

# MONTANA ADMINISTRATIVE REGISTER

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PAGES 889-970



# MONTANA ADMINISTRATIVE REGISTER

## ISSUE NO. 14

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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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) 438-6122.

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BEFORE THE DEPARTMENT OF NATURAL RESOURCES  
AND CONSERVATION OF THE STATE OF MONTANA

In the matter of the adoption of New     ) NOTICE OF PUBLIC HEARING ON  
Rule I relating to the Categorical     ) PROPOSED ADOPTION  
Exclusion of the State Revolving     )  
Fund Grant Issuance Under the     )  
Montana Environmental Policy Act     )

To: All Concerned Persons

1. On August 17, 2021, at 1:00 p.m., the Department of Natural Resources and Conservation (department) will hold a public hearing in the C.M. Russell Room, located at 1539 Eleventh Avenue, Helena, MT, second floor, and via Zoom, to consider the proposed adoption of the above-stated rule.

The Zoom information is as follows:

Topic: Hearing on Proposal Notice MAR No. 36-22-212

Time: Aug 17, 2021 01:00 PM Mountain Time (U.S. and Canada)

Join Zoom Meeting

<https://mt-gov.zoom.us/j/86936312252?pwd=OGRiR3ZMUkIGU FNwZUswTStFM1QvZz09>

Meeting ID: 869 3631 2252

Password: 982750

Dial by Telephone

+1 646 558 8656 or +1 406 444 9999

Meeting ID: 869 3631 2252

Password: 982750

Find your local number: <https://mt-gov.zoom.us/j/86936312252>

Join by SIP

86936312252@zoomcrc.com

Join by H.323 (Polycom)

162.255.37.11##86936312252

2. The department 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 no later than 5:00 p.m. on August 13, 2021, to advise us of the nature of the accommodation that you need. Please contact Autumn Coleman, Department of Natural Resources and Conservation, 1539 Eleventh Avenue, Helena, MT 59601, 406-444-6687; or email [autumn.coleman@mt.gov](mailto:autumn.coleman@mt.gov).

3. The department proposes to adopt the following rule:

**NEW RULE I PROJECTS ELIGIBLE FOR CATEGORICAL EXCLUSION  
FROM MONTANA ENVIRONMENTAL POLICY ACT (MEPA) REVIEW**

(1) Except as provided in (2), a department action under Title 75, chapter 5, part 11, MCA, and this subchapter is excluded from the requirement to prepare an environmental assessment (EA) or environmental impact statement (EIS) if the application for department review is for any of the following grant, loan, and/or bond programs: state revolving fund, renewable resource, reclamation and development, rangeland, aquatic invasive species, American Rescue Plan Act of 2021, Pub. L. No. 117-2 (2021) (ARPA) and HB 632, 67th Legislature, 2021, water and sewer infrastructure. The exclusion in this rule includes the re-financing and interim financing of projects that are funded in whole or in part by the aforementioned grant, loan, and/or bond programs and includes:

(a) projects relating to existing infrastructure systems such as sewer and septic systems, drinking water supply systems, and stormwater systems, including combined sewer overflow systems, dams, culverts, headgates, canal lining, siphons, pipelines, pump sites, lift stations, irrigation infrastructure, that involve:

(i) minor upgrading;

(ii) minor expansion of system capacity;

(iii) rehabilitation (including functional replacement) of the existing system and system components; or

(iv) construction of new minor ancillary facilities adjacent to or on the same property as existing facilities; or

(b) replacing, repairing, and installation of fencing for protection of riparian area;

(c) projects in unsewered communities involving the replacement of existing on-site systems, provided that the new on-site systems do not result in substantial increases in the volume of discharges or in loadings of pollutants from existing sources, and do not relocate existing discharges;

(d) use of sampling and monitoring wells to test for the presence of contaminants such as, but not limited to, metals and petroleum; and

(e) activities that do not involve or lead directly to construction, such as planning studies, scientific research and analysis, surveys, or engineering.

(2) A categorical exclusion may not be granted for a department action under (1) if:

(a) the action would authorize facilities that will provide a new discharge or relocate an existing discharge to ground or surface waters;

(b) the action would result in an increase above permit levels established for the facility under the Montana pollutant discharge elimination system or Montana ground water pollution control system for either volume of discharge or loading rate of pollutants to receiving waters;

(c) the action would authorize facilities that will provide capacity to serve a population at least 30 percent greater than the existing population;

(d) the action is not supported by the state, or other regional growth plan or strategy;

- (e) the action directly or indirectly involves or relates to upgrading or extending infrastructure systems primarily for the purposes of future development;
- (f) the department has received information indicating that public controversy exists over the project's potential effects on the quality of the human environment; or
- (g) the department determines that the proposed project that is the subject of the state action shows some potential for causing a significant effect on the quality of the human environment, based on ARM 36.2.524, or might possibly affect:
  - (i) sensitive environmental or cultural resource areas; or
  - (ii) endangered or threatened species and their critical habitats.
- (3) The department shall document its decision to issue a categorical exclusion by referencing the application, providing a brief description of the proposed action, and describing how the action meets the criteria for a categorical exclusion in (1) without violating the criteria in (2).
- (4) The department may revoke a categorical exclusion if:
  - (a) the project is not initiated within the time period specified in the facility plan, or a new or modified application is submitted;
  - (b) the proposed action no longer meets the requirements for a categorical exclusion because of changes in the proposed action;
  - (c) new evidence demonstrates that serious local or environmental issues exist; or
  - (d) state, local, tribal, or federal laws may be violated.

AUTH: 76-14-116, 80-7-1018, 85-1-612, 90-2-1105, MCA, Section 43, House Bill 632, 67th Legislature, 2021

IMP: 76-14-102, 76-14-103, 76-14-111, 76-14-113, 76-14-114, 76-14-115, 80-7-1017, 80-7-1018, 85-1-601, 85-1-602, 85-1-605, 85-1-606, 85-1-608, 85-1-609, 85-1-610, 85-1-611, 85-1-612, 85-1-613, 85-1-614, 85-1-616, 85-1-617, 85-1-618, 85-1-619, 85-1-620, 85-1-621, 85-1-622, 85-1-624, 85-1-631, 90-2-1105, 90-2-1111, 90-2-1112, 90-2-1113, 90-2-1114, MCA, Sections 1 through 5, House Bill 632, 67th Legislature, 2021

**REASONABLE NECESSITY:** In 2009, the Montana Department of Environmental Quality (DEQ) adopted ARM 17.40.318, which categorically excludes certain state revolving fund projects from MEPA review. The department and DEQ work together on state revolving fund projects, but the department independently administers a part of the state revolving fund loan program. Additionally, the department administers grants for projects funded pursuant to ARPA and the 2021 Legislature's House Bill 632, as well as the renewable resource grant, loan and bond program, reclamation and development grant and loan program, the rangeland improvement loan program, and the aquatic invasive species grant program. As such, a categorical exclusion that applies to these department functions is required, as ARM 17.40.318 does not apply to the department. This proposed rule will bring the program into compliance with ARM and statute and provide clarity and guidance to the public and the program.

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 in writing to: Autumn Coleman, Department of Natural Resources and Conservation, 1539 Eleventh Avenue, Helena, MT 59601, 406-444-6687, autumn.coleman@mt.gov, and must be received no later than 5:00 p.m., August 23, 2021.

5. Autumn Coleman, Department of Natural Resources and Conservation, has been designated to preside over and conduct this hearing.

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 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 Department of Natural Resources and Conservation, PO Box 201601, 1539 Eleventh Avenue, Helena, MT 59620-1601; fax (406) 444-2684; e-mail dnrc\_publicinfo@mt.gov; or may be made by completing a request form at any rules hearing held by the department.

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 department has determined that the adoption of the above-referenced rule will not significantly and directly impact small businesses. Documentation of the board's above-stated determination is available upon request to the Department of Natural Resources and Conservation, Attn: Resource Development Bureau, P.O. Box 201601, 1539 Eleventh Avenue, Helena, MT 59620-1601.

/s/ Amanda Kaster  
Amanda Kaster  
Director  
Natural Resources and Conservation

/s/ Mark Phares  
Mark Phares  
Rule Reviewer

Certified to the Secretary of State July 13, 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 37.51.216 and 37.51.901 ) PROPOSED AMENDMENT  
pertaining to youth foster homes )

TO: All Concerned Persons

1. On August 12, 2021, at 10:00 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 rules. Interested parties may access the remote conferencing platform in the following ways:

(a) Join Zoom Meeting at: <https://mt-gov.zoom.us/j/81356270597>; meeting ID: 813 5627 0597; or

(b) Dial by telephone +1 646 558 8656; meeting ID: 813 5627 0597. Find your local number: <https://mt-gov.zoom.us/u/kKbStg8ts>.

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 August 6, 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](mailto:dphhslegal@mt.gov).

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

37.51.216 YOUTH FOSTER HOMES: NEGATIVE LICENSING ACTION

(1) The department, through written notice to the applicant, licensee, or potential emergency placement will deny, or revoke, ~~or restrict~~ a license or emergency placement upon finding that the applicant, licensee, or member of the applicant's or licensee's household has a conviction for any of the following types of crimes:

(a) through (4) remain the same.

AUTH: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

IMP: 2-4-631, 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

37.51.901 YOUTH FOSTER HOMES: ENVIRONMENTAL AND SAFETY REQUIREMENTS (1) through (16) remain the same.

~~(17) Foster children in the care or custody of the department may not participate in high risk activities including, but not limited to hunting, snowmobiling,~~

~~four-wheeling, or rock climbing without written consent of the department community social worker supervisor for the child who will determine if consent from the birth parents is needed. Foster parents caring for a child who is not in the care or custody of the department must work with the agency responsible for the child to ensure that permission to participate in high risk activities is obtained.~~

(17) Foster parents will exercise careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child. All foster parents shall use this standard when determining whether to allow a child in foster care, under the responsibility of the State, to participate in extracurricular, enrichment, cultural, and social activities.

AUTH: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

IMP: 52-1-103, 52-2-111, 52-2-601, 52-2-621, 52-2-622, MCA

#### 4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services Child and Family Services Division (department) is responsible for the licensure of all youth foster homes in the state of Montana. The department is directed by 52-1-103, MCA. Montana Administrative Rules (ARM) for licensing requirements must be in compliance with the Social Security Act (SSA) § 471 [42 U.S.C. 671] including sections (20)(A) and (24).

##### ARM 37.51.216

The proposed amendment to ARM 37.51.216 removes the word "restrict" from the negative licensing action rule based on the results of criminal background checks of foster care applicants or individuals living in the home. Removing the word "restrict" brings the rule into compliance with the mandates in the SSA 471 (20)(A). SSA does not allow for "restricting" a foster care license with certain criminal history and instead requires that the license is not granted.

##### ARM 37.51.901

The proposed amendments to ARM 37.51.901 update the language in the Montana foster care licensing rule to align with the requirements mandated in the Preventing Sex Trafficking and Strengthening Families Act of 2014 which requires the designated state authority or authorities to: (1) develop a reasonable and prudent parent standard for the child's participation in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities; and (2) apply this standard to any foster family home or child care institution receiving funds under title IV part E.

The department has developed reasonable and prudent parenting standards and has applied them in field practice and training for foster families but lack

administrative rules that require the standard be applied to any foster family home or child care institution receiving funds under title IV part E.

Fiscal Impact

The department expects there to be no fiscal impact.

The department intends for these proposed amendments to be effective retroactive to May 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](mailto:dphhslegal@mt.gov), and must be received no later than 5:00 p.m., August 20, 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 rules will not significantly and directly impact small businesses.

/s/ Caroline Warne  
Caroline Warne  
Rule Reviewer

/s/ Erica Johnston for  
Adam Meier, Director  
Public Health and Human Services

Certified to the Secretary of State July 13, 2021.

BEFORE THE DEPARTMENT OF PUBLIC SERVICE REGULATION  
OF THE STATE OF MONTANA

In the matter of the adoption of New Rule I regarding advanced metering opt-out ) AMENDED NOTICE AND  
) EXTENSION OF COMMENT  
) PERIOD ON PROPOSED  
) ADOPTION

TO: All Concerned Persons

1. On January 29, 2021, the Department of Public Service Regulation published MAR Notice No. 38-5-248 pertaining to the public hearing on the proposed adoption of the above-stated rule at page 111 of the 2021 Montana Administrative Register, Issue Number 2.

2. The Department of Public Service Regulation 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 Service Regulation no later than 5:00 p.m. on August 30, 2021, to advise us of the nature of the accommodation that you need. Please contact Loryn Johnson, Department of Public Service Regulation, 1701 Prospect Avenue, Helena, Montana, 59620-2601; telephone (406) 444-6170; fax (406) 444-7618; TDD/Montana Relay Service (406) 444-4212; or e-mail loryn.johnson@mt.gov.

3. On May 14, 2021, the Governor signed into law House Bill 606, which codified new definitions of "advanced metering device," "advanced meter," and "advanced metering gateway device." It also extended the deadline for the Public Service Commission (commission) to determine whether an opt-out program for advanced meters and/or advanced metering gateway devices should be established. The new deadline is July 1, 2022. The commission has determined that its proposed rule should be updated to align with the new statutory definitions for these terms.

4. The new rule as proposed to be adopted is being amended from the original proposal as follows, new matter underlined, deleted matter interlined:

NEW RULE I ADVANCED METERING OPT-OUT PROVISIONS (1) ~~An electric~~ Electric and natural gas utility utilities shall provide customers with the option to remove an installed advanced meter device and replace it with ~~a traditional~~ an alternative meter approved by the commission, or to decline installation of an advanced metering device and retain ~~a traditional~~ the existing meter, as guided by a cost-based, ~~tariffed~~ opt-out service tariff. An advanced metering device or advanced meter shall be defined as set forth in Montana Code Annotated. As used in this rule, "alternative meter" means all other meters that do not satisfy the definition of advanced metering device or advanced meter.

(2) Prior to installation of an advanced metering device, the utility shall give written notice to the customer at least 60 days in advance. Such notice shall clearly describe the opt-out process available to the customer and must include the following language: "Montana law allows customers to opt-out of the use of advanced metering devices according to terms and conditions set by the Montana Public Service Commission. No utility company can require the use of an advanced metering device. If you have questions about your opt-out rights, please contact the Montana Public Service Commission at 1-800-646-6150."

(3) The electric utility shall notify the customer of the following if a customer expresses interest in using ~~a traditional~~ an alternative meter:

(a) The customer will be required to pay the amount of the approved tariff charge determined by the commission, if applicable.

(b) The electric utility shall explain the facts concerning advanced meters and attempt to address any customer concerns prior to signing up a customer for advanced meter opt-out service. To the extent that the electric utility offers multiple options for the customer to obtain or retain either an advanced meter or ~~a traditional~~ an alternative meter, the utility shall explain each option and the ~~associated costs allowable charges, if any, and give allow~~ the customer ~~choice over~~ to choose from the options selection available.

(4) ~~The electric utility shall~~ Any utility whose deployment of advanced metering devices commenced prior to the effective date of this rule must submit a schedule and a proposed tariff within 180 days of the effective date of this rule. Any utility that begins deployment of advanced metering devices after the effective date of this rule must file a schedule and proposed tariff for opt-out service at least 120 days prior to the installation of advanced metering devices.

(5) When applying for approval of an opt-out service tariff, the A utility shall address circumstances unique to the utility in its tariff application, including what fees, if any, should be charged to recover costs, such as the cost of removing an existing advanced meter and the subsequent installation of a traditional an alternative meter, or costs associated with providing meter reading and billing services associated with the use of a traditional an alternative meter. Every initial or revised tariff submitted pursuant to this rule must describe all alternative meters available to customers and provide a reasonable estimate of costs associated with each alternative meter.

(6) To promote customer choice, every utility must identify at least one alternative to an advanced meter in every tariff submitted pursuant to this rule, for commission approval. If practicable, utilities should include at least one alternative meter that does not use radio waves or internet technology to measure, record, or send a customer's utility usage information. If a utility cannot provide such an alternative, the utility must state the reasons why, and the commission will examine all alternative metering options available.

AUTH: 69-2-101, 69-2-102, 69-3-103, 69-3-203, 69-3-321, 69-4-1001, 69-4-1002, 69-4-1003, 69-4-1004, MCA  
IMP: 69-4-1004, MCA

The statement of reasonable necessity is being amended as follows, new matter underlined, deleted matter interlined:

REASON: In 2019, the Montana Legislature adopted House Bill 267, which was later codified as 69-4-1001 through 69-4-1004, MCA. In 2021, the Montana Legislature adopted House Bill 606, which codified new definitions of "advanced metering device," "advanced meter," and "advanced metering gateway device." Section 69-4-1004(2), MCA requires that the department adopt rules providing options and requirements for individual customers to opt out of advanced metering installation. The department received comments from affected parties; held two virtual public listening sessions on September 30, 2020 and October 7, 2020; and received written public comment prior to compiling this proposed rule. Based on those comments and the passage of House Bill 606, it is reasonably necessary to create a process for electric and natural gas utilities to institute opt-out programs through tariffs approved by the commission. Notice of the opt-out right and information about alternatives to advanced meters are also reasonably necessary to provide a meaningful opt-out right. This proposed rule is reasonably necessary to implement the opt-out program.

5. Comments based on the original Notice of Proposed Adoption will be considered by the commission, and do not need to be resubmitted in response to this Amended Notice of Proposed Adoption. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Loryn Johnson, Department of Public Service Regulation, 1701 Prospect Avenue, Helena, Montana, 59620-2601; telephone (406) 444-6170; fax (406) 444-7618; TDD/Montana Relay Service (406) 444-4212; or by e-mail to [loryn.johnson@mt.gov](mailto:loryn.johnson@mt.gov); and must be received no later than 5:00 p.m., August 30, 2021.

6. The Montana Consumer Counsel, 111 North Last Chance Gulch, Suite 1B, Helena, MT 59620-1703, telephone (406) 444-2771, is available and may be contacted to represent consumer interests in this matter.

/s/ Luke Casey

Luke Casey  
Rule Reviewer

/s/ James Brown

James Brown  
Chair  
Public Service Commission

Certified to the Secretary of State July 13, 2021.

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING ON
ARM 42.2.613, 42.2.621, 42.39.102,	)	PROPOSED AMENDMENT AND
42.39.106, 42.39.108, 42.39.117,	)	REPEAL
42.39.119, 42.39.310 and the repeal	)	
of ARM 42.39.101 pertaining to the	)	
Montana Medical Marijuana Program	)	
(MMP)	)	

TO: All Concerned Persons

1. On August 13, 2021, at 9:00 a.m., the Department of Revenue (department) will hold a public hearing in the auditorium of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana to consider the proposed amendment and repeal of the above-stated rules.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, please advise the department of the nature of the accommodation needed, no later than 5 p.m. on July 30, 2021. 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).

3. GENERAL STATEMENT OF REASONABLE NECESSITY. The 67th Montana Legislature enacted House Bill 701 (HB 701) which adopts, revises, or repeals multiple requirements relating to the Marijuana Regulation and Taxation Act, 16-12-101, et. seq., MCA (Act) and the Medical Marijuana Act, 50-46-301, MCA, et. seq. Among the numerous provisions in HB 701 is the transfer of authority and operation of the Montana Medical Marijuana Program (MMP) from the Montana Department of Public Health and Human Services (DPHHS) to the department.

As a preliminary step to this rulemaking, the department transferred MMP administrative rules from ARM Title 37, chapter 107, subchapters 1, 2, and 4 to ARM Title 42, chapter 39, subchapters 1 through 3, under MAR Notice No. 42-1030, effective July 2, 2021. MMP testing laboratories rules located in ARM Title 37, chapter 107, subchapter 3, remain with DPHHS, however, because operation of the state laboratory is not exclusive to the Act or MMP, notwithstanding the laboratory's regulatory authority involving the Act and MMP.

This rulemaking package is necessary to support the department's new Cannabis Control Division and provides necessary procedural guidance for MMP stakeholders and the department for license application and general licensing matters, information reporting requirements, and regulatory compliance provided for in HB 701. Amendments such as those proposed in ARM 42.2.613 and 42.2.621 are necessary to add MMP contested case matters to the department's existing

dispute resolution processes under the Montana Administrative Procedure Act (MAPA).

The department proposes minor amendments to: (1) remove superfluous definitions or where the definition may be inconsistent with statute; (2) improve clarity of licensing processes and licensed premises requirements; and (3) improve general rule verbiage. These amendments do not impose additional requirements but clarify what is required of a licensee better than the text of existing rules.

Based on each rule's respective proposed amendments, the department must renumber rule subsections, where applicable.

Lastly, the department proposes to update the authorizing and implementing statutes for the rules, where applicable, which is required under MAPA.

While this general statement of reasonable necessity covers the basis for the proposed rule amendments and repeals, it is supplemented below to explain rule-specific proposals.

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

42.2.613 DEFINITIONS The following definitions apply to rules found in this subchapter.

(1) through (3) remain the same.

(4) "Form APLS101F" is a document titled Request for Informal Review that is available at ~~revenue.mt.gov~~ mtrevenue.gov for use by a person or other entity to file a written objection with the ~~Department of Revenue~~ department for issues concerning the first notice of a tax adjustment.

(5) "Form APLS102F" is a document titled Notice of Referral to the Office of Dispute Resolution that is available at ~~revenue.mt.gov~~ mtrevenue.gov for use by a person or other entity to appeal an informal review determination to the ODR.

(6) "Form CAB-8" is a document titled Request for Informal Review for Centrally Assessed Companies that is available at ~~revenue.mt.gov~~ mtrevenue.gov for use by a centrally assessed company to appeal a first notice of tax assessment or classification.

(7) "Form CAB-9" is a document titled Notice of Referral to the Office of Dispute Resolution for Centrally Assessed Companies that is available at ~~revenue.mt.gov~~ mtrevenue.gov for use by a centrally assessed company to appeal an informal review determination to the ODR.

(8) through (12) remain the same.

(13) "Marijuana matters" means disputes arising from the department's administration of the Montana Marijuana Regulation and Taxation Act (Title 16, chapter 12, MCA, and Title 50, chapter 46, MCA). Marijuana matters are contested cases conducted pursuant to the Montana Administrative Procedure Act, Title 2, chapter 4, part 6, MCA. Marijuana matters are not subject to the dispute resolution procedures established by 15-1-211, MCA.

(13) through (19) remain the same but are renumbered (14) through (20).

AUTH: 15-1-201, 15-1-211, 50-46-344, MCA;



IMP: 15-1-211, 50-46-344, MCA

REASONABLE NECESSITY: In addition to the general statement of reasonable necessity, the department proposes to amend ARM 42.2.613 to add a definition for "marijuana matters" to reflect statute that any marijuana matter in dispute is a contested case proceeding under MAPA. The definition is worded identically to the description of liquor matters, which also involve the department and are contested case proceedings under MAPA.

The department also proposes amendments to update the department's website address which has changed, and also to update a department reference in (4) for consistency with the Gregg Reference Manual, which is the style manual adopted for drafting administrative rules.

42.2.621 FINAL AGENCY DECISION AND APPEAL (1) remains the same.

(2) The director delegates to the ODR the authority to issue a FAD on liquor licensing protests, marijuana matters, bad debt matters, tax matters, and collection matters. The delegation to issue a FAD applies only to matters referred to the ODR.

(3) An FAD on liquor matters, marijuana matters, liquor licensing protests, and bad debt matters may be appealed to the district court by filing a petition for judicial review within 30 days after service of the FAD.

(4) An FAD on a tax matter or collection matter may be appealed to the state Montana Tax Appeal Board as provided in 15-2-302, MCA, by filing an appeal within 30 days following receipt of the FAD.

(5) remains the same.

AUTH: 15-1-201, 15-1-211, 15-1-217, 16-1-303, 50-46-344, MCA

IMP: 2-4-621, 2-4-623, 2-4-631, 2-15-112, 2-15-1302, 15-1-211, 15-2-302, 16-4-411, 50-46-344, MCA

REASONABLE NECESSITY: In addition to the general statement of reasonable necessity, the department proposes to amend ARM 42.2.621(2) to add marijuana matters to the disputes referred to the department's Office of Dispute Resolution (ODR) for disposition of a Final Agency Decision (FAD). The addition of marijuana matters to (3) reflects the option for an aggrieved person under an FAD to file a petition for judicial review of the decision in district court.

The department also proposes amendments to correct the name of the state tax appeal board which officially changed under Senate Bill 205 enacted by the 2021 Legislature.

42.39.102 DEFINITIONS The following definitions apply to this chapter:

(1) ~~"Applicant" means a person applying to become a provider, marijuana-infused products provider (MIPP), or registered cardholder.~~

(2) (1) "Authorized employee" means:

(a) an employee of the department who has received written authorization from the ~~Department of Public Health and Human Services~~ department director or the director's designee to obtain individual names and other identifying information from the marijuana registry;

(b) and (c) remain the same.

(3) through (5) remain the same but are renumbered (2) through (4).

~~(6)~~ (5) "Child resistant" means packaging designed or constructed to be significantly difficult for children under five years of age to open and not difficult for adults to use properly. The standard for child-resistant packaging is set by the federal consumer product safety commission (CPSC) and the testing procedures found in 16 CFR 1700.20 (2012).

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

~~(8) "Department" means the Department of Public Health and Human Services.~~

(9) and (10) remain the same but are renumbered (7) and (8).

~~(11) "Financial interest" means any interest or ownership in the business or entity.~~

(12) through (14) remain the same but are renumbered (9) through (11).

~~(15) "ISO" means International Organization for Standardization.~~

~~(16)~~ (19) "Landlord Property owner permission form" means a completed, signed, and notarized form which gives a registered cardholder, applicant, or licensee who is renting or leasing the property where marijuana will be cultivated and manufactured for medical purposes, permission to do so, by the property owner. The form must be provided by the department.

(17) through (22) remain the same but are renumbered (12) through (17).

~~(23)~~ (18) "Proof of residency" means a readable photocopy of a current Montana driver's license ~~or~~, Montana state-issued identification card, or tribal identification card.

~~(24)~~ (20) "Registered premises" means the premises specified in an application for a license that is owned or in possession of the licensee and ~~within which~~ where the licensee is authorized to cultivate, manufacture, dispense, store, transport, or test medical marijuana.

(25) through (28) remain the same but are renumbered (21) through (24).

AUTH: 50-46-344, MCA

IMP: 50-46-303, 50-46-307, 50-46-308, 50-46-310, 50-46-318, 50-46-344, MCA

REASONABLE NECESSITY: In addition to the general statement of reasonable necessity, the department proposes to amend ARM 42.39.102 to add an introductory statement and clarify that the definitions apply to the entire chapter. The department proposes to remove the following definitions: current (1) and (8) because they are unnecessary; current (11) because the definition is inconsistent with the same definition provided in 50-46-302, MCA; and current (15) because it applies to the laboratory testing rules which remain with DPHHS.

The department is amending proposed (18) to include official tribal IDs as an acceptable form of identification to document residency under the Act or MMP; and amending proposed (19) because the term "landlord" is not specific to the property owner and the department requires the property owner to provide permission, via a department form, for a licensee to conduct marijuana-related business activities on a registered premises that is leased from the property owner.

42.39.106 REGISTERED CARDHOLDER APPLICATION PROCESS

(1) and (2) remain the same.

(3) A complete application must include the required fee, statements, and forms required in the application packet to be accepted and processed by the department. Any documents submitted electronically must be uploaded in a format that the department is able to access and view.

(4) and (5) remain the same.

~~(6) The department will approve or deny an application within 30 calendar days of receiving a complete application.~~

~~(7) A registered cardholder may not purchase, grow, or possess marijuana items prior to the effective date of the registration card.~~

~~(8)~~ (6) Any denial under this part is subject to judicial review a contested case hearing before the department's Office of Dispute Resolution, as provided for under ARM 42.2.621.

(9) remains the same but is renumbered (7).

~~(10)~~ (8) An applicant must designate either a licensed provider or licensed marijuana-infused products provider, unless the registered cardholder intends to cultivate or manufacture marijuana for their own use under 50-46-303, MCA. If the registered cardholder intends to cultivate or manufacture marijuana for their own use, a ~~landlord~~ property owner permission form must also be submitted, if applicable.

AUTH: 50-46-344, MCA

IMP: 50-46-303, 50-46-307, 50-46-310, 50-46-344, MCA

REASONABLE NECESSITY: In addition to the general statement of reasonable necessity, the department proposes to amend ARM 42.39.106(3) to reference optional electronic submission of applications and supporting documents for registration, which is consistent with current department business practices.

The department proposes to eliminate current (6), because it unnecessarily restates the law, and current (7), because it is inconsistent with personal cultivation of marijuana found in 16-12-106, MCA. The department amends proposed (6) to reflect that any marijuana matter in dispute is a contested case proceeding under MAPA and to provide the cross-reference to ARM 42.2.621 for improved guidance.

The department amends proposed (8) which is necessary for consistency with the revised definition of property owner permission form described in proposed (19) of ARM 42.39.102.

42.39.108 FEES (1) A cardholder applicant must submit to the department, with the initial application and renewal application, an application fee of \$30.

(2) A provider license applicant must submit to the department the following fees with the initial application and renewal application:

(a) remains the same.

(b) marijuana-infused product provider fee of \$500 per registered premises;

or

(c) chemical manufacturing endorsement fee of \$100; ~~or~~

(d) ~~custodial parent or legal guardian provider fee of \$100.~~

(3) and (4) remain the same.

(5) All fees must be submitted with the application and must be made payable to the Department of ~~Public Health and Human Services Revenue~~. ~~Cash is not accepted at the Medical Marijuana Program office and must be delivered to the Business and Financial Services Division (BFSD).~~

(6) remains the same.

AUTH: 50-46-344, MCA

IMP: 50-46-344, MCA

REASONABLE NECESSITY: In addition to the general statement of reasonable necessity, the department proposes to remove ARM 42.39.108(2)(d) as obsolete given the use of canopy license options for parents of minors, and proposes to amend (5) to reflect the department as the statutory agency operating the MMP.

42.39.117 DENIAL OF REGISTRY IDENTIFICATION CARD APPLICATION OR REVOCATION OF REGISTRY IDENTIFICATION CARD (1) The department, after written notice to the applicant or registered cardholder, may deny or revoke an application or registry identification card if:

(a) through (h) remain the same.

(i) the department is notified in writing by a ~~landlord~~ property owner revoking permission under 50-46-307, MCA;

(j) the applicant or registered cardholder did not report changes to the department in accordance with ARM ~~37.107.415~~ 42.39.311;

(k) the registry identification card has been found to be altered or manipulated in any way; ~~or~~

(l) the cardholder violates the daily possession or purchase limitations contained in 50-46-319; or

(h) (m) the registered cardholder is found to be in violation of any provision ~~any violations otherwise~~ under Title 50, chapter 46, part 3, MCA ~~have occurred.~~

(2) Any denial or revocation under this part is subject to ~~judicial review a~~ contested case hearing before the department's Office of Dispute Resolution, as provided under ARM 42.2.621.

AUTH: 50-46-344, MCA

IMP: ~~Section 35, Ch. 419, L. 2011, 45-9-203, 50-46-303, 50-46-308, 50-46-319, 50-46-320, 50-46-344, 61-11-101, MCA~~

REASONABLE NECESSITY: In addition to the general statement of reasonable necessity, the department proposes to amend ARM 42.39.117(1)(i) to reflect the change of landlord to property owner, which is consistent with the amendment described in proposed (19) of ARM 42.39.102. The department proposes inserting (1)(l) to notify registered cardholders that it is a revocable offense against a registry card for marijuana or marijuana-infused products to be re-sold by cardholders who abuse the daily purchase or possession limits. The department

proposes to amend proposed (1)(m) for consistency with similar requirements found in proposed ARM 42.39.119(1)(o).

The department also proposes to amend (2) to reflect that any marijuana matter in dispute is a contested case proceeding under MAPA and to provide the cross-reference to ARM 42.2.621 for improved guidance.

42.39.119 DENIAL OR REVOCATION OF APPLICATION, LICENSE, OR ENDORSEMENT (1) The department, after written notice to the applicant or licensee, may deny or revoke an application, license, or endorsement if:

(a) through (d) remain the same.

(e) the department is notified in writing by a ~~landlord~~ property owner revoking permission under 50-46-308, MCA;

(f) the applicant or licensee is found to be in violation of 50-46-308, 50-46-311, ~~and or~~ 50-46-312, MCA;

(g) through (i) remain the same.

(j) the applicant or licensee did not report changes to the department in accordance with ~~ARM 37.107.415~~ 42.39.311;

(k) remains the same.

(l) the applicant is not in substantial compliance with any other licensing requirements established by this chapter; ~~or~~

(m) the provider or a provider's employee sells, or attempts to sell, marijuana or marijuana items in excess of the allowable purchase limits provided in 50-46-319, MCA;

(n) the provider or a provider's employee sells, or attempts to sell, marijuana or marijuana items to a person who does not possess a valid registry identification card at the time of sale; or

(m) remains the same but is renumbered (o).

(2) Any denial or revocation under this part is subject to ~~judicial review a contested case hearing before the department's Office of Dispute Resolution, as provided under ARM 42.2.621.~~

(3) A person whose application has been denied ~~or a current licensee whose license has been revoked~~ may not reapply for at least six months from the date of denial or revocation.

AUTH: 50-46-344, MCA

IMP: 50-46-303, 50-46-308, 50-46-312, 50-46-329, 50-46-330, MCA

REASONABLE NECESSITY: In addition to the general statement of reasonable necessity, the department proposes to amend ARM 42.39.119(1)(e) to reflect the change of landlord to property owner, which is consistent with the amendment described in proposed (19) of ARM 42.39.102, and (1)(f) to correct the "and" verbiage to "or" to clarify that violations of all listed statutes are not required as a basis for an adverse action against an applicant or licensee.

The department proposes to amend (1)(m) and (n) to notify providers that it is a revocable offense against a provider's license for marijuana or marijuana-infused products to be re-sold by cardholders who abuse the daily purchase or possession limits.

The department also proposes to amend (2) to provide and confirm that any marijuana matter in dispute is a contested case proceeding under MAPA and to provide the cross-reference to ARM 42.2.621 for improved guidance.

42.39.310 WASTE MANAGEMENT (1) and (2) remain the same.

~~(3) The allowable method to render marijuana plant waste unusable is by grinding and incorporating the marijuana plant waste with other ground materials so the resulting mixture is at least fifty percent nonmarijuana waste by volume. Material used to grind with the marijuana falls into two categories: compostable waste and noncompostable waste. A licensee must render marijuana plant waste unusable by:~~

~~(a) grinding or otherwise rendering the waste unrecognizable and mixing it with at least 50 percent nonmarijuana waste by volume before disposal; or~~

~~(b) grinding, compacting, or chopping the waste into pieces smaller than three inches.~~

~~(a) (4) A licensee may create Compostable mixed waste is marijuana waste to be disposed as for~~ compost feedstock or in another organic waste method, such as an anaerobic digester, ~~mixed by mixing marijuana plant waste~~ with food waste, yard waste, or vegetable based grease or oils.

~~(b) (5) A licensee may create Noncompostable mixed waste is marijuana waste to be disposed in a landfill or another disposal method, such as an incinerator, mixed by mixing marijuana plant waste~~ with paper waste, cardboard waste, plastic waste, or soil.

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

~~(5) (7) A licensee must maintain accurate and comprehensive records regarding waste material in the seed-to-sale tracking system that accounts for, reconciles, and evidences all waste activity related to the disposal of marijuana to include:~~

~~(a) what was items~~ disposed;

~~(b) through (e)~~ remain the same.

~~(f) identity of the individual~~ who disposed the waste; and

~~(g)~~ remains the same.

~~(6) (8) A licensee must provide a minimum of 72 hours' notice in the seed-to-sale tracking system prior to rendering the marijuana item unusable and disposing of it.~~

AUTH: 50-46-344, MCA

IMP: 50-46-303, 50-46-308, 50-46-311, MCA

REASONABLE NECESSITY: In addition to the general statement of reasonable necessity, the department proposes to amend ARM 42.39.310 to improve organization of content by restructuring rule sections and to improve clarity of waste management compliance requirements by providing licensees with more detail and guidance.

5. The department proposes to repeal the following rule:

42.39.101 PURPOSE

AUTH: 50-46-344, MCA  
IMP: 50-46-301, 50-46-303, MCA

REASONABLE NECESSITY: In addition to the general statement of reasonable necessity, the department proposes to repeal ARM 42.39.101 because the rule understates, and is superfluous to, the purpose stated in 50-46-301, MCA.

6. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to: Todd Olson, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail [todd.olson@mt.gov](mailto:todd.olson@mt.gov) and must be received no later than 5:00 p.m., August 23, 2021.

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

8. The Department of Revenue maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request, which includes the name and e-mail or mailing address of the person to receive notices and specifies that the person wishes to receive notice regarding particular subject matter or matters. Notices will be sent by e-mail unless a mailing preference is noted in the request. A written request may be mailed or delivered to the person in number 6 above or faxed to the office at (406) 444-3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

9. An electronic copy of this notice is available on the department's web site at [www.mtrevenue.gov](http://www.mtrevenue.gov), or through the Secretary of State's web site at [sosmt.gov/ARM/register](http://sosmt.gov/ARM/register).

10. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor for HB 701, Representative Hopkins, was contacted by email on May 27, 2021, and on July 9, 2021.

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

/s/ Todd Olson  
Todd Olson  
Rule Reviewer

/s/ Scott Mendenhall  
Scott Mendenhall  
Deputy Director of Revenue

Certified to the Secretary of State July 13, 2021.

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the adoption of New	)	NOTICE OF PUBLIC HEARING ON
Rules I and II pertaining to marijuana	)	PROPOSED ADOPTION AND
provider canopy tier size increases	)	AMENDMENT
and the amendment of ARM	)	
42.39.123 pertaining to limitations on	)	
advertising	)	

TO: All Concerned Persons

1. On August 13, 2021, at 10:30 a.m., the Department of Revenue (department) will hold a public hearing in the auditorium of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana to consider the proposed adoption and amendment of the above-stated rules.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, please advise the department of the nature of the accommodation needed, no later than 5 p.m. on July 30, 2021. 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).

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

NEW RULE I PROVIDER AND MARIJUANA-INFUSED PRODUCTS PROVIDER TIER 10 THROUGH TIER 12 CANOPY LICENSE AND REGISTERED PREMISES REQUIREMENTS (1) Pursuant to 50-46-305, MCA, the department is authorized to create additional tiered canopy licenses for providers and marijuana-infused products providers that meet the statutory criteria. The additional tiered canopy licenses are as follows:

(a) A tier 10 canopy license that allows for a canopy of up to 30,000 square feet at up to seven registered premises. A minimum of 24,000 square feet must be equipped for cultivation.

(b) A tier 11 canopy license that allows for a canopy of up to 40,000 square feet at up to eight registered premises. A minimum of 31,000 square feet must be equipped for cultivation.

(c) A tier 12 canopy license that allows for a canopy of up to 50,000 square feet at up to nine registered premises. A minimum of 39,000 square feet must be equipped for cultivation.

AUTH: 50-46-305, MCA

IMP: 50-46-305, MCA



REASONABLE NECESSITY: The department proposes to adopt New Rule I to establish the square footage and premises requirements for the tiers 10 through 12 canopy licenses. The additional tiers and New Rule I are necessary because the department has been petitioned by a provider meeting the criteria under 50-46-305, MCA, to create the additional tiers by rule. The department also contends it is in the best interests of providers to create the additional tiers now to reduce administrative issues the department may confront once the majority of House Bill 701 (2021) (HB 701) amendments to the Montana Medical Marijuana Act, 50-46-301, et. seq., MCA, (Act) become effective on January 1, 2022. The department proposes to allow providers to apply to increase their canopy license upon adoption of the new rules which will be prior to January 1, 2022. The department proposes the stated canopy sizes because they are the same sizes established for cultivator canopy licenses under section 4, HB 701, and consistent canopy sizes are good for the department's administration of the Act.

NEW RULE II PROVIDER AND MARIJUANA-INFUSED PRODUCTS PROVIDER TIER 10 THROUGH TIER 12 CANOPY LICENSE ANNUAL FEE REQUIREMENTS (1) Annual fees for providers and marijuana-infused products providers for canopy license tiers 10 through 12 are:

- (a) \$27,000 for a tier 10 canopy license;
- (b) \$32,000 for a tier 11 canopy license; and
- (c) \$37,000 for a tier 12 canopy license.

AUTH: 50-46-344, MCA

IMP: 50-46-305, MCA

REASONABLE NECESSITY: The department proposes to adopt New Rule II which is necessary to support the creation of the new tiers 10 through 12 canopy licenses in New Rule I. The department proposes the stated canopy license fees because they are the same as the amounts established for cultivator canopy licenses under section 4, HB 701, and consistent license fee structures are good for the department's administration of the Act.

#### FISCAL IMPACT

Based on New Rules I and II, and in accordance with 2-4-302(1)(c), MCA, the department's proposed annual fee will have a fiscal impact, but that impact is somewhat indeterminable because the fiscal impact applies only to those providers and marijuana-infused products providers who meet the operational criteria and apply to upgrade to a higher canopy license. As of the date of this notice, the department is aware of fewer than five providers that have expressed an interest in upgrading their canopy tier.

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

42.39.123 ADVERTISING ~~(1) Prohibited activities include:~~

~~(a) the use of any written or verbal statements, photos, symbols, or depictions of marijuana or marijuana products, on any medium accessible to the general public; or~~

~~(b) the use of vocabulary or prices on any medium accessible to the general public that leads a reasonable person to believe that the term or prices used identifies or describes marijuana or marijuana products.~~

~~(2) A licensee may use the phrase "DPHHS Montana Medical Marijuana Program Licensed Provider" in its signage, on a website homepage, or on its promotional materials.~~

(1) A licensee may use the phrase "marijuana" or "cannabis" in its signage or in its electronic advertising.

(2) A licensee's advertising, including any outdoor signage, may not use colloquial terms for marijuana or marijuana products (e.g., pot, reefer, ganja, weed) or contain depictions, either in whole or in part, of marijuana plants, marijuana products, or marijuana paraphernalia. For purposes of this rule, "depiction" means:

(a) for marijuana plants: except as otherwise provided in (4), an image or visual representation of a cannabis leaf, plant, or the likeness thereof, that explicitly suggests or represents a cannabis leaf or plant.

(b) for marijuana products: an image or visual representation of useable marijuana, marijuana-infused products, marijuana concentrates, marijuana paraphernalia, or an image that indicates the presence of a product such as smoke, edibles, etc.

(3) All advertising must be in black font with white background and include in a type size at least ten percent of the largest type used in the advertisement:

(a) the phrase: "Licensed by the DOR Cannabis Control Division."

(b) text that states marijuana or marijuana products may be purchased or possessed only by persons 21 years of age or older.

(c) the following warnings:

(i) "This product has intoxicating effects and may become habit forming.";

(ii) "Marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug.";

(iii) "There may be health risks associated with consumption of this product.";  
and

(iv) "For use only by adults 21 years of age and older. Keep out of the reach of children."

(4) A licensee may use the department-provided image of a green cross, denoting a medical marijuana provider, in its advertising. The department will make the image available to licensees via its website.

(5) A marijuana business may display outdoor signage, not to exceed more than two separate signs for the licensed premises. A marijuana business' signage may only be located on the grounds of the licensed premises. Double-sided signs or signs with text visible on opposite sides are permissible and count as a single sign provided the sign is contained in, or affixed to, a single structure.

(a) Outdoor signage:

(i) may only identify the retail outlet by the licensee's business name or trade name;

(ii) must be affixed to a building or permanent structure and each sign is limited to 1,600 square inches in size;

(iii) must include the warning language provided for in (3)(c);

(iv) may state the business's website address, hours of operation, or phone number; and

(v) may not advertise discounts or sale items.

(6) A sign affixed to the licensed premises or in the window of a licensed premises may indicate whether the licensee is open for business, closed for business, the hours of operation, that the licensed premises has an ATM inside. Other informational signs not related to the products or services of the marijuana business are not considered advertising for the purposes of this rule.

(7) Advertising placed on outward-facing windows within the licensed premises must meet the requirements for outdoor advertising provided in this rule and does not count against the two-sign allowance.

(8) A marijuana business that advertises via webpage must utilize appropriate measures to verify that individuals visiting the webpage are over 21 years of age.

(9) A marijuana business may not:

(a) engage in advertising via marketing directed towards location-based devices, including, but not limited to cellular phones, unless users affirmatively opt in to receiving push notifications related to marijuana or marijuana-related products;

(b) utilize unsolicited pop-up or push-to advertising on the internet;

(c) engage in advertising on social media platforms such as Facebook, Twitter, Instagram, YouTube, TikTok, or Snapchat;

(d) advertise on television, radio, or in print such as newspapers, magazines, flyers, and mailers;

(e) engage in advertising or utilize signage that asserts its products are safe because they are tested by a licensed testing laboratory;

(f) sponsor a charitable, sports, or similar event;

(g) offer promotional items such as giveaways, coupons, and distribution of branded or unbranded merchandise;

(h) place or maintain, or cause to be placed or maintained, any sign or other advertisement or flyer for a marijuana business or marijuana product in a publicly accessible bathroom or on or in a private vehicle, public transit vehicle, public transit shelter, bus stop, taxi stand, transportation waiting area, airport, or any similar transit-related location;

(i) except as provided in (5), deploy outdoor signage, including billboards, flags, or banners;

(j) use objects such as toys or inflatables, movie or cartoon characters, or any other depiction or image likely to be appealing to youth, where the objects, images, or depictions indicate an intent to cause youth to become interested in the purchase or consumption of marijuana products; or

(k) use or employ a commercial mascot outside of, and in proximity to, a licensed marijuana business. A "commercial mascot" means a live human being, animal, or mechanical device used for attracting the attention of motorists and passersby so as to make them aware of marijuana products or the presence of a marijuana business. Commercial mascots include, but are not limited to, inflatable

tube displays, persons in costume, or wearing, holding, or spinning a sign with a marijuana-related commercial message or image, where the intent is to draw attention to a marijuana business or its products.

(10) The department's enforcement of the advertising restrictions provided under this rule shall begin on January 1, 2022.

AUTH: Section 3, Ch. 505, L. 2021; 50-46-341, 50-46-344, MCA  
IMP: 50-46-341, MCA

REASONABLE NECESSITY: The department proposes to amend ARM 42.39.123 which is necessary for the department to implement the provisions of House Bill 249 (2021)(HB 249) and its amendments to 50-46-341, MCA.

As an initial point, the existing rule implements advertising prohibitions found in 50-46-341, MCA, which apply to the Montana Medical Marijuana Act (Act). Prior to the passage of HB 249, the Act and this rule do not adequately address those activities that constitute prohibited advertising. For instance, HB 249 now allows medical marijuana businesses to engage in some electronic advertising activity which was previously prohibited. HB 249 also confirms the legislature's desire to severely curtail forms of advertising pertaining to the sale, cultivation, or manufacture of marijuana.

Because the department is now responsible for administering the entirety of Montana's marijuana regulatory framework for both medical and recreational use, as passed under the provisions of Initiative No. 190 (Nov. 3, 2020), House Bill 701 (2021), HB 249, and other relevant legislation, it is necessary for the department to strike the content in current (1) and (2) and propose medical marijuana advertising requirements which are consistent with the intent of the legislature and the Act, as amended.

Section 50-46-341(4), MCA, instructs the department to adopt rules to "clearly identify the activities that constitute advertising that are prohibited..." To implement these directives, the department proposes (1), (2), and (3) to list the specific criteria that all medical marijuana businesses must follow when engaging in the types of advertising that is allowed. The department believes the proposed restrictions address many of the areas authorized under HB 249. Section (3) specifically addresses circumstances in licensee advertising where required billboard or signage phrasing has been intentionally obscured through font and background color combinations.

Proposed (4) through (7) identify the signage requirements and allowances that will be permitted. The department believes these proposed advertising guidelines, including the use of the department-approved image, are necessary and fall within the department's authority and discretion delegated to it by the legislature under HB 249 and 50-46-341, MCA.

Proposed (8) requires a business that utilizes a website to verify that a person under the age of 21 does not access its contents, which is necessary and consistent with the other age-appropriate restrictions expressed throughout the Act. The department proposes (9)(a) through (c) to identify and specify the types of electronic advertising restrictions that remain in place, and (9)(d) through (k) to identify and specify the types of advertising activities that are prohibited.

Finally, the department proposes to include a provision in (10) that all marijuana businesses must be in compliance with the requirements of the rule by January 1, 2022. The department contends this accommodation is necessary and is advisable because it allows a reasonable period of transition for the industry to modify or terminate non-compliant advertising or wind down contractual advertising obligations with third-party advertising sources.

5. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to: Todd Olson, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail [todd.olson@mt.gov](mailto:todd.olson@mt.gov) and must be received no later than August 23, 2021.

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

7. The Department of Revenue maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request, which includes the name and e-mail or mailing address of the person to receive notices and specifies that the person wishes to receive notice regarding particular subject matter or matters. Notices will be sent by e-mail unless a mailing preference is noted in the request. A written request may be mailed or delivered to the person in number 5 above or faxed to the office at (406) 444-3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

8. An electronic copy of this notice is available on the department's web site at [www.mtrevenue.gov](http://www.mtrevenue.gov), or through the Secretary of State's web site at [sosmt.gov/ARM/register](http://sosmt.gov/ARM/register).

9. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor for HB 249, Representative Matt Regier, was contacted by email on June 7, 2021, and on July 9, 2021.

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the proposed adoption of New Rules I and II will not significantly and directly impact small businesses.

With regard to the requirements of 2-4-111, MCA, the department has determined that the proposed amendment of ARM 42.39.123 may significantly and directly impact small businesses, but any such significant or direct small business impact is attributable to the department through the implementation of the statutory advertising requirements of HB 249.

/s/ Todd Olson  
Todd Olson  
Rule Reviewer

/s/ Scott Mendenhall  
Scott Mendenhall  
Deputy Director of Revenue

Certified to the Secretary of State July 13, 2021.

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PROPOSED
ARM 42.12.111, 42.12.502,	)	AMENDMENT
42.12.503, and 42.12.504 pertaining	)	
to the Elimination of Competitive Bid	)	NO PUBLIC HEARING
Application Processing Fees	)	CONTEMPLATED

TO: All Concerned Persons

1. The Department of Revenue (department) proposes to amend the above-stated rules.

2. The department 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, please advise the department of the nature of the accommodation needed, no later than 5 p.m. on July 30, 2021. Please contact Todd Olson, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or todd.olson@mt.gov.

3. GENERAL STATEMENT OF REASONABLE NECESSITY. The department proposes to amend the above-stated rules to remove competitive bid processing fees and related cross-references. The department has made enhancements to the competitive bid application process, including the processing of the electronic forms, which has resulted in increased program efficiency. Since the amount of competitive bid application processing time has diminished significantly, the department believes the processing fee is no longer necessary. In accordance with 2-4-302(1)(c), MCA, the elimination of the competitive bid processing fee will have an estimated annual fiscal impact of approximately \$1,200, which is an average of the total processing fee revenue collected between 2018 and 2021, divided by the 45 applicants who paid the fee over that period.

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

42.12.111 PROCESSING FEES (1) through (3) remain the same.  
~~(4) The processing fee for a competitive bid form is \$100.~~  
(5) and (6) remain the same but are renumbered (4) and (5).

AUTH: 16-1-303, 16-4-105, 16-4-204, MCA  
IMP: 16-1-302, 16-1-303, 16-4-105, 16-4-201, 16-4-204, 16-4-303, 16-4-313,  
16-4-414, 16-4-420, MCA

42.12.502 PUBLISHING OF ALCOHOLIC BEVERAGE LICENSE  
AVAILABILITY (1) and (2) remain the same.

(3) The department shall publish the availability of the license once a week for four consecutive weeks in the newspaper of general circulation in the quota area. The publication notice shall include:

(a) through (c) remain the same.

~~(d) the processing fee;~~

(e) and (f) remain the same but are renumbered (d) and (e).

(4) The department has the right to cancel or amend a competitive bidding process at any time. If a competitive bidding process is cancelled, the department shall ~~refund the form processing fee and~~ notice the availability of the license, if applicable, in a future publication.

AUTH: 16-1-303, 16-4-105, 16-4-201, 16-4-204, 16-4-420, MCA

IMP: 16-4-105, 16-4-201, 16-4-204, 16-4-420, 16-4-430, MCA

42.12.503 RETAIL ALCOHOLIC BEVERAGE LICENSE COMPETITIVE BID FORMS (1) through (3) remain the same.

(4) A bidder will be disqualified from the competitive bidding process if:

(a) remains the same.

~~(b) the processing fee is not received on or before the deadline;~~

(c) through (g) remain the same but are renumbered (b) through (f).

~~(h) (g)~~ the irrevocable letter of credit fails to specify the license type and/or quota area.

AUTH: 16-1-303, 16-4-105, 16-4-201, 16-4-204, 16-4-420, MCA

IMP: 16-4-105, 16-4-201, 16-4-204, 16-4-401, 16-4-420, 16-4-430, MCA

REASONABLE NECESSITY: In addition to the general statement of reasonable necessity, the department proposes to amend ARM 42.12.503(4)(g) to remove the and/or provision because the department requires both informational items and the current rule text conveys an incorrect option for an applicant.

42.12.504 DETERMINATION OF SUCCESSFUL COMPETITIVE BIDDER AND SUBMISSION OF COMPLETED APPLICATION (1) through (5) remain the same.

~~(6) Failure to submit an application for licensure may result in a monetary penalty of no more than five percent of the bidder's bid amount.~~

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

~~(10) (9)~~ If the application for licensure is not approved or the license is forfeited pursuant to 16-4-430(7), MCA, the next highest bidder will be notified in writing. The next highest bidder will have two weeks to submit an irrevocable letter of credit for their bid amount if the original letter of credit was cancelled. The next highest bidder shall comply with the requirements of (5) through ~~(9)~~ (8) and 16-4-430(4), MCA.

AUTH: 16-1-303, 16-4-105, 16-4-201, 16-4-204, 16-4-420, MCA

IMP: 16-4-105, 16-4-201, 16-4-204, 16-4-420, 16-4-430, MCA



**REASONABLE NECESSITY:** In addition to the general statement of reasonable necessity, the department proposes to amend ARM 42.12.504 to remove the five percent bid amount penalty that could be imposed against a successful competitive bidder who fails to submit an application for licensure because unforeseen circumstances arise that prevent the successful competitive bidder from being able to move forward in the licensing process.

5. Concerned persons may submit their data, views, or arguments concerning the proposed action, in writing, to Todd Olson, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail [todd.olson@mt.gov](mailto:todd.olson@mt.gov) and must be received no later than August 24, 2021.

6. 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 the person named in #5 no later than 5:00 p.m., August 24, 2021.

7. 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. The number of hearing requests necessary for the department to conduct a public hearing is 12, which is approximately 10 percent of the number of licenses and competitive bid applicants impacted by these rule changes.

8. 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 different mailing preference is noted in the request. Such written request may be mailed or emailed to the contact person in #5.

9. An electronic copy of this notice is available through the Secretary of State's web site at [sosmt.gov/arm/register](http://sosmt.gov/arm/register).

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

/s/ Todd Olson  
Todd Olson  
Rule Reviewer

/s/ Brendan Beatty  
Brendan Beatty  
Director of Revenue

Certified to the Secretary of State July 13, 2021.

BEFORE THE CLASSIFICATION REVIEW COMMITTEE  
STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 6.6.8301 pertaining to )  
establishment, deletion, or revision of )  
classifications for various industries )  
for supplementing the NCCI Basic )  
Manual for Workers' Compensation )  
and Employers Liability Insurance )

TO: All Concerned Persons

1. On April 30, 2021, the Classification Review Committee published MAR Notice No. 6-263 pertaining to the proposed amendment of the above-stated rule at page 447 of the 2021 Montana Administrative Register, Issue Number 8.
2. The committee has amended the above-stated rule as proposed.
3. No comments or testimony were received nor was a public hearing requested.
4. The effective date of the amendment is November 1, 2021.

/s/ Robert Stutz  
Robert Stutz  
Rule Reviewer

/s/ Greg Roadifer  
Greg Roadifer  
Committee Chair

Certified to the Secretary of State July 13, 2021.

BEFORE THE FISH AND WILDLIFE COMMISSION  
OF THE STATE OF MONTANA

In the matter of the repeal of ARM        ) NOTICE OF REPEAL  
12.9.102 pertaining to the policy        )  
regarding the management of black        )  
bear    )

TO: All Concerned Persons

1. On April 16, 2021, the Fish and Wildlife Commission (commission) published MAR Notice No. 12-541 pertaining to the public hearing on the proposed repeal of the above-stated rule at page 389 of the 2021 Montana Administrative Register, Issue Number 7.

2. The commission has repealed the above-stated rule as proposed.

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

Comment 1: The commission received two comments in support of repealing ARM 12.9.102.

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

/s/ Aimee Hawkaluk  
Aimee Hawkaluk  
Rule Reviewer

/s/ Lesley Robinson  
Lesley Robinson  
Chair  
Fish and Wildlife Commission

Certified to the Secretary of State July 13, 2021.

BEFORE THE FISH AND WILDLIFE COMMISSION  
OF THE STATE OF MONTANA

In the matter of the adoption of NEW ) NOTICE OF ADOPTION  
RULES I through III pertaining to the )  
use of deer or elk urine to mask )  
human odor )

TO: All Concerned Persons

1. On April 16, 2021, the Fish and Wildlife Commission (commission) published MAR Notice No. 12-545 pertaining to the public hearing on the proposed adoption of the above-stated rules at page 391 of the 2021 Montana Administrative Register, Issue Number 7.

2. The commission has adopted the above-stated rules as proposed: New Rules I (12.6.1015), II (12.6.1016), and III (12.6.1017).

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

Comment 1: The commission received three comments in support of the proposed rules.

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

Comment 2: The commission received two comments opposing the use of natural scents regardless of the source because it would be difficult to detect and enforce misuse in the field.

Response 2: The adopted rule language allows products with the Archery Trade Association (ATA) and the Responsible Hunting Scent Association (RHSA) marking on the product packaging. The ATA/RHSA is clearly displayed on the packaging for the ease of consumers purchasing urine and glandular scents and for enforcement purposes.

Comment 3: The commission received one comment that provided several pages of apparently relevant literature on Chronic Wasting Disease and prions.

Response 3: The commission appreciates the additional information.

/s/ Aimee Hawkaluk  
Aimee Hawkaluk  
Rule Reviewer

/s/ Lesley Robinson  
Lesley Robinson  
Chair  
Fish and Wildlife Commission

Certified to the Secretary of State July 13, 2021.

BEFORE THE FISH AND WILDLIFE COMMISSION  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 12.11.6705 pertaining to the )  
implementation of the commercial )  
use cap on the Madison River )

TO: All Concerned Persons

1. On April 16, 2021, the Fish and Wildlife Commission (commission) published MAR Notice No. 12-546 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 395 of the 2021 Montana Administrative Register, Issue Number 7.

2. The commission has amended the above-state rule as proposed.

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

Comment 1: The commission received four comments in support of the rule proposal.

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

Comment 2: The commission received eight comments generally opposed to the extension of implementation, stating that delay may cause impacts to the resource.

Response 2: The commission cannot surmise the specific impacts to the resources implied by the comments. The commission considers all impacts pertinent to this rulemaking decision and all rulemaking decisions. The commission adopted the rule language in order to provide the Madison River Recreation Workgroup, established in ARM 12.11.6710, time to develop recommendations to the commission regarding the allocation of commercial use trips.

Comment 3: The commission received one comment to reduce the usage of outfitters by a further 20%.

Response 3: This comment falls outside of the scope of the rule proposal. On December 25, 2020, the commission adopted ARM 12.11.6705 capping the number of fishing outfitting and guided trips to the number of trips reported in 2019 and 2020, whichever is higher.

Comment 4: The commission received one comment urging monitoring of the river during the summer in order to place additional restrictions and to enforce restrictions.

Response 4: The department has begun monitoring traffic and use of access sites. Additionally, pursuant to ARM 12.11.6701, all persons recreating on the Madison River must provide information to the department regarding their use of the river.

Comment 5: The commission received two comments indicating a need for recreationists to pay to use either the Madison or other rivers in Montana.

Response 5: This comment falls outside of the scope of the rule proposal.

Comment 6: The commission received one comment to restrict the amount of tubing on the river.

Response 6: This comment falls outside of the scope of the rule proposal.

/s/ Rebecca Dockter  
Rebecca Dockter  
Rule Reviewer

/s/ Lesley Robinson  
Lesley Robinson  
Chair  
Fish and Wildlife Commission

Certified to the Secretary of State July 13, 2021.



BEFORE THE DEPARTMENT OF LIVESTOCK  
OF THE STATE OF MONTANA

In the matter of the amendment of        ) NOTICE OF AMENDMENT  
ARM 32.2.403 pertaining to                )  
diagnostic laboratory fees                 )

TO: All Concerned Persons

1. On May 28, 2021, the Department of Livestock published MAR Notice No. 32-21-317 regarding the proposed amendment of the above-stated rule at page 599 of the 2021 Montana Administrative Register, Issue Number 10.

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

3. No comments or testimony were received.

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 July 13, 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 37.8.102, 37.8.116, and )  
37.8.311 pertaining to fees for copies )  
of death certificates, the amendment )  
of birth certificate gender )  
designations, and issuance of a )  
replacement certificate )

TO: All Concerned Persons

1. On May 28, 2021, the Department of Public Health and Human Services published MAR Notice No. 37-945 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 608 of the 2021 Montana Administrative Register, Issue Number 10.

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

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

Comment #1: A commenter stated that requiring a surgical procedure to update a birth certificate is burdensome, has the potential to be medically unnecessary, and amounts to government overreach into medical decisions. The commenter opposes use of the term "sex" rather than "gender" within the proposed rules. The commenter acknowledges that Senate Bill (SB) 280 has become law, but objects to the proposed rule changes as being potentially unconstitutional. The commenter also questions what types of surgical procedures allow for the amendment of sex designation, whether the department is seeking to force surgical procedures, and how the rules will apply to persons with amended birth certificates who relocate to Montana.

Response #1: With the exception of cases of correcting a data entry error, SB 280 allows the department to amend the sex designation on a birth certificate only when it receives a certified copy of an order from a court with appropriate jurisdiction indicating that the sex of the person has been changed by surgical procedure. The department must follow this law and cannot adopt rules that conflict with the requirements of SB 280. These rules do not add any additional requirements to the amendment process beyond what is provided for under SB 280.

The rules use the term "sex" rather than "gender" to be consistent with the terminology used in SB 280 and the requirement for the department to amend the rules to be substantively the same as those in existence prior to adoption of MAR

Notice No. 37-807. These rules do not require a specific type of surgical procedure to amend the sex designation on a birth certificate. The requirement under SB 280 is for a court order indicating sex has been changed by a surgical procedure. The rules do not force any person to undergo a surgical procedure. The rules apply only to birth certificates issued within Montana.

Comment # 2: Several commenters provided comment in opposition to SB 280 and did not address the proposed rules.

Response #2: SB 280 was passed during the 67th Legislative Session and is now law in Montana. The department must follow this law and cannot adopt rules that conflict with the requirements of SB 280.

Comment # 3: A commenter stated that persons seeking to change the gender designation on a birth certificate should be required to go through district court just like a request for a name change.

Response #3: Under SB 280 and these rules, a court order is required for the sex designation on a birth certificate to be amended unless the amendment is made to correct a data entry error.

Comment #4: A commenter stated the proposed rule is "reminiscent of the treatment of 'undesirables' by the Nazis during WWII."

Response #4: The department disagrees. Please see the response to comment #1.

Comment #5: A commenter expressed opposition to the proposed rules and believes the motivation behind the rules is to harm transgender individuals.

Response #5: The department disagrees. As detailed in the statement of reasonable necessity, the department is proposing adoption of these rules to comply with the statutory requirements set forth under SB 280.

Comment #6: A commenter expressed opposition to SB 280, questioned the meaning of the term "surgical procedure" within the bill, and suggested the department make the proposed rules vague and indecipherable.

Response #6: SB 280 directs the department to amend its rules to be substantively the same as those in existence prior to adoption of MAR Notice No. 37-807. The rules as proposed meet the requirements of SB 280.

Comment #7: A commenter stated the department should mitigate the threat posed by SB 280 to transgender persons.

Response #7: Please see the response to comment #1.

Comment #8: A commenter expressed opposition to the proposed rules on several grounds. First, the commenter states requiring a surgical procedure is highly problematic because surgery is frequently cost-prohibitive, not widely available, and not all transgender individuals seek surgery as part of their transition. Second, the commenter states the proposed rules will result in inaccurate birth certificates and force individuals to disclose their private medical history and transgender status to others. Third, the commenter states the proposed rules will lead to inconsistency between federal- and state-issued identity documents because many federal agencies no longer require proof of surgery to amend the gender marker for identification documents such as U.S. passports and veteran ID cards. The commenter requests the department revise the rule to broaden the circumstances under which sex designation may be amended on a birth certificate. The commenter suggests the surgical procedure language be removed and that language be used allowing for amendment based upon a physician's letter stating that the individual has or is undergoing transition through "appropriate clinical treatment."

Response #8: With the exception of cases of correcting a data entry error, SB 280 allows the department to amend the sex designation on a birth certificate only when it receives a certified copy of an order from a court with appropriate jurisdiction indicating that the sex of the person has been changed by surgical procedure. The department must follow this law and cannot adopt rules that conflict with the requirements of SB 280. The department does not have the rulemaking authority to amend the rule in the manner proposed by the commenter.

Comment #9: A commenter stated that requiring a surgical procedure and court order to change the gender marker designation on a birth certificate is harmful to transgender, nonbinary, and two-spirit persons in Montana.

Response #9: Please see the response to comment #1.

Comment #10: A commenter expressed opposition to the proposed rules and urged they be rejected. The commenter indicated the rules demonstrate a lack of understanding of what it means to be transgender and will jeopardize the safety of transgender individuals. The commenter stated most individuals choose not to undergo gender confirmation surgery and deserve to have the identity that correctly reflects who they are. The commenter indicated gender identity is a matter between the individual and their physician in accordance with medical guidelines and should not be subject to any governmental interference.

Response #10: Please see the response to comment #1.

Comment #11: A commenter expressed opposition to the proposed rules and stated they will harm transgender, nonbinary, and two-spirit youth who are disproportionately impacted by mental illness and experience increased rates of suicide. The commenter stated use of correct pronouns and gender can decrease the risk of suicide among transgender youth. The commenter indicated transgender

youth do not undergo surgery and the rules will prevent transgender youth from having the correct birth certificate gender marker.

Response #11: Please see the response to comment #1.

Comment #12: A commenter indicated that sex and gender are determined by more than biology.

Response # 12: Please see the response to comment #1.

Comment #13: A commenter stated the proposed rules will negatively impact the lives of transgender persons in Montana by putting their safety at risk, increasing discrimination, and preventing individuals from updating their birth certificate to conform with their gender identity. The commenter stated the existing rule allowing gender designation on a birth certificate to be corrected through use of an affidavit has been in place for several years, aligns with federal standards, and has worked well in Montana.

Response # 13: Please see the response to comment #1.

Comment #14: A commenter stated requiring a surgical procedure to amend the sex designation on a birth certificate disproportionately impacts individuals with limited financial means and those who lack family support. The commenter stated the proposed rules do not account for persons who are intersex. The commenter also stated the rules prevent correct identity documentation and the matter of gender identity should be between the individual and their physician free of any governmental interference.

Response # 14: Please see the response to comment #1.

Comment #15: A commenter stated gender confirmation surgery is a highly personal decision and often cost-prohibitive. The commenter also stated the government should not interfere with how a person chooses to identify.

Response # 15: Please see the response to comment #1.

Comment #16: A commenter indicated the department should withdraw the proposed rules because they are harmful to transgender individuals and particularly those of limited income due to the barriers and costs associated with gender confirmation surgery.

Response # 16: Please see the response to comment #1.

Comment #17: A commenter indicated the department should withdraw the proposed rules. If the proposed rules are not withdrawn, the commenter stated the department should take measures to minimize the impact of the rules on transgender individuals. The commenter suggested the department institute an

online process that provides for virtual court appearances as part of the birth certificate amendment process.

Response #17: The proposed rules are necessary to comply with the requirements of SB 280. The department cannot require courts to provide for virtual appearances.

Comment #18: A commenter stated youth very rarely undergo surgery as part of the transition process and indicated the proposed rules do not take into account the availability of medical treatment as an alternative to surgery under best practice medical guidelines. The commenter also stated the proposed rules do not take into account gender marker changes for intersex persons. The commenter noted SB 280 and the proposed rules do not define the term "surgical procedure."

Response #18: Please see the response to comment #1.

Comment #19: A commenter stated the proposed rules impose unnecessary requirements for transgender individuals to update birth certificates. The commenter also stated the proposed rules will impact the safety of transgender individuals and have a disproportionate impact on minorities and persons in poverty. The commenter indicated the department has authority to reject the proposed rules and should do so.

Response #19: Please see the response to comment #1.

Commenter #20: A commenter indicated they share the same concerns expressed by other commenters in opposition to the proposed rules and urged the department to consider those who will be impacted by the proposed rule change.

Response #20: Please see the response to comment #1.

Comment #21: A commenter expressed concern that the proposed rules will limit the ability of transgender individuals to have identification documents that reflect their gender identity.

Response #21: Please see the response to comment #1.

Comment #22: A legislator provided comment in opposition to the proposed rules stating they are unconstitutional and inevitably will be challenged through litigation.

Response #22: Please see the response to comment #1.

Comment #23: A commenter indicated they share the same concerns expressed by other commenters in opposition to the proposed rules and urged the department to consider delaying implementation of the rules.

Response #23: Please see the response to comment #1.

Comment #24: The primary bill sponsor of SB 280 provided comment in support of the proposed rules. The commenter indicated the proposed rules meet the requirements of SB 280 and noted the bill was duly passed by the Montana Legislature.

Response #24: The department agrees the rules as proposed meet the requirements of SB 280.

4. These rule amendments are effective July 24, 2021.

/s/ Robert Lishman  
Robert Lishman  
Rule Reviewer

/s/ Erica Johnston for  
Adam Meier, Director  
Public Health and Human Services

Certified to the Secretary of State July 13, 2021.

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

In the matter of the adoption of	)	NOTICE OF ADOPTION OF
Temporary Emergency Rule I to allow	)	TEMPORARY EMERGENCY RULE
for COVID-19-related regulatory	)	
discretion beyond the expiration of	)	
the Governor-declared state of	)	
emergency	)	

TO: All Concerned Persons

1. The Department of Public Health and Human Services (department) is adopting the following emergency rule to optimize the department's, providers', and other stakeholders' continued response to COVID-19, and to ensure access to services and supports as the state transitions out of a state of emergency, which ended effective June 30, 2021.

2. During a state of emergency, 10-3-104(2)(a), MCA, grants the Governor the power to suspend regulatory statutes, orders, or state agency rules that "prevent, hinder, or delay necessary action in coping with the emergency ..." Governor Gianforte's February 12, 2021, "Directive Implementing Executive Order 2-2021" provided a number of COVID-19-related regulatory flexibilities to Montana health care providers and facilities, as well as other entities with regulatory relationships with the department. This directive also provided state law coordination with a number of federal COVID-19-related waivers for federal health and human service programs administered and/or regulated by the department. The department finds that the regulatory flexibilities available under these federal waivers remain necessary for Montana to effectively continue its response to the COVID-19 pandemic.

3. Because the process for the promulgation of administrative rules under the Montana Administrative Procedure Act (Title 2, chapter 4, MCA) is inflexible in terms of certain mandated timelines, the typical process for promulgating administrative rules to extend state law flexibilities to coordinate with the federal waivers would result in a situation where the department's ability to adequately respond to the pandemic would be temporarily disrupted. Some of these waivers, for example, are presently providing for extended telehealth capacity that allows for those individuals most at-risk of complications from a COVID-19 infection to access critical health care services from the safety of their own homes. The demand for health care practitioners and facilities needed to respond to the pandemic has put significant strain on a health care system where a majority of Montana counties already faced shortages of health care and mental health practitioners. Telehealth flexibilities have allowed providers and facilities to make sure that health care needs do not go unmet during a period of increased demand.



4. Another flexibility allows the department to apply Medicaid eligibility standards, methodologies, and procedures that are no more restrictive than those in effect on January 1, 2020, which is a prerequisite to the state receiving the 6.2 percentage point increase in federal Medicaid matching funds provided by the Families First Coronavirus Response Act (Public Law 116–127). An effective response to the ongoing, albeit diminished, COVID-19 pandemic requires that the department and its community partners be able to continue utilizing the full array of tools made available by Congress and the U.S. Department of Health and Human Services (HHS).

5. The Public Health Service Act (Public Law 78–410) was used to declare a federal public health emergency (PHE) in the entire United States on January 31, 2020. The PHE has been renewed at 90-day intervals on April 21, 2020, July 23, 2020, October 2, 2020, January 7, 2021, and April 15, 2021 (effective April 21, 2021). The department intends, using emergency rule where it has grants of rulemaking authority, to exercise regulatory discretion consistent with the federal COVID-19 waivers until the end of the month in which the Secretary of HHS declares that the PHE no longer exists or after a 90-day renewal period elapses and the PHE is not renewed.

For the foregoing reasons, the department adopts this emergency rule. This rule will remain in effect no longer than 120 days after the date of adoption.

6. EMERGENCY RULE I provides a statement of department intent to exercise regulatory discretion related to specific administrative rules of Montana to allow for a coordinated state and federal response to the COVID-19 pandemic. These definitions are also necessary to help health care providers, operators of facilities, and recipients of services understand that the federal COVID-19 waivers and flexibilities issued under federal law can be relied upon in this state without risk of adverse state regulatory or administrative action.

7. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who need an alternative accessible format of this notice. If you require an accommodation, contact Heidi Clark at the 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](mailto:dphhslegal@mt.gov).

8. The department intends to apply this emergency rule adoption retroactively to July 1, 2021.

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

**EMERGENCY RULE I EXERCISE OF REGULATORY DISCRETION DURING EMERGENCY** Throughout the pendency of the federal Public Health Emergency (PHE) declared pursuant to the Public Health Service Act (Public Law 78–410) and until the last day of the month in which the PHE is rescinded or expires,

unless otherwise prohibited by Montana state statute, the department will exercise regulatory discretion and waive strict compliance with the following categories of administrative rules to the limited extent that they conflict with the department's implementation of federal COVID-19-related guidance, waivers, or rules:

(1) Training, and other training-related annual recertification requirements in congregate care facilities:

(a) provisions of ARM Title 37, chapter 34, related to services of the developmental disabilities program and the home and community-based services program (HCBS);

(b) provisions of ARM Title 37, chapter 40, related to home and community-based services for elderly and physically disabled persons;

(c) provisions of ARM Title 37, chapter 97, related to the licensure of youth care facilities;

(d) provisions of ARM Title 37, chapter 100, related to community residences; and

(e) provisions of ARM Title 37, chapter 106, related to the licensure of health care facilities.

(2) Staffing-related licensing and certification requirements in congregate care facilities:

(a) provisions of ARM Title 37, chapter 40, related to home and community-based services for elderly and physically disabled persons;

(b) provisions of ARM Title 37, chapter 90, related to the home and community-based services waiver for adults with severe and disabling mental illness;

(c) provisions of ARM Title 37, chapter 97, related to the licensure of youth care facilities;

(d) provisions of ARM Title 37, chapter 100, related to community residences; and

(e) provisions of ARM Title 37, chapter 106, related to the licensure of health care facilities.

(3) Licensing and certification requirements related to permissible premises, settings, or construction standards in situations:

(a) provisions of ARM Title 37, chapter 97, related to the licensure of youth care facilities;

(b) provisions of ARM Title 37, chapter 100, related to community residences; and

(c) provisions of ARM Title 37, chapter 106, related to the licensure of health care facilities.

(4) Telehealth face-to-face requirements for the provision of medical services: ARM 37.27.102(9); ARM 37.27.902(2) and (3), to the extent that provider manuals require face-to-face interactions; ARM 37.27.517(1)(b); ARM 37.34.3005(2), to the extent the rates manual requires face-to-face interaction; ARM 37.40.702(8) and (9); ARM 37.40.805(1) through (3), to the extent Medicare normally requires face-to-face encounters; ARM 37.40.1005(4), to the extent this requires in-person meetings; ARM 37.40.1114(4), to the extent this requires in-person meetings; ARM 37.86.901(2); ARM 37.86.902(2)(b); ARM 37.86.3405(2); ARM 37.86.4402(1); ARM 37.87.703(1)(h), to the extent that home support services

require face-to-face interactions; ARM 37.87.903(7), to the extent the provider manual requires face-to-face interaction; ARM 37.87.1401(3)(a), to the extent this limits reimbursement for telephone contacts that exceed the number of reimbursed face-to-face contacts in a four-week period; ARM 37.87.1402(5); ARM 37.87.1410(6)(b); ARM 37.88.101(2), to the extent the provider manual requires face-to-face interaction; ARM 37.89.501(2); ARM 37.106.1916(5); ARM 37.106.1935(4); and ARM 37.106.2011(3), to the extent this requires in-person, in-home meetings.

(5) Any provision of ARM 37.82.205 and 37.84.107, to the extent that the rule would end any individual's eligibility for those enrolled as of March 18, 2020, through the end of the month in which the PHE ends, unless the individual ceases to be a state resident or requests a voluntary disenrollment.

(6) Licensing or certification requirements for congregate care facilities that require background checks:

(a) provisions of ARM 37.51.207 and 37.51.310, related to youth foster home license applications;

(b) provisions of ARM 37.40.1018(7), related to self-directed community first choice services providers;

(c) provisions of ARM 37.97.132 and 37.97.140, related to the licensure of youth care facilities;

(d) provisions of ARM 37.100.138(1) and (2) and ARM 37.100.165(5), related to community residences.

AUTH: 2-4-303, 50-5-103, 50-5-215, 52-2-111, 52-2-603, 53-2-201, 53-6-113, 53-6-402, 53-24-204, 53-24-208, 53-24-209, 53-24-215, MCA

IMP: 50-5-103, 50-5-202, 50-5-203, 50-5-204, 50-5-215, 52-2-603, 52-2-622, 53-2-201, 53-24-204, 53-24-209, 53-24-215, 53-6-101, 53-6-111, 53-6-113, 53-6-131, 53-6-142, 53-6-402, MCA

10. The rationale for the temporary emergency rule is set forth in paragraphs 1 through 6.

11. It is presently unknown whether a standard rulemaking procedure will be undertaken prior to the expiration of the temporary emergency rule. The necessity and efficacy of the emergency rule will be continuously evaluated as the effort to combat the COVID-19 pandemic in Montana develops.

12. 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 paragraph 7 or may be made by completing a request form at any rules hearing held by the department.

13. The bill sponsor contact requirements of 2-4-302, MCA, do not apply to this rulemaking. Special notice, pursuant to 2-4-303, MCA, was made to each member of the Children, Families, Health, and Human Services Interim Committee and each member of the committee staff using electronic mail on July 2, 2021.

/s/ Nicholas Domitrovich  
Nicholas Domitrovich  
Rule Reviewer

/s/ Adam Meier  
Adam Meier, Director  
Public Health and Human Services

Certified to the Secretary of State July 2, 2021.

BEFORE THE DEPARTMENT OF PUBLIC SERVICE REGULATION  
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF AMENDMENT AND
ARM 38.2.1203, 38.2.1205,	)	REPEAL
38.2.1209, 38.2.2403, and 38.2.4204,	)	
and the repeal of ARM 38.2.1204,	)	
38.2.2103, 38.2.2402, 38.2.2404,	)	
38.2.3906, and 38.2.4504, pertaining	)	
to Commission procedural rules	)	

TO: All Concerned Persons

1. On May 14, 2021, the Department of Public Service Regulation published MAR Notice No. 38-2-248 pertaining to the public hearing on the proposed amendment and repeal of the above-stated rules at page 545 of the 2021 Montana Administrative Register, Issue Number 9.

2. The department has amended the following rules as proposed: ARM 38.2.1203, 38.2.1205, and 38.2.1209.

3. The department has repealed the following rules as proposed: ARM 38.2.1204, 38.2.2103, 38.2.2402, 38.2.3906, and 38.2.4504.

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

38.2.4204 PREPARED TESTIMONY SUPPORTING EVIDENCE (1) Parties commencing an action should file prepared testimony or a fact sheet to establish the facts necessary for the commission to grant the requested relief. If no prepared testimony is filed with an initial pleading, the commission may set a deadline for any party commencing an action to file prepared testimony. The failure to timely file prepared testimony may result in the dismissal of the matter.

(2) In the discretion of the presiding officer, a witness's prepared testimony may:

- (a) be read into the record on direct examination;
- (b) be copied into the record without reading; or
- (c) be identified and offered as an exhibit.

(3) Prepared testimony or fact sheets must be signed and verified by the a competent witness. The verification must state that the prepared testimony or fact sheet is true and accurate to the witness's best knowledge, information, and belief of the witness. A witness's signature may be electronic and does not need to be notarized.

5. The department has decided not to adopt the proposed amendment to ARM 38.2.2403 or the repeal of ARM 38.2.2404. The department will address those rules in a subsequent rulemaking.

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: Several commenters supported the commission's effort to move toward electronic filing and agreed that the commission's procedural rules should be modernized to accommodate electronic filing and noted several additional rules could benefit from updates.

RESPONSE: The commission appreciates the commenters' support, and agrees that future rulemaking should continue to revise and update the commission's procedural rules. At this time, only the above-noted rules have been noticed for amendment and repeal, and as such, it is beyond the scope of the current rulemaking to address other rules noted by the commenters.

COMMENT #2: Commenters observed that there is a continuing need for limited intervention in commission proceedings, even if the commission eliminates its special intervention rule.

RESPONSE: The concept of limited intervention is neither discussed in the commission's existing rules on general and special intervention, nor prohibited by the proposed, simplified intervention rule. Regardless, the commission has decided not to adopt the proposed revisions to its intervention rules. The commission will consider comments about intervention when developing future rulemaking on the subject.

COMMENT #3: Commenters expressed concern that an intervenor should not be allowed to substantially expand the scope of a docket. Instead, the party seeking relief should be allowed to set the scope of the proceeding.

RESPONSE: The commission appreciates the commenters' concern, and has decided not to adopt the proposed revisions to its intervention rules. The commission will consider comments about intervention when developing future rulemaking on the subject.

COMMENT #4: Commenters noted that intervenors may not be able to clearly state their position in contested case until they have reviewed an application, its supporting records, and prepared testimony of their own.

RESPONSE: The commission appreciates the commenters' concern, and has decided not to adopt the proposed revisions to its intervention rules. The commission will consider comments about intervention when developing future rulemaking on the subject.

COMMENT #5: One commenter was concerned that the proposed intervention rule might go too far in allowing parties to contest or limit the scope of another party's intervention.

RESPONSE: The commission appreciates the commenter's concern, and has decided not to adopt the proposed revisions to its intervention rules. The commission will consider comments about intervention when developing future rulemaking on the subject.

COMMENT #6: Commenters said it was unclear why the commission would impose a verification requirement in ARM 38.2.4204 if no party objects to the submission of unverified, prepared testimony.

RESPONSE: As noted in the statement of reasonable necessity, the revisions to this rule were intended to make the filing of prepared testimony the norm in commission proceedings, and to ensure the quality and reliability of such prepared testimony. The purpose of these revisions is to ensure the commission has a reliable record for its decisions in every proceeding. Because many proceedings are resolved without an evidentiary hearing, parties do not always have an opportunity to formally object to the admission of an applicant's supporting documentation. The commission anticipates that the quality and reliability of supporting information will be improved by requiring such information to be verified by a competent witness.

COMMENT #7: Commenters said commission rules should not require prepared testimony with each application, as not all applications will be substantive or contested in a way that makes prepared testimony necessary or useful.

RESPONSE: The commission has revised its amendments to the rule based on commenters' feedback. The purpose of these revisions can be served by either prepared testimony or documents that recite the factual basis for an application. Accordingly, the rule has been revised to allow parties to file either prepared testimony or fact sheets with their applications. The rule has also been renamed for clarity. The rule continues to allow the commission to set a deadline for the filing of prepared testimony, if the commission determines that such testimony would be useful in any given proceeding. The commission has also updated the verification requirement to ensure fact sheets are equally as reliable as a witness's verified, prepared testimony.

COMMENT #8: One commenter noted that the proposed verification requirement for prepared testimony presented "an odd legal conundrum," because verifications are typically notarized. Without a notary, the commenter asserted that there would be limited value in the verification.

RESPONSE: While the commission agrees that verification is commonly performed with a notary, 1-6-105(1), MCA provides a process for verifying matters through a written, unsworn declaration. The commission therefore does not agree that the

verification requirement will provide no value, or present a substantial burden for parties appearing before the commission.

COMMENT #9: One commenter noted that the prepared testimony rule, ARM 38.2.4204, and ARM 38.2.1202, which pertains to the minimum filing requirements for applications and petitions, should be harmonized.

RESPONSE: The commission appreciates the commenter's observation; however, ARM 38.2.1202 has not been noticed for amendment, and therefore cannot be amended at this time. The commission will consider amendments to that rule in a future rulemaking.

COMMENT #10: Commenters stated that prepared testimony is typically verified at the beginning of testimony at a hearing, when a witness formally sponsors and testifies to the truth and accuracy of the prepared testimony. Commenters noted that this process was valuable, and the commission's proposed requirement for verification of prepared testimony should not replace that in-hearing process.

RESPONSE: The commission does not believe the verification requirement replaces the routine practice of a witness adopting the witness's prepared testimony on direct examination, during a hearing. Even with a verification, prepared testimony remains an out-of-court statement that has not been subject to cross-examination. The verification therefore does not automatically require or result in the admission of prepared testimony at a hearing. Unless parties stipulate to the admission of prepared testimony into evidence, the routine practice of calling a witness and asking the witness to verify the prepared testimony will continue to be the norm in commission proceedings.

COMMENT #11: One commenter noted that the Montana Consumer Counsel still maintains physical copies of records, and for that reason, it is still valuable for parties to serve some physical copies.

RESPONSE: The commission appreciates the commenter's observation; however, the current rulemaking does not affect how the Montana Consumer Counsel receives service of documents in commission proceedings.

/s/ Luke Casey  
Luke Casey  
Rule Reviewer

/s/ James Brown  
James Brown  
Chair, Public Service Commission  
Department of Public Service Regulation

Certified to the Secretary of State on July 13, 2021.



## **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 March 31, 2021. This table includes notices in which those rules adopted during the period January 29, 2021, through July 9, 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 March 31, 2021, 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 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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24-159-89 Definitions - Fees - Qualifications for Executive Director of the Board - Nurse Licensure Compact Rules - Program Standards - Program Annual Report - Establishment of a New Program - Program Director - Program Faculty - Waiver of Faculty Qualifications - General Requirements for Licensure as Medication Aide I and II - Prohibited Intravenous (IV) Therapies - Temporary Practice Permit - LPN and RN Licensure by Examination for Internationally Educated Applicants - Licensure by Endorsement - Renewals - Application for Prescriptive Authority - Prescribing Practices - APRN Competence Development - Purpose - Criteria for Delegation of Nursing Tasks - General Nursing Functions and Tasks That May Not Be Delegated - Conduct of Nurses - Grounds for Denial of a License, p. 673

(Board of Occupational Therapy Practice)

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(Board of Plumbers)

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(Board of Professional Engineers and Professional Land Surveyors)

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(Board of Psychologists)

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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 June 2021 appear. Potential vacancies from August 1, 2021 through October 31, 2021, are also listed.

### IMPORTANT

Membership on boards and commissions changes constantly. The following lists are current as of July 1, 2021.

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 JUNE 2021**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Agricultural Land Valuation Advisory Committee</b>			
Mr. Eric Moore	Governor	Johnson	6/7/2021
Miles City			5/31/2024
Qualifications (if required): Person knowledgeable in agricultural economics			
Mr. Todd Olson	Governor	Shipman	6/7/2021
Lewistown			5/31/2024
Qualifications (if required): Person knowledgeable in agricultural economics			
Ms. Gina Stevens	Governor	DeBruycker	6/7/2021
Hardin			5/31/2024
Qualifications (if required): Person knowledgeable in agricultural economics			
<b>Board of Outfitters</b>			
Mr. Robert Arnaud	Governor	reappointed	6/1/2021
Bozeman			5/31/2022
Qualifications (if required): Outfitter licensed for hunting and fishing with knowledge of government permitting			
Mr. Chris Gentry	Governor	reappointed	6/1/2021
Ennis			5/31/2024
Qualifications (if required): Montana-based business owner reliant on outdoor recreation industry			

**EXECUTIVE BRANCH APPOINTEES FOR JUNE 2021**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Board of Outfitters Cont.</b>			
Mr. Matthew Greenmore Twin Bridges	Governor	reappointed	6/1/2021 5/31/2022
Qualifications (if required): Outfitter licensed only as a fishing outfitter			
Mr. Wagner Harmon Bainville	Governor	reappointed	6/1/2021 5/31/2024
Qualifications (if required): Outfitter representing a private land hunting outfit			
Mr. John Way Ennis	Governor	reappointed	6/1/2021 5/31/2023
Qualifications (if required): Outfitter licensed for hunting and fishing with fishing business			
<b>Board of Pardons and Parole</b>			
Mr. James Patelis Billings	Governor	Bauer	6/1/2021 1/1/2027
Qualifications (if required): Extensive experience in the criminal justice system			
<b>Humanities Montana</b>			
Ms. Jessica Flint Billings	Governor	Pruitt	6/1/2021 12/31/2024
Qualifications (if required): Public representative			

**EXECUTIVE BRANCH APPOINTEES FOR JUNE 2021**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Information Technology Board</b>			
Director Christopher Dorrington Helena	Governor	none stated	6/1/2021 1/5/2025
Qualifications (if required): Director of a State agency			
Director Brian Gootkin Helena	Governor	none stated	6/1/2021 1/5/2025
Qualifications (if required): Director of a State agency			
Mr. Sean Higginbotham Great Falls	Governor	reappointed	6/1/2021 1/5/2025
Qualifications (if required): Local government representative			
Director Adam Meier Helena	Governor	none stated	6/1/2021 1/5/2025
Qualifications (if required): Director of a State agency			
Mr. Arthur Pembroke Helena	Governor	Jones	6/1/2021 1/5/2025
Qualifications (if required): Local government representative			

**EXECUTIVE BRANCH APPOINTEES FOR JUNE 2021**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Invasive Species Council</b>			
Mr. Michael Bias Twin Bridges Qualifications (if required): Fishing organization representative	Governor	Brooks	6/15/2021 5/31/2025
Councilman Martin Charlo Pablo Qualifications (if required): Representative from the CSKT	Governor	reappointed	6/15/2021 5/31/2025
Mr. Brandon Gopher Box Elder Qualifications (if required): Representative from Rocky Boy	Governor	Demontiney	6/15/2021 5/31/2025
Mr. Charles Headdress Poplar Qualifications (if required): Representative from Fort Peck	Governor	Schafer	6/15/2021 5/31/2025
Mr. Dennis Charles Longknife Harlem Qualifications (if required): Representative from Fort Belknap	Governor	reappointed	6/15/2021 5/31/2025
Mr. Paul Rossignol Lolo Qualifications (if required): Wildlife organization representative	Governor	Underwood	6/15/2021 5/31/2025

**EXECUTIVE BRANCH APPOINTEES FOR JUNE 2021**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Invasive Species Council Cont.</b>			
Ms. Jan Stoddard Helena	Governor	reappointed	6/15/2021 5/31/2025
Qualifications (if required): Representative from the Montana Department of Commerce			
Mr. Andy Welch Helena	Governor	reappointed	6/15/2021 5/31/2025
Qualifications (if required): Hydropower representative			
Mr. Tom Woolf Helena	Governor	reappointed	6/15/2021 5/31/2025
Qualifications (if required): Representative from Montana FWP			
<b>Montana Wheat and Barley Committee</b>			
Mr. Terry Angvick Plentywood	Governor	Carney	6/1/2021 5/31/2024
Qualifications (if required): Independent from District I			
Mr. Charles Bumgarner Great Falls	Governor	reappointed	6/1/2021 5/31/2024
Qualifications (if required): Republican member from District V			



**EXECUTIVE BRANCH APPOINTEES FOR JUNE 2021**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Montana Wheat and Barley Committee Cont.</b>			
Ms. Denise Conover Broadview	Governor	reappointed	6/1/2021 5/31/2024
Qualifications (if required): Independent member from District VI			
<b>State Compensation Insurance Fund Board of Directors</b>			
Mt. Dexter Thiel Sidney	Governor	Laingen	6/10/2021 5/31/2023
Qualifications (if required): State Fund policy holder and private enterprise representative			
<b>State Library Commission</b>			
Ms. Kristin Kerr Helena	Governor	Wall	6/15/2021 5/31/2024
Qualifications (if required): Public representative			
Ms. Robyn Scribner Geraldine	Governor	Doggett	6/15/2021 5/31/2024
Qualifications (if required): Public representative			
<b>Upper Columbia Conservation Commission</b>			
Mr. Bruce Vincent Libby	Governor	Parrot	6/7/2021 5/31/2025
Qualifications (if required): Private industry representative			

**EXECUTIVE BRANCH APPOINTEES FOR JUNE 2021**

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Upper Columbia Conservation Commission Cont.</b>			
Ms. Rae Lynn Hayes Eureka	Governor	Curtis	6/7/2021 5/31/2025
Qualifications (if required): Conservation district representative			
Mr. Phillip Matson Columbia Falls	Governor	Koopal	6/7/2021 5/31/2025
Qualifications (if required): Member at large			
Mr. Arthur Potts Noxon	Governor	Kusnierz	6/7/2021 5/31/2025
Qualifications (if required): Hydropower representative			
Mr. Tom Ray Whitefish	Governor	Matson	6/7/2021 5/31/2025
Qualifications (if required): Private landowner			
Mr. Onno Charles Wieringa Missoula	Governor	Johnson	6/7/2021 5/31/2025
Qualifications (if required): Flathead River Basin Organization representative			
Mr. Tom Woolf Helena	Governor	reappointed	6/7/2021 5/31/2025
Qualifications (if required): Representative from Fish, Wildlife and Parks			

**EXECUTIVE BRANCH VACANCIES – AUGUST 1, 2021 THROUGH OCTOBER 31, 2021**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>9-1-1 Advisory Council</b>		
Mr. Pat Roos, Miles City Qualifications (if required): Representative of the Montana Sheriffs and Peace Officers Assoc.	Governor	9/1/2021
Ms. Jennie Stapp, Helena Qualifications (if required): State Librarian	Governor	9/1/2021
Mr. Clinton Loss, Helena Qualifications (if required): Representative of the Montana Emergency Medical Services Assoc.	Governor	9/1/2021
Mrs. Adriane Beck, Missoula Qualifications (if required): Public Safety Answering Point Manager	Governor	9/1/2021
Mrs. Kimberly Burdick, Fort Benton Qualifications (if required): Representative of the MT Assoc. of Public Safety Communications Officials	Governor	9/1/2021
Mr. Alex Andrew Duman, Missoula Qualifications (if required): Representative of Montana Telecommunications Providers	Governor	9/1/2021
Ms. Peggy J. Glass, Livingston Qualifications (if required): Public Safety Answering Point Manager	Governor	9/1/2021
Mr. George Charles Winn, Bozeman Qualifications (if required): Representative of the Montana League of Cities and Towns	Governor	9/1/2021
Chief Richard E. Cowger, Columbus Qualifications (if required): Representative of the Montana Fire Chief 's Assoc.	Governor	9/1/2021

**EXECUTIVE BRANCH VACANCIES – AUGUST 1, 2021 THROUGH OCTOBER 31, 2021**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>9-1-1 Advisory Council Cont.</b>		
Mr. Jeff Newton, Great Falls	Governor	9/1/2021
Qualifications (if required): Representative from the League of Cities and Towns		
<b>Alternative Health Care Board</b>		
Ms. Jazmin R. Price, Bozeman	Governor	9/1/2021
Qualifications (if required): Midwife		
<b>Board of Athletic Trainers</b>		
Ms. Janet Trethewey, Havre	Governor	10/1/2021
Qualifications (if required): Member of public not engaged in or directly connected with practice of athletic training		
Ms. Kylie McKinney, Billings	Governor	10/1/2021
Qualifications (if required): Athletic trainer employed in or retired from a secondary school in Montana		
<b>Board of Barbers and Cosmetologists</b>		
Mrs. Paula Evans, Missoula	Governor	10/1/2021
Qualifications (if required): Cosmetologist		
Ms. Lynn Startin, Missoula	Governor	10/1/2021
Qualifications (if required): Cosmetologist		
<b>Board of Medical Examiners</b>		
Mrs. Ana Diaz, Billings	Governor	9/1/2021
Qualifications (if required): Member of the general public who is not a medical practitioner		

**EXECUTIVE BRANCH VACANCIES – AUGUST 1, 2021 THROUGH OCTOBER 31, 2021**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Board of Medical Examiners Cont.</b>		
Mr. C.E. Abramson, Missoula Qualifications (if required): Member of the general public who is not a medical practitioner	Governor	9/1/2021
Ms. Christine Emerson, Helena Qualifications (if required): Licensed Nutritionist	Governor	9/1/2021
Dr. James Wesley Guyer, Billings Qualifications (if required): Doctor of Medicine (MD)	Governor	9/1/2021
Ms. Tammy Louise Scott, Missoula Qualifications (if required): Licensed Physician Assistant	Governor	9/1/2021
Mr. Brian J. Reed, Rollins Qualifications (if required): None Stated	Governor	9/1/2021
<b>Board of Outfitters</b>		
Mr. Robert Arnaud, Bozeman Qualifications (if required): Outfitter licensed to provide fishing and hunting services	Governor	10/1/2021
Mr. Matthew Greenmore, Twin Bridges Qualifications (if required): Outfitter licensed to provide fishing services	Governor	10/1/2021
<b>Board of Private Security</b>		
Sergeant Harold Eugene Richardson, Bozeman Qualifications (if required): City Police Department	Governor	8/1/2021

**EXECUTIVE BRANCH VACANCIES – AUGUST 1, 2021 THROUGH OCTOBER 31, 2021**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Board of Private Security Cont.</b> Sheriff Wynn Meehan, Townsend Qualifications (if required): County Sheriff's Office	Governor	8/1/2021
Mr. Darren Bayliss, Billings Qualifications (if required): Contract Security Company	Governor	8/1/2021
Mr. Charles Pesola, Somers Qualifications (if required): Licensed private investigator	Governor	8/1/2021
<b>Board of Veteran Affairs</b> Mr. Clarence Sivertsen, Belt Qualifications (if required): Veteran from Region 3	Governor	8/1/2021
Mr. Mike Waters, Billings Qualifications (if required): Representative of Congressman Greg Gianforte	Governor	8/1/2021
<b>Board of Veterinary Medicine</b> Ms. Rebecca Mattix, Bozeman Qualifications (if required): Licensed Veterinarian	Governor	8/1/2021
<b>Burial Preservation Board</b> Ms. Skye Gilham, Cut Bank Qualifications (if required): Physical Anthropologist	Governor	9/1/2021

**EXECUTIVE BRANCH VACANCIES – AUGUST 1, 2021 THROUGH OCTOBER 31, 2021**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Burial Preservation Board Cont.</b>		
Ms. Jessica Bush, Helena Qualifications (if required): Representative of the Montana State Historical Preservation Office	Governor	9/1/2021
Mr. Kenneth Weatherwax, Browning Qualifications (if required): Representative of the Blackfeet Nation	Governor	9/1/2021
Mr. John Murray, Browning Qualifications (if required): Representative of the Blackfeet Nation	Governor	9/1/2021
Mr. Kevin Askan, Pablo Qualifications (if required): Representative of the Confederated Salish and Kootenai Tribes	Governor	9/1/2021
Ms. Maurika Moore, Missoula Qualifications (if required): Representative of the public	Governor	9/1/2021
<b>Certification Committee for Developmental Disabilities Professionals</b>		
Ms. Rebecca deCamara, Helena Qualifications (if required): Developmental Disabilities Program Representative	Governor	9/1/2021
Ms. Linsey Carter, Helena Qualifications (if required): Developmental Disabilities Program Representative	Governor	9/1/2021
Ms. Catherine Murphy, Helena Qualifications (if required): Governor's Appointee	Governor	9/1/2021

**EXECUTIVE BRANCH VACANCIES – AUGUST 1, 2021 THROUGH OCTOBER 31, 2021**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Certification Committee for Developmental Disabilities Professionals Cont.</b>		
Ms. Meghan Peel, Helena Qualifications (if required): None Stated	Governor	9/1/2021
Ms. Heather Zufelt, Boulder Qualifications (if required): None Stated	Governor	9/1/2021
<b>Child Abuse and Neglect Review Commission</b>		
Ms. Georgia J. Cady, Columbus Qualifications (if required): Representative of an organization that works with homeless children and youth	Governor	9/30/2021
Ms. Abigail Catherine Eyre, Polson Qualifications (if required): Medical provider with experience in treating co-occurring disorders	Governor	9/30/2021
Ms. Nichole Griffith, Great Falls Qualifications (if required): Rep. of private organizations involved in matters related to child abuse and neglect	Governor	9/30/2021
Ms. Mary Patricia Hansen, Missoula Qualifications (if required): Medical provider who is involved in matters related to child abuse and neglect	Governor	9/30/2021
Ms. Laura Weiss Smith, Helena Qualifications (if required): Rep. of the Child and Family Services Div. of DPHHS	Governor	9/30/2021
Ms. Arlene Templer, Ronan Qualifications (if required): Representative of the Montana Indian Tribes	Governor	9/30/2021



**EXECUTIVE BRANCH VACANCIES – AUGUST 1, 2021 THROUGH OCTOBER 31, 2021**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Child Abuse and Neglect Review Commission Cont.</b>		
Ms. Jennifer Wihlborg, Missoula Qualifications (if required): Licensed provider who serves children with disabilities	Governor	9/30/2021
<b>Criminal Justice Oversight Council</b>		
Mr. Peter B. Ohman, Bozeman Qualifications (if required): Member who represents the office of state public defender	Governor	8/1/2021
Ms. Melissa Kelly, Bozeman Qualifications (if required): Representative of community corrections providers	Governor	8/1/2021
Ms. Amy Tenney, Helena Qualifications (if required): Representative of community corrections providers	Governor	8/1/2021
Ms. Annette Carter Farley, Helena Qualifications (if required): Member of the board of pardons and parole	Governor	8/1/2021
Mr. Andrew Imansees Huff, Helena Qualifications (if required): Member of a state or federally recognized Indian tribe	Governor	8/1/2021
Ms. Sarah Kathryn Rossi, Helena Qualifications (if required): Representative of civil rights advocates	Governor	8/1/2021
Ms. Kelsen Emily Young, Helena Qualifications (if required): Representative of Crime Victims	Governor	8/1/2021

**EXECUTIVE BRANCH VACANCIES – AUGUST 1, 2021 THROUGH OCTOBER 31, 2021**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Historical Records Advisory Council</b>		
Ms. Heather C. Hultman, Bozeman Qualifications (if required): Research Institution	Governor	10/1/2021
Ms. Anne L. Foster, Gardiner Qualifications (if required): Public Archives	Governor	10/1/2021
Ms. Aubrey Japp, Butte Qualifications (if required): Public Archives	Governor	10/1/2021
Ms. Eileen A. Wright, Billings Qualifications (if required): Research Institution	Governor	10/1/2021
Ms. Jodie Foley, Helena Qualifications (if required): State Archivist	Governor	10/1/2021
Ms. Kathryn Marie Kramer, Great Falls Qualifications (if required): Private Archives	Governor	10/1/2021
Ms. Kathleen D. Mumme, Sheridan Qualifications (if required): Private Archives	Governor	10/1/2021
<b>Montana Achieving a Better Life Experience (ABLE) Program Oversight Committee</b>		
Mr. Jonathan William Bennion, Clancy Qualifications (if required): Experience working on behalf of disabled individuals	Governor	9/1/2021

**EXECUTIVE BRANCH VACANCIES – AUGUST 1, 2021 THROUGH OCTOBER 31, 2021**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Montana Criminal Justice Oversight Committee</b>		
Ms. Rhonda Lindquist, Helena Qualifications (if required): Office of Public Defender Representative	Governor	8/1/2021
<b>Montana Poet Laureate</b>		
Ms. Melissa Kwasny, Jefferson City Qualifications (if required): Poet Laureate	Governor	8/1/2021
Ms. Mandy Smoker, Helena Qualifications (if required): Poet Laureate	Governor	8/1/2021
<b>Private Land Public Wildlife Advisory Council</b>		
Representative Duane Ankney, Colstrip Qualifications (if required): Landowner	Governor	8/1/2021
Representative Denley Loge, St. Regis Qualifications (if required): Landowner and Legislator	Governor	8/1/2021
Mr. Ralph E. Bukoskey, Rosebud Qualifications (if required): Sports person	Governor	8/1/2021
Ms. Cynthia Cohan, Butte Qualifications (if required): Sports person	Governor	8/1/2021
Mr. M. Lee Cornwell, Glasgow Qualifications (if required): Landowner	Governor	8/1/2021

**EXECUTIVE BRANCH VACANCIES – AUGUST 1, 2021 THROUGH OCTOBER 31, 2021**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Private Land Public Wildlife Advisory Council Cont.</b>		
Mr. Edward Albert Beall, Helena Qualifications (if required): Sports person	Governor	8/1/2021
Dr. Daniel R. Fiehrer, Helena Qualifications (if required): Sports person	Governor	8/1/2021
Mr. Richard L. Stuker, Chinook Qualifications (if required): Landowner	Governor	8/1/2021
Mr. Dale Tribby, Miles City Qualifications (if required): Sports person	Governor	8/1/2021
Mr. Carl L. Zabrocki, Billings Qualifications (if required): Sports person	Governor	8/1/2021
<b>State Historical Preservation Review Board</b>		
Ms. Carol Bronson, Great Falls Qualifications (if required): Member of the public who represents a broad spectrum of Montana society	Governor	10/1/2021
<b>State Rehabilitation Council</b>		
Ms. Monique Estelle Casbeer, Missoula Qualifications (if required): Representative of individuals with disabilities	Governor	10/1/2021
Ms. Katherine Mary Meier, Great Falls Qualifications (if required): Representative of individuals with disabilities	Governor	10/1/2021

**EXECUTIVE BRANCH VACANCIES – AUGUST 1, 2021 THROUGH OCTOBER 31, 2021**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>State Rehabilitation Council Cont.</b>		
Mr. Thomas F. Sullivan, Missoula Qualifications (if required): Representative of individuals with disabilities	Governor	10/1/2021
<b>Upper Clark Fork River Basin Remediation and Restoration Advisory Council</b>		
Mr. James J. Kambich, Butte Qualifications (if required): Citizen voting member	Governor	9/1/2021
Mr. William Rossbach, Missoula Qualifications (if required): Citizen Voting Member	Governor	9/1/2021
Mr. Elton Ringsak, Butte Qualifications (if required): Citizen Voting Member	Governor	9/1/2021
Ms. Maureen Connor, Philipsburg Qualifications (if required): Citizen Voting Member	Governor	9/1/2021
Ms. Susan Peterson, Drummond Qualifications (if required): Citizen Voting Member	Governor	9/1/2021
Mr. James H. Davison, Anaconda Qualifications (if required): Citizen Voting Member	Governor	9/1/2021
Ms. Maggie Schmidt, Deer Lodge Qualifications (if required): Citizen Voting Member	Governor	9/1/2021

**EXECUTIVE BRANCH VACANCIES – AUGUST 1, 2021 THROUGH OCTOBER 31, 2021**

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
<b>Upper Columbia Conservation Commission</b>		
Mr. Thomas L. Finch Jr., Helena	Governor	8/1/2021
Qualifications (if required): Rep of veterans' employment and training service office in the U.S. Department of Labor		
<b>Water and Wastewater Operators' Advisory Council</b>		
Ms. Lorianne Burhop, Missoula	Governor	10/1/2021
Qualifications (if required): Wastewater Treatment Plant Operator		

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**CHRISTI JACOBSEN**  
SECRETARY OF STATE

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