycutt
Michael S. Honeycutt
Executive Officer
Board of Livestock
Department of Livestock

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

Certified to the Secretary of State February 2, 2021.

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

| | | |
|-------------------------------------|---|--------------------------|
| In the matter of the amendment of |) | AMENDED NOTICE OF PUBLIC |
| ARM 37.27.902, 37.87.102, |) | HEARING ON PROPOSED |
| 37.87.702, and 37.88.101 pertaining |) | AMENDMENT |
| to licensed marriage and family |) | |
| therapists and policy changes for |) | |
| medication assisted treatment |) | |

TO: All Concerned Persons

1. On January 15, 2021, the Department of Public Health and Human Services published MAR Notice No. 37-940 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 52 of the 2021 Montana Administrative Register, Issue Number 1.

2. On February 4, 2021, the Department of Public Health and Human Services held a public hearing via remote conferencing to consider the proposed amendment of the above-stated rules. The department will extend the comment period and hold an additional public hearing regarding the proposed amendment of the above-stated rules.

3. On March 4, 2021, at 10:00 a.m., the Department of Public Health and Human Services will hold an additional public hearing via remote conferencing to consider the amended notice of the proposed amendment of the above-stated rules. Because there currently exists a state of emergency in Montana due to the public health crisis caused by the coronavirus, there will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

(a) Join Zoom Meeting at: <https://mt-gov.zoom.us/j/95194407581>; meeting ID: 951 9440 7581; or

(b) Dial by telephone +1 646 558 8656; meeting ID: 951 9440 7581. Find your local number: <https://mt-gov.zoom.us/u/ag16mDyXL>.

4. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on February 26, 2021, to advise us of the nature of the accommodation that you need. Please contact Heidi Clark, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena MT 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

5. The department now proposes to include the amendment of ARM 37.87.702 as part of this notice to permit the licensed marriage and family therapist service to be provided at a mental health center by an in-training professional to youth with serious emotional disturbance. This proposed rule amendment will expand the availability of mental health providers across Montana to address the state's shortage of such providers. The original proposal notice did not include this additional rule, which was an oversight on the part of the department.

The department is amending this proposal notice to include policy changes for medication assisted treatment (MAT) because on December 30, 2020, the Centers for Medicare and Medicaid issued guidance about expanded Medicaid coverage for treatment of opioid use disorders. The guidance relates to a new mandatory Medicaid benefit added under the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act (SUPPORT Act). Changes required under the SUPPORT Act are effective immediately. In order to make the program changes required by the SUPPORT Act, the department needs to change the AMDD Medicaid Services Provider Manual for Substance Use Disorder and Adult Mental Health, which is adopted and incorporated in rules that were already open under this rule notice. The most expeditious way to effectuate the required changes is to amend the existing rulemaking notice and hold another hearing to allow for additional opportunity to comment.

6. The original proposal notice is being amended to include the following rule as proposed to be amended, new matter underlined, deleted matter interlined:

37.87.702 MENTAL HEALTH CENTER SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE (SED), DEFINITIONS For purposes of this subchapter, the following definitions apply:

(1) and (2) remain the same.

(3) "In-training mental health professional services" are services provided under the supervision of a licensed mental health professional by an individual who has completed all academic requirements for licensure as a psychologist, clinical social worker, ~~or licensed professional counselor~~, or licensed marriage and family therapist and is in the process of completing the supervised experience requirement for licensure, in accordance with ARM Title 24, chapters 189 and 219.

(4) through (11) remain the same.

AUTH: 53-2-201, 53-6-101, 53-6-113, MCA

IMP: 53-2-201, 53-6-101, 53-6-111, MCA

7. The original proposal notice's amendments to ARM 37.27.902 and 37.88.101 are being amended as follows, new matter underlined, deleted matter interlined:

37.27.902 SUBSTANCE USE DISORDER SERVICES: AUTHORIZATION REQUIREMENTS (1) remains the same.

(2) In addition to the requirements contained in rule, the department has developed and published the Addictive and Mental Disorders Division Medicaid Services Provider Manual for Substance Use Disorder and Adult Mental Health, dated ~~October 1, 2020~~ April 1, 2021, which it adopts and incorporates by reference. The purpose of the manual is to implement requirements for utilization management and services. A copy of the manual may be obtained from the department by a request in writing to the Department of Public Health and Human Services, Addictive and Mental Disorders Division, 100 N. Park, Ste. 300, P.O. Box 202905, Helena, MT 59620-2905 or at <http://dphhs.mt.gov/amdd.aspx>.

(3) remains the same.

AUTH: 53-6-113, 53-24-204, 53-24-208, 53-24-209, MCA

IMP: 53-6-101, 53-24-204, 53-24-208, 53-24-209, MCA

37.88.101 MEDICAID MENTAL HEALTH SERVICES FOR ADULTS, AUTHORIZATION REQUIREMENTS (1) remains the same.

(2) In addition to the requirements contained in rule, the department has developed and published the Addictive and Mental Disorders Division Medicaid Services Provider Manual for Substance Use Disorder and Adult Mental Health (Manual), dated ~~October 1, 2020~~ April 1, 2021, which it adopts and incorporates by reference. The purpose of the Manual is to implement requirements for utilization management and services. A copy of the Manual may be obtained from the department by a request in writing to the Department of Public Health and Human Services, Addictive and Mental Disorders Division, 100 N. Park, Ste. 300, P.O. Box 202905, Helena, MT 59620-2905 or at <http://dphhs.mt.gov/amdd.aspx>.

(3) through (5) remain the same.

AUTH: 53-2-201, 53-6-113, MCA

IMP: 53-2-201, 53-6-101, 53-6-111, 53-6-113, MCA

8. The proposed amendment to ARM 37.87.102 from the original proposal notice remains the same.

9. The statement of reasonable necessity from the original proposal notice is being amended to include the following:

MAT Policy Change

The department is proposing to make changes to the Medication Assisted Treatment (MAT) policy #550 in the AMDD Medicaid Services Provider Manual for SUD and Adult Mental Health, which is incorporated in ARM 37.27.902 and ARM 37.88.101. This is necessary because the Centers for Medicare and Medicaid (CMS) is requiring the department move the MAT benefit from the Physician's Services State Plan to a separate MAT Medicaid State Plan Amendment and align the program with the requirements in the federal Substance Use Disorder Prevention that Promotes Opioid Recovery for Patients and Communities Act (SUPPORT Act). In addition, the department is proposing changes to clarify the allowable billing practices for this

service. This is necessary because current providers across the state have applied different criteria for additional lab testing outside the bundled rate. To ensure clinical best practices are consistently applied the department proposes limitations for lab testing outside of the bundled rate.

The department is proposing the following changes to the Medication Assisted Treatment, Policy #550:

1. Clarify that the MAT Intake bundled rate may only be billed for a member once per year for the same provider. If the member chooses to use a different provider, the new provider may also bill the MAT Intake bundled rate. If a member discharges from services and returns to service with the same provider, the provider may not rebill the MAT Intake bundled rate.
2. Clarify that the face-to-face assessment required for MAT Intake requires an in-person assessment by a physician or mid-level practitioner.
3. The Support ACT requires counseling services and behavioral therapies. As such, a mental health assessment is required and if the assessment indicates the need for counseling services and behavioral therapies, the member must be referred to the indicated services.
4. The addition of limits for lab testing. Limit the number of definitive drug testing to eight times per year. The frequency of testing should be determined by patient-specific factors, the most important of which is progress in treatment.
5. Change language to include all qualified MAT providers. Federal guidance directs who may provide MAT services.

10. 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: Heidi Clark, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena MT 59604-4210, no later than 5:00 p.m. on March 12, 2021. Comments may also be faxed to (406) 444-9744 or e-mailed to dphhslegal@mt.gov.

/s/ Brenda K. Elias

Brenda K. Elias
Rule Reviewer

/s/ Erica Johnston

Erica Johnston, Acting Director
Public Health and Human Services

Certified to the Secretary of State February 2, 2021.

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

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 37.85.105 pertaining to update) PROPOSED AMENDMENT
of effective dates and inclusion of)
Medicaid manual changes)

TO: All Concerned Persons

1. On March 4, 2021, at 11:00 a.m., the Department of Public Health and Human Services will hold a public hearing via remote conferencing to consider the proposed amendment of the above-stated rule. Because there currently exists a state of emergency in Montana due to the public health crisis caused by the coronavirus, there will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

(a) Join Zoom Meeting at: <https://mt-gov.zoom.us/j/96575941687>; meeting ID: 965 7594 1687; or

(b) Dial by Telephone +1 646 558 8656; meeting ID: 965 7594 1687. Find your local number: <https://mt-gov.zoom.us/u/ayPTKImRL>.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on February 26, 2021, to advise us of the nature of the accommodation that you need. Please contact Heidi Clark, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

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

37.85.105 EFFECTIVE DATES, CONVERSION FACTORS, POLICY
ADJUSTERS, AND COST-TO-CHARGE RATIOS OF MONTANA MEDICAID
PROVIDER FEE SCHEDULES (1) through (4) remain the same.

(5) The department adopts and incorporates by reference, the fee schedule for the following programs within the Addictive and Mental Disorders Division on the date stated:

(a) remains the same.

(b) The home and community-based services for adults with severe disabling mental illness fee schedule, as provided in ARM 37.90.408, is effective July 1, 2020
April 1, 2021.

(c) and (6) remain the same.

AUTH: 53-2-201, 53-6-113, MCA

IMP: 53-2-201, 53-6-101, 53-6-125, 53-6-402, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) administers the Montana Medicaid and non-Medicaid program to provide health care to Montana's qualified low income, elderly, and disabled residents. Medicaid is a public assistance program paid for with state and federal funds appropriated to pay health care providers for the covered medical services they deliver to Medicaid members.

The department has submitted to the Centers for Medicare and Medicaid Services (CMS) an amendment to the Severe and Disabling Mental Illness (SDMI), Home and Community Based waiver program, to implement changes to the SDMI waiver. The proposed rule amendments implement the following changes:

1. The addition of two new self-direct service options on the SDMI waiver, Behavioral Intervention Assistant and Life Coach. These services currently exist as agency-based services. The self-direct option gives plan members an additional option for receiving this service which is necessary to address member needs and access to care. The corresponding rate is: Behavioral Intervention Assistant - \$6.24 per 15-minute unit; and Life Coach - \$9.86 per 15-minute unit.
2. Rate increases for Residential Habilitation, Assisted Living Facility/Adult Foster Care and Intensive Mental Health Group Home, which is required to remedy identified barriers to access and quality service delivery for Montanans across the state. The proposed rate will increase from \$80.24 to \$104.00.

The proposed rule amendments in this notice serve to implement the waiver amendment filed with CMS and are intended to promote member access to care and address the needs of members for support services.

Fiscal Impact

| Service Type | SFY 2021 Impact Federal | SFY 2021 Impact State | Total Impact | Providers Affected |
|---|----------------------------|--------------------------|--------------|-----------------------|
| Behavioral Intervention Assistant - Self Direct | \$0 | \$0 | \$0 | 16 |
| Life Coach - Self Direct | \$0 | \$0 | \$0 | 17 |
| Residential Habilitation - Assisted Living Facilities | -\$150,123 | -\$80,835 | -\$230,958 | 48 |
| Intensive Mental Health Group Home | \$205,361 | \$110,597 | \$315,940 | 2 |

| Service Type | SFY 2022 Impact Federal | SFY 2022 Impact State | Total Impact | Providers Affected |
|--|----------------------------|--------------------------|--------------|-----------------------|
| Behavioral Intervention Assistant - Self Direct | \$63,539 | \$34,213 | \$97,752 | 16 |
| Life Coach - Self Direct | \$127,235 | \$68,511 | \$195,746 | 17 |
| Residential Habilitation - Assisted Living Facilities | \$890,192 | \$479,334 | \$1,369,526 | 48 |
| Intensive Mental Health Group Home | \$221,046 | \$119,025 | \$340,071 | 2 |

The Severe and Disabling Mental Illness (SDMI), Home and Community Based Services waiver for state fiscal year (SFY) 2021 may serve up to 600 members and in SFY 2022 the SDMI waiver may serve up to 650 members.

Behavioral Intervention Assistant and Life Coach – Self Direction

The department proposes to add two additional rates to the Montana Medicaid - Home and Community Based Services (HCBS) for Adults with Severe and Disabling Mental Illness (SDMI) fee schedule. The department calculated this fiscal impact based upon an assumption that current members on the waiver may choose to change their service from an agency-based service model to a self-directed service model which results in no additional expenditures for the waiver in SFY 2021. For SFY 2022, the waiver is approved for an additional 50 unduplicated members resulting in an increase for SFY 2022.

Residential Habilitation, Assisted Living Facility/Adult Foster Care

The department proposes a rate increase for Assisted Living Facility/Adult Foster Care from \$80.24 per day to \$104.00 per day. With the current waiver amendment, the department has also adjusted their projections for SFY 2021 because the increase in unduplicated members previously projected has been negatively affected by the COVID-19 public emergency, resulting in a negative fiscal impact. For SFY 2022, the waiver is approved for an additional 50 unduplicated members resulting in an increase for SFY 2022.

Residential Habilitation, Intensive Mental Health Group Home

The department proposes a rate increase for Intensive Mental Health Group Homes from \$293.31 to \$319.54. This increase was a result of reassessing the productivity factor based upon provider feedback.

The department intends for the proposed change to be effective April 1, 2021.

5. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Heidi Clark, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail dphhslegal@mt.gov, and must be received no later than 5:00 p.m., March 12, 2021.

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

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 5 above or may be made by completing a request form at any rules hearing held by the department.

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

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

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

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

/s/ Brenda K. Elias
Brenda K. Elias
Rule Reviewer

/s/ Erica Johnston
Erica Johnston, Acting Director
Public Health and Human Services

Certified to the Secretary of State February 2, 2021.

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, and III, the amendment |) | AMENDMENT, AND REPEAL |
| of ARM 12.6.1602 and 12.6.1610, |) | |
| and the repeal of ARM 12.6.206, |) | |
| 12.6.210, 12.6.215, 12.6.220, |) | |
| 12.6.225, 12.6.230, and 12.6.1601A |) | |
| pertaining to field trial regulations, |) | |
| game bird dog training, and game |) | |
| bird farms |) | |

TO: All Concerned Persons

1. On November 20, 2020, the Department of Fish, Wildlife and Parks (department) published MAR Notice No. 12-533 pertaining to the public hearing on the proposed adoption, amendment, and repeal of the above-stated rules at page 2093 of the 2020 Montana Administrative Register, Issue Number 22.

2. The department has adopted the following rule as proposed: New Rule I (12.6.1605).

3. 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 II (12.6.1607) DISEASE PREVENTION (1) All captive-reared game birds used for dog training shall ~~originate~~ be purchased from a licensed Montana game bird farm. Birds purchased from out of state must be from a National Poultry Improvement Plan (NPIP) provider sources.

AUTH: 87-3-604, 87-4-913, MCA
IMP: 87-3-603, MCA

NEW RULE III (12.6.1608) PROOF OF PURCHASE OF CAPTIVE-REARED GAME BIRDS USED IN DOG TRAINING (1) remains as proposed.

(2) Proof shall be in the form of a receipt or, alternatively, the birds may be banded with a leg band approved by the department. The receipt must state the following:

- (a) and (b) remain as proposed.
- (c) sex of birds (if known);
- (d) remains as proposed.
- (e) name of the purchaser and date of purchase.

AUTH: 87-3-604, 87-4-913, MCA
IMP: 87-3-603, MCA

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

12.6.1602 PURCHASE AND SALE OF GAME BIRDS (1) remains as proposed.

(2) Game bird farm operators shall provide proof of purchase to the purchaser in the form of a receipt or, alternatively, the birds may be banded with a leg band approved by the department. The receipt must state the following:

(a) and (b) remain as proposed.

(c) sex of birds (if known);

(d) remains as proposed.

(e) name of purchaser and date of purchase.

(3) remains as proposed.

AUTH: 87-4-913, MCA

IMP: 87-4-902, 87-4-911 MCA

12.6.1610 NATIONAL POULTRY IMPROVEMENT PLAN (1) and (2) remain as proposed.

(3) Game bird farm licensees who do not maintain a breeding flock over-the winter to hatch out offspring for sale ~~birds, but purchase~~ must acquire their eggs or chicks from NPIP certified sources ~~do not need to acquire NPIP certification~~.

(4) remains as proposed.

AUTH: 87-4-913, MCA

IMP: 87-4-906, 87-4-908 MCA

5. The department has repealed the following rules as proposed: ARM 12.6.206, 12.6.210, 12.6.215, 12.6.220, 12.6.225, 12.6.230, and 12.6.1601A.

6. 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 comments in support of the administrative rules as proposed.

RESPONSE #1: The department appreciates the participation and support in this rulemaking process.

COMMENT #2: A comment was received concerning large out of state training operations. The comment suggested putting a rule in place that would not allow dogs to be off leash on public lands except for during a specific season.

RESPONSE #2: This comment is outside the scope of this rulemaking. This rulemaking proposal only addresses using captive-reared birds for dog training.

COMMENT #3: The department received a few comments concerning the requirement of NPIP certification for smaller producers/licensees within the state.

RESPONSE #3: Comments received were regarding the existing rule language related to NPIP certification. The department is proposing to require birds to be acquired from an NPIP source if the bird farm does not overwinter birds to produce offspring for sale. All major bird egg or chick suppliers are NPIP certified.

COMMENT #4: The department received a comment regarding the "captive-reared bird" language in NEW RULE I. The comment questioned whether or not a land agency could allow training on wild birds.

RESPONSE #4: Nothing in statute or this proposal limits or regulates the use of wild birds for dog training. This activity would be covered under public land agency use rules.

COMMENT #5: The department received a comment concerning that the sex of birds is sometimes indistinguishable until they reach a certain age.

RESPONSE #5: The department has amended the language in response to this comment to require the sex of the bird on receipts if the sex is known.

/s/ Aimee Hawkaluk
Aimee Hawkaluk
Rule Reviewer

/s/ Hank Warsech
Hank Warsech
Director
Department of Fish, Wildlife and Parks

Certified to the Secretary of State February 2, 2021.

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

| | | |
|-------------------------------------|---|--------------------------|
| In the matter of the adoption of an |) | NOTICE OF ADOPTION OF AN |
| emergency rule closing the |) | EMERGENCY RULE |
| Yellowstone River 100 yards |) | |
| upstream and downstream of the |) | |
| Twin Bridges Road Bridge in |) | |
| Stillwater County |) | |

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of an emergency rule closing the Yellowstone River 100 yards upstream and downstream of the Twin Bridges Road Bridge:

(a) The Montana Department of Transportation has notified the department that the Twin Bridges Road Bridge is subject to imminent failure and may collapse into the Yellowstone River.

(b) Persons recreating on the portion of the river under or near the bridge are at risk of personal injury or death if the bridge should fail and collapse.

(c) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare due to the combination of unsafe conditions and this threat cannot be averted or remedied by any other administrative act, the department adopts the following emergency rule. The emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties, and published as an emergency rule in Issue No. 3 of the 2021 Montana Administrative Register.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on February 26, 2021, to advise us of the nature of the accommodation that you need. Please contact Kaedy Gangstad, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; or e-mail kgangstad@mt.gov.

3. The emergency rule is effective January 25, 2021, when this rule notice is filed with the Secretary of State.

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

NEW RULE I YELLOWSTONE RIVER EMERGENCY CLOSURE (1) The closed portion of the Yellowstone River is located in Stillwater County.

(2) The Yellowstone River is closed to all public recreation and occupation on the river 100 yards upstream and downstream of the Twin Bridges Road Bridge. Contractors and personnel working on the bridge are exempt.

(3) This rule will remain in effect until the department determines the river is again safe for occupation which will depend on if and when the bridge fails or is demolished by the Department of Transportation. Signs noticing the closure will be removed when the rule is no longer effective.

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

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

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

6. Concerned persons are encouraged to submit their comments to the department. Please submit comments along with names and addresses to: Kaedy Gangstad, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT, 59602-0701; e-mail kgangstad@mt.gov. Any comments must be received no later than March 12, 2021.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, or may be made by completing the request form at any rules hearing held by the department.

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

/s/ Hank Worsech

Hank Worsech

Director

Department of Fish, Wildlife and Parks

/s/ Aimee Hawkaluk

Aimee Hawkaluk

Rule Reviewer

Certified to the Secretary of State January 25, 2021.

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 24.301.161 incorporation by)
reference of the International Energy)
Conservation Code)

TO: All Concerned Persons

1. On December 24, 2020, the Department of Labor and Industry (department) published MAR Notice No. 24-301-350 regarding the public hearing on the proposed amendment of the above-stated rule, at page 2303 of the 2020 Montana Administrative Register, Issue No. 24.

2. On January 19, 2021, a public hearing was held on the proposed amendment of the above-stated rule in Helena. A few comments were received by the January 21, 2021 deadline.

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

COMMENT 1: One commenter noted the lack of proposed changes relating to Section C for commercial standards for the installation of water piping and Section 403.3, hot water piping installation and asked if this would be addressed.

RESPONSE 1: The Building Codes Program (program) did not propose any modifications to these sections of the 2018 International Energy Conservation Code (IECC) and is adopting the sections as they appear in the code, in their entirety. Because no amendments to these sections were proposed, the program is unable to address the commenter's suggestions in a final notice. The program will consider these comments in future energy code adoptions.

COMMENT 2: Several commenters supported the amendment of ARM 24.301.161 exactly as proposed.

RESPONSE 2: The program appreciates all comments received and commenters' participation in the code adoption and rulemaking process.

COMMENT 3: Several commenters requested that the program adopt the IECC in full, eliminating state-specific amendments to the IECC that leave energy savings on the table. The commenters did support the amendments as proposed and noted their appreciation of the open process and good work done to get to this point. The commenters also supported the program accelerating the code adoption process within 12 months of a new code being issued by the International Code Council.

RESPONSE 3: The program appreciates all comments received during the rulemaking process and will consider moving more expeditiously on code adoptions as well as eliminating state-specific amendments when reviewing the next edition of the IECC for adoption.

4. The department has amended ARM 24.301.161 exactly as proposed.

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

/s/ LAURIE ESAU
Laurie Esau, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State February 2, 2021.

BEFORE THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 32.3.219 special requirements)
for swine)

TO: All Concerned Persons

1. On November 20, 2020, the Department of Livestock published MAR Notice No. 32-20-14 pertaining to the proposed amendment of the above-stated rule at page 2104 of the 2020 Montana Administrative Register, Issue Number 22.

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

3. The department has thoroughly considered the comment received. A summary of the comment received and the department's response is as follows:

COMMENT #1: Both the American Association of Swine Veterinarians (AASV) and the National Pork Producers Council (NPPC) responded with support for the proposed change to align with federal standards and neighboring states, without undermining the mission to protect animal health in Montana.

RESPONSE #1: Thank you for your comment. The department agrees and will continue to update guidelines based on current standards.

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

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

Certified to the Secretary of State February 2, 2021.

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 37.85.105 pertaining to)
updating Medicaid provider rates, fee)
schedules, and effective dates)

TO: All Concerned Persons

1. On November 6, 2020, the Department of Public Health and Human Services published MAR Notice No. 37-933 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 2048 of the 2020 Montana Administrative Register, Issue Number 21. On November 20, 2020, the department published an amended notice pertaining to the proposed amendment at page 2111 of the 2020 Montana Administrative Register, Issue Number 22. On January 15, 2021, the department published a notice of extension of comment period to the proposed amendment at page 51 of the 2021 Montana Administrative Register, Issue Number 1.

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

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

COMMENT #1: A provider association commented that they support the department's efforts to update codes and rates, but they did not have enough time to fully evaluate the department's proposed rule amendments because the proposed fee schedule was not available during the comment period.

RESPONSE #1: The department appreciates the support. In response to the comment, the department extended the comment period to January 22, 2021, by filing a notice of extension of comment period on the proposed amendment. The department was able to provide and publish updated fee schedules to its website on January 15, 2021, allowing for public comment of the posted fee schedules. Ultimately, there were no changes to the optometric fee schedule.

COMMENT #2: A provider association commented that optometrists should be reimbursed a fee equal to the rate physicians are paid for performing the same services.

RESPONSE #2: As provided in 53-6-125, MCA, the legislature has directed the department to establish a conversion factor for physicians with doctor of medicine or doctor of osteopathy degrees relative to the increase in the consumer price index for medical care for the previous year. The department uses the same resource-based

relative value scale (RBRVS) methodology in determining reimbursement rates for physicians who are ophthalmologists and optometrists, and thus the professions are reimbursed in the same manner.

4. The department intends to apply these rules retroactively to January 1, 2021, except for the amendment of ARM 37.85.105(4)(a) which will be retroactive to October 1, 2020. A retroactive application of the proposed rule amendments does not result in a negative impact to any affected party.

/s/ Brenda K. Elias
Brenda K. Elias
Rule Reviewer

/s/ Erica Johnston
Erica Johnston, Acting Director
Public Health and Human Services

Certified to the Secretary of State February 2, 2021.

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

In the matter of the adoption of New) NOTICE OF ADOPTION AND
Rules I and II and the amendment of) AMENDMENT
ARM 37.27.101 pertaining to)
substance use disorder (SUD) state)
approval)

TO: All Concerned Persons

1. On December 24, 2020, the Department of Public Health and Human Services published MAR Notice No. 37-937 pertaining to the public hearing on the proposed adoption and amendment of the above-stated rules at page 2309 of the 2020 Montana Administrative Register, Issue Number 24.

2. The department has adopted the following rules as proposed: New Rule I (37.27.105) and New Rule II (37.27.107).

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

4. No comments or testimony were received.

5. These rule adoptions and the rule amendment are effective upon publication.

/s/ Brenda K. Elias
Brenda K. Elias
Rule Reviewer

/s/ Erica Johnston
Erica Johnston, Acting Director
Public Health and Human Services

Certified to the Secretary of State February 2, 2021.

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 37.81.304 pertaining to the Big)
Sky Rx benefit)

TO: All Concerned Persons

1. On December 24, 2020, the Department of Public Health and Human Services published MAR Notice No. 37-938 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 2314 of the 2020 Montana Administrative Register, Issue Number 24.

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

3. No comments or testimony were received.

4. The department intends to apply these rule amendments retroactively to January 1, 2021. A retroactive application of the proposed rule amendments does not result in a negative impact to any affected party.

/s/ Brenda K. Elias
Brenda K. Elias
Rule Reviewer

/s/ Erica Johnston
Erica Johnston, Acting Director
Public Health and Human Services

Certified to the Secretary of State February 2, 2021.

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 37.12.401 and 37.57.301)
pertaining to newborn screening)

TO: All Concerned Persons

1. On December 24, 2020, the Department of Public Health and Human Services published MAR Notice No. 37-939 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 2317 of the 2020 Montana Administrative Register, Issue Number 24.

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

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

COMMENT #1: The department received nine comments relating to this proposed rulemaking. The commenters consisted of both medical professionals and parents of children with Spinal Muscular Atrophy (SMA). Each of the commenters expressed support for the proposed rules. The commenters noted the importance of ensuring early detection of SMA in order to provide timely medical treatment that improves quality of life and slows progression of the disease.

RESPONSE#1: The department thanks each of the commenters for their support of the proposed rules.

4. These rule amendments are effective March 1, 2021.

/s/ Robert Lishman
Robert Lishman
Rule Reviewer

/s/ Erica Johnston
Erica Johnston, Acting Director
Public Health and Human Services

Certified to the Secretary of State February 2, 2021.

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

| | | |
|---|---|----------------------|
| In the matter of the Montana State |) | Docket No. DO 2021-1 |
| Firemen's Association's Petition for |) | |
| Declaratory Ruling that the Billings |) | |
| Logan International Airport |) | DECLARATORY RULING |
| firefighting staff qualify to participate |) | |
| in the Montana Firefighters' Unified |) | |
| Retirement System (FURS) |) | |

INTRODUCTION

1. On June 11, 2020, representatives of the Montana State Firemen's Association (MSFA) appeared before the Montana Public Employees' Retirement Board (Board) pursuant to Section 19-13-115, MCA in order to discuss and advocate that the Public Employees' Retirement System (PERS) covered positions of Aircraft Rescue Firefighters/Airfield Maintenance (ARFF/AFM) workers at the Billings Logan Airport (Airport) should be reported to and included in the Firefighters' Unified Retirement System (FURS) rather than PERS. Present at this meeting were representatives of the City of Billings who took a contrary position to the MSFA regarding the inclusion of ARFF/AFM workers in FURS.

2. On June 11, 2020, at the conclusion of this disputed discussion before the Board, the Board moved unanimously to request that the parties utilize the provisions of Section 2-4-502, MCA to petition the Board for a declaratory ruling concerning whether or not ARFF/AFM meet the definition of "firefighter" under Section 19-13-104, MCA and should be reported as FURS covered positions.

3. On June 24, 2020, the Board provided the MSFA and the City of Billings with a letter detailing the formal process to be followed under Section 2-4-501, MCA, ARM 1.3.226 and ARM 1.3.227 in order to request a declaratory ruling from the Board as to whether ARFF/AFM workers qualify to participate in the FURS system under Section 19-13-101, MCA *et. seq.*

4. On September 21, 2020, the MSFA filed a Petition for Declaratory Ruling (Petition) with the Board requesting a ruling confirming that ARFF/AFM workers at the Airport are "firefighters" as defined under Section 19-13-104, MCA and should be classified as FURS covered positions rather than PERS covered positions.

5. On October 8th, 2020, the Board issued an order setting a briefing schedule allowing for the City of Billings to file a response brief to the MSFA's petition with the PERB by October 29th, 2020 and allowing for the MSFA to file a reply brief by November 13th, 2020. A response brief was filed by the City of Billings on October 29th, 2020 (Response). The MSFA did not file a reply brief. The Petition and the City of Billings' Response constitute the record in this declaratory ruling proceeding.

BACKGROUND

6. On October 30, 2020, the Board notified representatives of the MSFA and counsel for the City of Billings that a formal hearing would take place on the Petition at the Board's December 10, 2020 meeting.

7. On December 4, 2020 the Board issued a public meeting notice with an agenda for its December 10, 2020 meeting, including copies of MSFA's Petition and the City of Billings' Response, as well as all corresponding exhibits filed therewith.

8. On December 10, 2020, the Board conducted a hearing on the Petition and permitted both the MSFA and the City of Billings periods of time to present any additional comments or testimony in order to support the purported facts and arguments in each of their briefs. During this hearing, the Board reviewed the Petition and Response and asked questions related to each party's legal arguments concerning the inclusion or exclusion of the ARFF/AFM workers in the FURS system and the alleged facts supporting each argument.

FACTS

9. On July 1, 1946, the City of Billings entered into binding contract with the Board for PERS coverage for all employees of the City.

10. ARFF/AFM workers at the Airport perform a variety of job duties to include the repair and maintenance of airport grounds, buildings, facilities, and related equipment, and to train in and respond to aircraft and other airport emergencies which include responding to and suppressing fires.

11. Pursuant to the City's 1946 PERS contract and the provisions of Section 19-3-101, MCA *et. seq.*, ARFF/AFM workers have been consistently reported by the City as members of PERS.

12. ARFF/AFM workers are not appointed or nominated into their position by the City of Billings Mayor or the City Administrator nor does the Billings City Council consent to the appointment of any ARFF/ARM worker. *Response at Exhibit B.* Rather, a hiring panel interviews ARFF/AFM worker candidates and the Airport Operations Supervisors recommend their choice to the Director of Aviation and Transit who approves or denies each ARFF/AFM hiring. *Id.*

13. ARFF/AFM workers must successfully pass a pre-employment drug test and complete a background check, which includes a Federal fingerprint-based criminal history and driving records check. This background check is conducted after each ARFF/AFM worker is hired in order to meet Transportation Security Administration (TSA) requirements for obtaining a security identification badge to access the secure areas of the Airport.

14. ARFF/AFM candidates are not required to complete any physical/medical examination prior to being considered for employment by the Airport. *Id.* In addition, ARFF/AFM candidates are not required to pass a psychological evaluation to determine if the applicant is free from any mental condition that might adversely affect the applicant's performance of the duties of a firefighter.

15. Two Airport Operations Supervisors oversee all ARFF/AFM workers at the Airport. The Airport does not have a "Fire Chief or Assistant Chief" that provides supervision over the ARFF/AFM workers.

ANALYSIS

16. The Board "shall provide by rule for the filing and prompt disposition of petitions for declaratory rulings as to the applicability of any statutory provision..." Section 2-4-501, MCA. The ruling shall be published pursuant to Section 2-4-501, MCA, and is subject to judicial review in the same manner as decisions or orders in contested cases. *Id.*

17. The Board has adopted the Attorney General's Model Procedural Rules governing declaratory rulings as provided in ARM 1.3.226 through 1.3.229. ARM 2.43.1401. "A party may seek a declaratory ruling from the agency when doubt exists as to how a statute or rule administered by an agency affects the party's legal rights." ARM 1.3.226.

18. A retirement plan and pension trust fund is established and maintained for FURS. Section 19-13-103, MCA.

19. The FURS retirement plan is an Internal Revenue Service, tax-qualified plan under Section 401(a) of the Internal Revenue Code.

20. As provided for in Article VIII, Section 15 of the Montana Constitution the Board must administer the FURS trust fund as "fiduciaries of system participants and their beneficiaries." Mont. Const. Article VIII, Section 15.

21. This fiduciary duty of the Board requires it to administer the FURS trust subject to the provisions of Title 19, chapters 2 and 13 of the Montana Code Annotated. Section 19-2-502, MCA. FURS members, and specifically FURS membership eligibility requirements, are subject to the provisions of these chapters and the rules that the Board is authorized to establish for the administration, operation, and enforcement of FURS. Sections 19-2-402 and 19-2-403, MCA.

22. Participation in FURS is mandatory for cities of the first and second class that employ full-paid firefighters. Section 19-13-210, MCA.

23. Billings is classified as a first class city pursuant to Section 7-1-4111, MCA and all firefighters employed by the City of Billings Fire Department are members of FURS.

24. The term "firefighter" in FURS is defined as "a person employed as a full-paid or part-paid firefighter by an employer." Section 19-13-104(5), MCA.

25. Both "full-paid" and "part-paid" firefighters must be appointed pursuant to Section 7-33-4106, MCA as a firefighter meeting the standards provided in Section 7-33-4107, MCA. Sections 19-13-104(6) and (10), MCA.

26. Section 7-33-4106, MCA provides that "The mayor or manager shall nominate and, with the consent of the council or commission, appoint the chief of the fire department, the assistant chief or chiefs of the fire department, and all firefighters." Section 7-33-4106, MCA.

27. Section 7-33-4107, MCA provides the qualifications for firefighters and holds that to qualify as a firefighter, an applicant: "(1) must be a citizen or lawful permanent resident of the United States; (2) must be at least 18 years of age; (3) must be a high school graduate or have been issued a high school equivalency diploma by the superintendent of public instruction or by an appropriate issuing agency of another state or of the federal government; (4) must possess or be eligible for a valid Montana driver's license; (5) shall pass a physical examination by a qualified physician, physician assistant, or advanced practice registered nurse, who is not the applicant's personal physician, physician assistant, or advanced practice registered nurse, appointed by the employing authority to determine if the applicant is free from any mental or physical condition that might adversely affect the applicant's performance of the duties of a firefighter, including requirements described in 7-33-1902; (6) must be fingerprinted and a search must be made of the local, state, and national fingerprint files to disclose any criminal record; and (7) may not have been convicted of a crime for which the applicant could have been imprisoned in a federal or state penitentiary."

28. The physical examination required under Section 7-33-4107(5), MCA "must be in writing, and a written determination of the examination must be filed with the city or town clerk. The determination of the examination must disclose the ability of the applicant to perform the physical work usually required of firefighters in the performance of their duty." Section 7-33-4108, MCA.

RULING

29. The Board declines to issue the declaratory ruling sought by the MSFA that Aircraft Rescue Firefighters/Airfield Maintenance (ARFF/AFM) workers at the City of Billings Logan Airport are "firefighters" as defined under 19-13-104, MCA and are legally entitled to participate in the Firefighters' Unified Retirement System (FURS).

30. ARFF/ARM workers do not meet the minimum qualifications under Sections 7-33-4106 and 7-33-4107, MCA in order to meet the definition of "firefighter" as defined under 19-13-104(5), MCA. Specifically, they do not meet the

minimum statutory prerequisites and qualifications under Sections 7-33-4106 and 7-33-4107, MCA.

31. ARFF/AFM workers are not appointed or nominated into their position by the City of Billings Mayor or the City Administrator nor does the Billings City Council consent to the appointment of any ARFF/ARM worker as required by Sections 19-13-104(5), (6), (10), and 7-33-4106, MCA.

32. ARFF/AFM candidates are not required to complete a physical/medical examination prior to being considered for employment by the Airport as required by Sections 19-13-104(5), (6) and (10), and 7-33-4107(5), MCA. In addition, ARFF/AFM candidates are not required to pass a psychological evaluation to determine if the applicant is free from any mental condition that might adversely affect the applicant's performance of the duties of a firefighter. *Id.*

33. For the reasons stated above, ARFF/AFM workers are being properly classified and reported by the City of Billings as PERS covered employees as they do not meet the statutory definition of "firefighter" under 19-13-104(5), MCA of FURS.

DATED this 1st day of February 2021.

MONTANA PUBLIC EMPLOYEES'
RETIREMENT BOARD

/s/ Sheena Wilson
SHEENA WILSON, PRESIDENT

/s/ Maggie Peterson
MAGGIE PETERSON, VICE PRESIDENT

/s/ Robyn Driscoll
ROBYN DRISCOLL

/s/ Dave Severson
DAVE SEVERSON

/s/ Aaron Pratt
AARON PRATT

/s/ Terri Hogan
TERRI HOGAN

NOTICE: Petitioner has the right to appeal this ruling by filing a petition for judicial review in district court within 30 days after service of this decision. Judicial review is conducted pursuant to § 2-4-702, MCA.

CERTIFICATE OF MAILING

The undersigned hereby certifies that on the 1st day of February 2021, a true and correct copy of the foregoing was served by placing same in the U.S. mail, postage prepaid, addressed as follows:

Gina Dahl
Assistant City Attorney
City of Billings
P.O. Box 1178
Billings, Montana 59103

George A. Richards, President
Montana State Firemen's Association
200 N. Montana Avenue
Helena, Montana 59601

Ricky J. Walsh
IAFF 7th District VP
P.O. Box 5604
West Richland, WA 99353

/s/ Kris Vladic
KRIS VLADIC
Program Specialist

NOTICE OF FUNCTION OF ADMINISTRATIVE RULE REVIEW COMMITTEE

Interim Committees and the Environmental Quality Council

Administrative rule review is a function of interim committees and the Environmental Quality Council (EQC). These interim committees and the EQC have administrative rule review, program evaluation, and monitoring functions for the following executive branch agencies and the entities attached to agencies for administrative purposes.

Economic Affairs Interim Committee:

- Department of Agriculture;
- Department of Commerce;
- Department of Labor and Industry;
- Department of Livestock;
- Office of the State Auditor and Insurance Commissioner; and
- Office of Economic Development.

Education and Local Government Interim Committee:

- State Board of Education;
- Board of Public Education;
- Board of Regents of Higher Education; and
- Office of Public Instruction.

Children, Families, Health, and Human Services Interim Committee:

- Department of Public Health and Human Services.

Law and Justice Interim Committee:

- Department of Corrections; and
- Department of Justice.

Energy and Telecommunications Interim Committee:

- Department of Public Service Regulation.

Revenue and Transportation Interim Committee:

- Department of Revenue; and
- Department of Transportation.

State Administration and Veterans' Affairs Interim Committee:

- Department of Administration;
- Department of Military Affairs; and
- Office of the Secretary of State.

Environmental Quality Council:

- Department of Environmental Quality;
- Department of Fish, Wildlife and Parks; and
- Department of Natural Resources and Conservation.

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

- Department of Environmental Quality;
- Department of Fish, Wildlife and Parks; and
- Department of Natural Resources and Conservation.

These interim committees and the EQC have the authority to make recommendations to an agency regarding the adoption, amendment, or repeal of a rule or to request that the agency prepare a statement of the estimated economic impact of a proposal. They also may poll the members of the Legislature to determine if a proposed rule is consistent with the intent of the Legislature or, during a legislative session, introduce a bill repealing a rule, or directing an agency to adopt or amend a rule, or a Joint Resolution recommending that an agency adopt, amend, or repeal a rule.

The interim committees and the EQC welcome comments and invite members of the public to appear before them or to send written statements in order to bring to their attention any difficulties with the existing or proposed rules. The mailing address is P.O. Box 201706, Helena, MT 59620-1706.

HOW TO USE THE ADMINISTRATIVE RULES OF MONTANA AND THE MONTANA ADMINISTRATIVE REGISTER

Definitions:

Administrative Rules of Montana (ARM) is a looseleaf compilation by department of all rules of state departments and attached boards presently in effect, except rules adopted up to three months previously.

Montana Administrative Register (MAR or Register) is an online publication, issued twice-monthly, containing notices of rules proposed by agencies, notices of rules adopted by agencies, and interpretations of statutes and rules by the Attorney General (Attorney General's Opinions) and agencies (Declaratory Rulings) issued since publication of the preceding Register.

Use of the Administrative Rules of Montana (ARM):

Known
Subject

1. Consult ARM Topical Index.
Update the rule by checking recent rulemaking and the table of contents in the last Montana Administrative Register issued.

Statute

2. Go to cross reference table at end of each number and title which lists MCA section numbers and department corresponding ARM rule numbers.

RECENT RULEMAKING BY AGENCY

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies that have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through September 30, 2020. This table includes notices in which those rules adopted during the period August 28, 2020, through January 29, 2021, 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 September 30, 2020, 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 2020 or 2021 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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