

MONTANA ADMINISTRATIVE REGISTER

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MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 8

The Montana Administrative Register (MAR or Register), a twice-monthly publication, has three sections. The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted. The Rule Adoption Section contains final rule notices which show any changes made since the proposal stage. All rule actions are effective the day after publication of the adoption notice unless otherwise specified in the final notice. The Interpretation Section contains the Attorney General's opinions and state declaratory rulings. Special notices and tables are found at the end of each Register.

Inquiries regarding the rulemaking process, including material found in the Montana Administrative Register and the Administrative Rules of Montana, may be made by calling the Secretary of State's Office, Administrative Rules Services, at (406) 444-9000.

Page Number

TABLE OF CONTENTS

PROPOSAL NOTICE SECTION

AGRICULTURE, Department of, Title 4

4-18-248 Notice of Public Hearing on Proposed Amendment and Repeal - Pesticide Registration Regulations. 758-762

4-18-249 Notice of Public Hearing on Proposed Adoption and Amendment - Pesticide Container Recycling Program - Waste Pesticide Disposal Program. 763-770

EDUCATION, Title 10

10-1-129 (Office of Public Instruction) Notice of Negotiated Rulemaking - Soliciting Applications for Membership on a Negotiated Rulemaking Committee to Amend ARM 10.55.701 to Require a Policy for Implementation of All Hazard Emergency and Response Plans. 771-773

LABOR AND INDUSTRY, Department of, Title 24

24-225-40 (Board of Veterinary Medicine) Notice of Public Hearing on Proposed Amendment, Transfer, and Repeal - Definitions - Nonroutine Applications - Temporary Permits - Veterinarian Licenses - Veterinarian Examinations - Licensure of Out-of-State Veterinarian - Continuing Education - Continuing Education Instructors - Record-Keeping Standards - Management of Infectious Wastes - Inspection and Sanitation - Occasional Case Exemption. 774-787

PUBLIC HEALTH AND HUMAN SERVICES, Department of, Title 37

37-831 Notice of Public Hearing on Proposed Amendment - Update of the Supplemental Nutrition Program for Women, Infants, and Children (WIC). 788-792

37-834 Notice of Proposed Amendment - Update of the Healthcare Effectiveness Data and Information Set (HEDIS). No Public Hearing Contemplated. 793-796

37-836 Notice of Extension of Comment Period on Proposed Amendment - Discontinuance of the Supplemental Disproportionate Share Hospital Payment. 797

37-838 Notice of Public Hearing on Proposed Amendment - Updating Medicaid Fee Schedules With Medicare Rates - Updating Effective Dates. 798-810

37-841 Notice of Public Hearing on Proposed Amendment - Healthy Montana Kids (HMK) Dental Benefits. 811-813

REVENUE, Department of, Title 42

42-2-993 Notice of Public Hearing on Proposed Amendment - Oil and Gas Tax Rates. 814-817

42-2-994 Notice of Public Hearing on Proposed Amendment - Office of Dispute Resolution (ODR) Liquor License Protests and Liquor Matters. 818-820

RULE ADOPTION SECTION

ADMINISTRATION, Department of, Title 2

2-43-565 (Public Employees' Retirement Board) Notice of Amendment - Investment Policy Statement for the Defined Contribution Retirement Plan - Investment Policy Statement for the 457(b) Deferred Compensation Plan. 821

2-59-571 Notice of Amendment - Annual Reporting for Consumer Loan Licensees - Escrow Business Reference Updates - Mortgage Definitions - Mortgage Renewal Fees - Escrow Funds Held by Mortgage Companies. 822

AGRICULTURE, Department of, Title 4

4-17-243 Corrected Notice of Adoption and Repeal - Montana Pulse Crop Committee. 823-824

STATE AUDITOR, Office of, Title 6

6-240 (Commissioner of Securities and Insurance) Notice of Amendment and Repeal - Independent Liability Fund Definitions and Penalties. 825

6-241 (Commissioner of Securities and Insurance) Notice of Amendment - Valuation of Life Insurance Policies. 826

COMMERCE, Department of, Title 8

8-94-156 Notice of Amendment - Governing the Submission and Review of Applications for Funding Under the Treasure State Endowment Program (TSEP). 827

8-94-157 Notice of Amendment - Administration of the 2019 Biennium Federal Community Development Block Grant (CDBG) Program – Planning Grants. 828

8-111-158 Notice of Amendment - Definitions - Housing Credit Allocation Procedure. 829

ENVIRONMENTAL QUALITY, Department of, Title 17

17-395 (Board of Environmental Review) (Water Quality) Notice of Adoption - Water Quality Standards. 830-840

LABOR AND INDUSTRY, Department of, Title 24

24-17-334 Notice of Amendment - Classification of Workers for Heavy Construction Services on Public Works Projects. 841-843

24-189-38 (Board of Psychologists and the Department) Notice of Amendment and Adoption - Renewal Dates and Requirements - Psychologist Application Procedures - Minimum Standards - Work Samples-Examinations - Licensure as a Psychologist by Experience (Senior) - Nonroutine Psychologist Applications - Nonroutine Behavior Analyst or Assistant Behavior Analyst Applications. 844-845

LIVESTOCK, Department of, Title 32

32-18-289 Notice of Amendment - Board Oversight of Agency Actions. 846

PUBLIC HEALTH AND HUMAN SERVICES, Department of, Title 37

37-800 Notice of Amendment - Expanding the Children's Special Health Services. 847

37-824 Notice of Amendment - Updating Residential Treatment Facilities Rules. 848

37-830 Notice of Amendment - Foster Care Licensing Requirements. 849-850

REVENUE, Department of, Title 42

42-2-989 Notice of Amendment - Pension and Annuity Income Exclusions - Dependent Exemptions - Medical Care Savings Accounts. 851-852

42-2-990 Notice of Amendment - Withholding Taxes. 853

42-2-991 Notice of Adoption and Amendment - Apportionment and Allocation of Income Reported by Pass-Through Entities and Guaranteed Payments to Individual Partners. 854

SPECIAL NOTICE AND TABLE SECTION

Function of Administrative Rule Review Committee. 855-856

How to Use ARM and MAR. 857

Recent Rulemaking by Agency. 858-869

	<u>Page Number</u>
Executive Branch Appointees.	870-887
Executive Branch Vacancies.	888-907

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING ON
ARM 4.10.701, 4.10.807, 4.10.1004,	)	PROPOSED AMENDMENT AND
and 4.10.1009, and repeal of ARM	)	REPEAL
4.10.702 and 4.10.709 pertaining to)	
pesticide registration regulations)	

TO: All Concerned Persons

1. On May 22, 2018, at 10:00 a.m., the Department of Agriculture will hold a public hearing in Room 225 of the Scott Hart Building, at 302 N. Roberts, Helena, Montana, to consider the proposed amendment and repeal of the above-stated rules.

2. The Department of Agriculture will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Agriculture no later than 5:00 p.m. on May 18, 2018, to advise us of the nature of the accommodation that you need. Please contact Cort Jensen, Department of Agriculture, P.O. Box 200201, Helena, Montana, 59620-0201; telephone (406) 444-3144; fax (406) 444-5409; or e-mail agr@mt.gov.

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

4.10.701 GENERAL PESTICIDE REGISTRATION STANDARDS AND CLASSIFICATION ~~(1) The department hereby establishes the standards of restriction for pesticides to be registered, re-registered, sold, distributed, offered for sale, purchased, exchanged, bartered, given away, used, or applied in the state. Sections 80-8-201 (3) and 80-8-105 (2) (a), (b), and (3) of the Act allows the department to restrict pesticides to prevent damage or injury to:~~

~~(a) persons, animals, or pollinating insects from the effect of drift or from careless application;~~

~~(b) the environment;~~

~~(c) plants, including forage plants;~~

~~(d) wildlife; and~~

~~(e) fish and other aquatic life.~~

~~These rules establish standards for requiring pesticides to be registered in the state, to be classified as either restricted or general use pesticides by the department and prohibits the sale of restricted pesticides by any person to another person who has not been certified by the department to purchase, use, or apply the pesticide. It shall be unlawful to make available for use or to use any pesticide, whether registered or not, classified for restricted use to any person other than a certified applicator except as other exempted by the Act or rules adopted thereunder.~~

(1) The department classifies pesticides registered in Montana as either general use or restricted use. The department, upon receiving an application for state registration of a federally registered pesticide product classified as general or restricted use, must accept and register the pesticide and must use the same federal general or restricted use classification. Registration and classification become effective upon issuance of a certificate for registration to the applicant. The department adopts the registration and labeling requirements as set forth in the Code of Federal Regulations, Title 40, parts 152 and 156.

(2) Restricted use pesticides require application only by or under the direct supervision of a certified applicator. The department may also impose other restrictions, such as the type of applicator who may use the pesticide or the time and place that the pesticides may be used. If the department establishes additional registration restrictions on a pesticide, the department must adopt such restrictions in rule.

(3) All persons selling, distributing, offering for sale, exchanging, giving away, bartering, using, or applying pesticides must follow label directions and labeling requirements. Only persons certified by the department may purchase, use, and apply restricted use pesticides. It is unlawful to make a restricted use pesticide, available for use to anyone who is not a certified applicator unless they are allowed such use in law or by rule.

AUTH: 80-8-105, MCA

IMP: 80-8-105, MCA

REASON: The rule contains redundant language found in both ARM 4.10.702 and 80-8-105, MCA. The proposed change modifies the language to reduce redundancy and provide clear, logical content. The proposed rule also makes other grammar and formatting changes to comply with Secretary of State (SOS) Administrative Rules of Montana (ARM) requirements.

4.10.807 BURNING OR INCINERATION OF PESTICIDE CONTAINERS

~~(1) Incineration or burning pesticide containers or the use of an unapproved incinerator to burn or incinerate pesticide containers is prohibited except when such burning or incineration is approved by the Montana department of health and environmental sciences.~~

(1) A person must have Montana Department of Environmental Quality (DEQ) approval before burning or incinerating any pesticide containers. Persons having DEQ approval to burn or incinerate pesticide containers must provide notice to the county prior to burning or incinerating any pesticide container(s). They must also comply with any county restrictions on burning.

AUTH: 80-8-105, MCA

IMP: 80-8-105, MCA

REASON: The rule updates the name of the state agency listed. The Department of Health and Environmental Sciences is now the Department of Environmental Quality (DEQ). The proposed rule also makes other grammar and formatting changes to

comply with Secretary of State (SOS) Administrative Rules of Montana (ARM) requirements.

4.10.1004 OTHER PENALTIES (1) ~~If the nature of a particular enforcement proceeding so warrants, the~~ The department may, in the interest of judicial economy, combine a ~~disciplinary an enforcement~~ proceeding under 80-8-211, MCA (suspension or revocation of licenses and permits) or other violations of the act or rules adopted thereunder with a proceeding under 80-8-306(5), MCA. ~~However, any~~ Any appeal from ~~resulting disciplinary of enforcement~~ action against the license or permit or other violations, ~~shall be reviewed pursuant to~~ must comply with the procedure established by the Montana Administrative Procedure Act.

AUTH: 80-8-105, MCA

IMP: 80-8-306, MCA

REASON: The proposed change updates terminology used for rule. The proposed rule also makes other grammar and formatting changes to comply with Secretary of State (SOS) Administrative Rules of Montana (ARM) requirements.

4.10.1009 NONCOMPLIANCE WITH PESTICIDE WORKER PROTECTION STANDARDS AND LABELING (1) For purposes of administering civil penalties for noncompliance with worker protection standards, the department ~~hereby~~ adopts the worker protection statements and worker protection standard as set forth in the Code of Federal Regulations, Title 40, part 156, subpart K and Title 40, part 170; ~~revised as of July 1, 1998. A copy can be obtained from the Montana Department of Agriculture, Agricultural Sciences Division, PO Box 200201, Helena, MT 59620-0201, (406 444-2944).~~

(2) ~~Failure~~ A person's failure to comply with the worker protection standard and associated labeling requirements ~~is a violation of~~ violates the Montana Pesticides Act and is subject to civil penalties pursuant to 80-8-306, MCA.

~~(a) (3) when~~ When a pesticide label references the worker protection standard ~~is referenced on a pesticide label pursuant to (40 CFR, Part 156, subpart K),~~ persons using the pesticide must comply with the worker protection statements and the worker protection standard. Failure to comply constitutes use of a pesticide in a manner inconsistent with the label.

~~(b) (4) any~~ Any pesticide ~~that is~~ labeled for use in the production of agricultural plants on an agricultural establishment as defined in 40 CFR 170.3, ~~shall~~ must be labeled with the worker protection statements set forth in 40 CFR Part 156, subpart K. A pesticide not so labeled is misbranded. It is a violation for any person to distribute, sell, or offer for sale or deliver for transportation or transport in intrastate commerce any misbranded pesticide ~~that is misbranded, and such violation it is~~ subject to a civil penalty pursuant to 80-8-306, MCA.

AUTH: 80-8-105, MCA

IMP: 80-8-306, MCA

REASON: The proposed rule updates the Code of Federal Regulations (CFR) reference adopted for worker protection. The department no longer maintains copies of the CFR for distribution to the public. Readers may obtain access to the CFR directly through EPA or by accessing the CFR online. The proposed rule also makes other grammar and formatting changes to comply with Secretary of State (SOS) Administrative Rules of Montana (ARM) requirements.

4. The department proposes to repeal the following rules:

4.10.702 REGISTRATION REQUIREMENTS

AUTH: 80-8-105, MCA

IMP: 80-8-105, MCA

REASON: This rule is no longer necessary.

4.10.709 USE OF PESTICIDES ON PEST INFESTATIONS IN ALFALFA SEED CROPS

AUTH: 80-8-105, MCA

IMP: 80-8-105, MCA

REASON: This rule is no longer necessary.

5. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Cort Jensen, Department of Agriculture, 302 N. Roberts, P.O. Box 200201, Helena, Montana, 59620-0201; telephone (406) 444-3144; fax (406) 444-5409; or e-mail agr@mt.gov, and must be received no later than 5:00 p.m., June 1, 2018.

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

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

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

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

/s/ Cort Jensen

Cort Jensen
Rule Reviewer

/s/ Ben Thomas

Ben Thomas
Director
Agriculture

Certified to the Secretary of State April 17, 2018.

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the adoption of New	)	NOTICE OF PUBLIC HEARING ON
Rules I and II and amendment of	)	PROPOSED ADOPTION AND
ARM 4.10.1803, 4.10.1804, and	)	AMENDMENT
4.10.1806 pertaining to the pesticide)	
container recycling program and)	
waste pesticide disposal program)	

TO: All Concerned Persons

1. On May 22, 2018, at 10:30 a.m., the Department of Agriculture will hold a public hearing in Room 225 of the Scott Hart Building, at 302 N. Roberts, Helena, Montana, to consider the proposed adoption and amendment of the above-stated rules.

2. The Department of Agriculture will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Agriculture no later than 5:00 p.m. on May 18, 2018, to advise us of the nature of the accommodation that you need. Please contact Cort Jensen, Department of Agriculture, P.O. Box 200201, Helena, Montana, 59620-0201; telephone (406) 444-3144; fax (406) 444-5409; or e-mail agr@mt.gov.

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

NEW RULE I PESTICIDE CONTAINER RECYCLING PROGRAM (1) The program only accepts high-density polyethylene (HDPE) #2 pesticide-related container plastic (e.g., seed treatment, surfactant, adjuvants, and dye containers) for recycling.

(2) The program does not accept non-plastic containers and non-pesticide containers for recycling.

(3) All containers must be properly prepared for recycling:

(a) Emptied and triple or power rinsed to remove pesticide residues. The container owner is responsible for cleaning and rinsing pesticide containers and complying with all pesticide label requirements;

(b) Removal of the following from the pesticide container:

(i) lid and foil liner;

(ii) label booklets (glued on labels may remain on the container);

(iii) rubber gaskets;

(iv) metal handles, magnets, or metal based security devices; and

(v) any other item that may cause harm or delay to the machines used to recycle the containers.

(c) Containers larger than 2.5 gallons may require cutting into smaller pieces. Please contact the department for more information before cutting the containers.

(4) The department does not accept improperly prepared and cleaned containers.

(5) The department posts a map of collection sites on its website. Prior to delivering clean containers to an established collection site, individuals recycling pesticide containers should contact the collection site manager. Established collection sites accept properly prepared small containers less than 2.5 gallons and 2.5 gallons, 30 gallons, or 55 gallons containers.

(6) The department does not normally accept containers or totes larger than 55 gallons.

(7) The department approved establishment of collection sites, public or private, meeting minimum requirements. Individuals or entities interested in establishing a collection site must contact the department to discuss requirements and considerations (e.g., site selection, construction specifications, and site hosting considerations).

(8) The department recycling technician services all pre-determined collection sites to grind and bag all pesticide plastic during the recycling season.

(9) Department of Environmental Quality (DEQ) registration and EPA hazardous waste identification number are not required for a contractor involved solely in recycling pesticide plastic containers.

(10) The department may contract for part of or all of the operational aspects of a pesticide recycling program. Contractors must meet all state qualifications and state regulations.

AUTH: 80-8-105, MCA

IMP: 80-8-105, MCA

REASON: The proposed change creates a rule specific for pesticide container recycling. The rule reflects the current requirements and practices of the program, provides additional information for program participants, and provides for a section of a rule for pesticide recycling separate from waste pesticides and exchangeable pesticides.

NEW RULE II EXCHANGEABLE PESTICIDES (1) The department establishes the following procedures for the exchange of exchangeable pesticides:

(a) A pesticide may be exchanged or transferred from one person to another for the purpose of using the pesticide according to label directions. The pesticide offered for exchange must be:

(i) registered or meet provisions of 80-8-201(9)(a) or (b), MCA; and

(ii) in the original, labeled, unopened sealed container.

(b) Owners of exchangeable pesticides must apply to the department or the department's designee and provide information on a department form pursuant to ARM 4.10.1804(5)(a).

(c) Persons wanting to receive exchangeable pesticides must provide their name, address, telephone number, and pesticides wanted to the department. Persons receiving pesticides classified as restricted use must be licensed to use restricted use pesticides by the department.

(d) The department or department designee will match donors to users.

(e) Transfer of ownership of exchangeable pesticides may occur during scheduled pesticide disposal collections or through other arrangements approved by the department.

(f) The department may require the pesticide offered for exchange to be analyzed for label claim.

AUTH: 80-8-105, MCA

IMP: 80-8-111, 80-8-112, MCA

REASON: The rule change creates a distinct section of rule related to Exchangeable Pesticide, separate from Waste Pesticide Disposal and Pesticide Container Recycling. It also creates a new requirement that the department keeps records of pesticide transfers and exchanges.

ECONOMIC IMPACT: There is no economic impact associated with the reorganization of the rules. There may be a fee associated with exchangeable pesticides, addressed in the amendment to ARM 4.10.1806 (also contained in this proposal).

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

4.10.1803 STANDARDS FOR DISPOSAL PROGRAM OPERATION WASTE PESTICIDE DISPOSAL PROGRAM (1) The waste pesticide disposal program may accept:

(a) acceptable pesticides;

(b) non-plastic recyclable pesticide containers; such as containers made of recyclable materials like metal, fiberboard, or other similar material; and

(c) exchangeable pesticides.

(2) The disposal program ~~shall~~ does not accept:

(a) nonpesticide materials; or

(b) unacceptable pesticides.

(3) Contractors conducting the disposal program must ~~meet qualifications that include but are not limited to the following items:~~

(a) be registered as a hazardous waste generator with the Montana Department of Environmental Quality (DEQ) and possess a hazardous waste identification number issued by the United States Environmental Protection Agency (EPA). DEQ registration and an EPA hazardous waste identification number ~~shall not be~~ is not required for a contractor involved solely with recyclable pesticide containers and exchangeable pesticides;

(b) possess, or subcontract only with transporters that possess, all necessary federal and state permits, licenses, and registrations required for the transportation of hazardous wastes; and

(c) remains the same.

(4) The department may issue ~~request for bid proposals~~ Requests for Proposals (RFPs) and enter into written contracts with contractors to conduct the operational aspects of the disposal program. The department may require that

entities responding to the RFP provide specific information on methods and procedures that the contractors will use in conducting a disposal program. This information provided by the contractor may include, but is not limited to:

- (a) through (f) remain the same.
- (g) attendance at organizational meeting(s) prior to collection day(s); and
- (h) remains the same.
- (5) The department ~~shall~~ must establish criteria for awarding the disposal program contract(s). Selection criteria ~~shall~~ must include, but not be limited to:
 - (a) through (d) remain the same.
 - (e) clarity and completeness of bid proposal; and
 - (f) remains the same.

AUTH: 80-8-105, MCA

IMP: 80-8-111, 80-8-112, MCA

REASON: The department would like to create separate rule sections for waste disposal, pesticide container recycling, and exchangeable pesticides. The proposed rule also makes other grammar and formatting changes to comply with Secretary of State (SOS) Administrative Rules of Montana requirements.

4.10.1804 PESTICIDE DISPOSAL PROGRAM OPERATION (1) and (2) remain the same.

(3) The department selects ~~C~~collection site(s) ~~shall be selected by in consultation with~~ the contractor.

- (4) and (5) remain the same.
- (a) Persons intending to participate in the disposal program must make application to the department or the department designee on forms provided by the department. Information provided on the form must include, but is not limited to:
 - (i) and (ii) remain the same.
 - (iii) EPA registration number or the United States Department of Agriculture (USDA) registration number, if present on the label or known;
 - (iv) remains the same.
 - (v) container size, composition, condition; and
 - (vi) remains the same.
- (b) Persons who submit applications to the program must receive written approval from the department or the department's designee to participate in the program.
- (c) ~~Prior~~ The department will provide the participant with a list of pesticides for disposal prior to the collection day, the department shall provide the participant with a form listing the acceptable pesticides approved for disposal. This form will serve as a bill of lading and must be in the possession of the participant during transport of the acceptable pesticides to the collection site. This ~~form will also serve~~ to transfer ownership of the pesticide(s) from the participant to the contractor by a pesticide product release statement on the form.
- (d) remains the same.

(e) A participant may assign a designee to transport the participant's acceptable pesticides to the collection site only if ~~the designee is approved by the department during preregistration.~~

(f) Ownership of acceptable pesticides approved for disposal ~~will be transferred~~ transfers from the participant to the contractor at the collection site.

(6) The department establishes the following procedures for ~~recycling disposal~~ of pesticide containers which cannot be recycled.

(a) The waste disposal program accepts pesticide containers made of metal, fiberboard, or similar materials but not plastic pesticide containers suitable for recycling. Persons intending to participate in the disposal program for the purpose of ~~recycling~~ disposing of pesticide containers not acceptable to recycle must make application to the department on forms provided by the department. Information provided on the form must include ~~but may not be limited to:~~

(i) and (ii) remain the same.

(iii) EPA registration number or United States Department of Agriculture registration number, if present on the label or known;

(iv) ~~number and size of each pesticide container~~ and quantity to be disposed of;

(v) container's composition;

(vi) applicant's name, address, and telephone number; and

(vii) other information deemed necessary by the department or disposal contractor.

(7) The following procedures apply to pesticide containers recycled in the waste pesticide program:

(b) ~~(a)~~ Recyclable Rinsing of recyclable pesticide containers must be rinsed according to label directions ~~as addressed in the code of federal regulations (40 CFR 156.10) is required.~~

(c) ~~(b)~~ The contractor shall department or its designee inspects each container and rejects containers with visible residue. ~~The contractor must not accept any container that in the judgement of the contractor has any visible residue.~~

(d) ~~A form completed by the department following review of the participant's application will list containers approved for recycling under the disposal program. A copy of this form will be returned to the participant and must be in the participant's possession during transport of the containers to the collection site and must be provided to the contractor at the collection site.~~

~~(7) The department establishes the following procedures for the exchange of exchangeable pesticides:~~

~~(a) a pesticide may be exchanged or transferred from one person to another for the purpose of using the pesticide according to label directions. The pesticide offered for exchange must be:~~

~~(i) registered or meet provisions of 80-8-201(9)(a) or (b), MCA; and~~

~~(ii) in the original, labeled, unopened sealed container.~~

~~(b) owners of exchangeable pesticides must apply to the department or department designee and provide information on a department form according to ARM 4.10.1804(5)(a);~~

~~(c) persons wanting to receive exchangeable pesticides must provide their name, address, telephone number and pesticides wanted to the department.~~

~~Persons wanting pesticides classified as restricted use must be licensed to use restricted use pesticides by the department;~~

~~(d) the department or department designee will match donors to users;~~

~~(e) transfer of ownership of exchangeable pesticides may occur during scheduled pesticide disposal collections or through other arrangements approved by the department.~~

~~(f) the department may require the pesticide offered for exchange to be analyzed for label claim.~~

AUTH: 80-8-105, MCA

IMP: 80-8-111, 80-8-112, MCA

REASON: The proposed change organizes the waste pesticide program rule for clarity and updates processes and procedures used in the program. The department proposes a distinct section of rule related to exchangeable pesticides later in these proposed rules. The proposed rule also makes other grammar and formatting changes to comply with Secretary of State (SOS) Administrative Rules of Montana (ARM) requirements.

4.10.1806 FEES (1) ~~Participants in the disposal program may be required to pay a fee commensurate with department program costs. The fee will be set by the director annually by June 30, and will not exceed \$2 per pound. There is no fee for the first 200 pounds of waste pesticide disposal. The fee for each pound of waste pesticide disposal over 200 pounds is \$0.50.~~

~~(2) Participants who submit recyclable pesticide containers to the program may be required to pay a fee commensurate with department program costs for recycling. The fee will be set by the director annually by June 30, and will not exceed 50 cents per pound.~~

~~(3) (2)~~ Fees for pesticide disposal and plastic container recycling may exceed the fees set in (1) and (2) for pesticides or containers that have handling and/or disposal requirements resulting in costs exceeding the fees set under (1) and (2). The fee for these pesticides or containers will not exceed the cost of disposal or recycling.

~~(4) (3) Participants~~ The department may charge participants who receive an exchangeable pesticide under ARM 4.10.1804(7) shall pay a fee of \$5 for each container with a net content of less than or equal to one gallon or ten pounds and \$10 for each container with a net content of greater than one gallon or ten pounds. Fees The department, at its discretion, may waive the fees charged to participants who receive exchangeable pesticides ~~can be lowered at the discretion of the department~~ if the established fee is higher than the retail value of the exchangeable pesticide.

~~(5) Applicators licensed by the department shall be given a monetary credit if they are a participant in the disposal program. The credit must be used during the certification period for farm applicators or the licensing period for dealers, commercial applicators, commercial operators, and government applicators in which the fee is paid;~~

~~(a) farm applicators shall receive a one time credit of \$15 during the farm applicator's certification period.~~

~~(b) commercial applicators shall receive an annual credit of \$10 for each licensing period that the applicator is licensed. Commercial applicators shall receive an annual credit of \$15 for the first two commercial operators operating under their license for each licensing period the operator is licensed. A credit of \$5 shall be received for each additional commercial operator operating under the applicator's license for each licensing period the operator is licensed;~~

~~(c) government agencies shall receive an annual credit of \$10 for each licensing period that each applicator is licensed for the first four licensed applicators. A credit of \$10 shall be received for each additional applicator for each licensing period that the applicator is licensed. The total credit must not exceed \$280; and~~

~~(d) dealers shall receive an annual credit of \$10 for each licensing period that the dealer is licensed.~~

AUTH: 80-8-105, MCA

IMP: 80-8-111, 80-8-112, MCA

REASON: While the department does facilitate pesticide exchanges, it does so infrequently. At this time, the department does not need to charge for facilitation services. The fee section for waste pesticide disposal and container recycling should list the fee rather than saying "the fee may not exceed" a certain amount. The proposed rule also makes other grammar and formatting changes to comply with Secretary of State (SOS) Administrative Rules of Montana (ARM) requirements.

5. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Cort Jensen, Department of Agriculture, P.O. Box 200201, Helena, Montana, 59620-0201; telephone (406) 444-3144; fax (406) 444-5409; or e-mail agr@mt.gov, and must be received no later than 5:00 p.m., June 1, 2018.

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

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

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

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

/s/ Cort Jensen

Cort Jensen
Rule Reviewer

/s/ Ben Thomas

Ben Thomas
Director
Agriculture

Certified to the Secretary of State April 17, 2018.

BEFORE THE OFFICE OF PUBLIC INSTRUCTION
OF THE STATE OF MONTANA

In the matter of soliciting applications) NOTICE OF NEGOTIATED
for membership on a negotiated) RULEMAKING
rulemaking committee to amend ARM)
10.55.701 to require a policy for)
implementation of all hazard)
emergency and response plans)

TO: All Concerned Persons

1. The Office of Public Instruction intends to establish an independent negotiated rulemaking committee to amend ARM 10.55.701 requiring a policy for implementation of a plan for all hazard emergency and response plans and to consult on the preparation of an economic impact statement. This negotiated rulemaking process is required by 20-7-101, MCA (2017).

2. The independent negotiated rulemaking committee will consider issues for the purpose of reaching a consensus on the proposed rule amendment requiring schools to adopt a policy for implementation of all hazard emergency and response plans.

3. Interests that are likely to be significantly affected by the proposed rule are those related to Montana K-12 public schools of all sizes.

4. The individuals proposed to represent state agencies on the negotiated rulemaking committee are: Timothy Tharp, Deputy Superintendent, Office of Public Instruction; Linda Vrooman Peterson, Accreditation and Educator Preparation Division Administrator, Office of Public Instruction; Tracy Moseman, Director of Coordinate School Health, Office of Public Instruction; Karin Olsen Billings, Health Enhancement and Safety Division Administrator, Office of Public Instruction; Kyle A. Moen, Chief Legal Counsel, Office of Public Instruction; and Peter Donovan, Executive Director, Board of Public Education.

5. The agency is seeking applications from interested parties to serve on the committee. The agency will seek individuals likely to be significantly affected by the proposed rule amendment, including individuals from the following groups: school district trustees, K-12 school administrators, K-12 teachers and counselors, school clerks/business officials and IT personnel, nurses and special education service providers, parents, taxpayers, law enforcement, and county/state disaster and emergency service coordinators. Members of the committee will be selected based on the following criteria:

cultural diversity
geography
emergency operations and planning experience

district and school size
grade levels served

6. The proposed working schedule for the negotiated rulemaking committee is as follows:

(a) On April 27, 2018, this notice will be published in the Montana Administrative Register (MAR). The notice will also be mailed to persons known to the agency to have an interest in this matter.

(b) Applications for membership on the negotiated rulemaking committee must be received no later than May 25, 2018. After receipt and consideration of the comments and applications, the agency will establish a negotiated rulemaking committee no later than June 29, 2018. The members selected to serve on the committee must be able to adequately represent the interests of the persons that will be significantly affected by the proposed rule amendment. The committee members will be notified in writing of their selection and receive an information packet.

(c) The negotiated rulemaking committee will convene its first meeting in August, 2018. Teleconferencing and e-mail correspondence will be utilized as much as possible. The committee will begin with an initial draft of the amendment at this meeting.

(d) The committee will transmit a report to the agency specifying the areas in which the committee has reached consensus and the issues that remain unresolved.

(e) Thereafter the Superintendent of Public Instruction will develop recommendations and present them to the Board of Public Education for formal rulemaking.

7. Any individual or entity interested in applying for or nominating another person for membership on the committee must submit the following information in writing to Dr. Linda Vrooman Peterson, lvpeterson@mt.gov, Office of Public Instruction, P.O. Box 202501, Helena, Montana 59620, no later than May 25, 2018:

(a) the person's name or the nominee's name, address, and contact information including telephone or e-mail address where you can be contacted in July or August of 2018;

(b) evidence that the person or nominee represents any of the specific criteria of interest groups listed above;

(c) the name of the school district in which the nominee lives or works, and the relationship of the person or nominee to it;

(d) a commitment that the person or nominee will be able to participate in the negotiated rulemaking process and will actively participate in good faith in the development of the proposed rule amendment under consideration; and

(e) the ability of the person or nominee to cover committee participation costs (such as telephone calls, travel, and per diem expenses).

8. Interested parties may submit their views and comments concerning the proposed negotiated rulemaking process to Beverly Marlow, Office of Public Instruction, P.O. Box 202501, Helena, Montana 59620, faxed to (406) 444-2893, or electronic mail to bemarlow@mt.gov no later than May 25, 2018.

9. The agency proposes to limit the size of the negotiated rulemaking committee to no more than fifteen persons and two "alternate" members selected in the event a member is unable to participate. However, after receipt of comments and applications, the agency may determine that a smaller or larger number is necessary to adequately represent the interests of the persons significantly affected by the proposed rule amendment. The selected committee members may represent other parties or agencies that have a significant relationship with Montana schools.

10. The agency will make reasonable accommodations for persons with disabilities who wish to participate on the committee. If you require an accommodation, please advise the agency of the nature of the accommodation you need when applying for membership on the committee.

11. Please note the following concerning the process of negotiated rulemaking:

(a) "Interest" for the purpose of this process means multiple parties that have similar points of view or that are likely to be affected in a similar manner in relationship to matters affected by the rule(s) (2-5-103(5), MCA).

(b) Negotiated rulemaking is not a substitute for the public notification and participation requirements of the Montana Administrative Procedure Act, and a consensus agreement by a negotiated rulemaking committee may be modified by an agency as a result of the subsequent rulemaking process (2-5-102, MCA).

12. The specific grant of rulemaking authority authorizing the Board of Public Education to adopt the proposed rules is found in 20-7-101, MCA. The proposed rule amendment will implement Title 20, chapter 7, part 1, MCA.

/s/ Kyle A. Moen
Kyle A. Moen
Rule Reviewer

/s/ Elsie Arntzen
Elsie Arntzen, Superintendent
Office of Public Instruction

Certified to the Secretary of State, April 17, 2018.

BEFORE THE BOARD OF VETERINARY MEDICINE
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING ON
ARM 24.225.301 definitions,	)	PROPOSED AMENDMENT,
24.225.425 nonroutine applications,	)	TRANSFER, AND REPEAL
24.225.501 temporary permits,)	
24.225.503 veterinarian licenses,)	
24.225.504 veterinarian)	
examinations, 24.225.507 licensure of)	
out-of-state veterinarians, 24.225.511)	
continuing education, and 24.225.513)	
continuing education instructors; the)	
transfer of 24.225.410 (24.225.514))	
record-keeping standards,)	
24.225.415 (24.225.520))	
management of infectious wastes,)	
and 24.225.420 (24.225.521))	
inspection and sanitation; and the)	
repeal of 24.225.502 occasional case)	
exemption)	

TO: All Concerned Persons

1. On May 22, 2018, at 9:30 a.m., a public hearing will be held in the Small Conference Room, 301 South Park Avenue, 4th Floor, Helena, Montana, to consider the proposed amendment, transfer, and repeal of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Veterinary Medicine (board) no later than 5:00 p.m., on May 15, 2018, to advise us of the nature of the accommodation that you need. Please contact Lucy Richards, Board of Veterinary Medicine, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2394; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsdrvvet@mt.gov (board's e-mail).

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

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

(3) "Occasional case" ~~shall mean no more than two cases per year~~ means a veterinarian actively licensed and in good standing in another state or jurisdiction who practices veterinary medicine in this state no more than three days in any calendar year who is supervised by a veterinarian licensed in this state. As per 37-

18-104, MCA, veterinarians meeting this definition are exempt from licensing requirements.

(4) remains the same.

(5) A ~~"veterinarian~~ "Veterinarian/client/patient relationship" exists when all of the following conditions have been met:

(a) remains the same.

(b) the veterinarian has sufficient knowledge of the animal(s) to initiate at least a general or preliminary diagnosis of the medical condition of the animal(s). This means that the veterinarian has recently seen and is personally acquainted with the keeping and care of the animal(s) by:

(i) virtue of an examination of the animal(s); or by

(ii) medically appropriate and timely visits to the premises where the animal(s) are kept; and

(c) and (6) remain the same.

AUTH: ~~37-1-131~~, 37-18-202, MCA

IMP: 37-18-102, 37-18-104, MCA

REASON: The board is amending (3) to address numerous questions to staff by more accurately providing the board's intent as to what constitutes "occasional case." The board concluded that the definition should be based on the number of days of practice in a calendar year for which the veterinarian is exempt from licensure. Additionally, the board is relocating the language concerning supervision by a Montana licensed veterinarian to this definition from its previous location in ARM 24.225.502, which is being repealed.

Additional amendments provide consistency, simplicity, better organization, and ease of use for the reader. Authority citations are being amended to accurately reflect the statutory sources of the board's rulemaking authority.

24.225.425 NONROUTINE APPLICATIONS ~~(1) The board will review as nonroutine all applications for licensure containing a "yes" response to any question regarding applicant conduct.~~

(1) Applications for licensure that disclose any of the following circumstances are nonroutine and must be reviewed and approved by the board before the license may be issued:

(a) the applicant has ever been convicted of a felony;

(b) the applicant has pled guilty or no contest to or been convicted of two or more misdemeanors, other than minor traffic violations, within the past five years, regardless of whether an appeal is pending and regardless of whether the sentence was suspended or deferred;

(c) any of the applicant's occupational or professional licenses have been disciplined or an application for a license was denied in any state or jurisdiction;

(d) a pending or completed legal or disciplinary action involving licensure in this state, another state, territory, or jurisdiction; or

(e) any substantive irregularity deemed by department staff to warrant board review and approval prior to issuance of the license.

AUTH: 37-1-131, 37-18-202, MCA
IMP: 37-1-101, 37-1-131, 37-18-301, MCA

REASON: It is reasonably necessary to amend this rule to further implement 37-1-101, MCA, which provides for department processing of routine license applications on behalf of professional health and occupational licensing boards. Following an internal review of the application procedure, and subsequent advice from staff, the board has concluded that classifying all "yes" responses to application conduct questions as nonroutine is overly restrictive. The board determined that the new standards will adequately protect the public while ensuring the board reviews those applications where the board would have the authority to deny or issue a probationary license to an applicant.

24.225.501 TEMPORARY PERMITS ~~(1) An applicant requesting a temporary permit must submit an application for a temporary permit to the board and must have on file with the board a completed licensing application, the proper fee, and any information as the board may require pursuant to ARM 24.225.503 or 24.225.507.~~

~~(2) An applicant for licensure may be issued a temporary permit if the applicant is working under the supervision of a veterinarian licensed in and practicing in Montana.~~

~~(3) The responsibility for the standard of care provided by a temporary licensee remains with the supervising veterinarian.~~

(1) An applicant for licensure as a veterinarian by examination may apply for a temporary permit if the applicant has met all the requirements in ARM 24.225.503 with the exception of passage of the national licensing examination.

(2) Applicants must:

(a) submit a completed application on forms provided by the department. Completed applications include appropriate fees and required documentation;

(b) provide verification the applicant is scheduled to take the national examination described in ARM 24.225.504; and

(c) be supervised by a veterinarian licensed in Montana. The supervising veterinarian is responsible for the standard of care provided by the temporary licensee.

(3) Any temporary permit holder who fails the national examination must notify the board immediately. Failure of the examination automatically voids the temporary practice permit. The applicant may retake the examination, but another temporary permit will not be issued.

(4) remains the same.

AUTH: 37-1-319, ~~37-18-202~~, MCA
IMP: 37-1-305, 37-1-319, MCA

REASON: The board determined it is reasonably necessary to amend this rule to ensure the standards for issuing temporary permits are aligned with the statutory authority granted to the board. Section 37-1-305, MCA, as implemented by this rule, allows the board to grant a temporary permit to applicants who meet all licensure

requirements other than passage of the licensing examination. While reviewing board rules and licensing processes, staff discovered that temporary permits were being issued to applicants in situations other than those allowed by 37-1-305, MCA. The board is amending this rule to accurately and clearly set forth the provisions for temporary permits.

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

24.225.503 EXAMINATION APPLICATION REQUIREMENTS

VETERINARIAN LICENSES (1) Applicants for licensure by examination in the state of Montana shall submit a completed application with the proper fee and supporting documents to the board office not currently licensed in another state or jurisdiction must submit a completed application on forms provided by the department electronically or by paper. Completed applications include appropriate fees and required documentation.

(2) Supporting documents for the Montana state licensure application must include Applicants must meet the following education requirements:

(a) a certified transcript from have graduated from a school of veterinary medicine accredited or approved by the American Veterinary Medical Association (AVMA) Council on Education showing evidence of graduation in and receiving a degree. A transcript evidencing graduation must be certified and sent directly from the school or the American Association of Veterinary State Boards (AAVSB); or

(b) if graduated from a foreign veterinary school not accredited by the AVMA Council on Education, proof of completion of either of the following certification programs which must be sent directly from the source:

(i) the American Veterinary Medical Association's Education Commission for Foreign Veterinary Graduates (ECFVG); or

(ii) the AAVSB Program for the Assessment of Veterinary Education Equivalence (PAVE).

(3) In addition to the requirements in (1) and (2), the applicant must:

(a) have passed the national exam as described in ARM 24.225.504 within 62 months of the application date. Test results must be sent directly to the board from the testing agency or AAVSB;

(b) pass the state jurisprudence exam as described in ARM 24.225.504; and

(c) provide verification of any professional license(s) the applicant has ever held in any state or jurisdiction.

(4) Incomplete applications will automatically expire one year from the date the fee was received. If an application expires, the applicant must reapply and pay all appropriate fees.

(i) senior veterinary students who have not yet graduated, when submitting the application, shall submit a letter from the dean of the school of veterinary medicine attended, stating that the applicant is a senior student and the expected date to receive the degree of doctor of veterinary medicine or its equivalent. No license shall be issued, however, until such time as the board office receives a certified copy of the transcript.

(b) North American Veterinary Licensing Examination (NAVLE) score

~~received directly from the official score reporting agency. NAVLE candidates shall submit the NAVLE application and fee directly to the National Board of Veterinary Medical Examiners (NBVME);~~

~~(c) photograph approximately 2" x 2" taken within one year of the date of application;~~

~~(d) if applicable, official written verification of licensure in any profession from any state of licensure past or present;~~

~~(e) the candidate's work history of all concurrent and consecutive employment, starting at the date of application and working back to graduation; and~~

~~(f) good moral character attestations from three veterinarians.~~

~~(3) All applicants must:~~

~~(a) pass the NAVLE at or above the designated passing standard established by the national examination entity as approved by the board within 62 months of the application date; and~~

~~(b) pass the board's jurisprudence exam with a score of 90 percent or greater. If the candidate fails the jurisprudence exam twice, the candidate must appear before the board prior to taking it a third time.~~

~~(4) Foreign veterinary school graduates from a school not accredited by the AVMA Council on Education shall either have completed the requirements of the American Veterinary Medical Association's Education Commission for Foreign Veterinary Graduates (ECFVG), as evidenced by a copy of the ECFVG certificate, or must have completed the requirements of the Program for the Assessment of Veterinary Education Equivalence (PAVE), as evidenced by a copy of the PAVE certificate, before an application will be accepted.~~

~~(a) For specific information on the requirements of the ECFVG, contact the American Veterinary Medical Association, ECFVG, 1931 North Meacham Road, Suite 100, Schaumburg, IL 60173. For specific information on the requirements of the PAVE, contact the American Association of Veterinary State Boards at 380 West 22nd Street, Suite 101, Kansas City, MO 64108.~~

~~(5) An application for examination shall expire 18 months from the date of the application. An applicant who, for any reason, fails or neglects to complete the licensing process within 18 months shall be required to file another application and submit another application fee.~~

AUTH: 37-1-131, 37-18-202, MCA

IMP: 37-1-131, 37-18-302, MCA

REASON: The board determined it is reasonably necessary to amend this rule to eliminate outdated, redundant, and unnecessary provisions, and provide consistency, simplicity, better organization, and ease of use for the reader. To this end, the board is relocating all specific examination provisions to ARM 24.225.504, the examination rule.

The board is amending (2) and (3) to accept official examination results and transcripts provided by the American Association of Veterinary State Boards (AAVSB). Following development and a soft rollout of the AAVSB's veterinary application for uniform licensure transfer (VAULT) system in 2016, the board's executive officer attended a presentation on the system at the 2017 AAVSB annual

meeting. Based on the executive officer's positive recommendation, the board concluded that this amendment is reasonably necessary to provide an additional option for applicants to utilize in submitting these documents.

The board is eliminating the option for senior veterinary students to submit a letter from the dean as an obsolete and unnecessary practice. Since a license is never issued until a final transcript is received, a letter from the dean does nothing to facilitate the licensing process under current licensing procedures. The requirement for an applicant photograph is being stricken as a photograph provides no relevant licensing information. The board is eliminating the requirement for work history following a determination that the board lacks the statutory authority to require applicant work history.

The board determined it is reasonably necessary to amend this rule to no longer require attestations regarding good moral character. The board concluded that such attestation is an outdated and unnecessary requirement, and that adequate information to demonstrate moral character is obtained through the application's disciplinary/criminal history questions.

The board is amending the application expiration date in (4) to a one-year period to align with standardized department licensure procedures for license application processing.

24.225.504 VETERINARIAN EXAMINATIONS FOR LICENSURE ~~(1) After 2000, the examination for licensure as a veterinarian shall consist of:~~

~~(a) the NAVLE pursuant to the requirements set forth in ARM 24.225.503, which must have been passed at or above the designated passing standard established by the national examination entity as approved by the board. The scores must be received by the board from the official score reporting agency; and~~

(1) Veterinarian applicants must pass the national North American Veterinary Licensing Examination (NAVLE) or its successor unless (2) applies.

(a) An applicant may not take the NAVLE or its successor more than five times unless approved by the board.

(b) An applicant may not take the NAVLE or its successor more than five years after the initial attempt date unless approved by the board.

(c) Each of the final two attempts must be at least one year after the previous attempt.

(d) Any attempt(s) to pass the exam prior to fall 2007 will not count toward the five-attempt limit.

(2) Veterinarian applicants who took the national exam prior to 2000 must have passed one of the following:

(a) the National Board Examination and the Clinical Competency Test with a converted score of 70 or greater as received by the board from the official score reporting agency; or

(b) the National Board Examination with a converted score of 70 or greater and have been licensed on the basis of a competency (not jurisprudence) examination by a veterinary board under the laws of another state of the United States or a Canadian province.

~~(b)~~ (3) In addition to passing the applicable examination as described in (1) or (2), all applicants must pass a jurisprudence examination as composed by the

~~board, which measures the competence of the applicant regarding the statutes and rules governing the practice of veterinary medicine in Montana. The jurisprudence examination must be passed with a score of 90 percent or greater prescribed by the board covering the statutes and rules governing the practice of veterinary medicine in Montana.~~

~~(a) Applicants must pass the jurisprudence examination with a score of 90 percent or greater.~~

~~(b) Any applicant who fails the jurisprudence examination may retake the examination.~~

~~(2) A candidate may not sit for the NAVLE more than five times and may not sit for the examination at a date that is later than five years after a candidate's initial attempt, unless approved by the board. Each of the final two attempts must be at least one year from the previous attempt. Any previous attempts by a candidate to pass the NAVLE, prior to the fall 2007 administration of the examination, will not count towards the five-attempt limit.~~

~~(3) Any applicant who has failed the jurisprudence examination may apply to be reexamined at a subsequent examination.~~

AUTH: 37-1-131, 37-18-202, MCA

IMP: 37-1-131, 37-18-302, MCA

REASON: The board determined it is reasonably necessary to amend this rule to relocate specific examination standards and procedures in a single location, thus eliminating unnecessary duplication in multiple rules. The board is further amending this rule for simplicity, better organization, and ease of use for the reader.

The board is further amending this rule to allow applicants to take the jurisprudence exam until passing it without having to apply to retake the exam. The purpose of the jurisprudence exam is to ensure licensees understand the board laws and rules prior to licensure. The board concluded it is not a reasonable or prudent use of the board's resources to limit the number of attempts, nor does it increase the public's protection.

24.225.507 LICENSURE ENDORSEMENT OF OUT-OF-STATE

APPLICANTS VETERINARIANS (1) Applicants for licensure currently licensed in another state or jurisdiction must submit a completed application on forms provided by the department, electronically or by paper. Completed applications include appropriate fees and required documentation.

~~(1) (2) A license to practice veterinary medicine in the state of Montana may be issued at the discretion of the board provided the applicant meets all of the following requirements Applicants must:~~

~~(a) hold a current, active license in good standing to practice veterinary medicine in another state or jurisdiction; and~~

~~(b) meet all the licensing requirements described in ARM 24.225.503, with the exception that the national examination does not have to have been passed within 62 months prior to the date of application.~~

(3) Incomplete applications will automatically expire one year from the date the fee was received. If an application expires, the applicant must reapply and pay all appropriate fees.

~~(a) The candidate has graduated from and holds a degree from a school of veterinary medicine accredited or approved by the American Veterinary Medical Association Council on Education as evidenced by a certified copy of the transcript sent directly from the veterinary school. Graduates of foreign veterinary schools not approved by the AVMA Council on Education shall have completed the requirements of the American Veterinary Medical Association's Education Commission for Foreign Veterinary Graduates (ECFVG) or the Program for the Assessment of Veterinary Education Equivalence (PAVE).~~

~~(b) The candidate has passed:~~

~~(i) the NAVLE at or above the designated passing standard established by the national examination entity as approved by the board;~~

~~(ii) the National Board Examination and the Clinical Competency Test with a converted score of 70 or greater as received by the board from the official score reporting agency; or~~

~~(iii) the National Board Examination with a converted score of 70 or greater and has been licensed on the basis of a competency (not jurisprudence) examination by a veterinary board under the laws of another state of the United States or a Canadian province.~~

~~(c) The candidate holds a valid and unrestricted license to practice veterinary medicine in another state or jurisdiction, and has been actively in practice for three of the five years immediately preceding the date of application to Montana. Official written verification of such licensure status must be received by the board directly from the other states or jurisdictions.~~

~~(d) The candidate provides a work history of all employment, concurrent as well as consecutive, starting at the date of application and working back to graduation.~~

~~(e) The candidate provides three good moral character attestations from veterinarians.~~

~~(f) The candidate has completed and filed with the board an application for licensure and the required application fee.~~

~~(g) The candidate has passed a jurisprudence examination prepared to measure the competence of the applicant regarding the statutes and rules governing the practice of veterinary medicine in Montana with a score of 90 percent or greater. If the candidate fails the jurisprudence examination twice, the candidate must appear before the board prior to taking it a third time.~~

~~(2) An application for endorsement shall expire 18 months from the date of receipt of the application.~~

AUTH: 37-1-131, 37-18-202, MCA

IMP: 37-1-304, 37-18-302, MCA

REASON: The majority of licensing requirements for out-of-state applicants are identical to those for applicants who are not currently licensed in other states or

jurisdictions. To avoid unnecessary duplication of such licensing standards, the board is amending this rule to appropriately and simply reference ARM 24.225.503.

The board is also clarifying in (2)(b) that applicants with out-of-state licenses are not required to have passed the national exam within the last 62 months. The board notes that this is merely a clarification and not a change from existing licensure requirements.

The board determined it is reasonably necessary to amend this rule to eliminate outdated, redundant, and unnecessary provisions, and provide consistency, simplicity, better organization, and ease of use for the reader. To this end, the board is relocating all specific examination provisions to ARM 24.225.504, the examination rule.

24.225.511 CONTINUING EDUCATION (1) Veterinarians are required to obtain a total of 20 continuing education (CE) hours prior to renewal on November 1 of even-numbered years. The 20 hours must be obtained during the 24-month period prior to renewal in even-numbered years.

(a) No more than ten of the 20 hours may be obtained through online courses.

(b) Practice management CE hours may not exceed 25 percent of the total hours required.

(2) Continuing education requirements will not apply until the licensees' first full year of licensure. Licensees licensed less than two years but more than one year are required to have ten CE hours prior to renewal.

(3) Licensees are responsible for selecting quality programs that focus on protecting the health, safety, and welfare of the public and contribute to veterinarians' professional knowledge and competence. Acceptable CE activities:

(a) directly relate to the scope of practice of veterinary medicine as defined in board statutes and rules;

(b) review existing concepts and techniques;

(c) convey information beyond the basic professional education;

(d) update knowledge on the practice and advances in veterinary medicine;

and/or

(e) reinforce professional conduct or ethical obligations of the licensee.

(4) All licensees shall affirm an understanding of their recurring duty to comply with CE requirements as a part of annual license renewal.

(5) The board may randomly audit up to 50 percent of renewed licensees' CE hours.

(6) All CE must be documented to show proof of completion. The licensee is responsible for maintaining these records for one year following the renewal cycle reporting period and for making those records available upon board request.

Documentation must include the following information:

(a) licensee name;

(b) course title and description of content;

(c) presenter or sponsor;

(d) course date(s); and

(e) number of CE hours earned.

(7) Licensees found to be in noncompliance with CE requirements may be

subject to administrative suspension. Licensees may not apply CE hours used to complete delinquent CE requirements for the next education reporting period.

(8) Any CE hours required by disciplinary order do not apply toward the 20 hours that are required annually under this rule.

(9) A licensee may request a hardship exemption from CE requirements due to certified illness or undue hardship. Requests will be considered by the board.

~~(1) Each veterinarian licensed shall be required to obtain every two years a minimum of 20 credit hours of continuing education approved by the board. The credit hours must be obtained within the 24 months prior to renewal, on the date set by ARM 24.101.413 of the even-numbered years. Licensees licensed less than two full calendar years, but more than one full calendar year on their first continuing education reporting date, shall be required to submit ten hours of continuing education.~~

~~(a) It is the responsibility of the veterinarian to maintain proof of the veterinarian's continuing education attendance and to certify compliance on the renewal application in the even-numbered years only. During the renewal process in the odd-numbered years, no continuing education is to be certified.~~

~~(i) Proof of continuing education attendance must be in the form of a certificate of completion accompanied by a list of programs attended. The continuing education documentation must include:~~

- ~~(A) name of licensee;~~
- ~~(B) name of presenter;~~
- ~~(C) title of presentation;~~
- ~~(D) date of presentation;~~
- ~~(E) number of hours; and~~
- ~~(F) presentation format.~~

~~(b) A veterinarian may be granted a grace period of three months after the deadline set by ARM 24.101.413 in which to fulfill the continuing education requirements. This grace period shall be granted only upon written request to the board, payment of the renewal fee, and payment of the late penalty fee. A license to practice veterinary medicine valid for the duration of the grace period will be issued to those persons granted a grace period. At the conclusion of the grace period, the veterinarian shall submit proof of CE compliance to the board, prior to the issuance of a full license.~~

~~(c) Continuing education programs attended during a grace period cannot be used for the next reporting period.~~

~~(2) Credit hours shall be earned by a one-hour credit for each hour of attendance at or participation in meetings and programs approved by the board. Board-approved programs include, but are not limited to, those sponsored by the American Veterinary Medical Association, American Animal Hospital Association, Western States Veterinary Conference, veterinary college conferences, state association meetings, Registry of Approved Continuing Education (RACE)-approved programs, and any other affiliated association, society, etc., related to veterinary medicine that have specific topics for veterinarians. Programs shall be of a professional veterinary nature to qualify, with the number of practice management hours reported not to exceed 25 percent of the total required continuing education hours.~~

~~(3) Continuing education courses offered and completed on the Internet or via other similar electronic means may be accepted, if all criteria listed in (1) and (2) are met, for a maximum of ten credits.~~

~~(4) The board will randomly audit two percent of the licensees and all licensees requesting a grace period each continuing education year. Certificates of completion and a list of agenda sessions attended must be submitted upon request of the board.~~

~~(5) New licensees who are applying for their first license renewal are not required to report continuing education.~~

~~(6) If a licensee is unable to acquire sufficient continuing education credits, the licensee may request a hardship exemption. All requests for exemptions will be evaluated by the board on an individual basis.~~

AUTH: 37-1-131, 37-1-319, ~~37-18-202~~, MCA

IMP: 37-1-131, ~~37-1-441~~, 37-1-306, 37-1-319, 37-1-321, MCA

REASON: The board is amending this rule to align with and further facilitate the department's standardized application, renewal, and audit procedures, and streamline the rule for better organization and ease of use for the reader. As a part of the standardization, the board concluded that it is reasonably necessary to place the responsibility on veterinarian licensees to select quality continuing education (CE) programs that contribute to their knowledge and competence. Following amendment, the board will no longer approve sponsors or courses as the licensees must choose CE that meets the professional education objectives listed in this rule.

The board is further amending (5) to allow flexibility in conducting random CE audits. Currently, the board randomly audits two percent of all renewed licensees for each reporting period. This amendment will allow the board to respond to staffing and budget issues by adjusting the number of licensees audited, while remaining consistent with the statutory maximum of 50 percent in 37-1-306, MCA.

The board is clarifying in (7) that licensees not in compliance with CE may be subject to administrative suspension per 37-1-321, MCA, and in accordance with standardized department audit processes. To address licensee and staff questions, (8) is intended to clarify that any CE required pursuant to a licensee's disciplinary action is independent of regular CE requirements.

The board is eliminating the provisions for licensees to request CE grace periods to align CE and renewal requirements with standardized department procedures. Under the standardized audit processes, licensees are provided with adequate time to cure any audit deficiencies and the grace period is no longer necessary.

Additional amendments will eliminate outdated, redundant, and unnecessary provisions, and provide consistency, simplicity, better organization, and ease of use for the reader. Authority and implementation citations are being amended to accurately reflect all statutes implemented through the rule and provide the complete sources of the board's rulemaking authority.

24.225.513 CONTINUING EDUCATION PROVIDERS INSTRUCTORS

~~(1) A veterinarian licensed in another jurisdiction, a faculty member of a school of veterinary medicine, or the holder of a doctor of philosophy in a field of science applicable in any manner to the practice of veterinary medicine who presents a continuing education course approved by the board in Montana, is not considered to be practicing veterinary medicine within the meaning of 37-18-102(d) or (g), MCA.~~

(1) "Instructs" as used in 37-18-102, MCA, does not apply to individuals who present continuing education courses, in the state of Montana, which meet board requirements for approved continuing education.

AUTH: 37-1-319, 37-18-202, MCA

IMP: ~~37-1-131, 37-1-306,~~ 37-18-102, MCA

REASON: The board determined it is reasonably necessary to amend this rule to clarify that "instructs" as used in 37-18-102, MCA, does not apply to CE instructors. The board's original intent under this rule is not changing, but the amendment will more accurately represent the board's statutory authority under 37-18-102, MCA.

Implementation citations are being amended to accurately reflect all statutes implemented through the rule.

4. The rules proposed to be transferred are as follows:

24.225.410 (24.225.514) RECORD-KEEPING STANDARDS

AUTH: 37-1-131, 37-1-319, 37-18-202, MCA

IMP: 37-1-131, 37-1-316, 37-1-319, MCA

REASON: The board is transferring ARM 24.225.410, 24.225.415, and 24.225.420 from subchapter 4 to subchapter 5 to provide consistency, simplicity, better organization, and ease of use for the reader. Subchapter 4 contains general provisions which apply across all license types, while subchapter 5 applies specifically to veterinarians. The rules being transferred are specific to veterinarians and are therefore better located in subchapter 5.

24.225.415 (24.225.520) MANAGEMENT OF INFECTIOUS WASTES

AUTH: 37-1-131, 37-18-202, 75-10-1006, MCA

IMP: 75-10-1006, MCA

24.225.420 (24.225.521) INSPECTION AND SANITATION

AUTH: 37-1-131, 37-18-202, MCA

IMP: 37-1-131, 37-18-102, MCA

5. The board proposes to repeal the following rule:

24.225.502 OCCASIONAL CASE EXEMPTION

AUTH: 37-1-131, 37-18-202, MCA
IMP: 37-18-104, MCA

REASON: Section 37-18-104, MCA, provides the board the authority to define an occasional case, not to grant a permit or license to those that meet that definition. The board has defined occasional case in ARM 24.225.301 and is further amending the definition in this notice. Because veterinarians who meet the definition are exempt from licensing and do not need to "apply" for an exemption, the board determined it is reasonably necessary to repeal this rule which outlined an "application" process for the exemption.

6. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Veterinary Medicine, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibsdrv@mt.gov, and must be received no later than 5:00 p.m., May 25, 2018.

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

8. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Veterinary Medicine, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsdrv@mt.gov; or made by completing a request form at any rules hearing held by the agency.

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

10. Regarding the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.225.301, 24.225.425, 24.225.501, 24.225.503, 24.225.504, 24.225.507, 24.225.511, and 24.225.513 will not significantly and directly impact small businesses.

Regarding the requirements of 2-4-111, MCA, the board has determined that the transfer of ARM 24.225.410 (24.225.514), 24.225.415 (24.225.520), and 24.225.420 (24.225.521) will not significantly and directly impact small businesses.

Regarding the requirements of 2-4-111, MCA, the board has determined that the repeal of ARM 24.225.502 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determinations is available upon request to the Board of Veterinary Medicine, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2394; facsimile (406) 841-2305; or to dlibsdrvvet@mt.gov.

11. Lucy Richards, Executive Officer, has been designated to preside over and conduct this hearing.

BOARD OF VETERINARY MEDICINE
REBECCA MATTIX, DVM, PRESIDENT

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

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

Certified to the Secretary of State April 17, 2018.

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 37.59.102, 37.59.105,) PROPOSED AMENDMENT
37.59.109, 37.59.302, and 37.59.303)
pertaining to the update of the)
supplemental nutrition program for)
women, infants, and children (WIC))

TO: All Concerned Persons

1. On May 18, 2018, at 2:00 p.m., the Department of Public Health and Human Services will hold a public hearing in Room 207 of the Department of Public Health and Human Services, 111 North Sanders, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on May 8, 2018 to advise us of the nature of the accommodation that you need. Please contact Gwen Knight, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

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

37.59.102 DEFINITIONS Unless otherwise indicated, the following definitions apply throughout this chapter:

(1) "Administrative and program services costs" means those direct and indirect costs, exclusive of food costs, as defined in 7 CFR 246.14(c), which the department determines to be necessary to support local agency program operations. Administrative and program services costs include: the costs of program administration, start-up, monitoring, auditing, the development of and accountability for food delivery systems, nutrition and breastfeeding education, outreach, certification, information technology, and developing, producing, or procuring materials for ~~and printing~~ issuing food benefits.

(2) through (18) remain the same.

(19) "Food benefit" means ~~a voucher, check, coupon, or an~~ an electronic benefit transfer which is used by a participant to obtain supplemental foods.

(20) through (22) remain the same.

(23) "Initial ~~visit~~ contact" means the first time a person visits a WIC clinic to request program benefits, whether by an in-person inquiry or by telephone.

(24) through (48) remain the same.

(49) "State plan" means the "~~2014~~ 2018 State Plan for Montana's Special Supplemental Nutrition Program for Women, Infants and Children (WIC)", a plan of program operation and administration that describes the manner in which the department intends to implement and operate all aspects of program administration within its jurisdiction in accordance with 7 CFR 246.4.

(50) and (51) remain the same.

AUTH: 50-1-202, MCA

IMP: 50-1-202, MCA

37.59.105 INCORPORATIONS BY REFERENCE (1) and (2) remain the same.

(3) The department adopts and incorporates by reference the following:

(a) the poverty income guidelines as published under the "Annual Update on the HHS Poverty Guidelines" ~~78~~ 82 Federal Register ~~46~~ 19, pp ~~5182-5183~~ 8831-8832, ~~January 24, 2013~~ January 31, 2017;

(b) section 17 of the Child Nutrition Act of 1966, 42 U.S.C. 1771, et seq., as amended and reauthorized in 2010; and

(c) the "~~2014~~ 2018 State Plan for Montana's Special Supplemental Nutrition Program for Women, Infants and Children (WIC)" which is a comprehensive summary of applicable federal regulations, procedures, and forms used by the department.

(4) remains the same.

AUTH: 50-1-202, MCA

IMP: 50-1-202, MCA

37.59.109 PROGRAM ADMINISTRATION AND GUIDANCE (1) As the state agency to which the United States Department of Agriculture (USDA) has delegated the administration of the WIC Program, the department is responsible for the effective and efficient administration of the program in accordance with the USDA program regulations set forth in 7 CFR Part 246, USDA's regulations governing the WIC Program; 7 CFR Part 15, subparts A and C, USDA's regulations governing nondiscrimination; and ~~7 CFR Part 3015~~ 2 CFR 415.1 through 415.15, USDA's regulations governing the administration of grants.

(2) remains the same.

(3) The department adopts and incorporates by reference the following:

(a) 7 CFR Part 246, which are USDA regulations governing the WIC Program, edition date January 1, ~~2013~~ 2017 and may be obtained at www.fns.usda.gov/wic/lawsandregulations/wicregulations-7cfr246.pdf <https://www.fns.usda.gov/wic/wic-laws-and-regulations>;

(b) 7 CFR Part 15, subparts A and C, which are USDA regulations governing nondiscrimination, edition date January 1, ~~2013~~ 2017 and may be obtained at www.law.cornell.edu/cfr/text/7/part-15/subpart-A and www.law.cornell.edu/cfr/text/7/part-15/subpart-C;

(c) ~~7 CFR Part 3015~~ 2 CFR 415.1 through 415.15, which are USDA regulations governing the administration of grants, edition date January 1, ~~2013~~ 2017 and may be obtained at www.law.cornell.edu/cfr/text/7/3015 <https://www.gpo.gov/fdsys/pkg/CFR-2017-title2-vol1/xml/CFR-2017title2-vol1-part415.xml>; and

(d) the "~~2014~~ 2018 State Plan for Montana's Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)."

(e) remains the same.

AUTH: 50-1-202, MCA

IMP: 50-1-202, MCA

37.59.302 AGREEMENTS WITH RETAILERS AND FARMERS (1) The department adopts and incorporates by reference 7 CFR 246.12(h) and ~~(v)~~ (cc), which is a federal agency rule setting forth terms and requirements for agreements between the department and retailers and farmers. Copies of this document may be obtained from the Department of Public Health and Human Services, Special Supplemental Nutrition Program for Women, Infants, & Children (WIC), P.O. Box 202951, Helena, MT 59620-2951.

AUTH: 50-1-202, MCA

IMP: 50-1-202, MCA

37.59.303 PERIODIC REVIEW AND DISQUALIFICATION OF RETAILERS AND FARMERS (1) through (3) remain the same.

(4) The department adopts and incorporates by reference the following:

(a) the "~~2014~~ 2018 State Plan for Montana's Special Supplemental Nutrition Program for Women, Infants and Children (WIC)", a comprehensive summary of applicable federal regulations, procedures, and forms used by the department; and

(b) remains the same.

AUTH: 50-1-202, MCA

IMP: 50-1-202, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.59.102, 37.59.105, 37.59.109, 37.59.302, and 37.59.303 pertaining to the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). WIC is located in the Family and Community Health Bureau of the Montana Department of Public Health and Human Services. The program is sponsored by the Food and Nutrition Services of the United States Department of Agriculture (USDA).

The purpose of the proposed rule amendments is to update the administrative rules with current references and minor changes due to current operations and practices.

ARM 37.59.102

The proposed amendments to ARM 37.59.102(1) and (19) update language related to changes from issuing benefits on checks to electronic benefit issuance method. The proposed amendment to ARM 37.59.102(23) updates language terminology. The department proposes amendments to ARM 37.59.102(49) to update the year of reference State Plan to 2018.

ARM 37.59.105

The department is proposing amendments to ARM 37.59.105(3)(a) to update the Federal Register reference citation to the most current year.

ARM 37.59.109

The department is proposing amendments to ARM 37.59.109(1) to update the CFR reference for governing the administration of grants. The department is proposing amendments to ARM 37.59.109(3)(b) to update the edition date and the website location for 7 CFR Part 246. The department also proposes amending ARM 37.59.109(3)(b) to update the edition date for 7 CFR Part 15, subparts A and C. The proposed amendments to ARM 37.59.109(3)(c) update the CFR reference, date, and website location.

ARM 37.59.302

The department is proposing amendments to ARM 37.59.302(1) to update the citation for 7 CFR 246.12 to include an additional reference.

ARM 37.59.303

The department is proposing amendments to ARM 37.59.303(4)(a) to update the year of reference State Plan to 2018.

Fiscal Impact

There is no fiscal impact with these proposed rule amendments.

5. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Gwen Knight, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail dphhslegal@mt.gov, and must be received no later than 5:00 p.m., May 26, 2018.

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

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

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

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

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

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

/s/ Shannon L. McDonald
Shannon L. McDonald
Rule Reviewer

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

Certified to the Secretary of State April 17, 2018.

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

In the matter of the amendment of	)	NOTICE OF PROPOSED
ARM 37.108.507 pertaining to update	)	AMENDMENT
of the Healthcare Effectiveness Data)	
and Information Set (HEDIS)	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Concerned Persons

1. The Department of Public Health and Human Services proposes to amend the above-stated rule.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on May 11, 2018 to advise us of the nature of the accommodation that you need. Please contact Gwen Knight, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena MT 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

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

37.108.507 COMPONENTS OF QUALITY ASSESSMENT ACTIVITIES

(1) Annually, the health carrier shall evaluate its quality assessment activities by using the following HEDIS ~~2017~~ 2018 measures:

(a) through (3) remain the same.

(4) The department adopts and incorporates by reference the HEDIS ~~2017~~ 2018 measures for the categories listed in (1)(a) through (e). The HEDIS ~~2017~~ 2018 measures are developed by the National Committee for Quality Assurance and provide a standardized mechanism for measuring and comparing the quality of services offered by managed care health plans. Copies of HEDIS ~~2017~~ 2018 measures are available from the National Committee for Quality Assurance, 1100 13th St. NW, Suite 1000, Washington, D.C. 20005 or at www.ncqa.org.

AUTH: 33-36-105, MCA

IMP: 33-36-105, 33-36-302, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Managed Care Plan Network Adequacy and Quality Assurance Act (Title 33, chapter 36, MCA) establishes standards for health carriers offering managed care

plans and for the implementation of quality assurance standards in administrative rules. ARM 37.108.501 through ARM 37.108.521 were adopted in 2001 and established mechanisms for the department to evaluate quality assurance activities of health carriers providing managed care plans in Montana. ARM 37.108.507 requires health carriers to report their quality assessment activities to the department using healthcare effectiveness data and information set (HEDIS) measures, nationally utilized measures that are updated annually. Since the HEDIS standards change somewhat each year, the rule must also be updated annually to reflect the current year's measures and ensure that national comparisons are possible, since other states will be using the same updated measures.

The option of not updating the HEDIS measure was considered and rejected because these are national quality measures which allow comparison among health plans. If the measures are not kept current, this function is lost.

Changes to HEDIS 2018 Measures, Volume 2

- (1) Childhood Immunization Status
 - (a) Revised the Data Elements for Reporting table to reflect removal of the Final Sample Size (FSS) when reporting using the hybrid methodology.
- (2) Breast Cancer Screening
 - (a) Added required exclusions to the Medicare product line for members 65 years of age and older, living long-term in institutional settings.
 - (b) Added digital breast tomosynthesis as a method for meeting numerator criteria.
 - (c) Revised the Note Section.
- (3) Cervical Cancer Screening
 - (a) Revised the Data Elements for Reporting table to reflect removal of the Final Sample Size (FSS) when reporting using the hybrid methodology.
- (4) Comprehensive Diabetes Care
 - (a) Added bilateral eye enucleation to the Eye exam (retinal) performed indicator.
 - (b) Revised the language in step 1 of the BP Control <140/90 mm Hg Numerator and added Notes clarifying the intent when excluding BP readings from the numerator.
 - (c) Clarified the medical record requirements for evidence of ACE inhibitor/ARB therapy (for the Medical Attention for Nephropathy indicator).
 - (d) Replaced medication table references with references to medication lists.
 - (e) Added "sacubitril-valsartan" to the description of Antihypertensive combinations in the ACE Inhibitor/ARB Medications List.
 - (f) Revised the Data Elements for Reporting table to reflect the removal of the Final Sample Size (FSS) when reporting using the hybrid methodology.
- (5) HEDIS/Consumer Assessment of Health Plan Survey (CAHPS) for Adults
 - (a) This measure is collected using survey methodology. Detailed specifications and summary of changes are contained in HEDIS 2018, Volume 3: Specifications for Survey Measures.

Corrections, policy changes, and clarifications to HEDIS 2018, Volume 2,
Technical Specifications

(1) Breast Cancer Screening —~~Required (optional)~~

(a) Required Exclusion

Replace the text in this section with the following text:

Exclude from Medicare reporting members age 65 and older as of January 1 of the measurement year who meet either of the following:

(i) Enrolled in an Institutional SNP (I-SNP) any time during the measurement year.

(ii) Living long-term in an institution any time during the measurement year as identified by the LTI flag in the Medicare Part C monthly membership file.

(b) Table BCS-1/2/3: Data Elements for Breast Cancer Screening – Add the following row under the "Eligible population" row in Table BCS-1/2/3:

(i) Number of required exclusions (Medicare only). Place a checkmark in second column.

~~(a) Replace the second bullet with the following text:~~

~~Unilateral mastectomy (Unilateral Mastectomy Value Set) with a bilateral modifier (Bilateral Modifier Value Set.) Codes must be on the same claim.~~

~~(b) in the first row of bullets in the table, replace both references to "(same date of service)" with "(same claim)".~~

~~(c) Replace the Note with the following text:~~

~~This measure evaluates primary screening. Do not count biopsies, breast ultrasounds, MRIs or tomosynthesis (3D mammography), because they are not appropriate methods for primary breast cancer screening.~~

~~(2) Comprehensive Diabetes Care Hybrid Specification — Denominator~~

~~(a) Add the following text as the second sentence in the third paragraph.~~

~~(i) Members from the oversample should be added to the denominator for all measure indicators. Administrative Specification – Numerators, Eye exam~~

~~(a) Replace the second bullet with the following text.~~

~~Two unilateral eye enucleations (Unilateral Eye Enucleation Value Set) with service dates 14 days or more apart. For example, if the service date for the first unilateral eye enucleation was February 1 of the measurement year, the service date of the second unilateral eye enucleation must be on or after February 15.~~

5. The department intends the proposed rule amendment to be applied retroactively to January 1, 2018. There is no negative impact to the affected health insurance company by applying the rule amendment retroactively.

6. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Gwen Knight, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena MT 59604-4210, no later than 5:00 p.m. on May 25, 2018. Comments may also be faxed to (406) 444-9744 or e-mailed to dphhslegal@mt.gov.

7. 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 Gwen Knight at the above address no later than 5:00 p.m., May 25, 2018.

8. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 1 person based on the one health insurance provider affected by this proposed rule amendment.

9. 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 6 above or may be made by completing a request form at any rules hearing held by the department.

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 rule will not significantly and directly impact small businesses.

/s/ Flint Murfitt
Flint Murfitt
Rule Reviewer

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

Certified to the Secretary of State April 17, 2018.

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

In the matter of the amendment of	)	NOTICE OF EXTENSION OF
ARM 37.86.2901, 37.86.2925,	)	COMMENT PERIOD ON
37.86.2928, 37.86.2931, and	)	PROPOSED AMENDMENT
37.86.2932 pertaining to the)	
discontinuance of the supplemental)	
disproportionate share hospital)	
payment)	

TO: All Concerned Persons

1. On March 16, 2018, the Department of Public Health and Human Services (department) published MAR Notice No. 37-836 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 545 of the 2018 Montana Administrative Register, Issue Number 5.

2. The public hearing was held on April 5, 2018, in Room 207 of the Department of Public Health and Human Services Building, 111 North Sanders, Helena Montana. The Montana Hospital Association has requested the department extend the comment period to allow the association to conduct additional inquiry of its members regarding this rule proposal. The department, therefore, extends the comment period, and the new deadline for submitting written comments is May 4, 2018.

3. 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 of Public Health and Human Services no later than 5:00 p.m. on May 1, 2018, to advise us of the nature of the accommodation that you need. Please contact Todd Olson, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-9503; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Todd Olson, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail dphhslegal@mt.gov, and must be received no later than 5:00 p.m., May 4, 2018.

/s/ Brenda Elias
Brenda Elias, Attorney
Rule Reviewer

/s/ Marie Matthews for Director
Sheila Hogan, Director
Public Health and Human Services

Certified to the Secretary of State April 17, 2018.

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

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING ON
ARM 37.85.104, 37.85.105,	)	PROPOSED AMENDMENT
37.86.2907, 37.87.903, and)	
37.90.408 pertaining to updating)	
Medicaid fee schedules with)	
Medicare rates and updating effective)	
dates)	

TO: All Concerned Persons

1. On May 17, 2018, at 1:00 p.m., the Department of Public Health and Human Services will hold a public hearing in the auditorium of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on May 7, 2018, to advise us of the nature of the accommodation that you need. Please contact Gwen Knight, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

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

37.85.104 EFFECTIVE DATES OF PROVIDER FEE SCHEDULES FOR MONTANA NON-MEDICAID SERVICES (1) The department adopts and incorporates by reference the fee schedule for the following programs within the Addictive and Mental Disorders Division and Developmental Services Division on the dates stated:

(a) Mental health services plan provider reimbursement, as provided in ARM 37.89.125, is effective ~~January 1, 2018~~ July 1, 2018.

(b) 72-hour presumptive eligibility for adult-crisis stabilization services reimbursement for services, as provided in ARM 37.89.523, is effective ~~January 1, 2018~~ July 1, 2018.

(c) Youth respite care services, as provided in ARM 37.87.2203, is effective ~~March 1, 2018~~ July 1, 2018.

(d) Substance use disorder services provider reimbursement, as provided in ARM 37.27.905, is effective ~~March 1, 2018~~ July 1, 2018.

(2) remains the same.

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

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

(2) The department adopts and incorporates by reference, the resource-based relative value scale (RBRVS) reimbursement methodology for specific providers as described in ARM 37.85.212 on the date stated.

(a) Resource-based relative value scale (RBRVS) means the version of the Medicare resource-based relative value scale contained in the Medicare Physician Fee Schedule adopted by the Centers for Medicare and Medicaid Services (CMS) of the U.S. Department of Health and Human Services and published at ~~84~~ 82 Federal Register ~~220~~ 219, page ~~80470~~ 52976 (November 15, ~~2016~~ 2017) effective January 1, ~~2017~~ 2018 which is adopted and incorporated by reference. Procedure codes created after January 1, 2018 will be reimbursed using the relative value units from the Medicare Physician Fee Schedule in place at the time the procedure code is created.

(b) Fee schedules are effective ~~January 1, 2018~~ July 1, 2018. The conversion factor for physician services is ~~\$36.53~~ \$36.68. The conversion factor for allied services is ~~\$24.29~~ \$22.96. The conversion factor for mental health services is ~~\$24.07~~ \$23.20. The conversion factor for anesthesia services is \$28.87.

(c) through (g) remain the same.

(h) Optometric services receive a ~~442%~~ 117% provider rate of reimbursement adjustment to the reimbursement for allied services as provided in ARM 37.85.105(2) effective July 1, ~~2016~~ 2018.

(i) remains the same.

(j) Reimbursement for vaccines described at ARM 37.86.105 is effective ~~January 1, 2018~~ July 1, 2018.

(3) The department adopts and incorporates by reference, the fee schedule for the following programs within the Health Resources Division, on the date stated.

(a) remains the same.

(b) The outpatient hospital services fee schedules including:

(i) the Outpatient Prospective Payment System (OPPS) fee schedule as published by the Centers for Medicare and Medicaid Services (CMS) in ~~82~~ Federal Register Volume 82, Issue 217, page 52356 (November 13, 2017) ~~217~~, effective January 1, 2018, and reviewed annually by CMS as required in 42 CFR 419.5 (2016) as updated by the department;

(ii) remains the same.

(iii) the Medicaid statewide average outpatient cost-to-charge ratio is ~~39.94%~~ 37.30%; and

(iv) through (e) remain the same.

(f) The outpatient drugs reimbursement, dispensing fees range as provided in ARM 37.86.1105(3)(b) is effective ~~January 1, 2018~~ July 1, 2018:

(i) for pharmacies with prescription volume between 0 and 39,999, the minimum is ~~\$3.44~~ \$2.75 and the maximum is \$14.55;

(ii) for pharmacies with prescription volume between 40,000 and 69,999, the minimum is ~~\$3.44~~ \$2.75 and the maximum is \$12.61; or

(iii) for pharmacies with prescription volume greater than 70,000, the minimum is ~~\$3.44~~ \$2.75 and the maximum is \$10.67.

(g) remains the same.

(h) The outpatient drugs reimbursement, vaccine administration fee as provided in ARM 37.86.1105(6), will be \$20.68 for the first vaccine and ~~\$12.64~~ \$13.42 for each additional administered vaccine, effective ~~January 1, 2018~~ July 1, 2018.

(i) through (k) remain the same.

(l) Fee schedules for private duty nursing, nutrition, children's special health services, and orientation and mobility specialists as provided in ARM 37.86.2207(2), are effective ~~January 1, 2018~~ July 1, 2018.

(m) and (n) remain the same.

(o) The ambulance services fee schedule, as provided in ARM 37.86.2605, is effective ~~January 1, 2018~~ July 1, 2018.

(p) The audiology fee schedule, as provided in ARM 37.86.705, is effective ~~January 1, 2018~~ July 1, 2018.

(q) The therapy fee schedules for occupational therapists, physical therapists, and speech therapists, as provided in ARM 37.86.610, are effective ~~January 1, 2018~~ July 1, 2018.

(r) The optometric fee schedule provided in ARM 37.86.2005, is effective ~~January 1, 2018~~ July 1, 2018.

(s) The chiropractic fee schedule, as provided in ARM 37.85.212(2), is effective ~~January 1, 2018~~ July 1, 2018.

(t) The lab and imaging fee schedule, as provided in ARM 37.85.212(2) and 37.86.3007, is effective ~~January 1, 2018~~ July 1, 2018.

(u) through (w) remain the same.

(x) The mobile imaging fee schedule, as provided in ARM 37.85.212, is effective ~~January 1, 2018~~ July 1, 2018.

(y) The licensed direct entry midwife fee schedule, as provided in ARM 37.85.212, is effective ~~January 1, 2018~~ July 1, 2018.

(4) The department adopts and incorporates by reference, the fee schedule for the following programs within the Senior and Long Term Care Division on the date stated:

(a) Home and community-based services for elderly and physically disabled persons fee schedule, as provided in ARM 37.40.1421, is effective ~~January 1, 2018~~ July 1, 2018.

(b) through (e) remain the same.

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

(a) Mental health center services for adults reimbursement, as provided in ARM 37.88.907, is effective ~~January 1, 2018~~ July 1, 2018.

(b) Home and community-based services for adults with severe disabling mental illness, reimbursement, as provided in ARM 37.90.408, is effective ~~January 1, 2018~~ July 1, 2018.

(c) Substance use disorder services reimbursement, as provided in ARM 37.27.905, is effective ~~March 1, 2018~~ July 1, 2018.

(6) The department adopts and incorporates by reference, the fee schedule for the following programs within the Developmental Services Division, on the date stated: Mental health services for youth, as provided in ARM 37.87.901 in the Medicaid Youth Mental Health Services Fee Schedule, is effective ~~March 1, 2018~~ July 1, 2018.

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

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

37.86.2907 INPATIENT HOSPITAL PROSPECTIVE REIMBURSEMENT, APR-DRG PAYMENT RATE DETERMINATION (1) The department's APR-DRG prospective payment rate for inpatient hospital services is based on the classification of inpatient hospital discharges to APR-DRGs. The provider reimbursement rates for inpatient hospital services, except as otherwise provided in ARM 37.85.206, is stated in the department's APR-DRG fee schedule adopted and effective at ARM 37.85.105. The procedure for determining the APR-DRG prospective payment rate is as follows:

(a) through (c) remain the same.

(d) The department computes a base price for long term acute care ~~(LTC)~~ (LTAC) hospitals. The effective date and base rate amount is adopted and effective as provided at ARM 37.85.105. Disproportionate share payments are not included in this price.

(e) through (h) remain the same.

(2) The department adopts and incorporates by reference the APR-DRG Table of Weights and Thresholds adopted and effective at ARM 37.85.105. The Montana Medicaid APR-DRG relative weight values, average national length of stay (ALOS), outlier thresholds, and APR-DRG grouper ~~version 33~~ are contained in the APR-DRG Table of Weights and Thresholds Fee Schedule which ~~are~~ is adopted and effective as provided at ARM 37.85.105 and published by the department. Copies may be obtained from the Department of Public Health and Human Services, Health Resources Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.

AUTH: 2-4-201, 53-2-201, 53-6-113, MCA

IMP: 2-4-201, 53-2-201, 53-6-101, 53-6-111, 53-6-113, MCA

37.87.903 MEDICAID MENTAL HEALTH SERVICES FOR YOUTH, AUTHORIZATION REQUIREMENTS (1) through (6) remain the same.

(7) In addition to the requirements contained in rule, the department has developed and published a provider manual entitled Children's Mental Health Bureau, Medicaid Services Provider Manual (Manual), dated ~~March 1, 2018~~ July 1, 2018, for the purpose of implementing requirements for utilization management. The department adopts and incorporates by reference the Children's Mental Health Bureau, Medicaid Services Provider Manual, dated ~~March 1, 2018~~ July 1, 2018. A copy of the manual may be obtained from the department by a request in writing to the Department of Public Health and Human Services, Developmental Services

Division, Children's Mental Health Bureau, 111 N. Sanders, P.O. Box 4210, Helena, MT 59604-4210 or at <http://dphhs.mt.gov/dsd/CMB/Manuals.aspx>.

(8) and (9) remain the same.

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

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

37.90.408 HOME AND COMMUNITY-BASED SERVICES FOR ADULTS WITH SEVERE DISABLING MENTAL ILLNESS: REIMBURSEMENT (1) The department adopts and incorporates by reference the Medicaid Home and Community-Based Services for Adults With Severe Disabling Mental Illness Fee Schedule. The provider reimbursement rate for a covered service for Home and Community-Based Services for Adults with Severe Disabling Mental Illness, unless provided otherwise in this rule, is stated in the department's fee schedule as provided in ARM 37.85.105~~(6)~~ (5)(b). These fees are calculated based on: (a) through (10) remain the same.

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

IMP: 53-6-402, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) administers the Montana Medicaid and non-Medicaid programs to provide health care to Montana's qualified low income, elderly, and disabled residents. Medicaid is a public assistance program paid for with state and federal funds appropriated to pay health care providers for the covered medical services they deliver to Medicaid members. Pursuant to 53-6-113(3), MCA, the legislature has delegated authority to the department to set by rule, the reimbursement rates that Medicaid pays to providers for covered services.

Although not all rule changes encompassed in this rulemaking pertain to Resource-based Relative Value Scale (RBRVS) Methodology, this methodology relates to a significant portion of this rulemaking. Medicaid proposes to revise fee schedules, effective dates, rates, and references to incorporate the annual relative value unit (RVU) updates from the Centers for Medicare and Medicaid Services (CMS). ARM 37.85.105 contains the references to Medicaid's fee schedules, effective dates, conversion factors, provider rates percentages, and rates for services provided through Medicaid, effective July 1, 2018.

Resource-Based Relative Value Scale (RBRVS) Methodology Summary

Many Medicaid providers' rates are established through the resource-based relative value scale (RBRVS) model. RBRVS is used nationwide by most health plans, including Medicare and Medicaid. The RVU component of RBRVS is revised annually by CMS and the American Medical Association. The department amends ARM 37.85.105 annually to adopt current RVUs. An RVU is a numerical value

assigned to each medical procedure. RVUs are based on physician work, practice expense, and malpractice insurance expenses, and express the relative effort and expense expended to provide one procedure compared with another. RVUs are added for new procedures and the RVUs of particular procedures may increase or decrease from year to year.

Conversion factor (CF) means a dollar amount by which RVUs are multiplied to establish the RBRVS fee for a service. The department annually calculates CF for physician services, allied services, mental health services, and anesthesia services. These CFs are calculated by dividing the Montana Legislature's appropriation for Medicaid services during the upcoming SFY by the total units of health care expressed, as total RVUs, which are estimated to be provided during the upcoming state fiscal year (SFY). The resulting quotient is the conversion factor. The RVU for a procedure multiplied by the CF is the fee paid for the procedure. In SFY 2018, the CFs for allied, mental health, and anesthesia services were calculated in this manner. Pursuant to ARM 37.85.212(6), the department has the authority to achieve budget neutrality by adjusting conversion factors to ensure that the expenditure of appropriations does not exceed available revenue.

There are four divisions within the department that are proposing amendments in this rulemaking. They are the Addictive and Mental Disorders Division (AMDD); the Children's Mental Health Bureau (CMHB) of the Developmental Services Division; the Health Resources Division (HRD); and the Senior and Long Term Care Division (SLTC). Each division's statement of reasonable necessity appears below.

ARM 37.85.104

The Addictive and Mental Disorders Division proposes amending ARM 37.85.104(1)(a), (b), and (d) to change from January 1, 2018, to July 1, 2018, the effective date of the fee schedules for reimbursement for mental health services plan, 72-hour presumptive eligibility for adult-crisis stabilization services, and substance use disorder services. The department proposes this to incorporate by reference the new fee schedules to implement the cost neutral rates set by Medicaid's RBRVS reimbursement for psychologists, social workers, and professional counselors. The proposed amendment removes a reference to interactive psychotherapy which no longer exists according to the CPT Manual. In the July 1, 2018, fee schedules, the department is also amending the limit column and removing the management column for general housekeeping purposes.

The Children's Mental Health Bureau is proposing to amend ARM 37.85.104(1)(c) to incorporate by reference the new fee schedules to implement the cost neutral rates set by RBRVS reimbursement psychologists, social workers, and professional counselors. The proposed amendment removes a reference to interactive psychotherapy which no longer exists according to the American Medical Association Current Procedural Terminology (CPT®) manual.

ARM 37.85.105

The AMDD proposes to remove overnight supports and companion services from the 1915(c) Home and Community-based Services (HCBS) Severe Disabling Mental Illness (SDMI) Waiver fee schedule effective July 1, 2018. CMS approved adding overnight supports and companion services to the 1915(c) HCBS SDMI Waiver on October 11, 2016, and both were added to the 1915(c) HCBS SDMI Waiver Fee schedule effective July 1, 2017. Since being added, overnight supports has never been used and companion services has been used only minimally. The department has submitted to CMS an amendment to the 1915(c) HCBS SDMI Waiver proposing to remove these services starting July 1, 2018. Rules were never approved for either service, so there are no corresponding rule numbers.

The department is proposing to amend ARM 37.85.105 to incorporate by reference the new fee schedules to implement the cost neutral rates set by RBRVS reimbursement psychologists, social workers, and professional counselors. The proposed amendment removes a reference to interactive psychotherapy which no longer exists according to the American Medical Association Current Procedural Terminology (CPT®) manual. The department is proposing to amend ARM 37.87.903 to require prior authorization of partial hospital for youth with a serious emotional disturbance (SED) beginning July 1, 2018, and is removing the requirement that youth must be at least two years of age to receive outpatient therapy, to be retroactively effective November 1, 2017.

ARM 37.85.105(2)(a)

The Health Resources Division is proposing amendments to citations in ARM 37.85.105(2)(a) that refer to the most recently published Federal Register update for RBRVS and update the effective date to January 1, 2018.

ARM 37.85.105(2)(b)

Pursuant to ARM 37.85.212(6), the department has the authority to achieve budget neutrality by adjusting conversion factors to ensure that the expenditure of appropriations does not exceed available revenue.

The CF for licensed physicians is set by 53-6-125, MCA, and is calculated in accordance with 20-9-326, MCA. For the physician services CF, the department achieved budget neutrality decreasing the existing CF of \$36.53 by 0.94% to offset changes to RVUs or Geographic Practice Cost Indices (GPCIs), resulting in a CF of \$36.19. With budget neutrality achieved, the department then applied a reduction of 0.5% to \$36.19, which resulted in a CF of \$36.01. The 0.5% reduction is necessary because in January 2018, the department applied a 1% increase to the physician services conversion factor and implemented the increase over six months instead of the usual 12-month period to satisfy the increase provided in 53-6-125, MCA. Finally, the department applied the legislatively mandated 1.87% increase to \$36.01, resulting in the proposed physician CF of \$36.68.

The allied services CF is used for reimbursement across multiple provider types. The proposed CF for allied services was reduced to compensate for the increase in RVUs. The allied services CF was decreased from \$24.29 to \$22.96 in order to achieve budget neutrality and ensure that expenditure of appropriations does not exceed available revenue.

ARM 37.85.105(2)(h)

Because the allied services CF was reduced to compensate for the increase in RVUs and because optometric RVUs did not increase at the rate of other providers, the Health Resources Division proposes to increase the optometric rate of reimbursement adjustment from 112% to 117% to compensate for the discrepancy.

ARM 37.85.105(2)(j)

The Health Resources Division proposes to amend ARM 37.85.105(2)(i) to adjust the effective date to July 1, 2018, for the vaccines fee schedule, which has been revised pursuant to the proposed revised physician services CF.

ARM 37.85.105(3)

The Health Resources Division proposes to amend ARM 37.85.105(3)(b)(i), to correctly cite the Federal Register reference for Outpatient Prospective Payment System (OPPS) fee schedule to Volume 82, Issue 217, page 52356 (November 13, 2017).

The Health Resources Division proposes amending ARM 37.85.105(3)(b)(iii) to update the Medicaid statewide average outpatient cost-to-charge ratio from 39.91% to 37.30%. The most recent, in-state audited cost reports were used to calculate this percentage.

The Health Resources Division proposes amendments to ARM 37.85.105(3)(f)(i), (ii), and (iii), to revise the minimum dispensing fee amount to reflect the lowest calculated cost to dispense from \$3.41 to \$2.75, effective July 1, 2018, as required by CMS. This change is required to ensure compliance with Montana Medicaid's State Plan.

The Health Resources Division proposes amending ARM 37.85.105(3)(h) to revise the outpatient drugs reimbursement, vaccine administration fee as provided in ARM 37.86.1105(6), from \$12.61 to \$13.42 for each additional administered vaccine effective July 1, 2018. The vaccine administration fees are being changed to reflect the current rate which was calculated to reflect the proposed conversion factors proposed in (2) of ARM 37.85.105, and explained above.

The Health Resources Division proposes amending ARM 37.85.105(3)(l) through (3)(y), to update the effective date for fee schedules, which have been revised to reflect revisions made by CMS to the average sales price for drugs, and to the RVUs

for medical procedures multiplied by the revised conversion factors proposed in (2) of ARM 37.85.105.

ARM 37.85.105(4)

The Senior and Long Term Care Division proposes amending ARM 37.85.105(4)(a) to remove the billing code for independence advisor services from the fee schedule and make it unusable for billing purposes. This billing code is no longer necessary because the only independence advisor service provider has given notice it will no longer provide such services. Department staff will be providing independence advisor services, and members have been transitioned to the state staff.

ARM 37.85.105(5)(a), (b), and (c)

The Addictive and Mental Disorders Division proposes amending ARM 37.85.105(5)(a) through (5)(c) to change from January 1, 2018, to July 1, 2018, the effective date of the fee schedules for Medicaid mental health center services for adults, home and community-based services for adults with severe disabling mental illness, and substance use disorder services. The department proposes this to incorporate by reference the new fee schedules to implement the cost neutral rates set by Medicaid's RBRVS reimbursement for psychologists, social workers, and professional counselors.

The proposed amendment removes a reference to interactive psychotherapy which no longer exists according to the CPT manual. In the July 1, 2018 fee schedules, the department is also amending the limit column and removing the management column for general housekeeping purposes.

ARM 37.85.105(6)

The Children's Mental Health Bureau is proposing to amend ARM 37.85.105(6) to incorporate by reference the new fee schedules to implement the cost neutral rates set by Medicaid's resource-based relative value scale (RBRVS) reimbursement for psychologists, social workers, and professional counselors. The department proposes to update the fee schedule date from March 1, 2018, to July 1, 2018.

It is necessary for the department to incorporate new assigned relative values to implement references rates set by Medicaid's RBRVS reimbursement for psychologists, social workers, and professional counselors. RBRVS methodology is located in ARM 37.85.212 and is revised annually.

The Children's Mental Health Bureau is proposing to amend the Youth Mental Health Services Fee Schedule, which is amended to remove a reference to interactive psychotherapy which no longer exists according to the American Medical Association Current Procedural Terminology (CPT®) manual. This is necessary to ensure the most current mental health procedures are billed.

The remaining proposed amendments in ARM 37.85.105(3) relate to changing to July 1, 2018, the effective date for fee schedules, which have been revised to reflect revisions made by CMS to the RVUs for medical procedures multiplied by the revised conversion factors proposed in ARM 37.85.105(2), and explained above.

ARM 37.86.2907

The reasons for the proposed changes are to align language in this rule with the Medicaid State Plan. Terminology has been added for clarification. These changes are housekeeping and do not have any impact on programs.

ARM 37.87.903

The department proposes to amend the CMHB Medicaid Services Provider Manual (Manual) and update the effective date from March 1, 2018, to July 1, 2018, to add prior authorization requirements of partial hospital for youth with a serious emotional disturbance to manage costs and avoid paying for services that are not medically necessary.

In addition, CMHB is proposing amendments to the proposed revisions to the Manual, beginning July 1, 2018, and removing the requirement that youth must be at least two years of age to receive outpatient therapy, retroactively effective November 1, 2017. This proposed amendment is necessary because CMHB had determined that youth under two years of age must have access to medically necessary mental health services.

In SFY 2015, the year prior to the rule and Manual change disallowing outpatient therapies for clients under the age of two years, there were \$43,793 in outpatient therapies and assessments provided to Medicaid clients under the age of two. The payment system was not altered to deny claims for this new rule or limit, and therefore, many providers billed and have been paid for services after the rule was in effect. In SFY 2016, the year of the rule and Manual change, there were \$34,731 in expenditures paid for outpatient therapies and assessments provided to Medicaid clients under the age of two. In SFY 2017, the amount of payments made for outpatient therapies and assessments to-date for clients under the age of 24 months is slightly less than SFY 2016, but since providers have 365 days to bill for services, the annual expenditures for SFY 2017 are not complete, but are estimated to be similar to SFY 2016.

ARM 37.90.408

The Addictive and Mental Disorders Division is proposing to amend ARM 37.90.408 to correct a reference to the department's fee schedule provided in ARM 37.85.105. The department corrects the reference from (6) to (5)(b).

Fiscal Impact

Addictive and Mental Disorders Division

Updating the fee schedules for the Medicaid and non-Medicaid programs within the AMDD related to the updates to the (RBRVS) is presumed to have no fiscal impact.

Updating the rule reference in ARM 37.90.408 has no fiscal impact.

Children's Mental Health Bureau

Updating youth mental health outpatient services' (RBRVS) is presumed to have no fiscal impact.

Description	State General Fund	Federal Funds	Total Funds
Outpatient therapies for clients under two years	\$3,310	\$5,932	\$9,062

Requiring prior authorization of partial hospital has the following fiscal impact.

Description	State General Fund	Federal Funds	Total Funds
Prior Authorization of Partial Hospital	-\$67,702	-\$128,650	-\$196.352

Health Resources Division

The following table displays the number of providers affected by the amended fee schedules, effective dates, conversion factors, provider rate percentages, and rates for services, as well as the fiscal impact to State general funds for SF2019 based on the proposed amendments.

Provider Type	SFY 2019 Budget Impact (State Funds)	SFY 2019 Budget Impact (Federal Funds)	SFY 2019 Budget Impact (Total Funds)	Active Provider Count
Ambulance	Budget Neutral	Budget Neutral	Budget Neutral	169
Audiologist	Budget Neutral	Budget Neutral	Budget Neutral	65
Chiropractor	Budget Neutral	Budget Neutral	Budget Neutral	208
Independent Diagnostic Testing Facilities	\$1,048	\$1,991	\$3,039	23
Laboratory and X-Ray Services,	\$5,281	\$10,035	\$15,316	266/1

and Mobile Imaging				
Midlevel Practitioners	\$19,163	\$36,415	\$55,578	4784
Nutrition	Budget Neutral	Budget Neutral	Budget Neutral	62
Occupational Therapists	Budget Neutral	Budget Neutral	Budget Neutral	177
Optician	Budget Neutral	Budget Neutral	Budget Neutral	32
Optometric	Budget Neutral	Budget Neutral	Budget Neutral	209
Orientation and Mobility	Budget Neutral	Budget Neutral	Budget Neutral	3
Outpatient Hospitals	Budget Neutral	Budget Neutral	Budget Neutral	315
Pharmacy	Budget Neutral	Budget Neutral	Budget Neutral	415/428
Physician	\$94,993	\$180,509	\$275,502	14430
Podiatrist	\$1,093	\$2,077	\$3,170	88
Psychiatrist	\$99	\$287	\$439	346
Physical Therapists	Budget Neutral	Budget Neutral	Budget Neutral	690
Public Health Clinic	\$544	\$1,034	\$1,578	44
Speech Therapists	Budget Neutral	Budget Neutral	Budget Neutral	177
Total	\$122,221	\$232,348	\$354,622	

The proposed rule is estimated to affect 271,283 Medicaid members. In addition, it will impact the provider populations outlined in the tables above.

Senior and Long Term Care Division

There is no fiscal impact.

5. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Gwen Knight, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail dphhslegal@mt.gov, and must be received no later than 5:00 p.m., May 25, 2018.

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-references rules will not significantly and directly impact small businesses.

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

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

/s/ Francis X. Clinch
Francis X. Clinch
Rule Reviewer

/s/ Marie Matthews for Director
Sheila Hogan, Director
Public Health and Human Services

Certified to the Secretary of State April 17, 2018.

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 37.79.326 pertaining to Healthy) PROPOSED AMENDMENT
Montana Kids (HMK) Dental Benefits)

TO: All Concerned Persons

1. On May 17, 2018, at 11:00 a.m., the Department of Public Health and Human Services will hold a public hearing in Room 107 of the DPHHS Building, 111 N. Sanders, at Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on May 7, 2018, to advise us of the nature of the accommodation that you need. Please contact Gwen Knight, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

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

37.79.326 DENTAL BENEFITS (1) remains the same.

(2) Providers must bill for services using the procedure codes and modifiers set forth, and according to the definitions contained in the American Dental Association Manual of Current Dental Terminology (~~CDT 2017~~) (CDT 2018).

(3) Effective July 1, ~~2017~~ 2018, only the dental procedures listed at <http://dphhs.mt.gov/hmk.aspx> are benefits of the HMK coverage group Dental Program.

(4) through (6) remain the same.

AUTH: 53-4-1004, 53-4-1005, 53-4-1009, 53-4-1105, MCA

IMP: 53-4-1003, 53-4-1004, 53-4-1005, 53-4-1009, 53-4-1104, 53-4-1105, MCA

4. STATEMENT OF REASONABLE NECESSITY

Healthy Montana Kids (HMK) CHIP continues to follow the State of Montana Employee Dental Benefits as a benchmark for the Healthy Montana Kids dental benefit as stated in the Centers for Medicare and Medicaid Services (CMS) approved CHIP State Plan. The department proposes to update dental procedure codes, as needed, annually, as the state employee benchmark plan changes. This

will reflect any new procedure code updates, code additions and deletions, or changes to existing code descriptions. Also included is an update to the Current Dental Terminology (CDT) code book reference from 2017 to 2018.

The proposed rule amendment would be effective July 1, 2018. All other rules regarding the HMK Dental Plan will remain the same.

CMS has approved the State Plan citing the State of Montana Employee Dental Benefits as a benchmark. The proposed changes will comply with the benchmark plan and 2018 CDT Dental Procedure Codes.

The State Employee Dental Benefit Plan (Delta Dental) issues a revised list of covered procedure codes each January 1. When Delta Dental releases the code file with deletions, additions, and changes to descriptions with a January effective date, the department reviews this file and applies any of the changes to the program. The department also reviews the new codes if they replace deleted ones or are an addition to existing codes currently covered. The department examines and makes appropriate changes to any descriptions of codes that may have resulted with the release of the file.

FISCAL IMPACT

The proposed changes to this rule amendment should have no fiscal impact at this time. The proposed rule changes could affect an estimated 507 dental providers and 32,597 HMK members.

All dental providers would meet the criteria of a small business with less than 50 full-time employees as defined in Senate Bill 139. The amendment of this rule should have no impact on these small businesses.

The proposed rule amendments are necessary for the department to administer and maintain compliance with federal funding requirements.

5. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Gwen Knight, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail dphhslegal@mt.gov, and must be received no later than 5:00 p.m., May 25, 2018.

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

10. The department has determined that the proposed amendment is not appropriate for the performance-based measurement requirements of 53-6-196, MCA.

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

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

Certified to the Secretary of State April 17, 2018.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 42.25.1801 and 42.25.1809) PROPOSED AMENDMENT
pertaining to oil and gas tax rates)

TO: All Concerned Persons

1. On May 22, 2018, at 11 a.m., the Department of Revenue will hold a public hearing in the 3rd Floor Reception Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana, to consider the proposed amendment of the above-stated rules. The hearing room is most readily accessed using the east doors of the building facing Sanders Street.

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5 p.m. on May 11, 2018, to advise us of the nature of the accommodation you need. Please contact Laurie Logan, 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 lalogan@mt.gov.

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

42.25.1801 DEFINITIONS In addition to the definitions found in 15-36-303, MCA, the following definitions apply to terms used in this ~~chapter~~ subchapter:
(1) through (13) remain the same.

AUTH: 15-36-322, MCA

IMP: 15-1-101, 15-36-301, 15-36-302, 15-36-303, 15-36-304, 15-36-305, 15-36-309, 15-36-310, 15-36-311, 15-36-312, 15-36-313, 15-36-314, 15-36-315, 15-36-319, 15-36-321, 15-36-326, 82-1-111, MCA

REASON: The department proposes amending ARM 42.25.1801 to correct the lead-in statement for the rule by changing the word chapter to subchapter. The definitions in this rule are specific to terms used in ARM Title 42, chapter 25, subchapter 18, not to the entire chapter 25. There are no substantive changes being proposed for the rule content.

42.25.1809 TAX RATES (1) Table I reflects the tax rates effective on October 1, 2006 through September 30, 2016, and includes the rates contained in as set forth in 15-36-304, MCA, and ARM 36-22-1242 by the Montana (Board of Oil and Gas Conservation). ~~The rate is subject to change by the Board of Oil and Gas by rule.~~

Table I - Effective 10/1/2006

Table I - Effective through 9/30/2016

<u>Type of Production</u>	<u>Working Interest</u>	<u>Nonworking Interest</u>
(a) Natural gas		
(i) Primary recovery production		
(A) First 12 months of production	.76%	15.06%
(B) Pre-1999 wells after first 12 months of production	15.06%	15.06%
(C) Post-1999 wells after first 12 months of production	9.26 %	15.06%
(ii) Stripper wells (averaging < 60 MCF/day)		
(A) Pre-1999 wells	11.26 %	15.06%
(iii) Horizontally completed well production		
(A) First 18 months of qualifying production	.76 %	15.06%
(B) After 18 months	9.26 %	15.06%
(b) Oil		
(i) Primary recovery production		
(A) First 12 months of production	.76 %	15.06%
(B) Pre-1999 wells after first 12 months of production	12.76 %	15.06%
(C) Post-1999 wells after first 12 months of production	9.26 %	15.06%
(ii) Stripper wells (averaging < 15 bbls/day)		
(A) Pre-1999 and post-1999 wells first 1-10 bbls	5.76 %	15.06%
(B) Pre-1999 and post-1999 over 10 bbls	9.26 %	15.06%
(C) Pre-1999 and post-1999 stripper well exemption	.76 %	15.06%
(D) Pre-1999 and post-1999 stripper well bonus production	6.26 %	15.06%
(iii) Horizontally drilled		
(A) Pre-1999 and post-1999 wells first 18 months	.76 %	15.06%
(B) Pre-1999 wells after 18 months	12.76 %	15.06%
(C) Post-1999 wells after 18 months	9.26 %	15.06%
(iv) Incremental production		
(A) New or expanded secondary recovery production	8.76 %	15.06%
(B) New or expanded tertiary production	6.06 %	15.06%
(v) Horizontally recompleted wells		
(A) Pre-1999 and post-1999 wells first 18 months	5.76 %	15.06%
(B) Pre-1999 wells after 18 months	12.76 %	15.06%
(C) Post-1999 wells after 18 months	9.26 %	15.06%

(2) Table II reflects the tax rates effective on October 1, 2016, as set forth in 15-36-304, MCA, and by the Montana Board of Oil and Gas Conservation in ARM 36.22.1242.

Table II - Effective 10/1/2016

<u>Type of Production</u>	<u>Working Interest</u>	<u>Nonworking Interest</u>
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<u>(a) Natural gas</u>		
<u>(i) Primary recovery production</u>		
<u>(A) First 12 months of production</u>	<u>.80%</u>	<u>15.10%</u>
<u>(B) Pre-1999 wells after first 12 months of production</u>	<u>15.10%</u>	<u>15.10%</u>
<u>(C) Post-1999 wells after first 12 months of production</u>	<u>9.30%</u>	<u>15.10%</u>
<u>(ii) Stripper wells (averaging < 60 MCF/day)</u>		
<u>(A) Pre-1999 wells</u>	<u>11.30%</u>	<u>15.10%</u>
<u>(iii) Horizontally completed well production</u>		
<u>(A) First 18 months of qualifying production</u>	<u>.80%</u>	<u>15.10%</u>
<u>(B) After 18 months</u>	<u>9.30%</u>	<u>15.10%</u>
<u>(b) Oil</u>		
<u>(i) Primary recovery production</u>		
<u>(A) First 12 months of production</u>	<u>.80%</u>	<u>15.10%</u>
<u>(B) Pre-1999 wells after first 12 months of production</u>	<u>12.80%</u>	<u>15.10%</u>
<u>(C) Post-1999 wells after first 12 months of production</u>	<u>9.30%</u>	<u>15.10%</u>
<u>(ii) Stripper wells (averaging < 15 bbls/day)</u>		
<u>(A) Pre-1999 and post-1999 wells first 1-10 bbls</u>	<u>5.80%</u>	<u>15.10%</u>
<u>(B) Pre-1999 and post-1999 over 10 bbls</u>	<u>9.30%</u>	<u>15.10%</u>
<u>(C) Pre-1999 and post-1999 stripper well exemption</u>	<u>.80%</u>	<u>15.10%</u>
<u>(D) Pre-1999 and post-1999 stripper well bonus production</u>	<u>6.30%</u>	<u>15.10%</u>
<u>(iii) Horizontally drilled</u>		
<u>(A) Pre-1999 and post-1999 wells first 18 months</u>	<u>.80%</u>	<u>15.10%</u>
<u>(B) Pre-1999 wells after 18 months</u>	<u>12.80%</u>	<u>15.10%</u>
<u>(C) Post-1999 wells after 18 months</u>	<u>9.30%</u>	<u>15.10%</u>
<u>(iv) Incremental production</u>		
<u>(A) New or expanded secondary recovery production</u>	<u>8.80%</u>	<u>15.10%</u>
<u>(B) New or expanded tertiary production</u>	<u>6.10%</u>	<u>15.10%</u>
<u>(v) Horizontally recompleted wells</u>		
<u>(A) Pre-1999 and post-1999 wells first 18 months</u>	<u>5.80%</u>	<u>15.10%</u>
<u>(B) Pre-1999 wells after 18 months</u>	<u>12.80%</u>	<u>15.10%</u>
<u>(C) Post-1999 wells after 18 months</u>	<u>9.30%</u>	<u>15.10%</u>

~~(2)~~(3) The rate of tax set under Section 82-11-131, MCA, is at the provides for a maximum allowable tax rate of .3 percent of value. The rate enacted, up to the maximum allowable, is established by and subject to change by the Montana Board of Oil and Gas Conservation by rule.

AUTH: 15-36-322, MCA

IMP: 15-36-304, 82-11-131, MCA

REASON: The department proposes amending ARM 42.25.1809 to add a second tax rate table, in new (2). The new table reflects tax rate changes that were enacted by the Montana Board of Oil and Gas Conservation effective on or after October 1, 2016. The changes amount to a .04 percent increase over the rates shown in the previous table, in (1), that were in effect through September 30, 2016. The department is clearly distinguishing the old tax rates in the table in (1) from the

new table in (2) because the old tax rates will be needed for utilization by taxpayers who elect to amend returns still in statute prior to October 1, 2016.

The department also proposes removing the specific reference to ARM 36.22.1242 from (1), because that rule was recently amended by the Montana Board of Oil and Gas Conservation and no longer reflects the rates that were in effect prior to October 1, 2016.

The department also proposes updating all existing references to the "Board of Oil and Gas" in the rule to the "Montana Board of Oil and Gas Conservation," to accurately reflect the board's full name.

The department further proposes revising the language in newly numbered (3) to remove redundancies and add missing detail.

4. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to: Laurie Logan, 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 lalogan@mt.gov and must be received no later than June 1, 2018.

5. Laurie Logan, Department of Revenue, Director's Office, has been designated to preside over and conduct this hearing.

6. The Department of Revenue maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that 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 a 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 4 above or faxed to the office at (406) 444-3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

7. An electronic copy of this notice is available through the Secretary of State's web site at sos.mt.gov/ARM/register.

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

9. Regarding 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. Documentation of this determination is available upon request from the person in 4.

/s/ Laurie Logan
Laurie Logan
Rule Reviewer

/s/ Mike Kadas
Mike Kadas
Director of Revenue

Certified to the Secretary of State April 17, 2018.

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 and 42.2.621) PROPOSED AMENDMENT
pertaining to the office of dispute)
resolution (ODR) liquor license)
protests and liquor matters)

TO: All Concerned Persons

1. On May 22, 2018, at 10 a.m., the Department of Revenue will hold a public hearing in the 3rd Floor Reception Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana, to consider the proposed amendment of the above-stated rules. The hearing room is most readily accessed using the east doors of the building facing Sanders Street.

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5 p.m. on May 11, 2018, to advise us of the nature of the accommodation you need. Please contact Laurie Logan, 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 lalogan@mt.gov.

3. 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 (10) remain the same.

(11) "Liquor license protests" means challenges pursuant to 16-4-207, MCA, to the transfer of ownership or location of an all-beverages license.

~~(11)~~(12) "Liquor matters" means disputes arising from the department's administration of the Montana Alcoholic Beverage Code (Title 16, chapters 1 through 4, and 6, MCA), other than liquor license protests. Liquor matters are contested cases conducted pursuant to the Montana Administrative Procedure Act set out in Title 2, chapter 4, part 6, MCA. Liquor matters are not subject to the dispute resolution procedures established by 15-1-211, MCA.

(12) through (18) remain the same, but are renumbered (13) through (19).

AUTH: 15-1-201, 15-1-211, MCA

IMP: 15-1-211, ~~15-1-406, 15-23-102,~~ MCA

REASON: The department proposes amending ARM 42.2.613 to update the definition of "liquor matters" and add a definition for "liquor license protests," to differentiate liquor matters in general from liquor licensing protests. As set forth in

ARM 42.2.621, the department's director delegated the authority to issue a final agency decision (FAD) relating to liquor licensing protests to the office of dispute resolution, but has retained the authority to issue FADs relating to all other liquor matters. Therefore, providing language distinguishing liquor matters from liquor licensing protests in this rule, which covers terms used in the rules located in ARM Title 42, chapter 2, subchapter 6, is necessary for clarity and guidance. These proposed amendments do not represent a change in the department's current practice.

The department also proposes updating the implementing section of the rule to remove two statutes that have been determined to be unnecessary.

42.2.621 FINAL AGENCY DECISION AND APPEAL (1) and (2) remain the same.

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

(4) and (5) remain the same.

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

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

REASON: The department proposes amending ARM 42.2.621 to correct the language in (3), which erroneously identifies the appeal process for tax matters and collection matters. The process for appealing tax matters and collection matters is accurately set out in (4). The proposed amendment of (3) is further necessary as that section failed to indicate that liquor matters, in general, may be appealed directly to a district court. The proposed amendment is necessary to ensure that all individuals or entities directly affected by a final agency decision clearly understand the appropriate appeal process that applies to their situation. This proposed amendment does not represent a change in the department's current practice.

The department also proposes updating the implementing section of the rule to remove a statute that it has determined to be unnecessary.

4. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to: Laurie Logan, 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 lalogan@mt.gov and must be received no later than June 1, 2018.

5. Laurie Logan, Department of Revenue, Director's Office, has been designated to preside over and conduct this hearing.

6. The Department of Revenue maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that 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 a 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 4 above or faxed to the office at (406) 444-3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

7. An electronic copy of this notice is available through the Secretary of State's web site at sos.mt.gov/ARM/register.

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

9. Regarding 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. Documentation of this determination is available upon request from the person in 4.

/s/ Laurie Logan
Laurie Logan
Rule Reviewer

/s/ Mike Kadas
Mike Kadas
Director of Revenue

Certified to the Secretary of State April 17, 2018.

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

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

TO: All Concerned Persons

1. On February 23, 2018, the Public Employees' Retirement Board published MAR Notice No. 2-43-565 pertaining to the proposed amendment of the above-stated rules at page 354 of the 2018 Montana Administrative Register, Issue Number 4.

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

3. No comments or testimony were received.

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

/s/ Maggie Peterson
Maggie Peterson
Vice President
Public Employees' Retirement Board

Certified to the Secretary of State April 17, 2018.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 2.59.310, 2.59.318, 2.59.705,)
2.59.1701, 2.59.1738, and 2.59.1748)
pertaining to annual reporting for)
consumer loan licensees, escrow)
business reference updates, mortgage)
definitions, mortgage renewal fees, and)
escrow funds held by mortgage)
companies)

TO: All Concerned Persons

1. On February 23, 2018, the Department of Administration published MAR Notice No. 2-59-571 pertaining to the proposed amendment of the above-stated rules at page 357 of the 2018 Montana Administrative Register, Issue Number 4.
2. No comments were received.
3. The department has amended ARM 2.59.310, 2.59.318, 2.59.705, 2.59.1701, 2.59.1738, and 2.59.1748 exactly as proposed.

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

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

Certified to the Secretary of State April 17, 2018.

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the adoption of New) CORRECTED NOTICE OF
Rules I through XV and the repeal of) ADOPTION AND REPEAL
ARM 4.6.401 through 4.6.404)
pertaining to the Montana Pulse Crop)
Committee)

TO: All Concerned Persons

1. On December 22, 2017, the Department of Agriculture published MAR Notice No. 4-17-243 pertaining to the public hearing on the proposed adoption and repeal of the above-stated rules at page 2373 of the 2017 Montana Administrative Register, Issue Number 24. On February 9, 2018, the department published the notice of adoption and repeal at page 301 of the 2018 Montana Administrative Register, Issue Number 3.

2. The adopted rules pertaining to the Montana Pulse Crop Committee were incorrectly numbered, and the department has decided to create a new chapter (Montana Pulse Crop Committee, chapter 21) in which to place these renumbered rules. The adopted rules, as amended in corrected form, read as follows, deleted matter interlined, new matter underlined:

~~4.6.405~~ 4.21.101 COMMITTEE ORGANIZATION (1) remains as adopted.

~~4.6.406~~ 4.21.201 PROCEDURAL RULES (1) remains as adopted.

~~4.6.407~~ 4.21.202 PUBLIC PARTICIPATION (1) remains as adopted.

~~4.6.408~~ 4.21.203 AWARDING OF CONTRACT (1) remains as adopted.

~~4.6.409~~ 4.21.204 COMMITTEE LIAISON (1) remains as adopted.

~~4.6.410~~ 4.21.301 GRANTS (1) remains as adopted.

~~4.6.411~~ 4.21.302 REVIEW AND EVALUATION (1) remains as adopted.

~~4.6.412~~ 4.21.303 COMMITTEE DETERMINATION (1) remains as adopted.

~~4.6.413~~ 4.21.304 NOTIFICATION OF AWARDS (1) remains as adopted.

~~4.6.414~~ 4.21.305 PERFORMANCE EVALUATION (1) remains as adopted.

~~4.6.415~~ 4.21.306 MODIFICATION OR TERMINATION OF GRANTS
(1) remains as adopted.

~~4.6.416~~ 4.21.307 PROHIBITION ON INDIRECT PAYMENTS (1) remains as adopted.

~~4.6.417~~ 4.21.401 PULSE ASSESSMENT AND REFUNDS (1) and (2) remain as adopted.

~~4.6.418~~ 4.21.402 REQUIREMENTS FOR REPORTS (1) and (2) remain as adopted.

~~4.6.419~~ 4.21.403 CORRECTION OF ERROR ON REPORTS (1) remains as adopted.

3. The repealed rules remain repealed.

4. The replacement pages for this corrected notice were submitted to the Secretary of State on April 17, 2018.

/s/ Zach Coccoli
Zach Coccoli
Rule Reviewer

/s/ Ben Thomas
Ben Thomas
Director
Agriculture

Certified to the Secretary of State April 17, 2018.

BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
OFFICE OF THE MONTANA STATE AUDITOR

In the matter of the amendment of	)	NOTICE OF AMENDMENT AND
ARM 6.6.2602, independent liability	)	REPEAL
fund definitions; and the repeal of)	
ARM 6.6.2606, independent liability)	
fund penalties)	

TO: All Concerned Persons

1. On January 12, 2018, the Commissioner of Securities and Insurance, Montana State Auditor, published MAR Notice No. 6-240 pertaining to the proposed amendment and repeal of the above-stated rules at page 10 of the 2018 Montana Administrative Register, Issue Number 1.

2. The commissioner has amended and repealed the above-stated rules as proposed.

3. No comments or testimony were received.

/s/ Michael A. Kakuk
Michael A. Kakuk
Rule Reviewer

/s/ Kris Hansen
Kris Hansen
Chief Counsel

Certified to the Secretary of State April 17, 2018.

BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
OFFICE OF THE MONTANA STATE AUDITOR

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 6.6.6701, 6.6.6703, 6.6.6705,)
6.6.6707, 6.6.6709, 6.6.6711, and)
6.6.6713 regarding valuation of life)
insurance policies)

TO: All Concerned Persons

1. On January 12, 2018, the Commissioner of Securities and Insurance, Montana State Auditor, published MAR Notice No. 6-241 pertaining to the proposed amendment of the above-stated rules at page 13 of the 2018 Montana Administrative Register, Issue Number 1.

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

3. No comments or testimony were received.

/s/ Michael A. Kakuk
Michael A. Kakuk
Rule Reviewer

/s/ Kris Hansen
Kris Hansen
Chief Counsel

Certified to the Secretary of State April 17, 2018.

BEFORE THE DEPARTMENT OF COMMERCE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 8.94.3814 and 8.94.3815)
pertaining to governing the)
submission and review of applications)
for funding under the Treasure State)
Endowment Program (TSEP))

TO: All Concerned Persons

1. On March 16, 2018, the Department of Commerce published MAR Notice No. 8-94-156 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 512 of the 2018 Montana Administrative Register, Issue Number 5.

2. No comments or testimony were received.

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

/s/ MARTY TUTTLE

MARTY TUTTLE

Rule Reviewer

/s/ PAM HAXBY-COTE

PAM HAXBY-COTE

Director

Department of Commerce

Certified to the Secretary of State April 17, 2018.

BEFORE THE DEPARTMENT OF COMMERCE
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF AMENDMENT
ARM 8.94.3728 pertaining to the)	
administration of the 2019 Biennium)	
Federal Community Development)	
Block Grant (CDBG) Program –)	
Planning Grants)	

TO: All Concerned Persons

1. On March 16, 2018, the Department of Commerce published MAR Notice No. 8-94-157 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 515 of the 2018 Montana Administrative Register, Issue Number 5.

2. No comments or testimony were received.

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

/s/ MARTY TUTTLE
MARTY TUTTLE
Rule Reviewer

/s/ PAM HAXBY-COTE
PAM HAXBY-COTE
Director
Department of Commerce

Certified to the Secretary of State April 17, 2018.

BEFORE THE DEPARTMENT OF COMMERCE
OF THE STATE OF MONTANA

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

TO: All Concerned Persons

1. On March 16, 2018, the Department of Commerce published MAR Notice No. 8-111-158 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 517 of the 2018 Montana Administrative Register, Issue Number 5.

2. No comments or testimony were received

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

/s/ MARTY TUTTLE
MARTY TUTTLE
Rule Reviewer

/s/ PAM HAXBY-COTE
PAM HAXBY-COTE
Director
Department of Commerce

Certified to the Secretary of State April 17, 2018.

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

In the matter of the adoption of New	)	NOTICE OF ADOPTION
Rule I under ARM Title 17, chapter 30,)	
subchapter 6 pertaining to water quality	)	(WATER QUALITY)
standards)	

TO: All Concerned Persons

1. On December 22, 2017, the Board of Environmental Review published MAR Notice No. 17-395, pertaining to the public hearing on the proposed adoption of the above-stated rules at page 2383 of the 2017 Montana Administrative Register, Issue No. 24.

2. The board has adopted New Rule I (ARM 17.30.661) as proposed, but with the following changes, stricken matter interlined, new matter underlined:

NEW RULE I (17.30.661) VARIANCE FROM STANDARD FOR WATER BODY CONDITIONS (1) The department may grant to a permittee a variance from a water quality standard if the department determines in writing that the following conditions are met:

(a) through (10) remain as proposed.

3. The following comments on the proposed rule were received and are summarized below with the board's responses:

COMMENT NO. 1: The proposed rule is too broadly applicable and a more limited scope is more appropriate. The original legislative purpose of SB 325 was focused on a narrow range of legacy mining wastes in which a variance from water quality standards is necessary because of significant long-term impairment from legacy human-caused pollutions. Therefore, the legislative history of SB 325 demonstrates that its focus is to address the problems that legacy mine pollution may create for smaller communities that need Montana Pollutant Discharge Elimination System (MPDES) permits for the publicly owned treatment works (POTW). The rules implementing this legislation must be crafted to reflect this narrow purpose.

RESPONSE: Per 75-5-222(2), MCA, the rule will apply to water bodies where the standard is more stringent than the condition of the water body, the condition cannot reasonably be expected to be remediated during the permit term for which the application for variance has been received, and the discharge to which the variance applies would not materially contribute to the condition. These conditions in statute limit the circumstances that may justify application of the variance, but do not specify or limit the type of permittee to which a variance issued under 75-5-222(2), MCA will apply. The draft rule reflects these limitations, but cannot preemptively exclude certain types of permittees. Upstream legacy mine pollution that may impact MPDES permit limits imposed on a downstream POTW is an example of

application of a variance issued under 75-5-222(2), MCA, but the language of the statute is not limited to this situation.

COMMENT NO. 2: DEQ has stated numerous times during discussions when SB 325 was introduced at the legislature, as well as during the working group meetings, that this variance process will rarely be used. This begs the question why we are spending time and resources on this rulemaking process.

RESPONSE: Per 75-5-222(2), MCA, "the board shall adopt rules consistent with comparable federal rules and guidelines providing criteria and procedures for the department to issue variances from standards." The board and the department are complying with state law by developing New Rule I.

COMMENT NO. 3: This bill was never intended to just be a narrowly crafted thing for Butte or other communities.

RESPONSE: See response to Comment No. 1. The board agrees and the draft rules reflect the requirements of 75-5-222(2), MCA.

COMMENT NO. 4: The proposed language needs to be revised to limit the overuse of variances.

RESPONSE: Sections (1)(a) through (e) and (2)(a) through (e) of proposed New Rule I limit the use of variances by specifying conditions and application requirements that a permittee must satisfy before the department may issue a variance. In addition, each variance application is subject to a public comment period, a public hearing, and submittal to the Environmental Protection Agency (EPA) for approval. The proposed rule sets forth a process that will limit variances to situations where need for the variance is established, there is no reasonable alternative, and the applicant can meet the highest attainable condition. All applications that meet these requirements will be approved and the board does not believe further limitation is necessary.

COMMENT NO. 5: The commenter is concerned that a variance under SB 325 is not available to an applicant/permittee that is in compliance with its MDPES permit.

RESPONSE: See response to Comment No. 4. The department will issue a variance, after conducting a hearing, when no reasonable alternative to a variance exists, the department determines the requirements of New Rule I(1) and (2) are met, and the highest attainable condition will be met. In situations where the applicant for a variance is meeting its permit limits and conditions, the department may determine there are other alternatives that obviate the need for a variance including a permit compliance schedule or other permit action. This does not limit the ability of a discharger to apply for a variance, but due consideration should be given to other options available to meet water quality goals that may be more effective and efficient.

COMMENT NO. 6: It takes decades to remediate mining pollution. The polluter could continually qualify for a variance based on this provision with no incentive for the state to ensure the legacy pollution is addressed.

RESPONSE: The board understands and agrees that mining remediation most often takes longer than five years. However, the board does not believe that MPDES permit conditions imposed on a downstream permittee, whether those conditions include limits implementing a variance or not, play a direct role in the pace at which upstream legacy pollution is addressed. The proposed rule allows an MPDES permit holder to qualify for a variance that may provide the basis for permit effluent limits and conditions, so long as the conditions in New Rule I are met. The variance is reviewed every five years and may be modified to reflect the highest attainable condition as progress is made toward meeting water quality standards. The proposed rule is not intended to regulate or impact remediation of legacy pollution.

COMMENT NO. 7: We ask DEQ to provide an example of where mining has been remediated within a five-year period.

RESPONSE: This comment is outside the scope of this rulemaking. The five-year review period pertains to review of a variance issued under New Rule I and not to remediation of upstream conditions impacting the receiving water. See response to Comment No. 6.

COMMENT NO. 8: The commenter requests that DEQ go on the record in response to these comments and state that variances under these rules would not be appropriate for Coalbed Methane (CBM) pollution.

RESPONSE: A variance is not appropriate under the proposed rule for any discharges that would materially contribute to a water body's degraded condition. It is a condition of the statute that the discharge "would not materially contribute to the condition." In addition, under (2)(e), the rule requires the permittee to meet a variance level that is the highest attainable interim standard based on condition of the receiving water or pollutant reduction achievable. In accordance with New Rule I(2)(e), the department will review each variance application to ensure that the permittee will (1) meet the highest attainable standard, (2) achieve the condition that reflects the greatest pollutant reduction achievable, or (3), if no additional feasible pollutant control technology can be identified, meet the condition that reflects the greatest pollutant reduction achievable with the technologies installed at the time the variance is submitted and subject to a pollutant minimization plan.

COMMENT NO. 9: The commenter requests that DEQ go on the record to assure irrigators that Best Available Technology (BAT) will continue to be required for CBM dischargers for variances under these rules.

RESPONSE: There are no state or federal Effluent Limit Guidelines (ELGs) for CBM dischargers. Permittees will be held to federal ELGs once available. DEQ will require CBM permittees be held to the highest attainable condition and any approved variance would reflect those limits.

COMMENT NO. 10: Of specific concern is that coal mines that would discharge into the Tongue River and its tributaries, including Otter Creek, would attempt to use the variance procedures in renewing and obtaining MPDES permits.

RESPONSE: Sections (1)(a) through (e) of New Rule I limit the use of variances by specifying five conditions that a permittee must satisfy before the department may issue a variance. Additionally, for a discharger to obtain a variance, a public hearing must be held and the variance must then be submitted to the EPA for approval, which will include a determination of whether it is compliant with the Clean Water Act (CWA). A variance issued under New Rule I would require the permittee to achieve the highest attainable condition and not further degrade the existing water quality.

COMMENT NO. 11: Subsection (1)(c) of the proposed rule contains vague language, stating that a variance may be appropriate where the overall impaired condition of the receiving waterway "cannot reasonably be expected to be remediated" in the next five-year permit term.

RESPONSE: Regarding "...cannot reasonably be expected to be remediated...", the rule reflects the language in 75-5-222(2)(a)(i), MCA, which sets forth conditions under which a variance may be appropriate. The board does not agree that the statutory or proposed rule language is unreasonably vague. The department will have to conclude for each application for variance whether the condition is likely to be remediated in the next five years. If the condition will be, or is expected to be, remediated in the next five years, the department would not grant the variance.

COMMENT NO. 12: There is no provision of the CWA that allows weaker standards and permit terms when man-made pollution cannot be fixed within a permit term.

RESPONSE: The board does not agree. Federal regulations specify six factors which may be used to demonstrate that a variance is appropriate. One of these factors is factor 3 at 40 CFR 131(10)(g), which specifically addresses situations where human-caused pollution prevents the attainment of water quality standards (WQS). So long as the permittee meets the conditions in New Rule I, which include meeting conditions in 40 CFR 131.14 "water quality standards variances," the permittee will comply with the CWA.

COMMENT NO. 13: Several commenters requested that "may" be stricken and replaced with "shall" in (1) under the New Rule I; this change would make the rule more definitive.

RESPONSE: The board expects the department to carry out its regulatory role and complete a thorough review of each variance application and decide whether it will be approved or not. The department will exercise its judgment and its technical expertise in determining that there is no reasonable alternative to a variance and the requirements in (1) and (2) are met. See (5) of New Rule I, if the department finds that the requirements of (1) and (2) are met and a variance is needed, the department shall approve the variance after conducting a hearing. No change is made in response to this comment.

COMMENT NO. 14: During the 2015 legislative discussions on SB 325 (2015), amendment 0325.02 was presented, including verbiage that the permitting

agency "has to allow a variance." The intent of legislative work on SB 325, including amendments, was to treat the variance process as an inevitability, if certain conditions were met by the permittee.

RESPONSE: See response to Comment No. 13. Senate Bill 325 (2015) was adopted and codified as 75-5-222(2), MCA. The plain language of 75-5-222(2), MCA and SB 325, including version SB0325.02, requires the board to adopt rules consistent with comparable federal rules and guidelines providing criteria and procedures for the department to issue variances from standards if the conditions set forth in 75-2-222(2)(a)(i) through (ii), MCA are met. The board believes it has met this obligation in the proposed rule, which sets forth criteria and a process whereby the department will review each variance application and determine whether a variance is appropriate. The department's decisions under the proposed rule will be subject to public comment, a hearing, and EPA review. No change is made in response to this comment.

COMMENT NO. 15: Several commenters suggested that under (9) on review conducted under (8) that "may" be stricken and replaced with "shall."

RESPONSE: See response to Comments No. 13 and 14. Under (8) of the proposed rule, the department must review a variance issued under the rule every five years and decide to terminate, continue, or modify the variance. Under (9) of the proposed rule, the department may approve continuation or modification of the variance after public comment and public hearing, consistent with the process set forth in (5) of the proposed rule. The department must continue, modify, or terminate the variance after taking any information received from the permittee, the public and the EPA into consideration. The board believes it is necessary to leave (9) as "may" to indicate department discretion to review and consider all the information submitted and make a professional judgment regarding the renewal, modification, or termination of the variance. The board would generally expect that if the conditions pertaining to the original variance are unchanged, the department would continue or renew the variance to the next review period. No change is made in response to this comment.

COMMENT NO. 16: The department should address what happens on review conducted under (8) of the rule if the upstream conditions improve.

RESPONSE: See response to Comment No. 25. The department will review the variance level and water quality conditions every five years. If the permittee is meeting the variance level established under (2)(e) and all or most of the circumstances in (1) and (2) that justified the need for the variance no longer exist, the variance may be modified or terminated. On the other hand, if the department determines the circumstances in (1) and (2) still exist and justify the need for the variance, the variance may be continued and the permittee must continue to make progress toward meeting water quality limits.

COMMENT NO. 17: Montana must support any subsequent variance adopted with a demonstration that it meets all the requirements of 40 CFR 131.14 and a showing of one of the factors described in 40 CFR 131.10(g).

RESPONSE: The board agrees and believes the proposed rule is consistent with 40 CFR 131.14.

COMMENT NO. 18: The terminology of "materially contribute" in (1)(d) should be eliminated because it is unclear from the language of the rule how exactly the department will determine what constitutes a material contribution to an impaired waterway. Adding this term without further clarification could lead to violations of EPA's anti-backsliding mandate because even minor, supposedly non-material, increases in pollution could lead to further degradation, especially given the length of time that these permits may be in place.

RESPONSE: The term "materially contribute" reflects the language in 75-5-222(2)(a)(ii), MCA, which sets forth conditions under which a variance may be appropriate. The board views the condition in 75-5-222(2)(a)(ii), MCA that the discharge not materially contribute to the condition of the water body as an additional state requirement beyond the minimum federal requirements for granting a variance. All variances issued under the proposed rule and the department's findings and analysis will be publicly noticed for 45 days, providing opportunity for those concerned to dispute the department's findings regarding material contribution. No change is made in response to this comment.

COMMENT NO. 19: DEQ is silent on how it will determine materiality.

RESPONSE: See response to Comment No. 18. The board recognizes materially contribute is not defined in the statute or the proposed rule. After review of the potential circumstances in which a variance could be applicable, it was determined that such a definition is not advisable as environmental conditions and interactions with discharges are too diverse and site specific. In order for a variance application to be complete the department will require the applicant to provide all information necessary to determine materiality. All findings and analysis will be publicly noticed for 45 days, providing opportunity for those concerned to dispute the department's findings on material contribution.

COMMENT NO. 20: If the department views harmful parameters like salts in a less stringent manner, it may view their contributions as less "material" to the water quality and therefore, permit variances that result in harm to farmers and ranchers.

RESPONSE: See responses to Comments No. 18 and 19. The board is concerned about salts and all other types of pollution that impact water quality and affect ranchers, farmers, and others who use the water.

COMMENT NO. 21: Granting a variance for a year-round discharge containing salts would not protect the beneficial uses to irrigation.

RESPONSE: The board understands the commenter's concern. The seasonality of a variance in which salts are the pollutant of concern would be given close scrutiny by the department.

COMMENT NO. 22: The cumulative effect any variance has on downstream users should be considered.

RESPONSE: Cumulative effects on downstream reaches that are meeting standards will be addressed through assessment of material contribution (New Rule I(1)(d)). If the department's material contribution analysis determines pollutant contributions from the applicant point source will substantially extend the length of stream that is non-compliant with standards, the department will not grant a variance to the applicant under proposed New Rule I. Cumulative effects within a downstream reach that exceed standards will also be addressed in the department's review of material contribution (New Rule I(1)(d)) and through the requirement in New Rule I(2)(e). In (2)(e), the applicant must propose a variance that reflects the highest attainable interim standard or greatest pollution reduction achievable.

COMMENT NO. 23: Any variance that DEQ grants should, at a minimum, be reviewed every three years, rather than the currently proposed five years.

RESPONSE: In 2015 the EPA updated its rules pertaining to variances, now found at 40 CFR 131.14. With the 2015 changes, the EPA made clear that the term of any water quality standards variance must be only as long as necessary to achieve the highest attainable condition (40 CFR 131.14(b)(1)(iv)). If the variance term is more than five years, it must be reviewed at least every five years (40 CFR 131.14(b)(1)(v)). The language in 75-5-222(2), MCA requires review of the variance every five years, consistent with the federal five-year review requirement. No change is made in response to this comment.

COMMENT NO. 24: DEQ's rules impose a five-year review for variances. DEQ frequently misses the five-year renewal deadline for MPDES permits. Some permits are administratively extended for many years. DEQ must address why the variance rule will spark a new level of scrutiny and performance by the agency.

RESPONSE: Under 75-5-222(2), MCA and the new rule, the department is required to review the variance five years from its issuance in the permit and once every five years that the variance is in effect. The department's rules allow MPDES permits to be administratively extended beyond the five-year term when the permittee timely applies for permit renewal. There is no similar provision allowing extension of the five-year review period.

COMMENT NO. 25: Several commenters requested that under (8), the time period should be lengthened to consider upstream conditions during a variance renewal review from two years to five years. A five-year period may provide a more accurate review, taking into greater account extreme changes to water levels from year-to-year.

RESPONSE: The board believes it is important for variance rules to work towards the improvement of water quality, and as such does not believe a five-year window is appropriate. The board finds New Rule I(8) reasonably interprets "currently attained ambient water quality" to be reflected by the previous two years of data in situations where the water quality in the receiving stream has improved during the variance term. If upstream improvements are occurring, presumably from remediation, the variance must be modified to reflect these improvements. As conditions change, data that is four or five years old may not accurately reflect

current ambient upstream conditions. No change is made in response to this comment.

COMMENT NO. 26: The proposed rule is interpreting "currently attained ambient water quality" to mean the previous two years of data in situations where the water quality in the receiving stream has improved during the term of the variance. This is appropriate for the limited scenarios addressed by this rule (historic mining) where using five years of data would result in a less stringent HAC and would not preserve the water quality improvements toward the ultimate objective for the water body.

RESPONSE: The board agrees with the comment.

COMMENT NO. 27: The term feasible pollutant control technology is undefined, and there is no sense of how "feasibility" is determined or quantified.

RESPONSE: The board interprets feasible, as it is used in proposed New Rule I(2)(e)(iii), similarly to the way that term is used in the Federal Register at 40 CFR 131.14 (b)(1)(ii)(A)(3); that is, as the "highest attainable condition using the greatest pollutant reduction achievable with optimization of currently installed pollutant control technologies and adoption and implementation of a Pollutant Minimization Program (PMP)."

COMMENT NO. 28: The cumulative effect of the draft variance rule will be to create a new regulatory framework representing a self-fulfilling prophecy of continual waterway pollution.

RESPONSE: New Rule I does not create a new regulatory framework; rather, it is consistent with federal and state water quality standards variance rules and guidelines. New Rule I provides a tool that allows limited relief from water quality standards when the applicant demonstrates to the department's satisfaction that a variance is appropriate and necessary and will meet the highest attainable condition. The variance is in effect for a limited term to allow continued progress toward meeting water quality standards.

COMMENT NO. 29: The draft rule posits that man-made pollution causing waterway impairment is somehow eligible for special leniency as compared to natural-based pollution.

RESPONSE: See response to Comment No. 28. Water quality standards variances are explicitly authorized under 40 CFR 131.14 as a tool that can be used prior to pursuing a permanent revision of the designated use and criteria in situations where the applicable designated uses are not attainable in the near-term, but may be attainable in the future. Some of the potential applications for these variances may be suited for more permanent use revisions. However, the board prefers to establish variances as an additional tool as opposed to revising designated uses which may limit potential remediation activities over the long term. WQS variances allow for incremental progress toward the ultimate water quality objective for the water body.

COMMENT NO. 30: Department staff has worked hard in coordination with the SB 325 workgroup to complete New Rule I.

RESPONSE: The board appreciates the comment.

COMMENT NO. 31: The variance process is a fair and equitable standard.

RESPONSE: The board appreciates the comment.

COMMENT NO. 32: The variance process is necessary to promote growth in Montana's cities.

RESPONSE: The rules do consider economics under one of the applicable variance justifications. How variances may or may not affect the economics of a municipality has not been directly assessed in this rulemaking.

COMMENT NO. 33: The variance process relieves city taxpayers from expensive, perhaps unnecessary wastewater treatment plant upgrades.

RESPONSE: See response to Comment No. 32.

COMMENT NO. 34: The EPA has no concerns with New Rule I asking permittees to provide information to the department regarding the highest attainable condition (HAC) for consideration before the state determines the appropriate HAC to adopt.

RESPONSE: The HAC adopted by the state along with the variance will be consistent with 40 CFR 131.14.

COMMENT NO. 35: We strongly encourage the board to exercise its lawful discretion and remand this rulemaking to DEQ for reconsideration and amendments in light of conflicts with federal pollution control requirements.

RESPONSE: The board believes New Rule I is consistent with applicable federal regulations.

COMMENT NO. 36: We oppose the draft variance New Rule I because it does not conform to the federal Clean Water Act or its implementing regulations, and because it fundamentally misconstrues - and threatens to undermine - the longstanding system of water pollution control in the state of Montana.

RESPONSE: See response to Comment No. 35. Federal and state law specifically authorize variances from water quality standards in limited circumstances.

COMMENT NO. 37: The variance provides a broad set of circumstances for nearly every type of discharger, in nearly every type of polluted waterway, to receive relief and an off ramp from having to do their part to use technology-based standards to reduce and control pollution.

RESPONSE: A variance issued under 75-5-222(2), MCA and the proposed new rule is not a general variance, but would be issued to an individual applicant/discharger for a specific parameter associated with a specific water quality standard. The variance would only provide relief from the water quality-based effluent limit associated with the parameter to which the variance applies and the

discharger would have to comply with all other conditions and limitations in their permit including technology-based effluent limits and water quality based effluent limits based on water quality standards that are not subject to the variance.

COMMENT NO. 38: The draft rule conflicts with the intent of the Montana Water Quality Act (MWQA) enshrined in the Montana Constitution's guarantee of a "clean and healthful environment."

RESPONSE: New Rule I is adopted to implement MWQA 75-5-222(2), MCA, which authorizes a variance from water quality standards in limited circumstances where the condition of the receiving water cannot reasonably be expected to be remediated during the permit term and the discharge to which the variance applies would not materially contribute to the condition. A variance issued under 75-5-222(2), MCA and the proposed rule will be reviewed and may be adjusted every five years with the goal of meeting water quality standards and meeting the Montana Constitution's guarantee of a "clean and healthful environment."

COMMENT NO. 39: The draft rule misunderstands and misapplies one narrow regulatory basis for issuance of variances, specifically 40 CFR 131.10(g)(3) and conflates it with the procedural time frame under which MPDES permits must regularly be reviewed, justified, and if appropriate, renewed.

RESPONSE: Proposed New Rule I is consistent with the federal variance requirements at 40 CFR 131.14, including the requirement that one of the six factors at 40 CFR 131.14(b)(2)(i)(A)(1) must be met. This requires the department to determine the existence of one of the factors set forth in 40 CFR 131.10(g). These factors include 40 CFR 131.10(g)(3), human-caused conditions or sources of pollution prevent the attainment of the use and cannot be remedied or would cause more environmental damage to correct or leave in place. The five-year time frame is consistent with a permit term and with federal regulations at 40 CFR 131.14, which require the term of the variance to be no longer than necessary to achieve the highest attainable condition, but if the variance term is more than five years, it must be reviewed at least every five years (40 CFR 131.14(b)(1)(v)). See response to Comment No. 23.

COMMENT NO. 40: The concept of a discharger's "materiality" to receiving waterway impairments is not a lawful rationale supporting issuance of a variance.

RESPONSE: See response to Comment No. 18.

COMMENT NO. 41: The phrase "interim effluent condition" is not a phrase or condition used or approved for use in issuance of variances under the CWA or its implementing regulations.

RESPONSE: The term is found in 40 CFR 131.14 "water quality standards variances," specifically in 40 CFR 131.14(b)(1)(ii)(A)(2).

COMMENT NO. 42: The phrase "highest attainable interim standard" is not recognized anywhere in federal law.

RESPONSE: An analogous term is found in 40 CFR 131.14(b)(1)(ii)(A)(1), specifically "highest attainable interim criterion." In this context, "criterion" is equivalent to "standard."

COMMENT NO. 43: The CWA and implementing regulations do not recognize an "attainable standard" concept, nor do they recognize an "interim standard" concept.

RESPONSE: See response to Comment No. 42.

COMMENT NO. 44: The commenter requests clarification from Montana that any subsequent variance adopted by the state must meet all the requirements of 40 CFR 131.14.

RESPONSE: Any variance adopted by the state will be consistent with federal rules including 40 CFR 131.14.

COMMENT NO. 45: Under (1) of the New Rule we propose adding "the following conditions are met" to remove ambiguity and further align the rule with legislative intent.

RESPONSE: See response to Comment No. 13. The board agrees with the commenter that the department may issue a variance if the conditions in (1) are met. Therefore, (1) is changed in response to this comment.

Reviewed by:

BOARD OF ENVIRONMENTAL REVIEW

/s/ Edward Hayes

EDWARD HAYES

Rule Reviewer

BY: /s/ Christine Deveny

CHRISTINE DEVENY

Chairman

Certified to the Secretary of State, April 17, 2018.

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 24.17.127, pertaining to)
classification of workers for heavy)
construction services on public works)
projects)

TO: All Concerned Persons

1. On February 9, 2018, the Department of Labor and Industry (department) published MAR Notice No. 24-17-334 regarding the public hearing on the proposed amendment of the above-stated rule, at page 232 of the 2018 Montana Administrative Register, Issue No. 3.

2. On March 2, 2018, a public hearing was held on the proposed amendment of the above-stated rule in Helena. Members of the public commented on the proposed amendment at the public hearing and also submitted written comment during the rule comment period.

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

COMMENT 1: Numerous commenters representing pipefitters in various capacities commented that they agreed with the results of the area practice survey and the department's corresponding proposal to classify the work in question as pipefitter.

RESPONSE 1: The department acknowledges the comments. The work in question that was the focus of the area practice survey only included work performed on heavy construction projects, specifically water and wastewater treatment plants and projects of a similar nature, when the work occurred inside a building structure or was performed at a location which would later be inside of a building. Further, the work in question particularly only included joining steel pipe larger than 12 inches in diameter with bolted flange connections that has been pre-fabricated off site and does not require any modification such as cutting, grinding, welding, or other fabrication in order to be installed.

COMMENT 2: A number of commenters representing pipefitters in various capacities commented that they disagreed with the department's clarification that the work, when it occurs at a location that will always be outside a building, would continue to be classified as laborer/pipelayer. The commenters assert that historically pipefitters have claimed this work and another area practice survey on this issue will show that result. The commenters stated they understand the department's position that the question of work done outside a building was not in dispute. They further understand the department indicated this issue was not directly addressed by the area practice survey, and that the department did not

review any data it received on this question because this work was outside the scope of the survey. Because the survey did ask a question about inside versus outside work, the commenters note they did submit data on outside work. Since the question of outside work was not a focus of the survey, the commenters believe the clarification regarding the laborer classification on this work should not be included in the department's proposal. The commenters request another area practice survey on this question alone in order to address outside work.

RESPONSE 2: The department responds that the dispute involved work that was performed outside but would later be inside a building. The clearest way to distinguish that work was to clarify the difference between work outside versus work outside that would later be inside a building. Therefore, although the survey asked about outside work, it was only to obtain and determine proper survey responses regarding the disputed work. The definition of laborer/pipelayer includes this work when it is outside a building, hence the dispute. The department notes that neither the survey nor the proposed rule address work that involves fabrication of pipe outside. Because the work outside a building was not in dispute and because the work falls within the definition of laborer, the department declines to conduct another area practice survey at this time. The department will continue to monitor the issue in the future. The department is adopting the proposed rule with the clarification as set out in the proposal notice.

COMMENT 3: A commenter stated their position that the joining of prefabricated steel pipe larger than 12 inches in diameter with bolted flange connections should be classified as laborer/pipelayer work, regardless of where that pipe is located. The commenter stated that the department should change its proposal classifying it as pipefitter work and should instead classify it as laborer/pipelayer work.

RESPONSE 3: The department acknowledges the comment, but disagrees because the area practice survey results demonstrated the prevailing classification occurring in Montana for this type of work is pipefitter. Therefore, the department will not change its proposal and is adopting the classification proposed.

COMMENT 4: One commenter stated that the way the department set out the classification change in the publication was confusing because the entire change was put under "S," but only part of the clarification was put under the pipefitter definition, and nothing was put under the laborer definition. The commenter suggested putting the entire change under "S" and then cross-referencing the change under both pipefitters and laborers.

RESPONSE 4: The department agrees and has changed the final publication accordingly.

COMMENT 5: One commenter stated that if the survey data showed differences in what classifications prevailed in the eastern versus western side of the state, that the department should create separate districts.

RESPONSE 5: The department disagrees. Legislation enacted in recent legislative sessions has directed the department to use fewer districts, for prevailing wage purposes, rather than break the state into more districts. Further, for heavy construction, there is not a clear distinction so the department will continue to classify heavy construction statewide.

COMMENT 6: One commenter stated they believed the reporting of pipefitter apprentices in the data could unfairly affect the data results because an apprentice is not fully trained and can be paid less. The commenter stated that if the majority of reported workers are pipefitter apprentices rather than pipefitters, that laborers/pipelayers could possibly do the same work, so the survey would not properly show what is the prevailing classification.

RESPONSE 6: The department disagrees. For purposes of determining the prevailing classification, apprentices are properly included. If apprentices are used in an industry and that is what is prevailing in the industry, then the correct classification is still that classification because that is what is prevailing in the industry. Further, the area practice survey results collected in this case are not overly weighted by apprentices. Very few of the projects used apprentices. If three-fourths of the pipefitter workers were removed from the data, the pipefitter classification would still prevail over the laborer/pipelayer classification as prevailing in the industry.

4. The department has amended ARM 24.17.127 as proposed.

/s/ MARK CADWALLADER
Mark Cadwallader
Alternate Rule Reviewer

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

Certified to the Secretary of State April 17, 2018.

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

In the matter of the amendment of	)	NOTICE OF AMENDMENT AND
ARM 24.101.413 renewal dates and	)	ADOPTION
requirements, 24.189.601)	
psychologist application procedures,)	
24.189.604 minimum standards,)	
24.189.610 work samples -)	
examination, 24.189.630 licensure as)	
a psychologist by experience (senior),)	
and the adoption of New Rule I)	
nonroutine psychologist applications,)	
and New Rule II nonroutine behavior)	
analyst or assistant behavior analyst)	
applications)	

TO: All Concerned Persons

1. On December 22, 2017, the Department of Labor and Industry (department) and the Board of Psychologists (board) published MAR Notice No. 24-189-38 regarding the public hearing on the proposed amendment and adoption of the above-stated rules, at page 2394 of the 2017 Montana Administrative Register, Issue No. 24.

2. On January 12, 2018, a public hearing was held on the proposed amendment and adoption of the above-stated rules in Helena. Several comments were received by the January 19, 2018 deadline.

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

COMMENT 1: Several commenters objected to the requirement that behavior analyst and assistant behavior analyst applicants need character references from licensed behavior analysts. The commenters asked the board to change this since there are very few Montana-licensed behavior analysts at this time, and the requirement has delayed licensing new behavior analysts, as well. The commenters suggested the board add transitional language to enable behavior analysts and assistant behavior analysts to be licensed in Montana without such requirement.

RESPONSE 1: While the board appreciates all comments received during the rulemaking process, the board determined that the comments do not apply to this rulemaking project in MAR Notice No. 24-189-38, and therefore the board cannot make any of the suggested changes in this final notice of adoption. The comments may apply to MAR Notice No. 24-189-39, which is still awaiting board final action. While concurrent rulemaking projects may cause some confusion, the board notes

that these two projects clearly differentiate between psychologist rule changes and behavior analyst rule changes. The board is proceeding with the changes in this project, MAR Notice No. 24-189-38, exactly as proposed.

COMMENT 2: One commenter questioned whether the person who supervises behavior analysts for the required 100 clinical hours needs to be a licensed behavior analyst.

RESPONSE 2: See RESPONSE 1.

4. The department has amended ARM 24.101.413 exactly as proposed.

5. The board has amended ARM 24.189.601, 24.189.604, 24.189.610, and 24.189.630 exactly as proposed.

6. The board has adopted NEW RULE I (24.189.613) and NEW RULE II (24.189.911) exactly as proposed.

BOARD OF PSYCHOLOGISTS
JAMES MURPHEY, Ph.D., CHAIRPERSON

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

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

Certified to the Secretary of State April 17, 2018.

BEFORE THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 32.2.102 pertaining to board)
oversight of agency actions)

TO: All Concerned Persons

1. On February 23, 2018 the Department of Livestock published MAR Notice No. 32-18-289 pertaining to the proposed amendment of the above-stated rule at page 391 of the 2018 Montana Administrative Register, Issue Number 4. On March 16, 2018, the Department of Livestock published an amended notice of proposed amendment of the above-stated rule at page 543 of the 2018 Montana Administrative Register, Issue Number 5.

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

3. Other than the comment published in the amended notice of proposed amendment, paragraph 3, there are no further comments.

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

BY: /s/ Donna Wilham
Donna Wilham
Rule Reviewer

Certified to the Secretary of State April 17, 2018.

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 37.57.106 pertaining to)
expanding the children's special)
health services)

TO: All Concerned Persons

1. On February 9, 2018, the Department of Public Health and Human Services published MAR Notice No. 37-800 pertaining to the proposed amendment of the above-stated rule at page 257 of the 2018 Montana Administrative Register, Issue Number 3.

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

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

COMMENT #1: A commenter expressed support for the department's proposal to increase the program's current federal poverty income level (FPL) to qualify certain Montana families for financial assistance.

RESPONSE #1: The department thanks the commenter for their support.

4. The department will apply this rule amendment retroactively to July 1, 2017. A retroactive application of the proposed rule amendment does not result in a negative impact to any affected party.

/s/ Shannon McDonald
Shannon McDonald, Attorney
Rule Reviewer

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

Certified to the Secretary of State April 17, 2018.

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 37.106.2202 pertaining to)
updating residential treatment)
facilities rules)

TO: All Concerned Persons

1. On February 9, 2018, the Department of Public Health and Human Services published MAR Notice No. 37-824 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 260 of the 2018 Montana Administrative Register, Issue Number 3.

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

3. No comments or testimony were received.

/s/ Flint Murfitt
Flint Murfitt, Attorney
Rule Reviewer

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

Certified to the Secretary of State April 17, 2018.

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 37.51.203, 37.51.310, and)
37.51.1401 pertaining to foster care)
licensing requirements)

TO: All Concerned Persons

1. On February 23, 2018, the Department of Public Health and Human Services published MAR Notice No. 37-830 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 394 of the 2018 Montana Administrative Register, Issue Number 4.

2. The department has amended ARM 37.51.203 and 37.51.1401 as proposed.

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

37.51.310 YOUTH FOSTER HOMES: CRIMINAL BACKGROUND CHECKS

(1) through (6) remain as proposed.

(7) A child protective services check will be requested from all states in which an applicant or any adult household member has lived in the past five years at a minimum.

(8) remains as proposed.

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. 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: Two commenters expressed concern regarding limiting the CPS checks to the states the applicants have lived in for the last five years.

RESPONSE #1: The department acknowledges the concern and the adopted rule has been modified to state that CPS checks will be required to be completed on all applicants and household members 18 years and older for all states lived in for the last five years at a minimum.

COMMENT #2: Two commenters offered support for two-year licenses.

RESPONSE #2: The department believes the two-year timeline will be beneficial to the licensing process, but as with any changes, adjustments may be necessary. The department intends to continue working to assess and improve the licensing process.

COMMENT #3: Two commenters expressed support for the change in training hours and format and encouraged creating a positive discipline training for the online curriculum.

RESPONSE #3: The department believes that the new training requirements will meet the needs of applicants. Positive discipline is currently offered in the online training curriculum. The department intends to continue working to assess and improve the training process.

/s/ Vicki Knudsen
Vicki Knudsen
Rule Reviewer

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

Certified to the Secretary of State April 17, 2018.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 42.15.219, 42.15.318,)
42.15.403, 42.15.601, 42.15.602,)
42.15.603, and 42.15.605 pertaining)
to pension and annuity income)
exclusions, dependent exemptions,)
and medical care savings accounts)

TO: All Concerned Persons

1. On February 23, 2018, the Department of Revenue published MAR Notice No. 42-2-989 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 398 of the 2018 Montana Administrative Register, Issue Number 4. No oral or written comments were received.

2. The department amends ARM 42.15.219, 42.15.318, and 42.15.403 as proposed.

3. The department amends the following rules as proposed, but with 15-1-201, MCA, added as rulemaking authority upon request by the Business and Income Taxes Division at the hearing, and as shown below, new matter underlined:

42.15.601 MEDICAL CARE SAVINGS ACCOUNT ADMINISTRATOR REGISTRATION (1) through (6) remain as proposed.

AUTH: 15-1-201, 15-30-2620, MCA
IMP: 15-61-204, MCA

42.15.602 MEDICAL CARE SAVINGS ACCOUNT REPORTING AND PAYMENTS (1) through (6) remain as proposed.

AUTH: 15-1-201, 15-30-2620, MCA
IMP: 15-61-202, 15-61-203, 15-61-204, MCA

42.15.603 MEDICAL CARE SAVINGS ACCOUNT - WITHDRAWALS, PENALTIES, AND TRANSFERS (1) through (9) remain as proposed.

AUTH: 15-1-201, 15-30-2620, MCA
IMP: 15-61-102, 15-61-202, 15-61-203, MCA

42.15.605 DEFINITIONS The following definitions apply to this subchapter: (1) through (6) remain as proposed.

AUTH: 15-1-201, 15-30-2620, MCA

IMP: 15-61-102, 15-61-201, MCA

/s/ Laurie Logan
Laurie Logan
Rule Reviewer

/s/ Mike Kadas
Mike Kadas
Director of Revenue

Certified to the Secretary of State April 17, 2018.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 42.17.114, 42.17.218,)
42.17.602, 42.17.603, and 42.17.605)
pertaining to withholding taxes)

TO: All Concerned Persons

1. On February 23, 2018, the Department of Revenue published MAR Notice No. 42-2-990 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 413 of the 2018 Montana Administrative Register, Issue Number 4. No oral or written comments were received.

2. The department amends ARM 42.17.114, 42.17.218, 42.17.603, and 42.17.605 as proposed.

3. The department amends ARM 42.17.602 as proposed, but with the punctuation revision shown below, new matter underlined:

42.17.602 CLAIMING THE CREDIT FOR TAX WITHHELD (1) and (1)(a) remain as proposed.

(b) Taxpayers, excluding pass-through entities, that receive a Montana Schedule K-1 from a pass-through entity, as defined in 15-30-2101, MCA, may claim a refundable credit for the amount shown as their share of the tax withheld from Montana net royalty. Taxpayers that claim such a credit must keep copies of the federal and Montana Schedule K-1(s) in their records.

(c) through (h) remain as proposed.

/s/ Laurie Logan
Laurie Logan
Rule Reviewer

/s/ Mike Kadas
Mike Kadas
Director of Revenue

Certified to the Secretary of State April 17, 2018.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the adoption of New	)	NOTICE OF ADOPTION AND
Rules I and II and the amendment of	)	AMENDMENT
ARM 42.9.107 and 42.15.120)	
pertaining to the apportionment and)	
allocation of income reported by)	
pass-through entities and guaranteed)	
payments to individual partners)	

TO: All Concerned Persons

1. On February 23, 2018, the Department of Revenue published MAR Notice No. 42-2-991 pertaining to the public hearing on the proposed adoption and amendment of the above-stated rules at page 419 of the 2018 Montana Administrative Register, Issue Number 4. No oral or written comments were received.

2. The department adopts New Rule I (42.9.112) and New Rule II (42.9.303) and amends ARM 42.9.107 and 42.15.120 as proposed.

/s/ Laurie Logan
Laurie Logan
Rule Reviewer

/s/ Mike Kadas
Mike Kadas
Director of Revenue

Certified to the Secretary of State April 17, 2018.

NOTICE OF FUNCTION OF ADMINISTRATIVE RULE REVIEW COMMITTEE

Interim Committees and the Environmental Quality Council

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

Economic Affairs Interim Committee:

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

Education and Local Government Interim Committee:

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

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

- Department of Public Health and Human Services.

Law and Justice Interim Committee:

- Department of Corrections; and
- Department of Justice.

Energy and Telecommunications Interim Committee:

- Department of Public Service Regulation.

Revenue and Transportation Interim Committee:

- Department of Revenue; and
- Department of Transportation.

State Administration and Veterans' Affairs Interim Committee:

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

Environmental Quality Council:

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

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

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

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

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

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

Definitions:

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

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

Use of the Administrative Rules of Montana (ARM):

Known
Subject

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

Statute

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

RECENT RULEMAKING BY AGENCY

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies that have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through December 31, 2017. This table includes notices in which those rules adopted during the period September 30, 2017, through December 31, 2017, occurred and any proposed rule action that was pending during the past 6-month period. (A notice of adoption must be published within six months of the published notice of the proposed rule.) This table does not include the contents of this issue of the Montana Administrative Register (MAR or Register).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through December 31, 2017, 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 2017 and 2018 Montana Administrative Registers.

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

ADMINISTRATION, Department of, Title 2

2-2-568	Procedural Rules, p. 1, 426
2-13-566	Public Safety Answering Point Certification, Funding, and Monitoring, p. 2363, 427
2-13-574	Public Safety Answering Point - Allowable Uses of Funds - Decertification and Funding Reduction - Reporting, Monitoring, and Recordkeeping, p. 351, 608
2-21-557	Recruitment and Selection Policy, p. 1309, 90, 571
2-21-563	Employee Records Management Policy, p. 1316, 1443, 92
2-59-567	Renewal Fees for Mortgage Brokers, Lenders, Servicers, and Originators, p. 7
2-59-570	Regulation of Privately Insured Credit Unions, p. 124, 628
2-59-571	Annual Reporting for Consumer Loan Licensees - Escrow Business Reference Updates - Mortgage Definitions - Mortgage Renewal Fees - Escrow Funds Held by Mortgage Companies, p. 357

(Public Employees' Retirement Board)

- 2-43-564 Adoption by Reference of the State of Montana Public Employee Defined Contribution Plan Document and the State of Montana Public Employee Deferred Compensation (457) Plan Document, p. 4, 433
- 2-43-565 Investment Policy Statement for the Defined Contribution Retirement Plan - Investment Policy Statement for the 457(b) Deferred Compensation Plan, p. 354

(Board of County Printing)

- 2-67-569 Rates for County Legal Advertising, p. 230, 610

(Office of the State Public Defender)

- 2-69-573 Model Rules - Definitions - Determination of Indigency - Reasonable Compensation, p. 364, 716

AGRICULTURE, Department of, Title 4

- 4-16-236 Pesticide Housekeeping Changes, p. 2261, 626, 1948
- 4-17-239 Nursery Program, p. 1319, 1949
- 4-17-240 Pesticides, p. 1322, 1950
- 4-17-241 Seed Labeling - Viability Information, p. 1445, 2180
- 4-17-242 Mediation Services, p. 1926, 2431
- 4-17-243 Montana Pulse Crop Committee, p. 2373, 301
- 4-17-244 Montana Cherry Research and Market Development Program, p. 2379, 302
- 4-18-245 Montana State Grain Laboratory Fee Schedule, p. 127, 629
- 4-18-246 Fertilizer Regulations, p. 134, 630
- 4-18-247 Feed and Pet Food Regulations, p. 138, 631

STATE AUDITOR, Office of, Title 6

(Commissioner of Securities and Insurance)

- 6-230 Air Ambulance - Hold Harmless Dispute Resolution, p. 1069, 1877
- 6-231 Unfair Discrimination - Accreditation Fees - Small Employer Reinsurance - Insure Montana Program - Managed Care Community Networks, p. 1078, 1887
- 6-232 Replacement of Life Insurance - Medicare Select - Life Insurance Illustrations - Funeral Insurance - Title Insurance - Group Coordination of Benefits - Loss Cost Advisory Rate Filings - Hazardous Financial Conditions - Audited Reports and Annual Statements - Holding Company Systems - Guaranty Association - Actuarial Opinions - Captive Insurers - Mortality Tables - Viatical Settlement Agreements, p. 1186, 1888
- 6-233 Agency Rulemaking and Contested Case Procedures - Agency Debt Collection Practices, p. 1200, 1889
- 6-234 Insurance Producer Licensing - Electronic Filing of the Appointment and Termination of Insurance Producers, p. 1206, 1890

- 6-235 Establishment or Revision of Classifications for Various Industries for Supplementing the NCCI Basic Manual - Updates to the Public Participation Guidelines, p. 1324, 2182
- 6-236 Corporate Governance Annual Disclosures, p. 1536, 2183
- 6-237 Medicare Supplement Insurance, p. 1542, 572
- 6-238 Patient-Centered Medical Homes, p. 1574, 2277
- 6-239 Credit for Reinsurance, p. 1929, 2432
- 6-240 Independent Liability Fund Definitions and Penalties, p. 10
- 6-241 and other rules - Valuation of Life Insurance Policies, p. 13
- 6-242 Public Adjusters, p. 142
- 6-243 Health Maintenance Organizations, p. 369

COMMERCE, Title 8

- 8-94-156 Governing the Submission and Review of Applications for Funding Under the Treasure State Endowment Program (TSEP), p. 512
- 8-94-157 Administration of the 2019 Biennium Federal Community Development Block Grant (CDBG) Program – Planning Grants, p. 515
- 8-111-158 Definitions - Housing Credit Allocation Procedure, p. 517

EDUCATION, Title 10

(Board of Public Education)

- 10-64-279 School Bus Requirements, p. 391, 1891
- 10-64-281 School Bus Requirements, p. 2381, 303
- 10-64-282 School Bus Requirements, p. 611

(Superintendent of Public Instruction)

- 10-1-128 Soliciting Applications for Membership on a Negotiated Rulemaking Committee to Amend ARM 10.55.701 to Require a Policy for Suicide Prevention Programs in Schools, p. 1577
- 10-13-128 Traffic Education, p. 1210, 1650

FISH, WILDLIFE AND PARKS, Department of, Title 12

- 12-473 Dog Training, p. 585, 1447, 2075
- 12-474 Disease Management, p. 1328, 1951
- 12-479 Wildlife Habitat Noxious Weed Grant Program, p. 17, 632
- 12-480 Pilot Program for Aquatic Invasive Species in the Flathead Basin, p. 23, 586
- 12-482 Classes of License Agents and Acceptable License Agent Security, p. 520
- 12-483 Closing the Smith River From Camp Baker to Eden Bridge, p. 718

(Fish and Wildlife Commission)

- 12-475 Recreational Use on the Bitterroot River, p. 1451, 434, 717
- 12-478 Wake Restrictions on Broadwater Bay of the Missouri River, p. 1993

ENVIRONMENTAL QUALITY, Department of, Title 17

- 17-391 Technologically Enhanced Naturally Occurring Radioactive Material (TENORM) Waste, p. 1331, 1932
- 17-392 Adoption of a New Version of Department Circular DEQ-8, p. 1580, 522
- 17-394 Wind Generation Facility Decommissioning and Bonding, p. 1995, 94
- 17-396 Nutrient Standards Variances, p.377

(Board of Environmental Review)

- 17-393 Incorporation by Reference - Definitions - Applicability - Operating Permit Program Overview - Applicability of Air Quality Rules, p. 1933, 438
- 17-395 Water Quality Standards, p. 2383

TRANSPORTATION, Department of, Title 18

- 18-165 Fuel Tax Bridge and Road Safety and Accountability Program, p. 1717, 2278
- 18-166 Motor Fuels Tax Collection and IFTA, p. 148, 588
- 18-168 Motor Carrier Services Safety Requirements, p 681

(Transportation Commission)

- 18-167 Outdoor Advertising Control, p. 525

CORRECTIONS, Department of, Title 20

- 20-4-64 Facilities Exempt From Geographic Restrictions Applicable to High-Risk Sexual Offenders, p. 684
- 20-7-65 Boot Camp Incarceration Program, p. 1455, 1952

JUSTICE, Department of, Title 23

- 23-2-248 Affidavit of Indigence - Statement of Inability to Pay Court Costs and Fees, p. 1724, 176
- 23-3-246 Ignition Interlock Devices, p. 1598, 589
- 23-12-250 Investigative Complaint Review - Student's Ranking at the Montana Law Enforcement Academy, p. 2388, 304
- 23-16-247 Loans to Licensees From Institutional and Noninstitutional Sources - Use of Checks and Debit Cards for Gambling Activities - Prohibition on Use of Credit Cards for Gambling - Sports Pool Wagers - Applications, Fees, and Issuance of Video Gambling Machine Permits, p. 1352, 1893

(Public Safety Officers Standards and Training Council)

23-13-246 Certification of Public Safety Officers, p. 1213, 1953

LABOR AND INDUSTRY, Department of, Title 24

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

- 24-11-329 Unemployment Insurance, p. 153, 638
- 24-16-331 Payment of Wages, Minimum Wage, and Overtime, p. 25, 439
- 24-17-327 Prevailing Wage Rates for Public Works Projects, p. 2009, 183
- 24-17-334 Classification of Workers for Heavy Construction Services on Public Works Projects, p. 232
- 24-21-332 Employer Apprenticeship Tax Credit, p. 163, 639
- 24-22-324 Incumbent Worker Training Program, p. 1734, 2433
- 24-29-323 Utilization and Treatment Guidelines for Workers' Compensation Injuries, p. 1362, 1458, 2185
- 24-29-330 Value of Housing Furnished by an Employer for Workers' Compensation Purposes, p. 2391, 640
- 24-29-335 Workers' Compensation Facility Service Rules and Rates and Conversion Factors, p. 613
- 24-33-333 Construction Contractor Registration - Independent Contractor Central Unit, p. 235, 720

(Workers' Compensation Court)

- 24-5-328 Annual Review - Pretrial Identification of Witnesses and Exhibitions - Withdrawal of Attorney, p. 2111, 305

(Board of Personnel Appeals)

- 24-26-336 Public Sector Collective Bargaining, p. 382

(Board of Alternative Health Care)

- 24-111-26 Definitions - Fees - Nonroutine Applications - Naturopathic Physician Natural Substance Formulary List - Direct-Entry Midwife Apprenticeship Requirements - Direct-Entry Midwife Protocol Standard List Required for Application - Licensing by Examination - Licensure of Out-of-State Applicants - Conditions Which Require Physician Consultation or Transfer of Care - Midwives Continuing Education Requirements, p. 34

(Board of Architects and Landscape Architects)

- 24-114-36 Board Organization - Public Participation - Definitions - Fee Schedule - Architect Seal - Fee Abatement - Military Training or Experience - Architect Examination - Architect Licensure by Examination - Licensure of Applicants Registered in Another State - Architect Emeritus Status - Landscape Architect Licensure by Examination - Education and Experience Required for Landscape Architect

Licensure - Landscape Architect Examinations - Landscape Architect
Licensure by Endorsement - Landscape Architect Seal - Architect
Continuing Education Requirements - Unprofessional Conduct -
Screening and Adjudication Panels - Solicitation of Business by
Nonresident Architects - Architects-In-Training - Renewals -
Replacement Licenses, p. 976, 2076

(Board of Barbers and Cosmetologists)

24-121-15 Licensure by Examination - School Operating Standards - School
Curricula - Credited Hours for Montana-Licensed Individuals in a
Cosmetology or Barbering Program, p. 1364, 1956

(Board of Chiropractors)

24-126-36 Fees - Fee Abatement - Applications - Military Training or Experience -
License by Examination - Temporary Permit - License by
Endorsement - Display of License - Inactive Status and Conversion to
Active Status - Intern and Preceptor Registration - Impairment
Evaluator Standards - Continuing Education Requirements - Approved
Continuing Education, p. 45, 645

(Board of Dentistry)

24-138-72 Definition of Nonroutine Application - Dentist Licensure by Credential -
Dental Hygiene Limited Access Permit - Licensure of Retired or
Nonpracticing Dentist or Dental Hygienist for Volunteer Service -
Restricted Temporary Licensure of Nonresident Volunteer Dentists
and Dental Hygienists - Exemptions and Exceptions - Minimum
Qualifying Standards - Minimum Monitoring Standards - Infection
Control - Renewals, p. 1601, 2281

24-138-74 Functions for Dental Hygienists - Limited Access Permit Treatment
Guidelines—Practicing Under Public Health Supervision - Dental
Hygiene Limited Access Permit - Subject Matter Acceptable for Dentist
and Dental Hygienist Continuing Education - Requirements and
Restrictions - Limited Prescriptive Authority—Qualifications—Allowable
Percentages of Topical Agents, p. 386

(State Electrical Board)

24-141-38 Military Training or Experience - Unprofessional Conduct - Screening
Panel - Board Meetings - Apprentice Registration - Renewals -
Complaint Procedure, p. 1743, 306

(Board of Funeral Service)

24-147-38 Applications for Cemetery Licenses - Transfer of Cemetery Ownership
- Prearranged, Prefinanced, or Prepaid Funerals - Requirements for
Sale of At-Need, Preneed, and Prepaid Funeral Arrangements - Trust
Funds—General - Cemetery Perpetual Care and Maintenance Trust
Accounts - Financial Records - Annual Reporting Requirements -

- 24-147-39 Audits - Mortuary and Crematory Preneed Trust Accounts - Restrictions on Use of Cemetery Funds, p. 1461, 2187
Definitions - Inspections – Mortuaries, Branch Establishments, and Crematories - Transportation and Custody of Human Remains - Out-of-State Mortician Licenses - Mortuary and Branch Establishment Operation Standards - Mortuary and Branch Establishment Licenses and Temporary Permits - Crematory Licenses, Temporary Permits, and Operation Standards - Continuing Education Requirements – Morticians - Unprofessional Conduct - Mortician Licenses - Examinations - Name Change, Closure, Transfer, or Sale – Mortuary, Branch Establishment, Crematory, or Cemetery - Change of Mortician-In-Charge or Crematory Operator-In-Charge - Nonlicensed Personnel - Sponsors, p. 2251, 440

(Board of Massage Therapy)

- 24-155-6 Licensure by Examination - Licensure of Out-of-State Applicants - Nonroutine Applications, p. 1085, 2193
24-155-7 Licensure by Examination - Licensure of Out-of-State Applicants - Continuing Education Requirements - Unprofessional Conduct - School Instructors and Assistants Requiring a License in Massage Therapy and Exemption, p. 618

(Board of Nursing)

- 24-159-84 Direct Supervision and Standards Related to the Practical Nurse's and Registered Nurse's Role in Cosmetic Procedures, p. 1232, 186
24-159-85 Definitions - Enhanced Nurse Licensure Compact Rules - Issuance of a License by a Compact State - Limitations on Multistate Licensure Privilege–Discipline - Information System, p. 624

(Board of Optometry)

- 24-168-43 Licensure Requirements - Military Training or Experience - General Practice Requirements - Unprofessional Conduct - Screening Panel - Ophthalmological Diagnostic Permissible Drugs, p. 1474, 307, 442

(Board of Outfitters)

- 24-171-37 Outfitter Records - Safety and First Aid Provisions - Watercraft Identification - Outfitter Qualifications - Successorship - Fishing Outfitter Operations Plan - Operations Plans and Amendments – Renewals, p. 428, 1900
24-171-38 Outfitter Assistants - Unprofessional Conduct and Misconduct, p. 530

(Board of Pharmacy)

- 24-174-69 Fee Schedule - Internship Requirements - Foreign Intern Requirements, p. 1235, 1653
24-174-70 Examination for Licensure as a Registered Pharmacist - Requirements to Become a Clinical Pharmacist Practitioner - Requirements for Submitting Prescription Registry Information to the Board - Screening

Panel - Complaint Procedure - Legal Suspension or Revocation, p. 535

(Board of Physical Therapy Examiners)

24-177-34 Military Training or Experience - Foreign-Trained Physical Therapist Applicants - Continuing Education - List of Licensed Physical Therapists, p. 1748, 443

(Board of Private Security)

24-182-35 Organization - Procedural Rules - Public Participation - Definitions - Fee Schedule - Identification Pocket Card - Insurance and Surety Bond Requirements - Regulations of Uniform - Qualification of Firearms for Armed Endorsement - Requalification Required Annually - Required Information for Application - Military Training or Experience - Written Examination - Temporary Practice Permit - Private Investigator Trainee - Certified Firearms Instructor - Company Licensure and Branch Offices - Firearms Training Courses - Private Investigator Training Program - Private Security Guard Training Program - Security Alarm Installer Training Program - Alarm Response Runner Training Program - Standards for Continuing Education - Annual Continuing Education Requirements - Non-approved Activities - Auditing of Continuing Education Hours - Inactive Status and Conversion to Active Status - Alarm Response Runner - Private Investigator - Private Security Guard - Process Server - Resident Manager - Security Alarm Installer - Nonroutine Applications - Experience Requirements, p. 823, 1957

(Board of Psychologists)

24-189-36 Application Procedures - Exemptions - Minimum Standards - Licensure of Foreign-Trained Psychologists - Competency - Limits of Confidentiality - Continuing Education Program Options - Continuing Education Implementation - Practice of Psychology, p. 992, 1654

24-189-37 Behavior Analysts and Assistant Behavior Analysts Licensure, Continuing Education, and Unprofessional Conduct, p. 1240, 1656

24-189-38 Renewal Dates and Requirements - Psychologist Application Procedures - Minimum Standards - Work Samples-Examinations - Licensure as a Psychologist by Experience (Senior) - Nonroutine Psychologist Applications - Nonroutine Behavior Analyst or Assistant Behavior Analyst Applications, p. 2394

24-189-39 Application Procedures for Behavior Analysts and Assistant Behavior Analysts, p. 540

(Board of Public Accountants)

24-201-50 Definitions - Licensing - Renewals - Continuing Education - Complaint Procedures - Credit for Blended Learning - Professional Conduct, p. 1088, 2283

(Board of Real Estate Appraisers)

24-207-41 Qualifying and Continuing Education Requirements, p. 56, 722

(Board of Realty Regulation)

24-210-44 Definitions - Fee Schedule - Trust Account Requirements - General License Administration Requirements - Inactive Licenses - Inactive to Active License Status - Renewals - Unprofessional Conduct - Disciplinary Guidelines—Public Notice - Property Management Trust Account Requirements - Inactive Status - Unprofessional Conduct for Property Management Licensees, p. 2400

(Board of Respiratory Care Practitioners)

24-213-20 Abatement of Renewal Fees - Continuing Education Requirements - Nonroutine Applications, p. 1752

(Board of Behavioral Health)

24-219-31 Certification of Behavioral Health Peer Support Specialists (CBHPSS), p. 1757, 444

(Board of Speech-Language Pathologists and Audiologists)

24-222-27 Definitions - Fees - Unprofessional Conduct - Limited Licenses - Supervised Professional Experience, p. 1479, 2079

LIVESTOCK, Department of, Title 32

- 32-17-285 Additional Requirements for Cattle - Importation of Cattle From Mexico - Identification of Alternative Livestock With the Exclusion of Omnivores and Carnivores - Requirements for Mandatory Surveillance of Montana Alternative Livestock Farm Cervidae for Chronic Wasting Disease, p. 1001, 1101, 1661
- 32-17-286 Deeded Land Grazing Permits - Freeze Branding - County Line Grazing Permits - Brands Enforcement Division Fees, p. 252, 648
- 32-17-287 Animal Health Division Fees, p. 59, 449
- 32-18-289 Board Oversight of Agency Actions, p. 391, 543

(Board of Milk Control)

32-18-288 Milk Control Assessments, p. 62, 450

NATURAL RESOURCES AND CONSERVATION, Department of, Title 36

36-12-196 Water Right Permitting, p. 1485, 1608, 451

PUBLIC HEALTH AND HUMAN SERVICES, Department of, Title 37

37-736 Medicaid Substance Use Disorder Services, p. 1258, 2081

- 37-743 Clarifying Contents of Healthy Montana Kids (HMK) Evidence of Coverage - Adopting the Medicaid Ambulance Contracts, p. 861, 1905, 2286
- 37-768 Targeted Case Management, p. 1103, 1906
- 37-788 Updating the Effective Dates of Non-Medicaid and Medicaid Fee Schedules to January 1, 2018, p. 1006, 2287
- 37-789 Revising Nursing Facility Reimbursement Rates for State Fiscal Year 2018, p. 1121, 1670
- 37-793 Promising Pregnancy Care Program, p. 595, 1769, 2303
- 37-795 Updating the Federal Poverty Index Guidelines for the Montana Telecommunications Access Program, p. 864, 2082
- 37-797 Updating Durable Medical Equipment Rules to Reflect a Sole-Source Provider for the Purchase of Breast Pumps, p. 773, 2140, 189
- 37-798 Changes to the Non-Medicaid Services Provider Manual, p. 776, 1908
- 37-799 Graduate Medical Education Payment Program, p. 1268, 2083
- 37-800 Expanding the Children's Special Health Services, p. 257
- 37-801 Behavioral Health Targeted Case Management Fee Schedule, p. 1038, 2305
- 37-802 Amendments to Fee Schedules, p. 1043, 2312
- 37-804 Low-Income Weatherization Assistance Program (LIWAP), p. 1126, 2197
- 37-805 Revising Nursing Facility Reimbursement Rates for State Fiscal Year 2018, p. 1133, 2320
- 37-806 Montana Medical Marijuana Program, p. 1273, 1911
- 37-807 Amendment of Birth Certificate Gender Designations - Issuance of a Replacement Certificate, p. 1609, 2436
- 37-808 Health and Economic Livelihood Partnership (HELP) Program, p. 1772, 2326
- 37-809 Child Support Guidelines for the Calculation of Support Obligations, p. 1781, 2441
- 37-810 Updating Medicaid Fee Schedules With Medicare Rates and Effective Dates, p. 2012, 2443
- 37-811 Federal Child Care and Development Block Grant Reauthorization Act - Disaster and Emergency Planning - Health and Safety Requirements for Child Care Facilities, p. 2141, 308, 591
- 37-812 Physician-Related Services Manual, p. 2019, 2445
- 37-814 Revisions in Immunization Requirements for Attendance in Child Care Facilities and in Foster Homes, p. 2022, 191, 724
- 37-818 Direct Care Wage Effective Dates, p. 2034, 196
- 37-820 Montana Medical Marijuana Program, p. 2037, 321, 592
- 37-823 Low Income Energy Assistance Program (LIEAP), p. 2173, 108
- 37-824 Updating Residential Treatment Facilities Rules, p. 260
- 37-826 Medicaid Auditor Evaluation Hearings, p. 687
- 37-827 Child Care Assistance Program's Implementation of Amendments to the Child Care and Development Block Grant Act and Final Rules at 45 CFR Part 98, p. 2418, 457
- 37-828 Medicaid Rate, Service, and Benefit Changes, p. 67, 458

- 37-830 Foster Care Licensing Requirements, p. 394
- 37-832 Increase of Laboratory Fees, p. 265, 649
- 37-833 Passport to Health Program Updates - Repeal of Health Improvement Program Rules, p. 268, 650
- 37-835 Adult Mental Health and Substance Use Disorder, p. 273, 725
- 37-836 Discontinuance of the Supplemental Disproportionate Share Hospital Payment, p. 545
- 37-837 Child Care Assistance Program's Implementation of Amendments to the Child Care and Development Block Grant Act and Final Rules at 45 CFR Part 98, p. 690
- 37-839 Montana Medical Marijuana Program, p. 711

PUBLIC SERVICE REGULATION, Department of, Title 38

- 38-5-238 Pipeline Safety, p. 2274, 334
- 38-5-239 Small Water Utility Rules, p. 166
- 38-5-240 Creation of a Legally Enforceable Obligation Involving Qualifying Facilities - Access to Avoided Cost Modeling Data for a Qualifying Facility - Definitions, p. 550

REVENUE, Department of, Title 42

- 42-2-971 Livestock Reporting and Per Capita Fees–Honey Bees, p. 1277, 1672
- 42-2-972 Tax Exemptions for Nonfossil Energy Systems - Taxable Rate Reductions for Value-Added Property - Department's Notification of Property Tax Liens, p. 1280, 1674
- 42-2-973 Resident Military Salary Exclusion, p. 1284, 1676
- 42-2-974 Conditions for Operating a Brewery - Production Threshold - Beer Reporting Requirements, p. 1286, 2085
- 42-2-975 Deadlines for Classification and Appraisal Reviews - Consideration of Sales Price and Fee Appraisals as Market Value Indicators, p. 1374, 2088
- 42-2-976 Property Tax Exemption Applications - Exemptions for Veterans' Organizations - Exemption Notifications to County Treasurers - Valuation of Condominiums and Townhomes, p. 1383, 2090
- 42-2-977 Land Classification - Natural Disaster Reduction - Forest Land Eligibility and Valuation, p. 1390, 2198
- 42-2-978 Calculating the Elderly Homeowner/Renter Tax Credit, p. 1494, 2092
- 42-2-979 Pass-Through Entities, p. 1500, 2094
- 42-2-980 Property Tax Assistance Programs, p. 1612, 2201
- 42-2-981 Tax Credits, p. 1620, 2095
- 42-2-982 Coal Valuation for Coal Gross Proceeds - Coal Severance Tax on Coal Production, p. 1637, 2204
- 42-2-983 Employer Apprenticeship Tax Credit, p. 1647, 2096
- 42-2-984 Carryforward and Carryback Provisions of Corporate Net Operating Losses, p. 1787, 2327

- 42-2-985 Allocation and Apportionment of Income of Multistate Corporate Taxpayers Necessitated by House Bill 511, L. 2017 - Department's Method of Administering the Corporate Income Tax Regarding Unitary Multistate Taxpayers Whose Montana Activity Is Reflected Through Multiple Entities, p. 1790, 2328
- 42-2-986 Apportionment and Allocation of Income for Financial Institutions, p. 1844, 2337
- 42-2-987 Trended Depreciation Schedules for Valuing Property, p. 1854, 2341
- 42-2-988 Office of Dispute Resolution (ODR), p. 294, 652
- 42-2-989 Pension and Annuity Income Exclusions - Dependent Exemptions - Medical Care Savings Accounts, p. 398
- 42-2-990 Withholding Taxes, p. 413
- 42-2-991 Apportionment and Allocation of Income Reported by Pass-Through Entities and Guaranteed Payments to Individual Partners, p. 419
- 42-2-992 Quota Areas - Competitive Bidding Process for Alcoholic Beverage Licenses, p. 555

SECRETARY OF STATE, Office of, Title 44

- 44-2-226 Access to Documents and Fees for Copies, p. 1137, 1677
- 44-2-227 Online Filing of Annual Reports, p. 1290, 1678
- 44-2-228 Scheduled Dates for the 2018 Montana Administrative Register, p. 1506, 1959

(Commissioner of Political Practices)

- 44-2-229 Campaign Finance Reporting, Disclosure, and Practices, p. 1509, 1875, 2342

EXECUTIVE BRANCH APPOINTEES AND VACANCIES

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

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

In this issue, appointments effective in March 2018 appear. Potential vacancies from May 1, 2018 through July 31, 2018, are also listed.

IMPORTANT

Membership on boards and commissions changes constantly. The following lists are current as of April 1, 2018.

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

EXECUTIVE BRANCH APPOINTEES FOR MARCH 2018

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
9-1-1 Advisory Council			
Mrs. Adriane Beck	Governor	None Stated	3/30/2018
Missoula			9/1/2021
Qualifications (if required):	Public Safety Answering Point Manager		
Administrator Delila Bruno	Governor	None Stated	3/30/2018
Fort Harrison			9/1/2019
Qualifications (if required):	Representative of the Department of Military Affairs		
Mrs. Kimberly Burdick	Governor	None Stated	3/30/2018
Fort Benton			9/1/2021
Qualifications (if required):	Representative of the MT Assoc. of Public Safety Communications Officials		
Col. Thomas Butler	Governor	None Stated	3/30/2018
Helena			9/1/2019
Qualifications (if required):	Representative of the Dept. of Justice, Montana Highway Patrol		
Mr. Alex Andrew Duman	Governor	None Stated	3/30/2018
Missoula			9/1/2021
Qualifications (if required):	Representative of Montana Telecommunications Providers		
Mr. Geoffrey Feiss	Governor	None Stated	3/30/2018
Helena			9/1/2019
Qualifications (if required):	Representative of Montana Telecommunications Providers		

EXECUTIVE BRANCH APPOINTEES FOR MARCH 2018

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
9-1-1 Advisory Council Cont.			
Ms. Peggy J. Glass Livingston	Governor	None Stated	3/30/2018 9/1/2021
Qualifications (if required): Public Safety Answering Point Manager			
Ms. Lisa Kelly Kalispell	Governor	None Stated	3/30/2018 9/1/2019
Qualifications (if required): Representative of Montana Telecommunications Providers			
Mr. Clinton Loss Helena	Governor	None Stated	3/30/2018 9/1/2021
Qualifications (if required): Representative of the Montana Emergency Medical Services Assoc.			
Commissioner Gary A. MacDonald Wolf Point	Governor	None Stated	3/30/2018 9/1/2019
Qualifications (if required): Representative of the Montana Assoc. of Counties			
Ms. Jennie Stapp Helena	Governor	None Stated	3/30/2018 9/1/2021
Qualifications (if required): State Librarian			
Captain Curtis Stinson Helena	Governor	None Stated	3/30/2018 9/1/2019
Qualifications (if required): Representative of the Montana Association of Chiefs of Police			

EXECUTIVE BRANCH APPOINTEES FOR MARCH 2018

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
9-1-1 Advisory Council Cont.			
Mr. George Charles Winn Bozeman	Governor	None Stated	3/30/2018 9/1/2021
Qualifications (if required): Representative of the Montana League of Cities and Towns			
Board of Behavioral Health			
Ms. Megan N. Bailey Missoula	Governor	Brown	3/2/2018 1/1/2021
Qualifications (if required): Licensed Social Worker			
Mr. Adrian Sagan Helena	Governor	Pretty On Top	3/2/2018 1/1/2021
Qualifications (if required): Licensed Social Worker			
Board of Chiropractors			
Dr. Vincent J. Maddio Helena	Governor	Reappointed	3/2/2018 1/1/2021
Qualifications (if required): Practicing Chiropractor			
Dr. Marcus Nynas Billings	Governor	Hudson	3/2/2018 1/1/2021
Qualifications (if required): Practicing Chiropractor			

EXECUTIVE BRANCH APPOINTEES FOR MARCH 2018

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Chiropractors Cont.			
Ms. Sheryl Olson Stevensville	Governor	Reappointed	3/2/2018 1/1/2021
Qualifications (if required): Representative of the public			
Board of Dentistry			
Dr. Aimee R. Ameline Great Falls	Governor	Reappointed	3/23/2018 4/1/2023
Qualifications (if required): Licensed Dentist			
Board of Funeral Service			
Mr. Jayson Daniel Watkins Kalispell	Governor	Stevenson	3/2/2018 7/1/2022
Qualifications (if required): Licensed Mortician			
Board of Hearing Aid Dispensers			
Mr. Edward Eaton Helena	Governor	Reappointed	3/2/2018 7/1/2020
Qualifications (if required): Public member who regularly uses a hearing aid			
Mr. Dennis Gene Scoggins Sr. Lima	Governor	Tolbert	3/23/2018 7/1/2020
Qualifications (if required): Public Member			

EXECUTIVE BRANCH APPOINTEES FOR MARCH 2018

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Hearing Aid Dispensers Cont.			
Mr. Michael Spinti	Governor	Reappointed	3/2/2018
Great Falls			7/1/2020
Qualifications (if required): Licensed Hearing Aid Dispenser			
Board of Investments			
Ms. Diane Fladmo	Governor	Nyman	3/16/2018
Helena			1/1/2019
Qualifications (if required): Representative of Labor			
Board of Regents of Higher Education			
Mr. Casey Lozar	Governor	Reappointed	3/16/2018
Helena			2/1/2025
Qualifications (if required): District 2 Democrat			
Board of Respiratory Care Practitioners			
Mr. Leonard Bates	Governor	Reappointed	3/30/2018
Wolf Creek			1/1/2021
Qualifications (if required): Respiratory Care Practitioner			
Mr. Rusty James Davies	Governor	Reappointed	3/30/2018
Billings			1/1/2021
Qualifications (if required): Respiratory Care Practitioner			

EXECUTIVE BRANCH APPOINTEES FOR MARCH 2018

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Respiratory Care Practitioners Cont.			
Mr. Tony Jay Miller Joplin	Governor	Reappointed	3/30/2018 1/1/2021
Qualifications (if required): Respiratory Care Practitioner			
Board of Water Well Contractors			
Mr. Kevin Haggerty Bozeman	Governor	Reappointed	3/23/2018 7/1/2021
Qualifications (if required): Water Well Contractor			
Committee on Telecommunications Access Services for Persons With Disabilities			
Dr. Lisa Claire Cannon Clancy	Governor	Ingalls	3/2/2018 7/1/2020
Qualifications (if required): Licensed Audiologist			
Mr. Cameron C. Tulloch Belgrade	Governor	Harasymezuk	3/2/2018 7/1/2020
Qualifications (if required): Person with disability, deaf or hard-of-hearing			
Community Service Commission			
Ms. Julia Bryant Helena	Governor	Nicolai	3/23/2018 7/1/2019
Qualifications (if required): Public Representative			

EXECUTIVE BRANCH APPOINTEES FOR MARCH 2018

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Community Service Commission Cont.			
Ms. Karen Lazetich Moses	Governor	Seedhouse	3/23/2018
Billings			7/1/2020
Qualifications (if required):	Public Representative		
Ms. Amy Unsworth	Governor	Edmunds	3/23/2018
Helena			7/1/2019
Qualifications (if required):	State Agency Representative		
Labor-Management Advisory Council			
Mr. Alan Ekblad	Galen Hollenbaugh	Cavazos	3/2/2018
Helena			12/31/2018
Qualifications (if required):	Employer		
Montana Children's Trust Fund			
Mr. Leslie Caye	Governor	Reappointed	3/2/2018
Polson			1/1/2021
Qualifications (if required):	Member		
Mr. Joseph Mathieu Raffiani	Governor	Reappointed	3/2/2018
Billings			1/1/2021
Qualifications (if required):	Member		

EXECUTIVE BRANCH APPOINTEES FOR MARCH 2018

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Montana Grass Conservation Commission			
Ms. Vicki Dunaway	Governor	Reappointed	3/2/2018
Billings			1/1/2021
Qualifications (if required): Member of the public who possesses a general understanding of livestock industry			
Mr. William F. Kennedy	Governor	Reappointed	3/2/2018
Ekalaka			1/1/2021
Qualifications (if required): Officer of or serves on the board of directors of a state district			
Montana Heritage Preservation and Development Commission			
Director Pam Haxby-Cote	Governor	O'Leary	3/2/2018
Helena			1/1/2021
Qualifications (if required): Department of Commerce Director			
Dr. Timothy Lehman	Governor	Reappointed	3/2/2018
Billings			5/1/2020
Qualifications (if required): Montana Historian			
Mr. Andrew J. Poole	Governor	Reappointed	3/2/2018
Helena			5/1/2020
Qualifications (if required): Public at large			

EXECUTIVE BRANCH APPOINTEES FOR MARCH 2018

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Montana Heritage Preservation and Development Commission Cont.			
Mr. Bruce Whittenberg	Governor	Reappointed	3/2/2018
Helena			1/1/2021
Qualifications (if required): Director of the Montana Historical Society			
Director Martha Williams	Governor	Hagener	3/2/2018
Helena			1/1/2021
Qualifications (if required): Department of Fish, Wildlife and Parks Director			
Montana Small Business Development Center Advisory Council			
Mr. Matt Harrington	Governor	None Stated	3/2/2018
Browning			2/1/2020
Qualifications (if required): Economic Developer			
Mr. Reed W. Bassett	Governor	None Stated	3/2/2018
Great Falls			2/1/2020
Qualifications (if required): Small Business Lender			
Mr. Chris Davis	Governor	None Stated	3/2/2018
Helena			2/1/2020
Qualifications (if required): Small Business Owner			

EXECUTIVE BRANCH APPOINTEES FOR MARCH 2018

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Montana Small Business Development Center Advisory Council Cont.			
Mr. Karl Drga	Governor	None Stated	3/2/2018
Miles City			2/1/2020
Qualifications (if required):	Small Business Lender		
Mr. Joe Fanguy	Governor	None Stated	3/2/2018
Missoula			2/1/2020
Qualifications (if required):	Economic Developer		
Mr. Paddy Fleming	Governor	None Stated	3/2/2018
Bozeman			2/1/2020
Qualifications (if required):	Economic Developer		
Ms. Debbie Singer	Governor	None Stated	3/2/2018
Billings			2/1/2020
Qualifications (if required):	Economic Developer		
Mr. Joseph Willauer	Governor	None Stated	3/2/2018
Butte			2/1/2020
Qualifications (if required):	Economic Developer		

EXECUTIVE BRANCH APPOINTEES FOR MARCH 2018

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Potato Commodity Advisory Committee			
Mr. Tim Lake	Director	Reappointed	3/1/2018
Polson			3/1/2021
Qualifications (if required): Potato Producer			
Mr. Jack Meyer	Director	Reappointed	3/1/2018
Manhattan			3/1/2021
Qualifications (if required): Potato Producer			
Public Safety Officer Standards and Training Council			
Sergeant James D. Wells	Governor	Slaughter	3/16/2018
Great Falls			1/1/2019
Qualifications (if required): Local law enforcement officer			
State Apprenticeship Advisory Council			
Mr. Dean Bentley	Governor	None Stated	3/2/2018
Butte			3/1/2020
Qualifications (if required): Chair SWIB Member			
Mr. Dale Carpenter	Governor	None Stated	3/2/2018
Butte			3/1/2020
Qualifications (if required): Union Member			

EXECUTIVE BRANCH APPOINTEES FOR MARCH 2018

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
State Apprenticeship Advisory Council Cont.			
Ms. Nikki Dixon-Foley Bozeman	Governor	None Stated	3/2/2018 3/1/2020
Qualifications (if required): Non-Union Member			
Mr. Chris Hopkins Miles City	Governor	None Stated	3/2/2018 3/1/2020
Qualifications (if required): Non-Union Member			
Mr. Tim Newman Midvale, UT	Governor	None Stated	3/2/2018 3/1/2020
Qualifications (if required): Union Member			
Mr. Quinton Queer Butte	Governor	None Stated	3/2/2018 3/1/2020
Qualifications (if required): Union Member			
Mr. Clint Reading Missoula	Governor	None Stated	3/2/2018 3/1/2020
Qualifications (if required): Public Member			
Ms. Bekhi Spika Lewistown	Governor	None Stated	3/2/2018 3/1/2020
Qualifications (if required): Non-Union Member			

EXECUTIVE BRANCH APPOINTEES FOR MARCH 2018

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
State Apprenticeship Advisory Council Cont.			
Mr. Jeff Stark	Governor	None Stated	3/2/2018
Billings			3/1/2020
Qualifications (if required):	Union Member		
Mr. Mike Waldenberg	Governor	None Stated	3/2/2018
Great Falls			3/1/2020
Qualifications (if required):	Non-Union Member		
State Banking Board			
Mr. Tony Joe Ennenga	Governor	Fleming	3/30/2018
Miles City			7/1/2020
Qualifications (if required):	Member of the public		
Mr. Thomas R. Swenson	Governor	Webber	3/30/2018
Missoula			7/1/2020
Qualifications (if required):	Active Officer in state banks of Montana		
State Emergency Response Commission			
Ms. Maleen B. Olson	Governor	Macure	3/23/2018
Helena			10/1/2019
Qualifications (if required):	Insurance Industry Representative		

EXECUTIVE BRANCH APPOINTEES FOR MARCH 2018

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
State Emergency Response Commission Cont.			
Mr. Bradley Michael Shoemaker	Governor	Lonergan	3/23/2018
Billings			10/1/2019
Qualifications (if required): Montana Emergency Medical Services Assoc. Representative			
State Lottery Commission			
Mr. Thomas M. Keegan	Governor	Reappointed	3/2/2018
Helena			1/1/2022
Qualifications (if required): Member			
State Rehabilitation Council			
Ms. Tiffany Costa	Governor	Reappointed	3/2/2018
Billings			10/1/2020
Qualifications (if required): Advocacy Community			
Mr. Wayne Dagle	Governor	Senn	3/2/2018
Billings			10/1/2020
Qualifications (if required): Advocacy Community			
Ms. Barbara Louise Davis	Governor	Osborn	3/2/2018
Missoula			10/1/2019
Qualifications (if required): Statewide Independent Living Council Representative			

EXECUTIVE BRANCH APPOINTEES FOR MARCH 2018

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
State Rehabilitation Council Cont.			
Mr. Nicholas Domitrovich Helena	Governor	Marks	3/2/2018 10/1/2020
Qualifications (if required): Department of Public Health and Human Services			
Ms. Kathy Jean Hampton Helena	Governor	Reappointed	3/2/2018 10/1/2019
Qualifications (if required): Client Assistance Program			
Ms. Diana Hawbaker-Tavary Helena	Governor	Zermeno	3/23/2018 10/1/2019
Qualifications (if required): Parent Organization Representative			
Ms. Brook Hodge Missoula	Governor	Gibbs	3/2/2018 10/1/2020
Qualifications (if required): Vocational Rehabilitation Counselor			
Mr. Andrew Clayton Kemp Bozeman	Governor	Woods	3/23/2018 10/1/2020
Qualifications (if required): Advocacy Community			
Ms. Michele Letendre Bozeman	Governor	Capolupo	3/23/2018 10/1/2020
Qualifications (if required): Advocacy Community			

EXECUTIVE BRANCH APPOINTEES FOR MARCH 2018

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
State Rehabilitation Council Cont.			
Ms. Denise May	Governor	Heitz	3/2/2018
Missoula			10/1/2020
Qualifications (if required): Advocacy Community			
Ms. Katherine M. Meier	Governor	Robnett	3/23/2018
Great Falls			10/1/2018
Qualifications (if required): Advocacy Community			
Ms. Susan Nielson	Governor	Pickell	3/2/2018
Miles City			10/1/2019
Qualifications (if required): Community Rehabilitation Program			
Mr. Frank Podobnik	Governor	Reappointed	3/2/2018
Helena			10/1/2019
Qualifications (if required): Office of Public Instruction Representative			
Mr. Scott Trent	Governor	None Stated	3/2/2018
Missoula			10/1/2020
Qualifications (if required): State Workforce Innovation Board			

EXECUTIVE BRANCH APPOINTEES FOR MARCH 2018

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Statewide Independent Living Council			
Ms. Leanne Beers	Governor	Gaustad	3/2/2018
Missoula			12/1/2019
Qualifications (if required): Person with a disability			
Ms. Jennifer Cleland	Governor	Osborn	3/2/2018
Billings			12/1/2019
Qualifications (if required): Person with a disability			
Unemployment Insurance Appeals Board			
Mr. Robert Murdo	Governor	Hart	3/16/2018
Helena			4/9/2018
Qualifications (if required): Attorney			

EXECUTIVE BRANCH VACANCIES – MAY 1, 2018 THROUGH JULY 31, 2018

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Best Beginnings Advisory Council		
Ms. Lesa Evers, Helena Qualifications (if required): Tribal Relations	Director (DPHHS)	7/1/2018
Mr. Martin Blair, Missoula Qualifications (if required): Autism Spectrum Disorder and Other Developmental Disabilities "Act Early Initiative"	Director (DPHHS)	7/1/2018
Ms. Denise Higgins, Helena Qualifications (if required): Family & Community Health Bureau	Director (DPHHS)	7/1/2018
Ms. Lucinda Burns, Lame Deer Qualifications (if required): Northern Cheyenne Tribe Child Care and Development Fund Program	Director (DPHHS)	7/1/2018
Ms. Barbara Burton, Helena Qualifications (if required): Residential Home for Pregnant and Parenting Teens	Director (DPHHS)	7/1/2018
Ms. Patty Butler, Helena Qualifications (if required): Early Childhood Services Bureau	Director (DPHHS)	7/1/2018
Ms. Dianna Frick, Helena Qualifications (if required): Maternal & Early Childhood Home Visiting Section	Director (DPHHS)	7/1/2018
Ms. Dannelle Hay, Box Elder Qualifications (if required): Chippewa Cree Representative	Governor	7/1/2018
Ms. Margaret Big Leggins, Poplar Qualifications (if required): Fort Peck Representative	Governor	7/1/2018

EXECUTIVE BRANCH VACANCIES – MAY 1, 2018 THROUGH JULY 31, 2018

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Best Beginnings Advisory Council Cont.		
Ms. Terri Barclay, Helena Qualifications (if required): Office of Public Instruction, Early Grades	Director (DPHHS)	7/1/2018
Ms. Sheri Boelter, Billings Qualifications (if required): Child Care Center	Director (DPHHS)	7/1/2018
Ms. Collete Box, Kalispell Qualifications (if required): Child Care Center	Director (DPHHS)	7/1/2018
Ms. Cathy Brenneman, Kalispell Qualifications (if required): Child Care Resource and Referral Network	Director (DPHHS)	7/1/2018
Ms. Miranda Briggs, Helena Qualifications (if required): Montana Project LAUNCH Young Child Wellness	Director (DPHHS)	7/1/2018
Ms. Julie Bullard, Missoula Qualifications (if required): Early Childhood Higher Education	Director (DPHHS)	7/1/2018
Ms. Sara Cease, Fort Harrison Qualifications (if required): Military Child Care and Programs	Director (DPHHS)	7/1/2018
Ms. Jeanne Christopher, Ronan Qualifications (if required): Confederated Salish & Kootenai Tribes Community	Director (DPHHS)	7/1/2018
Dr. Kristen Day, Bozeman Qualifications (if required): Pediatrician	Director (DPHHS)	7/1/2018

EXECUTIVE BRANCH VACANCIES – MAY 1, 2018 THROUGH JULY 31, 2018

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Best Beginnings Advisory Council Cont.		
Ms. Marion Denk, Billings Qualifications (if required): Montana Child Care Association	Director (DPHHS)	7/1/2018
Ms. Heather Denny, Helena Qualifications (if required): Title 1 Neglected & Delinquent Homeless Children & Youth	Director (DPHHS)	7/1/2018
Ms. Virginia Ervin, Missoula Qualifications (if required): Parent	Director (DPHHS)	7/1/2018
Ms. Tara Ferriter-Smith, Helena Qualifications (if required): Montana Preschool Development Grant	Director (DPHHS)	7/1/2018
Ms. Becky Fleming-Siebenaler, Helena Qualifications (if required): Quality Assurance Division Licensure Bureau	Director (DPHHS)	7/1/2018
Ms. Siobhan Gilmartin, Bozeman Qualifications (if required): Montana After School Alliance	Director (DPHHS)	7/1/2018
Ms. Sara Groves, Helena Qualifications (if required): Montana State Library	Director (DPHHS)	7/1/2018
Ms. Libby Hancock, Bozeman Qualifications (if required): Montana Early Childhood Project Director	Director (DPHHS)	7/1/2018
Ms. Christy Hill-Larson, Helena Qualifications (if required): Montana Early Childhood Project Special Projects Coordinator	Director (DPHHS)	7/1/2018

EXECUTIVE BRANCH VACANCIES – MAY 1, 2018 THROUGH JULY 31, 2018

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Best Beginnings Advisory Council Cont.		
Ms. Charrise Jennings, Lewistown Qualifications (if required): Montana Association for the Education of Young Children	Director (DPHHS)	7/1/2018
Ms. Lonna Johnson, Box Elder Qualifications (if required): Stone Child College	Director (DPHHS)	7/1/2018
Ms. Mandy Johnstone, Wilsall Qualifications (if required): Child Care Family	Director (DPHHS)	7/1/2018
Mr. Tyson Krinke, Bozeman Qualifications (if required): Community Coalitions	Director (DPHHS)	7/1/2018
Ms. Linessa Littrell, Helena Qualifications (if required): Parent	Director (DPHHS)	7/1/2018
Ms. Beverly Matsko, Great Falls Qualifications (if required): Head Start Association	Director (DPHHS)	7/1/2018
Ms. Ashley McAdam, Willow Creek Qualifications (if required): Parent	Director (DPHHS)	7/1/2018
Ms. Danni McCarthy, Helena Qualifications (if required): Preschool and Special Education School	Director (DPHHS)	7/1/2018
Ms. Terry Minow, Helena Qualifications (if required): Organized Labor - Union MEA-MFT	Director (DPHHS)	7/1/2018

EXECUTIVE BRANCH VACANCIES – MAY 1, 2018 THROUGH JULY 31, 2018

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Best Beginnings Advisory Council Cont.		
Ms. Mary Musil, Helena Qualifications (if required): Child & Adult Care Food Program Manager	Director (DPHHS)	7/1/2018
Ms. Jessica Nicklaus, Kalispell Qualifications (if required): Parent	Director (DPHHS)	7/1/2018
Ms. Heather O'Loughlin, Helena Qualifications (if required): Montana Budget & Policy Center	Director (DPHHS)	7/1/2018
Ms. Aryon Parks, Bowning Qualifications (if required): c/o Carol Williamson, Blackfeet Manpower	Director (DPHHS)	7/1/2018
Ms. Michelle Parks, Missoula Qualifications (if required): Child & Adult Care Food Program	Director (DPHHS)	7/1/2018
Ms. Blossom Quisno, Harlem Qualifications (if required): Fort Belknap Tribal Community	Director (DPHHS)	7/1/2018
Ms. Kathy Rich, Helena Qualifications (if required): Head Start State Collaboration	Director (DPHHS)	7/1/2018
Ms. Anneliese Ripley, Dillon Qualifications (if required): Higher Education	Director (DPHHS)	7/1/2018
Ms. A.C. Rothenbuecher, Helena Qualifications (if required): Early Childhood Systems Collaboration Unit Manager	Director (DPHHS)	7/1/2018

EXECUTIVE BRANCH VACANCIES – MAY 1, 2018 THROUGH JULY 31, 2018

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Best Beginnings Advisory Council Cont.		
Ms. Tawnya Rupe, Wilsall Qualifications (if required): Philanthropy	Director (DPHHS)	7/1/2018
Ms. Michelle Sexton, East Helena Qualifications (if required): Child Care Group Home	Director (DPHHS)	7/1/2018
Mr. Jeffrey Smith, St. Ignatius Qualifications (if required): Child Care Group Home	Director (DPHHS)	7/1/2018
Ms. Shannon Stevens, Helena Qualifications (if required): Healthy Montana Teen Parent Program Coordinator	Director (DPHHS)	7/1/2018
Ms. Wendy Studt, Helena Qualifications (if required): Montana Milestones/Part C Early Intervention Program Coordinator	Director (DPHHS)	7/1/2018
Ms. Laura Taffs, Helena Qualifications (if required): Children's Mental Health Bureau	Director (DPHHS)	7/1/2018
Ms. Mikayla Three Irons, Hardin Qualifications (if required): Parent	Director (DPHHS)	7/1/2018
Ms. Stephanie Wilkins, Helena Qualifications (if required): Temporary Assistance for Needy Families Program	Director (DPHHS)	7/1/2018
Ms. Viola Wood, Poplar Qualifications (if required): Fort Peck Tribal Community	Director (DPHHS)	7/1/2018

EXECUTIVE BRANCH VACANCIES – MAY 1, 2018 THROUGH JULY 31, 2018

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Board of Professional Engineers and Professional Land Surveyors		
Representative Hal Jacobson, Helena Qualifications (if required): Public Representative	Governor	7/1/2018
Mr. David Elias, Anaconda Qualifications (if required): Land Surveyor	Governor	7/1/2018
Mr. Ronald Drake, Helena Qualifications (if required): Professional Engineer	Governor	7/1/2018
Board of Hail Insurance		
Mrs. Judy P. Tureck, Coffee Creek Qualifications (if required): Public Member	Governor	5/1/2018
Board of Hearing Aid Dispensers		
Mr. Alfred McLees, Billings Qualifications (if required): Licensed hearing aid dispenser and fitter	Governor	7/1/2018
Board of Livestock		
Mr. John Lehfeldt, Lavina Qualifications (if required): None Stated	Governor	7/10/2018
Board of Nursing		
Mr. N. Gregory Kohn, Billings Qualifications (if required): Public Member	Governor	7/1/2018

EXECUTIVE BRANCH VACANCIES – MAY 1, 2018 THROUGH JULY 31, 2018

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Board of Nursing Cont.		
Ms. Lanette Perkins, Missoula Qualifications (if required): Registered Professional Nurse	Governor	7/1/2018
Ms. Darlene Schulz, Deer Lodge Qualifications (if required): Licensed Practical Nurse	Governor	7/1/2018
Mr. Tom Glover, Great Falls Qualifications (if required): Public Representative	Governor	7/1/2018
Board of Nursing Home Administrators		
Mr. Thomas Klotz, Glasgow Qualifications (if required): Nursing Home Administrator	Governor	5/28/2018
Board of Pharmacy		
Ms. Rebekah Matovich, Billings Qualifications (if required): Registered Pharmacy Technician	Governor	7/1/2018
Ms. Charmell Petroff Owens, Hamilton Qualifications (if required): Public Representative	Governor	7/1/2018
Board of Physical Therapy Examiners		
Mr. Pat Goodover, Great Falls Qualifications (if required): Member of the general public who is not a physician or physical therapist	Governor	7/1/2018

EXECUTIVE BRANCH VACANCIES – MAY 1, 2018 THROUGH JULY 31, 2018

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Board of Physical Therapy Examiners Cont.		
Ms. Dawn Christian, Missoula Qualifications (if required): Physical Therapist	Governor	7/1/2018
Ms. Kelsey Wadsworth, Bozeman Qualifications (if required): Physical Therapist	Governor	7/1/2018
Board of Plumbers		
Mr. Timothy E. Regan, Miles City Qualifications (if required): Master Plumber	Governor	5/1/2018
Mr. Sean Smith, Anaconda Qualifications (if required): Journeyman Plumber	Governor	5/1/2018
Board of Public Accountants		
Mr. Wayne Hintz, Helena Qualifications (if required): Certified Public Accountant	Governor	7/1/2018
Mr. Mike Huotte, Anaconda Qualifications (if required): Certified Public Accountant	Governor	7/1/2018
Ms. Kathy VanDyke, Whitehall Qualifications (if required): Public Representative	Governor	7/1/2018
Mr. John W. Jacobsen, Billings Qualifications (if required): Licensed Certified Public Accountant	Governor	7/1/2018

EXECUTIVE BRANCH VACANCIES – MAY 1, 2018 THROUGH JULY 31, 2018

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Board of Radiologic Technologists Mr. Daniel Funsch, Missoula Qualifications (if required): Licensed Radiologic Technologist	Governor	7/1/2018
Board of Real Estate Appraisers Mr. Timothy Peter McGinnis, Polson Qualifications (if required): Licensed or Certified Real Estate Appraiser	Governor	5/1/2018
Mr. Frank Schoenen Jr., Great Falls Qualifications (if required): Representative of the public not engaged in the occupation of real estate appraisal	Governor	5/1/2018
Board of Regents of Higher Education Mr. Chase Greenfield, Missoula Qualifications (if required): Student Regent	Governor	6/30/2018
Board of Research and Commercialization Technology Ms. Prairie Bighorn, Billings Qualifications (if required): Enrolled member of a Montana tribal government	Governor	7/1/2018
Board of Veterinary Medicine Mr. Lance Hughes, Hobson Qualifications (if required): Veterinarian	Governor	7/31/2018
Board of Water Well Contractors Mr. Kevin Haggerty, Bozeman Qualifications (if required): Montana water well contractor	Governor	7/1/2018

EXECUTIVE BRANCH VACANCIES – MAY 1, 2018 THROUGH JULY 31, 2018

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Commission on Community Service Ms. Barbara Braided Hair, Lame Deer Qualifications (if required): Business Representative	Governor	7/1/2018
Committee on Telecommunications Access Services for Persons With Disabilities Mr. Jay Wilson Preston, Ronan Qualifications (if required): Member from an InterLATA Interexchange Carrier	Governor	7/1/2018
Electronic Government Advisory Council Clerk Ed Smith, Helena Qualifications (if required): Public Representative	Governor	7/1/2018
Ms. Janene Caywood, Missoula Qualifications (if required): Archaeologist	Governor	7/1/2018
Mr. Edwin Jasmin, Helena Qualifications (if required): Public Representative	Governor	7/1/2018
Future Fisheries Review Panel Mr. Alan Davis Johnstone, Wilsall Qualifications (if required): Expertise in commercial agriculture	Governor	7/1/2018
Mr. James Stone, Ovando Qualifications (if required): Expertise in irrigated agriculture	Governor	7/1/2018

EXECUTIVE BRANCH VACANCIES – MAY 1, 2018 THROUGH JULY 31, 2018

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Future Fisheries Review Panel Cont. Ms. Nancy Sue Winslow, Missoula Qualifications (if required): Expertise in mining reclamation techniques	Governor	7/1/2018
Governor's Advisory Council on Aging Senator Gerald Pease, Lodge Grass Qualifications (if required): Public Representative	Governor	7/1/2018
Ms. Laurie Glover, Great Falls Qualifications (if required): Public Representative	Governor	7/1/2018
Mr. Bradley Howell, Roundup Qualifications (if required): Public Representative	Governor	7/1/2018
Governor's Commission on Community Service Major Lori Chamberlain, Fort Harrison Qualifications (if required): State agency representative	Governor	7/1/2018
Ms. Karin Olsen, Helena Qualifications (if required): Designee of the State Superintendent of Public Instruction	Governor	7/1/2018
Ms. Chantel Schieffer, Bozeman Qualifications (if required): Representative of a community-based organization	Governor	7/1/2018

EXECUTIVE BRANCH VACANCIES – MAY 1, 2018 THROUGH JULY 31, 2018

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Governor's Postsecondary Scholarship Advisory Council		
Mr. LeRoy Schramm, Helena	Governor	7/1/2018
Qualifications (if required): Experience in secondary or postsecondary education		
Interstate Medical Licensure Compact Commission		
Dr. James Feist, Bozeman	Governor	7/1/2018
Qualifications (if required): Physician member of the Montana Board of Medical Examiners		
Mr. Ian Marquand, Helena	Governor	7/1/2018
Qualifications (if required): Board Executive Officer		
Invasive Species Council		
Ms. Dona Lynn Rutherford, Browning	Governor	5/9/2018
Qualifications (if required): Representative of the Blackfeet Nation and an addition to the Council		
Ms. Gail Whiteman, Crow Agency	Governor	5/9/2018
Qualifications (if required): Representative of the Crow Nation and an addition to the Council		
Mental Disabilities Board of Visitors		
Mr. Dan Laughlin, Anaconda	Governor	6/30/2018
Qualifications (if required): Possessing knowledge relative to treatment and welfare of adults with mental illnesses		
Ms. Amy Tipton, Wolf Point	Governor	6/30/2018
Qualifications (if required): Possessing knowledge relative to treatment and welfare of adults with mental illnesses		

EXECUTIVE BRANCH VACANCIES – MAY 1, 2018 THROUGH JULY 31, 2018

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Mental Disabilities Board of Visitors Cont.		
Mrs. Melissa Ancell, Poplar Qualifications (if required): Consumer of Developmental Disabilities	Governor	6/30/2018
Mr. Jeffrey Folsom, Helena Qualifications (if required): Skills, knowledge, & experience, treatment & welfare of adults with DD, & prof. person	Governor	6/30/2018
Montana Heritage Preservation and Development Commission		
Mr. F. W. "Bill" Howell, West Yellowstone Qualifications (if required): Experience managing facilities that cater to the needs of tourists	Governor	5/1/2018
Ms. Barbie Durham, Cameron Qualifications (if required): Broad experience in business	Governor	5/1/2018
Montana Pulse Crop Committee		
Ms. Kim Murray, Froid Qualifications (if required): At-Large Member from either district	Governor	6/30/2018
Mr. Ryan Bogar, Vida Qualifications (if required): Member from an eastern district	Governor	6/30/2018
Mr. Roger Sammons, Cut Bank Qualifications (if required): At-Large Member from either district	Governor	6/30/2018

EXECUTIVE BRANCH VACANCIES – MAY 1, 2018 THROUGH JULY 31, 2018

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Petroleum Tank Release Compensation Board		
Mr. James B. Corson, Billings Qualifications (if required): member of the general public	Governor	7/1/2018
Mr. Tim McDermott, Bozeman Qualifications (if required): Member of the general public	Governor	7/1/2018
Mr. John "Chuck" Thompson, Missoula Qualifications (if required): Representative of service station dealers	Governor	7/1/2018
Public Defender Commission		
Senator Roy Brown, Billings Qualifications (if required): Nominee from the President of the Senate	Governor	7/1/2018
Ms. Bonnie Olson, Marion Qualifications (if required): Nominee from the Speaker of the House	Governor	7/1/2018
Mr. Larry Mansch, Missoula Qualifications (if required): Attorney nominated by the President of the State Bar	Governor	7/1/2018
Ms. Maylinn Elise Smith, Missoula Qualifications (if required): Member of an organization that advocates on behalf of a racial minority population	Governor	7/1/2018
Replacement of Word "Squaw," "Half Breed," or "Breed" Advisory Council		
Mr. Nicholas Peterson Vrooman, Helena Qualifications (if required): Public Representative	Governor	6/1/2018

EXECUTIVE BRANCH VACANCIES – MAY 1, 2018 THROUGH JULY 31, 2018

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Replacement of Word "Squaw," "Half Breed," or "Breed" Advisory Council Cont.		
Representative Norma Bixby, Lame Deer Qualifications (if required): Public Representative	Governor	6/1/2018
Mr. Jason Smith, Helena Qualifications (if required): Director of Indian Affairs	Governor	6/1/2018
Ms. April Christofferson, Bozeman Qualifications (if required): Public Representative	Governor	6/1/2018
Mr. Gerald Daumiller, Helena Qualifications (if required): State Agency Representative	Governor	6/1/2018
Mr. Donald Lee Davis, Helena Qualifications (if required): Member of the Little Shell Chippewa Tribe	Governor	6/1/2018
Ms. Jennifer Stadum, Helena Qualifications (if required): State Agency Representative	Governor	6/1/2018
State Banking Board		
Mr. Jack Johnson, Billings Qualifications (if required): Public Representative	Governor	7/1/2018
Mr. Phil G. Gaglia, Billings Qualifications (if required): Active officer in state bank of Montana	Governor	7/1/2018

EXECUTIVE BRANCH VACANCIES – MAY 1, 2018 THROUGH JULY 31, 2018

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
State Electrical Board Mr. John Gordon, Butte Qualifications (if required): Electrician	Governor	7/1/2018
State Library Commission Commissioner Connie Eissinger, Brockway Qualifications (if required): Public Representative	Governor	6/1/2018
Mr. Ken Wall, Missoula Qualifications (if required): Public Representative	Governor	6/1/2018
State Trails Advisory Committee Mr. Frank LaLiberty, Cascade Qualifications (if required): None Stated	Governor	6/1/2018
Mr. Mark Reinsel, Missoula Qualifications (if required): None Stated	Governor	6/1/2018
Mr. Dan Thompson, Victor Qualifications (if required): None Stated	Governor	6/1/2018
Mr. Tom Reilly, Helena Qualifications (if required): None Stated	Governor	6/1/2018
Ms. Beth R. Shumate, Helena Qualifications (if required): None Stated	Governor	6/1/2018

EXECUTIVE BRANCH VACANCIES – MAY 1, 2018 THROUGH JULY 31, 2018

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
State Trails Advisory Committee Cont.		
Mr. Alan Woodmansey, Helena Qualifications (if required): None Stated	Governor	6/1/2018
Mr. Kent Wellner, Missoula Qualifications (if required): None Stated	Governor	6/1/2018
Mr. Bruce Butler, Laurel Qualifications (if required): None Stated	Governor	6/1/2018
Mr. Garry Edson, Bozeman Qualifications (if required): None Stated	Governor	6/1/2018
Ms. Michelle Erb, Helena Qualifications (if required): None Stated	Governor	6/1/2018
Mr. Robert Long, Polson Qualifications (if required): None Stated	Governor	6/1/2018
Ms. Lyndsey Owens, Big Sky Qualifications (if required): None Stated	Governor	6/1/2018
Mr. William Parker, Whitefish Qualifications (if required): None Stated	Governor	6/1/2018
Ms. Alice Santos, Helena Qualifications (if required): None Stated	Governor	6/1/2018

EXECUTIVE BRANCH VACANCIES – MAY 1, 2018 THROUGH JULY 31, 2018

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
State Trails Advisory Committee Cont.		
Mr. Brian Smith, Billings Qualifications (if required): None Stated	Governor	6/1/2018
Mr. Mark Smolen, Bigfork Qualifications (if required): None Stated	Governor	6/1/2018
Mr. Ryan Weiss, Helena Qualifications (if required): None Stated	Governor	6/1/2018
State-Tribal Economic Development Commission		
Mr. Harold Stone, Crow Agency Qualifications (if required): Crow Tribe Alternate Member	Governor	7/1/2018
Ms. Delina Cuts The Rope, Harlem Qualifications (if required): Fort Belknap Indian Community Alternate Representative	Governor	6/30/2018
Mr. Alvin Jim Kennedy, Harlem Qualifications (if required): Fort Belknap Indian Community Representative	Governor	6/30/2018
Mr. Shawn Real Bird, Garryowen Qualifications (if required): Crow Tribe Representative	Governor	7/1/2018
Mr. Oliver Norbert Hill, Crow Agency Qualifications (if required): Crow Tribe Alternate	Governor	7/1/2018

EXECUTIVE BRANCH VACANCIES – MAY 1, 2018 THROUGH JULY 31, 2018

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Teachers' Retirement Board		
Mr. Scott A. Dubbs, Lewistown	Governor	7/1/2018
Qualifications (if required): Administrator and Member of the Retirement System		
Tourism Advisory Council		
Ms. Kim Holzer, Stanford	Governor	7/1/2018
Qualifications (if required): Russell Country Representative		
Mr. Brian Sprenger, Belgrade	Governor	7/1/2018
Qualifications (if required): Yellowstone Region Representative		
Ms. Tami Burke, Glasgow	Governor	7/1/2018
Qualifications (if required): Missouri River Country Region Representative		
Mr. Alger Swingley, Babb	Governor	7/1/2018
Qualifications (if required): Tribal Government Representative from private sector		
Western Interstate Commission for Higher Education		
Ms. Florence Lucas, Missoula	Governor	7/1/2018
Qualifications (if required): Legislator		

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COREY STAPLETON
SECRETARY OF STATE

P.O. BOX 202801
HELENA, MONTANA 59620