

MONTANA ADMINISTRATIVE REGISTER

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MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 20

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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

Inquiries regarding the rulemaking process, including material found in the Montana Administrative Register and the Administrative Rules of Montana, may be made by calling the Secretary of State's Office, Administrative Rules Services, at (406) 444-2055.

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BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the adoption of New) NOTICE OF PUBLIC HEARING ON
Rules I through VI pertaining to) PROPOSED ADOPTION
Montana Department of Agriculture)
Mediation Services)

TO: All Concerned Persons

1. On November 21, 2017, at 10:00 a.m., the Department of Agriculture will hold a public hearing in Room 225 of the Scott Hart Building, 302 N. Roberts, Helena, Montana, to consider the proposed adoption of the above-stated rules.

2. The Department of Agriculture will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Agriculture no later than 5:00 p.m. on November 17, 2017, to advise us of the nature of the accommodation that you need. Please contact Cort Jensen, Department of Agriculture, 302 N. Roberts, P.O. Box 200201, Helena, Montana, 59620-0201; telephone (406) 444-3144; fax (406) 444-5409; or e-mail agr@mt.gov.

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

NEW RULE I MEDIATION SERVICES OF THE DEPARTMENT (1) The department may provide mediation to federal and state programs for which it is designated or has contractually agreed to provide services.

(2) The department may provide additional mediation services for other agricultural disputes if it does not have a direct conflict.

(3) The department may only provide these services if it has sufficient staff and funds available.

AUTH: 80-1-102, 80-11-103, 80-12-301, MCA

IMP: 80-1-102, 80-11-103, 80-12-301, MCA

NEW RULE II REQUEST FOR MEDIATION SERVICES (1) A party wishing to use the department's mediation services for a mediation will request in writing that the department schedule a mediation.

(2) The request must state the parties involved and the nature of the dispute.

(3) The department will either send out a formal Notice of Mediation or Denial of Mediation under [New Rule VI].

(4) For a mediation to be docketed, both parties must consent to it.

AUTH: 80-1-102, 80-11-103, 80-12-301, MCA

IMP: 80-1-102, 80-11-103, 80-12-301, MCA

NEW RULE III FEES (1) The department will charge \$200 per hour for mediations.

(2) The parties will split the total cost equally and each party will be responsible for their portion of each mediation.

(3) These fees are to be paid at the end of each session.

AUTH: 80-1-102, 80-11-103, 80-12-301, MCA

IMP: 80-1-102, 80-11-103, 80-12-301, MCA

NEW RULE IV MEDIATION CONFIDENTIALITY (1) The mediation is confidential to the extent allowed by state law with all the exceptions allowed in state law.

(2) The department will not have any liability for violations of this confidentiality but will strive to protect it to the extent allowed by law.

AUTH: 80-1-102, 80-11-103, 80-12-301, MCA

IMP: 26-1-813, 80-1-102, 80-11-103, 80-12-301, MCA

NEW RULE V TRAINING (1) The department may train its own staff for mediation and may open these trainings up to non-departmental staff including but not limited to other state agencies and law students.

(2) If non-departmental staff is trained they may be charged a fee of up to \$100 per hour.

AUTH: 80-1-102, 80-11-103, 80-12-301, MCA

IMP: 80-1-102, 80-11-103, 80-12-301, MCA

NEW RULE VI DENIAL OF MEDIATION SERVICES (1) If the department is unable or unwilling to provide mediation services, it will inform the requesting party of that fact and to the extent allowed provide the reason for the denial.

AUTH: 80-1-102, 80-11-103, 80-12-301, MCA

IMP: 80-1-102, 80-11-103, 80-12-301, MCA

REASON: The Department of Agriculture is broadly tasked with assisting federal and state actors to benefit the development and continuation of agricultural practices in Montana. Access to low cost alternatives to litigation is a need of the agricultural sector and the department can provide the mediation services needed.

ECONOMIC IMPACT: The department estimates that the service will be used between 20 – 50 times per year. With the proposed fees it will cover its costs of training and staffing the service with existing FTEs. The service represents a massive savings to users that successfully mediate their claim and avoid litigation.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Cort Jensen, Department of Agriculture, 302 N. Roberts, P.O. Box

200201, Helena, Montana, 59620-0201; telephone (406) 444-3144; fax (406) 444-5409; or e-mail agr@mt.gov, and must be received no later than 5:00 p.m., November 27, 2017.

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

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

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

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

/s/ Cort Jensen

Cort Jensen
Rule Reviewer

/s/ Ben Thomas

Ben Thomas
Director
Agriculture

Certified to the Secretary of State October 16, 2017.

BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
MONTANA STATE AUDITOR

In the matter of the adoption of New	)	NOTICE OF PROPOSED ADOPTION
Rules I and II and the amendment of	)	AND AMENDMENT
ARM 6.6.3813 pertaining to Credit for)	
Reinsurance	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Concerned Persons

1. The Commissioner of Securities and Insurance, Office of the Montana State Auditor (CSI), proposes to adopt and amend the above-stated rules.

2. The CSI will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the CSI no later than 5:00 p.m. on November 7, 2017, to advise us of the nature of the accommodation that you need. Please contact Ramona Bidon in any of the following ways: Mail: 840 Helena Avenue, Helena, Montana, 59601; Telephone: (406) 444-2726; TDD: (406) 444-3246; Fax (406) 444-3499; or Email: rbidon@mt.gov.

3. The proposed new rules provide as follows:

NEW RULE I CREDIT FOR UNENCUMBERED FUNDS (1) A ceding insurer may take credit for unencumbered funds withheld by the ceding insurer in the United States subject to withdrawal solely by the ceding insurer and under its exclusive control.

AUTH: 33-1-313, 33-2-1517, MCA
IMP: 33-2-1216, 33-2-1217, MCA

NEW RULE II ASSUMING INSURER THAT MAINTAINS A TRUST FUND - APPLICATION OF SPECIFIC SECURITY (1) A specific security provided to a ceding insurer by an assuming insurer pursuant to 33-2-1216(6), MCA shall be applied, until exhausted, to the payment of liabilities of the assuming insurer to the ceding insurer holding the specific security prior to, and as a condition precedent for, presentation of a claim by the ceding insurer for payment by a trustee of a trust established by the assuming insurer pursuant 33-2-1216(5), MCA and applicable rules.

AUTH: 33-1-313, 33-2-1517, MCA
IMP: 33-2-1216, 33-2-1217, MCA

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

6.6.3813 REQUIREMENTS FOR REINSURANCE CONTRACTS OR AGREEMENTS (1) Credit will not be granted, nor an asset or reduction from liability allowed, to a ceding insurer for reinsurance pursuant to 33-2-1216, or 33-2-1217, MCA, and these rules unless the reinsurance contract or agreement includes:

(a) ~~includes~~ a clause which requires that the reinsurance is payable directly to the liquidator or successor by the assuming insurer without consideration of the insolvency of the ceding insurer; and

(b) ~~includes~~ a provision whereby the assuming insurer has submitted to the jurisdiction of an alternative dispute resolution panel or court of competent jurisdiction within the United States, and has agreed to comply with all requirements necessary to give such court or panel jurisdiction, has designated an agent upon whom service of process may be effected, and has agreed to abide by the final decision of such court or panel; and

(c) a proper reinsurance intermediary clause, if applicable, which stipulates that the credit risk for the intermediary is carried by the assuming insurer.

AUTH: 33-1-313, 33-2-1517, MCA

IMP: 33-2-1216, 33-2-1217, MCA

5. STATEMENT OF REASONABLE NECESSITY: The Commissioner of Securities and Insurance, Montana State Auditor, Matthew M. Rosendale, Sr., (commissioner) is the statewide elected official responsible for administering the Montana Insurance Code and regulating the business of insurance. Chapter 370, passed by the 64th Montana Legislature (effective April 30, 2015), amended sections 33-2-1216 and 33-2-1217, MCA regarding credit for reinsurance, a practice regularly used in the insurance industry.

The National Association of Insurance Commissioners (NAIC) is an organization of insurance regulators from the 50 states, the District of Columbia, and the U.S. Territories. The NAIC provides a forum for the development of uniform policy and regulation when uniformity is appropriate.

The rules in ARM Title 6, chapter 6, subchapter 38 derive from the *NAIC Credit for Reinsurance Model Regulation #786*. Use in Montana of the model rules helps ensure uniformity with other states. The new rules and amendment of one existing rule are necessary to meet NAIC accreditation standards and requirements regarding credit for reinsurance.

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: Barbara C. Harris, Attorney, 840 Helena Ave., Helena, Montana, 59601 or Email: bharris@mt.gov, and must be received no later than 5:00 p.m., November 24, 2017.

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 Michael A. Kakuk at the above address no later than 5:00 p.m., November 24, 2017.

8. The CSI will hold a hearing if any person or association directly affected by the proposed action requests it. If this occurs, the CSI will hold a hearing at a later date and will publish notice of the hearing in the Montana Administrative Register.

9. The CSI maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list may sign up by clicking on the blue button on the CSI's website at: <http://csimt.gov/laws-rules/> and may specify the subject matter they are interested in. Notices will be sent by e-mail unless a mailing preference is noted in the request. Requests may also be sent to the CSI in writing. Such written request may be mailed or delivered to the contact information in 2 above, or may be made by completing a request form at any rules hearing held by the CSI.

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

11. The proposed adoption and amendment of the above-stated rules do not significantly and directly impact small businesses; therefore, the requirements of 2-4-111, MCA, do not apply.

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

/s/ Kris Hansen
Kris Hansen
Chief Legal Counsel

Certified to the Secretary of State October 16, 2017.

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF MONTANA

In the matter of the adoption of a new	)	AMENDED NOTICE AND
subchapter codifying New Rules I	)	EXTENSION OF COMMENT
through XII for technologically enhanced	)	PERIOD ON PROPOSED
naturally occurring radioactive material	)	ADOPTION
(TENORM) waste)	
	)	(SOLID WASTE MANAGEMENT)

TO: All Concerned Persons

1. On August 18, 2017, the Department of Environmental Quality published MAR Notice No. 17-391 pertaining to the public hearing on the proposed adoption of the above-referenced rules at page 1331 of the 2017 Montana Administrative Register, Issue Number 16.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Sandy Scherer no later than 5:00 p.m., November 9, 2017, to advise us of the nature of the accommodation that you need. Please contact Sandy Scherer, Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2630; fax (406) 444-4386; or e-mail sscherer@mt.gov.

3. The public comment period is being extended to 5:00 p.m., November 17, 2017, to allow interested persons additional time to comment on the proposed adoption of the above referenced rules.

4. Written data, views, or arguments may be submitted to Sandy Scherer, Legal Secretary, Department of Environmental Quality, 1520 E. Sixth Avenue, P.O. Box 200901, Helena, Montana 59620-0901; faxed to (406) 444-4386; or e-mailed to sscherer@mt.gov, no later than 5:00 p.m., on November 17, 2017. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

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, October 16, 2017.

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

In the matter of the amendment of ARM	)	NOTICE OF PROPOSED
17.8.102, 17.8.103, 17.8.202, 17.8.302,	)	AMENDMENT
17.8.602, 17.8.767, 17.8.802, 17.8.902,)	
17.8.904, 17.8.1002, 17.8.1102, 17.8.1202,	)	(AIR QUALITY)
17.8.1302, 17.8.1402, and 17.8.1502)	
pertaining to incorporation by reference,	)	NO PUBLIC HEARING
definitions, applicability, operating permit	)	CONTEMPLATED
program overview and applicability of air)	
quality rules)	

TO: All Concerned Persons

1. The Board of Environmental Review proposes to amend the above-stated rules.

2. The Board of Environmental Review (board) will make reasonable accommodations for persons with disabilities who need an alternative accessible format of this notice. If you require an accommodation, contact Sandy Scherer, Legal Secretary, no later than 5:00 p.m., November 13, 2017, to advise us of the nature of the accommodation that you need. Please contact Sandy Scherer at the Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2630; fax (406) 444-4386; or e-mail sscherer@mt.gov.

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

17.8.102 INCORPORATION BY REFERENCE--PUBLICATION DATES AND AVAILABILITY OF REFERENCE DOCUMENTS (1) Unless expressly provided otherwise in ~~in~~ this chapter, where the board has:

(a) adopted a federal regulation by reference, the reference is to the July 1, ~~2015~~ 2016, edition of the Code of Federal Regulations (CFR), as it is published on the web site of the U.S. Government Printing Office at <https://www.gpo.gov/fdsys/browse/collectionCfr.action?selectedYearFrom=2015&go=Go> ~~https://www.gpo.gov/fdsys/browse/collectionCfr.action?selectedYearFrom=2015&go=Go~~ https://www.gpo.gov/fdsys/browse/collectionCfr.action?selectedYearFrom=2016&go=Go;

(b) adopted a section of the United States Code (USC) by reference, the reference is to the ~~2014~~ 2015 edition of the USC as it is published on the web site of the U.S. Government Printing Office at <https://www.gpo.gov/fdsys/browse/collectionUSCode.action?selectedYearFrom=2014&go=Go>; ~~https://www.gpo.gov/fdsys/browse/collectionUSCode.action?selectedYearFrom=2014&go=Go~~ https://www.gpo.gov/fdsys/browse/collectionUSCode.action?selectedYearFrom=2015&go=Go;

(c) remains the same.

(2) For purposes of this chapter, the following subparts of 40 CFR Part 63 60 are excluded from incorporation by reference:

(a) 40 CFR 63 Part 60, Subpart JJJJ, National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing (40 CFR 63.8380 through 63.8515, and all associated appendices and tables) subpart TTTT, Standards of Performance for Greenhouse Gas Emissions for Electric Generating Units; and

(b) 40 CFR 63 Part 60, Subpart KKKKK, National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing (40 CFR 63.8530 through 63.8665, and all associated appendices and tables) subpart OOOOa, Standards of Performance for Crude Oil and Natural Gas Facilities for which Construction, Modification or Reconstruction Commenced After September 18, 2015.

(3) Copies of material incorporated by reference in this chapter are available for public inspection and copying at the Department of Environmental Quality, 1520 E. 6th Ave., P.O. Box 200901, Helena, MT 59620-0901.

(4) A copy of federal materials also may be obtained from:

(a) National Technical Information Service (NTIS), 5301 Shawnee Road, Alexandria, VA 22312; phone: (800) 553-6847 or (703) 605-6000; fax: (703) 605-6900; e-mail: orders@ntis.gov; web: <http://www.ntis.gov>;

(b) National Service Center for Environmental Publications (NCSEP), P.O. Box 42419, Cincinnati, OH 45242-0419; phone (800) 490-9198; fax: (301) 604-3408; e-mail: nscep@lmsolas.com; web: <https://www.epa.gov/nscep>;

(c) U.S. Government Printing Office, 732 North Capital Street, NW, Washington, DC 20401-001; phone: (866) 512-1800 or (202) 512-1800; fax: (202) 512-2104; e-mail: orders@gpo.gov; web: <https://www.gpo.gov>; and

(d) the EPA regional office libraries listed at <https://www.epa.gov/libraries/libraries>.

AUTH: 75-2-111, MCA

IMP: Title 75, chapter 2, MCA

REASON: The board is proposing to amend the air quality rules to update editions of federal statutes and regulations, available online, that are incorporated by reference. The proposed amendments to ARM 17.8.102(1) and (2) would adopt revisions to federal regulations published in the July 1, 2016, edition of the CFR as it is published on the website of the U.S. Government Printing Office, and the 2015 edition of the USC, as it is published on the website of the U.S. Government Printing Office.

The reason for the reference to a specific webpage for the CFR is that the CFR is published in a new codified version every year. For Title 40, which contains the federal regulations adopted by reference by the board for air quality regulation, the official version is dated July 1 of each year. However, the online version is not available by that date, and the printed version is not available for more than four months after that date. The board adopts the July 1 edition after the online version has been made available. The board has placed on the Department of Environmental Quality's (department) website a summary of the major revisions to the CFR that it is proposing to adopt by reference. This summary may be viewed at

<http://deq.mt.gov/DEQAdmin/ber/agendasmeetings> for the September 29, 2017, board meeting under III.A.1. Affected CRFs. The reason for the reference to a specific webpage for the USC is that the USC is published in a new printed codified version every six years, with printed cumulative annual supplements. The most recent printed codified version is 2012. It is updated online by the U.S. Law Revision Counsel, which is associated with the U.S. House of Representatives, as new laws are enacted. It then takes about eight months before all titles of the USC are updated on the website of the U.S. Government Printing Office (U.S. GPO) with the changes enacted into law by the previous session of Congress. It takes about another ten months for a printed annual supplement to be distributed. The U.S. GPO publishes the printed versions, and its website is the most authoritative site for the official online version of the USC. It is this website that is used as the version of the updated USC referred to by the rules in ARM Title 17, chapter 8. The board proposes to adopt and incorporate by reference the annual revisions to federal regulations to ensure that Montana's air quality rules are at least as stringent as federal air quality regulations, to maintain authority and federal delegation of Montana's air quality program, and to implement federal emission standards according to a federal program of emissions control.

The board proposes to amend ARM 17.8.102(2), to remove the exemptions of 40 CFR Part 63, subparts JJJJJ and KKKKK. Subparts JJJJJ and KKKKK are National Emission Standards for Hazardous Air Pollutants (NESHAP) for brick and structural clay products manufacturing and clay ceramics manufacturing, respectively. Originally adopted into the ARM in 2003, these NESHAPS were vacated and remanded by the federal Court of Appeals for the District of Columbia Circuit on March 13, 2007, leading to their exemption in the ARM. EPA addressed the vacatur and remand by issuing new subparts JJJJJ and KKKKK on October 26, 2015. If subparts JJJJJ and KKKKK are not incorporated into the ARM, EPA would develop a federal implementation plan to oversee the enforcement of these rules in Montana.

The board is proposing not to incorporate by reference 40 CFR Part 60, subparts OOOOa and TTTT at this time. These subparts refer to the New Source Performance Standards (NSPS) for crude oil and natural gas facilities for which construction, modification or reconstruction commenced after September 18, 2015, and greenhouse gas emissions for electric utility generating units, respectively. The fate of these two subparts is uncertain because they are currently being litigated and may be revised or eliminated by the EPA. EPA stayed Subpart OOOOa for 90 days from June 2, 2017 through August 31, 2017, and then proposed a two-year stay following the 90-day stay to allow for time to review the rule and propose an amended rule. Subpart TTTT is part of the Clean Power Plan. Litigation challenging that subpart has been stayed indefinitely by the federal Court of Appeals for the District of Columbia Circuit, and EPA is required to file status reports every 90 days. *North Dakota v. EPA*, Nos. 15-1380 et al (D.C. Cir. Aug. 10, 2017). EPA published a notice at 82 Fed. Reg. 16330 (April 4, 2017), that it is reviewing subpart TTTT and that, if appropriate, it may initiate proceedings to suspend, revise, or rescind that subpart. The board believes it is appropriate not to adopt 40 CFR Part 60, subparts OOOOa and TTTT until there is more certainty as to whether they will remain in the CFR.

Also, please see the General Reason Statement below regarding the availability of referenced documents.

17.8.103 INCORPORATION BY REFERENCE AND AVAILABILITY OF REFERENCED DOCUMENTS (1) remains the same.

(2) ~~A copy of materials incorporated by reference in this subchapter is available for public inspection and copying at the Department of Environmental Quality, 1520 E. 6th Ave., P.O. Box 200901, Helena, MT 59620-0901. Copies of materials incorporated by reference in this subchapter may be obtained as referenced in ARM 17.8.102(3) and (4).~~

(3) ~~Copies of federal materials also may be obtained from:~~

(a) ~~National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161; phone: (800) 553-6847 or (703) 605-6000; fax: (703) 605-6900; e-mail: orders@ntis.gov; web: <http://www.ntis.gov>;~~

(b) ~~National Service Center for Environmental Publications (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419; phone: (800) 490-9198 or (513) 489-8190; fax: (513) 489-8695; e-mail: ncepi@mail@one.net; web: <http://www.epa.gov/ncepihome>;~~

(c) ~~U.S. Government Printing Office, Information Dissemination (Superintendent of Documents), P.O. Box 371954, Pittsburgh, PA 15250-7954; phone: (866) 512-1800 or (202) 512-1800; fax: (202) 512-2104; e-mail: orders@gpo.gov; web: <http://www.gpoaccess.gov>; and~~

(d) ~~the EPA regional office libraries listed at <http://www.epa.gov/natlbra/libraries.htm>.~~

(4) ~~Copies of the CFR may be obtained from the U.S. Government Printing Office as set forth in ARM 17.8.102. When printed versions are available, they may be obtained as described in (3)(c).~~

(5) ~~Copies of the U.S. Code may be obtained from the U.S. Government Printing Office as set forth in ARM 17.8.102. When printed versions are available, they may be obtained as described in (3)(c).~~

AUTH: 75-2-111, MCA

IMP: Title 75, chapter 2, MCA

REASON: See Reason Statement for ARM 17.8.102 and General Reason Statement below.

17.8.202 INCORPORATION BY REFERENCE (1) For the purposes of this subchapter, the board adopts and incorporates by reference the following:

(a) the Montana Ambient Air Monitoring Program Quality Assurance Project Plan (2013 2017), a department manual that specifies ambient air sampling and data collection, recording, analysis, and transmittal requirements that pertain only to the department's monitoring program;

(b) 40 CFR Part 50, specifying the national ambient air quality standards and ambient air quality monitoring reference methods except for the following changes: 40 CFR 50.14(c)(1) and (2) are replaced by 40 CFR 50.14(c)(1) and (2) as published in 81 FR 68216 on October 3, 2016;

(c) and (d) remain the same.

(2) A copy of materials incorporated by reference in this subchapter is available for public inspection and copying at the Department of Environmental Quality, 1520 E. 6th Ave., P.O. Box 200901, Helena, MT 59620-0901. Copies of materials incorporated by reference in this subchapter may be obtained as referenced in ARM 17.8.102(3) and (4).

(3) Copies of federal materials also may be obtained from:

(a) National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161; phone: (800) 553-6847 or (703) 605-6000; fax: (703) 605-6900; e-mail: orders@ntis.gov; web: <http://www.ntis.gov>;

(b) National Service Center for Environmental Publications (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419; phone: (800) 490-9198 or (513) 489-8190; fax: (513) 489-8695; e-mail: ncepimal@one.net; web: <http://www.epa.gov/ncepihom>;

(c) U.S. Government Printing Office, Information Dissemination (Superintendent of Documents), P.O. Box 371954, Pittsburgh, PA 15250-7954; phone: (866) 512-1800 or (202) 512-1800; fax: (202) 512-2104; e-mail: orders@gpo.gov; web: <http://www.gpoaccess.gov>; and

(d) the EPA regional office libraries listed at <http://www.epa.gov/natlbra/libraries.htm>.

(4) Copies of the CFR may be obtained from the U.S. Government Printing Office, as described in (3)(c).

AUTH: 75-2-111, 75-2-203, MCA

IMP: 75-2-203, MCA

REASON: A quality system for ambient air monitoring is the means by which an organization manages the quality of the monitoring information and data it produces in a systematic, organized manner. As a part of a quality system, the department develops and uses the Montana Ambient Air Quality Monitoring Program Quality Assurance Project Plan (QAPP), which follows the regulations in 40 CFR Part 58, Appendix A, Section 2. These regulations have these objectives: fulfilling foundational information needs associated with protecting Montana's air; providing quality data to the public; satisfying stakeholder expectations; complying with applicable statutes, societal concerns, and specifications for standards; and considering associated costs. The QAPP describes the quality assurance system that ensures the department's ambient air monitoring network is maintained in a prescribed manner that satisfies the objectives stated above. This work includes operation of each state or local government air monitoring station (SLAMS) that is used to help determine whether an area is in attainment or nonattainment status for a federal national ambient air quality standard (NAAQS).

Updates in the 2017 QAPP incorporate all applicable changes of federal regulations from 40 CFR Parts 50, 51, 52, 53, and 58. The changes since the 2013 version of the QAPP include:

a. Technical updates to the monitoring program;

b. Updates to conform to 40 CFR Parts 50, 51, 52, and 58 regarding NAAQS

for particulate matter;

- c. Updates to 40 CFR Parts 50, 51, 52, 53, and 58 regarding ozone;
- d. Updates to conform to 40 CFR Part 58, regarding quality assurance;
- e. Updates to include changes from EPA's January 2017 QA Handbook Vol. II and a 2013 EPA memorandum, "Update on Use of PM_{2.5} Continuous FEMS";
- f. Updates to conform to 40 CFR Parts 50 and 51 regarding the treatment of data influenced by exceptional events;
- g. Updates to conform to 40 CFR Part 50 regarding methods for determining lead in total suspended particulate matter; and
- h. Updates to reflect current annual monitoring network plans, changes to quality assurance reporting, population information. Updated processing precision and accuracy information to monitor assessment module, new website addresses, and removed references that are no longer applicable.

It is necessary to keep the QAPP current with the federal regulations to direct the department's ambient air monitoring program so that data from the monitoring program is valid for uses such as establishing design values that can be used for redesignation of nonattainment areas. As described in the statement of reasons for the proposed amendments to ARM 17.8.102 above, the board normally adopts, through an annual update to the incorporation-by-reference rule, federal regulations in the CFR as they are published in the July 1 edition of the previous year. However, EPA adopted important changes to 40 CFR 50.14(c)(1) and (2) in October 2016 concerning the public notification requirements for ambient monitoring of exceptional events and the flagging of such exceptional events for potential exclusion from use in determining possible nonattainment with National Ambient Air Quality Standards. Because the board believes it is beneficial to adopt those requirements as soon as possible and include them in the 2017 version of the QAPP, it is proposing to adopt those changes in this rulemaking instead of waiting another year to adopt them. The board proposes to amend ARM 17.8.202(1)(a) to adopt the 2017 version of the QAPP and remove the reference to the 2013 version. The board also proposes to adopt the October 3, 2016, changes to 40 CFR 50.14(c)(1) and (2) so that all rules referred to in the 2017 QAPP are adopted and incorporated into the ARM.

17.8.302 INCORPORATION BY REFERENCE (1) remains the same.

~~(2) A copy of materials incorporated by reference in this subchapter is available for public inspection and copying at the Department of Environmental Quality, 1520 E. 6th Ave., P.O. Box 200901, Helena, MT 59620-0901~~ Copies of materials incorporated by reference in this subchapter may be obtained as referenced in ARM 17.8.102(3) and (4).

~~(3) Copies of federal materials also may be obtained from:~~

(a) National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161; phone: (800) 553-6847 or (703) 605-6000; fax: (703) 605-6900; e-mail: orders@ntis.gov; web: <http://www.ntis.gov>;

(b) National Service Center for Environmental Publications (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419; phone: (800) 490-9198 or (513) 489-8190; fax: (513) 489-8695; e-mail: ncepimal@one.net; web: <http://www.epa.gov/ncepihom>;

(c) U.S. Government Printing Office, Information Dissemination (Superintendent of Documents), P.O. Box 371954, Pittsburgh, PA 15250-7954; phone: (866) 512-1800 or (202) 512-1800; fax: (202) 512-2104; e-mail: orders@gpo.gov; web: <http://www.gpoaccess.gov>; and

(d) the EPA regional office libraries listed at <http://www.epa.gov/natlibra/libraries.htm>.

(4) Copies of the CFR may be obtained from the U.S. Government Printing Office, as described in (3)(c).

AUTH: 75-2-111, 75-2-203, MCA

IMP: 75-2-203, MCA

REASON: See General Reason Statement below.

17.8.602 INCORPORATION BY REFERENCE (1) remains the same.

(2) A copy of ARM Title 17, chapter 53, subchapter 5, is available for public inspection and copying at the Department of Environmental Quality, 1520 E. 6th Ave., P.O. Box 200901, Helena, MT 59620-0901 may be obtained as referenced in ARM 17.8.102(3).

(3) Copies of federal materials also may be obtained from:

(a) National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161; phone: (800) 553-6847 or (703) 605-6000; fax: (703) 605-6900; e-mail: orders@ntis.gov; web: <http://www.ntis.gov>;

(b) National Service Center for Environmental Publications (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419; phone: (800) 490-9198 or (513) 489-8190; fax: (513) 489-8695; e-mail: ncepimal@one.net; web: <http://www.epa.gov/ncepihom>;

(c) U.S. Government Printing Office, Information Dissemination (Superintendent of Documents), P.O. Box 371954, Pittsburgh, PA 15250-7954; phone: (866) 512-1800 or (202) 512-1800; fax: (202) 512-2104; e-mail: orders@gpo.gov; web: <http://www.gpoaccess.gov>; and

(d) the EPA regional office libraries listed at <http://www.epa.gov/natlibra/libraries.htm>.

(4) Copies of the CFR may be obtained from the U.S. Government Printing Office, as described in (3)(c).

AUTH: 75-2-111, 75-2-203, MCA

IMP: 75-2-203, MCA

REASON: See General Reason Statement below.

17.8.767 INCORPORATION BY REFERENCE (1) remains the same.

(2) A copy of materials incorporated by reference in this subchapter is available for public inspection and copying at the Department of Environmental Quality, 1520 E. 6th Ave., P.O. Box 200901, Helena, MT 59620-0901. Copies of materials incorporated by reference in this subchapter may be obtained as referenced in ARM 17.8.102(3) and (4).

(3) Copies of federal materials also may be obtained from:

(a) National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161; phone: (800) 553-6847 or (703) 605-6000; fax: (703) 605-6900; e-mail: orders@ntis.gov; web: <http://www.ntis.gov>;

(b) National Service Center for Environmental Publications (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419; phone: (800) 490-9198 or (513) 489-8190; fax: (513) 489-8695; e-mail: ncepimal@one.net; web: <http://www.epa.gov/ncepihom>;

(c) U.S. Government Printing Office, Information Dissemination (Superintendent of Documents), P.O. Box 371954, Pittsburgh, PA 15250-7954; phone: (866) 512-1800 or (202) 512-1800; fax: (202) 512-2104; e-mail: orders@gpo.gov; web: <http://www.gpoaccess.gov>; and

(d) the EPA regional office libraries listed at <http://www.epa.gov/natlbra/libraries.htm>.

(4) Copies of the CFR may be obtained from the U.S. Government Printing Office, as described in (3)(c).

AUTH: 75-2-111, 75-2-204, MCA

IMP: 75-2-211, 75-2-215, MCA

REASON: See General Reason Statement below.

17.8.802 INCORPORATION BY REFERENCE (1) remains the same.

(2) A copy of materials incorporated by reference in this subchapter is available for public inspection and copying at the Department of Environmental Quality, 1520 E. 6th Ave., P.O. Box 200901, Helena, MT 59620-0901. Copies of materials incorporated by reference in this subchapter may be obtained as referenced in ARM 17.8.102(3) and (4).

(3) Copies of federal materials also may be obtained from:

(a) National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161; phone: (800) 553-6847 or (703) 605-6000; fax: (703) 605-6900; e-mail: orders@ntis.gov; web: <http://www.ntis.gov>;

(b) National Service Center for Environmental Publications (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419; phone: (800) 490-9198 or (513) 489-8190; fax: (513) 489-8695; e-mail: ncepimal@one.net; web: <http://www.epa.gov/ncepihom>;

(c) U.S. Government Printing Office, Information Dissemination (Superintendent of Documents), P.O. Box 371954, Pittsburgh, PA 15250-7954; phone: (866) 512-1800 or (202) 512-1800; fax: (202) 512-2104; e-mail: orders@gpo.gov; web: <http://www.gpoaccess.gov>; and

~~(d) the EPA regional office libraries listed at <http://www.epa.gov/natlibra/libraries.htm>.~~

~~(4) Copies of the CFR may be obtained from the U.S. Government Printing Office, as described in (3)(c).~~

~~(5) The Standard Industrial Classification Manual (1987) may be obtained from the NTIS, as described in (3)(a).~~

AUTH: 75-2-111, 75-2-203, MCA

IMP: 75-2-202, 75-2-203, 75-2-204, MCA

REASON: See General Reason Statement below.

17.8.902 INCORPORATION BY REFERENCE (1) remains the same.

~~(2) Copies of materials incorporated by reference in this subchapter may be obtained as referenced in ARM 17.8.102(3) and (4). A copy of materials incorporated by reference in this subchapter is available for public inspection and copying at the Department of Environmental Quality, 1520 E. 6th Ave., P.O. Box 200901, Helena, MT 59620-0901.~~

~~(3) Copies of federal materials also may be obtained from:~~

~~(a) National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161; phone: (800) 553-6847 or (703) 605-6000; fax: (703) 605-6900; e-mail: orders@ntis.gov; web: <http://www.ntis.gov>;~~

~~(b) National Service Center for Environmental Publications (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419; phone: (800) 490-9198 or (513) 489-8190; fax: (513) 489-8695; e-mail: ncepimal@one.net; web: <http://www.epa.gov/nccepihom>;~~

~~(c) U.S. Government Printing Office, Information Dissemination (Superintendent of Documents), P.O. Box 371954, Pittsburgh, PA 15250-7954; phone: (866) 512-1800 or (202) 512-1800; fax: (202) 512-2104; e-mail: orders@gpo.gov; web: <http://www.gpoaccess.gov>; and~~

~~(d) the EPA regional office libraries listed at <http://www.epa.gov/natlibra/libraries.htm>.~~

~~(4) Copies of the CFR may be obtained from the U.S. Government Printing Office, as described in (3)(c).~~

~~(5) The Standard Industrial Classification Manual (1987) may be obtained from the NTIS, as described in (3)(a).~~

AUTH: 75-2-111, 75-2-203, MCA

IMP: 75-2-202, 75-2-203, 75-2-204, MCA

REASON: See General Reason Statement below.

17.8.904 WHEN MONTANA AIR QUALITY PERMIT REQUIRED

(1) through (6) remain the same.

(7) Applicability determinations made prior to January 1, 2011, without accounting for condensable particulate matter, are not subject to ~~(5)~~ (6).

AUTH: 75-2-111, 75-2-203, MCA

IMP: 75-2-202, 75-2-203, 75-2-204, MCA

REASON: The board proposes to amend ARM 17.8.904(7). In 2011, the board amended the rule, which was submitted to the EPA the following year for inclusion in the State Implementation Plan (SIP). In January 2016, the EPA contacted the department with several questions related to the SIP submittal. The question referred to an incorrect internal reference in ARM 17.8.904(7). The department and board agree that the reference should be corrected. Without this amendment, the rules cannot be properly implemented.

17.8.1002 INCORPORATION BY REFERENCE (1) remains the same.

(2) ~~A copy of materials incorporated by reference in this subchapter is available for public inspection and copying at the Department of Environmental Quality, 1520 E. 6th Ave., P.O. Box 200901, Helena, MT 59620-0901. Copies of materials incorporated by reference in this subchapter may be obtained as referenced in ARM 17.8.102(3) and (4).~~

(3) ~~Copies of federal materials also may be obtained from:~~

(a) ~~National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161; phone: (800) 553-6847 or (703) 605-6000; fax: (703) 605-6900; e-mail: orders@ntis.gov; web: <http://www.ntis.gov>;~~

(b) ~~National Service Center for Environmental Publications (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419; phone: (800) 490-9198 or (513) 489-8190; fax: (513) 489-8695; e-mail: ncepimal@one.net; web: <http://www.epa.gov/ncepihom>;~~

(c) ~~U.S. Government Printing Office, Information Dissemination (Superintendent of Documents), P.O. Box 371954, Pittsburgh, PA 15250-7954; phone: (866) 512-1800 or (202) 512-1800; fax: (202) 512-2104; e-mail: orders@gpo.gov; web: <http://www.gpoaccess.gov>; and~~

(d) ~~the EPA regional office libraries listed at <http://www.epa.gov/natlbra/libraries.htm>.~~

(4) ~~Copies of the CFR may be obtained from the U.S. Government Printing Office, as described in (3)(c).~~

(5) ~~The Standard Industrial Classification Manual (1987) may be obtained from the NTIS, as described in (3)(a).~~

AUTH: 75-2-111, 75-2-203, MCA

IMP: 75-2-202, 75-2-203, 75-2-204, MCA

REASON: See General Reason Statement below.

17.8.1102 INCORPORATION BY REFERENCE (1) For the purposes of this subchapter, the board adopts and incorporates by reference the following:

(a) 40 CFR 81.327, providing attainment status designation for Montana pursuant to section 107 of the Federal Clean Air Act FCAA;

(b) remains the same.

(2) ~~A copy of materials incorporated by reference in this subchapter is~~

available for public inspection and copying at the Department of Environmental Quality, 1520 E. 6th Ave., P.O. Box 200901, Helena, MT 59620-0901 Copies of materials incorporated by reference in this subchapter may be obtained as referenced in ARM 17.8.102(3) and (4).

~~(3) Copies of federal materials also may be obtained from:~~

~~(a) National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161; phone: (800) 553-6847 or (703) 605-6000; fax: (703) 605-6900; e-mail: orders@ntis.gov; web: <http://www.ntis.gov>;~~

~~(b) National Service Center for Environmental Publications (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419; phone: (800) 490-9198 or (513) 489-8190; fax: (513) 489-8695; e-mail: ncepimal@one.net; web: <http://www.epa.gov/ncepihom>;~~

~~(c) U.S. Government Printing Office, Information Dissemination (Superintendent of Documents), P.O. Box 371954, Pittsburgh, PA 15250-7954; phone: (866) 512-1800 or (202) 512-1800; fax: (202) 512-2104; e-mail: orders@gpo.gov; web: <http://www.gpoaccess.gov>; and~~

~~(d) the EPA regional office libraries listed at <http://www.epa.gov/natlibra/libraries.htm>.~~

~~(4) Copies of the CFR may be obtained from the U.S. Government Printing Office, as described in (3)(c).~~

AUTH: 75-2-111, MCA

IMP: Title 75, chapter 2, MCA

REASON: The acronym for Federal Clean Air Act has previously been defined in the rules. Also, see General Reason Statement below.

17.8.1202 INCORPORATION BY REFERENCE (1) remains the same.

~~(2) A copy of materials incorporated by reference in this subchapter is available for public inspection and copying at the Department of Environmental Quality, 1520 E. 6th Ave., P.O. Box 200901, Helena, MT 59620-0901 Copies of materials incorporated by reference in this subchapter may be obtained as referenced in ARM 17.8.102(3) and (4).~~

~~(3) Copies of federal materials also may be obtained from:~~

~~(a) National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161; phone: (800) 553-6847 or (703) 605-6000; fax: (703) 605-6900; e-mail: orders@ntis.gov; web: <http://www.ntis.gov>;~~

~~(b) National Service Center for Environmental Publications (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419; phone: (800) 490-9198 or (513) 489-8190; fax: (513) 489-8695; e-mail: ncepimal@one.net; web: <http://www.epa.gov/ncepihom>;~~

~~(c) U.S. Government Printing Office, Information Dissemination (Superintendent of Documents), P.O. Box 371954, Pittsburgh, PA 15250-7954; phone: (866) 512-1800 or (202) 512-1800; fax: (202) 512-2104; e-mail: orders@gpo.gov; web: <http://www.gpoaccess.gov>; and~~

~~(d) the EPA regional office libraries listed at <http://www.epa.gov/natlibra/libraries.htm>.~~

~~(4) Copies of the CFR may be obtained from the U.S. Government Printing Office, as described in (3)(c).~~

~~(5) The Standard Industrial Classification Manual (1987) may be obtained from the NTIS, as described in (3)(a).~~

AUTH: 75-2-217, MCA

IMP: 75-2-217, 75-2-218, MCA

REASON: See General Reason Statement below.

17.8.1302 INCORPORATION BY REFERENCE (1) remains the same.

~~(2) Copies of federal materials incorporated by reference in this subchapter may be obtained from:~~

~~(a) National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161; phone: (800) 553-6847 or (703) 605-6000; fax: (703) 605-6900; e-mail: orders@ntis.gov; web: <http://www.ntis.gov>;~~

~~(b) National Service Center for Environmental Publications (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419; phone: (800) 490-9198 or (513) 489-8190; fax: (513) 489-8695; e-mail: ncepimal@one.net; web: <http://www.epa.gov/nccepihom>;~~

~~(c) U.S. Government Printing Office, Information Dissemination (Superintendent of Documents), P.O. Box 371954, Pittsburgh, PA 15250-7954; phone: (866) 512-1800 or (202) 512-1800; fax: (202) 512-2104; e-mail: orders@gpo.gov; web: <http://www.gpoaccess.gov>; and~~

~~(d) the EPA regional office libraries located at <http://www.epa.gov/natlbra/libraries.htm>. Copies of materials incorporated by reference in this subchapter may be obtained as referenced in ARM 17.8.102(3) and (4).~~

~~(3) Copies of the CFR may be obtained from the U.S. Government Printing Office, as described in (2)(c).~~

AUTH: 75-2-111, MCA

IMP: 75-2-202, MCA

REASON: See General Reason Statement below.

17.8.1402 INCORPORATION BY REFERENCE (1) remains the same.

~~(2) Copies of federal materials incorporated by reference in this subchapter may be obtained from:~~

~~(a) National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161; phone: (800) 553-6847 or (703) 605-6000; fax: (703) 605-6900; e-mail: orders@ntis.gov; web: <http://www.ntis.gov>;~~

~~(b) National Service Center for Environmental Publications (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419; phone: (800) 490-9198 or (513) 489-8190; fax: (513) 489-8695; e-mail: ncepimal@one.net; web: <http://www.epa.gov/nccepihom>;~~

~~(c) U.S. Government Printing Office, Information Dissemination~~

(Superintendent of Documents), P.O. Box 371954, Pittsburgh, PA 15250-7954; phone: (866) 512-1800 or (202) 512-1800; fax: (202) 512-2104; e-mail: orders@gpo.gov; web: <http://www.gpoaccess.gov>; and

(d) the EPA regional office libraries listed at <http://www.epa.gov/natlibra/libraries.htm> Copies of materials incorporated by reference in this subchapter may be obtained as referenced in ARM 17.8.102(3) and (4).

(3) ~~Copies of the CFR may be obtained from the U.S. Government Printing Office, as described in (2)(c).~~

AUTH: 75-2-111, MCA

IMP: 75-2-202, MCA

REASON: See General Reason Statement below.

17.8.1502 INCORPORATION BY REFERENCE (1) For purposes of this subchapter, the board adopts and incorporates by reference the following:

(a) 40 CFR part 51.214 and 40 CFR Part 51, Appendix P, which set forth EPA minimum emissions monitoring requirements for the Montana State Implementation Plan;

(b) 40 CFR Part 60.13 and 40 CFR Part 60, Appendix B, which set forth EPA performance specification and test procedures for continuous emission monitoring systems for new stationary sources;

(c) remains the same.

(d) 40 CFR Part 72.2, which contains the definition of utility unit;

(e) remains the same.

(f) 40 CFR Part 266, subpart H and Appendix IX, which set forth compliance and monitoring requirements for boilers and industrial furnaces.

(2) ~~A copy of materials incorporated by reference in this subchapter is available for public inspection and copying at the Department of Environmental Quality, 1520 E. 6th Ave., P.O. Box 200901, Helena, MT 59620-0901~~ Copies of materials incorporated by reference in this subchapter may be obtained as referenced in ARM 17.8.102(3) and (4).

(3) ~~Copies of federal materials also may be obtained from:~~

(a) National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161; phone: (800) 553-6847 or (703) 605-6000; fax: (703) 605-6900; e-mail: orders@ntis.gov; web: <http://www.ntis.gov>;

(b) National Service Center for Environmental Publications (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419; phone: (800) 490-9198 or (513) 489-8190; fax: (513) 489-8695; e-mail: ncepimal@one.net; web: <http://www.epa.gov/ncepihom>;

(c) U.S. Government Printing Office, Information Dissemination (Superintendent of Documents), P.O. Box 371954, Pittsburgh, PA 15250-7954; phone: (866) 512-1800 or (202) 512-1800; fax: (202) 512-2104; e-mail: orders@gpo.gov; web: <http://www.gpoaccess.gov>; and

(d) ~~the EPA regional office libraries listed at <http://www.epa.gov/natlibra/libraries.htm>.~~

(4) ~~Copies of the CFR may be obtained from the U.S. Government Printing~~

~~Office, as described in (3)(c).~~

AUTH: 75-2-217, 75-2-218, MCA

IMP: 75-2-217, 75-2-218, MCA

REASON: Federal citations are changed to be consistent with the rule citation format. See General Reason Statement below.

General Reason Statement for Proposed Revisions: The board proposes to amend the air quality rules that identify where incorporated materials can be obtained and at the same time correct the reference contact information that has become outdated. Identifying this information once, in the General Provisions of ARM 17.8.102(3) and (4), would eliminate repetition of the information in ARM 17.8.103, 17.8.202, 17.8.302, 17.8.602, 17.8.767, 17.8.802, 17.8.902, 17.8.1002, 17.8.1102, 17.8.1202, 17.8.1302, 17.8.1402, and 17.8.1502.

4. Concerned persons may submit their data, views, or arguments in writing to Sandy Scherer, Legal Secretary, Department of Environmental Quality, 1520 E. Sixth Avenue, P.O. Box 200901, Helena, Montana 59620-0901; faxed to (406) 444-4386; or e-mailed to sscherer@mt.gov, no later than 5:00 p.m., November 24, 2017. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments they have to Sandy Scherer, Legal Secretary, Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901: phone (406) 444-2630; fax (406) 444-4386; or e-mail sscherer@mt.gov, no later than November 24, 2017.

6. If the board receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons who are 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 persons directly affected has been determined to be 80, based on the approximately 800 persons on the interested persons list for air quality matters that is maintained by the board. Because 25 persons is fewer than 80, the board will hold a hearing if it receives hearing requests from at least 25 persons.

7. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the

person wishes to receive notices regarding: air quality; hazardous waste/waste oil; asbestos control; water/wastewater treatment plant operator certification; solid waste; junk vehicles; infectious waste; public water supply; public sewage systems regulation; hard rock (metal) mine reclamation; major facility siting; opencut mine reclamation; strip mine reclamation; subdivisions; renewable energy grants/loans; wastewater treatment or safe drinking water revolving grants and loans; water quality; CECRA; underground/above ground storage tanks; MEPA; or general procedural rules other than MEPA. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to Sandy Scherer, Legal Secretary, Department of Environmental Quality, 1520 E. Sixth Ave., P.O. Box 200901, Helena, Montana 59620-0901, faxed to the office at (406) 444-4386, e-mailed to Sandy Scherer at sscherer@mt.gov, or may be made by completing a request form at any rules hearing held by the board.

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

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

Reviewed by:

BOARD OF ENVIRONMENTAL REVIEW

/s/ John F. North

JOHN F. NORTH
Rule Reviewer

BY: /s/ Christine Deveny

CHRISTINE DEVENY, CHAIRMAN

Certified to the Secretary of State, October 16, 2017.

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the adoption of NEW	)	NOTICE OF DECISION ON
RULE I and NEW RULE II,	)	PROPOSED RULE ACTIONS
amendment of 4.10.201, 4.10.203,)	
4.10.205, 4.10.207, 4.10.315,)	
4.10.401, 4.10.501, 4.10.503,)	
4.10.701, 4.10.807, 4.10.1004,)	
4.10.1009, 4.10.1102, 4.10.1103,)	
4.10.1104, 4.10.1201, 4.10.1204,)	
4.10.1803, 4.10.1804, 4.10.1806, and)	
repeal of 4.10.702, 4.10.709,)	
4.10.1801 pertaining to pesticide)	
housekeeping changes)	

TO: All Concerned Persons

1. On December 9, 2016, the Department of Agriculture published MAR Notice No. 4-16-236 pertaining to the public hearing on the proposed adoption, amendment and repeal of the above-stated rules at page 2261 of the 2016 Montana Administrative Register, Issue Number 23. On May 26, 2017, the department published an amended notice on page 626 of the 2017 Montana Administrative Register, Issue Number 10.

2. A public hearing on the notice of proposed adoption, amendment, and repeal of the above-stated rules was held on January 4, 2017.

3. The department has decided that the scope and extent of the rule changes make it difficult for the public to comment in a constructive manner. The department will instead propose smaller rule changes with more specific focuses to allow the public to understand and be able to provide feedback.

/s/ Cort Jensen
Cort Jensen
Rule Reviewer

/s/ Ben Thomas
Ben Thomas
Director
Agriculture

Certified to the Secretary of State October 16, 2017.

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the adoption of New	)	NOTICE OF ADOPTION,
Rule I, the amendment of ARM	)	AMENDMENT, AND REPEAL
4.12.1405, and the repeal of)	
4.12.1436 pertaining to the Nursery)	
Program)	

TO: All Concerned Persons

1. On August 18, 2017 the Department of Agriculture published MAR Notice No. 4-17-239 pertaining to the public hearing on the proposed adoption, amendment, and repeal of the above-stated rules at page 1319 of the 2017 Montana Administrative Register, Issue Number 16.

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

3. The department has adopted the above-stated rule as proposed: New Rule I (4.12.1445).

4. No comments or testimony were received.

/s/ Cort Jensen
Cort Jensen
Rule Reviewer

/s/ Ben Thomas
Ben Thomas
Director
Agriculture

Certified to the Secretary of State October 16, 2017.

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the adoption of New)
Rule I pertaining to Pesticides) NOTICE OF ADOPTION

TO: All Concerned Persons

1. On August 18, 2017, the Department of Agriculture published MAR Notice No. 4-17-240 pertaining to the public hearing on the proposed adoption of the above-stated rule at page 1322 of the 2017 Montana Administrative Register, Issue Number 16.

2. The department has adopted the above-stated rule as proposed: New Rule I (4.10.710).

3. No comments or testimony were received.

/s/ Cort Jensen
Cort Jensen
Rule Reviewer

/s/ Ben Thomas
Ben Thomas
Director
Agriculture

Certified to the Secretary of State October 16, 2017.

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 12.3.109, 12.3.110, and)
12.3.111 pertaining to disease)
management)

TO: All Concerned Persons

1. On August 18, 2017, the Department of Fish, Wildlife and Parks published MAR Notice No. 12-474 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 1328 of the 2017 Montana Administrative Register, Issue Number 16.

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

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

COMMENT #1: The department received a comment in support of the proposed amendments, stating that the proposed amendments clarify existing authority for wildlife management and will help address elk disease transmission.

RESPONSE #1: The department agrees that the proposed amendments address FWP authority for wildlife management. However, FWP's management objectives do not directly address reducing brucellosis transmission between elk. This direction by FWP reflects one of the primary objectives identified by FWP's citizen work group which was to reduce transmission between elk and livestock (not between elk and other elk).

/s/ Zach Zipfel
Zach Zipfel
Rule Reviewer

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

Certified to the Secretary of State October 16, 2017.

BEFORE THE DEPARTMENT OF CORRECTIONS
OF THE STATE OF MONTANA

In the matter of the repeal of ARM) NOTICE OF REPEAL
20.7.1201, 20.7.1202, 20.7.1203, and)
20.7.1204 pertaining to the Boot)
Camp Incarceration Program)

TO: All Concerned Persons

1. On September 8, 2017, the Department of Corrections published MAR Notice No. 20-7-65 pertaining to the proposed repeal of the above-stated rules at page 1455 of the 2017 Montana Administrative Register, Issue Number 17.

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

3. No comments or testimony were received.

/s/ Colleen E. Ambrose
Attorney
Rule Reviewer

/s/ Reginald D. Michael
Director
Department of Corrections

Certified to the Secretary of State October 16, 2017.

BEFORE THE PUBLIC SAFETY OFFICERS
STANDARDS AND TRAINING COUNCIL
OF THE STATE OF MONTANA

In the matter of the adoption of New	)	NOTICE OF ADOPTION,
Rule I; the amendment of ARM	)	AMENDMENT, AND REPEAL
23.13.101, 23.13.102, 23.13.201,)	
23.13.203, 23.13.205, 23.13.206,)	
23.13.207, 23.13.208, 23.13.209,)	
23.13.210, 23.13.211, 23.13.212,)	
23.13.214, 23.13.215, 23.13.301,)	
23.13.302, 23.13.702, 23.13.703,)	
23.13.704, 23.13.705, 23.13.713,)	
23.13.714, 23.13.719, 23.13.720, and)	
23.13.721; and the repeal of ARM)	
23.13.213 pertaining to the)	
certification of public safety officers)	

TO: All Concerned Persons

1. On August 4, 2017, the Public Safety Officers Standards and Training Council (POST Council) published MAR Notice No. 23-13-246 pertaining to the public hearing on the proposed adoption, amendment, and repeal of the above-stated rules at page 1213 of the 2017 Montana Administrative Register, Issue Number 15. The Council held a public hearing on the proposed rules on September 5.

2. The POST Council has adopted New Rule I (23.13.217), amended ARM 23.13.101, 23.13.102, 23.13.201, 23.13.203, 23.13.206, 23.13.207, 23.13.208, 23.13.209, 23.13.210, 23.13.211, 23.13.212, 23.13.214, 23.13.215, 23.13.301, 23.13.302, 23.13.702, 23.13.703, 23.13.704, 23.13.705, 23.13.713, 23.13.714, 23.13.719, 23.13.720, and 23.13.721, and repealed ARM 23.13.213 as proposed.

3. The POST Council has amended ARM 23.13.205, but with the following changes from the original proposal, new matter underlined and deleted matter interlined:

23.13.205 GENERAL REQUIREMENTS FOR CERTIFICATION (1) To be eligible for the award of a certificate, each officer must be a full-time or part-time public safety officer ~~employed by a federal agency, state, tribal entity, county, municipality, city, or town~~ as defined by 44-4-401, MCA, at the time the application for certification is received by the council.

(2) through (10) remain as proposed.

4. The POST Council has thoroughly considered the comments and testimony received. Copies of the written comments were provided to the Council and will be provided to the public on request. Having fully considered the

comments, the POST Council has decided to adopt the rules as originally proposed, with one change. A summary of the comments received and the department's responses are as follows:

COMMENT 1: This comment was submitted by Ralph Dawson, Chief, Fromberg Police Department. Chief Dawson takes issue with the appropriateness of proposed amended ARM 23.13.203, due to the fact that the proposed amendments remove the requirement that the public safety officer's code of ethics be administered as an oath. Chief Dawson believes that an oath is a "point of honor" and that public safety officers should continue to be administered an oath containing the code of ethics.

RESPONSE TO COMMENT 1: The Council proposed this amendment in response to the suggestion by a legislator that the requirement in existing rules that an applicant swear to abide by the Code of Ethics as an oath was in violation of Article III, § 3 of the Montana Constitution. That provision sets forth the terms of the oath of office for all members of the Legislature and executive, ministerial, and judicial officers. It further states: "No other oath, declaration, or test shall be required as a qualification for any office or public trust." To address the legislator's concern, POST proposed to amend the rule to make the Code of Ethics binding on public safety officers without the requirement that the officer swear it as an oath. The proposed amendment eliminates a potential constitutional flaw in the existing rule. The POST Council is sympathetic to the spirit of Chief Dawson's comment, but believes that the elimination of the potential constitutional issue is the better course. The POST Council will adopt the rule as proposed.

COMMENT 2: Missoula Correctional Services (MCS) suggests that ARM 23.13.205(1), as currently enacted, be changed to read:

23.13.205 GENERAL REQUIREMENTS FOR CERTIFICATION (1) To be eligible for the award of a certificate, each officer must be a full-time or part-time public safety officer employed by a federal agency, state, tribal entity, county, municipality, city or town, as defined in 44-4-401, MCA, or a full-time or part-time employee of a pretrial services agency, as referred to in 46-9-108(1)(f), MCA, at the time the application for certification is received by the council.

(Underlined material suggested to be added.) Missoula Correctional Services states that the amendment is needed to allow Missoula County to make use of pretrial services officers employed by MCS, which is a non-governmental agency.

RESPONSE TO COMMENT 2: After discussion at the Council meeting of October 6, 2017, the Council and the MCS agreed that Comment 2 would be satisfied if ARM 23.13.205(1) was amended to read:

23.13.205 GENERAL REQUIREMENTS FOR CERTIFICATION (1) To be eligible for the award of a certificate, each officer must be a full-time or part-time public safety officer ~~employed by a federal agency, state, tribal entity, county,~~

~~municipality, city or town~~, as defined in 44-4-401, MCA, at the time the application for certification is received by the council.

(Stricken material deleted.) The Council, in its motion to approve the rules, accepted this amendment to its rule as proposed. Accordingly, Comment 2 need not be considered further.

COMMENT 3: MCS suggests language be added to the proposed amendment to ARM 23.13.206(1) to indicate that a pretrial services officer employed by a non-governmental agency is among the officers who are eligible for certification by the Council, for the same reasons stated with respect to Comment 2.

RESPONSE TO COMMENT 3: The proposed amendment associated with Comment 2 would add "pretrial services officer" to the list of professional positions which are eligible for certification under ARM 23.13.206(1). After discussion at the Council's meeting of October 6, 2017, MCS, through its attorney Dan Cederberg, withdrew the comment with respect to this proposed amendment. Comment 3 therefore need not be considered further by the Council.

/s/ Matt Cochenour
Matt Cochenour
Rule Reviewer

Sheriff Tony Harbaugh
Chairman
Public Safety Officers Standards
and Training Council

By: /s/ Perry Johnson
Perry Johnson
Executive Director

Certified to the Secretary of State October 16, 2017.

BEFORE THE BOARD OF BARBERS AND COSMETOLOGISTS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF AMENDMENT
ARM 24.121.601 licensure by)	
examination, 24.121.805 school)	
operating standards, 24.121.807)	
school curricula, and 24.121.808)	
credited hours for Montana-licensed)	
individuals in a cosmetology or)	
barbering program)	

TO: All Concerned Persons

1. On August 18, 2017, the Board of Barbers and Cosmetologists (board) published MAR Notice No. 24-121-15 regarding the public hearing on the proposed amendment of the above-stated rules, at page 1364 of the 2017 Montana Administrative Register, Issue No. 16.
2. On September 8, 2017, a public hearing was held on the proposed amendment of the above-stated rules in Helena. No comments were received by the September 15, 2017, deadline.
3. The board has amended ARM 24.121.601, 24.121.805, 24.121.807, and 24.121.808 exactly as proposed.

BOARD OF BARBERS AND COSMETOLOGISTS
ANGELA PRINTZ, PRESIDENT

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

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

Certified to the Secretary of State October 16, 2017.

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

In the matter of the amendment of	)	NOTICE OF AMENDMENT,
ARM 24.182.101 organization,	)	ADOPTION, AND REPEAL
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 insurance)	
and surety bond requirements,)	
24.182.407 regulations of uniform,)	
24.182.420 qualification of firearms for)	
armed endorsement, 24.182.421)	
requalification required annually,)	
24.182.501 required information for)	
application, 24.182.504 military)	
training or experience, 24.182.505)	
written examination, 24.182.507)	
temporary practice permit, 24.182.511)	
private investigator trainee,)	
24.182.520 certified firearms)	
instructor, 24.182.525 company)	
licensure and branch offices,)	
24.182.801 firearms training courses;)	
the adoption of NEW RULES I private)	
investigator training program, II private)	
security guard training program, III)	
security alarm installer training)	
program, IV alarm response runner)	
training program, V standards for)	
continuing education, VI annual)	
continuing education requirements, VII)	
non-approved activities, VIII auditing)	
of continuing education hours, IX)	
inactive status and conversion to)	
active status, X alarm 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 June 23, 2017, the Board of Private Security (board) published MAR Notice No. 24-182-35 regarding the public hearing on the proposed amendment, adoption, and repeal of the above-stated rules, at page 823 of the 2017 Montana Administrative Register, Issue No. 12.

2. On July 18, 2017, a public hearing was held on the proposed amendment, adoption, and repeal of the above-stated rules in Helena. No comments were received by the July 21, 2017, deadline.

3. The board has amended ARM 24.182.101, 24.182.201, 24.182.202, 24.182.301, 24.182.401, 24.182.403, 24.182.405, 24.182.407, 24.182.420, 24.182.421, 24.182.501, 24.182.504, 24.182.505, 24.182.507, 24.182.511, 24.182.520, 24.182.525, and 24.182.801 exactly as proposed.

4. The board has adopted NEW RULE I (24.182.804), II (24.182.807), III (24.182.810), IV (24.182.813), V (24.182.2101), VI (24.182.2103), VII (24.182.2105), VIII (24.182.2108), IX (24.182.509), X (24.182.519), XI (24.182.512), XII (24.182.514), XIII (24.182.516), XIV (24.182.523), XV (24.182.518), and XVI (24.182.508) exactly as proposed.

5. The board has repealed ARM 24.182.503 exactly as proposed.

BOARD OF PRIVATE SECURITY
HOLLY DERSHEM-BRUCE
PRESIDENT

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

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

Certified to the Secretary of State October 16, 2017.

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 1.2.419 pertaining to the)
scheduled dates for the 2018)
Montana Administrative Register)

TO: All Concerned Persons

1. On September 8, 2017, the Secretary of State published MAR Notice No. 44-2-228 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 1506 of the 2017 Montana Administrative Register, Issue Number 17.

2. The Secretary of State has amended the above-stated rule as proposed.

3. No comments or testimony were received.

/s/ Jeffrey Hindoien
JEFFREY M. HINDOIEN
Rule Reviewer

/s/ Corey Stapleton
COREY STAPLETON
Secretary of State

Dated this 16th day of October, 2017.

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

In the matter of the Commissioner's) NOTICE OF PUBLIC HEARING
active supervision of the Board of)
Dentistry, regarding ARM 24.138.416)
and 24.138.2302, related to)
obligations pertaining to partial)
dentures and prosthesis)

TO: All Concerned Persons

1. On November 3, 2017, at 9:00 a.m., the Commissioner of Labor and Industry (Commissioner) will hold a public hearing in the basement auditorium of the Sanders Building (DPHHS building), 111 North Sanders Street, Helena, Montana, to take public comment regarding whether ARM 24.138.416 and ARM 24.138.2302(1)(j) are reasonable and necessary to protect the public health, safety, and welfare pursuant to 37-1-121(1)(d), MCA.

2. The only rule sections upon which public comment is sought provide as follows:

24.138.416 PRIOR REFERRAL FOR PARTIAL DENTURES (1) The Board of Dentistry interprets 37-29-403(1)(b), MCA, to mean that all partial denture patients shall be referred to a dentist to determine what is needed prior to the dentist starting his services.

AUTH: 37-1-131, 37-29-201, MCA
IMP: 37-29-403, MCA

24.138.2302 UNPROFESSIONAL CONDUCT FOR DENTURISTS (1) The board defines "unprofessional conduct" as follows:

...
(j) fitting, attempting to fit or advertising to fit a prosthesis on or over a dental implant; and
...

AUTH: 37-1-136, 37-1-319, 37-29-201, MCA
IMP: 37-1-316, 37-29-402, 37-29-403, MCA

3. After public comment has been received, the Commissioner will issue a decision recommending that the Board of Dentistry continue enforcing the administrative rules, amend the rules, or repeal the rules.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be

submitted to: Jordon DyrdaHL-Roberts, Department of Labor and Industry, P.O. Box 1728 Helena, MT 59624-1728, or by e-mail to: jordonroberts@mt.gov, and must be received no later than 5:00 p.m., on November 9, 2017.

5. The department will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m., on October 31, 2017, to advise us of the nature of the accommodation that you need. Please contact Jordon DyrdaHL-Roberts, Department of Labor and Industry, P.O. Box 1728 Helena, MT 59624-1728, telephone 406.444.4493, fax 406.444.1394, or by e-mail jordonroberts@mt.gov.

/s/ GALEN HOLLENBAUGH

Galen Hollenbaugh, Acting Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State October 18, 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 an online publication, issued twice-monthly, containing notices of rules proposed by agencies, notices of rules adopted by agencies, and interpretations of statutes and rules by the Attorney General (Attorney General's Opinions) and agencies (Declaratory Rulings) issued since publication of the preceding Register.

Use of the Administrative Rules of Montana (ARM):

- | | |
|------------------|---|
| Known
Subject | 1. Consult ARM Topical Index.
Update the rule by checking 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 June 30, 2017. This table includes those rules adopted during the period March 31, 2017, through June 30, 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 June 30, 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 the 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 executive branch appointees and upcoming vacancies on those boards and councils.

In this issue, appointments effective in September 2017 appear. Potential vacancies from November 1, 2017 through January 31, 2018, are also listed.

IMPORTANT

Membership on boards and commissions changes constantly. The following lists are current as of October 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 SEPTEMBER 2017

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Pharmacy			
Dr. Paul Brand	Governor	Deschamps	9/29/2017
Florence			7/1/2019
Qualifications (if required): Licensed Pharmacist			
Board of Real Estate Appraisers			
Mr. Thomas G. Stevens	Governor	Reappointed	9/29/2017
Missoula			5/1/2020
Qualifications (if required): Licensed or certified real estate appraiser			
Mr. Gregory Anthony Thornquist	Governor	Simek	9/29/2017
Helena			5/1/2020
Qualifications (if required): Licensed or certified real estate appraiser			
Board of Veterans' Affairs			
Dr. William Campbell	Governor	Bonde	9/29/2017
Fort Harrison			8/1/2018
Qualifications (if required): U.S. Veterans' Affairs Representative, non-voting member			
Flathead Reservation Fish and Wildlife Board			
Ms. Pelah Niamie Hoyt	Governor	Reappointed	9/29/2017
Missoula			1/1/2021
Qualifications (if required): Public Representative			

EXECUTIVE BRANCH APPOINTEES FOR SEPTEMBER 2017

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Flathead Reservation Fish and Wildlife Board Cont.			
Mr. Michael Carl Jamison	Governor	Reappointed	9/29/2017
Whitefish			1/1/2021
Qualifications (if required): Public Representative			
Mr. Rodd Richardson	Governor	Reappointed	9/29/2017
Saint Ignatius			1/1/2021
Qualifications (if required): Public Representative			
Montana Criminal Justice Oversight Council			
Ms. Annette Carter	Governor	New	9/29/2017
Helena			8/2/2019
Qualifications (if required): Member of the Board of Pardons and Parole			
Montana Information Security Advisory Council			
Mr. Ron Baldwin	Governor	Reappointed	9/29/2017
Helena			6/30/2019
Qualifications (if required): State Chief Information Officer			
Ms. Erika Billiet	Governor	Reappointed	9/29/2017
Kalispell			6/30/2019
Qualifications (if required): Local Governments			
Mr. Dale Daugherty	Governor	Germaine	9/29/2017
Billings			6/30/2019
Qualifications (if required): General public			

EXECUTIVE BRANCH APPOINTEES FOR SEPTEMBER 2017

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Montana Information Security Advisory Council Cont.			
Ms. Anne Dormady	Governor	Costigan	9/29/2017
Helena			6/30/2019
Qualifications (if required): Montana Analysis and Technical Information Center Representative (MATIC)			
Mr. Eric Frazee	Governor	Fuller	9/29/2017
Missoula			6/30/2019
Qualifications (if required): General public			
Mr. Adrian Irish	Governor	Reappointed	9/29/2017
Missoula			6/30/2019
Qualifications (if required): University Representative			
Ms. Margaret Kauska	Governor	Reappointed	9/29/2017
Helena			6/30/2019
Qualifications (if required): State Government Agency			
Mr. Roger Laferriere	Governor	New	9/29/2017
Hamilton			6/30/2019
Qualifications (if required): General public			
Representative Kelly McCarthy	Governor	Reappointed	9/29/2017
Billings			6/30/2019
Qualifications (if required): State Legislature			

EXECUTIVE BRANCH APPOINTEES FOR SEPTEMBER 2017

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Montana Information Security Advisory Council Cont.			
Ms. Lynne Pizzini Helena Qualifications (if required): State Government Agency	Governor	Reappointed	9/29/2017 6/30/2019
Major General Matthew Quinn Helena Qualifications (if required): State Homeland Security Advisor	Governor	Reappointed	9/29/2017 6/30/2019
Mr. Mike Sangray Helena Qualifications (if required): Public member	Governor	Daugherty	9/29/2017 6/30/2019
Mr. Mark Simon Great Falls Qualifications (if required): General public	Governor	Gietzen	9/29/2017 6/30/2019
Ms. Karen Sprenger Missoula Qualifications (if required): General public	Governor	Chapman	9/29/2017 6/30/2019
Ms. Jeanne Vold Butte Qualifications (if required): General public	Governor	Davidoff	9/29/2017 6/30/2019

EXECUTIVE BRANCH APPOINTEES FOR SEPTEMBER 2017

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Montana Information Security Advisory Council Cont.			
Senator Jeffrey Welborn Dillon	Governor	Blasdel	9/29/2017 6/30/2019
Qualifications (if required): State Legislator			
Off-Highway Vehicle Advisory Committee			
Mr. Brad Colin Billings	Governor	New	9/29/2017 12/31/2018
Qualifications (if required): None stated			
Mr. Russ Ehnes Great Falls	Governor	New	9/29/2017 12/31/2018
Qualifications (if required): None stated			
Mr. Mark Klemencic Great Falls	Governor	New	9/29/2017 12/31/2018
Qualifications (if required): None stated			
Ms. Jody Loomis Helena	Governor	New	9/29/2017 12/31/2018
Qualifications (if required): None stated			
Ms. Jennifer Schofield East Helena	Governor	New	9/29/2017 12/31/2018
Qualifications (if required): None stated			

EXECUTIVE BRANCH APPOINTEES FOR SEPTEMBER 2017

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Off-Highway Vehicle Advisory Committee Cont.			
Mr. Bob Walker	Governor	New	9/29/2017
Clancy			12/31/2018
Qualifications (if required): None stated			
Mr. Kent Wellner	Governor	New	9/29/2017
Missoula			12/31/2018
Qualifications (if required): None stated			
State Trails Advisory Committee			
Mr. Bruce Butler	Governor	New	9/29/2017
Laurel			6/1/2018
Qualifications (if required): None stated			
Mr. Garry Edson	Governor	New	9/29/2017
Bozeman			6/1/2018
Qualifications (if required): None stated			
Ms. Michelle Erb	Governor	New	9/29/2017
Helena			6/1/2018
Qualifications (if required): None stated			
Mr. Frank LaLiberty	Governor	New	9/29/2017
Cascade			6/1/2018
Qualifications (if required): None stated			

EXECUTIVE BRANCH APPOINTEES FOR SEPTEMBER 2017

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
State Trails Advisory Committee Cont.			
Mr. Robert Long Polson Qualifications (if required): None stated	Governor	New	9/29/2017 6/1/2018
Ms. Lyndsey Owens Big Sky Qualifications (if required): None stated	Governor	New	9/29/2017 6/1/2018
Mr. William Parker Whitefish Qualifications (if required): None stated	Governor	New	9/29/2017 6/1/2018
Mr. Tom Reilly Helena Qualifications (if required): None stated	Governor	New	9/29/2017 6/1/2018
Mr. Mark Reinsel Missoula Qualifications (if required): None stated	Governor	New	9/29/2017 6/1/2018
Ms. Alice Santos Helena Qualifications (if required): None stated	Governor	New	9/29/2017 6/1/2018

EXECUTIVE BRANCH APPOINTEES FOR SEPTEMBER 2017

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
State Trails Advisory Committee Cont.			
Ms. Beth R. Shumate Helena Qualifications (if required): None stated	Governor	New	9/29/2017 6/1/2018
Mr. Brian Smith Billings Qualifications (if required): None stated	Governor	New	9/29/2017 6/1/2018
Mr. Mark Smolen Big Fork Qualifications (if required): None stated	Governor	New	9/29/2017 6/1/2018
Mr. Dan Thompson Victor Qualifications (if required): None stated	Governor	New	9/29/2017 6/1/2018
Mr. Ryan Weiss Helena Qualifications (if required): None stated	Governor	New	9/29/2017 6/1/2018
Mr. Kent Wellner Missoula Qualifications (if required): None stated	Governor	New	9/29/2017 6/1/2018

EXECUTIVE BRANCH APPOINTEES FOR SEPTEMBER 2017

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
State Trails Advisory Committee Cont.			
Mr. Alan Woodmansey	Governor	New	9/29/2017
Helena			6/1/2018
Qualifications (if required): None stated			
State-Tribal Economic Development Commission			
Ms. Shelly Fyant	Governor	Reappointed	9/29/2017
Pablo			7/1/2020
Qualifications (if required): Confederated Salish and Kootenai Tribes' Representative			
Mr. Richard Sangray	Governor	Reappointed	9/29/2017
Box Elder			7/1/2020
Qualifications (if required): Chippewa-Cree Tribe Representative			
Mr. Leonard Twoteeth	Governor	Reappointed	9/29/2017
Pablo			7/1/2020
Qualifications (if required): Confederated Salish and Kootenai Tribes' Alternate Representative			
Teachers' Retirement Board			
Ms. Kari Peiffer	Governor	Reappointed	9/29/2017
Kalispell			7/1/2022
Qualifications (if required): Active member retirement system, employed as a public school classroom teacher			

EXECUTIVE BRANCH APPOINTEES FOR SEPTEMBER 2017

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Traumatic Brain Injury Advisory Council			
Ms. Joanna Susanne Reed	Governor	Adair	9/29/2017
Helena			1/1/2020
Qualifications (if required): Representative of injury control or prevention programs			
Workers' Compensation Court Judge			
Mr. David M. Sandler	Governor	Reappointed	9/8/2017
Kalispell			9/7/2020
Qualifications (if required): Judge			

EXECUTIVE BRANCH VACANCIES – NOVEMBER 1, 2017 THROUGH JANUARY 31, 2018

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Board of Chiropractors		
Dr. Lee Hudson, Great Falls Qualifications (if required): Chiropractor	Governor	1/1/2018
Dr. Vincent Maddio, Helena Qualifications (if required): Practicing Chiropractor	Governor	1/1/2018
Board of Horseracing		
Mr. John Hayes, Great Falls Qualifications (if required): Third district representative	Governor	1/1/2018
Board of Pardons and Parole		
Mr. Darryl Dupuis, Polson Qualifications (if required): Enrolled Tribal Member	Governor	1/1/2018
Ms. Patricia Edith Iron Cloud, Poplar Qualifications (if required): Enrolled member of a state-recognized Indian Tribe located in Montana	Governor	1/1/2018
Ms. Sandy Heaton, Deer Lodge Qualifications (if required): Mental Health Professional	Governor	1/1/2018
Board of Speech-Language Pathologists and Audiologists		
Ms. Tina Marie Berg, Lewistown Qualifications (if required): Policy Holder	Governor	12/31/2017

EXECUTIVE BRANCH VACANCIES – NOVEMBER 1, 2017 THROUGH JANUARY 31, 2018

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Board of Speech-Language Pathologists and Audiologists Cont. Ms. Leah Jacobsen, Great Falls Qualifications (if required): Audiologist	Governor	12/31/2017
Children's Trust Fund Board Mr. Joseph Mathieu Raffiani, Billings Qualifications (if required): Public Member	Governor	1/1/2018
High School Association Executive Board Mr. Drew Blewett, Great Falls Qualifications (if required): Public Representative	Governor	1/1/2018
Judicial Nomination Commission Mrs. Nancy Zadick, Great Falls Qualifications (if required): Public Representative	Governor	1/1/2018
Montana Alfalfa Seed Committee Mr. Ernest Johnson, Chinook Qualifications (if required): Alfalfa Seed Grower	Governor	12/1/2017
Mr. John Mehling, Hardin Qualifications (if required): Alfalfa Seed Grower and rears alfalfa leaf-cutting bees	Governor	12/1/2017
Mr. Cavin Steiger, Forsyth Qualifications (if required): Alfalfa Seed Grower	Governor	12/1/2017

EXECUTIVE BRANCH VACANCIES – NOVEMBER 1, 2017 THROUGH JANUARY 31, 2018

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Montana Children's Trust Fund Board		
Mrs. Clementine Lindley, Billings Qualifications (if required): Public Member	Governor	1/1/2018
Ms. Leslie Caye, Pablo Qualifications (if required): Public Member	Governor	1/1/2018
Montana Election and Technology Advisory Council		
Ms. Bonnie Ramey, Boulder Qualifications (if required): None Specified	Secretary of State	1/19/2018
Ms. Vickie Zeier, Missoula Qualifications (if required): None Specified	Secretary of State	1/19/2018
Ms. Sandra Boardman, Chinook Qualifications (if required): None Specified	Secretary of State	1/19/2018
Ms. Kathie Newgard, Polson Qualifications (if required): None Specified	Secretary of State	1/19/2018
Ms. Charlotte Mills, Bozeman Qualifications (if required): None Specified	Secretary of State	1/19/2018
Ms. Shelly Fyant, Pablo Qualifications (if required): None Specified	Secretary of State	1/19/2018

EXECUTIVE BRANCH VACANCIES – NOVEMBER 1, 2017 THROUGH JANUARY 31, 2018

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Montana Election and Technology Advisory Council Cont.		
Ms. Jody Walker, Deer Lodge	Secretary of State	1/19/2018
Qualifications (if required): None Specified		
Montana Grass Conservation Commission		
Mr. William F Kennedy, Ekalaka	Governor	1/1/2018
Qualifications (if required): Officer of or serves on the board of directors of a state district		
Ms. Vicki Dunaway, Billings	Governor	1/1/2018
Qualifications (if required): member of the public who possesses a general understanding of the livestock industry		
State Lottery Commission		
Mr. Tom Keegan, Helena	Governor	1/1/2018
Qualifications (if required): Attorney		
Representative Cynthia Hiner, Deer Lodge	Governor	1/1/2018
Qualifications (if required): Public Representative		
State-Tribal Economic Development Commission		
Ms. Theresa Hould McKeon, Malta	Governor	1/1/2018
Qualifications (if required): Survivor or Family Member of Survivor of Traumatic Brain Injury		
Ms. Angela Wathan, Whitefish	Governor	1/1/2018
Qualifications (if required): Injury Control or Prevention Programs		

EXECUTIVE BRANCH VACANCIES – NOVEMBER 1, 2017 THROUGH JANUARY 31, 2018

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Statewide Independent Living Council		
Ms. Mary Olson, Missoula	Governor	12/1/2017
Qualifications (if required): Person with disability not employed by state agency		

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COREY STAPLETON
SECRETARY OF STATE

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