

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 12

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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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 print 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) 444-2055.

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

In the matter of the amendment of)	NOTICE OF PROPOSED
ARM 2.43.3502 pertaining to the	)	AMENDMENT
investment policy statement for the)	
Defined Contribution Retirement Plan	)	NO PUBLIC HEARING
and ARM 2.43.5102 pertaining to the	)	CONTEMPLATED
investment policy statement for the)	
457 Deferred Compensation Plan)	

TO: All Concerned Persons

1. On September 8, 2017, the Public Employees' Retirement Board proposes to amend the above-stated rules.

2. The Public Employees' Retirement Board will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Montana Public Employee Retirement Administration no later than 5:00 p.m. on July 14, 2017, to advise us of the nature of the accommodation that you need. Please contact Kris Vladic, Montana Public Employee Retirement Administration, P.O. Box 200131, Helena, Montana, 59620-0131; telephone (406) 444-2578; fax (406) 444-5428; TDD (406) 444-1421; or e-mail kvladic@mt.gov.

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

2.43.3502 ADOPTION OF INVESTMENT POLICY STATEMENT AND STABLE VALUE FUND INVESTMENT GUIDELINES (1) The board adopts and incorporates by reference the State of Montana 401(a) Defined Contribution Plan Investment Policy Statement approved by the board on ~~April 14, 2016~~ May 11, 2017. The Investment Policy Statement provides investment guidelines for the defined contribution plan, a long-term retirement-savings vehicle that permits participants to invest employer and participant contributions on a tax-deferred basis. The investment guidelines help the board to meet its fiduciary responsibilities to evaluate and positively influence the direction of the plan and its investments for the benefit of the plan participants and beneficiaries.

(2) and (3) remain the same.

AUTH: 19-3-2104, MCA
IMP: 19-3-2104, 19-3-2122, MCA

2.43.5102 ADOPTION OF INVESTMENT POLICY STATEMENT AND STABLE VALUE FUND INVESTMENT GUIDELINES (1) The board adopts and incorporates by reference the State of Montana 457 Plan (deferred compensation)

Investment Policy Statement approved by the board on ~~April 14, 2016~~ May 11, 2017. The Investment Policy Statement provides investment guidelines for the 457(b) deferred compensation plan, a supplemental retirement-savings vehicle that permits participants to invest on either a pre-tax or a tax-deferred basis. The investment guidelines help the board to meet its fiduciary responsibilities to evaluate and positively influence the direction of the plan and its investments for the benefit of the plan participants and beneficiaries.

(2) and (3) remain the same.

AUTH: 19-50-102, MCA

IMP: 19-50-102, MCA

STATEMENT OF REASONABLE NECESSITY: The Public Employees' Retirement Board, as administrator of the Public Employees' Retirement System Defined Contribution Retirement Plan (DCRP) and the State of Montana's 457(b) Deferred Compensation Plan (457 Plan), adopted the two plans' original investment policy statements in 2002. The investment policy statements are reviewed on a yearly basis and amended to reflect best practices in defined contribution plan investments.

Pursuant to the recommendation of the board's investment consultant, Xerox Corporation dba Buck Consultants, the board's advisory committee, the Employee Investment Advisory Council, and the board's policy committee, the board amended the investment policy statements on May 11, 2017, to clarify that (1) mutual fund, separate account, and commingled fund alternative categories may include active or passive fund management and are expected to meet or exceed the performance of an appropriate benchmark or peer group; and (2) a rolling five-year period will only be used to measure target date fund performance when such a period is available.

Because the board determined to adopt the original investment policy statements by reference, 2-4-307(4), MCA, requires that changes to the documents also be adopted by reference. Therefore, it is necessary to amend the rules that adopt the investment policy statements to indicate the version being adopted by reference.

The investment policy statements are available on the board's web page at mpera.mt.gov.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Montana Public Employee Retirement Administration, P.O. Box 200131, Helena, Montana, 59620-0131; telephone (406) 444-3154; fax (406) 444-5428; or e-mail mpera@mt.gov, and must be received no later than 5:00 p.m., July 21, 2017.

5. If persons who are directly affected by the proposed amendments 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 they have to Kris Vladic at the above address no later than 5:00

p.m., July 21, 2017.

6. If the Public Employees' Retirement Board receives requests for a public hearing on the proposed amendments from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed amendment; 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 726 persons based on approximately 2,409 participants in the Defined Contribution Retirement Plan and 4,854 participants in the 457(b) Deferred Compensation Plan as of June 30, 2016, for a total of 7,263 participants.

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

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

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

10. With regard to the requirements of 2-4-111, MCA, the Public Employees' Retirement Board has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses.

/s/ William Holahan
William Holahan
Legal Counsel
and Rule Reviewer

/s/ Sheena Wilson
Sheena Wilson
President
Public Employees' Retirement Board

Certified to the Secretary of State June 12, 2017.

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

In the matter of the amendment of	)	NOTICE OF PROPOSED
ARM 2.43.1306 pertaining to actuarial	)	AMENDMENT
rates and assumptions and ARM)	
2.43.2309, 2.43.2310 and 2.43.2319	)	NO PUBLIC HEARING
pertaining to service purchases	)	CONTEMPLATED

TO: All Concerned Persons

1. On September 8, 2017, the Public Employees' Retirement Board proposes to amend the above-stated rules.

2. The Public Employees' Retirement Board will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Montana Public Employee Retirement Administration no later than 5:00 p.m. on July 14, 2017, to advise us of the nature of the accommodation that you need. Please contact Kris Vlastic, Montana Public Employee Retirement Administration, P.O. Box 200131, Helena, Montana, 59620-0131; telephone (406) 444-2578; fax (406) 444-5428; TDD (406) 444-1421; or e-mail kvlastic@mt.gov.

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

2.43.1306 ACTUARIAL RATES AND ASSUMPTIONS (1) The actuary will present the actuarial data and recommend the board adopt specific rates and assumptions. The board in its discretion will adopt rates and assumptions and publish them in a board policy. The board adopts and incorporates by reference BOARD Admin 09 Actuarial Valuation Assumptions and Methods (approved ~~December 11, 2014~~) and ~~BOARD Admin 10 Actuarial Equivalence Option Factor Determination (approved June 10, 2010~~ June 8, 2017), providing actuarial rates, assumptions, and methods, and factors used for valuation and actuarial equivalence purposes. BOARD Admin 09 also contains the early retirement factor tables applicable to PERS, HPORS, and SRS.

(2) MPERA shall maintain a historical file of all rates, ~~or~~ assumptions, methods, and factors, including the current version. The file shall be open and readily available to the public. Copies of the assumptions and board ~~policies~~ policy BOARD Admin 09 ~~and BOARD Admin 10~~ may be obtained from MPERA, 100 North Park Avenue, Suite 200, P.O. Box 200131, Helena, MT 59620-0131, phone 1 (877) 275-7372, e-mail mpera@mt.gov and are available on MPERA's web site at www.mpera.mt.gov.

(3) This rule applies to all systems administered by MPERA, including the VFCA but excluding the defined contribution (401)(a) plan and the deferred compensation (457) plan.

AUTH: 19-2-403, MCA
IMP: 19-2-405, 19-17-107, MCA

STATEMENT OF REASONABLE NECESSITY: The Internal Revenue Service requires public pension systems to adopt actuarial assumptions, rates, methods, and factors in a manner that gives them the force and effect of law. The IRS requirement is an issue that may affect the qualified status of public pension retirement systems. Adopting the applicable actuarial assumptions, rates, methods, and factors into rule by reference gives them the force and effect of law.

The Public Employees' Retirement Board's actuary performs an experience study every five to seven years. Information obtained through the experience study is used by the actuary to update demographic and economic assumptions relied on when conducting annual valuations of the defined benefit retirement systems administered by the Board and to determine actuarial equivalent option factors as well as actuarial cost factors for all defined benefit retirement systems (Board Admin 09).

While preparing this notice of proposed amendment, the board staff noted duplication between board policies Board Admin 10 Actuarial Equivalence Option Factor Determination (approved June 10, 2010) and Board Admin 09 Actuarial Valuation Assumptions (approved December 11, 2014). Due to this duplication, the board voted at its meeting on June 8, 2017 to combine Board Admin 10 and Board Admin 09 together into a revised Board Admin 09 for easier reference and to avoid any further unnecessary policy duplication. In addition, the 2017 experience study resulted in the board's actuary recommending, and the board adopting, demographic and economic assumption revisions to Board Admin 09 mentioned above.

Since Board Admin 09 is adopted by reference, 2-4-307(3), MCA, requires that the amended policy also be adopted by reference. Therefore, it is necessary to amend the rule that adopts this policy by reference. In addition, since Board Admin 10 is no longer in existence, it is necessary to delete references to this policy in the rule.

Finally, while preparing this notice of proposed amendment, board staff noted subpart (3) of the rule did not contain an exclusionary reference to the 401(a) defined contribution retirement plan as it does with the 457(b) deferred compensation plan. The assumptions adopted by the board under this rule do not apply to the 401(a) defined contribution retirement plan. Therefore, the board proposes to add this specific exclusionary reference under this subpart (3).

2.43.2309 SERVICE PURCHASES BY INACTIVE VESTED MEMBERS

(1) through (2)(a) remain the same.

(b) Interest, ~~compounded monthly, will be charged from~~ equaling the actuarially assumed rate of return for the trust fund in effect on the member's most recent termination date ~~to when, will be charged and compounded monthly until~~ the member completes payment for the cost of the purchase:

~~(i) for members terminated prior to July 1, 2010, at an effective annual rate of 8% per year; and~~

~~(ii) for members terminated on or after July 1, 2010, at an effective annual rate of 7.75% per year.~~

(3) remains the same.

AUTH: 19-2-403, MCA

IMP: 19-2-603, 19-2-715, 19-2-908, 19-3-401, 19-5-301, 19-6-301, 19-7-301, 19-8-301, 19-9-301, 19-13-301, MCA

STATEMENT OF REASONABLE NECESSITY: Pursuant to 19-2-403(9), MCA and Board Admin 09, and based upon actuarial findings, the board adopted an interest rate of 7.65% effective July 1, 2017. This rate is applicable to interest charged for various types of service purchases, including purchase of service by inactive vested members. The proposed amendment is necessary to include the new rate and to allow future new rates to be included without the need for another rule amendment.

2.43.2310 PURCHASE OF FULL-TIME SERVICE OR "ONE-FOR-FIVE" SERVICE BY PART-TIME MEMBERS (1) through (2)(a) remain the same.

(b) retain the full-time service by paying the difference between the cost actually paid and the cost had the member been paid a full-time salary at the time of the purchase, plus interest: equaling the actuarially assumed rate of return for the trust fund in effect on the date of the member's purchase

~~(i) for members who purchased the service prior to July 1, 2010, at a rate of 8%; and~~

~~(ii) for members who purchased the service on or after July 1, 2010, at a rate of 7.75%.~~

AUTH: 19-2-403, MCA

IMP: 19-2-704, 19-2-715, MCA

STATEMENT OF REASONABLE NECESSITY: Pursuant to 19-2-403(9), MCA and Board Admin 09, and based upon actuarial findings, the board adopted an interest rate of 7.65% effective July 1, 2017. This rate is applicable to interest charged for various types of service purchases, including service purchases by part-time members. The proposed amendment is necessary to include the new rate and to allow future new rates to be included without the need for another rule amendment.

2.43.2319 PURCHASE OF "ONE-FOR-FIVE" SERVICE BY EMPLOYERS FOR REDUCTION IN FORCE EMPLOYEES (1) through (5) remain the same.

(6) A cost statement for the employer's portion of the cost of the one-for-five service will be sent to the member's former employer after the member terminates. The employer may pay the amount in full within one month of billing, or may select an installment plan of no more than ten years duration. Installment plans will include interest compounded monthly: at the actuarially assumed rate of return for the trust fund in effect on the date of the member's termination

~~(i) for members terminated prior to July 1, 2010, at an effective annual rate of~~

8%; and

~~(ii) for members terminated on or after July 1, 2010, at an effective annual rate of 7.75%.~~

(7) and (8) remain the same.

AUTH: 19-2-403, MCA

IMP: 19-2-706, MCA

STATEMENT OF REASONABLE NECESSITY: Pursuant to 19-2-403(9), MCA and Board Admin 09, and based upon actuarial findings, the board adopted an interest rate of 7.65% effective July 1, 2017. This rate is applicable to interest charged for various types of service purchases, including purchases of one-for-five service for employees subject to a reduction in force. The proposed amendment is necessary to include the new rate and to allow future new rates to be included without the need for another rule amendment.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Montana Public Employee Retirement Administration, P.O. Box 200131, Helena, Montana, 59620-0131; telephone (406) 444-3154; fax (406) 444-5428; or e-mail mpera@mt.gov, and must be received no later than 5:00 p.m., July 21, 2017.

5. If persons who are directly affected by the proposed amendments 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 they have to Kris Vladic at the above address no later than 5:00 p.m., July 21, 2017.

6. If the Public Employees' Retirement Board receives requests for a public hearing on the proposed amendments from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed amendment; 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 7,490 persons based on the following combined total of members, retirees, and beneficiaries in each defined benefit system administered by MPERA as of June 30, 2016: Public Employees' Retirement System - 62,816, Judges' Retirement System – 125, Highway Patrol Officers' Retirement System – 591, Sheriffs' Retirement System – 2,473, Game Wardens' and Peace Officers' Retirement System – 1,622, Municipal Police Officers' Retirement System – 1,703, Firefighters' Unified Retirement System – 1,369, Volunteer Firefighters' Compensation Act – 4,198, for a total of 74,897 persons.

7. The Public Employees' Retirement Board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request

that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the Public Employees' Retirement Board.

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

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

10. With regard to the requirements of 2-4-111, MCA, the Public Employees' Retirement Board has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses.

/s/ William Holahan
William Holahan
Legal Counsel
and Rule Reviewer

/s/ Sheena Wilson
Sheena Wilson
President
Public Employees' Retirement Board

Certified to the Secretary of State June 12, 2017.

BEFORE THE BOARD OF PRIVATE SECURITY
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of ARM)
24.182.101 organization, 24.182.201)
procedural rules, 24.182.202 public)
participation, 24.182.301 definitions,)
24.182.401 fee schedule, 24.182.403)
identification pocket card, 24.182.405)
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response runner, XI private investigator,)
XII private security guard, XIII process)
server, XIV resident manager, XV)
security alarm installer, XVI nonroutine)
applications; and the repeal of ARM)
24.182.503 experience requirements)

TO: All Concerned Persons

1. On July 18, 2017, at 10:00 a.m., a public hearing will be held in the Large Conference Room, 301 South Park Avenue, 4th Floor, Helena, Montana, to consider the proposed amendment, adoption, 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 Private Security (board) no later than 5:00 p.m., on July 11, 2017, to advise us of the nature of the accommodation that you need. Please contact Steve Gallus, Board of Private Security, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2370; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsdp@mt.gov (board's e-mail).

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

24.182.101 ORGANIZATION (1) The Board of Private Security ~~patrol officers and investigators hereby~~ adopts and incorporates the organizational rules of the Department of Labor and Industry as listed in chapter 1 of this title.

AUTH: 2-4-201, ~~37-60-202~~, MCA
IMP: 2-4-201, MCA

REASON: The board is amending ARM 24.182.101, 24.182.201, and 24.182.202 to consistently refer to the board by its correct name, per 37-60-101 and 2-15-1781, MCA. Authority citations are being amended to accurately reflect the statutory sources of the board's rulemaking authority.

24.182.201 PROCEDURAL RULES (1) The Board of Private Security ~~patrol officers and investigators hereby~~ adopts and incorporates the procedural rules of the Department of Labor and Industry as listed in chapter 2 of this title.

AUTH: 2-4-201, ~~37-60-202~~, MCA
IMP: 2-4-201, MCA

24.182.202 PUBLIC PARTICIPATION (1) The Board of Private Security ~~patrol officers and investigators hereby~~ adopts and incorporates the public participation rules of the Department of Commerce as set out in chapter 2 of ARM Title 8.

AUTH: 2-4-201, ~~37-60-202~~, MCA
IMP: 2-3-103, MCA

24.182.301 DEFINITIONS (1) "Direct supervision"; regarding private investigator trainees, and temporary practice permit holders means daily contact between supervisor and trainee or temporary practice permit holder while engaged

in an investigation the performance of licensed duties, including one in-person, face-to-face meeting per week.

(2) and (3) remain the same.

(4) "Retail merchant" as used in 37-60-105, MCA, means a person who operates a store and sells goods to individuals solely for their own use.

(5) "Weapon" as used in 37-60-405, MCA, means a firearm.

AUTH: ~~37-1-131~~, 37-60-202, MCA

IMP: 37-60-101, ~~37-60-103~~, 37-60-105, 37-60-202, 37-60-303, 37-60-405, MCA

REASON: The board determined it is reasonably necessary to amend (1) to address questions by clarifying that temporary practice permit holders must also be directly supervised and also to align with proposed changes to ARM 24.182.507. The board is amending (4) to clarify the source of the term "retail merchant" in providing context to the reader.

Additionally, it is necessary to define "weapon" in (5) to clarify the relationship of multiple terms used in statute. In particular, 37-60-101(2), MCA, defines "armed" as wearing, carrying, or possessing a firearm. Meanwhile, 37-60-405, MCA, refers to "weapons" when stating what armed licensees may carry. Reading both statutes together, it is clear that only a firearm constitutes a weapon for the purposes of Title 37, chapter 60, MCA.

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.

24.182.401 FEE SCHEDULE (1) and (2) remain the same.

(3) Inactive license renewal fees are as follows:

(a) Contract security companies, proprietary security organizations, and electronic security companies:

(i) Company	100
(ii) Resident manager	62.50
(iii) Security guard, alarm installer, or alarm response runner	50
(iv) Branch office	50
(b) Private investigator	87.50
(c) Private investigator trainee	50
(d) Process server	50
(e) Certified firearms instructor	62.50

~~(3)~~ (4) Miscellaneous fees are as follows:

(a) Photo ID card (~~original lost or destroyed~~ replacement) 20

(b) and (c) remain the same.

~~(d) Changes of supervisor or address~~ 10

~~(e) Training program certification application~~ 50

(4) through (7) remain the same but are renumbered (5) through (8).

AUTH: 37-1-134, 37-60-202, MCA

IMP: 25-1-1104, 37-1-134, 37-1-141, 37-60-202, 37-60-304, MCA

REASON: The board determined it is reasonably necessary to amend this rule and establish fees for inactive status to align with proposed NEW RULE IX which creates an inactive license status and conversion to active status for its licensees. Licensees must still renew while on inactive status, but the fee is half the active license fee due to the limited staff time necessary to process and renew inactive licenses.

The board is amending (4)(a) to align with changes to ARM 24.182.403 requiring licensees to obtain new ID cards when employers change. Additionally, the board is deleting (4)(d) and (4)(e) to eliminate the fees to change supervisors or addresses, and to apply for training program certification. Licensees can now change addresses online, and will soon be able to do the same for supervisor information. There is no additional staff work for online changes and no need for additional fees.

Lastly, since companies apply for training program certification as part of the original license application, the board is eliminating that fee as those applications are processed jointly by department staff. The board estimates that the proposed fee changes will affect approximately 155 persons and decrease annual revenue by \$9,197.50.

24.182.403 IDENTIFICATION POCKET CARD (1) ~~Only one identification card shall be issued for each licensure category.~~ The licensee is responsible for the maintenance, custody, and control of the card, and shall not permit any unauthorized use of the card. If an identification card is altered in any way, it is invalid.

(2) and (3) remain the same.

(4) Persons licensed by the board who change employers must immediately notify the department to obtain new pocket identification cards naming the new employers.

AUTH: 37-60-202, MCA

IMP: 37-60-309, MCA

REASON: The board is currently considering a process change to print all license types held by a person or entity on a single identification pocket card. This change will reduce costs and provide greater convenience to licensees having more than one license. The board is amending (1) now to allow for this process change and because there is no reason to limit cards to a single license type.

Identification pocket cards identify both the licensees and their employers, since employment is required for licensure as alarm response runners, private security guards, and security alarm installers per 37-60-101, MCA. Because information on the cards is immediately out-of-date when a licensee's employment changes or terminates, the board concluded it is reasonably necessary to require that licensees update the information on record with the department immediately. The board believes this will help prevent licensees holding out-of-date identification cards from falsely representing their ability to practice private security to the public.

24.182.405 INSURANCE AND SURETY BOND REQUIREMENTS

(1) Persons regulated by Title 37, chapter 60, MCA, and licensed as follows shall file a yearly certificate of insurance with the board:

(a) remains the same.

~~(i) If licensed with armed status, private investigators shall be covered by liability for firearms coverage.~~

(b) and (c) remain the same.

~~(i) If licensed with armed status, employees of contract and proprietary security companies shall carry liability for firearms coverage.~~

(d) Certified firearms instructors (CFIs) shall maintain a minimum of \$500,000 occurrence form of commercial general liability which includes personal injury and errors and omissions coverage.

(2) Process servers shall maintain a surety bond in the amount of \$10,000 for an individual or \$100,000 for a firm. A levying officer may not levy on a judgment that exceeds the value of the bond.

(3) Private investigators with a firearms endorsement, CFIs, and contract and proprietary security companies who employ security guards with firearms endorsements must carry firearms liability coverage.

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

~~(3) (5) Each licensee shall sign a release requesting~~ direct and authorize the insurance carrier to inform the board if the coverage or surety bond is canceled or allowed to lapse.

(6) Licensees must maintain the insurance coverage, surety bond, and firearms liability coverage required by this rule at all times of active licensure status or place their licenses on inactive status. Failure to carry current insurance during active licensure status is grounds for administrative suspension.

AUTH: 37-1-131, 37-60-202, MCA

IMP: 25-1-1111, 37-1-131, 37-1-321, 37-60-202, MCA

REASON: The board is amending and reorganizing this rule to house all insurance and surety requirements in a single location for clarity and ease of use, including relocating the CFI insurance requirements from ARM 24.182.520, and providing some of the statutory surety bond requirements for process servers at (2).

The board is also amending the catchphrase to more accurately reflect the content of this rule following the amendments.

The current rule requires that licensees sign releases requesting that insurance carriers inform the board when coverage is canceled or allowed to lapse. The board is amending (5) to more generally require that licensees direct and authorize their insurers to inform the board to more accurately reflect the actual process used in these situations and not require any specific form. The board concluded they do not need to direct the method for release, as insurance carriers may have their own policies governing the release of information to third parties.

The board determined that the inactive license status proposed in NEW RULE IX will allow licensees to temporarily suspend their practices and insurance coverage while still maintaining licensure and compliance with board regulations. The board is adding (6) to underscore the importance of the insurance and surety

bond requirements, clarify they are ongoing requirements necessary for continued licensure, and provide notice to licensees of the possible consequence of failing to comply with those requirements.

24.182.407 REGULATIONS OF UNIFORM (1) remains the same.

(2) A licensee required to wear a uniform while performing any duty regulated by Title 37, chapter 60, MCA, must have the uniform approved by the board or its designee.

(a) through (3) remain the same.

AUTH: ~~37-60-202~~, 37-60-407, MCA

IMP: 37-60-407, MCA

REASON: The board determined it is reasonably necessary to amend this rule to clarify that board staff may approve a licensee's proposed uniform as part of providing administrative services to the board. Requiring the board to actually review proposed uniforms unnecessarily delays the application process, and the rule provides clear guidelines to staff for this approval. Authority citations are being amended to accurately reflect the statutory sources of the board's rulemaking authority.

24.182.420 TYPE OF FIREARM QUALIFICATION OF FIREARMS FOR ARMED ENDORSEMENT (1) ~~Upon receipt of armed endorsement, a licensee is approved by the board to carry the firearm(s) with which the licensee is trained or qualified through a Montana POST certified instructor or a Montana licensed certified firearms instructor (CFI) and a board approved course. Private investigators and security guards seeking authorization to wear, carry, or possess a firearm in the performance of licensed duties shall submit a complete armed endorsement application, on a form prescribed by the department, and submit evidence of:~~

(a) satisfactory completion of a firearms training program taught by a board-certified firearms instructor (CFI) and approved by the board or its designee under ARM 24.182.801; and

(b) the firearm(s) the licensee qualified with, by passing a shooting proficiency test following completion of the firearms training program required by (a).

(2) Licensees issued an armed endorsement are approved to wear, carry, or possess the firearms they qualified with, in the performance of licensed duties.

AUTH: ~~37-1-131~~, 37-60-202, 37-60-303, MCA

IMP: 37-60-101, 37-60-202, 37-60-303, 37-60-405, MCA

REASON: Section 37-60-202(6), MCA, requires that the board adopt and enforce rules "for the approval of weapons." The current rule states that licensees are approved to carry firearms with an armed endorsement, but does not describe the process used to obtain the endorsement, which created confusion. The board concluded it is reasonably necessary to amend this rule to clearly state all requirements for obtaining an armed endorsement and approving firearms.

The board is adding (1)(a) to require that applicants/licenseses complete a firearms training program through a licensed CFI, and no longer allowing courses taught by Montana POST-certified instructors. The board concluded this amendment is reasonably necessary to implement the requirement in 37-60-303(5), MCA, that endorsement applicants must complete a "firearms training program certified by or satisfactory to the board." Allowing courses conducted by a Montana POST-certified instructor does not meet statutory requirements, since the board does not approve, certify, or assess any firearms training programs offered by Montana POST-certified instructors. Rather, the board's process of licensing CFIs and approving firearms training program curriculums is the only method available to the board to align with the statutory language.

The board is adding (1)(b) and (2) to clearly address how licensees obtain approval to carry particular firearms in the performance of licensed duties. ARM 24.182.801 states that firearms training courses must meet the objectives of firearm safety and shooting proficiency. However, ARM 24.182.420 does not expressly state that licensees must pass a shooting proficiency test with a specific type of firearm to be approved to carry it in the field. The board is amending this rule to more clearly link these related rules and clarify the relationships between completing a firearms training program, passing a shooting proficiency test, and receiving armed endorsement. Since 2012, the board has considered amending its approval process for firearms, from allowing a licensee to carry other firearms (beyond those trained with) to these proposed amendments. The board determined limiting the carrying of firearms to those trained with most directly meets the statutory intent of requiring a completed training program, and that these changes better protect the public considering differences that exist among types of firearms.

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.

24.182.421 REQUALIFICATION REQUIRED ANNUALLY (1) Licensees with armed status shall requalify annually with a Montana POST-certified instructor or a Montana licensed certified firearms instructor (CFI) to maintain their firearm endorsement each year. Requalification will be based upon satisfactory completion of a board approved combat shooting course at least once during each year. In order to maintain armed status, private investigators and armed security guards shall submit the following information annually:

(a) a complete armed endorsement renewal application, on a form prescribed by the department; and

(b) written notice of the firearms the licensee requalified with, by passing a shooting proficiency test conducted by a POST-certified firearms instructor or board-certified CFI.

(2) Licensees issued a renewed armed endorsement are approved to wear, carry, or possess the firearms they requalified with, in the performance of licensed duties.

AUTH: 37-60-202, 37-60-303, MCA

IMP: 37-60-202, 37-60-303, 37-60-405, MCA

REASON: The board is amending this rule to align with amendments to ARM 24.182.420, and mirror the initial qualification process to ensure consistent application of the armed endorsement and firearms approval requirements. While the board determined allowing a Montana POST-certified instructor to teach a firearms training program for initial qualification does not meet the requirements of 37-60-303(5), MCA, they found no similar restrictions on the requalification of firearms. Because the primary component of firearm requalification is the shooting proficiency test, the board determined it is therefore more vital that a licensee receive the initial firearms training from a licensed CFI in a board-approved training program versus at requalification. Therefore, the board is amending this rule to clarify that the board will continue to allow licensees to requalify firearms training with either Montana POST-certified instructors or licensed CFIs.

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.

24.182.501 REQUIRED INFORMATION FOR APPLICATION (1) Prior to granting any license, the board or its designee shall verify the statements made in applications for licensure as deemed necessary to protect the public health, safety, and welfare.

(2) ~~Each applicant shall provide:~~ application must be complete and submitted on a form prescribed by the department before a license can be issued or the application is ready for review by the full board as nonroutine under [NEW RULE XVII].

~~(a) the applicant's social security number;~~
~~(b) one passport-type photo of the applicant; and~~
~~(c) other pertinent information and documents the board may require to verify application information.~~

~~(3) An applicant may be required to pass an exam in each category for which licensure is sought.~~

(4) (3) Fingerprints required under Title 37, chapter 60, MCA, shall be submitted to the Federal Bureau of Investigation and the Montana Department of Justice for examination. Final licensure is granted only following receipt and review of the Federal Bureau of Investigation report and any investigations thereof. A fingerprint report is valid for ~~one year~~ six months from date of receipt of the report from the Federal Bureau of Investigation.

(4) Proof of employment, education, and training must be submitted with the application and may include transcripts, diplomas, seminar certificates, course completion certificates, payroll records or income tax returns if self-employed, employee verification, or other supporting evidence.

~~(5) An applicant for private investigator or resident manager must list the names and telephone numbers of three references not related to the applicant by blood or marriage. Two of the three references must be:~~

~~(a) former employers;~~
~~(b) individuals or firms with which the applicant had a contractual working agreement if self-employed;~~

~~(c) individuals or firms having knowledge of the agreement or working relationship; or~~

~~(d) as determined acceptable by the board.~~

~~(6) Upon preliminary approval of an application for contract security companies, proprietary security organizations, electronic security companies, and private investigators, the applicant will have 60 days to provide proof of insurance per ARM 24.182.405 or the application will be closed.~~

~~(7) Prior to obtaining licensure as an armed or unarmed private security guard, applicants shall be required to submit proof of the applicant's employment with a licensed contract security company or proprietary security organization.~~

(5) An incomplete application will time out one year after the date it was initially submitted, and the applicant must reapply and pay a new application fee to be considered for licensure.

AUTH: 37-1-131, 37-60-202, MCA

IMP: 37-1-131, 37-60-303, 37-60-304, MCA

REASON: The board determined it is reasonably necessary to amend and streamline this rule to align with the department's standardized application procedures and provision of administrative services, and for better organization and clarity. Further, the board is proposing NEW RULES X through XV to locate licensure requirements in separate rules for each license type. Several provisions are being relocated from this general rule to those specific new rules, including requirements for examinations and insurance.

The board is amending (3) to provide that fingerprint reports are only valid for six months. Department staff recommended this change following a discussion with the Department of Justice that background check information is only accurate and current at the time that it is obtained. Therefore, the board concluded it is reasonably necessary to require updated background information that is older than six months to better ensure the public's protection.

The board is adding (4) to update the documentation acceptable to prove employment, education, and training. This change will align with other proposed amendments allowing employment opportunities to count towards licensure.

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

24.182.504 MILITARY TRAINING OR EXPERIENCE (1) and (2) remain the same.

(3) An applicant must submit satisfactory evidence of receiving military training, service, or education that is equivalent to relevant licensure requirements by the board of private security. ~~At a minimum, satisfactory~~ Satisfactory evidence ~~shall include~~ includes:

(a) a copy of the applicant's military discharge document (DD 214 or other discharge documentation);

(b) through (4) remain the same.

AUTH: 37-1-145, MCA

IMP: 37-1-145, MCA

REASON: It came to the department's attention that certain military personnel (reservists and national guardsmen who have never been activated) in fact do not receive a DD 214 form upon their discharge from the military. Because the current rule may be interpreted to absolutely require a DD 214 from all applicants who wish to submit evidence of relevant military training, service, or education as part of the licensure process, the department has suggested that all boards amend the rule to allow each board to consider other evidence of military discharge in addition to or in lieu of a DD 214 form. The board is proposing to amend this rule to accommodate other discharge documents and align with the rest of the boards' rules.

24.182.505 WRITTEN EXAMINATIONS ~~(1) An applicant for licensure as a private investigator or a resident manager shall take and pass a written examination.~~

~~(2) (1)~~ If a written examination is required for licensure, applicants must achieve a minimum score of 70 percent ~~or more~~ on each part of the exam to pass.

~~(3) (2)~~ Examination fees are set by and payable directly to the examination administrator or vendor. Examinations may be administered at the board office or an off-site location approved by the board or its designee.

(3) In addition to the board's examination fee, a proctoring fee may apply and is set by and payable directly to the examination administrator or vendor.

(4) remains the same.

~~(5) Prior to taking the examination, applicants~~ Applicants must deposit with the proctor all electronic devices, books, notebooks and other papers prior to taking the examination. No applicant may remove any papers from the examination room.

(6) Process server examinations have a two-hour time limit and examinees may utilize the board-developed process server handbook.

(7) Private investigator and resident manager examinations have no time limit.

~~(6) (8)~~ Examination applicants must present photo identification and the notice of examination to be admitted to the examination.

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

~~(8) (10)~~ The department Applicants shall schedule examinations by appointment with the examination administrator.

~~(9) Waiver of the examination requirement, or any portion thereof, may be granted at the board's discretion, following an applicant's submission of a written request for such waiver.~~

AUTH: 37-1-131, 37-60-202, MCA

IMP: 25-1-1104, 37-1-131, 37-60-303, MCA

REASON: The board is amending this rule to locate all general, standardized examination procedures in a single rule. The board is proposing NEW RULES X through XV to locate licensure requirements in separate rules for each license type and is relocating specific exam provisions to those new rules.

Given current technology, the board is amending (5) by adding electronic devices to those objects prohibited during examinations. The board concluded this

amendment is reasonably necessary because examinees might use such devices to locate exam answers.

The board determined it is reasonably necessary to amend (5)(a) and align with 25-1-1104, MCA, which requires the board publish a handbook for process servers and levying officers, and develop an examination based on the handbook. Due to the breadth of the information in the handbook, the board is proposing to allow process server applicants to utilize the handbook when taking the examination, but only within a two-hour time period. The amendments further clarify that all other board examinees have no examination time limit.

The board is amending (6) to require photo identification to sit for licensure exams. Following staff suggestion as a best practice, the board concluded that ensuring examinees' identity will help prevent fraud and further protect the public.

The board is amending (9) to delete provisions for examination waiver as no longer necessary. The board believes this amendment is reasonably necessary now since applicants are able to obtain temporary practice permits to practice before completing their examinations.

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

24.182.507 TEMPORARY PRACTICE PERMIT ~~(1) An applicant for any category of licensure, other than private investigator, who has met all requirements for licensure other than passage of the licensing examination, may apply for a temporary practice permit in accordance with 37-1-305, MCA, and subject to the following conditions:~~

~~(a) The permit holder may practice only under the direct supervision of an individual licensed:~~

~~(i) in good standing;~~

~~(ii) without pending or final disciplinary action; and~~

~~(iii) in the category for which the applicant seeks licensure.~~

~~(b) The supervising licensee is personally responsible for conduct of the temporary permit holder.~~

~~(2) Upon meeting the qualifications of this rule, the applicant may be issued a temporary practice permit by the board. For purposes of 37-1-305, MCA, the first license examination for which the applicant is eligible is an examination taken by the applicant no later than 60 days following temporary permit issuance.~~

~~(3) In performance of duties, temporary permit holders shall not:~~

~~(a) wear, carry, or possess firearms; or~~

~~(b) have unsupervised access to valuables.~~

(1) Except for a private investigator applicant or an armed endorsement applicant, the board authorizes the issuance of a temporary practice permit to an applicant meeting the requirements stated in 37-1-305, MCA.

(2) A person receiving a temporary permit must practice under direct supervision, as defined by ARM 24.182.301.

(3) A supervisor must hold a license issued by the board that is:

(a) unrestricted and in good standing; and

(b) the same license type sought by the temporary permit holder.

AUTH: 37-1-131, 37-1-319, ~~37-60-202~~, MCA

IMP: 37-1-305, 37-1-319, ~~37-60-302~~, ~~37-60-309~~, ~~37-60-310~~, MCA

REASON: The board determined it is reasonably necessary to amend this rule and clarify the issuance of temporary practice permits under 37-1-305, MCA. The statute authorizes temporary practice permits under two scenarios, only one of which is recognized in the board's current rule. The board concluded that it is appropriate to issue temporary permits in both scenarios. While not restating statutory language, the board is amending this rule to clarify that these permits are available to applicants licensed in other states with similar licensure requirements, or those with a complete application but for the examination. Lastly, the board is amending this rule to refer applicants to the definition of direct supervision at ARM 24.182.301, and remove (1)(b), after determining that 37-1-316, MCA, and ARM 24.182.2301 adequately address unprofessional conduct regarding supervising temporary practice permit holders.

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.

24.182.511 PRIVATE INVESTIGATOR TRAINEE (1) remains the same.

~~(a) The application shall be:~~

~~(i) on a board-approved form; and~~

~~(ii) include a statement from a licensed private investigator:~~

~~(A) that the licensee will employ and provide direct supervision of the trainee;~~

and

~~(B) setting forth the scope of the trainee's duties and training.~~

(2) The application must comply with all of the requirements of ARM

24.182.501 and include a statement from a licensed private investigator:

(a) that the licensee will employ and provide direct supervision of the trainee, as defined in ARM 24.182.301; and

(b) setting forth the scope of the trainee's duties and training.

(2) remains the same but is renumbered (3).

~~(3)~~ (4) Employment and training of the trainee may not begin until:

(a) the board or its designee has approved the application; and

(b) remains the same.

(4) through (7) remain the same but are renumbered (5) through (8).

(9) Trainees must complete a training program required by [NEW RULE I].

AUTH: 37-1-131, 37-60-202, MCA

IMP: 37-1-131, 37-60-202, MCA

REASON: The board determined it is reasonably necessary to amend and streamline this rule to align with the department's standardized application procedures and for better organization and clarity. Because the board is proposing amendments in this notice to locate specific licensure requirements in separate new rules for each license type, the board is relocating general provisions from this rule to ARM 24.182.501.

The board is adding (9) to align with training program requirements set forth in proposed NEW RULE I.

24.182.520 REQUIREMENTS FOR CERTIFIED FIREARMS

INSTRUCTOR LICENSURE (1) An applicant for licensure as a certified firearms instructor (CFI) shall submit an application that complies with all of the requirements of ARM 24.182.501 and evidence that the applicant:

(a) remains the same.

(b) ~~maintains or is otherwise insured under a policy with a minimum of \$500,000 occurrence form of commercial general liability which includes personal injury~~ meets the insurance requirements stated in ARM 24.182.405; and

(c) and (c)(i) remain the same.

(ii) ~~Peace Officers' Standards and Training~~ Public Safety Officer Standards and Training Council (POST);

(iii) through (4) remain the same.

AUTH: 37-1-131, 37-60-202, 37-60-303, MCA

IMP: 37-1-131, 37-60-202, 37-60-303, MCA

REASON: It is necessary to amend this rule to align with other proposed amendments and provide references to application requirements already in rule. The board is amending (1)(c)(ii) to reflect that while the acronym POST remains unchanged, "peace officer" has changed to "public safety officer." The board is relocating the insurance requirements to ARM 24.182.405, to be in a single location with the other insurance and bonding requirements.

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.

24.182.525 COMPANY LICENSURE AND BRANCH OFFICES (1) An

applicant for licensure as a contract security company, electronic security company, or proprietary security organization must obtain a company license for the applicant's principal place of business ~~within Montana~~. Subsequent company locations within Montana may be licensed as branch offices. All applications must comply with the requirements stated in ARM 24.182.405, 24.182.407, 24.182.501, and [NEW RULES II through IV].

(2) remains the same.

(3) No branch office shall be authorized for any category of licensure without ~~board approval~~ by the board or its designee.

(4) An applicant for licensure ~~for a~~ as a company or branch office shall provide the name of the resident manager appointed to exercise direct supervision, control, charge, management, or operation of each company or branch office located in Montana.

(5) Each branch office shall have at least one resident manager who is:

(a) is typically present during regular Monday through Friday office hours;
and

(b) ~~who~~ has established to the board's satisfaction that the resident manager meets the necessary experience qualifications of ~~ARM 24.182.503~~ [NEW RULE XIV].

AUTH: 37-1-131, 37-60-202, MCA

IMP: 37-1-131, 37-60-202, 37-60-302, 37-60-303, MCA

REASON: The board is amending (1) to strike "within Montana" and acknowledge business structures where an entity is licensed to practice and conduct business in Montana without having a principal place of business. Further, the board is amending (1) to cross-reference license requirements found in other rules and ensure applicants are aware of all relevant licensure requirements.

The board is amending (3) to align with standardized department procedures by allowing staff to review and approve branch office licensure on behalf of the board. The board decided this is reasonably necessary, since the licensure standards are clearly set forth in this rule and others referenced in (1).

The board is amending (4) to address confusion by clarifying that this rule applies to companies seeking licensure and not just their branch offices (which also require licensure). Lastly, the board is amending (5)(b) to provide reference to the new rule on licensure requirements of resident managers.

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

~~24.182.801 CURRICULUM AND STANDARDS FOR FIREARMS TRAINING COURSES (PROGRAM)~~ (1) Certified firearms instructors (CFI) shall submit course outlines for ~~board approval by the board or its designee~~. Firearms training courses must meet the objectives of firearm safety and shooting proficiency, with emphasis on shooting distances of less than 15 yards.

(2) Firearms training courses must address the following issues:

(a) and (b) remain the same.

(c) relevant Montana law regarding the use of deadly force, including civil and criminal liability; and

(d) shooting judgment; ~~and~~

~~(e) civil and criminal liability.~~

(3) Applicants must include a detailed summary of the firearms training courses required in (2).

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

AUTH: 37-60-202, 37-60-303, MCA

IMP: 37-60-202, 37-60-303, MCA

REASON: The board is amending the catchphrase to align with statutory language in 37-60-202 and 37-60-303, MCA, regarding firearms training programs.

The board is amending (1) to align with standardized department procedures by allowing staff to review and approve CFI curriculum on behalf of the board. The board concluded this is reasonably necessary, since the standards for appropriate curricula is clearly set forth in this rule.

Additionally, the board is amending (2) to clarify the information requested by the board related to the use of deadly force, after the board concluded that having applicants include reference to Montana law is necessary for adequate public protection.

The board determined it is reasonably necessary to add (3) and clarify the board's expectation that the applicants summarize the extent of each course they intend to offer. This will also assist department staff in determining whether the curriculum submitted by the applicant complies with this rule.

Authority citations are being amended to provide the complete sources of the board's rulemaking authority.

4. The proposed new rules are as follows:

NEW RULE I PRIVATE INVESTIGATOR TRAINING PROGRAM (1) The training of a private investigator shall, at a minimum, address the following:

- (a) role and function of the private investigator;
- (b) federal, state, and local statutes and rules applicable to the practice of private investigators;
- (c) interaction and cooperation with law enforcement;
- (d) criminal justice administration and information;
- (e) limitations on the use of force and self-defense and the use-of-force continuum;
- (f) emergency procedures and hazardous material preparedness;
- (g) interviews, interrogations, and report writing;
- (h) crisis intervention;
- (i) preservation of crime scene and handling of evidence;
- (j) ethical and legal issues, including, but not limited to:
 - (i) Private Investigator Practice Act and related rules;
 - (ii) criminal law and criminal procedure;
 - (iii) confidentiality and right of privacy;
 - (iv) searches of persons and property;
 - (v) limitations on the power to arrest and detain suspects; and
 - (vi) treatment of juveniles, persons with physical or mental disabilities, and other special classes (e.g., gender, racial, religious, or cultural);
- (k) distinctions between and special issues involved in the following types of investigations: accidents, arson, assets, background, civil, criminal, domestic, industrial/employee conduct, insurance, personal injury (other than auto), and missing person;
 - (l) investigative photography;
 - (m) surveillance; and
 - (n) skip tracing.

(2) Private investigators supervising trainees under ARM 24.182.511 shall submit evidence of completion of the training program on quarterly reports as provided in ARM 24.182.511. Private investigator applicants meeting experience requirements provided in [NEW RULE XI] are deemed to have met the training program requirements set forth above. All other applicants shall submit evidence of having completed the training program as provided by [NEW RULE XI].

(3) Armed private investigators shall complete firearms qualification and requalification in accordance with ARM 24.182.420 and 24.182.421.

AUTH: 37-1-131, 37-60-202, 37-60-303, MCA

IMP: 37-1-131, 37-60-202, 37-60-303, MCA

REASON: The board determined it is reasonably necessary to adopt NEW RULES I through IV to further implement the statutory directives of 37-60-202, MCA, and establish standards for the certification of private investigator, private security guard, security alarm installer, and alarm response runner training programs. Additionally, 37-60-303, MCA, requires applicants for licensure as private security guards, security alarm installers, and alarm response runners to complete board-certified training programs, and provide written notice of satisfactory completion of the training.

The board has concluded that the training program standards proposed in each licensure category constitute the minimum training requirements that are necessary to protect the public health, safety, and welfare, in an amount of time and area of study that are generally consistent with training programs offered by law enforcement jurisdictions, other state licensing jurisdictions, and private associations.

NEW RULE II PRIVATE SECURITY GUARD TRAINING PROGRAM

(1) Each security company or organization that employs or intends to employ an individual as a private security guard must certify, as part of the individual's license application, that the individual has successfully completed a minimum of 16 hours of training as a prerequisite to licensure and prior to undertaking any of the duties defined as the practice of a security guard.

(2) The training must address each of the following areas:

- (a) role and function of the security guard;
- (b) federal, state, and local statutes and rules applicable to the practice of private security guards;
- (c) interaction and cooperation with law enforcement;
- (d) limitations on the use of force and self-defense and the use-of-force continuum;
- (e) emergency procedures and hazardous material preparedness;
- (f) communication skills, report writing, and radio communication;
- (g) crisis intervention and crowd control;
- (h) patrol techniques; and
- (i) ethical and legal issues, including, but not limited to:
 - (i) confidentiality and right of privacy;
 - (ii) searches of persons and property;
 - (iii) limitations on the power to arrest and detain suspects;
 - (iv) treatment of juveniles, persons with physical or mental disabilities, and other special classes (e.g., racial, religious, or cultural);
 - (v) preservation of crime scene and handling of evidence; and
 - (vi) preventing abuse of authority.

(3) In addition to these training requirements, armed security guards shall complete firearms qualification and requalification in accordance with ARM 24.182.420 and 24.182.421.

(4) Training on policies, systems, and procedures internal to the employer may not be included within the total hours of training required by this rule.

AUTH: 37-1-131, 37-60-202, 37-60-303, MCA

IMP: 37-1-131, 37-60-202, 37-60-303, MCA

NEW RULE III SECURITY ALARM INSTALLER TRAINING PROGRAM

(1) Each electronic security company that employs or intends to employ an individual as a security alarm installer must certify, as part of the individual's license application, that the individual has successfully completed a minimum of 16 hours of training as a prerequisite to licensure, and prior to undertaking any of the duties defined as the practice of a security alarm installer.

(2) The training must address each of the following areas:

(a) role and function of the security alarm installer;

(b) federal, state, and local statutes and rules applicable to the practice of security alarm installers;

(c) national low voltage electrical codes, low voltage limitations, and wiring methods and types;

(d) installation training, including:

(i) manufacturer's product training or industry standard training;

(ii) conducting site survey;

(iii) proper device placement;

(iv) wireless devices;

(v) central station monitoring;

(vi) false alarm prevention; and

(vii) troubleshooting;

(e) safety issues and the Montana Safety Culture Act, including, but not limited to:

(i) the proper use of tools and protective equipment;

(ii) working in enclosed spaces; and

(iii) the proper use and transportation of ladders; and

(f) emergency procedures and hazardous material preparedness.

(3) Training on policies, systems, and procedures internal to the employer may not be included within the total hours of training required by this rule.

AUTH: 37-1-131, 37-60-202, 37-60-303, MCA

IMP: 37-1-131, 37-60-202, 37-60-303, MCA

NEW RULE IV ALARM RESPONSE RUNNER TRAINING PROGRAM

(1) Each electronic security company that employs or intends to employ an individual as an alarm response runner must certify, as part of the individual's license application, that the individual has successfully completed a minimum of 16 hours of training as a prerequisite to licensure, and prior to undertaking any of the duties defined as the practice of an alarm response runner.

- (2) The training must address each of the following areas:
- (a) role and function of the alarm response runner;
 - (b) federal, state, and local statutes and rules applicable to the practice of alarm response runners;
 - (c) interaction and cooperation with law enforcement;
 - (d) limitations on the use of force and self-defense and the use-of-force continuum;
 - (e) emergency procedures and hazardous material preparedness;
 - (f) communication skills, report writing, and radio communication;
 - (g) crisis intervention and crowd control;
 - (h) patrol techniques; and
 - (i) ethical and legal issues, including, but not limited to:
 - (i) confidentiality and right of privacy;
 - (ii) searches of persons and property;
 - (iii) limitations on the power to arrest and detain suspects;
 - (iv) treatment of juveniles, persons with physical or mental disabilities, and other special classes (e.g., racial, religious, or cultural);
 - (v) preservation of crime scene and handling of evidence; and
 - (vi) preventing abuse of authority.
- (3) Training on policies, systems, and procedures internal to the employer may not be included within the total hours of training required by this rule.

AUTH: 37-1-131, 37-60-202, 37-60-303, MCA

IMP: 37-1-131, 37-60-202, 37-60-303, MCA

NEW RULE V STANDARDS FOR CONTINUING EDUCATION

- (1) Continuing education for licensees is formal training that:
- (a) provides new knowledge and skills to assist with advanced decision making;
 - (b) offers greater depth of knowledge and skills in a particular area of operation;
 - (c) enhances professional attitudes and behaviors;
 - (d) advances career goals;
 - (e) promotes professional development and currency in operations;
 - (f) supports innovation and creativity in operations;
 - (g) implements change within the individual's professional operations; or
 - (h) addresses new and developing standards of operations.
- (2) To qualify, continuing education courses must relate to the licensee's occupation. In addition to training and education that is specific to a licensee's occupation, the board approves the following topics of study:
- (a) Private investigators and process servers may complete continuing legal education (CLE) approved by a state bar on legal topics that relate to their respective operations.
 - (b) Alarm runners, installers, resident managers, and security guards may complete continuing education on the topics related to their practice defined in 37-60-101, MCA.

(3) Providers of continuing education that are acceptable to the board include:

(a) professional organizations that establish standards and criteria for continuing education programs, and/or serve or represent practitioners of the licensee's occupation;

(b) academic institutions of higher learning;

(c) continuing education courses that have been approved in another state;

and

(d) POST-approved instruction.

(4) Licensees cannot count any firearms training received under ARM 24.182.420 and 24.182.421 toward the continuing education requirement.

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

IMP: 37-1-131, 37-1-306, 37-1-319, MCA

REASON: The board determined it is reasonably necessary to adopt NEW RULES V through VIII to implement 37-1-306 and 37-1-319, MCA, by establishing guidelines for mandatory continuing education (CE) for board licensees, and to facilitate the department's random audit procedure for CE. The board has determined that the completion of eight CE hours each license renewal period in the proposed areas of study is necessary to ensure ongoing competence in the field of practice and further ensure qualified licensees.

NEW RULE VI ANNUAL CONTINUING EDUCATION REQUIREMENTS

(1) All licensees must verify on the renewal application the completion of eight continuing education hours during the one-year license renewal period.

(2) Licensees holding licensure in more than one license type are required to meet the continuing education requirements for each type of licensure.

(3) Licensees seeking reactivation or reinstatement of an inactive license must complete eight hours of continuing education during the one-year period immediately preceding application for reinstatement.

(4) Licensees may submit a written request for a waiver or time extension for all or a portion of continuing education requirements on the grounds of extreme hardship. The board, in its discretion, must review and consider a written request for a waiver or time extension.

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

IMP: 37-1-131, 37-1-306, 37-1-319, MCA

NEW RULE VII NON-APPROVED ACTIVITIES (1) The following activities may not be used by a licensee to satisfy the continuing education requirements set forth in this chapter:

(a) repetition of a continuing education class with identical content and course objectives within a single renewal period;

(b) agency-specific orientation or in-service program designed for work at a specific institution or for a specific employer that teaches and tests for skill

competency or addresses institution-based or employer-based standards of operation;

- (c) any training program required by rule as a requirement for licensure;
- (d) self-directed study such as reading of texts or journal articles;
- (e) participation in community service or volunteer practice; and
- (f) participation as a member in a professional organization.

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

IMP: 37-1-131, 37-1-306, 37-1-319, MCA

NEW RULE VIII AUDITING OF CONTINUING EDUCATION HOURS

(1) The board may conduct a retrospective random audit of the completion of continuing education by licensees during each one-year renewal period.

(2) The board shall notify licensees of the audit by U.S. mail.

(3) Licensees shall respond to the notice of audit by the date specified in the notice by submitting proof of completion of continuing education for the renewal period specified by the board. Proof may consist of copies of the continuing education certificates issued by the continuing education provider, transcripts with course descriptions, or other verified documentation of course completion.

(4) Licensees must retain proof of completion of continuing education for the period of no less than one year following the last day of the renewal period during which the continuing education was obtained.

(5) The audit may include five percent of each license category during each renewal period.

(6) Failure to respond to a board notice of audit may result in disciplinary action against the licensee.

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

IMP: 37-1-131, 37-1-306, 37-1-319, MCA

NEW RULE IX INACTIVE STATUS AND CONVERSION TO ACTIVE

STATUS (1) An individual licensee, or an authorized agent on behalf of a licensed business organization, may request inactive status on a renewal form or by informing the board office in writing. The inactive license holder must keep the board informed of any change of address during the period of time the license remains on inactive status and pay the inactive renewal fee annually to avoid expiration or termination of the license.

(2) A licensee may not practice or conduct business while the license is in an inactive status.

(3) The inactive license holder may convert the license to active status by submitting an application on a form prescribed by the department, and the following:

(a) payment of the license renewal fee;

(b) evidence that licensure in other jurisdictions is unrestricted and in good standing;

(c) evidence of required employment by a licensed security company (resident managers, security guards, alarm response runners, and security alarm installers);

(d) evidence of current insurance or bonding as required by ARM 24.182.405; and

(e) evidence of successful completion of continuing education requirements as required by [NEW RULES V and VI].

(4) Private investigators, resident managers, and process servers must successfully complete the examination required by ARM 24.182.505 when converting their inactive license to an active license if their license has been on inactive status for more than five years.

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

IMP: 37-1-319, MCA

REASON: Licensees who are required to carry insurance coverage or have a surety bond must do so during all times their licenses are active. The board concluded that if a licensee, for medical, personal, or other reasons wishes to temporarily withdraw from the practice, it is reasonably necessary to adopt NEW RULE IX to allow the licensee the cost-saving option to cancel insurance coverage or surety bonding during this period of time.

NEW RULE X ALARM RESPONSE RUNNER (1) Each alarm response runner applicant shall submit an application compliant with ARM 24.182.501.

(2) Each alarm response runner applicant shall complete the training program required by [NEW RULE IV].

(3) Each alarm response runner applicant shall provide evidence that the applicant is currently employed, or a contractual promise of future employment of the applicant upon issuance of a license, with a contract security company, a proprietary security organization, or an electronic security company.

(4) The employer shall verify the employment and that it has exercised due diligence to verify as true the information provided by the applicant for licensure.

AUTH: 37-1-131, 37-60-202, 37-60-303, MCA

IMP: 37-1-131, 37-60-202, 37-60-303, 37-60-304, MCA

REASON: The board is adopting NEW RULES X through XV to clearly set forth all licensure requirements in separate rules for each individual license type, while aligning with statutory parameters. The new rules incorporate existing provisions from elsewhere in rule and cross-reference other license standards. Additionally, the new rules clarify acceptable documentation regarding applicants' employment, insurance, and experience. The board concluded that this format will enhance readability while reducing confusion regarding specific license requirements.

NEW RULE XI PRIVATE INVESTIGATOR (1) Each private investigator applicant shall submit an application compliant with ARM 24.182.501.

(2) Each private investigator applicant shall submit evidence that the applicant passed a written examination as set forth in ARM 24.182.505.

(3) A private investigator applicant must submit proof of insurance or surety bond per ARM 24.182.405 requirements.

(4) An applicant for private investigator must list the names and telephone numbers of three references not related to the applicant by blood or marriage. Two of the three references must be:

- (a) former employers;
- (b) individuals or firms with which the applicant had a contractual working agreement if self-employed;
- (c) individuals or firms having knowledge of the agreement or working relationship; or
- (d) as determined acceptable by the board or its designee.

(5) Applicants for licensure as private investigators must demonstrate three years of full-time experience (5,400 cumulative hours) as follows:

(a) employment performing investigative-related duties that do not require licensure as a private investigator, or as a private investigator trainee under an approved supervisor;

(b) governmental or military employment as a peace officer, detective, special agent, or another investigative position;

(c) employment in the fire investigative business or as a fire investigator; or

(d) employment as a licensed insurance investigator, with a maximum allowable credit of 2,700 hours.

(6) Applicants not meeting the required 5,400 hours of experience in (5) may count up to 2,700 hours of training or education as follows:

(a) successful completion and verification of the basic course at the Montana Law Enforcement Academy, which is 900 hours;

(b) training related to the practice of a private investigator, per 37-60-101, MCA; or

(c) credits earned from an institution of higher learning related to criminal justice or law.

AUTH: 37-1-131, 37-60-202, 37-60-303, MCA

IMP: 37-1-131, 37-60-202, 37-60-303, 37-60-304, MCA

REASON: While creating separate licensure rules for each license type, the board is also adopting NEW RULE XI to clearly explain for private investigator applicants the experience requirements and address questions and issues presented to the board over the years. Additionally, this new rule clarifies that acceptable experience includes performing investigative-related duties not requiring licensure, and experience as private investigator trainees, in law enforcement, or other investigations-related fields. The board is adopting (6) to further the board's intent that acceptable education and training relate to private investigations, criminal justice, or the law. The board concluded that these three areas relate directly to the practice of private investigation and as such, are a necessary foundation and will enhance the public's protection.

NEW RULE XII PRIVATE SECURITY GUARD (1) Each private security guard applicant shall submit an application compliant with ARM 24.182.501.

(2) Each private security guard applicant shall complete the training program required by [NEW RULE II].

(3) Each private security guard applicant shall provide evidence that the applicant is currently employed, or a contractual promise of future employment of the applicant upon issuance of a license, with a contract security company, a proprietary security organization, or an electronic security company.

(4) The employer shall verify the employment and that it has exercised due diligence to verify as true the information provided by the applicant for licensure.

AUTH: 37-1-131, 37-60-202, 37-60-303, MCA

IMP: 37-1-131, 37-60-202, 37-60-303, 37-60-304, MCA

NEW RULE XIII PROCESS SERVER (1) Each process server applicant shall submit an application compliant with ARM 24.182.501.

(2) A process server applicant must show proof of residence in the state of Montana for at least one year immediately preceding the submission of the application, pursuant to 25-1-1102, MCA.

(3) Each process server applicant shall submit evidence that the applicant passed a written examination as set forth in ARM 24.182.505.

(4) A process server applicant must submit proof of surety bond pursuant to ARM 24.182.405.

AUTH: 37-1-131, 37-60-202, 37-60-303, MCA

IMP: 25-1-1101, 25-1-1102, 25-1-1111, 37-1-131, 37-60-202, 37-60-303, 37-60-304, MCA

NEW RULE XIV RESIDENT MANAGER (1) Each resident manager applicant shall:

(a) submit an application compliant with ARM 24.182.501;

(b) submit evidence that the applicant passed a written examination as set forth in ARM 24.182.505; and

(c) provide the names and telephone numbers of three references not related to the applicant by blood or marriage. Two of the three references must be:

(i) former employers;

(ii) individuals or firms with which the applicant had a contractual working agreement if self-employed;

(iii) individuals or firms having knowledge of the agreement or working relationship; or

(iv) as determined acceptable by the board or its designee.

(2) Applicants for licensure as resident managers of contract security companies or proprietary security organizations must:

(a) complete vocational training of at least two 12-credit semesters in security company operations and two 12-credit semesters in business operations; or

(b) demonstrate two years of full-time experience (3,600 cumulative hours) as follows:

(i) practice as a licensed security guard or alarm response runner for the same type of company the applicant is seeking licensure as a resident manager;

(ii) employment as a sworn peace officer or military police officer; or

(iii) employment as governmental or industrial supervisor or administrator, with security duties as a primary function.

(3) Applicants for licensure as resident managers of electronic security companies must:

(a) complete vocational training of at least two 12-credit semesters in electronic security operations and two 12-credit semesters in business operations; or

(b) demonstrate two years of full-time experience (3,600 cumulative hours) as follows:

(i) practice as a licensed security alarm installer or alarm response runner for an electronic security company; or

(ii) employment as governmental or industrial supervisor or administrator, with electronic security duties as a primary function.

AUTH: 37-1-131, 37-60-202, 37-60-303, MCA

IMP: 37-1-131, 37-60-202, 37-60-303, 37-60-304, MCA

REASON: The statutory definition of resident manager at 37-60-101(22), MCA, includes duties that focus on the "direct supervision, control, charge, management, or operation" of private security company offices in the state. Therefore, the board is clarifying the experience requirements in this new rule to require vocational training in business operations, which more directly relates to the duties of a resident manager, as well as security company operations for all resident managers.

The current experience requirement for resident managers of electronic security companies is two years as an employer or employee "in the field." The board concluded this requirement is vague, and is clarifying in (3)(b)(i) that prior experience working for an electronic security company as a licensed security alarm runner or installer is acceptable, as these are the primary functions of an electronic security company. Further, (3)(b)(ii) will allow experience as supervisors or administrators specializing in security to apply toward licensure in electronic security, to mirror a similar provision for resident managers of a proprietary or contract security company.

NEW RULE XV SECURITY ALARM INSTALLER (1) Each security alarm installer applicant shall submit an application compliant with ARM 24.182.501.

(2) Each security alarm installer applicant shall complete the training program required by [NEW RULE III].

(3) Each security alarm installer applicant shall provide evidence that the applicant is currently employed, or a contractual promise of future employment of the applicant upon issuance of a license, with a contract security company, a proprietary security organization, or an electronic security company.

(4) The employer shall verify the employment and that it has exercised due diligence to verify as true the information provided by the applicant for licensure.

AUTH: 37-1-131, 37-60-202, 37-60-303, MCA

IMP: 37-1-131, 37-60-202, 37-60-303, 37-60-304, MCA

NEW RULE XVI NONROUTINE APPLICATIONS (1) The department shall process and issue licenses to all applicants who submit complete and routine applications. Complete applications that are nonroutine must be reviewed by the board to determine licensure.

(2) The board shall review an application containing any of the following criteria:

- (a) the applicant's conviction, or pending criminal charge, of:
 - (i) a felony crime, unless the conviction was dismissed by the court;
 - (ii) any crime related to the illegal use or possession of a dangerous weapon, unless the conviction was dismissed by the court;
 - (iii) a misdemeanor crime involving violence, use or sale of drugs, fraud, deceit, or theft, pursuant to 37-1-316(1), MCA, unless the conviction occurred more than five years before application and all court-ordered conditions have been satisfied, discharged, or dismissed; or
 - (iv) two or more misdemeanor crimes that have occurred within five years of application, including the traffic-related crimes of reckless driving, driving under the influence (DUI), and hit-and-run;
- (b) disciplinary action taken against a professional license held by the applicant in this state, another state, or other jurisdiction, in which:
 - (i) the license was revoked, suspended, voluntarily or involuntarily surrendered, or placed on probation for three or more years; or
 - (ii) the license is currently encumbered, meaning conditions imposed on the license have not been satisfied or are ongoing; and
 - (iii) the disciplinary action originated in that state or jurisdiction because of the applicant's underlying conduct and not in response to another state or jurisdiction's disciplinary action;
- (c) the applicant has been court-martialed or received a dishonorable discharge from any armed services branch;
- (d) a malpractice judgment has been entered against the applicant related to the practice of private security;
- (e) the applicant answered "yes" on the application to being diagnosed with chemical dependency or another addiction, or has participated in a chemical dependency or other addiction treatment program (excluding ACT or similar court-ordered program), any of which have occurred within five years of application;
- (f) the applicant answered "yes" on the application regarding a diagnosis for a physical condition or mental health disorder involving potential health risk to the public; or
- (g) the applicant failed to disclose a criminal conviction on the application that was discovered during the background check and the criminal conviction is defined as nonroutine under (a)(i) through (iv).

(3) The department may, but is not required to, submit an otherwise routine application to the board for review if:

- (a) questions arise whether the applicant meets all requirements for licensure under 37-60-303, MCA, including but not limited to the demonstration of good moral character; or
- (b) inconsistencies, irregularities, or other matters of concern exist in the application or related documentation.

AUTH: 37-1-131, 37-60-202, MCA

IMP: 37-1-101, 37-1-131, 37-60-202, 37-60-303, 37-60-304, MCA

REASON: The board determined it is reasonably necessary to adopt New Rule XVI to further implement 37-1-101, MCA, which states the department will process routine licensure applications on behalf of the board. This rule identifies criteria determined by the board to characterize nonroutine applications which require the board's consideration for processing. Presently, the board has defined nonroutine applications through board motions that focus on character and fitness issues raised in the answers to application questions. The board is proposing this new rule to clearly establish when full board review is required and to otherwise facilitate the department's processing of routine applications.

5. The board proposes to repeal the following rule:

24.182.503 EXPERIENCE REQUIREMENTS

AUTH: 37-1-131, 37-60-202, 37-60-303, MCA

IMP: 37-1-131, 37-60-301, 37-60-303, 37-60-304, MCA

REASON: The board is repealing this rule to align with the adoption of NEW RULES X through XV in this notice. The board is proposing the new rules to set forth licensure requirements in separate rules for each license type. This rule is no longer necessary as it duplicates language now appearing in the new rules.

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 Private Security, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibsdp@mt.gov, and must be received no later than 5:00 p.m., July 21, 2017.

7. An electronic copy of this notice of public hearing is available at <http://boards.bsd.dli.mt.gov/psp> (department and board's web site). The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address 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 Private Security, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsdp@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. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.182.405 and 24.182.511 will significantly and directly impact small businesses.

With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.182.101, 24.182.201, 24.182.202, 24.182.301, 24.182.401, 24.182.403, 24.182.407, 24.182.420, 24.182.421, 24.182.501, 24.182.504, 24.182.505, 24.182.507, 24.182.520, 24.182.525, and 24.182.801 will not significantly and directly impact small businesses.

With regard to the requirements of 2-4-111, MCA, the board has determined that the adoption of new rules I through VIII will significantly and directly impact small businesses.

With regard to the requirements of 2-4-111, MCA, the board has determined that the adoption of new rules IX through XVI will not significantly and directly impact small businesses.

With regard to the requirements of 2-4-111, MCA, the board has determined that the repeal of ARM 24.182.503 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determinations is available upon request to the Board of Private Security, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2370; facsimile (406) 841-2305; or to dlibsdp@mt.gov.

11. Steve Gallus, Executive Officer, has been designated to preside over and conduct this hearing.

BOARD OF PRIVATE SECURITY
HOLLY DERSHEM-BRUCE, CHAIRPERSON

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

/s/ PAM BUCY
Pam Bucy, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State June 12, 2017.

BEFORE THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

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

TO: All Concerned Persons

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

2. The Department of Livestock will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Livestock no later than 5:00 p.m., July 17, 2017, to advise us of the nature of the accommodation that you need. Please contact Executive Officer, Department of Livestock, 301 N. Roberts St., Room 304, P.O. Box 202001, Helena, MT 59620-2001; telephone: (406) 444-9525; TTD number: 1 (800) 253-4091; fax: (406) 444-4316; e-mail: MDOLcomments@mt.gov.

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

32.2.403 DIAGNOSTIC LABORATORY FEES (1) Test services available through the Montana Department of Livestock Veterinary Diagnostic Laboratory (MVDL) are listed in the chart in ~~(2)~~ (4), entitled MVDL Services and Fees.

(a) A 50 percent surcharge will be assessed for tests conducted on nonresident animals.

(b) Mailing costs:

(i) all submissions must have shipping cost or postage prepaid;

(ii) "collect on delivery" shipments are not accepted;

(iii) any mailing costs incurred by the laboratory will be billed to the submitter.

(c) Delinquent accounts:

(i) A 1.5 percent monthly interest rate will be charged on accounts over 30 days.

(ii) Laboratory results on any account 90 days delinquent will be withheld until the entire payment is received.

(2) A minimum laboratory fee of \$8.00 will be charged on all accessions.

(3) Accession is defined as the MVDL case number assigned to specimens from animals that are submitted by a veterinarian, owner, or other agent to the laboratory for diagnostic or surveillance testing.

(a) A fee of \$4.00 will be assessed for each accession except those that are exempted. Exempted accessions are Equine Infectious Anemia (EIA) tests.

~~(2)~~ (4) MVDL services and fees:

(a) Clinical Microbiology/Bacteriology:

<u>Test</u>	<u>Fee</u>
aerobic culture	\$16.00 <u>\$17.60</u>
aerobic - additional isolate	\$8.00 <u>\$8.80</u> each
anaerobic culture	\$19.00 <u>\$20.90</u> each
anaerobic - each additional isolate	\$8.00 <u>\$8.80</u> each
antibiotic sensitivity - per isolate	\$10.50 <u>\$11.55</u>
brucella culture	\$16.00 <u>\$17.60</u>
campylobacter culture	\$13.00 <u>\$14.30</u>
chlamydial ELISA	\$21.00
clostridium FA	\$18.00
clostridium perfringens genotyping	referral lab fee + shipping/handling
dermatophyte culture & PAS	\$26.25 <u>\$28.87</u>
direct microscopy	\$8.50 <u>\$9.35</u>
environmental culture	\$19.00 <u>\$20.90</u> each
fecal occult blood	\$8.50 <u>\$9.35</u>
fungal culture	\$23.25 <u>\$25.57</u>
listeria culture	\$17.00 <u>\$18.70</u>
milk culture	\$16.00 <u>\$17.60</u>
mycoplasma culture	\$16.00 <u>\$17.60</u>
non-dermatophyte fungal culture	\$23.25 <u>\$25.57</u>
salmonella culture	\$15.75 <u>\$17.32</u>
salmonella enteritidis/if negative	\$21.00 <u>\$23.10</u>
salmonella enteritidis/additional testing	\$24.50 <u>\$26.95</u>
special requests	contact lab
trichomonas foetus culture:	
1-100	\$6.50 each
101-500	\$6.00 each
501 or more	\$5.50 each

(b) Clinical Microbiology/Parasitology

<u>Test</u>	<u>Fee</u>
cryptosporidia exam	\$8.50 <u>\$9.35</u>
dirofilaria immitis (canine heartworm) ELISA	\$9.50 <u>\$10.45</u>
<u>dirofilaria immitis microfilaria filtration</u>	<u>\$9.50</u>
fecal flotation	\$10.50 <u>\$11.55</u>
giardia ELISA	\$29.50 <u>\$32.45</u>
parasite or arthropod identification	\$28.50 <u>\$31.35</u>
special parasite identification procedures	contact lab
<u>liver fluke sedimentation</u>	<u>\$28.50</u>
<u>trichinella – pepsin degradation:</u>	

<u>1-4 samples</u>	<u>\$80.00 each</u>
<u>5-10 samples</u>	<u>\$65.00 each</u>

(c) Clinical Pathology

<u>Test</u>	<u>Fee</u>
Clinical profiles:	
small animal health screen	\$46.25
large animal health screen	\$46.25
small animal clinical profile	\$35.00
large animal clinical profile	\$35.00
small animal pre-anesthetic profile	\$25.25
feline profile	\$69.50
equine fitness profile	\$34.00
Endocrinology:	
canine thyroid panel	\$29.50
thyroid panel - <u>feline</u>	\$25.25
canine total T4	\$10.50
total T4	\$10.50
canine TSH	\$10.50
free T4 – <u>canine & feline</u>	\$10.50
total T3	\$10.50
cortisol: canine, feline, equine	\$16.00 each
ACTH stimulation	\$31.50
cortisol: pre & post	\$31.50
dexamethasone suppression: pre & post	\$47.25
Biochemistry panels:	
small animal panel	\$26.25
large animal panel	\$26.25
small animal hepatic panel	\$21.00
small animal renal panel	\$21.00
canine endocrine panel	\$24.25
feline geriatric panel	\$15.00
electrolyte panel	\$10.50
expanded electrolyte panel	\$15.75
Other serum chemistry:	
PLI: canine, feline	\$23.75
bile acids: canine, feline, equine	\$25.25
bile acids: (pre & post)	\$35.75
phenobarbital	\$25.25
individual biochemical test	contact lab
Hematology:	
CBC/differential	\$15.75
large animal CBC/differential	\$15.75

small animal CBC/without differential	\$7.00
large animal CBC/without differential	\$7.00
reticulocyte count	\$7.00
feline anemia panel	\$38.00
fibrinogen	\$4.25
hemotropic parasite screen	\$4.25
urinalysis	\$12.75
urinalysis with culture & sensitivity	\$35.75
Miscellaneous clinical pathology tests:	
blood cross match	\$15.75
buffy coat exam	\$31.50
canine direct coombs	\$31.50
coagulation panel	\$84.00
individual coagulation test – <u>PT & APTT only</u>	\$21.00
IgG RID – <u>bovine & equine</u>	\$15.75
ocular nitrate	\$14.75

(d) Cytology

Test	Fee
bone marrow cytology	\$42.00 <u>\$46.20</u>
CFS <u>CSF</u> analysis: SG, microprotein, cytospin, cytology	\$25.25 <u>\$27.77</u> plus microprotein referral fee
cytology with culture	\$35.75 <u>\$39.32</u> + culture
fluid analysis: total cell count, TP, SG, cytology	\$38.00 <u>\$41.80</u>
FNA: imprint, smear, stained, or unstained	\$35.75 <u>\$39.32</u> + culture

(e) Histology/Immunohistochemistry

biopsy standard, per biopsy (1-3 slides)	\$35.75 <u>\$39.32</u>
per biopsy or necropsy (4-6 slides)	\$42.00 <u>\$46.20</u>
per biopsy or necropsy (7-10 slides)	\$48.50 <u>\$53.35</u>
per biopsy or necropsy (11 or more slides)	\$54.75 <u>\$60.22</u>
decalcification/keratin	\$8.50 <u>\$9.35</u>
hematoxylin & eosin (H & E):	
duplicate H & E (up to 3 slides)	\$18.00 <u>\$19.80</u>
additional H & E (4 or more slides)	\$5.25 <u>\$5.77</u> each
immunohistochemistry (IHC)	\$26.25 <u>\$28.87</u>
special stains	\$8.50 <u>\$9.35</u> each
bulk research - slide prep staining only	\$4.00 <u>\$4.40</u> /slide + \$24.00 <u>\$26.40</u> /hour

(f) Milk Testing

Test	Fee
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added water	\$3.25
antibiotic	\$24.25
brucella ring	\$2.25
coliform count	\$5.25
component	\$1.25
gerber	\$3.25
laboratory certification review	contact milk lab
listeria environmental culture	\$11.75/swab site
majonnier	\$13.25
pesticide:	
organophosphate & carbamates	\$25.25 minimum
chlorinated hydrocarbons	\$220.50 minimum
phosphatase	\$6.50
somatic cell count:	
direct	\$5.25
electronic	\$1.25
standard plate count	\$6.00
yeast & mold	\$6.00

(g) Molecular Diagnostics (PCR)

Test	Fee
new tests as implemented	contact lab
avian influenza (AI)	\$31.50 <u>\$34.65</u>
bovine coronavirus (BCV)	\$31.50
<u>Bovine coronavirus/rotavirus multiplex</u>	<u>\$37.77</u>
bovine virus diarrhea (BVD):	
individual sample	\$31.50 <u>\$34.65</u>
MVDL pooled (ear notch samples)	up to 24 samples for \$52.50 <u>\$57.75</u>
retest in positive pools/antigen capture ELISA	\$4.00 <u>\$4.40/sample</u>
E. coli - K99	\$31.50 <u>\$34.65</u>
Infectious bovine rhinotracheitis (IBR) <u>Call lab first</u>	\$36.75 <u>\$40.42</u>
<u>National Animal Health Laboratory Network (NAHLN) tests performed: Classical Swine Fever, Foot & Mouth Disease, Vesicular Stomatitis Virus, Swine Influenza Virus, and Avian Paramyxovirus</u>	contact lab
mycobacterium paratuberculosis (Johne's):	
individual sample	\$31.50 <u>\$34.65</u>
MVDL pooled (up to 5 feces samples)	\$36.75 <u>\$40.42</u>
retest <u>in</u> positive pools	\$31.50 <u>\$34.65/sample</u>
salmonella enteritidis PCR	\$29.50 <u>\$32.45</u>
suspect culture confirmation	\$33.00 <u>\$36.30</u>

trichomonas foetus:		
individual sample		\$28.50
MVDL pooled (up to 5 samples)		\$52.50/pool
retest in positive pools		\$28.50/sample

(h) Pathology

Test	Fee
abortion workup, livestock - MVDL kits only	\$52.50 <u>\$57.75</u>
<u>neonatal diarrhea workup - livestock, MVDL kits only</u>	<u>\$110.00</u>
carcass disposal (CD) – incineration	\$26.25 <u>\$40.00</u> per 100 lbs
<u>Animal remains return/transfer</u>	<u>\$25.00</u>
<u>Pathologist time (after hours) insurance/legal cases</u>	<u>\$157.50</u> <u>\$173.25/hour</u>
necropsy - bovine & equine:	
fetus	\$73.50 <u>\$80.85</u> + CD
less than 150 lbs	\$89.25 <u>\$98.17</u> + CD
150 to 500 lbs	\$115.50 <u>\$127.05</u> + CD
more than 500 lbs	\$157.50 <u>\$173.25</u> + CD
necropsy - canine & feline:	
	\$115.50 <u>\$127.05</u> + CD
necropsy - porcine (swine):	
fetus (same litter)	\$73.50 <u>\$80.85</u> + CD
less than 25 lbs	\$73.50 <u>\$80.85</u> + CD
25 to 250 lbs	\$89.25 <u>\$98.17</u> + CD
more than 250 lbs	\$115.50 <u>\$127.05</u> + CD
necropsy - small ruminant:	
fetus (same dam)	\$73.50 <u>\$80.85</u> + CD
up to 20 lbs	\$73.50 <u>\$80.85</u> + CD
more than 20 lbs	\$89.25 <u>\$98.17</u> + CD
necropsy - other species	\$42.00 <u>\$46.20</u> minimum CD
<u>neonatal diarrhea workup - livestock, MVDL kits only</u>	<u>\$100.00</u>
research	contact lab
spinal cord removal (in addition to necropsy fee):	
small animal	\$52.50 <u>\$57.75</u>
large animal	\$105.00 <u>\$115.50</u>
transmissible encephalopathies:	
necropsies	\$131.25 minimum
brain removal only	\$31.50 <u>\$34.65</u>

	immunohistochemistry and ELISA test	minimum referral + shipping/handling
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(i) Rabies

Test	Fee
small animal	\$31.50
livestock with histopathology	\$58.00
entire carcass disposal (excluding bats & small rodents):	\$26.25 per 100 lbs
<u>Up to 30 lbs</u>	<u>\$55.00</u>
<u>31-60 lbs</u>	<u>\$85.00</u>
<u>61-90 lbs</u>	<u>\$115.00</u>

(j) Serology

Test	Fee
anaplasmosis cELISA	\$8.00 <u>\$8.80</u>
avian influenza (AI) AGID:	
1-9	\$6.00 <u>\$6.60</u> each
10-24	\$5.00 <u>\$5.50</u> each
25-49	\$3.00 <u>\$3.30</u> each
50 or more	\$2.00 <u>\$2.20</u> each
bluetongue (BT) AGID - contact laboratory	\$6.50 <u>\$7.15</u> minimum
bluetongue cELISA:	
1-100	\$8.75 <u>\$9.62</u> each
101-500	\$6.50 <u>\$7.15</u> each
501 or more	\$4.00 <u>\$4.40</u> each
bovine leukemia virus (BLV) ELISA:	
1-100	\$7.00 <u>\$7.70</u> each
101-500	\$6.00 <u>\$6.60</u> each
501 or more	\$4.00 <u>\$4.40</u> each
<u>bovine leukemia virus (BLV) AGID</u>	<u>\$8.00</u> each
bovine respiratory syncytial virus (BRSV) – SN	\$7.00 <u>\$7.70</u>
bovine virus diarrhea type I, II – SN	\$13.75 <u>\$15.12</u>
bovine virus diarrhea (BVD) ELISA:	
1-100	\$5.25 <u>\$5.77</u> each
101-500	\$4.25 <u>\$4.67</u> each
501 or more	\$3.75 <u>\$4.12</u> each
brucella abortus:	
card, BAPA, FP ₁ or RAP	\$1.60 each
rivanal <u>rivanol</u> , SPT, CF, STT	\$2.65 each
brucella ovis ELISA	\$8.00
caprine arthritis encephalitis (CAE):	
AGID	\$6.50 <u>\$7.15</u>

cELISA	\$6.50 <u>\$7.15</u>
epizootic hemorrhagic disease (EHD) – AGID	\$10.50 <u>\$11.55</u>
equine infectious anemia (EIA) AGID individual sample	\$8.00
equine infectious anemia (EIA) AGID – same owner:	
1-15	\$13.00 <u>\$8.00</u> each
16-50	\$6.00 each
51 or more	\$4.75 each
equine infectious anemia (EIA) cELISA individual sample	\$8.00 <u>\$13.00</u> each
<u>EIA Global Vet Link submissions</u>	<u>\$1.10</u>
equine infectious anemia (EIA) cELISA same owner:	
1-15	\$13.00 each
16-50	\$10.50 each
51 or more	\$9.50 each
infectious bovine rhinotracheitis (IBR)-SN	\$7.00 <u>\$7.70</u>
leptospirosis MAT:	
(routine) L. canicola, L. grippo, L. hardjo, L. ictero, L. pomona	\$10.50 <u>\$11.55</u>
L. autumnalis, L. bratislava/per each	\$2.25 <u>\$2.47/sample</u>
mycobacterium paratuberculosis (PTB) ELISA:	
1-100	\$8.00 <u>\$8.80</u> each
101-500	\$6.00 <u>\$6.60</u> each
501 or more	\$4.00 <u>\$4.40</u> each
ovine progressive pneumonia (OPP):	
AGID or eELISA <u>cELISA</u>	\$6.50 <u>\$7.15</u>
parainfluenza 3 (PI3) - HAI	\$5.25 <u>\$5.77</u>
pseudorabies - gB ELISA	\$6.00 <u>\$6.60</u>
salmonella pullorum MAT	\$4.75 <u>\$5.22</u>
vesicular stomatitis (VS):	
CF	\$47.25 <u>\$51.97</u>
NJ & Ind - SN	\$13.75 <u>\$15.12</u>
west nile virus (WNV):	
July 1 - Oct 15 IgM ELISA	\$21.00 <u>\$23.10</u>
off season	referral lab fee + shipping/handling

(k) Serology - Small Animal

Test	Fee
brucella canis - RSAT screen, 2ME-TAT confirmation	\$23.00
feline infectious peritonitis (FIP) ELISA	\$28.50 <u>\$31.35</u>
feline leukemia virus (FeLV) ELISA	\$18.00 <u>\$19.80</u>
feline leukemia/feline immunodeficiency virus (FeIV, FIV)	\$28.50 <u>\$31.35</u>

ELISA	
(l) Virology	
Test	Fee
bovine virus diarrhea - cELISA	see serology section
canine parvovirus ELISA	\$25.25 <u>\$27.77</u>
electron microscopy (EM)	\$31.50 <u>\$34.65</u>
fluorescent antibody (FA) testing - per agent:	
bovine coronavirus (BCV)	\$8.50 <u>\$9.35</u>
bovine respiratory syncytial virus (BRSV) SN	\$8.50 <u>\$9.35</u>
bovine virus diarrhea (BVD)	\$8.50 <u>\$9.35</u>
canine distemper (CDV)	\$8.50 <u>\$9.35</u>
canine parvovirus (CPV)	\$8.50 <u>\$9.35</u>
equine herpesvirus (EHV)	\$8.50 <u>\$9.35</u>
feline panleukopenia (FPLV)	\$8.50 <u>\$9.35</u>
feline infectious peritonitis (FIP)	\$8.50 <u>\$9.35</u>
feline herpes (FHV)	\$8.50 <u>\$9.35</u>
infectious bovine rhinotracheitis (IBR)	\$8.50 <u>\$9.35</u>
leptospira	\$8.50 <u>\$9.35</u>
parainfluenza - 3 Virus (PI-3)	\$8.50 <u>\$9.35</u>
porcine parvovirus (PPV)	\$8.50 <u>\$9.35</u>
rotavirus ELISA	\$26.25 <u>\$28.87</u>
virus isolation (livestock only)	\$26.25 <u>\$28.87</u>
(m) Miscellaneous Tests	
Test	Fee
after hours pathologist	\$89.25 /hour
carcass disposal	\$26.25 per 100 lbs
duplicate test result reporting	\$3.00 <u>\$3.30</u>
EIA Global Vet Link submissions	\$1.00 additional
IgG RID: bovine, camelid, equine	\$15.75
minimum laboratory fee	\$8.00
ocular nitrate	\$14.75
organization fee	\$63.00 <u>\$69.30</u> /hour
referral testing	referral lab fee + shipping/handling
stat fee	\$15.75 <u>\$17.32</u>

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

REASON:

The department proposes to amend the above-stated rule to ensure that fees charged by the Montana Veterinary Diagnostic Laboratory (MVDL) are

commensurate with the cost of performing the tests or services as listed, as required by 81-1-102(2), MCA. Based on the medical Consumer Price Index, the cost of services has increased by approximately 10% since the last fee adjustment in 2014. It is necessary to adjust lab fees accordingly. The 10% adjustment applies to all testing except for Brucella, Rabies, Equine Infectious Anemia (EIA), and Tritrichomonas, and tests in the Clinical Pathology and Milk Lab sections, which presently have rates competitive with other diagnostic laboratories or tests compensated by other sources. The laboratory cost analysis revealed that administrative costs were not accounted for; the \$4.00 accession fee is proposed to offset these expenses.

Increased client requests for the return of animal remains, as well as increases in carcass disposal, have resulted in increased labor costs and increased incineration expense. Therefore, the additional fee increases associated with these services are being proposed commensurate with costs.

Certain miscellaneous tests are being reorganized for better access of information so as to be more noticeable to lab users, thereby reducing misunderstandings and oversights.

The department also proposes to add new test fees and remove tests no longer performed.

The department estimates that the 10% increase in fees will generate approximately \$76,000 of revenue. The department estimates that the accession fee will generate approximately \$92,000 of revenue based on approximately 23,000 accessions in FY 2016. There are approximately 600 veterinary submitters, at least 150 nonveterinary submitters, and 100 governmental entities affected by the proposed fee adjustments.

4. Concerned persons may submit their data, views, or arguments in writing concerning the proposed action to Department of Livestock, 301 N. Roberts St., Room 306, P.O. Box 202001, Helena, MT 59620-2001, by faxing to (406) 444-1929, or by e-mailing to MDOLcomments@mt.gov to be received no later than 5:00 p.m., July 21, 2017.

5. If persons who are directly affected by the proposed action wish to express their data, views, and arguments orally or in writing at a public hearing, they must make a written request for a hearing and submit this request along with any written comments they have to the same address as above. The written request for hearing must be received no later than 5:00 p.m., July 21, 2017.

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

the Montana Administrative Register. Ten percent of those entities directly affected has been determined to be 85 based upon approximately 600 veterinary submitters, at least 150 nonveterinary submitters, and 100 governmental entities affected by the proposed fee adjustments.

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

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

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

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rule will significantly and directly impact small businesses.

/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 June 12, 2017.

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 37.79.304 pertaining to) PROPOSED AMENDMENT
clarifying contents of Healthy)
Montana Kids (HMK) evidence of)
coverage and adopting the Medicaid)
ambulance contracts)

TO: All Concerned Persons

1. On July 14, 2017, at 3:30 p.m., the Department of Public Health and Human Services will hold a public hearing in the auditorium of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on July 5, 2017, to advise us of the nature of the accommodation that you need. Please contact Kenneth Mordan, 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:

37.79.304 SERVICES COVERED (1) The department adopts and incorporates by reference the HMK Evidence of Coverage dated ~~January 1, 2016~~ September 1, 2017, which is available on the department's web site at www.hmk.mt.gov.

(2) remains the same.

AUTH: 53-4-1009, 53-4-1105, MCA
IMP: 53-4-1005, 53-4-1109, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) proposes to amend ARM 37.79.304, which adopts and incorporates by reference the Healthy Montana Kids (HMK) Evidence of Coverage (EOC) document. The EOC document describes the services covered under the HMK health care benefit plan. The

proposed rule change would change the effective date of the EOC document from January 1, 2016, to September 1, 2017.

The proposed version of the EOC, to be effective September 1, 2017, incorporates changes to the HMK coverage. Specifically, the department proposes to amend the EOC to change the following services covered under the HMK plan: (1) changing HMK prior authorization procedures to require providers, not parents, to obtain prior authorization for certain services; (2) stating that certain therapies for developmental disabilities are covered; (3) adopting HELP Act and HELP Plan language to describe the HMK pharmacy benefit; (4) updating by adding definitions of "rehabilitation" and "habilitation" to the EOC; (5) having the department's Medicaid fiscal agent administer the ambulance benefit instead of the TPA; (6) removing the ambulance copay; (7) adopting the Medicaid definition of "medically necessary"; and (8) utilizing the third-party administrator to authorize dental anesthesia and dental implants.

The administrative rule change will permit implementation of the latest version of the EOC document. The department estimates the proposed changes in the EOC document will not result in additional costs to the department. The change in the ambulance benefit will result in substantial cost savings.

A copy of the proposed amendments to the EOC may be found on the department's web site at www.hmk.mt.gov.

FISCAL IMPACT

The department has evaluated the proposed amendments and contends the rule and the changes in the EOC document will not result in additional costs.

5. The department intends to adopt this rule effective September 1, 2017.

6. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Kenneth Mordan, 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., July 21, 2017.

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

8. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a 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.

9. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

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.

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

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

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

Certified to the Secretary of State June 12, 2017.

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 37.36.604 pertaining to) AMENDMENT
updating the federal poverty index)
guidelines for the Montana) NO PUBLIC HEARING
telecommunications access program) 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 July 12, 2017, to advise us of the nature of the accommodation that you need. Please contact Kenneth Mordan, 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:

37.36.604 FINANCIAL ELIGIBILITY CRITERIA (1) Individuals whose annual family income during the 12 months immediately preceding the month of application is less than 250% of the ~~2016~~ 2017 poverty guidelines published by the U.S. Department of Health and Human Services (HHS) are eligible for a loan of specialized telecommunications equipment based on income. 250% of the HHS ~~2016~~ 2017 annual poverty guidelines for families of various sizes is shown in (2).

(2) 250% of the annual poverty guidelines is as follows:

FAMILY SIZE	250% OF ANNUAL POVERTY GUIDELINE
One	\$ 29,700 <u>\$30,150</u>
Two	\$ 40,050 <u>\$40,600</u>
Three	\$ 50,400 <u>\$51,050</u>
Four	\$ 60,750 <u>\$61,500</u>
Five	\$ 71,100 <u>\$71,950</u>

Six	\$81,450 <u>\$82,400</u>
Seven	\$91,825 \$92,850
Eight	\$102,225 \$103,300
Each Additional Person, Add	\$4,160 <u>\$10,450</u>

(3) remains the same.

AUTH: 53-19-305, 53-19-307, MCA

IMP: 53-19-305, 53-19-307, MCA

4. STATEMENT OF REASONABLE NECESSITY

The department is proposing to amend ARM 37.36.604 Montana Telecommunications Access Program: Payment for Services. This rule sets forth the criteria that allow for the department to pay for services being made available to persons who are eligible for Montana Telecommunications Access Program services. The rule provides that the payment for services by the department may occur if the consumer's income and financial resources do not exceed maximum levels for income and resources established through the rule.

This rule amendment revises the maximum level of allowable income. Currently the rule provides that the maximum level is 250% of the 2016 United States Department of Health and Human Services poverty guidelines for households.

The rule amendment would revise this level by replacing the year 2016 guidelines with the year 2017 guidelines.

Fiscal Impact

There would be no fiscal impact due to the increase in the Federal Poverty Index level (FPL). A minimal number of clients that are served by the Montana Telecommunications Access Program exceed the FPL. The majority are well under the FPL. An increase in the FPL would therefore not yield any additional costs to the Vocational Rehabilitation (VR) program.

5. The department intends to apply these rule retroactively to February 9, 2017. A retroactive application of the proposed rule amendments does not result in a negative impact to any affected party.

6. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Kenneth Mordan, 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 July 21, 2017. 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 Kenneth Mordan at the above address no later than 5:00 p.m., July 21, 2017.

8. If the agency receives requests for a public hearing on the proposed action from either 10% 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 194 persons based on 1,945 with an open case currently being served by the program.

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. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

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

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

/s/ Nicholas Domitrovich
Nicholas Domitrovich, Attorney
Rule Reviewer

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

Certified to the Secretary of State June 12, 2017.

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the amendment of) AMENDED NOTICE OF
ARM 1.2.102 and repeal of ARM) PROPOSED AMENDMENT AND
1.2.105 pertaining to official versions) REPEAL
of the ARM and Register)

TO: All Concerned Persons

1. On May 26, 2017, the Secretary of State published MAR Notice No. 44-2-225 pertaining to the public hearing on the proposed amendment and repeal of the above-stated rules at page 658 of the 2017 Montana Administrative Register, Issue Number 10. On June 15, 2017, the agency held a public hearing in the Secretary of State's Office Conference Room, Room 260, State Capitol Building, Helena, Montana, to consider the proposed amendment and repeal of the above-stated rules.

2. The agency erroneously stated in Paragraph 9 of the May 26, 2017 proposal notice that the bill sponsor contact requirements of 2-4-302, MCA, do not apply. The agency did contact the bill sponsor in person in April during the last week of the 2017 Legislative session, but did not document the specific time or date of that contact. The agency has since contacted the bill sponsor by telephone on June 12, 2017.

/s/ JEFFREY M. HINDOIEN
Jeffrey M. Hindoien
Rule Reviewer

/s/ COREY STAPLETON
Corey Stapleton
Secretary of State

Dated this 12th day of June, 2017.

BEFORE THE DEPARTMENT OF COMMERCE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 8.94.3817 pertaining to the)
administration of the 2019 Biennium)
Treasure State Endowment Program)
– Planning Grants)

TO: All Concerned Persons

1. On May 12, 2017, the Department of Commerce published MAR Notice No. 8-94-152 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 580 of the 2017 Montana Administrative Register, Issue Number 9.

2. The department has thoroughly considered the comments and testimony received. The comments received and the department's responses are as follows:

COMMENT # 1: David Pafford, Noxon School, asked if schools are eligible to apply for these funds to help with building repairs, HVAC improvements, and other much needed projects.

RESPONSE # 1: Schools are not eligible to apply for TSEP planning grant funds.

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

/s/ Marty Tuttle
Marty Tuttle
Rule Reviewer

/s/ Douglas Mitchell
Douglas Mitchell
Deputy Director
Department of Commerce

Certified to the Secretary of State June 12, 2017.

BEFORE THE DEPARTMENT OF COMMERCE
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF AMENDMENT
ARM 8.94.3729 pertaining to the)	
administration of the 2017 and 2018)	
Program Year Federal Community)	
Development Block Grant (CDBG))	
Program – Public Facilities Projects)	
and ARM 8.94.3730 pertaining to the)	
administration of the 2017 and 2018)	
Program Year Federal Community)	
Development Block Grant (CDBG))	
Program – Affordable Housing)	
Projects.)	

TO: All Concerned Persons

1. On May 12, 2017, the Department of Commerce published MAR Notice No. 8-94-153 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 582 of the 2017 Montana Administrative Register, Issue Number 9.

2. The department has thoroughly considered the comments and testimony received. The comments received and the department's responses are as follows:

COMMENT # 1: David Pafford, Noxon School, asked if schools were eligible to apply for these funds to help with building repairs, HVAC improvements, and other much needed projects.

RESPONSE # 1: While a public school is not eligible to apply directly, a city, town, or county may apply on behalf of a public school for CDBG Public and Community Facility funds. The public school must be able to demonstrate that the proposed project will meet the CDBG National Low and Moderate Income Objective. The CDBG Public and Community Facility guidelines will be updated to clarify the eligible use of funds to be expended on public school facilities to assist at least 51% of low and moderate income households through assisted project activities.

COMMENT # 2: The discussion of the Hatch Act on page 58, Appendix E appears to be based on the old version of the Hatch Act, and not the updated, less restrictive version now in force.

RESPONSE # 2: The department concurs and will update all CDBG application guidelines and sample resolutions to reflect the Hatch Act Modernization Act of 2012.

COMMENT # 3: The guidelines discuss how CDBG funds may directly benefit LMI persons residing in an area ineligible for area-wide benefit. The language, "If a CDBG grant award is insufficient to pay the entire assessment or hook-up charges for 100% of the LMI persons in the area of service, CDBG funds must first be used to assist the low-income persons in the service area" does not make sense to me. Please clarify.

RESPONSE # 3: The department will clarify the language as follows:

CDBG funds may be used to provide assistance to directly benefit Low-to-Moderate Income (LMI) persons residing in an area that is ineligible or doesn't meet the 51% or greater area-wide benefit requirement. Direct benefit assistance may be used to pay directly for activities such as septic tank abandonment, construction necessary to hook to a main, or the LMI individual's assessment to pay for connections to infrastructure improvements. CDBG funds must be prioritized to assist 100% of low-income residents (at or below 50% of area median income) before assisting persons of moderate income (51-80% of area median income).

3. The department has adopted ARM 8.94.3729 and ARM 8.94.3730 as proposed.

/s/ Marty Tuttle
Marty Tuttle
Rule Reviewer

/s/ Douglas Mitchell
Douglas Mitchell
Deputy Director
Department of Commerce

Certified to the Secretary of State June 12, 2017.

COMMENT NO. 3: The department's fixed coefficient of variation (CV) of 0.6 for permitting creates a less stringent highest attainable condition than would otherwise be enforced, in effect prioritizing discharger's concerns regarding treatment efficiency over the requirements of 40 CFR 131.14.

RESPONSE: The comment is technically correct, insofar as the fixed CV could in some cases provide a larger permitted load (however, in some cases, it could also result in a more stringent load). But it is important for the department to allow for the realities of wastewater nutrient removal; recognizing that the CV will likely increase as treatment approaches limits of technology. If a wastewater facility has improved treatment and is discharging low nutrient concentrations but also is facing the realities of sample variability, this should be given consideration. A key aspect of 40 CFR 131.14 is the highest attainable condition treatment requirement, which is determined via economic and technological capabilities; the CV is one aspect of the technological capability. See also response to COMMENT NO. 2.

COMMENT NO. 4: The proposed end-of-pipe treatment requirements in Table 12B-1 of Circular DEQ-12B were derived using very simplistic economic and technical analytical methods and have wide estimation ranges. Should the department be basing monthly average total nitrogen (TN) and TP treatment requirements on such methods?

RESPONSE: The department does not agree that the methods are "very simplistic." The methods follow Class 5 Engineering estimated costs per the Association for the Advancement of Cost Engineering (AACE) recommended practice No. 18R-97. These cost estimates were coupled with the department's long-established per-community cost threshold process, which identifies a community-by-community wastewater treatment cost cap for addressing nutrient standards. An accounting for collection system repairs was included. Further, engineers associated with the Nutrient Work Group carried out facility-specific cost estimates for almost all of the ≥ 1 MGD facilities evaluated, providing somewhat better cost range estimates than Class 5. At the last full Nutrient Work Group meeting on March 27, 2017, the department asked engineers if, for the next triennial review, the department should use better cost estimates (say Class 2 or 3) since those have less error. The engineers expressed their best professional judgment that such estimates would be extremely expensive to complete (millions of dollars), as they require engineering projects to be defined to a very high degree. For these reasons, the methods used during this triennial review cannot be expected to be made substantially more precise.

COMMENT NO. 5: For some dischargers, their current/actual discharge concentrations may be the best attainable effluent, and in these situations a pollutant minimization program (PMP) applies and together (the achieved concentrations and the PMP) represent the highest attainable condition. The department should modify the language in Circular DEQ-12B Section 2.3 and elsewhere to make this clear.

RESPONSE: The department finds that the proposed Circular DEQ-12B is already sufficiently clear on this matter. Please see endnote 3 of Table 12B-1, which

applies to permittees with mechanical facilities receiving a general variance in the ≥ 1 MGD and < 1 MGD discharge categories. It is also clear in regards to the lagoon category within Table 12B-1. It is also specified in Section 3.1, paragraph two, in relation to individual variances. The department believes that no additional clarification is needed.

COMMENT NO. 6: Pollutant minimization programs (PMPs) are a new concept, need to be flexible, and permittees should be able to craft their own PMP (or have the PMP jointly reviewed by the permittee and the department) as opposed to having it imposed on them by the department. The department should clarify what constitutes approval of the PMP.

RESPONSE: The department agrees that PMPs need to be flexible. Circular DEQ-12B allows communities with mechanical facilities to examine different options and propose ideas to be implemented. The same is true for communities with lagoons. However, because of the unique challenges most lagoon systems face, the department will work with lagoons to assist in the development of individual lagoon-specific PMPs. Prior to the completion of this step, the department has adopted a basic framework PMP to ensure the individual PMPs are carefully tailored. This approach provides needed flexibility for lagoon facilities. Additional clarity regarding PMP approval was added to DEQ-12B. See also response to COMMENT NO. 17.

COMMENT NO. 7: Approval of pollutant minimization programs (PMPs) by the department should not be required. Compliance with the highest attainable condition constitutes the only enforceable standard.

RESPONSE: See response to COMMENT NO. 57.

COMMENT NO. 8: Language in Section 3.1 of draft Circular DEQ-12B suggests that the pollutant minimization program (PMP) will be required instantly. We recommend that permittees be given six months to develop and submit a PMP following notification by the department that a PMP is needed.

RESPONSE: In the case of an individual variance, a pollutant minimization program (PMP) would not be required at the time the variance was granted (i.e., at the time the permit was issued, renewed, or modified) unless the permittee is already achieving the highest attainable condition (HAC). As an eligible permittee begins to approach the established HAC treatment requirements, there should be adequate time and opportunity to prepare and submit a PMP. If a permittee is already treating its effluent to a level that will achieve the anticipated HAC treatment requirements, there should be adequate time and opportunity to prepare and submit a PMP during the individual variance development process.

COMMENT NO. 9: Wording in Endnote 3 of draft Circular DEQ-12B suggests a duplicative search of current and future technologies already completed by the department as part of its triennial review. The endnote should be simplified to

indicate that facilities meeting Table 12B-1 values must continue to do so, and implement a pollutant minimization program (PMP).

RESPONSE: The department does not expect a duplicative additional search and analysis of candidate technologies. The department made the change as recommended in the comment letter. The modification makes sense and is consistent with the intent of the endnote—which is to clarify that group members who are doing better than the requirements in Table 12B-1 must continue to do so (and, in addition, develop a pollutant minimization program during their next permit cycle). See also response to COMMENT NO. 30.

COMMENT NO. 10: Draft Circular DEQ-12B, Section 3.1, paragraph two, sentence three: The department should strike out the word "application."

RESPONSE: The department agrees with the comment and made the change in the final circular.

COMMENT NO. 11: The department should provide references or cite factual information to support statements made in Sections 2.0 and 6.0 in its technical support document "First Triennial Review of Base Numeric Nutrient Standards and Variances."

RESPONSE: Section 2.0 of the technical support document addressed advances in nutrient removal. The Water Environment Federation publication "The Road towards Smarter Nutrient Management in Municipal Water Treatment" (2014) appears to be the most recent national-level publication on this issue. The report addresses areas of future exploration that are already in the process of implementation in Montana, most notably, process control changes to enhance nutrient removal and regulatory innovation with respect to nutrients, of which this proposed nutrient variance and seasonal nutrient permits are examples. Technologically speaking, the innovative focus was on nutrient recovery, urine separation, water conservation, and further assessment of nitrogen and phosphorous treatment alternatives. There was no identification of any breakthrough treatment methodologies for nutrients that weren't already considered in 2014. Section 6.0 of the technical support document addressed the development and establishment of the highest attainable condition (HAC). The Tetra Tech memorandum "State of Montana Wastewater System Nutrient Reduction Cost Estimates" (2016) established a stepped approach that proposed certain treatment technologies for various levels of effluent quality for each parameter. However, on any given project, consulting engineers vary considerably on their chosen technical alternative and on their estimate of effluent quality. Within the Nutrient Work Group, consulting engineers, municipal public works directors, and department engineers contributed opinions or best professional judgement regarding seasonal effluent quality, likely effluent limitations, operator qualifications and availability, and estimated project cost based on years of experience of design and operations in Montana. The application of advanced operational strategies, while highly successful in some cases, has yet to be fully implemented in Montana, and very

sporadically implemented nationally, for designed biological nutrient removal (BNR) treatment facilities. Because each treatment system is unique with regard to the application of advanced operational strategies, at this time there is no general reference available that predicts effluent quality improvement. Therefore, the values proposed for HAC are a compilation of best professional judgments from department engineers as well as other professional engineers within the Nutrient Work Group, which take into account the several factors mentioned above.

COMMENT NO. 12: In the department's first triennial review technical support document, the department appears to be comparing the average of 95th percentile of effluent data (a measure of the upper tail of the distribution of effluent data) with the State's proposed highest attainable condition (HAC) values expressed as a monthly average (a measure of the central tendency). Because the HAC limits are expressed as a monthly average, we recommend the department compare the State's proposed HAC values to the 95th percentile of monthly averages of effluent data from other facilities.

RESPONSE: The department has carried out the calculation recommended by the commenter on the facilities shown in Table 6-1 of "First Triennial Review of Base Numeric Nutrient Standards and Variances" (Water Quality Planning Bureau, 2017). The results indicate the 95th percentile of the publicly owned treatment works' (POTW) long term averages is 6.3 mg TN/L and 0.56 mg TP/L (for the latter, Butte's TP data was excluded). These results support the idea that the proposed general variance treatment requirements for the ≥ 1 MGD group are largely in line with what is achieved nationally by other major POTWs that are addressing nutrients.

COMMENT NO. 13: The department should include reference to reverse osmosis (RO) in the final version of DEQ-12B to avoid contradictions with the State's substantial and widespread economic analysis in its technical support document, which is based on RO.

RESPONSE: The department has consistently viewed reverse osmosis (RO) as the best available technology to get as close to the base numeric nutrient standards as possible, in the absence of dilution. The department's statewide economic impact analyses in 2012, 2014, and today are all based on the estimated cost of installing and operating RO treatment; the findings are all in the record (e.g., "Demonstration of Substantial and Widespread Economic Impacts to Montana That Would Result if Base Numeric Nutrient Standards had to be Met in 2011/2012" (Blend and Suplee, 2012). The department has consistently referenced RO throughout its variance process and does not believe it is necessary to also include reference to it in the circular.

COMMENT NO. 14: The department should review for accuracy the list of facilities (including lagoons) likely to need a nutrient standards variance, and incorporate that list (or make reference to it) in the rule.

RESPONSE: The department agrees with the comment, and has included a reference to a list of facilities (including lagoons) in Section 2.0 of Circular DEQ-12B.

COMMENT NO. 15: The department should clarify that the term "triennial review" in the context of nutrient standards and variances refers to the reevaluation of the variance consistent with federal requirements at 40 CFR 131.14(b)(1)(v). Further, the department should clarify the time interval in which the next review of the variances (both individual and general) will occur after EPA approval of the previous review.

RESPONSE: The department has consistently used the term "triennial review" when referring to the requirement in state statute (at 75-5-313(7)(a), MCA) to carry out a review of the variance treatment requirements every three years. So far, the department has reviewed the base numeric nutrient standards (in Circular DEQ-12A) at the same time as the variance rules. Together, the department's review of the nutrient standards and variances is consistent with the Clean Water Act requirement to review water quality standards every three years. With the federal regulation changes that occurred in 2015 (40 CFR 131.14(b)(1)(v)), water quality standards variances are now required to be reviewed no less frequently than every five years. The department clarifies here that the triennial review, in the context of nutrient variances, refers to and is consistent with 40 CFR 131.14(b)(1)(v). Regarding the specific steps in the time interval, the department will review the nutrient variance circular (DEQ-12B) within three years of EPA approval of the previous version, and complete any necessary rulemaking within one year of finishing its review.

COMMENT NO. 16: The department should clarify the specific term (in years) of the general variance following EPA approval.

RESPONSE: The term of the variance is up to 17 years, as indicated in Table 12B-2. The department modified Section 2.1 of the circular to further clarify that the time of the variance must be as short as possible but up to 17 years.

COMMENT NO. 17: The department should clarify the reason for the timeframe (in years) needed for the lagoon PMPs to be implemented.

RESPONSE: The draft Circular DEQ-12B states that the department and permittee shall complete the lagoon optimization/pollutant minimization program no later than 7/1/2027. This ten year time period is necessary to complete the program because the program is a hybrid of department and permittee actions. This year (2017), the department is starting a full municipal-scale test of an innovative technology to improve lagoon wastewater effluent quality. The department will very likely carry out another test at another facility; it may also test another innovative technology. The department will need time to analyze the results, prepare reports, and make recommendations. This will take several years—probably more. The department will also conduct a statewide review of lagoon performance (e.g., is sludge removal in order). The number of facilities that can be reviewed each year is

limited, and again, this will take time (estimated to 2022). Permittees with lagoon systems must provide information to the department related to optimization/pollutant minimization program activities they identify. These will be case-specific and the department needs time to evaluate them and provide feedback. Again, this takes time. Altogether, these actions could very realistically span over ten years, which is the time period the department proposed for their completion.

COMMENT NO. 18: The department should provide an update to Table 2-1 of "Economic Analysis of Meeting Base Numeric Nutrient Standards: Supplement to First Triennial Review of Base Numeric Nutrient Standards and Variances" (April 28, 2017) which includes each community's secondary score.

RESPONSE: The department considered secondary scores in its analysis. The secondary scores were calculated using the latest economic data, and confirmed significant impact for almost all towns. They have been included in the table shown below, as requested (2nd column from right), along with the associated % MHI cost cap which are derived from the secondary scores (see last column on right). Table 2-1 below may also be found at <http://deq.mt.gov/Portals/112/Water/WQPB/Standards/NutrientWorkGroup/PDFs/Comment18Table.pdf>.

Community	Median Household Income (2010) MHI.	Median Household Income (2015)	Estimated Number of Households (Population / 2.5) based on 2000 Census	Estimated Number of Households American Community Survey 2011-2015	Current Average Annual Household Wastewater Bill	Design Flow (MGD)	Actual Flow (MGD)	Current wastewater MHI	2015 Percent MHI needed to get to RO/Base Numeric Nutrient Criteria (including current fees)	2015 Increase over current Wastewater Bill to Reach RO	Average Secondary Score (latest data-- 2015 to 2017)	Cost Cap
Helena	\$47,152.00	\$49,852.00	12,337	13,095	\$265.44	5.4	3.00	0.56%	1.59%	185%	2.2	1.7
Billings	\$45,004.00	\$51,012.00	41,841	44,092	\$218.28	26	26	0.49%	2.04%	377%	2	1.5
Butte	\$37,335.00	\$37,686.00	14,041	14,798	\$360.00	8.5	4.00	0.96%	2.07%	117%	1.6	1.1
Kalispell	\$39,953.00	\$41,097.00	7,705	8,608	\$216.00	5.4	3.10	0.54%	2.34%	166%	1.8	1.3
Bozeman	\$41,661.00	\$45,729.00	14,614	16,573	\$372.00	13.8	5.80	0.89%	2.45%	201%	2.2	1.7
Manhattan	\$50,729.00	\$52,135.00	523	547	\$362.40	0.6	0.4	0.71%	2.45%	253%	2.6	2.1
Stevensville	\$33,776.00	\$32,337.00	795	818	\$535.08	0.3	0.29	1.58%	3.27%	97%	1.6	1.1
Whitefish	NA	\$51,122.00	NA	3,032	\$915.00	1.8	0.92	1.79%	4.10%	129%	1.8	1.3
East Helena	NA	\$44,828.00	NA	934	\$797.00	0.434	0.307	1.78%	2.79%	57%	1.8	1.3
Conrad	NA	\$39,063.00	NA	1,003	\$489.00	0.54	0.32	1.25%	2.27%	81%	1.8	1.3
Colstrip	NA	\$84,145.00	NA	783	\$357.00	0.6	0.195	0.42%	2.16%	408%	2.2	1.7

COMMENT NO. 19: The department should provide additional information describing the basis for concluding, in the first triennial review technical support document, that Helena will demonstrate substantial and widespread economic impacts.

RESPONSE: As noted in the table provided in the response to COMMENT NO. 18 above, Helena's MHI screener and secondary score (columns four and two, respectively, from the right) places them on the borderline for a "Significant" finding per 1995 EPA guidance for an individual variance. This means that Helena moves

on to a "Widespread" impact investigation. Helena would need to almost triple their wastewater rates to customers to get to reverse osmosis (RO), and this would lead to less disposable income for all residents, a concurrent decrease in local business, and would hit poverty level households the hardest. This constitutes widespread economic impact.

COMMENT NO. 20: The department should explain why there are different sets of lagoons examined in the technical support document "First Triennial Review of Base Numeric Nutrient Standards and Variances" (Water Quality Planning Bureau, 2017). In Table 3-1 of Section 3.0 (Statewide Economic Impact Demonstration), six lagoons are included, whereas the cost-per-treatment-level analysis for the lagoon category was carried out on eight different lagoons (Figure 6-3 of Section 6.0).

RESPONSE: The department agrees that there are two different lists of lagoon-based communities (but notes that there is one community common to both, Highwood). The lagoon-based communities in Table 3-1 are part of a larger group of Montana communities the department has been tracking since 2011 for the purpose of evaluating the cost to meet base numeric nutrients standards via reverse osmosis. In contrast, the eight lagoons in Figure 6-3 were randomly selected in order to provide an unbiased sample of lagoon-based communities for which the department could calculate the cost for different treatment levels and identify highest attainable condition (HAC). Because the sample was random, the results should be representative of the cost to achieve HAC for lagoon-based Montana communities.

COMMENT NO. 21: The department should review the private sector dischargers' information to further support the need for the variance and review existing wastewater treatment systems and effluent data to evaluate whether these limits actually reflect the highest attainable effluent condition for these facilities and include this evaluation and rationale in the documentation that will be submitted to EPA.

RESPONSE: The department has taken a close look at the private sector dischargers likely to need a variance (for a list of private-sector permittees, see Appendix A of "First Triennial Review of Base Numeric Nutrient Standards and Variances" (Water Quality Planning Bureau, 2017)). Case-specific circumstances show that: 1) many will probably not in fact need a variance; 2) their eligibility for one is clear; and/or 3) they have already been issued a general variance. In the ≥ 1 MGD category, Philips 66 stopped discharging to the Yellowstone River on June 1, 2014, and since that time their treated process water has gone to the Billings WWTF. In the < 1 MGD category, Drumlummon Gold Corporation has closed and shut off its pumps; there is no discharge. The Stillwater Mine on the East Boulder River has a Good Neighbor Agreement which has been a successful arrangement between the mine, environmental groups, and local citizens, and assures environmental protection beyond the MPDES permit. The Stillwater Mine has already been issued a general variance. Elkhorn Health and Rehabilitation (permitted under Apple Rehab West, LLC) is a very small company that would

undoubtedly be incapable of affording to meet the base numeric nutrient standards. Similarly, Montana Behavioral Clinic is a small non-profit 501 (c)(3) corporation and would be very unlikely to meet the base numeric nutrient standards. Bonner Property Development operates a small industrial park and was already issued a general variance, as was Barretts Minerals Inc.

COMMENT NO. 22: The commenters continue to be concerned about the adoption and implementation of numeric nutrient standards at levels below what viable treatment technology can achieve, and that Montana has adopted these standards in advance of most other states.

RESPONSE: The department is aware of this concern. It was also expressed during the 2014 adoption of the base numeric nutrient standards and variances. However, the variance process remains the most viable approach to achieving the standards over time, allowing time for technologies to advance and costs to come down, and for nonpoint source nutrient issues to be addressed.

COMMENT NO. 23: There is nothing in the record indicating that any particular wastewater N:P ratio should be maintained and, depending on background conditions, similar effluent ratios may lead to varying N:P ratios in receiving waters.

RESPONSE: The department agrees that the statement is generally true. However, there is nothing that suggests the N:P ratios we have selected are inappropriate. As it stands, the proposed general variance treatment requirements result in wastewater N:P ratios of 20:1 and 15:1 (by weight) for the ≥ 1 MGD and < 1 MGD groups, respectively. Although at wastewater-strength concentration or in the immediate mixing zone no nutrient limitation would occur, if these ratios were maintained and sufficiently diluted downstream of a facility they would result in P-limitation. Individual variances may have effluent N:P ratios different from these, depending on site specific considerations. But customizing effluent N:P ratios within the general variance treatment requirements is unnecessary and would not further serve the department's dual-nutrient control policy. No change was made to the circular in response to this comment.

COMMENT NO. 24: The department has made no demonstration in the current rulemaking process that lowering of nitrogen and phosphorus to the proposed treatment levels will improve or benefit water quality.

RESPONSE: The department has already provided this information. For example, in Section 11.3.5 of "Using a Computer Water Quality Model to Derive Numeric Nutrient Criteria: Lower Yellowstone River, MT" (Flynn and Suplee, 2013), modeling results show a large increase in nitrogen and phosphorus concentrations below and due to the Billings WWTP, especially phosphorus, with effects all the way down to the Big Horn River confluence. This reach of the Yellowstone River has been rendered nitrogen limited because of the high availability of phosphorus from the WWTP. The N:P ratio of nutrients per the general variance for the ≥ 1 MGD group (which includes Billings) is 20:1 (by weight), and leans well towards

phosphorus limitation. Although concentrations in the immediate zone below the WWTP may not see improvements at the proposed general variance concentrations (6 mg TN/L and 0.3 mg TP/L) because concentrations are too high, further dilution downstream should lead to dozens of kilometers of improved water quality in the reach. Similar findings are documented in the department's whole-stream nutrient addition study ("Whole-stream Nitrogen and Phosphorus Addition Study to Identify Eutrophication Effects in a Wadeable Prairie Stream", Suplee et al., 2016). There, excess nutrients from the high-dose reach (which was dosed to 0.12 mg NO₃-N/L and 0.016 mg SRP/L) continued to impact algal levels for kilometers downstream of the dosing site. In contrast, effects below the low-dose reach (dosed to 0.04 mg NO₃-N/L and 0.004 mg SRP/L) were non-existent 0.9 km downstream. In short, reduction in nutrient concentrations from point sources can and will result in improved water quality at some point downstream of wastewater treatment plants (WWTPs); in some cases this may result in many miles of improved waterways. Both reports can be found at <http://deq.mt.gov/Water/WQPB/standards/numericnutrientcriteria>.

COMMENT NO. 25: The record indicates that many Montana waters would benefit from reductions of nitrogen and phosphorus in many cases.

RESPONSE: The department agrees with the comment, and in its response to COMMENT NO. 24 points to two published reports in which such documentation can be found.

COMMENT NO. 26: The proposed rule changes will increase the cost of centralized wastewater treatment, forcing rate payers to relocate to rural areas and thereby increasing the non-point source component of nutrient pollution.

RESPONSE: The department does not agree with the comment. In 2008 the department prepared estimates of the total cost for a homeowner to operate a home septic system; costs included initial installation, maintenance, pump-out, electricity, etc., and were amortized over the life expectancy of each system component. Estimates were made, from least to most expensive, for (1) a standard septic system, (2) a standard septic system in a maintenance district, (3) an unmaintained septic system, and (4) a level 2 wastewater system. Adjusted for inflation, the per-household costs range (in 2017 dollars) from \$31 to \$96 per month, depending on the system installed. As part of this triennial review, the department calculated—for communities likely to need a variance, and which use a centralized wastewater system—the maximum wastewater cost that community members would be expected to pay towards meeting nutrient standards. Communities included Helena, East Helena, Conrad, and Billings. The department's method is based on community-specific economics and median household income (see page 14 of "First Triennial Review of Base Numeric Nutrient Standards and Variances"). The per-household cost among the assessed communities ranged from \$30 to \$119 per month, with a community group average of \$60/month. These data indicate that the department's actions per this rulemaking would not increase centralized wastewater costs to the point that they would force community members into rural areas,

because the per-household costs are actually similar. Beyond this, the 2010 census showed that the continued and long-standing trend in Montana is that of people moving from rural to urban areas, not the other way around.

COMMENT NO. 27: The proposed wastewater treatment requirements in Table 12B-1 of Circular DEQ-12B do not reflect the highest attainable condition. A combination of biological nutrient removal, filters, and chemical additives have allowed other wastewater treatment plants to achieve far lower concentrations than the proposed requirements of—for the ≥ 1 MGD group—6 mg TN/L and 0.3 mg TP/L.

RESPONSE: The department does not agree with the comment. The department believes that the analyses presented support the proposed wastewater treatment requirements in Table 12B-1 of Circular DEQ-12B, and that they do reflect the highest attainable condition (HAC). The department is aware that the technologies and combinations thereof cited by the commenter can achieve effluent with lower nutrient concentrations. As part of its analysis, the department evaluated treatment levels all the way down to the limits of technology for the ≥ 1 MGD discharger group (see Figure 6-2 in "First Triennial Review of Base Numeric Nutrient Standards and Variances" (Water Quality Planning Bureau, 2017)). But HAC is not selected by adopting the very best wastewater technology, regardless of cost; it is determined by considering technology and the cost to implement the technology. Montana median household income is in the bottom four fifths among U.S. states, and affordability is scaled accordingly. For the ≥ 1 MGD group—comprised almost exclusively of POTWs—the cost for each treatment level in Figure 6-2 was computed for each facility and compared to the department's affordability criteria. 7 mg TN/L and 0.5 mg TP/L was affordable for the majority of members, but at stricter treatment levels as few as 50% of members could afford the level. The final department recommendation (6 mg TN/L, 0.3 mg TP/L) reflect HAC for the majority of members in the ≥ 1 MGD group.

COMMENT NO. 28: The proposed wastewater treatment requirements Table 12B-1 of Circular DEQ-12B should be set at the lowest effluent concentrations facilities in the category can afford, instead of being set at what is affordable for the majority of facilities, as the department has done. Facilities that cannot afford to achieve these more stringent concentrations could apply for an individual variance.

RESPONSE: The comment minimizes the difficulty in determining exactly what the group's lowest affordable effluent concentration is. If the department were to set the affordability limit to that of the most affluent community in the group, all remaining group members would be required to move to individual variances which would defeat the needed utility of a group general variance. The department has selected a highest attainable condition based on affordability of a simple majority, a straight-forward and commonly understood benchmark for evaluating factors that affect groups. It is reasonable that if the majority of group members cannot afford something, then it is not affordable for the group. At the treatment levels proposed by the department, all wastewater dischargers under the general variance will be required to improve their treatment, be that via stricter general variance limits or via

current performance plus the optimization/pollutant minimization program. See also, response to COMMENT NO. 50.

COMMENT NO. 29: Capping permittee's discharge limits at previous performance levels as described in the rule amendments penalizes permittees for outstanding performance and is not in line with any current cited rule or statute.

RESPONSE: Since adoption of the base nutrient standards and variances in 2014, the department has consistently established dischargers' permit limits for general variances at previous performance levels when those levels were better than the requirements in Table 12B-1 of Circular DEQ-12B. This is consistent with department rule, as found in paragraph two of Section 2.0 of the July 2014 edition of Circular DEQ-12B. There, it is explained that the treatment levels described in 75-5-313(5)(b) (and found in Table 12B-1) were minimum treatment levels. Therefore, with the overarching goal of decreasing nutrient concentrations in wastewater effluent, the department's permitting unit has consistently established dischargers' permit limits for general variances at previous/existing performance, for those cases where the permittee needs a variance.

COMMENT NO 30: The department's expression of the highest attainable condition (HAC) for permittees already achieving more stringent effluent concentrations than the proposed HAC values in Table 12B-1 is ambiguous. The department should explicitly specify that where actual effluent concentrations are lower (i.e., better) than the HAC values for either one or both nutrients in Table 12B-1, then these dischargers must meet the current effluent concentration for one or both nutrients and implement a pollutant minimization program (PMP).

RESPONSE: The department finds that the proposed Circular DEQ-12B is already sufficiently clear in this matter. Endnote 3 of Table 12B-1 pertains to the ≥ 1 MGD and < 1 MGD groups, the groups for which group highest attainable condition (HAC) concentrations are provided. (Lagoons are a group too, but are to maintain their case-by-case current performance.) Endnote 3 clarifies that facilities that are already meeting (or by extension, doing better than) the requirements in Table 12B-1 for one or both nutrients and have shown that no additional feasible pollution control technology can be identified must continue to meet those levels, and develop an optimization/pollutant minimization program. See also section 2.0, paragraph 3 of Circular DEQ-12B and response to COMMENT NO. 31.

COMMENT NO. 31: Circular DEQ-12B, Section 2.0, paragraph three. This paragraph should be re-written to indicate that, for permittees whose permits renew after July 1, 2017, the proposed Table 12B-1 treatment requirements must be used to establish the permit limit, in lieu of their actual attained effluent level (if those levels are better than—i.e., at a lower concentration than—the table values).

RESPONSE: The department does not agree with the comment. The purpose of the date separation is to identify those facilities in each discharger group that already have—affordably—met the treatment requirements in Table 12B-1.

This will assure that their permit limits continue to reflect what they have already accomplished. The department will examine the 95th percentile of each facility's average monthly nutrient concentrations in order to make this distinction. For those group members that have yet to achieve the proposed limits, the department's proposed highest attainable conditions in Table 12B-1 establish the limits that are affordable to the majority of group members.

COMMENT NO. 32: Circular DEQ-12B, Section 2.0, paragraph three. The department's reference to actual concentrations "calculated as the 95th percentile of representative effluent data" is confusing. It is recommended that the department use the 95th percentile of the monthly average concentrations represented over a two year period.

RESPONSE: The department agrees that the paragraph is written in an ambiguous way and has rewritten the paragraph for clarity. The intent was to be able to make a distinction between permittees who have been consistently doing better than the proposed treatment requirements in Table 12B-1, and those that were not. Going forward, the department will use the 95th percentile of representative monthly average concentrations; the exact timeframe over which these data will be used will be left to the discretion of the permit writer, who will be most familiar with the status and recent changes (if any) at each facility.

COMMENT NO. 33: The department appears to intend to apply the general variance to permittees in the future once numeric nutrient criteria are adopted for waters into which these permittees are discharging, so it is recommended that language be included in DEQ-12B that would facilitate the understanding of how additional dischargers are eligible for the general variance.

RESPONSE: The department is working on numeric nutrient standards for additional large river segments (Yellowstone, Missouri) and may develop other nutrient standards as well. Over time, these criteria will be completed and proposed to the Board of Environmental Review for adoption into department Circular DEQ-12A. After nutrient criteria are adopted as standards, there may be dischargers along the affected waterways that need a nutrient standards variance. They will be able to apply for a variance at the time that they need one, after adoption, just as permittees on waterways with already-adopted nutrient standards can do so now. No clarifying language in the rule or circular is necessary.

COMMENT NO. 34: The department has not demonstrated that the advanced treatment technologies required to meet the highest attainable conditions are either cost effective or efficient; this should be done using specific, department-defined methods in the planning process for preparing preliminary engineering reports.

RESPONSE: While there is no requirement in Circular DEQ-2 (containing the department's requirements for preliminary engineering reports) for evaluating cost-effectiveness or efficiency, there is a requirement to prepare a cost estimate for the

selected alternative and for comparing costs between alternatives based on accepted engineering economic practices. However, there is a requirement in the Water, Wastewater and Solid Waste Action Coordinating Team (WWASACT) Preliminary Engineering Report checklist that pertains to "Cost and Effectiveness" that addresses water conservation and energy efficiency, however, that requirement is only applied to the comparison of alternatives in the planning stage of a project.

COMMENT NO. 35: The City of Helena is being penalized for being progressive in its optimization efforts prior to this new permit.

RESPONSE: The department does not agree with the comment. The City of Helena's permit will be handled in the same manner as other communities statewide, including other communities that have also instituted optimization work in the past few years. While the department commends Helena for its previous optimization efforts, the department's analysis indicates that the improvements Helena has made in effluent nitrogen concentrations still result in levels above the proposed highest attainable condition treatment level of 6 mg TN/L; thus, viewed from this perspective, Helena still has some additional work to do in order to achieve the proposed limit.

COMMENT NO. 36: Better, more innovative wastewater treatment options are available, but were not thoroughly considered. The department needs to "think outside the box" and aggressively pursue and implement novel technologies and management techniques capable of significant pollutant reductions, rather than spending finite energy, time, and resources towards meeting minimal pollutant reductions.

RESPONSE: The department is in fact monitoring advances in innovative wastewater treatment, for example anaerobic ammonium oxidation (ANAMMOX). The WERF (Water Environment & Reuse Foundation) study on full-scale application of ANAMMOX is still under way, but is likely to have yielded findings by the next triennial review. Regarding "thinking outside the box" and aggressively implementing novel technologies and management techniques, the department believes it is promoting the concepts and approaches the commenter is referring to. For example, the department has promoted advanced operational strategies at eleven WWTPs over the past five years, yielding quite a few success stories in terms of very large reductions in effluent nutrient concentrations for little cost. See 2016 report (accessed June 6, 2017) at <http://www.cleanwaterops.com/wp-content/uploads/2016/02/Montana-Report-Final-Proof.compressed.pdf>. Similarly, this year (2017), the department is financing the first full-scale application of an innovative technology (constructed floating islands) in a wastewater lagoon to be carried out in this climatic zone (continental northern temperate). The department will be carefully monitoring the wastewater treatment enhancements resulting from this application, to determine if the technology can be recommended to other Montana communities using wastewater lagoons. Should these concepts and approaches prove both successful and feasible, the department will strongly consider future implementation.

COMMENT NO. 37: Linking nitrogen and phosphorus treatment together under the general variance with technology based effluent limits fails to recognize that water quality objectives may be attained without the need to treat for both to the same extent.

RESPONSE: The department has long maintained a dual-nutrient control policy for nitrogen and phosphorus. This overarching approach is supported by the department's own scientific and technical work and is consistent with EPA recommendations. At the same time, the department recognizes that emphasis on one nutrient over the other may achieve the same water quality goals in some locations. If such findings are appropriately modeled and sufficiently documented, they can form the basis of an individual variance as described in ARM 17.30.660(4).

COMMENT NO. 38: Refractory dissolved organic compounds in effluent should be given consideration in light of achieving the proposed effluent limits of 6.0 mg TN/L and 0.3 mg TP/L.

RESPONSE: The department does not agree that these compounds should be given consideration at the proposed treatment levels (6.0 mg TN/L and 0.3 mg TP/L). As the commenter points out, refractory compounds are really an issue when treatment requirements are close to the limits of wastewater technology, which the proposed limits are not. The department does agree that refractory compounds should probably be given consideration if treatment requirements were to drop close to the limits of wastewater technology; the department stated this during deliberations of the Nutrient Work Group in advance of the original rule adoptions in 2014, and confirms it again here. The department will continue to monitor the science and technology of the refractory compound issue.

COMMENT NO. 39: The department should leave the interim wastewater treatment requirements as they are found in the 2014 version of Circular DEQ-12B.

RESPONSE: Based upon the department's required review of the general variance under 75-5-313(7), MCA, consultation with the nutrient work group, and the need to comply with updated federal requirements at 40 CFR 131.14, the department must update the wastewater treatment requirements. No change was made to the circular as a result of this comment.

COMMENT NO. 40: Twenty year variance terms are longer than necessary to meet highest attainable conditions.

RESPONSE: Wastewater treatment upgrades can be very expensive and take significant time to design, obtain funding for, construct, and optimize in order to meet the highest attainable condition (HAC). Circular DEQ-12B and the technical justification describe the nine potential steps and approximate time periods for each step, up to 17 years, that could be necessary for a discharger to comply with the HAC values.

COMMENT NO. 41: Highest attainable condition values set in this rulemaking will directly affect once-in-a-generation investments of communities making wastewater treatment upgrades. There are large differences in technology upgrades to achieve 3-5 mg TN/L vs. 6-10 mg TN/L, and it is extremely unlikely that dischargers will make more than one facility upgrade in a generation, which is to say the remaining 17 years in Montana's variance framework.

RESPONSE: Circular DEQ-12B and the technical justification describe nine steps that a discharger may need to take in order to achieve the highest attainable condition (HAC) values. Those steps include two potential capital improvement projects. The first step could be a major capital improvement project, with a potential smaller capital improvement project later, if necessary. Thus, the department does not agree that investments made in wastewater facilities will be limited to only once within the remaining variance period.

COMMENT NO. 42: It is our opinion that the Nutrient Work Group technical subcommittee did not reach consensus regarding the proposed highest attainable condition.

RESPONSE: The department hosted five meetings and provided a memo to the Nutrient Work Group (dated March 17, 2017) stating the overall findings and recommended highest attainable condition ranges resulting from these consultations. The department agrees that there were individuals at that time who felt a consensus was not achieved, and stated so in the memo.

COMMENT NO 43: The department has made no substantial progress in addressing non-point sources of nitrogen and phosphorus; addressing the nutrient pollution problem needs to be much more equitable between point and non-point sources.

RESPONSE: The department recognizes the impacts that nonpoint sources have on nutrient pollution. In addition to the work that the department's Nonpoint Source Program does annually, the department is working on developing a plan to coordinate its nonpoint source work and investments in order to leverage and reinforce the investments made by discharges to achieve point source treatment improvements.

COMMENT NO 44: 40 CFR 131.14 requires identification and documentation of cost-effective and reasonable non-point source controls for nitrogen and phosphorus. The 2017 draft rule does not address this requirement.

RESPONSE: The 40 CFR 131.14 requirements to identify and document any cost-effective and reasonable best management practices for related non-point source controls pertain to variances that apply to a waterbody. The department is adopting variances that are discharger-specific, not waterbody specific, thus that requirement does not pertain. However, the department recognizes the impact of non-point source pollution and is addressing it via its Montana Nonpoint Source

Management Plan. In addition to Montana's Nonpoint Source Management Plan, the department has adopted nutrient trading rules in Circular DEQ-13 that apply to any water body or waterbody segments where a variance could be implemented. The purpose of Circular DEQ-13 is to facilitate cost-effective and reasonable reductions in nutrients.

COMMENT NO. 45: To meet the treatment requirements in the new rules, communities will have to divert money from other projects, such as wastewater conveyance (collection system) maintenance, and school and road repairs; the public's willingness to pay will be exceeded resulting in a further downward spiral in deferred maintenance.

RESPONSE: Circular DEQ-12B, department rules, and associated guidance all take into account the economic health of communities and their ability to affordably achieve the highest attainable condition values, through an analysis of median household income and secondary scores. If a discharger determines that they cannot afford the treatment requirements Circular DEQ-12B then they may seek an individual variance.

COMMENT NO. 46: The department should not consider the cost of collection system upgrades in making its economic hardship demonstration or in determining highest attainable condition values.

RESPONSE: The department, working with the Nutrient Work Group technical subcommittee, developed a conservative cost factor for collection system upgrades in order to reflect the impact that those costs will have on wastewater fees and subsequently on the ability of dischargers to afford to meet the proposed wastewater treatment levels. See also response to COMMENT NO. 47.

COMMENT NO. 47: The department should elaborate on why all dischargers eligible for the general variance will need to include the cost of collection system upgrades.

RESPONSE: The Tetra Tech memorandum "State of Montana Wastewater System Nutrient Reduction Cost Estimates" (2016) did not take into account the cost associated with future collection system upgrades. Based on information gathered during Nutrient Work Group meetings, current wastewater fees often do not cover or only cover a small fraction of needed collection system repairs. These costs will raise future wastewater fees and impact the ability of dischargers to afford to meet different treatment levels. The department concluded it was reasonable to include some consideration of this future expense all communities will ultimately have to deal with.

COMMENT NO. 48: We support the continued maintenance of general variance groups based on discharge volume, as was originally established in statute and as remains intact in the proposed rules.

RESPONSE: The department agrees with the comment.

COMMENT NO. 49: The general variance approach conflicts with Clean Water Act requirements. The department should revise its 2017 variance rules to reflect an individualized variance process to assure compliance with customized, appropriately-stringent highest attainable conditions.

RESPONSE: The federal rule changes of 2015 allow for multiple discharger variances (which are equivalent to Montana's general nutrient standards variance). In the preamble to the Federal Register notice announcing the 40 CFR 131.14 water quality standards variances rules, see Fed. Reg. 51020, 51036 (August 21, 2015), EPA states that "States and authorized tribes may adopt WQS variances for a single discharger, multiple discharges, or a water body or waterbody segment . . ." The department (consistent with state statute) uses discharge volume or whether a facility is a lagoon or not as its multiple-discharger eligibility requirement. See also response to COMMENT NO. 14.

COMMENT NO. 50: There are not that many facilities in either the ≥ 1 MGD or < 1 MGD categories, so the department should simply establish facility-by-facility highest attainable conditions rather than developing categorical HACs.

RESPONSE: Section 75-5-313(5)(b), MCA, requires the department to establish general nutrient standards variances for these discharge groups. At this time only six POTW facilities in the < 1 MGD group and 10 facilities in the ≥ 1 MGD group will need general variances. The highest attainable condition (HAC) is set as a categorical value for each of the three groups (the third being lagoons), but how the variance is implemented and expressed in a permit will be different for each discharger based on group HAC levels, current performance, current permit treatment limits, receiving stream standards, economic health of the community or business, current treatment systems and technology, and optimization plans and implementation. Based on the analysis required under 40 CFR 131.14, the new Circular DEQ-12B represents a 40-60% decrease in group nutrient treatment levels for the ≥ 1 MGD and < 1 MGD groups over the existing nutrient treatment levels in the circular. Over the life of the variance, the rules will require that every discharger who needs a nutrient variance improve nutrient treatment for both TN and TP in one or more of the following ways: 1) dischargers who are currently at or below HAC for TN and TP will have their treatment levels capped at current performance; 2) once a discharge meets or exceeds (i.e., does better than) HAC for either TN or TP, they will be required to develop an optimization/pollutant minimization program which will result in further improvement over their existing treatment levels; 3) dischargers who have not yet achieved HAC will be required to do so as soon as they can, not to exceed the 17 years remaining in the life of the variance; 4) dischargers who have permits with treatment levels below HAC will have their treatment levels capped at the level of their current permits as a result of anti-backsliding and will have to develop an optimization/pollutant minimization program to bring treatment levels down; and 5) if a discharger cannot afford the group variance then they can seek an individual variance which will individualize the HAC and the timeline to achieve it.

Here are four examples of how the general variance values will be expressed differently depending upon the facility and will result in decreased treatment levels in all cases.

Community A has an existing permit average monthly load limit set at 241 lb/day TN which is lower (more restrictive) than the group HAC treatment requirement in Circular DEQ-12B because of the lake located directly downstream of their outfall. As a result, Community A will be capped at their current permit load of 241 lb/day TN due to anti-backsliding requirements, and also be required to develop an optimization/pollutant minimization program. For TP, Community A will be required to improve their treatment levels from the current average monthly load limit of 108 lb/day TP to approximately 23 lb/day TP under the HAC treatment requirements in Circular DEQ-12B.

Community B will be capped at TN and TP current performance because they have already been treating their effluent to concentrations lower than (better than) the HAC treatment requirements in Circular DEQ-12B, and the resulting load is more restrictive than the load that is currently included in their permit. They will need to develop an optimization/pollutant minimization program in their next permit.

Community C has not yet achieved the HAC treatment requirements in Circular DEQ-12B, and as a result will have their load limits in their permit decreased from 41 lb/day TN to 39 lb/day TN and 9.1 lb/day TP to 3.9 lb/day TP. They will be able to achieve the reduction in TN in two permit cycles which will then require them to develop an optimization/pollutant minimization program for TN, while they continue to work toward the HAC treatment requirements for TP.

Business D has an existing permit average monthly load limit, and will be capped at that level (7.5 lb/day TN) because it is lower (more restrictive) than the permit limit derived using the HAC treatment requirement in Circular DEQ-12B, which is 12.9 lb/day TN. Business D will also be required to develop an optimization/pollutant minimization program for TN. Business D's phosphorus concentrations are higher than (worse than) the HAC treatment requirements in Circular DEQ-12B, and so they will be required to improve their treatment levels from the current permit limits of 2.1 lb/day TP to 1.3 lb/day TP. See also response to COMMENT NO. 28.

COMMENT NO. 51: The nutrient standards and their implementation cannot result in a regulatory moratorium on new business in Montana.

RESPONSE: The numeric nutrient standards contained in Circular DEQ-12A are beyond the scope of this rulemaking. Pursuant to the authority granted by the Legislature at Section 75-5-313, MCA, the department is adopting amendments to ARM 17.30.660 and Circular DEQ-12B, pertaining to nutrient standards variances. The variance procedures contained in Circular DEQ-12B should allow time for nitrogen and phosphorus removal technologies to improve and become less costly.

COMMENT NO. 52: 40 CFR 131.14(a)(3) states that "A WQS variance, once adopted by the State and approved by EPA, shall be the applicable standard . . ." Because of this federal requirement, the department should reference in Circular DEQ-12B that water quality standards can be incorporated into a permit following

EPA approval.

RESPONSE: The department recognizes that under the federal regulations, the variances described in Circular DEQ-12B are not effective for Federal Clean Water Act purposes until such time as EPA issues a water quality standards approval pursuant to 40 CFR 131.21. For federal law purposes, this provision is effective without a change in Circular DEQ-12B. No change was made to Circular DEQ-12B as a result of this comment.

COMMENT NO. 53: We are not aware of any effort by DEQ or EPA to complete an environmental assessment under MEPA of the impacts of the proposed rule revisions to the nutrient criteria.

RESPONSE: Modification of the variance rule is not a state action that triggers the requirement to prepare an environmental assessment. Modification of the circular does not authorize a permittee to discharge to state waters. That authorization is contained in a discharge permit. Issuance of a discharge permit does trigger the environmental assessment, and it is at the time of permitting that actual impacts can be determined and assessed.

COMMENT NO. 54: The department's proposed revisions to the variance rules and Circular DEQ-12B are not consistent with the intent of Senate Bill 367 and the adopted enabling statute (75-5-313(5)(b), MCA) which require the department to grant a general variance to any permittee that may apply for one.

RESPONSE: The department does not agree that the 75-5-313(5)(b), MCA, requires the department to grant the general variance to any permittee under all circumstances. The enabling statute does not state that any permittee, regardless of need, is entitled to the general nutrient standards variance. The underlying numeric nutrient criteria addressed by the variance have still been retained and must be achieved, if feasible. If certain permittees are already able to achieve the numeric nutrient criteria, they are not eligible to receive a variance.

COMMENT NO. 55: In Section 2.0 of Circular DEQ-12B, the department has struck the following: ". . . a permittee who meets the end-of-pipe treatment requirements provided below in Table 12B-1 may apply for and the department shall approve a general nutrient standards variance ("general variance") (§ 75-5 - 313(5)(b), MCA)". We would like to see the following reinserted - "A permittee who meets the requirements provided below in Table 12B-1 may apply for and the department shall approve a general nutrient standards variance ("general variance") (§ 75-5 -313(5)(b), MCA)."

RESPONSE: The department agrees that 75-5-313(5)(b), MCA, provides that a variance shall be given if certain requirements are met. However, the previous language of Circular DEQ-12B has caused confusion. Because the underlying numeric nutrient criteria found at Circular DEQ-12A remain the underlying water quality standards, the department seeks to clarify that those permittees that

can currently meet the requirements of Circular DEQ-12A are not eligible to receive the general variance. Furthermore, and to the extent eligible permittees are entitled to the variance under 75-5-313(5)(b), MCA, the statute speaks for itself and there is no need to unnecessarily repeat statutory language. See 2-4-305(2), MCA.

COMMENT NO. 56: The department's process to modify Circular DEQ-12B with highest attainable condition limits is inconsistent with statute at 75-5-313(7)(b), MCA which states that "If more cost effective and efficient treatment technologies are available, the concentration levels provided in subsection (5)(b) must be updated . . ."

RESPONSE: A water quality standards variance must include the requirements that apply throughout the term of the variance; such requirements must represent the highest attainable condition as a quantifiable expression. See 40 CFR 131.14(b). The department does not agree that a quantifiable expression of the highest attainable condition is inconsistent with 75-5-313(7)(b), MCA. The statute requires the approval of a general nutrient standards variance with concentration levels and periodic updates to those levels. Following consultation with the Nutrient Work Group and appropriate justification for updating the general variance concentration levels, the department proposed the necessary updates pursuant to 75-5-313(7), MCA.

COMMENT NO. 57: Section 2.2 and 2.3 of draft Circular DEQ-12B exceed the department's authority under state statute and should be modified to align with 75-5-313(9), MCA. The department's authority is limited to receiving the optimization plan.

RESPONSE: EPA's variance regulation, 40 CFR 131.14, requires that the permittee, upon achieving the highest achievable condition, prepare a pollution minimization program. This program is the equivalent of the optimization plan required 75-5-313(9), MCA. For this reason, the circular has been modified to replace the current optimization language with the pollution minimization requirement. Section 75-5-313(9), MCA, provides that the permittee evaluate operations to optimize nutrient reduction. The department has the duty to administer and enforce the water quality statutes. To perform these functions, the department needs to review the pollutant minimization program. Therefore, the department has retained the review and approval functions. Permitting requirements are governed by subchapter 13 of the water quality rules. Therefore, reference to subchapter 13 has been added for incorporation of the pollution minimization requirements into the permit.

COMMENT NO. 58: The language to minimize the reach of ARM 17.30.619(2) in the revised edition of Circular DEQ-12B must be stricken.

RESPONSE: If any portion of Table 12B-1 is not deemed invalid or disapproved, then such portion or portions would remain in effect and general variances would still be available. A partial invalidation or approval of Table 12B-1

would be partial, whether or not the sentence to which the commenter objects is adopted. The last sentence of Section 2.0 of Circular DEQ-12B has been removed.

Reviewed by:

DEPARTMENT OF ENVIRONMENTAL
QUALITY

/s/ John F. North
JOHN F. NORTH
Rule Reviewer

BY: /s/ Tom Livers
TOM LIVERS
Director

Certified to the Secretary of State, June 12, 2017.

BEFORE THE DEPARTMENT OF TRANSPORTATION
OF THE STATE OF MONTANA

In the matter of the adoption of New Rules	)	CORRECTED NOTICE OF
I through V; transfer and amendment of	)	ADOPTION, TRANSFER AND
ARM 18.9.101, 18.9.102, 18.9.103,	)	AMENDMENT, TRANSFER, AND
18.9.104, 18.9.105, 18.9.108, 18.9.109,	)	REPEAL
18.9.111, 18.9.116, 18.9.117, 18.9.118,)	
18.9.201, 18.9.202, 18.9.203, 18.9.204,)	
18.9.205, 18.9.302, 18.9.303, 18.9.306,)	
18.9.311, 18.9.312, 18.9.321, 18.9.326,)	
18.9.401, 18.9.403, 18.9.501, 18.9.703,)	
18.9.705, 18.10.103, 18.10.104,)	
18.10.105, 18.10.108, 18.10.110,)	
18.10.111, 18.10.112, 18.10.121,)	
18.10.124, 18.10.125, 18.10.313,)	
18.10.314, 18.10.324, 18.10.406,)	
18.10.407, 18.11.102, 18.11.103,)	
18.11.104; 18.11.105, 18.11.106; transfer)	
of ARM 18.9.603, 18.9.605, 18.9.606,)	
18.9.607, 18.9.608, 18.9.701, 18.10.106,)	
18.10.503, 18.10.504, 18.10.505,)	
18.10.506, 18.10.507; and repeal of ARM)	
18.9.112, 18.9.325, 18.9.402, 18.9.601,)	
18.9.602, 18.9.704, 18.10.107, 18.10.201,)	
18.10.202, 18.10.301, 18.10.302,)	
18.10.321, 18.10.322, 18.10.323, 18.10.404,)	
and 18.11.101 pertaining to Motor Fuels)	
Tax)	

TO: All Concerned Persons

1. On August 5, 2016, the Department of Transportation published MAR Notice No. 18-161 pertaining to the proposed adoption, transfer and amendment, transfer, and repeal of the above-stated rules at page 1317 of the 2016 Montana Administrative Register, Issue Number 15. On October 14, 2016, the department published the notice of adoption, transfer and amendment, transfer, and repeal at page 1849 of the 2016 Montana Administrative Register, Issue Number 19. On December 23, 2016, the department published a corrected notice of adoption, transfer and amendment, transfer, and repeal at page 2417 of the 2016 Montana Administrative Register, Issue Number 24.

2. A statutory citation of an implementing section was incorrectly shown on ARM 18.15.102. The rule, as amended in corrected form, reads as follows, deleted matter interlined, new matter underlined:

18.15.102 WAIVER OF MOTOR FUEL PENALTIES (1) through (5) remain as adopted.

AUTH: 15-70-104, MCA

IMP: ~~15-70-210, 15-70-352~~ 15-70-417, MCA

3. The replacement page for this corrected notice will be submitted to the Secretary of State on June 30, 2017. The online version of the rule has been corrected.

/s/ Carol Grell Morris
Carol Grell Morris
Rule Reviewer

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

Certified to the Secretary of State June 12, 2017.

BEFORE THE DEPARTMENT OF TRANSPORTATION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 18.8.1502, 18.8.1503, and)
18.8.1505, pertaining to Motor Carrier)
Services Safety Requirements)

TO: All Concerned Persons

1. On May 12, 2017, the Department of Transportation published MAR Notice No. 18-162 pertaining to the proposed amendment of the above-stated rules at page 588 of the 2017 Montana Administrative Register, Issue Number 9.
2. The department has amended the above-stated rules as proposed.
3. No comments or testimony were received.

/s/ Carol Grell Morris
Carol Grell Morris
Rule Reviewer

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

Certified to the Secretary of State June 12, 2017.

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the adoption of New) NOTICE OF ADOPTION
Rules I through XIII pertaining to)
Ignition Interlock Devices)

TO: All Concerned Persons

1. On December 9, 2016, the Department of Justice published MAR Notice No. 23-3-245 pertaining to the public hearing on the proposed adoption of the above-stated rules at page 2305 of the 2016 Montana Administrative Register, Issue Number 23. On December 23, 2016, the Department of Justice published an amended notice of proposed adoption of the above-stated rules at page 2394 of the 2016 Montana Administrative Register, Issue Number 24.

2. The department has adopted the following rules as proposed: New Rule I (23.3.955), New Rule VI (23.3.970), New Rule VIII (23.3.976), and New Rule XIII (23.3.991).

3. The department has decided not to adopt New Rule IV, as explained in the response to Comment 5.

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

NEW RULE II (23.3.957) MANDATORY REQUIREMENTS FOR AN IGNITION INTERLOCK DEVICE An IID must meet the following requirements before it may be certified:

(1) Comply with all applicable standards set under the Model Specifications of the National Highway Traffic Safety Administration Model Specifications for Breath Alcohol Ignition Interlock Devices 78 FR 26849-26867 (2013), Montana Code Annotated, and ARM Title 23.

(2) and (3) remain as proposed.

(4) Require a deep lung breath sample or use an equally accurate measure of blood alcohol concentration equivalence. This requirement is met if the IID allows a minimum of ~~4500~~ 1200 ml or ~~4.5~~ 1.2 L of breath for an acceptable breath sample.

(5) through (11) remain as proposed.

(12) Be designed to permit a restart without testing within two minutes of a stall ~~of or~~ or when the ignition has been turned off, ~~except a restart will not be permitted during a violation reset.~~

(13) Once there is a failed start attempt, require an increasing wait period for subsequent attempts to initially start the vehicle. After a first failed start attempt the wait period is 5 minutes, after a second failed start attempt the wait period is 10 minutes, and for all subsequent failed start attempts within a 2-hour period the wait period is 30 minutes. The device must be capable of notifying the driver of this time

period. Acceptable forms of notification are use of an indicator light, audible tone, voice modulation, and/or count down timer.

(14) ~~Enter into~~ Require a violation mode occurs reset when the driver has:

(a) failed an initial start attempt four times within any two-hour period;

~~(b) disconnected the control head after start up;~~

~~(c) (b) circumvented or tampered with the IID device;~~

~~(d) (c) failed to have the IID serviced within the time period described in this chapter.~~

~~(15) Within five days of a violation mode, the restricted driver must service the vehicle where it must be calibrated, downloaded, and fully inspected. If the driver fails to service the vehicle within 10 days of violation reset, the device must be put into lockout mode preventing the vehicle from starting.~~

(16) Uniquely identify and record each time the vehicle is attempted to be started and/or started, the results of all tests, retests, or failures as either being a malfunction of the device or from the driver not meeting the requirements, how long the vehicle was operated, any indication of bypassing or tampering with the IID, and whether the device entered into a violation mode reset.

(17) To be certified, an ignition interlock device must be capable of being preset, by only the manufacturer, at any fail level from .02 through .09 g/210L BrAC (plus or minus .005 g/210L BrAC). The actual setting of each ignition interlock device, unless otherwise mandated by the originating court, must be .025 g/210L BrAC. The capability to change this setting must be made secure by the manufacturer.

NEW RULE III (23.3.960) APPLICATION FOR CERTIFICATION FOR AN IGNITION INTERLOCK DEVICE (1) A manufacturer must submit an application to the Motor Vehicle Division requesting a letter of certification for an IID. ~~On a case-by-case basis, the Motor Vehicle Division may accept an application submitted by a vendor.~~

(2) The manufacturer ~~or vendor~~ must:

(a) and (b) remain as proposed.

~~(c) if applicable, give the vendor's name, physical, mailing, and e-mail addresses, and phone number;~~

~~(d) (c) give the manufacturer and, if applicable, the vendor's manufacturer's representative's name, physical, mailing, and e-mail addresses, and phone number. The representative is the employee designated to act on behalf of and/or represent the applicant in all matters relating to the IID certification process, compliance, and reporting requirements with the State of Montana;~~

~~(e) (d) give a detailed description of the IID, including the instruction, installation, and troubleshooting manuals;~~

~~(f) (e) give written verification that the IID complies with all applicable standards set under the Model Specifications of the National Highway Traffic Safety Administration Model Specifications for Breath Alcohol Ignition Interlock Devices 78 FR 26849-26867 (2013), Montana Code Annotated, and ARM Title 23, including ARM 23.3.957 [New Rule II];~~

~~(g) (f) give a statement that:~~

~~(i) through (iii) remain as proposed.~~

- ~~(h)~~ (g) give the IID configuration profile;
- ~~(i)~~ (h) submit a report from an International Organization For Standardization certified testing laboratory documenting:
 - (i) remains as proposed.
 - (ii) the test results must be dated on or after May 8, ~~2014~~ 2013;
 - (iii) through (v) remain as proposed.
 - (vi) the test results must verify that the proposed IID meets or exceeds the model specifications of the National Highway Traffic Safety Administration Model Specifications for Breath Alcohol Ignition Interlock Devices 78 FR 26849-26867 (2013) and any additional requirements established by the State of Montana;
 - (vii) remains as proposed.
 - ~~(j) the applicant must give certification that the proposed IIDs are manufactured in a facility that is ISO 9001 and ISO 14001 Quality Management Systems accredited;~~
- (k) through (m) remain as proposed but are renumbered (i) through (k).

NEW RULE V (23.3.965) MANUFACTURER OR VENDOR CERTIFICATION AND INSPECTION (1) through (2)(b) remain as proposed.

- (c) give the manufacturer's ~~or vendor's~~ representative's name, physical, mailing, and e-mail addresses, and phone number. ~~The manufacturer representative is the manufacturer or vendor's employee designated to act on behalf of and/or represent the manufacturer in all matters relating to the interlock certification process with the State of Montana;~~
- (d) give the ~~manufacturer or vendor's liaison's~~ name, physical, mailing, and e-mail addresses, and phone number. ~~The manufacturer's liaison is the manufacturer or vendor's employee designated to act on behalf of and/or represent the manufacturer in all matters relating to repair, installation, and removal of IIDs;~~
- (e) and (f) remain as proposed.
- (g) certify that each lease agreement for an IID:
 - (i) gives a warning that a person who knowingly tampers with, circumvents, or otherwise misuses the IID is subject to criminal prosecution;
 - (ii) ~~states~~ describes all fees and ~~rates~~ a lessee may be charged to install, remove, repair, or service an IID;
 - (iii) gives lessees a statement of charges clearly specifying warranty details, monthly lease amount, and any other fees charged by the manufacturer or vendor any additional charges anticipated for routine calibration and service checks and what items, if any, are given without charge; and
 - (iv) remains as proposed.
- (h) give a certification that the manufacturer or vendor services the entire State of Montana with a service center within ~~400~~ 150 miles of any individual who must have an IID installed. If a manufacturer or vendor cannot give a fixed location for the ~~400~~ 150-mile requirement, then a detailed statement on how the manufacturer or vendor gives service to all of the State of Montana, including mobile or mail programs. A manufacturer or vendor may request a waiver of this requirement due to hardship;
 - (i) and (j) remain as proposed.

NEW RULE VII (23.3.974) MOTOR VEHICLE DIVISION ISSUANCE OR RENEWAL OF CERTIFICATION (1) The Motor Vehicle Division administrator or designee is authorized to issue ~~or renew~~ an IID, manufacturer, or vendor certification. The Motor Vehicle Division administrator or designee is authorized to renew a manufacturer or vendor certification.

(2) through (2)(c) remain as proposed.

(d) The Motor Vehicle Division may deny an application for certification for a manufacturer or vendor if the number of ~~certification~~ certificate holders exceeds the ability to economically sustain more than a limited number of vendors.

(3) remains as proposed.

(4) A certification is effective from the date stated on the letter and is valid for three years or until it is surrendered or revoked, except that a manufacturer is not required to renew a certified IID.

(5) remains as proposed.

NEW RULE IX (23.3.978) MODIFICATION TO A CERTIFIED IID (1) A ~~certification~~ certificate holder must immediately notify the Motor Vehicle Division, in writing, of any material modification to a certified IID. A material modification is any addition or reduction in features, software version changes, configuration profile changes, or alteration in the components and/or the design of the certified IID.

(2) and (3) remain as proposed.

NEW RULE X (23.3.980) CERTIFIED IID INSTALLATION, MAINTENANCE, CALIBRATION, REMOVAL, AND REPORTS (1) remains as proposed.

(2) At the time of installation, the certificate holder must ensure:

(a) the installer follows the manufacturer's instructions for proper installation and affixes to the IID a label ~~containing~~ substantially complying with the following notation: "Warning - This IID has been installed under the laws of the State of Montana. Attempts to disconnect, tamper with, or circumvent this IID may subject you to criminal prosecution. For more information, call (insert manufacturer, vendor, or service center's toll free number).";

(b) and (c) remain as proposed.

(3) At the time of calibration, the service center must:

(a) download data contained in an IID's memory or data logger. The manufacturer or vendor ~~certification~~ certificate holder must make an electronic copy of the client data and the results of each examination; and

(b) remove from service any IID ~~not passing calibration~~ no longer meeting the certification standards. The serial number of the device must be kept on record for three years. An IID removed from service for ~~not passing calibration~~ no longer meeting the certification standards may be placed back in service only if it is repaired to meet the standards and all repairs are documented. These records must be kept for three years.

~~(4) At the time of removal, the certification holder must:~~

~~(a) remove the IID at the direction of the referring agencies at the end of the probationary period;~~

~~(b) remove the IID if the Motor Vehicle Division notifies the holder that the device is no longer certified. The holder must ensure the immediate replacement with a certified IID;~~

~~(c) return the vehicle in normal operating condition after removal;~~

~~(d) remove the IID, if the account becomes sixty days past due. If the restricted driver does not appear for a removal appointment and makes no attempt to appear to remove the IID, the replacement cost of the IID may be added to the lessee's account. The holder must immediately notify the referring agency and the Motor Vehicle Division of the removal of the IID; and~~

~~(e) provide any final report requested by the referring agency or the Motor Vehicle Division to the requestor once the IID has been removed from a restricted driver's vehicle(s).~~

(4) At the time of removal, the certificate holder must:

(a) remove the IID at the direction of the referring agencies at the end of the probationary period;

(b) remove the IID if the Motor Vehicle Division notifies the holder that the device is no longer certified. The holder must ensure the immediate replacement with a certified IID;

(c) remove the IID, if the account becomes sixty days past due for nonpayment of fees;

(d) remove the IID, upon written authorization from the Motor Vehicle Division;

(e) return the vehicle in normal operating condition after removal;

(f) notify the referring agency and the Motor Vehicle Division of the removal of the IID within 24 hours of the removal; and

(g) provide any final report requested by the referring agency or the Motor Vehicle Division to the requestor once the IID has been removed from a restricted driver's vehicle(s).

(5) If the restricted driver does not appear for a removal appointment and makes no attempt to appear to remove the IID, the replacement cost of the IID may be added to the lessee's account.

~~(5) (6) The ~~certification~~ certificate holder must:~~

~~(a) ensure all downloaded data is reviewed. Any evidence of noncompliance, violations, or signs of tampering and/or circumvention must be reported as requested by, and in a format acceptable to the referring agency and the Motor Vehicle Division;~~

~~(b) through (d) remain as proposed.~~

~~(e) report all known IID circumventions or tampering to the Motor Vehicle Division in a Motor Vehicle Division-approved electronic format within ~~seven~~ ten days of determining that an IID was circumvented or tampered with and if requested, must report to the referring agency in a similar time line.~~

(7) The certificate holder may permit:

(a) the use of remote codes for vehicle repair by a mechanic other than the restricted driver; and

(b) the use of remote codes to override a vehicle lockout mode to facilitate the servicing of a device.

~~(6)~~ (8) The manufacturer or vendor must notify the referring agency of any violation resets within ~~five~~ ten days of the vehicle being serviced following a violation reset in a format acceptable to the referring agency.

(9) The manufacturer or vendor must notify the referring agency of any device being placed in lockout mode preventing the vehicle from being started within ten days of the vehicle being serviced following a violation reset in a format acceptable to the referring agency.

~~(7)~~ (10) In addition to any other information required by the Motor Vehicle Division or by a referring agency, all reports to the Motor Vehicle Division and the referring agency must include:

(a) the full name, address, and driver's license number of the restricted driver, ~~lessee, and registered owner;~~

(b) the full name and address of the lessee and registered owner of the vehicle the device is installed in;

(b) through (d) remain as proposed but are renumbered (c) through (e).

(8) through (10) remain as proposed but are renumbered (11) through (13).

~~(44)~~ (14) Retention of the record of installation, calibrations, downloads, service and associated invoices must be maintained by the ~~certification~~ certificate holder for a minimum of three years.

NEW RULE XI (23.3.984) ADDITIONAL REQUIREMENTS

(1) Notwithstanding other provisions of this chapter, each manufacturer of a certified IID, either on its own or through a vendor approved to do so by the manufacturer must:

(a) remains as proposed.

(b) demonstrate to the satisfaction of Motor Vehicle Division, a service delivery plan under which any restricted driver may obtain installation and routine service of that manufacturer's IID within a one hundred fifty-mile radius of his or her place of residence or to request a waiver of this requirement due to hardship;

(c) remains as proposed.

(d) maintain a twenty-four hour, three hundred sixty-five days a year toll-free telephone number for lessees and/or restricted drivers to call if they have problems with a leased IID. Calls must either be answered by ~~an ignition interlock technician qualified to service the manufacturer's IIDs, or the call must be returned by a qualified technician within thirty minutes of the original call.~~ an individual who is able to make an initial identification of the problem, or the call must be returned within one hour of the original call. If the problem cannot be immediately resolved, the original call must be forwarded to an ignition interlock technician qualified to service the manufacturer's IIDs within 12 hours of the original call.

(2) The manufacturer ~~or vendor~~ must provide to the Motor Vehicle Division ~~proof~~ a certificate of insurance on or before the expiration date listed on the current valid certificate of insurance on file with the Motor Vehicle Division that the manufacturer has ~~products~~ liability insurance coverage with minimum liability limits of one million dollars per occurrence and three million dollars aggregate.

~~(3) The manufacturer or vendor certification holder must provide to the Motor Vehicle Division proof on or before the expiration date listed on the current valid insurance on file that the certification holder has liability insurance with minimum~~

~~liability limits of one million dollars per occurrence and three million dollars aggregate.~~

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

NEW RULE XII (23.3.990) REVIEW OF DENIAL, SUSPENSION, OR REVOCATION OF CERTIFICATION (1) The administrator or designee may deny, suspend, or revoke a letter of certification for an IID, manufacturer, or vendor certification receiving evidence that any ~~letter of certification~~ certificate holder has failed to comply or no longer complies with any requirement or provision of law or this chapter. The following process will be used:

(a) through (3) remain as proposed.

(4) Administrative proceedings for revocation or other action will be promptly instituted and determined. The administrator or designee must give notice as practicable to the letter of ~~certification~~ certificate holder.

(5) remains as proposed.

5. 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: Numerous commenters requested definitions for various terms, as well as clarification on the difference between certificate holder and certification holder.

Response 1: The department agrees with the request to consistently refer to terms throughout the proposed rules. The department has amended New Rules II, VII, IX, X, XI, and XII to use a specific term consistently throughout the rules. The department also agrees that a definition rule is necessary. Based on these comments, the department will initiate a separate rulemaking to include a definition rule.

Comment 2: Commenters objected to certain requirements, including an IID must meet the current NHTSA specifications without having to revise these rules; and listed breath volume standard is not the correct NHTSA specification.

Response 2: The department agrees. The department has amended New Rules II and III so that all references require adherence to the 2013 NHTSA standards and the breath volume standard correctly states the 2013 NHTSA breath volume standard.

Comment 3: Commenters objected to the proposed mandatory requirements for an ignition interlock device rule, including: restarts during a violation reset; the lack of language to specify the increased wait period for failed start attempts; the conditions of a device being placed in a violation reset; not all violations requiring a violation reset were specified in this rule; the length of time a vehicle must be serviced after being placed in violation mode; the lack of consistency between this rule and the certified IID installation, maintenance, calibration, removal, and reports rule; no requirement to disable a device in violation reset that was not serviced as required;

lack of alcohol concentration fail level; failure to include nonpayment of fees as a violation reportable to the courts.

Response 3: The department agrees in part and disagrees in part. The department agrees and has amended New Rule II as follows: a restart without testing may be performed within 2 minutes of a stall or when the ignition has been turned off; requires specific wait periods for failed start attempts; specifies every violation requiring a device to be placed in a violation reset, excluding a control head disconnection; requires all devices to be serviced within 10 days of the violation reset; requires the IID to be disabled if the device is not serviced as required; standardizes the reporting requirements in the rules; establishes the alcohol concentration fail level.

The department disagrees and has not amended New Rule II about classifying a violation as any nonpayment of fees.

Comment 4: Commenters objected to various items in the application for certification for an ignition interlock device rule. These objections included, permitting a vendor to apply for an IID certification; lack of clarity because the rule referred to a manufacturer and a vendor representative in the same subsection; the requirement for when a IID must be tested and certified; to permit a device to be tested under the 1992 standards so long as the 2013 requirements were met; the requirement that the manufacturer plant be ISO certified plant; the ability for current vendors to be grandfathered into these rules.

Response 4: The department agrees in part and disagrees in part. The department agrees and has amended New Rule III to only allow a manufacturer to apply for an interlock device certification; corrects the consistency of terms; requires all test dates must be dated on or after May 8, 2013; strikes the requirement for all manufacturers' plants be ISO certified; and establishes an effective date for these regulations under a new rule. Based on the comments, the department rewrote (4) to move subsections, add requirements, and improve clarity.

The department disagrees and has not amended New Rule III about allowing a pre-2013 test date to be acceptable.

Comment 5: A commenter objected to the annual renewal of an ignition interlock certification and requested New Rule IV be struck.

Response 5: The department agrees and strikes New Rule IV and any reference in any other rule.

Comment 6: Various commenters objected to provisions of the manufacturer or vendor certification and inspection rule. These objections included, the requirement to list service center fees in the lease and as part of the certification application; the requirement to list the data reader download procedures in the certification application; the requirement a vendor provide a service center within specific

geographic ranges; the absence of a statement that mobile or mail-in process is an acceptable method of servicing IIDs.

Response 6: The department agrees in part and disagrees in part. The department agrees and has amended New Rule V as follows: strikes the requirement to list all service center fees in the lease as part of the certification application; increases the radius to the nearest service center; adds a provision to permit mobile or mail-in processes to service IIDs.

The department disagrees and has not amended New Rule V to remove the IID data reader download procedures included in the certification application.

Comment 7: Commenters objected to various provisions of the certified IID installation, maintenance, removal, and reports rule. These objections included, more flexible language to warn about the penalties for tampering; the process for determining when a device failed calibration; clarification for past-due accounts; the strict requirements for when an IID may be removed from a vehicle and the notification of removal; lack of clarity of reporting requirements and inconsistency in these requirements between rules; the prohibition of using remote codes; the requirements of recording certain information for the registered owner; the timing of calibration and inspection; the lack of the rule to make it a crime to fail to return an IID.

Response 7: The department agrees in part and disagrees in part. The department agrees and has amended New Rule X as follows: allows for substantial compliance with the tampering warning label; clarifies the requirement to remove any IID that no longer meets the certification standards; specifies that an IID may be removed for nonpayment of fees; specifies the conditions that an IID may be removed—to include, the end of the probationary period, or at the request of the restricted driver; overall clarifies the various reporting requirements amongst all the rules; permits remote access codes to bypass a lockout to be used under certain circumstances; and strikes certain requirements for personal information on registered owners.

The department disagrees and has not amended New Rule X about the requirement for devices to be calibrated every 65 days. The department disagrees and has not amended New Rule X to make it a crime for a driver not to return an IID as requested. This request is beyond the scope of the department's rulemaking authority.

Comment 8: Commenters objected to various provisions of the additional requirement rule, including the requirement to have a service technician available to answer service calls; the required call back period for a service call; the limitation of liability insurance to only product liability; and the requirement of insurance limits.

Response 8: The department agrees in part and disagrees in part. The department agrees and has amended New Rule XI as follows: increases the length of time to return a service call; alters the requirement of the service technician to respond to

the original call; requires the manufacturer to file a certificate of insurance and strikes the reference to product liability.

The department disagrees in part and has not amended the insurance limits. The department believes it is crucial that a manufacturer or vendor has the financial ability to resolve a claim against it.

Comment 9: Commenters requested the ability to allow for a lower breath sample volume for a restricted driver that provides medical proof that they are unable to provide the standard breath volume sample.

Response 9: The department agrees it is necessary to create an exemption to the minimum breath volume sample for diminished breath capacity. Based on these comments, the department will initiate a separate rulemaking to include this exemption.

Comment 10: A commenter objected because it was not clear the department intended to regulate service centers and to clarify the manufacturer's role of providing customer service.

Response 10: The department disagrees with this comment. New Rule X imposes various requirements on manufacturers, vendors, and service centers in the installation, calibration, maintenance, removal, and reports of ignition interlock devices.

Comment 11: A commenter requested the department specify the requirements for running retests.

Response 11: The department disagrees. The department determined that the safety concern of requiring a rolling retest outweighs the benefits of ensuring a restricted driver does not consume alcohol after a successful start. There is nothing in New Rule II that would prevent the appropriate judicial authority from requiring a rolling retest for a specific driver.

Comment 12: Commenters requested the department address the ability of a restricted driver to simply use another vehicle that does not have an interlock device installed, the ability for individuals to pay for the interlock and the creation of an indigency program, the ability for interlock providers to be reimbursed for losses, and the ability for an IID manufacturer or vendor to go offsite and retrieve the IID.

Response 12: These comments do not address the proposed rules and go outside of the scope of the department's rulemaking authority. The department cannot control an individual's decision to drive a vehicle without an IID. The department notes that if a driver is found to be in violation of their driver license restriction, they may be charged and prosecuted with violating the terms of their restricted driver license.

6. The effective date for the adoption of the above-stated rules, with the exception of New Rule IV, which is not being adopted, is January 1, 2018.

/s/ Matthew T. Cochenour
Matthew T. Cochenour
Rule Reviewer

/s/ Timothy C. Fox
Timothy C. Fox
Attorney General
Department of Justice

Certified to the Secretary of State June 12, 2017.

BEFORE THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the adoption of NEW) NOTICE OF ADOPTION AND
RULE I special identification marks,) REPEAL
and the repeal of ARM 32.18.102 age)
tally mark, 32.18.103 numeral mark,)
and 32.18.104 placement of digits)

TO: All Concerned Persons

1. On May 12, 2017, the Department of Livestock published MAR Notice No. 32-17-283 pertaining to the proposed adoption and repeal of the above-stated rules at page 592 of the 2017 Montana Administrative Register, Issue Number 9.
2. The department has adopted NEW RULE I (32.18.112) as proposed.
3. The department has repealed the other above-stated rules as proposed.
4. No comments or testimony were received.

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

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

Certified to the Secretary of State June 12, 2017.

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

In the matter of the adoption of New Rules I through III and the amendment of ARM 37.86.4401 pertaining to collaborative practice drug therapy management) NOTICE OF ADOPTION AND AMENDMENT))))

TO: All Concerned Persons

1. On April 28, 2017, the Department of Public Health and Human Services published MAR Notice No. 37-792 pertaining to the public hearing on the proposed adoption and amendment of the above-stated rules at page 475 of the 2017 Montana Administrative Register, Issue Number 8.

2. The department has adopted the following rules as proposed: New Rule I (37.86.901) and III (37.86.905).

3. The department has amended the following rule as proposed: ARM 37.86.4401.

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

NEW RULE II (37.86.902) COLLABORATIVE PRACTICE DRUG THERAPY MANAGEMENT - REQUIREMENTS AND ELIGIBILITY (1) remains as proposed.

(2) A clinical pharmacist practitioner who provides collaborative practice drug therapy management must:

(a) and (b) remain as proposed.

(c) provide care through employment or contract ~~with~~ within the physical practice of a medical practitioner or facility.

(3) remains as proposed.

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

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

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

COMMENT #1: Several commenters presented thoughts of affirmation and support that establishing the Collaborative Practice Drug Therapy Management program will provide better access and improved care to the Medicaid population.

RESPONSE #1: The department appreciates the comments submitted.

COMMENT #2: A commenter expressed concern that the service should be integrated within a medical practitioner's office and as proposed there is potential that this service could be provided in a retail pharmacy setting if all other requirements were met.

RESPONSE #2: The department concurs with this comment and has updated the proposed language to better articulate the intent of the program. Collaborative Practice Drug Therapy Management is intended to be provided within a clinical setting of a medical practitioner's office or facility.

6. These rule adoptions and amendments are effective July 1, 2017.

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

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

Certified to the Secretary of State June 12, 2017.

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 a soft back, bound 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 the accumulative table 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. |

ACCUMULATIVE TABLE

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies that have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through March 31, 2017. This table includes those rules adopted during the period December 31, 2016, through March 31, 2017, and any proposed rule action that was pending during the past 6-month period. (A notice of adoption must be published within six months of the published notice of the proposed rule.) This table does not include the contents of this issue of the Montana Administrative Register (MAR or Register).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through March 31, 2017, this table, and the table of contents of this issue of the Register.

This table indicates the department name, title number, rule numbers in ascending order, catchphrase or the subject matter of the rule, and the page number at which the action is published in either the 2016 or 2017 Montana Administrative Register.

To aid the user, the Accumulative Table includes rulemaking actions of such entities as boards and commissions listed separately under their appropriate title number.

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EXECUTIVE BRANCH APPOINTEES AND VACANCIES

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

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

In this issue, appointments effective in May 2017 appear. Vacancies scheduled to appear from July 1, 2017 through September 30, 2017, are listed, as are current vacancies due to resignations or other reasons. Individuals interested in serving on a board should refer to the bill that created the board for details about the number of members to be appointed and necessary qualifications.

Each month, the previous month's appointees are printed, and current and upcoming vacancies for the next three months are published.

IMPORTANT

Membership on boards and commissions changes constantly. The following lists are current as of June 1, 2017.

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 MAY 2017

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of County Printing			
Commissioner Carol Brooker Thompson Falls Qualifications (if required): County Commissioner	Governor	Reappointed	5/19/2017 4/1/2019
Commissioner Laura Obert Townsend Qualifications (if required): County Commissioner	Governor	Reappointed	5/19/2017 4/1/2019
Mr. Scott Turner Billings Qualifications (if required): Member of the printing industry	Governor	Reappointed	5/19/2017 4/1/2019
Mr. Jim Strauss Great Falls Qualifications (if required): Member of the printing industry	Governor	Reappointed	5/19/2017 4/1/2019
Mr. Roger Wagner Nashua Qualifications (if required): Member of the general public	Governor	Reappointed	5/19/2017 4/1/2019
Board of Dentistry			
Mr. Clifford R. Christenot Libby Qualifications (if required): Denturist	Governor	Reappointed	5/12/2017 4/1/2022

BOARD AND COUNCIL APPOINTEES FROM MAY 2017

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Dentistry Cont.			
Ms. Diedri Durocher Great Falls Qualifications (if required): Dental hygienist	Governor	Porter	5/12/2017 4/1/2022
Dr. Leslie A. Hayes Belgrade Qualifications (if required): Dentist	Governor	Johnson	5/12/2017 4/1/2022
Board of Hail Insurance			
Mr. Gary D. Gollehon Brady Qualifications (if required): Public member and will serve as Presiding Officer	Governor	Reappointed	5/31/2017 5/1/2020
Commissioner Matt Rosendale Helena Qualifications (if required): State Auditor	Governor	Lindeen	5/31/2017 1/1/2021
Board of Investments			
Mr. Mark E. Noennig Billings Qualifications (if required): Representative of Small Business	Governor	Reappointed	5/31/2017 1/1/2021
Mr. Jack Prothero Great Falls Qualifications (if required): Representative of the financial community	Governor	Reappointed	5/31/2017 1/1/2021

EXECUTIVE BRANCH APPOINTEES FOR MAY 2017

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Investments Cont.			
Ms. Maggie Jean Peterson Anaconda	Governor	Wilson	5/31/2017 1/1/2021
Qualifications (if required): Member of the Public Employees' Retirement Board			
Mr. Jeffrey A. Greenfield Shepherd	Governor	Ryan	5/31/2017 1/1/2021
Qualifications (if required): Member of the Teachers' Retirement Board			
Board of Outfitters			
Mr. Todd Clifford Earp Corvallis	Governor	Tabor	5/31/2017 10/1/2019
Qualifications (if required): Outfitter			
Board of Realty Regulation			
Ms. Julie Lingle Gardner Missoula	Governor	Goodover	5/12/2017 5/1/2020
Qualifications (if required): Licensed Real Estate Broker, salespeople or property manager			
Mr. Ric Smith Polson	Governor	Reappointed	5/12/2017 5/1/2021
Qualifications (if required): Licensed real estate broker, salespeople or property manager			
Mr. Harry Freebourn Butte	Governor	Boland	5/19/2017 5/1/2021
Qualifications (if required): Representative of the public			

EXECUTIVE BRANCH APPOINTEES FOR MAY 2017

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Review			
Director Sheila Hogan Helena	Governor	Opper	5/31/2017 1/1/2021
Qualifications (if required): Director of the Department of Public Health and Human Services			
Director Mike Kadas Helena	Governor	New	5/31/2017 1/1/2021
Qualifications (if required): Director of the Department of Revenue, Presiding Officer			
Atty. Gen. Tim Fox Helena	Governor	New	5/31/2017 1/1/2021
Qualifications (if required): Attorney General, Director of the Department of Justice			
Director Tom Livers Helena	Governor	New	5/31/2017 1/1/2021
Qualifications (if required): Director of the Department of Environmental Quality			
Commissioner Pam Bucy Helena	Governor	New	5/31/2017 1/1/2021
Qualifications (if required): Commissioner of the Department of Labor and Industry			
Ms. Angela Wong Helena	Governor	not listed	5/31/2017 1/1/2021
Qualifications (if required): Agency requesting inclusion			

EXECUTIVE BRANCH APPOINTEES FOR MAY 2017

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Review Cont.			
Director Mike Honeycutt Helena	Governor	New	5/31/2017 1/1/2021
Qualifications (if required):	Director of the Department of Livestock		
Director Ben Thomas Helena	Governor	de Yong	5/31/2017 1/1/2021
Qualifications (if required):	Director of the Department of Agriculture		
Building Codes Council			
Director Sheila Hogan Helena	Governor	Opper	5/31/2017 1/1/2021
Qualifications (if required):	Director of the Department of Public Health and Human Services		
Mr. Matthew Lemert Livingston	Governor	Smith	5/31/2017 10/1/2017
Qualifications (if required):	Licensed plumber selected by the Board of Plumbers		
Burial Preservation Board			
Mr. William Big Day Crow Agency	Governor	Reed	5/5/2017 9/1/2018
Qualifications (if required):	Crow Tribe Representative		

EXECUTIVE BRANCH APPOINTEES FOR MAY 2017

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Capitol Complex Advisory Council			
Mr. Bruce Whittenberg Helena Qualifications (if required): Director of the Montana Historical Society	Governor	New	5/31/2017 1/1/2021
Mrs. Carol Williams Missoula Qualifications (if required): Public Member	Governor	Reappointed	5/31/2017 1/1/2021
Mrs. Sheena Wilson Helena Qualifications (if required): Public Member	Governor	Reappointed	5/31/2017 1/1/2021
Director John Lewis Helena Qualifications (if required): Director of the Department of Administration	Governor	Hogan	5/31/2017 1/1/2021
Drought and Water Supply Advisory Committee			
Lt. Governor Mike Cooney Helena Qualifications (if required): Representative of the Governor	Governor	New	5/31/2017 1/1/2021
Director Tom Livers Helena Qualifications (if required): Director of the Department of Environmental Quality	Governor	New	5/31/2017 1/1/2021

EXECUTIVE BRANCH APPOINTEES FOR MAY 2017

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Drought and Water Supply Advisory Committee Cont.			
Major General Matthew T. Quinn Fort Harrison	Governor	New	5/31/2017 1/1/2021
Qualifications (if required): Director of the Department of Military Affairs			
Director John Tubbs Helena	Governor	New	5/31/2017 1/1/2021
Qualifications (if required): Director of the Department of Natural Resources and Conservation			
Director Pam Haxby-Cote Helena	Governor	New	5/31/2017 1/1/2021
Qualifications (if required): Director of the Department of Commerce			
Director Mike Honeycutt Helena	Governor	New	5/31/2017 1/1/2021
Qualifications (if required): Director of the Department of Livestock			
Director Martha Williams Helena	Governor	Hagener	5/31/2017 1/1/2021
Qualifications (if required): Director of the Department of Fish, Wildlife and Parks			
Director Ben Thomas Helena	Governor	New	5/31/2017 1/1/2021
Qualifications (if required): Director of the Department of Agriculture			

EXECUTIVE BRANCH APPOINTEES FOR MAY 2017

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Fish and Wildlife Commission			
Mr. Shane Colton Billings Qualifications (if required): District 5	Governor	Tourlotte	5/12/2017 1/1/2021
Mr. Grover Bennett Aldrich Missoula Qualifications (if required): District 1	Governor	Tollefson	5/12/2017 1/1/2021
Flathead Basin Commission			
Director Tom Livers Helena Qualifications (if required): Director of the Department of Environmental Quality	Governor	New	5/31/2017 1/1/2021
Director John Tubbs Helena Qualifications (if required): Director of the Department of Natural Resources and Conservation	Governor	New	5/31/2017 1/1/2021
Director Martha Williams Helena Qualifications (if required): Director of the Department of Fish, Wildlife and Parks	Governor	Hagener	5/31/2017 1/1/2021
Future Fisheries Review Panel			
Mr. Alan Davis Johnstone Wilsall Qualifications (if required): Expertise in commercial agriculture	Governor	Reappointed	5/12/2017 7/1/2018

EXECUTIVE BRANCH APPOINTEES FOR MAY 2017

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Future Fisheries Review Panel Cont.			
Mr. James Stone Ovando	Governor	Reappointed	5/12/2017 7/1/2018
Qualifications (if required): Expertise in irrigated agriculture			
Ms. Nancy Sue Winslow Missoula	Governor	Reappointed	5/12/2017 7/1/2018
Qualifications (if required): Expertise in mining reclamation techniques			
Grass Conservation Commission			
Mr. Jeffrey Allen Willmore Roy	Governor	Reappointed	5/31/2017 1/1/2020
Qualifications (if required): Holds an active grazing preference rights within a state district			
Mr. Gregory Martin Oxarart Malta	Governor	Reappointed	5/31/2017 1/1/2020
Qualifications (if required): Officer of or serves on the board of directors of a state district			
Land Information Advisory Council			
Ms. Jennie Stapp Helena	Governor	New	5/31/2017 1/1/2021
Qualifications (if required): State Librarian			
Mr. Ron Baldwin Helena	Governor	New	5/31/2017 1/1/2021
Qualifications (if required): Chief Information Officer			

EXECUTIVE BRANCH APPOINTEES FOR MAY 2017

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Montana Alfalfa Seed Committee			
Director Ben Thomas Helena	Governor	de Yong	5/31/2017 1/1/2021
Qualifications (if required): Director of the Department of Agriculture			
Montana HELP Act Oversight Committee			
Ms. Jessica Rhoades Helena	Governor	Veazey	5/19/2017 6/30/2019
Qualifications (if required): Member of the general public or a staff member of the Governor's Office			
Rail Service Competition Council			
Director Mike Kadas Helena	Governor	New	5/31/2017 1/1/2021
Qualifications (if required): Director of the Department of Revenue			
Mr. Todd O'Hair Helena	Governor	Reappointed	5/31/2017 1/1/2021
Qualifications (if required): Substantial knowledge and experience related to transportation for the coal industry			
Mr. Jerry Dean Jimison Glendive	Governor	Reappointed	5/31/2017 1/1/2021
Qualifications (if required): Substantial knowledge and experience related to Class I railroads			
Director Mike Tooley Helena	Governor	New	5/31/2017 1/1/2021
Qualifications (if required): Director of the Department of Transportation			

EXECUTIVE BRANCH APPOINTEES FOR MAY 2017

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Rail Service Competition Council Cont.			
Mr. Eric Doheny Dutton Qualifications (if required): Producer	Governor	Reappointed	5/31/2017 1/1/2021
Director Ben Thomas Helena Qualifications (if required): Director of the Department of Agriculture	Governor	New	5/31/2017 1/1/2021
Mr. Craig A. Gilchrist Glasgow Qualifications (if required): Substantial knowledge and experience related to Class II railroads	Governor	Grewell	5/31/2017 1/1/2019
Trauma Care Committee			
Ms. Lauri Jackson Great Falls Qualifications (if required): Member from the Central Regional Trauma Care Advisory Committee	Governor	Reappointed	5/31/2017 11/1/2020
Mr. Bradley Louis Von Bergen Billings Qualifications (if required): Member from the Eastern Regional Trauma Care Advisory Committee	Governor	Reappointed	5/31/2017 11/1/2020
Dr. John Bradley Pickhardt Missoula Qualifications (if required): Member from the Western Regional Trauma Care Advisory Committee	Governor	Reappointed	5/31/2017 11/1/2020

EXECUTIVE BRANCH APPOINTEES FOR MAY 2017

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Trauma Care Committee Cont.			
Mr. Robert Michael Dowdy Lewistown	Governor	Haraldson	5/31/2017 11/1/2020
Qualifications (if required):	Representative of the Montana Hospital Association		
Mr. Clinton Loss Helena	Governor	Box	5/31/2017 11/1/2019
Qualifications (if required):	Montana Emergency Medical Services Association		

EXECUTIVE BRANCH VACANCIES -- JULY 1, 2017 THROUGH SEPTEMBER 30, 2017

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
9-1-1 Advisory Council		
Mr. Geoff Feiss, Helena Qualifications (if required): Montana Telephone Company	Director	9/1/2017
Mr. Chuck Winn, Bozeman Qualifications (if required): Representative of the Montana League of Cities and Towns	Director	9/1/2017
Ms. Lisa Kelly, Kalispell Qualifications (if required): Montana Telephone Company	Director	9/1/2017
Mrs. Kimberly Burdick, Fort Benton Qualifications (if required): Representative of the Montana Association of Public Safety	Director	9/1/2017
Mr. Terry Ferestad, Billings Qualifications (if required): Montana Telephone Company	Director	9/1/2017
Captain Tom Butler, Belgrade Qualifications (if required): Department of Justice	Director	9/1/2017
Ms. Heather Roos, Miles City Qualifications (if required): Public Safety Answering Point Manager serving a population of less than 30,000	Director	9/1/2017
Administrator Delila Bruno, Fort Harrison Qualifications (if required): Representative of the Department of Military Affairs	Director	9/1/2017
Mr. Rick Musson, Laurel Qualifications (if required): Representative of the Montana Association of Chiefs of Police	Director	9/1/2017

EXECUTIVE BRANCH VACANCIES -- JULY 1, 2017 THROUGH SEPTEMBER 30, 2017

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
9-1-1 Advisory Council Cont.		
Ms. Jennie Stapp, Helena Qualifications (if required): State Librarian	Director	9/1/2017
Mr. Ron Baldwin, Helena Qualifications (if required): Department of Administration Designee	Director	9/1/2017
Mr. Kevin Box, Whitehall Qualifications (if required): Montana Emergency Medical Services Association	Director	9/1/2017
Captain Curt Stinson, Helena Qualifications (if required): Montana Association of Chiefs of Police	Governor	9/1/2017
Sheriff Chris Hoffman, Hamilton Qualifications (if required): Representative of the Montana Sheriffs and Peace Officers Association	Director	9/1/2017
Mr. Bill Hunter, Great Falls Qualifications (if required): Public Safety Answering Point Manager serving a population over 30,000	Director	9/1/2017
Chief Leonard Lundby, Great Falls Qualifications (if required): Representative of the Montana Fire Chiefs Association	Director	9/1/2017
Commissioner Gary McDonald, Wolf Point Qualifications (if required): Representative of the Montana Association of Counties	Director	9/1/2017
Chief Greg Megaard, Bozeman Qualifications (if required): Representative of the Montana Fire Chiefs Association	Director	9/1/2017

EXECUTIVE BRANCH VACANCIES -- JULY 1, 2017 THROUGH SEPTEMBER 30, 2017

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Achieving a Better Life Experience (ABLE) Program Oversight Committee		
Mr. Jon Bennion, Helena Qualifications (if required): Experience working on behalf of disabled individuals	Governor	9/1/2017
Board of Alternative Health Care		
Ms. Molly Danison, Missoula Qualifications (if required): Midwife	Governor	9/1/2017
Board of Funeral Service		
Mr. Ronald E. Brothers, Hamilton Qualifications (if required): Mortician	Governor	7/1/2017
Mr. Bart Thompson, Helena Qualifications (if required): Cemeterian	Governor	7/1/2017
Mr. John Tarr, Helena Qualifications (if required): Public Representative	Governor	7/1/2017
Board of Hearing Aid Dispensers		
Ms. Mary Eve Tolbert, St. Ignatius Qualifications (if required): Hearing Aid Dispenser	Governor	7/1/2017
Mr. Michael Spinti, Great Falls Qualifications (if required): Hearing Aid Dispenser	Governor	7/1/2017

EXECUTIVE BRANCH VACANCIES -- JULY 1, 2017 THROUGH SEPTEMBER 30, 2017

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Board of Medical Examiners		
Ms. Carole Erickson, Missoula Qualifications (if required): Public Representative	Governor	9/1/2017
Mr. Dwight Thompson, Harlowton Qualifications (if required): PA Certified	Governor	9/1/2017
Dr. Kristin Spanjian, Billings Qualifications (if required): Doctor of Medicine	Governor	9/1/2017
Ms. Patricia Bollinger, Helena Qualifications (if required): Nutritionist	Governor	9/1/2017
Mr. Charles Farmer, Cut Bank Qualifications (if required): Volunteer Emergency Medical Technician	Governor	9/1/2017
Mrs. Ana Diaz, Billings Qualifications (if required): Public Representative	Governor	9/1/2017
Board of Nursing		
Ms. Sharon Sweeney Fee, Livingston Qualifications (if required): Registered Nurse practicing in a rural health care facility	Director	7/1/2017
Board of Physical Therapy Examiners		
Mr. Brian Miller, Kalispell Qualifications (if required): Licensed Physical Therapist	Governor	7/1/2017

EXECUTIVE BRANCH VACANCIES -- JULY 1, 2017 THROUGH SEPTEMBER 30, 2017

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Board of Plumbers		
Mr. Steven R. Henry, Billings	Governor	7/1/2017
Qualifications (if required): Rep. of the public who is not engaged in business of installing or selling plumbing		
Board of Private Alternative Adolescent Outdoor and Residential Treatment Programs		
Senator Trudi Schmidt, Great Falls	Governor	7/1/2017
Qualifications (if required): Public Representative		
Mr. John Santa, Marion	Governor	7/1/2017
Qualifications (if required): Adolescent Treatment Program Nominee		
Ms. Penny James, Trout Creek	Governor	7/1/2017
Qualifications (if required): Adolescent Treatment Program Nominee		
Ms. Pamela Carbonari, Kalispell	Governor	7/1/2017
Qualifications (if required): Public Representative		
Mr. Rick Johnson, Kalispell	Governor	7/1/2017
Qualifications (if required): Adolescent Treatment Program Nominee		
Board of Private Security		
Mr. James Thomas, Helena	Governor	8/1/2017
Qualifications (if required): Public Safety Officer Standards and Training Council Representative		
Ms. Holly Dershem-Bruce, Glendive	Governor	8/1/2017
Qualifications (if required): Public Representative		

EXECUTIVE BRANCH VACANCIES -- JULY 1, 2017 THROUGH SEPTEMBER 30, 2017

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Board of Psychologists Representative Linda L. Holden, Valier Qualifications (if required): public representative	Governor	9/1/2017
Board of Public Accountants Ms. Linda Harris, Absarokee Qualifications (if required): Public Accountant	Governor	7/1/2017
Mr. Daniel Vuckovich, Great Falls Qualifications (if required): Public Accountant	Governor	7/1/2017
Board of Radiologic Technologists Mr. C.E. "Abe" Abramson, Missoula Qualifications (if required): Public Member	Governor	7/1/2017
Ms. Janet Fuller, Anaconda Qualifications (if required): Radiologic Technologist	Governor	7/1/2017
Board of Research and Commercialization Technology Mr. David William Opitz, Missoula Qualifications (if required): Public Member	Governor	7/1/2017
Board of Sanitarians Mayor Gene Townsend, Three Forks Qualifications (if required): Public Representative	Governor	7/1/2017

EXECUTIVE BRANCH VACANCIES -- JULY 1, 2017 THROUGH SEPTEMBER 30, 2017

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Board of Sanitarians Cont.		
Ms. Susan K. Brueggeman, Polson Qualifications (if required): Registered Sanitarian	Governor	7/1/2017
Mr. Eugene Pizzini, Helena Qualifications (if required): Public Representative	Governor	7/1/2017
Board of Trustees of the Montana Historical Society		
BG (Ret.) Harold Joseph Stearns, Missoula Qualifications (if required): Historian	Governor	7/1/2017
Mr. Stephen W. Lozar, Polson Qualifications (if required): Public Member	Governor	7/1/2017
Mr. Kent Kleinkopf, Missoula Qualifications (if required): Public Member	Governor	7/1/2017
Ms. Leslie Halligan, Missoula Qualifications (if required): Public Member	Governor	7/1/2017
Board of Veterans' Affairs		
Mr. Joren Underdahl, Columbia Falls Qualifications (if required): Representative from the Department of Public Health and Human Services	Governor	7/1/2017
Mr. Byron Erickson, Helena Qualifications (if required): U.S. Department of Labor Representative	Governor	8/1/2017

EXECUTIVE BRANCH VACANCIES -- JULY 1, 2017 THROUGH SEPTEMBER 30, 2017

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Board of Veterans' Affairs Cont. Mr. Clarence Sivertsen, Black Eagle Qualifications (if required): Veteran, Region 3	Governor	8/1/2017
Mr. Dan Bernhardt, Helena Qualifications (if required): US Department of Labor Representative	Governor	8/1/2017
Board of Veterinary Medicine Ms. Barbara Calm, Kila Qualifications (if required): Veterinarian	Governor	7/31/2017
Burial Preservation Board Mr. Steve Platt, Helena Qualifications (if required): Montana State Historic Preservation Officer	Governor	9/1/2017
Ms. Marilyn Silva, Miles City Qualifications (if required): Representative of the public	Governor	9/1/2017
Ms. Skye Gilham, Browning Qualifications (if required): Physical anthropologist	Governor	9/1/2017
Capitol Complex Advisory Council Mrs. Carol Williams, Missoula Qualifications (if required): Public Member	Governor	7/1/2017

EXECUTIVE BRANCH VACANCIES -- JULY 1, 2017 THROUGH SEPTEMBER 30, 2017

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Certification Committee for Developmental Disabilities Professionals		
Ms. Rebecca DeCamara, Helena Qualifications (if required): Representative of the Developmental Disabilities Program	Director	9/1/2017
Ms. Deborah Swingley, Helena Qualifications (if required): none specified	Director	9/1/2017
Dr. Michelle McCall, Helena Qualifications (if required): Representative of the Developmental Disabilities Program	Director	9/1/2017
Mr. Sam Morgenroth, Helena Qualifications (if required): Chair appointed by the Governor	Governor	9/1/2017
Mr. Sherman Weimer, Miles City Qualifications (if required): none specified	Director	9/1/2017
Commission on Community Service		
Ms. Danette Rector, Missoula Qualifications (if required): Not-for-Profit Agency	Governor	7/1/2017
Ms. Julie Seedhouse, Billings Qualifications (if required): Public Representative	Governor	7/1/2017
Dr. Sandra Boham, Pablo Qualifications (if required): Tribal Member	Governor	7/1/2017

EXECUTIVE BRANCH VACANCIES -- JULY 1, 2017 THROUGH SEPTEMBER 30, 2017

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Commission on Community Service Cont.		
Mr. Charles Wetherington, Billings Qualifications (if required): Public Representative	Governor	7/1/2017
Committee on Telecommunications Access Services for Persons with Disabilities		
Ms. Pat Ingalls, Butte Qualifications (if required): Licensed Audiologist	Governor	7/1/2017
Mr. Drew Arnot, Missoula Qualifications (if required): Member from an Independent Service Provider	Governor	7/1/2017
Ms. Marilyn Delores Daumiller, Helena Qualifications (if required): Non-disabled senior citizen	Governor	7/1/2017
Economic Development Advisory Council		
Ms. Kathie Bailey, Lewistown Qualifications (if required): Snowy Mountain Development Corporation Region Representative	Governor	7/1/2017
Representative Julie E. French, Scobey Qualifications (if required): Great Northern Development Corporation Region Representative	Governor	7/1/2017
Mr. Brent Campbell, Missoula Qualifications (if required): Public Representative	Governor	7/1/2017
Mr. Luke Walawander, Joliet Qualifications (if required): Beartooth Resource Conservation and Development Region Representative	Governor	7/1/2017

EXECUTIVE BRANCH VACANCIES -- JULY 1, 2017 THROUGH SEPTEMBER 30, 2017

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Economic Development Advisory Council Cont. Mr. Chad Cottet, Polson Qualifications (if required): Lake County Community Development Corporation Region Representative	Governor	7/1/2017
Family Education Savings Program Oversight Committee Mr. Robert W. Minto Jr., Missoula Qualifications (if required): Public Representative	Governor	7/1/2017
Ms. Joella Bloomgren, Great Falls Qualifications (if required): Public Representative	Governor	7/1/2017
Future Fisheries Review Panel Mr. Joseph Willauer, Butte Qualifications (if required): Licensed Montana angler	Governor	7/1/2017
Mr. Michael Paul Johns, Bozeman Qualifications (if required): Licensed Montana angler	Governor	7/1/2017
Ms. Meriwether Schroeer, Helena Qualifications (if required): Montana High School Student	Governor	7/1/2017
Mr. William Frank Wichers, Hamilton Qualifications (if required): Member with expertise in fisheries	Governor	7/1/2017

EXECUTIVE BRANCH VACANCIES -- JULY 1, 2017 THROUGH SEPTEMBER 30, 2017

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Governor's Advisory Council on Aging Senator Dan W. Harrington, Butte Qualifications (if required): Public Representative	Governor	7/1/2017
Mr. John C. Melton, Chester Qualifications (if required): Public Representative	Governor	7/1/2017
Mr. Robert C. Meyers, Great Falls Qualifications (if required): Public Representative	Governor	7/1/2017
Ms. Peggy Lynne Tombre, Bozeman Qualifications (if required): Public Representative	Governor	7/1/2017
Governor's Postsecondary Scholarship Advisory Council Mr. Devin Wertman, Colstrip Qualifications (if required): Experience in financial aid at a postsecondary institution	Governor	7/1/2017
Historical Society Board of Trustees Mr. George Dennison, Missoula Qualifications (if required): Montana General Public	Governor	7/1/2017
Judicial Standards Commission Mr. John Murphy, Great Falls Qualifications (if required): Public Representative	Governor	7/1/2017

EXECUTIVE BRANCH VACANCIES -- JULY 1, 2017 THROUGH SEPTEMBER 30, 2017

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Labor-Management Advisory Council		
Lt. Governor Mike Cooney, Helena Qualifications (if required): none specified	Director	7/1/2017
Mr. Don Judge, Helena Qualifications (if required): none specified	Director	7/1/2017
Mr. Bill Dahlgren, Missoula Qualifications (if required): none specified	Director	7/1/2017
Mr. Doug Buman, Seattle, WA Qualifications (if required): none specified	Director	7/1/2017
Ms. Annette Hoffman, Billings Qualifications (if required): none specified	Director	7/1/2017
Mr. Bob Worthington, Helena Qualifications (if required): none specified	Director	7/1/2017
Mr. Marvin Jordan, Great Falls Qualifications (if required): none specified	Director	7/1/2017
Mr. Chris Cavazos, Helena Qualifications (if required): none specified	Director	7/1/2017
Mr. Eric Strauss, Helena Qualifications (if required): none specified	Director	7/1/2017

EXECUTIVE BRANCH VACANCIES -- JULY 1, 2017 THROUGH SEPTEMBER 30, 2017

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Labor-Management Advisory Council Cont.		
Mr. Lance Zanto, Helena Qualifications (if required):	Governor	7/1/2017
Low Income Energy Programs Policy Advisory Council		
Mr. Jason Smith, Helena Qualifications (if required): Special qual. with respect to solving the problems experienced by low-income	Director	7/30/2017
Ms. Tina Shorten, Helena Qualifications (if required): Special qual. with respect to solving the problems experienced by low-income	Director	7/30/2017
Ms. Pamela Hanson, Butte Qualifications (if required): Special qual. with respect to solving the problems experienced by low-income	Director	7/30/2017
Mr. Kane Quenemoen, Helena Qualifications (if required): Special qual. with respect to solving the problems experienced by low-income	Director	7/30/2017
Mr. Brian Steffen, Glendive Qualifications (if required): Special qual. with respect to solving the problems experienced by low-income	Director	7/30/2017
Montana Agriculture Development Council		
Ms. Patricia Quisno, Harlem Qualifications (if required): Agriculture Experience	Governor	7/1/2017
Mr. James Stone, Ovando Qualifications (if required): Agriculture Experience	Governor	7/1/2017

EXECUTIVE BRANCH VACANCIES -- JULY 1, 2017 THROUGH SEPTEMBER 30, 2017

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Montana Agriculture Development Council Cont.		
Mr. Lars Wesley Hanson, Edgar Qualifications (if required): Agriculture Experience	Governor	7/1/2017
Ms. Tara Mastel, Whitehall Qualifications (if required): Representative who is or was actively engaged in agriculture	Governor	7/1/2017
Montana Mint Committee		
Mr. Kenneth W. Smith, Kalispell Qualifications (if required): Mint Grower	Governor	7/1/2017
Montana Organic Commodity Advisory Council		
Mr. Gene Thayer, Great Falls Qualifications (if required): Organic Handler Representative	Director	7/1/2017
Director Ron de Yong, Helena Qualifications (if required): Director of the Department of Agriculture	Director	7/1/2017
Ms. Alison Harmon, Bozeman Qualifications (if required): Organic Handler Representative	Director	7/1/2017
Mr. Matt Johnson, Hinsdale Qualifications (if required): Organic Handler Representative	Director	7/1/2017
Mr. Ty O'Connor, Broadus Qualifications (if required): Organic Handler Representative	Director	7/1/2017

EXECUTIVE BRANCH VACANCIES -- JULY 1, 2017 THROUGH SEPTEMBER 30, 2017

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Montana Organic Commodity Advisory Council Cont.		
Ms. Catherine Odden, Dutton Qualifications (if required): Organic Handler Representative	Director	7/1/2017
Mr. Karl Sutton, Polson Qualifications (if required): Organic Handler Representative	Director	7/1/2017
Mr. Mark Smith, Lavina Qualifications (if required): Organic Handler Representative	Director	7/1/2017
Mr. Sam Schmidt, Great Falls Qualifications (if required): Organic Handler	Governor	7/1/2017
Montana Poet Laureate		
Mr. Michael Earl Craig, Livingston Qualifications (if required): none specified	Governor	8/1/2017
Montana State Workforce Innovation Board		
Ms. Arlene Templer, Pablo Qualifications (if required): Tribal Government Representative	Governor	7/1/2017
Ms. Billie Lee, Ronan Qualifications (if required): Business Representative	Governor	7/1/2017
Mr. Paul Gatzemeier, Billings Qualifications (if required): Business Representative	Governor	7/1/2017

EXECUTIVE BRANCH VACANCIES -- JULY 1, 2017 THROUGH SEPTEMBER 30, 2017

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Montana State Workforce Innovation Board Cont.		
Commissioner Michael McGinley, Dillon Qualifications (if required): Local Government Elected Official	Governor	7/1/2017
Director Richard Opper, Helena Qualifications (if required): Director of the Department of Public Health and Human Services or designee	Governor	7/1/2017
Mr. Bill Hunt Jr., Shelby Qualifications (if required): Business Representative	Governor	7/1/2017
Mr. Jay Reardon, Helena Qualifications (if required): Workforce Representative	Governor	7/1/2017
Mr. Dave Crum, Great Falls Qualifications (if required): Business Representative	Governor	7/1/2017
Mr. Kirk Hammerquist, Kalispell Qualifications (if required): Business Representative	Governor	7/1/2017
Ms. Jacquie Helt, Missoula Qualifications (if required): Workforce Representative	Governor	7/1/2017
Commissioner Clayton Christian, Helena Qualifications (if required): Commissioner of Higher Education or designee	Governor	7/1/2017
Mr. Robert W. Minto Jr., Missoula Qualifications (if required): Business Representative	Governor	7/1/2017

EXECUTIVE BRANCH VACANCIES -- JULY 1, 2017 THROUGH SEPTEMBER 30, 2017

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Montana State Workforce Innovation Board Cont.		
Superintendent Denise Juneau, Helena Qualifications (if required): State Superintendent of Public Instruction or designee	Governor	7/1/2017
Governor Steve Bullock, Helena Qualifications (if required): Governor or designee	Governor	7/1/2017
Ms. Tina Bundtrock, Great Falls Qualifications (if required): Business Representative	Governor	7/1/2017
Mr. Alan Ekblad, Great Falls Qualifications (if required): Workforce Representative	Governor	7/1/2017
Commissioner Pam Bucy, Helena Qualifications (if required): Commissioner of the Department of Labor and Industry	Governor	7/1/2017
Ms. Jane Weber, Great Falls Qualifications (if required): Local government elected official	Governor	7/1/2017
Mr. Larry Hall, Ronan Qualifications (if required): Business Representative	Governor	7/1/2017
Mr. Jasyn Harrington, Helena Qualifications (if required): Community Organization Representative	Governor	7/1/2017
Mr. Niles Hushka, Bozeman Qualifications (if required): Business Representative	Governor	7/1/2017

EXECUTIVE BRANCH VACANCIES -- JULY 1, 2017 THROUGH SEPTEMBER 30, 2017

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Montana State Workforce Innovation Board Cont. Ms. Loren Rose, Seeley Lake Qualifications (if required): Business Representative	Governor	7/1/2017
Mr. John McKee, Butte Qualifications (if required): Business Representative	Governor	7/1/2017
Mr. Fred Kellogg, Polson Qualifications (if required): Business Representative	Governor	7/1/2017
Mr. Dean Bentley, Butte Qualifications (if required): Business Representative	Governor	7/1/2017
Ms. Casey Blumenthal, Helena Qualifications (if required): Business Representative	Governor	7/1/2017
Mr. Scott Trent, Missoula Qualifications (if required): Business Representative	Governor	7/1/2017
Mr. Miles McCarvel, Missoula Qualifications (if required): Workforce Representative	Governor	7/1/2017
Mr. Rich Aarstad, Helena Qualifications (if required): Workforce Representative	Governor	7/1/2017
Ms. Anna Doran, Helena Qualifications (if required): Business Representative	Governor	7/1/2017

EXECUTIVE BRANCH VACANCIES -- JULY 1, 2017 THROUGH SEPTEMBER 30, 2017

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Montana State Workforce Innovation Board Cont.		
Ms. Vicky Byrd, Montana City Qualifications (if required): Workforce Representative	Governor	7/1/2017
Mr. Paul Hopfauf, Glendive Qualifications (if required): Business Representative	Governor	7/1/2017
Noxious Weed Management Advisory Council		
Mr. Jack Eddie, Dillon Qualifications (if required): Member from the Montana Weed Control Association	Governor	7/1/2017
Ms. Margie Edsall, Sheridan Qualifications (if required): Member from the agriculture community	Governor	7/1/2017
Mr. Doug Dupuis, Pablo Qualifications (if required): At-Large Member from the Agriculture Community	Governor	7/1/2017
Mr. Joel Farkell, Brady Qualifications (if required): Member from a consumer group	Governor	7/1/2017
Ms. Jeannette Nordahl, Lincoln Qualifications (if required): Member from a recreationist or wildlife group	Governor	7/1/2017
Mr. Brian Ostwald, Joliet Qualifications (if required): Member representing counties from the eastern part of the state	Governor	7/1/2017

EXECUTIVE BRANCH VACANCIES -- JULY 1, 2017 THROUGH SEPTEMBER 30, 2017

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Noxious Weed Seed Free Forage Advisory Council		
Mr. Stephen Henry White, Great Falls Qualifications (if required): MSU Agriculture Research Center	Director	9/1/2017
Mr. James Bouma, Choteau Qualifications (if required): Forage Producer	Director	9/1/2017
Director Ron de Yong, Helena Qualifications (if required): Department of Agriculture	Director	9/1/2017
Ms. Michelle Miller, Billings Qualifications (if required): Forage Pellets Producer	Director	9/1/2017
Ms. Jennifer Cramer, Hysham Qualifications (if required): County Weed District	Director	9/1/2017
Mr. Tom Benson, Pablo Qualifications (if required): Weed District	Director	9/1/2017
Mr. Kehoe Wayman, Ronan Qualifications (if required): Outfitter	Director	9/1/2017
Mr. Mark Siderius, Kalispell Qualifications (if required): Forage Producer	Director	9/1/2017
Mr. Steve Johns, Helena Qualifications (if required): Forage Producer	Director	9/1/2017

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Noxious Weed Seed Free Forage Advisory Council Cont.		
Mr. Carter Butori, Dillon Qualifications (if required): Forage Producer	Director	9/1/2017
Ms. Jane Mangold, Bozeman Qualifications (if required): Montana State University	Director	9/1/2017
Mr. Bob Rangitsch, Ovando Qualifications (if required): Livestock/Agriculture	Director	9/1/2017
Mr. Larry Dorn, Hardin Qualifications (if required): Forage Producer Representative	Governor	9/1/2017
Ms. Michelle Whiteside, Miles City Qualifications (if required): Feed, Pellet, Cube Representative	Governor	9/1/2017
Mr. James Melin, Livingston Qualifications (if required): Forage Producer	Governor	9/17/2017
Ms. Margie Edsall, Sheridan Qualifications (if required): Western Weed District Representative	Governor	9/17/2017
Ms. Jennifer Esp, Broadus Qualifications (if required): Eastern Weed District Representative	Governor	9/17/2017
Mr. Colter Tinsen, Great Falls Qualifications (if required): Forage Pellets Producer	Governor	9/17/2017

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Petroleum Tank Release Compensation Board		
Ms. Kate Cassidy, Whitefish Qualifications (if required): Background in environmental regulation	Governor	7/1/2017
Ms. Susan Quigley, Shelby Qualifications (if required): Representative of the financial or banking industry with experience in small business	Governor	7/1/2017
Potato Commodity Advisory Committee		
Mr. Bill Buyan, Sheridan Qualifications (if required): actively involved in the potato industry	Director	9/1/2017
Private Land/Public Wildlife Advisory Council		
Mr. John Swanz, Judith Gap Qualifications (if required): Landowner	Governor	7/31/2017
Mr. Lee Cornwell, Glasgow Qualifications (if required): Landowner	Governor	7/31/2017
Protect Montana Kids Commission		
Representative Chuck Hunter, Helena Qualifications (if required): Legislator	Governor	7/1/2017
Public Defender Commission		
Mr. Richard Gillespie, Helena Qualifications (if required): Attorney nominated by the State Bar	Governor	7/1/2017

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Public Defender Commission Cont.		
Mr. Mark Parker, Billings Qualifications (if required): Attorney submitted by the Supreme Court	Governor	7/1/2017
Ms. Margaret Novak, Chester Qualifications (if required): Organization advocating on behalf of indigent persons	Governor	7/1/2017
Mr. Kenneth R. Olson, Great Falls Qualifications (if required): Attorney nominated by the Supreme Court	Governor	7/1/2017
Ms. Ann Sherwood, Pablo Qualifications (if required): Attorney nominated by the State Bar Association	Governor	7/1/2017
Mr. Brian Gallik, Bozeman Qualifications (if required): Attorney nominated by the Supreme Court	Governor	7/1/2017
Mr. Terrell Jessee, Billings Qualifications (if required): Member of an organization that advocates on behalf of indigent persons	Governor	7/1/2017
State Banking Board		
Dr. Maureen J. Fleming, Missoula Qualifications (if required): Member of the Public	Governor	7/1/2017
State Workforce Innovation Board		
Mr. Kevin Phillip Joseph Poulin, Helena Qualifications (if required): Business Representative	Governor	7/1/2017

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
State Workforce Investment Board		
Ms. Billie Lee, Ronan Qualifications (if required): Private Sector	Governor	7/1/2017
Ms. Nanette LeFebvre, Helena Qualifications (if required): Private Sector	Governor	7/1/2017
Mr. Paul Gatzemeier, Billings Qualifications (if required): Private Sector	Governor	7/1/2017
Commissioner Michael McGinley, Dillon Qualifications (if required): Local Government	Governor	7/1/2017
Mr. Bill Hunt Jr., Shelby Qualifications (if required): Private Sector	Governor	7/1/2017
Mr. John Cech, Billings Qualifications (if required): Higher Education	Governor	7/1/2017
Mr. Dave Crum, Great Falls Qualifications (if required): Private Sector	Governor	7/1/2017
Mr. Kirk Hammerquist, Kalispell Qualifications (if required): Private Sector	Governor	7/1/2017
Ms. Jacquie Helt, Missoula Qualifications (if required): Organized Labor	Governor	7/1/2017

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
State Workforce Investment Board Cont.		
Ms. Maureen Kenneally, Butte Qualifications (if required): Private Sector	Governor	7/1/2017
Mr. Rodney Miller, Wolf Point Qualifications (if required): Section 166 Tribal Representative	Governor	7/1/2017
Mr. Keith Heavyrunner, Browning Qualifications (if required): Military Veterans Representative	Governor	7/1/2017
Mr. Robert W. Minto Jr., Missoula Qualifications (if required): Private Sector	Governor	7/1/2017
Superintendent Denise Juneau, Helena Qualifications (if required): Superintendent of Public Instruction	Governor	7/1/2017
Ms. Tina Bundtrock, Great Falls Qualifications (if required): Private Sector	Governor	7/1/2017
Mr. Alan Ekblad, Great Falls Qualifications (if required): Organized Labor	Governor	7/1/2017
Ms. Jane Weber, Great Falls Qualifications (if required): Local Government	Governor	7/1/2017
Mr. Dan Bernhardt, Helena Qualifications (if required): Military Veterans Representative	Governor	7/1/2017

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
State Workforce Investment Board Cont.		
Mr. John Danielson, Kalispell Qualifications (if required): Experience with youth activities	Governor	7/1/2017
Mr. Larry Hall, Ronan Qualifications (if required): Private Sector	Governor	7/1/2017
Mr. Jasyn Harrington, Helena Qualifications (if required): Workforce Investment Organization	Governor	7/1/2017
Mr. Niles Hushka, Bozeman Qualifications (if required): Private Sector	Governor	7/1/2017
Mrs. Kim Ormsby, Bozeman Qualifications (if required): Private Sector	Governor	7/1/2017
Ms. Tammy Pilcher, Helena Qualifications (if required): Organized Labor	Governor	7/1/2017
Ms. Loren Rose, Seeley Lake Qualifications (if required): Private Sector	Governor	7/1/2017
Mr. John McKee, Butte Qualifications (if required): Private Sector	Governor	7/1/2017
Ms. Sarah Calhoun, White Sulphur Springs Qualifications (if required): Private Sector	Governor	7/1/2017

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
State Workforce Investment Board Cont.		
Mr. Fred Kellogg, Polson Qualifications (if required): Private Sector	Governor	7/1/2017
Mr. Dean Bentley, Butte Qualifications (if required): Private Sector	Governor	7/1/2017
Ms. Casey Blumenthal, Helena Qualifications (if required): Private Sector	Governor	7/1/2017
Mr. Scott Trent, Missoula Qualifications (if required): Private Sector	Governor	7/1/2017
Mr. Eric Smith, Helena Qualifications (if required): Private Sector	Governor	7/1/2017
State-Tribal Economic Development Commission		
Mr. Joe Fox Jr., Lame Deer Qualifications (if required): Northern Cheyenne Tribe Representative	Governor	7/1/2017
Mr. Tracy Robinson, Lame Deer Qualifications (if required): Northern Cheyenne Tribal Representative	Governor	7/1/2017
Councilman Merlin Sioux, Lame Deer Qualifications (if required): Northern Cheyenne Tribal Representative	Governor	7/1/2017

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Teachers' Retirement Board Ms. Kari Peiffer, Kalispell Qualifications (if required): Teacher/Member	Governor	7/1/2017
Tourism Advisory Council Mr. Dudley L. Tyler, Livingston Qualifications (if required): Yellowstone Country Region Representative	Governor	7/1/2017
Ms. Amber Wood-Jensen, Butte Qualifications (if required): Goldwest Country Region Representative	Governor	7/1/2017
Ms. Glenn Indreland, Bozeman Qualifications (if required): Yellowstone Country Region Representative	Governor	7/1/2017
Mr. Matt Ellis, Missoula Qualifications (if required): Glacier Country Region Representative	Governor	7/1/2017
Mr. Stephen Wahrlich, Billings Qualifications (if required): Southeast Montana Country Region Representative	Governor	7/1/2017
Water and Wastewater Operators' Advisory Council Mr. Logan McInnis, Missoula Qualifications (if required): Workforce Representative	Governor	7/1/2017

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Workers' Compensation Court Judge Judge James Shea, Helena Qualifications (if required): none specified	Governor	9/7/2017
Mr. David Michael Sandler, Kalispell Qualifications (if required): Nominated by the Judicial Nomination Commission	Governor	9/7/2017