

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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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 print publication of the adoption notice unless otherwise specified in the final notice. The Interpretation Section contains the Attorney General's opinions and state declaratory rulings. Special notices and tables are found at the end of each Register.

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

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BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of ARM)	NOTICE OF PROPOSED
2.59.701 and 2.59.705 pertaining to	)	AMENDMENT AND REPEAL
application procedure and standardized)	
forms and procedures and the repeal of	)	NO PUBLIC HEARING
ARM 2.59.706 pertaining to transition of	)	CONTEMPLATED
escrow business licensees to the NMLS)	

TO: All Concerned Persons

1. On December 5, 2016, the Department of Administration proposes to amend and repeal the above-stated rules.

2. The Department of Administration will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Administration no later than 5:00 p.m. on November 21, 2016, to advise us of the nature of the accommodation that you need. Please contact Wayne Johnston, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; telephone (406) 841-2918; TDD (406) 841-2974; facsimile (406) 841-2930; or e-mail to banking@mt.gov.

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

2.59.701 APPLICATION PROCEDURE FOR AUTHORIZATION TO ENGAGE IN THE ESCROW BUSINESS ~~(1) Pursuant to and in compliance with Title 32, chapter 7, MCA, "The Regulation of Escrow Business Act," all existing or proposed escrow businesses, as defined by the act, shall file with the department of administration applications for licenses to engage in the escrow business.~~

~~(2) Said applications must be in writing, verified by oath, and in the form prescribed by the director. Application forms may be obtained from the Commissioner of Banking and Financial Institutions, Department of Administration, 301 South Park, Suite 316, P.O. Box 200546, Helena, MT 59620-0546.~~

~~(3)~~(1) In addition to the statutory qualifications found in Title 32, chapter 7, MCA, officers and managers of proposed escrow businesses must shall demonstrate ~~through past record and present status as purveyors of escrow services and as business persons and citizens, that they are likely~~ the character and fitness to operate their proposed escrow businesses in compliance with all applicable state and local laws ~~of the state and local governments~~.

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

AUTH: 32-7-108, MCA
IMP: 32-7-109, MCA

GENERAL STATEMENT OF REASONABLE NECESSITY: As part of its required biennial review of rules, the Department of Administration has identified necessary changes identified in these proposed amendments and repeal.

STATEMENT OF REASONABLE NECESSITY: This proposed rule amendment is necessary because the processes described in (1) and (2) no longer apply to the escrow license application process. Effective October 10, 2014, escrow license applications are processed through the Nationwide Multistate Licensing System (NMLS) as adopted in ARM 2.59.705(2). The revised language of new (1) is being amended to clarify the current language.

2.59.705 ADOPTION OF STANDARDIZED FORMS AND PROCEDURES OF THE NATIONWIDE MULTISTATE LICENSING SYSTEM (NMLS) (1) through (2)(b) remain the same.

(c) NMLS individual form dated ~~April 16, 2012~~ July 30, 2014.

(3) The following state-specific forms on the NMLS are approved and adopted by reference:

~~(a) Montana escrow business company transition checklist dated May 21, 2014;~~

~~(b)~~(a) Montana escrow business company new application checklist dated ~~June 2, 2014~~ September 1, 2015;

~~(c)~~(b) Montana escrow business company amendment checklist dated ~~June 2, 2014~~ July 20, 2015;

~~(d)~~(c) Montana escrow business company surrender checklist dated ~~May 21, 2014~~ September 1, 2015.

(4) remains the same.

(5) Copies of the standardized NMLS forms are available on the department's web site ~~www.banking.mt.gov for review and informational purposes only~~ NMLS web site at http://mortgage.nationwidelicensingsystem.org/slr/PublishedStateDocuments/MT-Consumer_Loan_License-Company-New-App-Checklist.pdf. All standardized forms to be submitted to the department must be accessed through NMLS and submitted electronically.

AUTH: 32-7-109, 32-7-112, MCA

IMP: 32-7-109, 32-7-112, MCA

STATEMENT OF REASONABLE NECESSITY: This proposed rule amendment is necessary to reflect the most current forms provided by the NMLS and the most current checklists used by the division. The web site address is being changed from the division web site to the NMLS web site to make it easier for the public to access the forms.

4. The department proposes to repeal the following rule:

2.59.706 TRANSITION, found on ARM page 2-6021.

AUTH: 32-7-109, 32-7-112, MCA
IMP: 32-7-109, 32-7-112, MCA

STATEMENT OF REASONABLE NECESSITY: This rule is proposed for repeal because all escrow company licensees required to transition to the NMLS completed the transition during the transition period. There will be no other escrow company licensees requiring transition because new license applicants will apply for their license directly through the NMLS.

5. Concerned persons may present their data, views, or arguments concerning the proposed action to Kelly O'Sullivan, Legal Counsel, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; faxed to the office at (406) 841-2930; or e-mailed to banking@mt.gov; and must be received no later than 5:00 p.m., November 28, 2016.

6. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to the person listed in 5 above no later than 5:00 p.m., November 28, 2016.

7. If the Division of Banking and Financial Institutions receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be one person based on the eight existing escrow company licensees.

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

9. The Division of Banking and Financial Institutions maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this division. Persons who wish to have their name added to the mailing list shall make a written request that includes the name, mailing address, and e-mail address of the person to receive notices and specifies that the person wishes to receive notices regarding division rulemaking actions. Notices will be sent by e-mail unless

a mailing preference is noted in the request. Such written requests may be mailed or delivered to Wayne Johnston, Division of Banking and Financial Institutions, 301 S. Park, Ste. 316, P.O. Box 200546, Helena, Montana 59620-0546; faxed to the office at (406) 841-2930; e-mailed to banking@mt.gov; or may be made by completing a request form at any rules hearing held by the department.

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

11. The department has determined that under 2-4-111, MCA, the proposed rule amendments and rule repeal will not significantly and directly affect small businesses.

By: /s/ Sheila Hogan
Sheila Hogan, Director
Department of Administration

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

Certified to the Secretary of State October 17, 2016.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of ARM	)	NOTICE OF PROPOSED
2.59.1201 pertaining to standardized	)	AMENDMENT AND REPEAL
forms and procedures and the repeal of)	
ARM 2.59.1202 pertaining to the	)	NO PUBLIC HEARING
transition of sales finance company	)	CONTEMPLATED
licensees to the NMLS)	

TO: All Concerned Persons

1. On December 5, 2016, the Department of Administration proposes to amend and repeal the above-stated rules.

2. The Department of Administration will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Administration no later than 5:00 p.m. on November 21, 2016, to advise us of the nature of the accommodation that you need. Please contact Wayne Johnston, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; telephone (406) 841-2918; TDD (406) 841-2974; facsimile (406) 841-2930; or e-mail to banking@mt.gov.

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

2.59.1201 ADOPTION OF STANDARDIZED FORMS AND PROCEDURES OF THE NATIONWIDE MULTISTATE LICENSING SYSTEM (NMLS) (1) through (2)(b) remain the same.

(c) NMLS individual form dated ~~April 16, 2012~~ July 30, 2014.

(3) The following state-specific forms on the NMLS are approved and adopted by reference:

~~(a) Montana sales finance company transition checklist dated May 21, 2014;~~

~~(b)~~(a) Montana sales finance company new application checklist dated ~~June 2, 2014~~ February 11, 2016;

(c) and (d) remain the same, but are renumbered (b) and (c).

~~(e) Montana sales finance company branch transition checklist dated July 11, 2014;~~

~~(f)~~(d) Montana sales finance company branch new application checklist dated ~~July 11, 2014~~ June 23, 2015;

(g) remains the same, but is renumbered (e).

~~(h)~~ (f) Montana sales finance company branch surrender checklist dated ~~June 2, 2014~~ June 21, 2014.

(4) remains the same.

(5) Copies of the standardized NMLS forms are available on the department's web site www.banking.mt.gov for review and informational

~~purposes only~~ NMLS web site at
http://mortgage.nationwidelicencingsystem.org/slr/PublishedStateDocuments/MT-Sales_Finance_Company_License-Company-New-App-Checklist.pdf. All standardized forms to be submitted to the department must be accessed through NMLS and submitted electronically.

AUTH: 31-1-223, MCA
IMP: 31-1-223, MCA

GENERAL STATEMENT OF REASONABLE NECESSITY: As part of its required biennial review of rules, the Department of Administration has identified necessary changes identified in these proposed amendments and repeal.

STATEMENT OF REASONABLE NECESSITY: This rule amendment is necessary to reflect the most current forms provided by the NMLS and the most current checklists used by the division. The web site address is being changed from the division web site to the NMLS web site to make it easier for the public to access the forms.

4. The department proposes to repeal the following rule:

2.59.1202 TRANSITION, found on ARM page 2-6082.

AUTH: 31-1-221, 31-1-223, MCA
IMP: 31-1-221, 31-1-223, MCA

STATEMENT OF REASONABLE NECESSITY: This rule is proposed for repeal because all sales finance company licensees required to transition to the NMLS completed the transition during the transition period. There will be no other sales finance company licensees requiring transition because new license applicants will apply for their license directly through the NMLS.

5. Concerned persons may present their data, views, or arguments concerning the proposed action to Kelly O'Sullivan, Legal Counsel, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; faxed to the office at (406) 841-2930; or e-mailed to banking@mt.gov; and must be received no later than 5:00 p.m., November 28, 2016.

6. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to the person listed in 5 above no later than 5:00 p.m., November 28, 2016.

7. If the Division of Banking and Financial Institutions receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate

administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 15 persons based on the 151 existing sales finance company licensees.

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

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

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

11. The department has determined that under 2-4-111, MCA, the proposed rule amendment and rule repeal will not significantly and directly affect small businesses.

By: /s/ Sheila Hogan
Sheila Hogan, Director
Department of Administration

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

Certified to the Secretary of State October 17, 2016.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of ARM	)	NOTICE OF PROPOSED
2.59.1506, 2.59.1515, and 2.59.1522	)	AMENDMENT
pertaining to definitions, standardized)	
forms and procedures, and annual	)	NO PUBLIC HEARING
reporting form for deferred deposit	)	CONTEMPLATED
lending)	

TO: All Concerned Persons

1. On December 5, 2016, the Department of Administration proposes to amend the above-stated rules.

2. The Department of Administration will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Administration no later than 5:00 p.m. on November 21, 2016, to advise us of the nature of the accommodation that you need. Please contact Wayne Johnston, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; telephone (406) 841-2918; TDD (406) 841-2974; facsimile (406) 841-2930; or e-mail to banking@mt.gov.

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

2.59.1506 PROCEDURAL RULES FOR HEARINGS AND DISCOVERY

(1) remains the same.

(a) hearings and related discovery shall must be done ~~conducted~~ under the Montana Administrative Procedure Act implementing the ~~Revised~~ Attorney General's model rules in ~~effective June 4, 1999~~ October 17, 2016.

(2) ~~The Department of Administration, Division of Banking and Financial Institutions,~~ adopts and incorporates by reference the Attorney General's model rules in ~~effective June 4, 1999 as~~ October 17, 2016, found in ARM 1.3.101, 1.3.102, 1.3.202, 1.3.211 through 1.3.224, and 1.3.226 through 1.3.233, along with the accompanying forms. A copy of the ~~The~~ Attorney General's rules may be ~~obtained from the Division of Banking and Financial Institutions, Department of Administration at 301 South Park, P.O. Box 200546, Helena, MT 59620-0546~~ found at <http://www.mtrules.org>.

AUTH: 31-1-702, MCA
IMP: 31-1-702, 31-1-713, MCA

GENERAL STATEMENT OF REASONABLE NECESSITY: As part of its required biennial review of rules, the Department of Administration has identified necessary changes identified in these proposed amendments.

STATEMENT OF REASONABLE NECESSITY: The department proposes to amend this rule to reflect the current Attorney General's model rules for hearings and discovery. The Attorney General's model rules have worked well for the division.

2.59.1515 ADOPTION OF STANDARDIZED FORMS AND PROCEDURES OF THE NATIONWIDE MULTISTATE LICENSING SYSTEM (NMLS) (1) through

(2)(b) remain the same.

(c) NMLS individual form dated ~~April 16, 2012~~ July 30, 2014.

(3) remains the same.

(a) Montana deferred deposit lender new application checklist dated ~~June 2, 2014~~ August 31, 2015;

(b) Montana deferred deposit lender amendment checklist dated ~~June 2, 2014~~ August 31, 2015;

(c) Montana deferred deposit lender surrender checklist dated ~~May 21, 2014~~ September 1, 2015;

(d) Montana deferred deposit lender branch new application checklist dated ~~July 11, 2014~~ September 1, 2015;

(e) remains the same.

(f) Montana deferred deposit branch surrender checklist dated ~~June 2, 2014~~ September 1, 2015.

(4) remains the same.

(5) Copies of the standardized NMLS forms are available on the department's web site www.banking.mt.gov for review and informational purposes only NMLS web site at http://mortgage.nationwidelicensingsystem.org/slr/PublishedStateDocuments/MT-Deferred_Deposit_Lender_License-Company-New-App-Checklist.pdf. All standardized forms to be submitted to the department must be accessed through NMLS and submitted electronically.

AUTH: 31-1-705, 31-1-710, MCA

IMP: 31-1-705, 31-1-710, MCA

STATEMENT OF REASONABLE NECESSITY: This proposed rule amendment is necessary to reflect the most current forms provided by the NMLS and the most current checklists used by the division. The web site address is being changed from the division web site to the NMLS web site to make it easier for the public to access the forms.

2.59.1522 ADOPTION OF ANNUAL REPORTING FORM AND DUE DATE

(1) All entities holding a deferred deposit loan license at any time during 2014 shall complete the Deferred Deposit Loan Annual Report of Licensee dated August 5, 2014, and file it with the department by April 15, 2015. Instructions for filing are in the report. An entity holding a deferred deposit lender license for any period of time during a calendar year reporting period shall complete and file with the department by April 15 of the following calendar year a Deferred Deposit Lender Annual Report of Licensee. The annual report must be filed whether or not any loans were originated during the reporting period and whether or not the licensee renewed its

license at the end of the reporting period or held a license when the report came due the following April 15.

(2) A completed annual report may be mailed to the Division of Banking and Financial Institutions, 301 S. Park Ave., Suite 316, P.O. Box 200546, Helena, MT 59620-0546; faxed to (406) 841-2930; or e-mailed to banking@mt.gov.

(3) The Deferred Deposit Lender Annual Report of Licensee form, July 13, 2016, edition, is adopted and incorporated by reference.

(2)(4) Copies of the form are available on the division's web site, www.banking.mt.gov <http://banking.mt.gov/Home/Forms#164912245-deferred-deposit>.

AUTH: 31-1-714, MCA

IMP: 31-1-714, MCA

STATEMENT OF REASONABLE NECESSITY: This proposed rule amendment is necessary because the Deferred Deposit Lender Annual Report of Licensee form had not been adopted by reference. Changes were also made to this rule so that it would be similar in wording and content to the consumer loan annual report rule (ARM 2.59.318).

4. Concerned persons may present their data, views, or arguments concerning the proposed action to Kelly O'Sullivan, Legal Counsel, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; faxed to the office at (406) 841-2930; or e-mailed to banking@mt.gov; and must be received no later than 5:00 p.m., November 28, 2016.

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 to the person listed in 4 above no later than 5:00 p.m., November 28, 2016.

6. If the Division of Banking and Financial Institutions receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be zero persons based on the fact that currently there are no Montana-licensed deferred deposit lenders.

7. An electronic copy of this proposal notice is available through the department's web site at <http://doa.mt.gov/administrativerules>. The department strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that if a discrepancy exists between the official printed text of the notice and

the electronic version of the notice, only the official printed text will be considered. In addition, although the department works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

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

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

10. The department has determined that under 2-4-111, MCA, the proposed rule amendments will not significantly and directly affect small businesses.

By: /s/ Sheila Hogan
Sheila Hogan, Director
Department of Administration

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

Certified to the Secretary of State October 17, 2016.

BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
MONTANA STATE AUDITOR

In the matter of the adoption of New) NOTICE OF PUBLIC HEARING ON
Rules I through VIII pertaining to) PROPOSED ADOPTION
Annuity Mortality Tables --)
Determining Reserve Liabilities)

TO: All Concerned Persons

1. On November 17, 2016, at 1:00 p.m., the Commissioner of Securities and Insurance, Montana State Auditor (CSI), will hold a public hearing in the 2nd floor conference room, at the Office of the Commissioner of Securities and Insurance, Montana State Auditor, 840 Helena Ave., Helena, Montana, to consider the proposed adoption of 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., November 10, 2016, to advise us of the nature of the accommodation that you need. Please contact Darla Sautter, CSI, 840 Helena Avenue, Helena, Montana, 59601; telephone (406) 444-2726; TDD (406) 444-3246; fax (406) 444-3499; or e-mail dsautter@mt.gov.

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

NEW RULE I PURPOSE (1) The purpose of these rules is to recognize the following mortality tables for use in determining the minimum standard of valuation for annuity and pure endowment contracts:

- (a) the 1983 Table "a";
- (b) the 2012 IAR Mortality Table; and
- (c) the 1994 GAR Table.

AUTH: 33-1-313, 33-2-418, MCA
IMP: 33-2-410, MCA

NEW RULE II DEFINITIONS (1) "1983 Table 'a'" means the individual annuity mortality table developed by the Society of Actuaries Committee to Recommend a New Mortality Basis for Individual Annuity Valuation and adopted as a recognized mortality table for annuities in June 1982 by the National Association of Insurance Commissioners.

(2) "1994 GAR Table" means the group annuity mortality table developed by the Society of Actuaries Group Annuity Valuation Table Task Force and shown on pages 866-867 of Volume XLVII of the Transactions of the Society of Actuaries (1995).

(3) "2012 IAM Period Table" means the individual annuity mortality period table containing loaded mortality rates for the calendar year 2012. This table

contains rates, q_x^{2012} , developed by the Society of Actuaries Committee on Life Insurance Research and referenced in Appendices A and B.

(4) "2012 IAR Mortality Table" means the generational mortality table developed by the Society of Actuaries Committee on Life Insurance Research and containing rates, q_x^{2012+n} , derived from a combination of the 2012 IAM Period Table and Projection Scale G2, using the methodology stated in [NEW RULE IV].

(5) "Generational mortality table" means a mortality table containing a set of mortality rates that decrease for a given age from one year to the next based on a combination of a period table and a projection scale containing rates of mortality improvement.

(6) "Period table" means a table of mortality rates applicable to a given calendar year.

(7) "Projection Scale G2" is a table of annual rates, $G2_x$, of mortality improvement by age for projecting future mortality rates beyond calendar year 2012. This table was developed by the Society of Actuaries Committee on Life Insurance Research and referenced in Appendices C and D.

AUTH: 33-1-313, 33-2-418, MCA

IMP: 33-2-410, MCA

NEW RULE III INDIVIDUAL ANNUITY AND PURE ENDOWMENT

CONTRACTS (1) Except as provided in (2), the 2012 IAR Mortality Table shall be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 2017.

(2) The 1983 Table "a" without projection shall be used for determining the minimum standards of valuation for an individual annuity or pure endowment contract issued on or after January 1, 2017, solely when the contract is based on life contingencies and is issued to fund periodic benefits arising from:

(a) settlements of various forms of claims pertaining to court settlements or out of court settlements from tort actions;

(b) settlements involving similar actions such as workers' compensation claims; or

(c) settlements of long term disability claims where a temporary or life annuity has been used in lieu of continuing disability payments.

AUTH: 33-1-313, 33-2-418, MCA

IMP: 33-2-410, MCA

NEW RULE IV APPLICATION OF THE 2012 IAR MORTALITY

TABLE (1) In using the 2012 IAR Mortality Table, the mortality rate for a person age x in year $(2012 + n)$ is calculated as follows:

(a) $q_x^{2012+n} = q_x^{2012}(1-G2_x)^n$;

(b) the resulting q_x^{2012+n} shall be rounded to three decimal places per 1,000, e.g., 0.741 deaths per 1,000;

(c) also, the rounding shall occur according to the formula above, starting at the 2012 period table rate. For example:

(i) for a male age 30, $q_x^{2012} = 0.741$, $q_x^{2013} = 0.741 * (1-0.010) ^ 1 = 0.73359$, which is rounded to 0.734. $q_x^{2014} = 0.741 * (1-0.010) ^ 1 = 0.7262541$, which is rounded to 0.726.

(ii) a method leading to incorrect rounding would be to calculate q_x^{2014} as $q_x^{2013} * (1-0.010)$, or $0.734 * 0.99 = 0.727$.

(d) It is incorrect to use the already rounded q_x^{2013} to calculate q_x^{2014} .

AUTH: 33-1-313, 33-2-418, MCA

IMP: 33-2-410, MCA

NEW RULE V GROUP ANNUITY AND PURE ENDOWMENT

CONTRACTS (1) The 1994 GAR Table shall be used for determining the minimum standard of valuation for any annuity or pure endowment purchased on or after January 1, 2017, under a group annuity or pure endowment contract.

AUTH: 33-1-313, 33-2-418, MCA

IMP: 33-2-410, MCA

NEW RULE VI APPLICATION OF THE 1994 GAR TABLE

(1) In using the 1994 GAR Table, the mortality rate for a person age x in year (1994 + n) is calculated as follows:

(a) $q_x^{1994+n} = q_x^{1994}(1-AA_x)^n$ where the q_x^{1994} and AA_x are specified in the 1994 GAR Table.

AUTH: 33-1-313, 33-2-418, MCA

IMP: 33-2-410, MCA

NEW RULE VII INCORPORATION BY REFERENCE OF THE 1983 TABLE

"A," THE 2012 IAR MORTALITY TABLE, AND THE 1994 GAR TABLE (1) The Commissioner of Securities and Insurance, Office of the State Auditor, adopts and incorporates by reference the 1983 Table "a" adopted by the National Association of Insurance Commissioners (NAIC) in June 1982; the 1994 GAR Table was developed by the Society of Actuaries Group Valuation Task Force and published in 1995; and the 2012 IAR Mortality Table was adopted by the NAIC in December 2012. These tables set forth and specify rating data necessary for calculation of insurers' reserve requirements associated with applicable products. Copies of these tables are available for public inspection in the Rates and Forms Bureau of the Office of the Commissioner of Securities and Insurance, Montana State Auditor, Legal Department, 840 Helena Avenue, Helena, Montana 59601. Persons obtaining a copy of these forms must pay the cost of providing such copies.

AUTH: 33-1-313, 33-2-418, MCA

IMP: 33-2-410, MCA

NEW RULE VIII EFFECTIVE DATE

(1) The effective date of [New Rules I through VII] is January 1, 2017.

AUTH: 33-1-313, 33-2-418, MCA
IMP: 33-2-410, MCA

4. STATEMENT OF REASONABLE NECESSITY: The Commissioner of Securities and Insurance, Montana State Auditor, Monica J. Lindeen, (commissioner) is the statewide elected official responsible for administering the Montana Insurance Code and regulating the business of insurance.

The commissioner is the former President of the National Association of Insurance Commissioners (NAIC). The 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. These rules are derived from the NAIC Model Rule (Regulation) for Recognizing a New Annuity Mortality Table for Use in Determining Reserve Liabilities for Annuities (#821).

These rules are reasonably necessary in order to adopt the currently applicable NAIC mortality tables as contemplated in 33-2-410, MCA, and to ensure uniformity with other states. Section 33-2-410, MCA, provides for the commissioner's approval by rule of NAIC-adopted mortality tables for both individual and group annuity and pure endowment contracts. New Rules I through VI would adopt the mortality table regime currently adopted by the NAIC, and nearly every other state.

Mortality tables are utilized to calculate insurers' reserve requirements associated with certain insurance products. Uniformity of mortality table requirements among states allows insurers to operate more efficiently by applying the same rating principles in multiple jurisdictions. Additionally, mortality tables based upon more up-to-date actuarial analyses (such as the mortality tables adopted by these rules) allow insurers to more accurately project reserve requirements, which in turn enhances policyholder protection by ensuring the insurer has adequately accounted for its risks.

5. Concerned persons may submit their data, views, or arguments concerning the proposed actions either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Nick Mazanec, Attorney, Office of the Commissioner of Securities and Insurance, Montana State Auditor, 840 Helena Ave., Helena, Montana, 59601; telephone (406) 444-0385; fax (406) 444-3499; or e-mail nmazanec@mt.gov, and must be received no later than 5:00 p.m., November 25, 2016.

6. Nick Mazanec, Attorney, has been designated to preside over and conduct this hearing.

7. The CSI maintains a list of concerned 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 web site at: <http://csimt.gov/laws-rules/> to specify 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. 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.

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

9. Pursuant to 2-4-302, MCA, the bill sponsor contact requirements do not apply.

10. Pursuant to 2-4-111, MCA, the adoption of these rules does not significantly and directly impact small businesses.

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

/s/ Jesse Laslovich
Jesse Laslovich
Chief Legal Counsel

Certified to the Secretary of State October 17, 2016

BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
MONTANA STATE AUDITOR

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 6.6.4902, 6.6.4906, 6.6.4907,) PROPOSED AMENDMENT
6.6.4908, and 6.6.4909 pertaining to)
Patient-Centered Medical Homes)

TO: All Concerned Persons

1. On November 17, 2016, at 10:00 a.m., the Commissioner of Securities and Insurance, Montana State Auditor (CSI), will hold a public hearing in the 2nd floor conference room, at the Office of the Commissioner of Securities and Insurance, Montana State Auditor, 840 Helena Ave., Helena, Montana, to consider the proposed amendment of 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., November 10, 2016, to advise us of the nature of the accommodation that you need. Please contact Darla Sautter, CSI, 840 Helena Avenue, Helena, Montana, 59601; telephone (406) 444-2726; TDD (406) 444-3246; fax (406) 444-3499; or e-mail dsautter@mt.gov.

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

6.6.4902 PATIENT-CENTERED MEDICAL HOME QUALIFICATION

(1) After January 1, 2014, health plans and primary care practices as defined in 33-40-103, MCA, self-funded government plans, Medicaid plans, and other health care providers offering medical services as defined in 33-22-140, MCA, may not offer or identify themselves as a patient-centered medical home or "medical home" unless the participating provider groups are qualified by the commissioner, and the health plan or other payer payor is utilizing healthcare providers who are qualified when offering "medical home" services to covered individuals under the plan.

(2) ~~A primary care practice that is currently operating as a patient-centered medical home must submit an application for qualification by December 1, 2013, if the practice wishes to continue using that designation. Thereafter, any~~ Any provider seeking to use the patient-centered medical home designation must apply for qualification and receive approval from the commissioner before holding itself out as a patient-centered medical home.

(3) through (5) remain the same.

AUTH: 33-40-104, MCA
IMP: 33-40-104, 33-40-105, MCA

6.6.4906 TIMELINES FOR REQUIRED REPORTING (1) Pursuant to 33-

40-105, MCA, a patient-centered medical home shall report on its compliance with quality and performance measures set forth in these rules to participating health plans and other ~~payers~~ payors and the commissioner, no later than ~~March 31~~ April 30 of each year, ~~beginning with 2015~~, or according to the timeline required by its contract with each ~~payer~~ payor, whichever is earlier. The commissioner may request that the report also include other information necessary to the evaluation of the Montana patient-centered medical home program.

(2) A health plan and other ~~payers~~ payors shall report to the patient-centered medical home and the commissioner regarding their compliance with the uniform set of cost and utilization measures set forth in ~~the Act~~, these rules, or in the provider/~~payer~~ payor contract, no later than ~~March 31~~ April 30 of each year, ~~beginning with 2015~~, or according to the timeline required by its contract with each patient-centered medical home, whichever is earlier. The commissioner may request that the report also includes other information necessary to the evaluation of the Montana patient-centered medical home program.

(3) The commissioner shall share with the public, in the form of a summary report, de-identified, nonconfidential information contained in the reports listed in (1) and (2) and ARM 6.6.4907 at least once a year, beginning in June 2015 no later than August 31 of each year.

AUTH: 33-40-104, MCA

IMP: 33-40-104, 33-40-105, MCA

6.6.4907 PATIENT-CENTERED MEDICAL HOME REPORTING—SPECIFIC QUALITY MEASURES REQUIRED (1) A qualified or provisionally qualified patient-centered medical home (PCMH) shall report annually to the commissioner on its performance related to certain standards and health care quality measures, as prescribed by the commissioner. A PCMH health care provider that provides care to adults only, or both children and adults, shall choose at least three of the five quality measures listed in (3)(a) through (e) to report to the commissioner. A PCMH shall choose four out of five measures for the 2016 reporting year, for the report due in ~~March~~ April 2017 and all subsequent years.

(2) A PCMH health care provider that provides care only to children, referred to as a pediatric practice, shall choose at least the child immunization performance measure in (3)(c). Reporting on depression screening in (3)(e) is optional for pediatric practices until the 2017 reporting year, for the report due in ~~March~~ April 2018. At that time and for subsequent years, all pediatric clinics shall report on both the depression and immunization measures.

(3) through (3)(b) remain the same.

(c) age appropriate immunization for children who turned age ~~three~~ two during the reporting year;

(d) through (4) remain the same.

(5) A PCMH health care provider may not change the reporting measures the provider chose for the 2014 reporting year until after the 2016 reporting year for the report due in ~~March~~ April of 2017, or until otherwise instructed by the commissioner. However, a provider may report on additional measures at any time.

(6) Annually, the data on standards and quality measures are due to the

commissioner on ~~March 31~~ April 30 for the previous calendar year.

(7) The commissioner shall provide detailed instructions on the agency web site for reporting by qualified and provisionally qualified PCMH's on the quality measures described in (3). Data reporting requirements must be aligned with the federal ~~Physician Quality Reporting System (PQRS)~~, ~~except for childhood immunizations~~, Centers for Medicaid & Medicare services (CMS) electronic Clinical Quality Measures (eCQMs) and the instructions provided on the commissioner's web site.

(8) and (9) remain the same.

(10) ~~Payers~~ Payors who choose to participate in the Montana PCMH program, and who require reporting on quality measures in their contract with PCMH health care providers shall also use the same data reporting requirements prescribed by the commissioner, if the ~~payer~~ payor collects data on the measures described in (3).

AUTH: 33-40-104, MCA

IMP: 33-40-104, 33-40-105, MCA

6.6.4908 STANDARDS FOR PAYMENT METHODS (1) A payor that ~~currently~~ has a medical home or patient-centered medical home component in its provider contracts or in insurance contracts issued to Montana residents shall submit a letter to the commissioner describing its method of compensating providers no later than January 1, ~~2015~~ of each year, if there are changes from the prior year.

(2) through (4) remain the same.

(5) The commissioner shall maintain copies of the payor letters. After approval, these letters are available to the public, ~~upon request~~ and posted on the commissioner's web site. If the commissioner determines that a payor letter contains trade secret information as defined in 30-14-402(4), MCA, the commissioner shall redact or otherwise withhold such information from the public.

(6) remains the same.

(a) payment for practice transformation and achieving ~~for~~ patient-centered medical home recognition status;

(b) through (f) remain the same.

AUTH: 33-40-104, MCA

IMP: 33-40-104, 33-40-105, MCA

6.6.4909 MEASURES RELATED TO COST AND MEDICAL USAGE—UTILIZATION MEASURES (1) through (3) remain the same.

(4) The first report is due ~~March 31, 2015, and annually thereafter~~ annually on April 30.

AUTH: 33-40-104, MCA

IMP: 33-40-104, 33-40-105, MCA

4. STATEMENT OF REASONABLE NECESSITY: The Commissioner of Securities and Insurance, Montana State Auditor, Monica J. Lindeen,

(commissioner) is the statewide elected official responsible for administering the Montana Insurance Code and regulating the business of insurance.

The amendments to ARM 6.6.4902, 6.6.4906, 6.6.4907, 6.6.4908, and 6.6.4909 are reasonably necessary in order to clean up references to outdated requirements, update references to more appropriate federal standards for data reporting, and adjust timelines to allow additional time for date reporting.

Pursuant to 33-40-104, MCA, the interested parties and the stakeholder council was consulted by the CSI during the drafting of these amendments. The PCMH stakeholder council has approved these amendments.

5. Concerned persons may submit their data, views, or arguments concerning the proposed actions either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Christina L. Goe, General Counsel, Office of the Commissioner of Securities and Insurance, Montana State Auditor, 840 Helena Ave., Helena, Montana, 59601; telephone (406) 444-1942; fax (406) 444-5223; or e-mail cgoe@mt.gov, and must be received no later than 5:00 p.m., November 25, 2016.

6. Christina L. Goe, General Counsel, has been designated to preside over and conduct this hearing.

7. The CSI maintains a list of concerned 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 web site at: <http://csimt.gov/laws-rules/> to specify 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. 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.

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

9. Pursuant to 2-4-302, MCA, the bill sponsor contact requirements apply and have been fulfilled. Christine Kaufmann is the sponsor, and she was notified by e-mail on October 14, 2016.

10. With regard to the requirements of 2-4-111, MCA, the CSI has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses. In the alternative, the only impact on small businesses would be positive, in that these amendments provide additional time each year to meet existing reporting requirements.

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

/s/Christina L. Goe
Christina L. Goe
General Counsel

Certified to the Secretary of State October 17, 2016.

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

In the matter of the amendment of ARM)	NOTICE OF PUBLIC HEARING
17.38.104, 17.38.201A, 17.38.202,)	ON PROPOSED AMENDMENT
17.38.207, 17.38.208, 17.38.211,)	
17.38.215, 17.38.225, 17.38.234, and)	(PUBLIC WATER SUPPLY)
17.38.271 pertaining to rules and)	
regulations governing public water)	
supply systems)	

TO: All Concerned Persons

1. On November 22, 2016, at 11:00, a.m., the Board of Environmental Review will hold a public hearing in Room 111, Metcalf Building, 1520 East Sixth Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The board 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 Denise Hartman, Administrative Rules Coordinator, no later than 5:00 p.m., November 15, 2016, to advise us of the nature of the accommodation that you need. Please contact Denise Hartman at Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2630; fax (406) 444-4386; or e-mail dhartman2@mt.gov.

3. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined (see the general reason statement for further explanation):

17.38.104 SIGNIFICANT DEFICIENCY (1) For the purposes of this rule, "significant deficiency" means any defect in design, operation, or maintenance of a public water supply system or public sewage system, or a failure or malfunction of the system, that the department determines causes, or has the potential to cause, the introduction of fecal, chemical, or other contamination into a drinking water supply or a source of ice. The term also includes ~~fecal contamination in water used by a public water supply system~~ practices and conditions that hinder the determination of the source or potential source of contamination, such as improper sample locations or sample taps.

(2) and (3) remain the same.

AUTH: 75-6-103, 75-6-112, MCA
IMP: 75-6-103, 75-6-112, MCA

REASON: In order to determine a source or potential source of contamination, practices and conditions that allow such determination must be in

place. For example, proper sampling locations and proper sampling taps need to be in place. If they are not, it is challenging, if not impossible, to quickly track down a source of contamination. This rule change gives the department express authority to ensure that necessary practices and conditions are in place.

GENERAL REASON STATEMENT: On February 13, 2013, the Environmental Protection Agency adopted a new set of regulations, collectively called the "revised total coliform rule" (RTCR), under the Safe Drinking Water Act. See 78 FR 10354. The RTCR modified coliform requirements from the 1989 Total Coliform Rule (TCR). The RTCR, like the 1989 Total Coliform Rule (1989 TCR), applies to all public water systems. There are several updates to provisions of other rules, like the Ground Water Rule and Public Notification Rules, which reference analytical methods and other requirements of the 1989 TCR. In addition, there are three major changes dictated by the RTCR, all expected to protect public health above and beyond that of the 1989 TCR. First, the RTCR, like the 1989 TCR, will require systems to test for coliforms. Currently, the 1989 TCR requires monitoring and reporting of coliform test results. Systems are not required to determine the cause of any positive results. The RTCR, however, will require a system to apply a "find and fix" strategy that identifies the actual and/or potential causes of the positive coliform test results. The system is then required to take corrective action and fix the problem(s). Since total coliforms are indicators of microbial contamination entering the distribution system, this "find and fix" strategy will add an additional layer of protection for public health. Systems with positive coliform test results will be required to look closely at all aspects of their system, including the source water, treatment process, distribution system, and operating procedures. Then, any identified problems that could result in pathogens entering the system, and making people sick, need to be fixed.

Second, the RTCR requires seasonal systems to perform a department-approved start-up procedure and to certify to the department that the procedure has been completed before opening for the operating season and serving water to the public. The start-up procedure will include flushing stagnant water from pipes, inspecting equipment to determine if repairs are needed, checking to ensure disinfectants are fresh, and testing a sample of water for coliforms. This procedure, not required under the 1989 TCR, is designed to protect public health by ensuring that the water system is fully operational and ready for the season. The final step, testing a sample of water for coliforms, will determine whether there are potentially harmful microbes in the water before it is served to the public.

Third, under the 1989 TCR rule, total-coliform samples are tested for either fecal coliforms or *E. coli*. However, studies conducted since adoption of this rule have shown that fecal coliform tests can turn positive due to bacteria that are not necessarily fecal in origin. Therefore, at times, positive samples may not contain waterborne pathogens that are hazardous to human health, and boil orders are implemented when they are not necessary to protect public health. As a result, the RTCR will require total-coliform samples to be tested specifically for *E. coli*. Choosing to test for fecal coliforms is no longer an option. *E. coli*, unlike fecal coliforms, almost always originate in the guts of humans and other mammals so therefore are indicators of potential fecal contamination and the possibility of

pathogenic organisms in the water supply. This rule change is beneficial in two ways. It will decrease the likelihood of boil orders when public health is not at risk, and it will substantiate the need of boil orders when public health is truly in jeopardy.

Under 42 U.S.C. 300g-2 of the Safe Drinking Water Act, states can assume primary enforcement responsibility, called "primacy," for enforcement of federal drinking water requirements if the EPA determines that the state has adopted rules that are no less stringent than the EPA regulations. The Montana Legislature's policy is for DEQ to retain primacy over environmental programs. Therefore, in order to maintain primacy for enforcement of safe drinking water laws, the board is proposing to adopt the RTCR requirements. The extensive changes required to adopt the RTCR will be accompanied by: 1) adoption by reference of the July 1, 2015, edition of the Code of Federal Regulations (CFR); 2) several housekeeping changes; and 3) several non-RTCR updates and/or clarifications to existing rules.

The 1989 TCR specified that community water systems (CWS) must test for coliforms monthly, unless the state adopts quarterly monitoring for small qualified systems. In addition, non-community water systems (NCWS) using only ground water and serving 1,000 or fewer people must test for coliforms quarterly, unless the state adopts annual monitoring for small qualified systems. NCWS include transient (TNC) and nontransient systems (NTNC).

In 1991, the Department of Health and Environmental Sciences (DHES) was responsible for public water supply rules, including those related to the 1989 TCR. They adopted monthly monitoring for community and NTNC systems, and quarterly monitoring for TNC systems using only ground water and serving 1,000 or fewer people. However, the rule was written to trigger TNCs to sample monthly starting in 1993.

In 1998, the department proposed that all TNC systems move from monthly to quarterly sampling to be consistent with federal requirements. Sanitarians, city-county health departments, and others commented during the rule writing process that quarterly sampling was not frequent enough, and the board agreed. MAR Notice Number 17-089, published in 1999, documents the reasoning and support for keeping the more stringent rules requiring these systems to monitor monthly, and the guidelines for qualifying for and staying on reduced quarterly monitoring. The ways to qualify for quarterly monitoring were agreed upon between the above-mentioned groups and the department, and written into the rule in ARM 17.38.215(1)(c).

Therefore, the state of Montana currently requires all public water systems to monitor monthly for coliform bacteria. However, a TNC system that uses only ground water and serves a maximum daily population of 1,000 or fewer may apply for quarterly monitoring if they meet the requirements of ARM 17.38.215(1)(c).

The RTCR, just like the 1989 TCR, specifies that CWS's must test for coliforms monthly, unless the department adopts quarterly monitoring for small qualified systems. In addition, NCWSs using only ground water and serving 1,000 or fewer people must test for coliforms quarterly, unless the department adopts annual monitoring for qualified systems.

Each state has the discretion to adopt baseline and reduced monitoring provisions of 40 CFR Part 141 that are appropriate for that state. In order to fully protect public health, the board is proposing to keep all of the current coliform

monitoring frequencies in place, including the rules requiring TNC systems to monitor monthly unless the system qualifies and applies for quarterly monitoring, except for two major changes. First, the requirements for triggering TNC systems to return to monthly coliform monitoring have been strengthened by incorporating RTCR triggers that mandate increased monitoring. This change will help ensure that only well-maintained systems that are complying with Safe Drinking Water regulations will qualify for and remain on reduced monitoring. This process will reduce the risk of serving contaminated water to the public. Second, only non-seasonal transient systems will be able to qualify for reduced monitoring under proposed ARM 17.38.215(3). Seasonal transients were required to sample monthly starting in April 2016. This change will emphasize the importance of the start-up procedure and upkeep for systems that are depressurized or without maintenance for part of the year.

The RTCR became effective April 1, 2016. Because the board has not yet adopted the rules necessary to implement the RTCR, it is currently being implemented under federal jurisdiction. EPA has given the department an RTCR primacy revision extension, until February 2017.

Most of the following rule amendments are necessary to adopt the RTCR. For amendments that are not necessary for RTCR compliance, additional reason statements are provided.

17.38.201A INCORPORATION BY REFERENCE--PUBLICATION DATES AND AVAILABILITY OF REFERENCED DOCUMENTS (1) Unless expressly provided otherwise, in this subchapter where the board has adopted and incorporated by reference a federal regulation, the reference is to the July 1, ~~2009~~ 2015, edition of the Code of Federal Regulations (CFR).

(2) remains the same.

(3) Copies of federal materials may also be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402; or from the Environmental Protection Agency internet web site at epa.gov/docs/epacfr40/chapt-1.info/subch-D/ ~~http://www.gpo.gov/fdsys/pkg/CFR-2015-title40-vol23/pdf/CFR-2015-title40-vol23.pdf~~.

(4) remains the same.

AUTH: 75-6-103, MCA

IMP: 75-6-103, MCA

REASON: The board is proposing the incorporation of the 2015 edition of the CFR, which is the most current edition, for several reasons. First, adoption of the most recent edition of the CFR is reasonably necessary to ensure that the department retains primacy for the regulation of public water supplies under the federal Safe Drinking Water Act. Second, the federal revised total coliform rule is contained in the 2015 edition. Third, the 2015 edition is more readily available to the public than the 2009 edition. The proposed amendment to ARM 17.38.201A(3) is proposed to update a non-functioning EPA website link. The proposed amendment will update the link so that current federal regulations can be accessed easily. The

new link will take an interested party to the July 1, 2015 electronic version of 40 CFR, the version the board is proposing to adopt.

17.38.202 DEFINITIONS In this subchapter, the following terms have the meanings indicated below and must be used in conjunction with and supplemental to those definitions contained in 75-6-102, MCA. In addition, the board adopts and incorporates by reference the definitions in 40 CFR 141.2, except for the following terms: "clean compliance history," "person," "public water supply system (PWS)," "ground water under the direct influence of surface water (GWUDISW)," "special irrigation district," and "state." The terms "person," "public water supply system," "ground water under the direct influence of surface water," and "state," as used in this subchapter and in the portions of 40 CFR Parts 141 and 142 adopted by reference in this subchapter, have the meanings defined below.

(1) through (6) remain the same.

AUTH: 75-6-103, MCA

IMP: 75-6-103, MCA

REASON: The proposed amendments to 17.38.202 are necessary to 1) avoid adopting the term "clean compliance history"; and 2) to clarify that state definitions apply not only to federal code, but also to Montana rule. The term "clean compliance history" is not used in the existing rules or in the proposed rule amendments.

The board has defined several terms used in both Montana rule and the federal code. The second proposed amendment is a housekeeping change and will clarify that state-defined terminology used in this subchapter is applicable to both this subchapter and the federal code.

17.38.207 MAXIMUM MICROBIOLOGICAL CONTAMINANT LEVELS

(1) The board hereby adopts and incorporates by reference 40 CFR 141.63(a), 141.63(b), ~~and 141.63(c), and 141.63(d)~~, which set forth maximum contaminant levels for microbiological contaminants.

~~(2) Failure to submit the required number of repeat samples for a public water supply system is a violation of the coliform bacteria MCL set forth in 40 CFR 141.63.~~

AUTH: 75-6-103, MCA

IMP: 75-6-103, MCA

REASON: Incorporation by reference of 141.63(d) is necessary because this provision is part of the RTCR. Deletion of ARM 17.38.207(2) is proposed to remove language that is contained in the 2015 CFR. The RTCR, unlike the 1989 TCR, specifically states in 40 CFR 141.63(c)(3) and 141.859(a)(1)(iii) the ramifications for failure to submit the required number of repeat samples. Therefore, (2) is now redundant.

17.38.208 TREATMENT REQUIREMENTS (1) through (3) remain the same.

- (4) The board adopts and incorporates by reference the following:
 - (a) through (c) remain the same.
 - (d) 40 CFR 141.63~~(d)~~ (e) and 141.63 (f), which sets forth BATs for microbiological contaminants;
 - (e) through (w) remain the same.

AUTH: 75-6-103, MCA

IMP: 75-6-103, MCA

REASON: Incorporation by reference of 141.63(e) and (f) is necessary because this provision is part of the RTCR.

17.38.211 GROUND WATER RULE (1) The board adopts and incorporates by reference 40 CFR Part 141, subpart S except for 40 CFR 141.402(a)(2)(iv), which sets forth the requirements to ensure that systems using ground water sources are adequately protected.

AUTH: 75-6-103, MCA

IMP: 75-6-103, MCA

REASON: The proposed amendment to ARM 17.38.211 would prohibit dual purpose sampling. A state, per the RTCR implementation guide, is given a choice whether to adopt this provision or not. If adopted, this rule would allow ground water systems utilizing only one well and serving 1000 people or fewer to use a repeat sample collected from a ground water source to meet both a requirement of the Ground Water Rule (GWR) and a requirement of the RTCR. The proposed amendment would protect public health by increasing the chance of isolating the contamination problem more quickly by requiring the collection of four samples rather than three after positive monthly total coliform routine sample for testing.

Community public water systems utilizing ground water are required to have a minimum of two sources. Therefore, even if the use of dual samples were allowed, the use of dual samples would not be an option for most of the state's community groundwater systems, which comprise approximately 32 percent of the groundwater systems serving 1000 people or fewer.

17.38.215 BACTERIOLOGICAL QUALITY SAMPLES (1) The total coliform monitoring frequency for all public water supply systems serving 1,000 or fewer people is one sample/month.

(2) The board adopts and incorporates by reference the table in 40 CFR 141.21(a)(2) 141.857(b), which sets forth total coliform monitoring frequency requirements for all public water supply systems serving more than 1,000 people.

(a) The minimum monitoring frequency for total coliforms ~~for community and nontransient noncommunity public water supply systems~~ is based on the average daily population served by the system during the month of peak use, ~~and must be in accordance with the table in 40 CFR 141.21(a)(2).~~

~~(b) (3) The supplier of water for a transient noncommunity water system shall sample according to the table in 40 CFR 141.21(a)(2), except that a supplier of~~

~~water for a~~ Upon written request of the water supplier, the department may reduce the required coliform sampling frequency for a non-seasonal transient noncommunity water system that uses only ground water that is not under the direct influence of surface water and serves a maximum daily population of 1,000 persons or fewer shall sample for coliform bacteria in each calendar month during which the system provides water to the public unless allowed to sample quarterly as provided in (1)(c) or (d) to once in each calendar quarter. The department may not, however, grant permission to sample quarterly pursuant to (1)(c) for a minimum of 24 months of system operation after a system initially becomes regulated under this rule.

~~(c) Upon the written request of the water supplier, the department may reduce the required sampling frequency for coliform bacteria for a transient noncommunity public water supply system that uses only ground water and serves a maximum daily population of 1,000 persons or fewer to once in each calendar quarter during which the system provides water to the public if the department determines that quarterly sampling is adequate to protect public health.~~

(a) Before applying for quarterly monitoring, the system must operate and sample coliform bacteria monthly for a minimum of 24 consecutive months;

(b) This The determination to reduce monitoring must be based upon the results of coliform bacteria samples from the past 24 consecutive months of system operation, sanitary surveys, and any other information that indicates quarterly sampling is adequate to protect public health;

(d) (c) A water supplier, who is allowed authorized to sample quarterly pursuant to (1)(c) or who was authorized to conduct quarterly sampling on June 3, 1999, and is not required by the department to sample more frequently may continue to sample quarterly except that unless triggered to return to monthly monitoring. The following will trigger monthly monitoring, or more frequent monitoring pursuant to (4), the month following the event:

(i) if E. coli bacteria or other microorganisms commonly found only in the intestinal tract of warm-blooded animals are detected in coliform bacteria samples taken under the requirements of this chapter, the supplier shall sample at least monthly, or more frequently if required by the department, until valid samples that do not contain coliform bacteria have been taken for at least 12 consecutive months of system operation. However, if the department determines before expiration of the 12-month period that the source of the contamination has been positively identified and removed, the department may allow the supplier to monitor in accordance with (c). the system triggers a Level 2 assessment or two Level 1 assessments under the provisions of 40 CFR 141.859 in a rolling 12-month period;

(ii) if a maximum contaminant level violation occurs as a result of coliform bacteria samples taken under the requirements of this chapter, the supplier shall sample at least monthly, or more frequently if required by the department pursuant to (e), until valid samples that do not contain coliform bacteria have been taken for at least 12 consecutive months of system operation. If the department determines before expiration of the 12-month period that the source of the contamination has been positively identified and removed, the department may allow the supplier to monitor in accordance with (c). the system has an E. coli MCL violation;

(iii) a supplier who fails to submit the required routine or repeat samples in two or more quarters during any consecutive four calendar quarters of operation

~~shall sample at least monthly for at least 12 consecutive months. the system has a coliform treatment technique violation;~~

~~(iv) the system has two 40 CFR Part 141, subpart Y, monitoring violations or one subpart Y monitoring violation and one Level 1 assessment under the provisions of 40 CFR 141.859 in a rolling 12-month period for a system on quarterly monitoring;~~

~~(v) a supplier who constructs constructing or modifying a system or system components without approval or who has modified a system without prior department approval, in violation of 75-6-112, MCA, and ARM 17.38.101, shall sample at least monthly, or more frequently if required by the department pursuant to (1)(e), until the supplier has submitted plans and specifications in accordance with 75-6-112, MCA, and ARM 17.38.101, the system modifications have been approved and the department has reduced sampling frequency pursuant to (1)(c). ;~~

~~(vi) if the department determines and notifies a supplier that its determination that a source or distribution system is vulnerable to contamination based upon the results of a sanitary survey, sample analyses, technical investigations or other scientifically defensible information, the supplier shall sample at least monthly, or more frequently if required by the department pursuant to (e). If the department determines that the source of the contamination has been positively identified and removed, the department may allow the supplier to monitor in accordance with (c). ;~~
~~or~~

~~(vii) a supplier that does not maintain or operate not maintaining or operating a system in accordance with the requirements of this chapter may be required to sample monthly, or more frequently if required by the department pursuant to (1)(e), when the department determines that the violation may affect the microbiological quality of the water supply system. If the department determines that appropriate improvements in maintenance and operation have been implemented, it may allow the supplier to monitor in accordance with (1)(c). A supplier shall implement any increase in sampling frequency immediately upon receipt of written notice from the department of the increase.~~

~~(d) When monthly monitoring is triggered, the department shall provide written notice to the system that monthly monitoring is required;~~

~~(e) Under extreme circumstances, for the purpose of determining eligibility for remaining on or qualifying for quarterly monitoring, the department may elect to not count monitoring violations under 40 CFR 141.860(c)(1) if the missed sample is collected no later than the end of the monitoring period following the monitoring period in which the sample was missed. The system must collect the make-up sample in a different week than the routine sample for that monitoring period and must collect the sample as soon as possible during the monitoring period. This authority does not affect the provisions of 40 CFR 141.860(c)(1) and 141.861(a)(4);~~

~~(f) The system must continue monthly monitoring until the following criteria have been met:~~

~~(i) within the last 12 months, the system must have completed a sanitary survey or a site visit by the department or a voluntary Level 2 assessment by a party approved by the department, be free of sanitary defects, and have a protected water source;~~

~~(ii) no MCL violations under 40 CFR 141.63, no monitoring violations under 40 CFR 141.21 or subpart Y, and no coliform treatment technique trigger~~

exceedances or treatment technique violations under subpart Y, for a minimum of 12 months;

(iii) valid samples that do not contain coliform bacteria have been taken for at least 12 consecutive months of system operation;

(iv) the department has approved all submitted plans and specifications for system construction and modifications in accordance with 75-6-112, MCA, and ARM 17.38.101;

(v) the identified sources of contamination have been removed;

(vi) appropriate improvements in maintenance and operation have been implemented; and

(vii) the public water system petitions the department and the petition is approved in writing.

(g) Systems collecting samples on a quarterly frequency must conduct additional routine monitoring the month following one or more total coliform-positive samples (with or without a Level 1 treatment technique trigger). Systems must collect at least three routine samples during the next month. Systems may either collect samples at regular time intervals throughout the month or may collect all required routine samples on a single day if samples are taken from different sites. Systems must use the results of additional routine samples in coliform treatment technique trigger calculations under 40 CFR 141.859(a).

(e) (4) The department may increase the required sampling frequency of any public water supply system based upon sampling results or other conditions that indicate a risk to the health of the water users. The department shall provide the supplier with a written explanation of any revised sampling requirements. A supplier shall implement any increase in sampling frequency immediately upon receipt of written notice of the increase from the department.

(2) (5) The board hereby adopts and incorporates by reference 40 CFR 141.21 the following, which sets forth monitoring and analytical requirements for coliform bacteria, except as modified in the sections that follow. requirements for the revised total coliform rule (RTCR):

(3) 40 CFR 141.21(a)(2) is not adopted, except for the table adopted in (1)(a). 40 CFR 141.21(a)(3) is not adopted.

(a) 40 CFR 141.851, except that the term "April 1, 2016" is replaced with "[the effective date of this rule]." This rule sets forth general requirements for the RTCR;

(b) 40 CFR 141.852, which sets forth analytical methods and laboratory certification requirements for coliform testing, except that, for the purpose of this subchapter, the phrase "laboratory certified by the EPA or a primacy State" means "approved laboratory" as defined in ARM 17.38.202;

(c) 40 CFR 141.853, except for subsection (a)(5)(ii) and subsection (b). And except that the term "March 31, 2016" is replaced with "[the effective date of this rule]." This rule sets forth general monitoring requirements for all systems;

(d) 40 CFR 141.854(a)(1) through 141.854(a)(3), which set forth general requirements for non-community water systems serving 1,000 or fewer people using only ground water;

(e) 40 CFR 141.854(i)(1), 141.856(a)(4)(i), and 141.857(a)(4)(i), except that the term "April 1, 2016" is replaced with "[the effective date of this rule]." This rule

provides start-up procedure requirements for seasonal systems. The department may exempt any seasonal system from some or all of the requirements for seasonal systems if the entire distribution system remains pressurized during the entire period that the system is not operating;

(f) 40 CFR 141.855(a), which sets forth general requirements for community systems serving 1,000 or fewer people using only ground water;

(g) 40 CFR 141.856(a)(1) through 141.856(a)(3) and 141.856(c), which set forth general requirements for subpart H public water systems serving 1,000 or fewer people;

(h) 40 CFR 141.857(a)(1) through 141.857(a)(3) and 141.857(c). This rule sets forth general requirements for public water systems serving more than 1,000 people;

(i) 40 CFR 141.858, which sets forth repeat monitoring and E. coli requirements, except for the following changes:

(i) the first sentence in 141.858(a)(1) is changed to "If a sample taken under ARM 17.38.215(1) through (3), 40 CFR 141.856(c), or 40 CFR 141.857(c), is total coliform-positive, the system must collect a set of repeat samples within 24 hours of being notified of the positive result."; and

(ii) 141.858(a)(5) is changed to "Results of all routine and repeat samples taken under ARM 17.38.215, not invalidated by the State, must be used to determine whether a coliform treatment technique trigger specified in 40 CFR 141.859 has been exceeded.";

(j) 40 CFR 141.859, except for subsection (a)(2)(iii) and subsection (b)(4)(ii). This rule sets forth requirements for coliform treatment technique triggers and assessments for protection against potential fecal contamination;

(k) 40 CFR 141.860, which sets forth requirements for violations; and

(l) 40 CFR 141.861, which sets forth requirements for reporting and recordkeeping.

(4) ~~(6)~~ 40 CFR 141.21(a)(6) is replaced with the following: "A special purpose sample, including a sample taken to determine whether adequate disinfection has occurred after pipe placement or repair, may not be taken from a part of the public water supply distribution system that is actively serving the public and must not be used to determine compliance with the RTCR. Repeat samples taken pursuant to 40 CFR ~~141.21(b)~~ 141.858 are not special purpose samples and must be used to determine whether the coliform treatment technique trigger has been exceeded."

(7) The department shall perform a special monitoring evaluation during each sanitary survey of ground water systems serving 1,000 or fewer people to review the status of the system, including the distribution system, to determine whether the system is on an appropriate monitoring schedule. After the department has performed the special monitoring evaluation during each sanitary survey, the department may modify the system's monitoring schedule, as necessary, or it may allow the system to stay on its existing monitoring schedule, consistent with this rule. The department may not allow systems to begin less frequent monitoring under the special monitoring evaluation unless the system has already met the applicable criteria for less frequent monitoring in (3)(b).

~~(5) 40 CFR 141.21(b)(5) is replaced with the following: "If a supplier who collects fewer than five routine samples per month has one or more total coliform-positive samples and the department does not invalidate the sample or samples under 40 CFR 141.21(c), the supplier shall collect at least five routine samples during the next month the system provides water to the public. At least one of these routine samples must be collected from the site where the previous month's contaminated sample was taken unless that site was invalidated according to 40 CFR 141.21(c)(1)(ii)."~~

~~(6) (8)~~ A supplier shall collect at least two samples that must be analyzed for coliform bacteria from any new source of water supply to demonstrate compliance with this subchapter before the source is connected to a public water supply system.

AUTH: 75-6-103, MCA

IMP: 75-6-103, MCA

REASON: See GENERAL REASON STATEMENT.

17.38.225 CONTROL TESTS (1) through (2)(c) remain the same.

(3) The department may waive, on a case-by-case basis, disinfection residual testing at the entry point sampling, in the distribution sampling system, or both for ground water and consecutive systems ~~that are referenced in ARM 17.38.225(2)(c).~~

(4) A test for chlorine residual in the distribution system must be made at selected points consistent with the department-approved microbiological sample siting plan ~~specified in 40 CFR 141.21~~ and changed regularly so as to cover the system completely at least each week.

(5) through (5)(d) remain the same.

(6) All control test measurements, except for bacteriological samples, ~~for pH, temperature, turbidity, and residual disinfectant concentrations~~ for community and nontransient noncommunity water supply systems must be conducted by a person certified under the provisions of Title 37, chapter 42, MCA, or by a person who has been properly trained to conduct these measurements by the operator in responsible charge or by the department. Bacteriological samples for community and nontransient noncommunity water supply systems must be collected by a person approved by the department or certified under the provisions of Title 37, chapter 42, MCA. Measurements for total coliform bacteria, fecal coliform bacteria, and heterotrophic plate count must be conducted by an approved laboratory.

(7) through (8) remain the same.

AUTH: 75-6-103, MCA

IMP: 75-6-103, MCA

REASON: The proposed amendments to (3) are necessary to clarify parts of the rule that are confusing. The proposed amendment is housekeeping in nature, and will make the rule easier to understand, and therefore easier for operators to follow.

The amendment to (4) is proposed to specify that the sampling plan required by the RTCR is the plan to be used to implement this rule. 40 CFR 141.132(c) requires community and nontransient, non-community water systems to sample coliforms at their approved RTCR sample sites and at the same time.

The proposed amendments to (6) are necessary to update the list of control test measurements that must be taken by a certified operator or properly trained individual. Currently, pH, temperature, turbidity, and residual disinfectant concentration are specified in the rule. However, there are other control tests that are important for maintaining public health. These include testing fluoride and other process chemical concentrations, the results of which can be used to make changes to the water treatment process. The amendment is proposed to ensure that test results for these chemical tests are accurate and reliable, so that any resulting treatment process changes are truly necessary and are protective of public health and the environment.

17.38.234 TESTING AND SAMPLING RECORDS AND REPORTING REQUIREMENTS (1) through (3) remain the same.

(4) Actual laboratory reports may be kept or data may be transferred to tabular summaries, provided the following information is included:

(a) and (b) remain the same.

(c) identification of the sample as to whether it was a routine distribution system sample, ~~check repeat sample, triggered source sample, confirmation sample, composite sample,~~ raw or process water sample, or other special purpose sample;

(d) date and time of analysis;

(e) through (g) remain the same.

(5) A supplier of a public water supply system that has exceeded the microbiological contaminant MCLs specified in ARM 17.38.207 shall report the violation to the department by the end of the ~~next business day after learning it~~ learns of the violation either electronically, by fax, or by telephone to (406) 444-1947. If the supplier chooses to report by telephone, and a person does not answer the telephone, leaving a voicemail message will constitute compliance with this reporting requirement.

(6) through (10) remain the same.

AUTH: 75-6-103, MCA

IMP: 75-6-103, MCA

REASON: The proposed amendments to (4)(c) are proposed to ensure that samples collected and submitted to an approved laboratory are more precisely labeled and thereby reduce confusion and the time required to verify sample identification when sample results are submitted incorrectly to the department.

The proposed amendment to (4)(d) is proposed to ensure compliance with 40 CFR 141.852(a)(3) of the RTCR, which requires sample testing within 30 hours of collection.

The amendments to (5) are proposed to comply with 40 CFR 141.858(b)(1) of the RTCR.

17.38.271 DEPARTMENT RECORDKEEPING (1) remains the same.

(2) The department hereby adopts and incorporates by reference 40 CFR 142.14 and 142.15, which describe recordkeeping and reporting requirements for state drinking water programs, except as listed below:

(a) The first portion of 40 CFR 142.14(a)(10)(i)(B) is modified to read "Section 141.854(j) of this chapter –";

(b) 40 CFR 142.14(a)(10)(ii)(A), 142.14(a)(10)(ii)(B), and 142.14(a)(10)(ii)(C) are not adopted; and

(c) 40 CFR 142.15(c)(3) is not adopted.

(3) Copies may be obtained by contacting the Department of Environmental Quality, P.O. Box 200901, Helena, MT 59620-0901, (406) 444-2406.

AUTH: 75-6-103, MCA

IMP: 75-6-103, MCA

REASON: The proposed amendments are necessary to adopt the applicable recordkeeping and reporting requirements necessary to revise primacy to include the RTCR. The exceptions to adoption relate to recordkeeping and reporting requirements for reduced monitoring provisions that the board is proposing not to adopt. The proposed amendments are necessary to retain primary enforcement responsibility for National Primary Drinking Water Regulations.

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 Denise Hartman, Administrative Rules Coordinator, 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 dhartman2@mt.gov, no later than 5:00 p.m., November 25, 2016. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

5. Ben Reed, attorney for the board, or another attorney for the Agency Legal Services Bureau, has been designated to preside over and conduct the hearing.

6. 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 Denise Hartman, Administrative Rules Coordinator, 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 Denise Hartman at dhartman2@mt.gov, or may be made by completing a request form at any rules hearing held by the board.

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 board has determined that the amendment of the above-referenced rules may significantly and directly impact small businesses.

Reviewed by: BOARD OF ENVIRONMENTAL REVIEW

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

BY: /s/ Joan Miles
JOAN MILES, CHAIRMAN

Certified to the Secretary of State, October 17, 2016.

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the adoption of New Rule I concerning social card games played for prizes of minimal value,	)	NOTICE OF PUBLIC HEARING
New Rule II concerning location managers, and the amendment of ARM 23.16.101, 23.16.116, 23.16.117, 23.16.502, 23.16.508, 23.16.1101, 23.16.1102, and 23.16.1903 concerning definitions, transfer of interest among licensees, transfer of interest to new owners, application for operator license, change in managers, officers, and directors, card game tournaments, large-stakes card game tournaments, and video gambling machine ticket vouchers	)	ON PROPOSED ADOPTION AND AMENDMENT

TO: All Concerned Persons

1. On Thursday, November 17, 2016, at 1:30 p.m., the Department of Justice will hold a public hearing in the conference room at the Gambling Control Division, 2550 Prospect Avenue, Helena, Montana, to consider the proposed adoption and amendment of the above-stated rules.

2. The Department of Justice 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 of Justice no later than 5:00 p.m. on November 10, 2016, to advise it of the nature of the accommodation that you need. Please contact Rick Ask, Administrator, Gambling Control Division, 2550 Prospect Avenue, P.O. Box 201424, Helena, Montana, 59620-1424; telephone (406) 444-1971; fax (406) 444-9157; Montana Relay Service 711; or e-mail rask@mt.gov.

3. The proposed new rules provide as follows:

NEW RULE I SOCIAL CARD GAMES PLAYED SOLELY FOR PRIZES OF MINIMAL VALUE (1) Except for the card games of panguingue and poker and their approved variations, an authorized card game as provided for in 23-5-311, MCA, which is played solely for prizes of minimal value, is considered a social card game and is not a gambling activity.

(2) For purposes of this rule, prizes of minimal value means:

(a) an award to an individual card game winner of cash and/or merchandise which does not exceed \$5 in total value; or

(b) an award to the winner or winners of a social card game tournament in cash and/or merchandise which does not exceed \$50 in total value per individual tournament prize.

(3) Every poker or panguingue game or tournament, and every other authorized card game or card game tournament which is played for an award or prize greater than minimal value, is a gambling activity which must comply with the requirements of Title 23, chapter 5, MCA, and the rules of the department.

AUTH: 23-5-115, 23-5-306, MCA

IMP: 23-5-115, 23-5-306, MCA

NEW RULE II LOCATION MANAGERS (1) A gambling operator shall designate at least one location manager, which designation shall initially be made on the license application. A licensed owner who does not personally provide onsite management of the premises shall designate a location manager to perform such services. A location manager authorized by the licensee to provide general oversight of the gambling operation must be approved by the department.

(2) Except as provided in (3), within 30 days of a location manager commencing duties, the licensee shall submit to the department a completed location manager application (Form 30A), and for nonowners, the licensee shall also submit:

(a) a completed personal history statement (Form 10) for each location manager;

(b) two complete sets of fingerprint cards for each location manager; and

(c) fingerprint processing fees.

(3) So long as at least one approved location manager continues to serve as a location manager, the removal of any location manager or the addition of an owner as a location manager, shall be reported to the department no later than June 30 of the current fiscal year on a location manager application (Form 30A) or on the annual license renewal form.

(4) When a management company is contracted to manage a licensed location, at least one onsite manager must be approved as a location manager. The ownership, officers and directors of the management company and the onsite manager(s) employed by the management company must be reported to the department within 30 days of the contract effective date. To seek approval of a management company contracted to manage a licensed location, the licensee shall submit to the department:

(a) a completed location manager application (Form 30A); and

(b) for each owner, officer, director, and onsite manager of the management company:

(i) a complete personal history statement (Form 10);

(ii) two complete sets of fingerprint cards; and

(iii) fingerprint processing fees.

(5) Location manager and management company approval shall be based on the standards of suitability established in 23-5-176, MCA.

(6) Whenever a location manager or management company has been contracted by the licensee to manage a licensed location, the licensee shall:

- (a) retain ultimate control over the license and premises;
 - (b) maintain active participation in the gambling operation sufficient to ensure the proper and lawful conduct of the business; and
 - (c) provide the location manager compensation in an amount that is commensurate with the duties performed. Location manager compensation may not be based on a percentage of gross sales or net profits.
- (7) Failure to abide by the provisions of this rule may subject the licensee to administrative action, including revocation of the license.

AUTH: 23-5-112, 23-5-115, MCA

IMP: 23-5-115, MCA

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

23.16.101 DEFINITIONS As used throughout this subchapter, the following definitions apply:

(1) remains the same.

(2) "Active investor" means a beneficial owner as defined by the U.S. Securities and Exchange Commission (SEC) which includes an individual or group of individuals who directly or indirectly own 5% or more of a publicly traded corporation and directly or indirectly share voting power or investment power, including anyone who would be required to file a Schedule 13D with the SEC.

(2) through (9) remain the same but are renumbered (3) through (10).

~~(10) "Management agreement" means a contract between the licensee and manager(s). The agreement may not transfer an ownership interest in the licensed operation or limit or relieve the licensee of record from the responsibilities of ownership. Bonuses or bonus-type payments based on job performance are not considered ownership interests if they are provided in conjunction with a reasonable salary base and do not assign or transfer an ownership interest.~~

(11) "Manager" "Location manager" means a person employed or authorized designated by the licensee to supervise personnel or business functions of the licensed operation provide general oversight and ensure compliance with gambling laws and regulations under the authority and general guidance of the owner. A location manager may be a licensed owner, general manager, or onsite manager.

(12) through (15) remain the same.

(16) "Passive investor" means a beneficial owner as defined by the U.S. Securities and Exchange Commission (SEC) which includes an individual or group of individuals who directly or indirectly own at least 5% but less than 20% of the shares of a publicly traded corporation, who have not acquired and who do not hold the securities for the purpose of, or with the effect of, changing or influencing the control of the issuer of the securities and who would be allowed to file with the SEC a Schedule 13G in lieu of Schedule 13D.

(16) through (20) remain the same but are renumbered (17) through (21).

AUTH: 23-5-115, 23-5-621, MCA

IMP: 23-5-112, 23-5-115, 23-5-118, 23-5-176, 23-5-629, 23-5-637, MCA

23.16.116 TRANSFER OF INTEREST AMONG LICENSEES (1) Except as provided in (9) and (10), an ownership interest may not be transferred among existing owners without submitting an amended gambling license application to the department and obtaining department approval prior to the transfer.

(2) through (8) remain the same.

(9) The provisions of this rule do not apply to the:

(a) transfer of a security interest in a licensed gambling operation; or

(b) transfer of that results in less than 5% ownership interest in a publicly traded corporation. ~~Transfers of an interest of 5% or more in a publicly traded corporation are subject to the provisions of this rule, except that the transfer may occur without prior department approval. The department reserves the right to act under 23-5-136, MCA, in this situation if it determines that the transfer violates Montana gambling law or the rules in this chapter.~~

(10) Transfers of an ownership interest that result in 5% or greater ownership in a publicly traded corporation shall be subject to the provisions of ARM 23.16.117. The department reserves the right to act under 23-5-136, MCA, in this situation if it determines that the transfer violates Montana gambling law or the rules in this chapter.

AUTH: 23-5-112, 23-5-115, MCA

IMP: 23-5-115, 23-5-118, 23-5-176, MCA

23.16.117 TRANSFER OF INTEREST TO NEW OWNER (1) Except as provided in (7), (8), ~~and (9)~~, and (10), an ownership interest may not be transferred to a new owner until a new gambling license application reflecting the proposed transfer is submitted to the department and the department approves the transfer.

(2) through (6) remain the same.

(7) The provisions of this rule do not apply to the:

(a) transfer of a security interest in a licensed gambling operation; or

(b) transfer that results in ~~of~~ less than 5% ownership interest in a publicly traded corporation. ~~Transfers that result in of an ownership interest of 5% or more greater in a publicly traded corporation are subject to the provisions of this rule in (10), except that the transfer may occur without prior department approval whenever the transfer does not occur as the result of a corporate merger or reorganization.~~ The department reserves the right to act under 23-5-136, MCA, in this situation if it determines that the transfer violates Montana gambling law or the rules in this chapter.

(8) through (9) remain the same.

(10) Transfers that result in 5% or greater ownership interest in a licensed gambling operation held by a publicly traded corporation may occur prior to approval under the following conditions:

(a) Whenever a change in ownership results in 10% or greater ownership interest by an active investor, or 20% or greater ownership interest by a passive investor, the licensee shall, within 60 days from the date of change in ownership

interest, file with the department a complete Form 40 license application form. The Form 40 shall be submitted together with all required documents and fees.

(b) Whenever a change in ownership results in an ownership interest by an active investor that is 5% or greater, but less than 10%, the licensee shall, within 30 days from the date of change in ownership interest, file with the department a complete Form 43 notification form, including all required documents.

(c) Whenever a change in ownership results in a an ownership interest by a passive investor that is 5% or greater, but less than 20%, the licensee shall, within 60 days from the date of change in ownership interest, file with the department a complete Form 43 notification form, including all required documents.

(11) Department approval is required prior to any change in ownership in a licensed gambling operation held by a publicly traded corporation which occurs as the result of a corporate merger or reorganization.

AUTH: 23-5-112, 23-5-115, MCA

IMP: 23-5-115, 23-5-118, 23-5-176, MCA

23.16.502 APPLICATION FOR OPERATOR LICENSE (1) All applicants shall submit the following information on Forms 5, 10, 40, or 43, and FD-258, which are incorporated by reference and available from the Gambling Control Division, 2550 Prospect Ave., P.O. Box 201424, Helena, MT 59620-1424, or on the department's division's web site www.dojmt.gov/gaming www.doj.mt.gov/gaming:

(a) through (e)(v) remain the same.

(vi) if the applicant is a nonprofit corporation or association, the information must be submitted for officers, directors, and on the person person(s) responsible for conducting the gambling activity (e.g., location manager, gambling manager, steering committee); or

(vii) if the owner(s) acquires the services of a gaming gambling manager or management firm, the information must ~~not only~~ be submitted on for the owner and ~~but~~ the manager or management firm ~~as well~~; and

(f) the full name and address of every location manager ~~employed by the applicant in a gambling-related activity in Montana.~~

(2) remains the same.

AUTH: 23-5-112, 23-5-115 MCA

IMP: 23-5-115, 23-5-118, 23-5-176, 23-5-177, MCA

23.16.508 CHANGES IN LOCATION MANAGERS, OFFICERS, AND DIRECTORS (1) Except as provided in [NEW RULE II], Any any change in ~~management employees~~ location managers, officers, or directors listed ~~on a licensee's gambling license application~~ must be reported to the department within 30 days of the date of change.

(2) ~~New management employees~~ location managers, officers, and directors shall submit a personal history statement and a complete set of fingerprints (Forms 10 and FD-258). ~~A written management agreement must also be submitted for each new management employee.~~

(3) A license is subject to revocation if the changes in ~~management employees~~ location managers, officers, or directors result in the licensee's failure to meet the statutory qualifications for licensure.

AUTH: 23-5-112, 23-5-115, 23-5-176, MCA
IMP: 16-4-414, 23-5-176, 23-5-177, MCA

23.16.1101 CARD GAME TOURNAMENTS – POKER

TOURNAMENT DIRECTORS ASSOCIATION RULES (1) Card game tournaments which involve consideration ~~in order~~ to play and the chance of winning something of value are gambling activities. Publicly played card game tournaments involving gambling activity are limited to the authorized card games ~~known as panguingue and poker, as described by ARM 23.16.1202~~ provided for in 23-5-311, MCA.

(2) and (3) remain the same.

(4) Every card game tournament involving poker or panguingue must be conducted by a licensed dealer as required in 23-5-309, MCA. ~~In addition, a designated person, who may be one of the licensed dealers, must be present on the premises at all times during the tournament to oversee the conduct of the games and settle disputes.~~

(5) In every tournament, a designated person, who may be one of the licensed dealers, must be present on the premises at all times during the tournament to oversee the conduct of the games and settle disputes.

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

AUTH: 23-5-115, 23-5-313, MCA
IMP: 23-5-306, 23-5-307, 23-5-308, 23-5-317, MCA

23.16.1102 LARGE-STAKES CARD GAME TOURNAMENTS (1) remains the same.

(2) A licensed operator who has been issued a large-stakes card game tournament permit may conduct no more than 16 large-stakes ~~poker~~ tournaments during the permit year.

(3) through (8) remain the same.

AUTH: 23-5-115, MCA
IMP: 23-5-317, MCA

23.16.1903 EXPIRATION DATE FOR VIDEO GAMBLING MACHINE TICKET VOUCHERS – EXPIRATION DATE – PAYMENT IN FULL UPON DEMAND – EXCEPTIONS

(1) ~~Except as provided in (2),~~ location Gambling operators must immediately pay all valid ticket vouchers in full and in cash upon presentation of the ticket for payment.

(2) A ~~video gambling machine~~ ticket voucher that is printed more than 48 hours before it has been presented for payment may, at the discretion of the ~~location~~ gambling operator, be deemed invalid and not payable, only if there has been notice to the player of the expiration period by the presence of a sign that is not less than 24 inches by 36 inches displayed in a licensed premises at the time of

play, in plain view of the gambling public, which reads "Promptly Redeem Your Win Tickets -- Tickets Void After 48 hours;" and:

(a) for machines and programs approved prior to adoption of this rule, the face of the ~~video gambling machine~~ ticket voucher paper has been preprinted with the expiration notice required by ARM 23.16.1901; or

(b) for machines and programs approved after adoption of this rule, the expiration notice is printed on the face of the ~~video gambling machine~~ ticket voucher as required by ARM 23.16.1901.

(3) A gambling operator who has a good faith reason to believe a ticket voucher resulted from a machine malfunction may refuse payment of the ticket voucher, pending the department's finding in (4), provided the gambling operator immediately:

(a) prints an audit ticket from the machine;

(b) suspends play of the VGM;

(c) contacts and consults with the machine owner if the gambling operator is not also the machine owner.

(i) After consulting with the machine owner, the gambling operator who no longer believes the ticket voucher resulted from a machine malfunction shall immediately pay the ticket voucher as provided in (1).

(ii) After consulting with the machine owner, the gambling operator who continues to believe the ticket voucher resulted from a machine malfunction shall promptly submit a completed Form 50 to the department, together with all required documents.

(4) Upon receipt of the completed Form 50, together with all required documents, the department shall inspect and evaluate the suspended video gambling machine or its subparts, and determine whether the ticket voucher resulted from a machine malfunction. The department shall notify the player, the machine owner, and the gambling operator of its determination.

(a) If the department determines the ticket voucher did not result from a machine malfunction, the gambling operator shall immediately pay the ticket voucher, and the VGM may be returned to active play.

(b) If the department determines that a machine malfunction occurred, the ticket voucher is invalid, and the VGM must be removed from play.

AUTH: 23-5-115, 23-5-608, MCA

IMP: 23-5-608, MCA

REASON:

The department proposed adoption of New Rule I because in 2015 the Legislature enacted HB 38 (amending in part 23-5-306, MCA), which authorized the department to define prizes of minimal value for the live play of social cards, which includes any authorized card game other than poker and panguingue. Prior to HB 38, the definition of prizes of minimal value had cross referenced the term in a federal law which was unquantified.

In determining these minimal prize values, the department first interpreted the general definition of the word "minimal," as meaning a minimum or negligible amount. The department then evaluated the range of small bets typically seen in friendly card games that are not poker or panguingue, contrasted these values with the maximum value of other gambling prize limits, and attempted to assess the risk posed by prizes of greater value which could be awarded in an unregulated live game. The proposed rule also reflects the department's consideration that prizes of minimal value should vary depending on whether the prize award is for a single social card game, or part of a social card game tournament.

The proposed amendments to ARM 23.16.1101 and 23.16.1102 are designed to correct an erroneous restriction on tournament play of live card games to only poker and panguingue. In addition to a minor change to the structure of the rule for ease of reading, the proposed amendment of these rules serves to correct that error and clarify to the public that tournament play may include any of the authorized live card games, not merely poker and panguingue.

The department's proposed amendments to ARM 23.16.101, 23.16.116, and 23.16.117 serve to improve and clarify the application process and the required document submissions for publicly traded corporations. Publicly traded corporations are unique under the gambling laws because owner interests of less than 5% do not need to be disclosed. Publicly traded corporations add complexity to the application process due to the fluid nature of the ownership which is purchased through a stock exchange, and this feature needs to be addressed in administrative rule.

The current administrative rules, while providing some guidance, have left many questions unanswered regarding the application process for publicly traded corporations, which has typically required administrator review to determine when applications are required, what documents must be submitted, and who needs to be disclosed. These proposed amendments clarify when applications are necessary based on the shareholder's ability to control or influence corporate activities, and when disclosure of individuals is required based on who is involved in decision-making.

The department proposes amending ARM 23.16.101, 23.16.502, and 23.16.508, and adding New Rule II to streamline the approval process for managers, clarify which employees of a licensed gambling operation require department approval, and eliminate the requirement for a licensee to submit a management agreement to the department. The proposed amendments identify a new form and the documents which are required to seek department approval of the person filling the management role. The proposed amendments also reinforce the requirement that licensees may not surrender the ownership responsibilities to a manager. Finally, the proposed amendments specify the timeframes for identifying the addition, deletion, or change in location managers.

The proposed amendment to ARM 23.16.1903 defines a procedure by which gambling operators may declare a ticket voucher invalid due to a machine

malfunction. The procedures will serve to protect players and gambling operators when a malfunction is suspected, timely preserve information needed for a proper evaluation by the department, and document the existence or absence of an asserted machine malfunction.

5. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Rick Ask, Administrator, Gambling Control Division, 2550 Prospect Avenue, P.O. Box 201424, Helena, Montana, 59620-1424; telephone (406) 444-1971; fax (406) 444-9157; or e-mail rask@mt.gov, and must be received no later than 5:00 p.m., November 25, 2016.

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

7. Cregg W. Coughlin, Assistant Attorney General, Gambling Control Division, has been designated to preside over and conduct the hearing.

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

9. The bill sponsor contact requirement of 2-4-302, MCA, does apply to the rule adoption and amendments related to social card games for prizes of minimal value, and has been fulfilled. The primary bill sponsor of HB 38, was contacted on May 13, 2016 at the Gaming Advisory Council meeting and on June 6, 2016 by e-mail.

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

/s/ J. Stuart Segrest
J. Stuart Segrest
Rule Reviewer

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

Certified to the Secretary of State October 17, 2016.

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

In the matter of the amendment of)
ARM 37.85.104 and 37.85.105)
pertaining to updating Medicaid fee)
schedules with Medicare rates and)
updating effective dates to July 1,)
2016 and January 1, 2017)

NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENT

TO: All Concerned Persons

1. On November 17, 2016, at 1:30 p.m., the Department of Public Health and Human Services will hold a public hearing in the auditorium of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on November 9, 2016, to advise us of the nature of the accommodation that you need. Please contact Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

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

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

(a) and (b) remain the same.

(c) Youth respite care services, as provided in ARM 37.87.2203, is effective ~~July 1, 2016~~ January 1, 2017.

(d) and (2) remain the same.

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

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

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

(a) Resource-based relative value scale (RBRVS) means the version of the Medicare resource-based relative value scale contained in the Medicare Physician Fee Schedule adopted by the Centers for Medicare and Medicaid Services (CMS) of the U.S. Department of Health and Human Services and published at 80 Federal Register 220, page 70886 (November 16, 2015) effective January 1, 2016 which is adopted and incorporated by reference. Procedure codes created after ~~January 1, 2016~~ January 1, 2017 will be reimbursed using the relative value units from the Medicare Physician Fee Schedule in place at the time the procedure code is created.

(b) Fee schedules are effective ~~July 1, 2016~~ January 1, 2017. The conversion factor for physician services is \$37.89. The conversion factor for allied services is \$25.38. The conversion factor for mental health services is \$24.90. The conversion factor for anesthesia services is \$29.76.

(c) through (i) remains the same.

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

(a) and (b) remain the same.

(c) The hearing aid services fee schedule, as provided in ARM 37.86.805, is effective ~~July 1, 2016~~ January 1, 2017.

(d) through (k) remain the same.

(l) Montana Medicaid adopts and incorporates by reference the Region D Supplier Manual, effective ~~July 1, 2016~~ January 1, 2017, which outlines the Medicare coverage criteria for Medicare covered durable medical equipment, local coverage determinations (LCDs), and national coverage determinations (NCDs) as provided in ARM 37.86.1802, effective ~~July 1, 2016~~ January 1, 2017. The prosthetic devices, durable medical equipment, and medical supplies fee schedule, as provided in ARM 37.86.1807, is effective July 1, 2015.

(m) through (q) remains the same.

(r) The therapy fee schedules for occupational therapists, physical therapists, and speech therapists, as provided in ARM 37.85.610, are effective ~~July 1, 2016~~ January 1, 2017.

(s) The optometric fee schedule provided in ARM 37.86.2005, is effective ~~July 1, 2016~~ January 1, 2017.

(t) remains the same.

(u) The lab and imaging fee schedule, as provided in ARM 37.85.212(2) and 37.86.3007, is effective ~~July 1, 2016~~ January 1, 2017.

(v) The Federal Qualified Health Center (FQHC) and Rural Health Clinic (RHC) fee schedule for education health services, as provided in ARM 37.86.4412, is effective January 1, 2017.

(w) The Targeted Case Management for Children and Youth with Special Health Care Needs fee schedule, as provided in ARM 37.86.3910, is effective July 1, 2016.

(x) The Targeted Case Management for High Risk Pregnant Women fee schedule, as provided in ARM 37.86.3415, is effective July 1, 2016.

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

(a) Home and community-based services for elderly and physically disabled persons fee schedule, as provided in ARM 37.40.1421, is effective ~~July 1, 2016~~ January 1, 2017.

(b) through (5) remain the same.

(6) The department adopts and incorporates by reference, the fee schedule for the following programs within the Developmental Services Division, on the date stated.

(a) Mental health services for youth, as provided in ARM 37.87.901 in the Medicaid Youth Mental Health Services Fee Schedule, is effective ~~July 1, 2016~~ January 1, 2017.

(b) remains the same.

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

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

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing the amendment of ARM 37.85.104 and 37.85.105 pertaining to updating Medicaid fee schedules with Medicare rates and updating effective dates to July 1, 2016 and January 1, 2017.

HEALTH RESOURCES DIVISION - PROPOSED AMENDMENTS TO ARM 37.85.105

Montana Medicaid programs within the Health Resources Division (HRD), will be revising fee schedules, effective dates, rates, and reference dates to reflect the changes regarding Medicare updates. In January, Medicare updates procedure codes with any new code additions, code deletions, and changes to existing code descriptions. The programs that utilize Medicare pricing will need to stay current and compliant with these Medicare changes.

The following describes in detail the proposed amendments that will be made to ARM 37.85.105.

ARM 37.85.105(2)(a)

The department is proposing to adopt new Medicare codes that are effective for January 1, 2017 and will amend the effective date in place regarding procedure codes being reimbursed using the relative value units from the Medicare Physician Fee Schedule in place from January 1, 2016 to January 1, 2017. This will allow the department to update Medicare fees, additions, deletions, or changes to procedure codes when Medicare releases and updates their fee schedule.

ARM 37.85.105(2)(b)

The department is proposing to amend the effective date regarding RBRVS fee schedules from July 1, 2016 to January 1, 2017. This will allow the department to update Medicare fees, additions, deletions, or changes to procedure codes when Medicare releases and updates their fee schedule.

ARM 37.85.105(3)(c)

The department is proposing to amend the effective date regarding the hearing aid services fee schedule from July 1, 2016 to January 1, 2017. This will allow the department to update Medicare fees, additions, deletions, or changes to procedure codes when Medicare releases and updates their fee schedule.

ARM 37.85.105(3)(l)

The department is proposing to amend the effective date of the reference to the Region D Supplier Manual from July 1, 2016 to January 1, 2017. The department is amending the effective date of local coverage determinations (LCDs), national coverage determinations (NCDs) as provided in ARM 37.86.1802 from July 1, 2016 to January 1, 2017.

ARM 37.85.105(3)(r)

The department is proposing to amend the effective date regarding the occupational therapists and physical therapists fee schedule from July 1, 2016 to January 1, 2017. This will allow the department to update Medicare fees, additions, deletions, or changes to procedure codes when Medicare releases and updates their fee schedule. There is no anticipated cost due to this proposed amendment.

ARM 37.85.105(3)(s)

The department is proposing to amend the effective date regarding the optometric fee schedule from July 1, 2016 to January 1, 2017. This will allow the department to update Medicare fees, additions, deletions, or changes to procedure codes when Medicare releases and updates their fee schedule.

ARM 37.85.105(3)(u)

The department is proposing to amend the effective date regarding the lab and imaging fee schedule from July 1, 2016 to January 1, 2017. This will allow the department to update Medicare fees, additions, deletions, or changes to procedure codes when Medicare releases and updates their fee schedule.

ARM 37.85.105(3)(v)

The department is proposing to amend the FQHC/RHC fee schedule for education health services, as provided in ARM 37.86.4412 effective January 1, 2017.

ARM 37.85.105(3)(w)

The department is proposing to amend the Targeted Case Management for Children and Youth with Special Health Care Needs fee schedule, as provided in ARM 37.86.3910 effective July 1, 2016.

ARM 37.85.105(3)(x)

The department is proposing to amend the Targeted Case Management for High Risk Pregnant Women fee schedule, as provided in ARM 37.86.3415 effective July 1, 2016.

Fiscal Impact

The following table displays the number of providers affected, as well as the fiscal impact to State general funds for SFY 2017, SFY 2018, and SFY 2019, based on the proposed amendments.

Provider Type	SFY 2017 Budget Impact (State Funds)	SFY 2018 Budget Impact (State Funds)	SFY 2019 Budget Impact (State Funds)	Active Provider Count
Hearing Aid	\$312	\$624	\$626	29
Lab & Imaging	\$362	\$717	\$711	243
Optometric/Optician	\$8,884	\$17,774	\$17,852	174
Physician	\$12,349	\$24,418	\$24,239	13,374
Total	\$21,907	\$43,533	\$43,428	

The proposed rule is estimated to affect 182,582 Medicaid members. In addition, it will impact the provider populations outlined in the tables above.

DEVELOPMENTAL SERVICES DIVISION, CHILDREN'S MENTAL HEALTH BUREAU (CMHB) - PROPOSED AMENDMENTS TO ARM 37.85.104 AND 37.85.105

MAR Notice No. 37-719 removed the prior authorization requirement for acute hospital. The language, "All admissions of Medicaid recipients require prior authorization" must be removed from The Medicaid Youth Mental Health Fee Schedule to align policy with MAR Notice No. 37-719. Out-of-state acute hospital stays still require prior authorization. The proposed rule also updates the effective date from July 1, 2016 to January 1, 2017.

ARM 37.85.104

The department proposes to amend the Non-Medicaid Youth Mental Health Fee Schedule to align policy with MAR Notice No. 37-719 and update the date from July 1, 2016 to January 1, 2017 which is necessary because the non-Medicaid fees are listed on the Medicaid Youth Mental Health Fee Schedule.

ARM 37.85.105

The department proposes to amend the Medicaid Youth Mental Health Fee Schedule to align policy with MAR Notice No. 37-719 and update the date from July 1, 2016 to January 1, 2017. It is necessary for the department to correct the fee schedule to align policy with MAR Notice No. 37-719.

Fiscal Impact

The proposed amendments do not have a fiscal impact.

SENIOR AND LONG TERM CARE DIVISION (SLTC), AMENDMENTS TO ARM 37.85.105

The department's SLTC is proposing amendments to ARM 37.85.105(4)(a).

ARM 37.85.105(4)(a)

Changes to ARM 37.85.105(4)(a) are proposed at this time to incorporate a correction to the Home and Community Based (HCBS) Waiver fee schedules for Specially Trained Attendant (STA) Licensed Practical Nurse (LPN) and Registered Nurse (RN). This correction would result in the STA-LPN fee schedule increasing from \$7.43 per unit to \$7.61 per unit and the STA-RN fee schedule increasing from \$8.81 per unit to \$8.96 per unit. The fee schedule correction was just discovered and a failure to update the rule would result in HCBS Waiver providers receiving a reduced reimbursement for STA-LPN and RN services. This could result in the loss of services providers which in turn may result in the lack of services available to individuals, enrolled in the waiver program. The department needs to update ARM 37.85.105(4)(a) to reflect the current HCBS Waiver reimbursement rate structure appropriated by the 64th Montana Legislature in House Bill (HB) 2. The effective date of the change will be January 1, 2017; however the Specially Trained Attendant (STA) Licensed Practical Nurse (LPN) and Registered Nurse (RN) will be reimbursed from July 1, 2016 forward.

Fiscal Impact

The fee schedule will be updated to include an increase in provider rates. This funding will impact all Medicaid HCBS waiver recipients and providers who utilize this service.

5. The following rule amendments are proposed to be effective January 1, 2017: ARM 37.85.104(1)(c), 37.85.105(2)(a), 37.85.105(2)(b), 37.85.105(3)(c), 37.85.105(3)(l), 37.85.105(3)(s), 37.85.105(3)(u), 37.85.105(3)(v), 37.85.105(4)(a), and 37.85.105(6)(a).

The department intends to apply these rules retroactively to July 1, 2016: ARM 37.85.105(3)(w) and 37.85.105(3)(x). A retroactive application of the proposed rules does not result in a negative impact to any affected party.

6. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail dphhslegal@mt.gov, and must be received no later than 5:00 p.m., November 25, 2016.

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

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

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

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

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

12. Section 53-6-196, MCA, requires that the department, when adopting by rule proposed changes in the delivery of services funded with Medicaid monies,

make a determination of whether the principal reasons and rationale for the rule can be assessed by performance-based measures and, if the requirement is applicable, the method of such measurement. The statute provides that the requirement is not applicable if the rule is for the implementation of rate increases or of federal law.

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

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

/s/ Richard H. Opper
Richard H. Opper, Director
Public Health and Human Services

Certified to the Secretary of State October 17, 2016.

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

In the matter of the adoption of New Rule I and amendment of ARM 37.85.212 pertaining to adding a new provider called mobile imaging/portable x-ray provider type and reimbursement for state fiscal year 2017) NOTICE OF PUBLIC HEARING ON PROPOSED ADOPTION AND AMENDMENT)

TO: All Concerned Persons

1. On November 17, 2016, at 2:30 p.m., the Department of Public Health and Human Services will hold a public hearing in the auditorium of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana, to consider the proposed adoption and amendment of the above-stated rules.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on November 9, 2016, to advise us of the nature of the accommodation that you need. Please contact Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

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

NEW RULE I MOBILE IMAGING/PORTABLE X-RAY SUPPLIER (1) Any provider that is enrolled in the federal Medicare program as a Mobile Imaging Provider/Portable X-Ray Supplier may also enroll in the Montana Medicaid program as a Mobile Imaging Provider/Portable X-Ray Supplier.

(2) A Mobile Imaging Provider/Portable X-Ray Supplier enrolled in the Montana Medicaid program is governed by 42 CFR 486.100, 486.102, 486.104, 486.106, 486.108, and 486.110. The department adopts and incorporates by reference 42 CFR 486.100, 486.102, 486.104, 486.106, 486.108, and 486.110. Copies of 42 CFR 486.100, 486.102, 486.104, 486.106, 486.108, and 486.110 are available upon request from the Department of Public Health and Human Services, Health Resources Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.

(3) In addition to 42 CFR 486.100, 486.102, 486.104, 486.106, 486.108, and 486.110, a Mobile Imaging Provider/Portable X-Ray Supplier enrolled in the Montana Medicaid program must comply with all rules generally applicable to Medicaid providers.

(4) A Mobile Imaging Provider/Portable X-Ray Supplier must be reimbursed for diagnostic services performed under ARM 37.85.406 and 37.86.105.

(5) The definitions found in the introduction to Physicians Current Procedural Terminology, fourth edition (CPT4), published by the American Medical Association of Chicago, Illinois and adopted by reference at ARM 37.86.101, set forth meanings of terms commonly used by the Montana Medicaid program in implementation of the program's Mobile Imaging Provider/Portable X-Ray Supplier fee schedule.

(6) The Physician-Related Services Manual governing the administration of the Mobile Imaging Provider/Portable X-Ray Supplier program adopted at ARM 37.86.101 applies to a Mobile Imaging Provider/Portable X-Ray Supplier.

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

IMP: 53-2-201, 53-6-101, 53-6-111, 53-6-113, 53-6-125, MCA

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

37.85.212 RESOURCE BASED RELATIVE VALUE SCALE (RBRVS)
REIMBURSEMENT FOR SPECIFIED PROVIDER TYPES (1) For purposes of this rule, the following definitions apply:

(a) remains the same.

(b) "Conversion factor" means a dollar amount by which the relative value units, or the anesthesia units for anesthesia services, are multiplied in order to establish the RBRVS fee for a service. The effective date and conversion factor amounts are adopted at ARM 37.85.105(2). There are four conversion factor categories:

(i) physician services, which applies to the following health care professionals listed in (2): physicians, mid-level practitioners, podiatrists, public health clinics, independent diagnostic testing facilities (IDTF), mobile imaging/portable X-ray providers, qualified Medicare beneficiary (QMB) and early and periodic screening, diagnostic and treatment (EPSDT) chiropractors, laboratory and x-ray services, family planning clinics, and dentists providing medical services;

(1)(b)(ii) through (1)(i) remain the same.

(2) Services provided by the following health care professionals will be reimbursed in accordance with the RBRVS methodology set forth in (3):

(a) through (t) remain the same.

(u) birth attendants; ~~and~~

(v) EPSDT orientation and mobility specialists; and

(w) mobile imaging/portable x-ray providers.

(3) through (10) remain the same.

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

IMP: 53-2-201, 53-6-101, 53-6-111, 53-6-113, 53-6-125, MCA

5. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing the adoption of NEW RULE I and amendments to ARM 37.85.212 regarding the formation of a new provider type, Mobile Imaging/Portable X-Ray Supplier. Mobile Imaging/Portable X-Ray Suppliers provide diagnostic imaging services at patients' locations - more often residences, group living facilities, and nursing homes rather than in a traditional clinical setting, such as a doctor's office or hospital.

New Rule I

Because federal Medicare permits the provision of mobile imaging/portable x-ray services, the department finds it necessary to include this new independent provider type into the Montana Medicaid program so these providers can provide services and bill under the program. The adoption of NEW RULE I is necessary to define provider enrollment, governing rules, billing terms, and reimbursement for the new provider type.

ARM 37.85.212

It is necessary to amend ARM 37.85.212 to include the mobile imaging/portable x-ray providers as their services will be reimbursed in accordance with the RBRVS methodology.

Fiscal Impact

The proposed adoption of NEW RULE I and the amendment of ARM 37.85.212 have no fiscal impact as the Montana Medicaid program already reimburses for these services under the RBRVS fee schedule.

6. The department intends to adopt these rule amendments effective January 1, 2017.

7. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail dphhslegal@mt.gov, and must be received no later than 5:00 p.m., November 25, 2016.

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

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

delivered to the contact person in 7 above or may be made by completing a request form at any rules hearing held by the department.

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

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

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

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

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

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

/s/ Richard H. Opper
Richard H. Opper, Director
Public Health and Human Services

Certified to the Secretary of State October 17, 2016.

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 1.2.419 pertaining to the) PROPOSED AMENDMENT
scheduled dates for the 2017)
Montana Administrative Register)

TO: All Concerned Persons

1. On November 18, 2016, at 9:30 a.m., the Secretary of State will hold a public hearing in the Secretary of State's Office Conference Room, Room 260, State Capitol Building, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The Secretary of State 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 Secretary of State no later than 5:00 p.m. on November 10, 2016, to advise us of the nature of the accommodation that you need. Please contact Jorge Quintana, Secretary of State's Office, P.O. Box 202801, Helena, MT 59620-2801; telephone (406) 431-7718; fax (406) 444-4249; TDD/Montana Relay Service (406) 444-9068; or e-mail jquintana@mt.gov.

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

1.2.419 FILING AND PUBLICATION SCHEDULE FOR THE MONTANA ADMINISTRATIVE REGISTER (1) The scheduled filing dates, time deadline, and publication dates for material to be published in the Montana Administrative Register are listed below:

2016 Register Publication Schedule		
Issue	Filing (due by noon)	Publication
1	December 28	January 8
2	January 11	January 22
3	January 25	February 5
4	February 8	February 19
5	February 22	March 4
6	March 7	March 18
7	March 28	April 8
8	April 11	April 22
9	April 25	May 6
10	May 9	May 20
11	May 23	June 3
12	June 6	June 17

13	June 27	July 8
14	July 11	July 22
15	July 25	August 5
16	August 8	August 19
17	August 22	September 2
18	September 12	September 23
19	October 3	October 14
20	October 17	October 28
21	October 31	November 10
22	November 14	November 25
23	November 28	December 9
24	December 12	December 23

2017 Register Publication Schedule

<u>Issue</u>	<u>Filing (due by noon)</u>	<u>Publication</u>
<u>1</u>	<u>December 27</u>	<u>January 6</u>
<u>2</u>	<u>January 9</u>	<u>January 20</u>
<u>3</u>	<u>January 23</u>	<u>February 3</u>
<u>4</u>	<u>February 6</u>	<u>February 17</u>
<u>5</u>	<u>February 27</u>	<u>March 10</u>
<u>6</u>	<u>March 13</u>	<u>March 24</u>
<u>7</u>	<u>April 3</u>	<u>April 14</u>
<u>8</u>	<u>April 17</u>	<u>April 28</u>
<u>9</u>	<u>May 1</u>	<u>May 12</u>
<u>10</u>	<u>May 15</u>	<u>May 26</u>
<u>11</u>	<u>May 30</u>	<u>June 9</u>
<u>12</u>	<u>June 12</u>	<u>June 23</u>
<u>13</u>	<u>June 26</u>	<u>July 7</u>
<u>14</u>	<u>July 10</u>	<u>July 21</u>
<u>15</u>	<u>July 24</u>	<u>August 4</u>
<u>16</u>	<u>August 7</u>	<u>August 18</u>
<u>17</u>	<u>August 28</u>	<u>September 8</u>
<u>18</u>	<u>September 11</u>	<u>September 22</u>
<u>19</u>	<u>October 2</u>	<u>October 13</u>
<u>20</u>	<u>October 16</u>	<u>October 27</u>
<u>21</u>	<u>October 30</u>	<u>November 9</u>
<u>22</u>	<u>November 13</u>	<u>November 23</u>
<u>23</u>	<u>November 27</u>	<u>December 8</u>
<u>24</u>	<u>December 11</u>	<u>December 22</u>

(2) remains the same.

AUTH: 2-15-401, MCA
IMP: 2-4-312, MCA

REASONABLE NECESSITY: ARM 1.2.419 is proposed to be amended to set dates pertinent to the twice-monthly publication of the Montana Administrative Register

during 2017. The schedule is being proposed at this time in order that it may be adopted in November to allow state agencies the opportunity to plan their rulemaking schedule to meet program needs for the upcoming year.

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: Jorge Quintana, Secretary of State's Office, P.O. Box 202801, Helena, Montana 59620-2801, or by e-mailing jquintana@mt.gov, and must be received no later than 5:00 p.m., November 25, 2016.

5. Jorge Quintana, Secretary of State's Office, P.O. Box 202801, Helena, Montana 59620-2801, has been designated to preside over and conduct the hearing.

6. The Secretary of State maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding administrative rules, corporations, elections, notaries, records, uniform commercial code, or combination thereof. Such written request may be mailed or delivered to the Secretary of State's Office, Administrative Rules Services, 1236 Sixth Avenue, P.O. Box 202801, Helena, MT 59620-2801, faxed to the office at (406) 444-4263, or may be made by completing a request form at any rules hearing held by the Secretary of State's Office.

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

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 Secretary of State has determined that the amendment of the above-referenced rule will not significantly and directly impact small businesses.

/s/ Jorge Quintana
JORGE QUINTANA
Rule Reviewer

/s/ Linda McCulloch
LINDA MCCULLOCH
Secretary of State

Dated this 17th day of October, 2016.

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 1.2.104 and ARM 1.2.423) PROPOSED AMENDMENT
pertaining to fees charged by)
Administrative Rules Services)

TO: All Concerned Persons

1. On November 18, 2016, at 10:00 a.m., the Secretary of State will hold a public hearing in the Secretary of State's Office Conference Room, Room 260, State Capitol Building, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Secretary of State 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 Secretary of State no later than 5:00 p.m. on November 10, 2016, to advise us of the nature of the accommodation that you need. Please contact Jorge Quintana, Secretary of State's Office, P.O. Box 202801, Helena, MT 59620-2801; telephone (406) 431-7718; fax (406) 444-4249; TDD/Montana Relay Service (406) 444-9068; or e-mail jquintana@mt.gov.

3. The Secretary of State proposes to amend the above-stated rules as follows, new matter underlined, deleted matter interlined:

1.2.104 ADMINISTRATIVE RULES SERVICES FEES (1) and (2) remain the same.

(3) The cost for the Register is as follows:

(a) per calendar year (24 issues) \$325.00 \$ 350.00
(b) per issue \$ 13.50

(4) The costs for the ARM ~~are~~ is as follows:

(a) initial purchase of ARM (full set) ~~\$500.00~~ \$ 2,500.00
(b) quarterly ~~issues of~~ updates to ARM, (yearly subscription) \$ 300.00

~~(c) (i)~~ (i) partial year subscriptions will be prorated.

(5) ~~Individual~~ The cost for individual ARM titles ~~charges are~~ is as follows:

~~(a) initial purchase of single part title \$60.00~~
~~(b) initial purchase of multi-part titles:~~
~~(i) first part \$60.00~~
~~(ii) each additional part \$40.00~~
~~(c) quarterly updates to individual titles,~~
per calendar year \$60.00
Title 1 \$ 30.00
Title 2 105.00
Title 4 70.00

Title 6	90.00
Title 8	110.00
Title 10, Part 1	60.00
Title 10, Part 2	90.00
Title 10, All Parts (1-2)	135.00
Title 14	25.00
Title 17, Part 1	100.00
Title 17, Part 2	95.00
Title 17, Part 3	60.00
Title 17, All Parts (1-3)	240.00
Title 18	55.00
Title 20	45.00
Title 23	75.00
Title 24, Part 1	80.00
Title 24, Part 2	105.00
Title 24, Part 3	100.00
Title 24, Part 4	95.00
Title 24, All Parts (1-4)	355.00
Title 30	25.00
Title 32	60.00
Title 34	25.00
Title 36	105.00
Title 37, Part 1	100.00
Title 37, Part 2	100.00
Title 37, Part 3	100.00
Title 37, Part 4	85.00
Title 37, Part 5	75.00
Title 37, Part 6	100.00
Title 37, All Parts (1-6)	515.00
Title 38	80.00
Title 42, Part 1	90.00
Title 42, Part 2	65.00
Title 42, All Parts (1-2)	145.00
Title 44	45.00
Topical Index	90.00
Additional Part, Any Title	25.00

Quarterly updates to individual ARM titles,

per calendar year (yearly subscription) (partial year
subscriptions will be prorated) \$ 60.00

(6) through (8) remain the same.

(9) To purchase any rules publication, contact Administrative Rules Services,
P.O. Box 202801, Helena MT 59620-2801, by phone (406) 444-2055, or e-mail
sosarm@mt.gov.

AUTH: 2-15-401, 2-15-405, MCA

IMP: 2-4-305, 2-4-311, 2-4-312, 2-4-313, 2-15-405, MCA

1.2.423 AGENCY FILING FEES (1) Each agency shall pay a ~~\$50.00~~ \$60.00 per page filing fee for all pages the agency has ~~printed~~ published in the Register. The Secretary of State bills on a per-issue basis for all pages ~~printed~~ published.

AUTH: ~~2-4-313~~, 2-15-401, 2-15-405, MCA
IMP: 2-4-313, 2-15-405, MCA

REASON: The Secretary of State is required by 2-15-405, MCA, to "set by administrative rule each fee authorized by law." Each fee "must be commensurate with the overall costs of the office," "must reasonably reflect the prevailing rates charged in the public and private sectors for similar services," and "fees collected by the secretary of state must be deposited to an account in the enterprise fund type to the credit of the secretary of state." An "enterprise fund" structure means the Secretary of State operates as a proprietary fund agency. The office of the Secretary of State is financed and operated similarly to a private business, and it is the Legislature's intent that the Secretary of State recovers all costs primarily through user charges. See Montana Operations Manual, 302 Government Accounting Overview.

The fees charged by the Administrative Rules Section were last changed over ten years ago. Since that time, the costs of publishing, printing, and mailing hard-copy versions of the administrative rules and the Register have steadily increased. Recently, the Secretary of State filled a request for a full set of the Administrative Rules of Montana (ARM). In doing so, the Secretary of State was able to discern the actual current cost of printing individual titles, as well as a full set of the ARM. In light of those costs, and the associated postage and processing costs, the fees in ARM 1.2.104(4)(a) and (5) are being revised make the fees commensurable with the current cost to the Secretary of State of producing those products. Notably, while many of the individual ARM title fees increased, some decreased, and some remained the same.

Additionally, for the past four fiscal years, the revenue generated by the existing fee for the yearly subscription of the Register has not covered the actual costs of printing and mailing the Register hard-copies. For instance, total revenue generated by the Administrative Rules Section in July and August of 2016 was \$12,630, while expenditures for that period were \$35,567, resulting in a deficit of \$22,937. The increase in ARM 1.2.104(3)(a) is designed to help reduce that deficit.

Finally, as indicated above, the cost of publishing state agency materials in the Register and state agency rules in the ARM has increased over the last 10 years. The increase in ARM 1.2.423 is designed to help offset those increased costs. The change in language from "printed" to "published" in ARM 1.2.423 is being proposed to more accurately reflect the fact the Secretary of State publishes the submitted pages.

The authority and implementation statutes were reviewed and updated.

4. Pursuant to 2-4-302, MCA, the Secretary of State has determined the cumulative dollar amount for all persons of the proposed fees in ARM 1.2.104(3)(a) is \$800 and the number of persons affected is 32, based on the current paid subscribers to the Register.

5. Pursuant to 2-4-302, MCA, the Secretary of State is unable to include with any certainty an estimate of the cumulative dollar amount for all persons of the fees to be charged in ARM 1.2.104(4)(a) and (5) or the number of persons affected by the change in fees because of the sporadic nature of orders for ARM full sets and individual titles. Based on historic sales, however, the cumulative dollar amount is expected to be less than \$300 and the number of affected persons is expected to be fewer than five. The Secretary of State has not sold any ARM full sets in the last several years and has sold only a few individual titles. For example, this fiscal year, the Secretary of State has sold only one individual title. Last fiscal year, the Secretary of State sold one individual title; in fiscal year 2015, it sold three individual titles; in fiscal year 2014 it sold seven individual titles; and in fiscal year 2013 it sold four individual titles.

6. Pursuant to 2-4-302, MCA, the Secretary of State has determined the cumulative dollar amount for all persons of the proposed fee in ARM 1.2.423 is \$20,000 based on the number of pages published in the Register in the last four fiscal years. All state agencies who publish information in the Register will be affected by the fee change; historically that has included 18 different agencies.

7. Concerned persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Jorge Quintana, Secretary of State's Office, P.O. Box 202801, Helena, Montana 59620-2801, or by e-mailing jquintana@mt.gov, and must be received no later than 5:00 p.m., November 25, 2016.

8. Jorge Quintana, Secretary of State's Office, P.O. Box 202801, Helena, Montana 59620-2801, has been designated to preside over and conduct the hearing.

9. The Secretary of State maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding administrative rules, corporations, elections, notaries, records, uniform commercial code, or combination thereof. Such written request may be mailed or delivered to the Secretary of State's Office, Administrative Rules Services, 1236 Sixth Avenue, P.O. Box 202801, Helena, MT 59620-2801, faxed to the office at (406) 444-4263, or may be made by completing a request form at any rules hearing held by the Secretary of State's Office.

10. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of

State strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

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

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

/s/ JORGE QUINTANA
Jorge Quintana
Rule Reviewer

/s/ LINDA MCCULLOCH
Linda McCulloch
Secretary of State

Dated this 17th day of October, 2016.

BEFORE THE DEPARTMENT OF COMMERCE
OF THE STATE OF MONTANA

In the matter of the adoption of New) NOTICE OF ADOPTION
Rule I pertaining to the administration)
of the 2017 and 2018 Program Year)
Community Development Block Grant)
(CDBG) Program – Small-Scale)
Housing Development and)
Rehabilitation Application Guidelines)

TO: All Concerned Persons

1. On August 5, 2016, the Department of Commerce published MAR Notice No. 8-94-149 pertaining to the public hearing on the proposed adoption of the above-stated rule at page 1292 of the 2016 Montana Administrative Register, Issue Number 15.

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

COMMENT #1: First, want to compliment the Department and the Division on the idea, the concept behind this Program. It's an outstanding idea and it's very critically needed in all areas of Montana, in particular, outside the entitlement cities where CDBG money is often used for home improvement or manufactured home replacement in those cities, so I want to really thank you very much for that.

RESPONSE #1: Thank you for your support of the SSHDR program.

COMMENT #2: So, I want to first move to page 6, and on page 6 dealing with what I believe is the general application, not the 'specific project' application, the word "project" is used repeatedly and I just wondered if for clarification we had to have another language, maybe a strategy so we don't get confused between a project-specific item, like the manufactured house replacement at 1015 Fourth Avenue South Cascade, Montana versus the overall strategy proposal for the individual County or City... and I know that 'project' is used on page 7 as well and I just suggest that clarifying language is needed there.

RESPONSE #2: Thank you for your comment. Commerce concurs that the language may be confusing and will modify the terms in the application guidelines as follows. The term "project" is defined as the overall goals and impact of the 5-year performance period. The term "activity/activities" is defined as an individual housing development or rehabilitation action that is taken to improve or assist the unit with CDBG funds.

COMMENT #3: I'm going to now move to page 8, and at the bottom of page 8 there's a reference to applications being originally ranked by the Commerce staff...

I don't believe that I know that there is ranking available for this particular "non-competitive by nature." Non-competitive, to me, would be no ranking, so I just call your attention to that language and wonder if something else should be substituted.

RESPONSE #3: Thank you for your comment. Commerce concurs that this language may be confusing. The SSHDR applications are not competitive; however, any application must still meet the intent of the program and reviewed by Commerce staff to ensure that the proposal is consistent with these guidelines and CDBG regulations. Phrases referencing a ranking process will be removed and replaced with "review."

COMMENT #4: Lastly, I want to make some general comments, I'm sorry -on this section, I want to make some general comments. First of all, the way I read the rules, in all cases the CDBG assistance has to be a loan. It can be a forgivable loan; it can be a deferred mortgage and other pieces, but I want to paint a picture here and those of us who work a lot in renovation, purchased acquisition/renovation, as well as manufactured housing replacement, know how difficult it is to bring a house up to the standards that are required and still have the house, the loan-to-value, combined loan-to-value of all mortgages on the house, at 100% or less. So, by forcing all of these to be a loan with a lien of some kind... basically, A) the project just doesn't get done or B) the homeowner is upside down in their mortgage loan-to-value the day they sign the CDBG paperwork. Now, we know that some of that can be forgiven, et cetera, but I believe strongly in the equity-building value of homeownership and, if the mortgage or a customer is upside-down in their mortgage from day one, it could take them years to ever have a dime of equity in that house.

RESPONSE #4: Thank you for your comment. The CDBG SSHDR program was created to be administered state-wide; since not all housing markets are the same the program allows for grantees to set the financial loan terms, in their respective areas, to provide the most benefit utilizing CDBG funds. The structure for the use of CDBG assistance is configured as a loan to provide maximum use of CDBG benefits for the following reasons:

- CDBG loans can be structured as low as zero percent interest loan, to provide assistance while not placing a financial hardship on beneficiaries.
- The program is prohibited from unduly enriching any individual, the loan ensures the repayment requirements to prevent this from occurring.
- The lien ensures that the homeowner complies with the conditions of the CDBG agreement during the term of the loan.
- While CDBG's intent is not to put a homeowner in the situation of being "upside-down" on his/her mortgage, the intent is for that homeowner to remain in the home for the long term and build that equity as the deferred mortgage is forgiven over time.

COMMENT #5: I want to be sure that the language is clear that, after the Period of Affordability, loans can be forgiven, because I think that's a compromise, a position where you would have the ability to say, "Listen, Homeowner, we're going to

spend \$15..., \$14,999 on your house; we're going to put a lien on it. We know that that's a greater loan-to-value than 100%, but we know that in 5 years we can forgive that loan." So those are the two pieces that I would ask for in terms of being an experienced rehabber and replacer.

RESPONSE #5: Thank you for your comment. The recapture provisions that are contained within the application identify the terms of the CDBG loan. The loan term is in effect for the period of affordability, based on the amount of direct CDBG subsidy to the buyer. Once the period of affordability has expired the recapture provisions no longer apply.

COMMENT #6: I'm going to move now to page 11 on Community Planning and I want to speak to issues of target areas. So the application by the municipality or the County asks to talk about target areas, and we, in Cascade County, are approved under this program from the earlier set of rules and we targeted two areas and we are finding that our business is coming from other areas, so I just want to make sure that there's enough flexibility within the rules that you can have a target area of an entire County. These are, by definition, sparsely populated areas and I think that if we are too defined in our target areas, we're not going to be able to help some people that definitely deserve the help; we just didn't put their town down as a target area.

RESPONSE #6: Thank you for your comment. Commerce has intended the use of the CDBG funds to be flexible within a geographic area where funded activities support local planning efforts, such as housing plans or growth policies, and provide a recognizable impact of individual housing improvements. An eligible applicant could be a county with selected target areas to create an impact, in relation to their geographical attributes, for CDBG assisted activities. Interlocal agreements with incorporated municipalities within that county would be required to create a comprehensive approach to housing activities for that community.

COMMENT #7: While we're on target area, I also want to make a plea that CDBG under this Program can be used once the County is approved as the Applicant. Here's the worst case scenario, if Cascade County is now approved as a contractor for this program; the subcontractor is NeighborWorks Great Falls; and look... what I'm worried about is that if I have a homeowner who needs a rehab in Cascade, Belt, Neihart, Monarch, Sand Coulee, Simms or Fort Shaw, I would have to have SEVEN different applications here. So, I just plead that you have an interlocal agreement situation that - once the County is approved - we have the ability to say to the City of Cascade, "Can you sign an agreement with Cascade County to use this Program?" This program again, because it's defined as the raw area of program, if we have to go to every municipality that needs a home or has a homeowner that needs rehab or replacement, I fear that it won't be used.

RESPONSE #7: See response to comment 6.

COMMENT #8: On page 19 under Uniform Relocation Act, I think it's very difficult to comply with the area at the bottom which says, "When were Property and easement acquired?" because there is no specific project necessarily during this application process and so I don't know how I would answer that question except, "Well, there's no project, so there are no easements." That's an acceptable answer? Then, we're all fine and we don't have to worry about that one.

RESPONSE #8: Thank you for your comment. That would be an acceptable answer in situations where there are no specifically identified activities. Uniform Relocation Act regulations will need to be documented at the time an activity is identified and prior to receiving assistance.

COMMENT #9: The appendices: On Appendix E, there's a lot of boilerplate in all of Appendix E that is not the least bit related to Housing and this again, by definition, is a housing project and so, I just question whether all that boilerplate needs to be in there, when the title of the program is "Small Scale Housing." It's just a whole lot of additional things in there.

RESPONSE #9: Thank you for your comment. As required by HUD regulations, all CDBG assisted projects are required to comply with Uniform Relocation Act requirements and follow the Residential Anti-displacement and Relocation Assistance Plan (RARAP) adopted by the state or follow a RARAP that is approved by the state. Appendix E provides a template for all applicants to ensure the minimum requirements are followed.

COMMENT #10: I want to speak now to the issue of the manufactured housing requirements and the way I read the rules is: you can use it for placement or for connections, but you can't use it for the home itself. I want to be sure that a new septic system . . . and placement is included in those connections language and I want to argue that, in fact, we should be able to use part of this money for the new home itself.

RESPONSE #10: Thank you for your comment. Commerce will allow connections, including connections to municipal water, sewer, gas and electrical utilities (as applicable) or sewer connections for an updated septic system to rehabilitate the housing unit to acceptable water and sewer standards. The intent of the program is to rehabilitate existing housing or new construction related to infill development to support planned growth and development in communities.

COMMENT #11: I'm going to paint a scenario here: I've got an \$80,000 project. The customer already owns the land under their home; they want to replace their home. CDBG can pay for demolition under the current rule. CDBG can pay for connections. Let's just assume this is not a Water District System, so we don't have to worry about septic and water; we just have to pay for the connection, right? Of course, we also have to do all the arrangements for the new home, et cetera. So, you're allowing the providers a maximum of 10% of the CDBG eligible costs to do all of the work, but only get paid 10% on the cost of the demolition, the hookups, and

whatever comes under CDBG. I just argue that this is more expensive than that to the contractors that are working on this - the NeighborWorks of the world - so I would say we have to look at that.

RESPONSE #11: Thank you for your comment. CDBG funds used for administration are capped under federal law and are defined specifically as to the support of the project. CDBG encourages applicants to work with staff to ensure that administrative costs are separate from activity delivery costs to help provide maximum benefit to all parties involved in the project.

COMMENT #12: On page 45, mid-page, it says, the language is, "Owner Investment is returned first," and that's very curious language that I don't know much about, and what I would ask you to do is explain that more fully within the rules. I did read the "Owner Investment returned first" and - could be me - I'm still kind of coming back from vacation, but I just could not understand exactly what was happening there. Perhaps an off-line conversation with someone like me would suffice and it wouldn't need a change in the rules.

RESPONSE #12: Thank you for your comment. CDBG staff is available for one-on-one technical assistance and will be holding workshops in the future to help grantees comply with the regulatory requirements.

COMMENT #13: I want to completely compliment the Division and the Department. This is a great program; we just have to make it workable for the counties, the subcontractors and, most especially, the customers.

RESPONSE #13: Thank you for your support.

COMMENT #14: Could the eligible applicants be expanded to include CHDOs? Our experience as being the sub-recipient with smaller rural government entities as the grantee is that they have not the staff capacity, funding or experience to do even the minimal level of grant administration they are required to do, and it can cause them to say "never again" or to shy away from applying in the first place. Or could the guidelines allow the sub-recipient agreement to transfer almost all responsibilities and authority to the sub-recipient? That way draws can be submitted in a timely fashion and communications from the state staff are not delayed indefinitely by city/county staff who are perplexed or alarmed at the receipt.

RESPONSE #14: Thank you for your comment. CDBG regulations limit eligible applicants to non-entitlement cities, towns, and counties.

COMMENT #15: Would local Housing Authorities be eligible to apply (if non-tribal) or partner with the local jurisdiction?

RESPONSE #15: Thank you for your comment. See response to #14.

COMMENT #16: Page 3, Section II: First it states, "the local government is the applicant and grantee and decides the nature and extent of involvement in CDBG-assisted projects," then goes on to add "and establishes project roles and responsibilities in a project management plan." This is a perfect example of the challenges of using a small town or county staff to manage the grant or be the grantee. They will typically not have time, staff capacity knowledge, or experience to allow them to complete a "project management plan" in a timely fashion without putting an undue burden on their resources. Assuming the eligible recipients cannot be expanded to include a CHDO without the encumbrance of an overworked small government entity acting as a choking point in the middle between state staff and the people actually getting the work done, wouldn't it still be better to be more general in this paragraph, simply stating that the "project team" will establish the roles in a project management plan? That way the overworked small government entity could simply provide input and review the project management plan that the non-profit develops. Developing housing requires different skills and knowledge than developing a water treatment system or similar public works projects, and most small municipalities will just not have access to this on their own staff.

RESPONSE #16: Thank you for your comment. See response to #14.

COMMENT #17: Page 4, Section III: states "Projects involve the new construction or rehabilitation of single-family housing with 1 to 4 units, whether for rent or purchase or are owner-occupied by persons of low to moderate income." That is just a really limited scope of project. What if a community needs 6 units? What if townhouses would be better than single family? What if a four-plex or 8-plex would be the best solution for affordable housing in that community?

RESPONSE #17: Thank you for your comment. The intent of the program is to address housing needs that are on a "small-scale," or projects with 4 or less housing units. For projects larger than 4 units, applicants can apply to the CDBG Large-Scale Multi-family Housing Development and Rehabilitation program.

COMMENT #18: Page 4, Section III: states "accompanied by a budget, implementation schedule and inspection report completed by an individual with construction repair expertise." This implies that only rehab or conversion of existing structures is allowed – i.e., no new construction will be funded. If that is not the case, I suggest, inserting "when applicable" after "expertise."

RESPONSE #18: Thank you for your comment. See response to comment #10.

COMMENT #19: Page 4, Section III.A: New construction is not listed among the list of eligible activities. Is it the intention that new construction is not allowed as an eligible activity? It is mentioned elsewhere in the paragraph. New construction may be the best, most efficient and most fiscally responsible solution in many smaller communities. Combined with a municipality donation of land or reduction of impact fees, it could be a very attainable way to alleviate a lack of affordable housing

in a smaller community. Is single-family intended to preclude the use of land trusts or "zero lot line" townhouse style development? Again some very efficient ways to develop affordable housing.

RESPONSE #19: Thank you for your comment. See response to comment #10.

COMMENT #20: Page 5, Section III: "The maximum per project award will be determined based on a Project Request Form that is accompanied by a budget, implementation schedule and inspection report completed by an individual with construction repair expertise." This seems like not a great idea. First off, assuming new construction is allowed as it seem to say it is in several places, nothing in this list indicates a good tool for determining reasonable new construction costs. Secondly, surely there should be some "per unit" limit or some percentage that the applicant and sub-recipient are required to provide from other funding sources? Yes, there definitely should be a maximum per unit limit, and some matching funds of some percentage should be required. This will also make the program easier to administer because staff will be better able to estimate, using a simple calculation based on how many applications (assuming each application has a maximum request) they have received, if/when the funding pool is likely to "run dry."

RESPONSE #20: Thank you for your comment. The intent of the program is to rehabilitate single family homes and eliminate health and safety deficiencies. This allows beneficiaries to address all health and safety deficiencies so they don't have to "choose" which health and safety issue to address. Therefore, CDBG has requested an inspection report to provide a framework for a budget to ensure individual beneficiaries receive comprehensive support.

COMMENT #21: Pages 4 and 5, Section II.A and B: last bullet requires smoke-free housing, but in the first paragraph of Section II.A it says the "funds are utilized for projects that will create or preserve homeownership." Further on in that same paragraph it says "single-family housing with 1 to 4 units, whether for rent or purchase or are owner-occupied by persons of low to moderate income." So there is some contradiction there; is this program for rental, home ownership or both, because only homeownership is identified at the beginning of the paragraph. If long term rental (vs. say, rent-to-own), is allowed, that first paragraph in Section II.A should include that. If the focus is really on home ownership to the exclusion of long term rental, the last sentence in the first paragraph of Section II.A needs to eliminate the reference to rental or otherwise clarify the limitations on rental. And if homeownership is the end goal, why does the last bullet of Section II.B even exist since it is about rental units? Naturally, a smoke-free policy would be difficult to implement in a homeownership program.

RESPONSE #21: Thank you for your comment. The first paragraph in Section III A on page 4 states, "Small-scale housing development and rehabilitation funds are utilized for projects that will create or preserve homeownership with a specific focus on addressing health and safety issues and ADA improvements for

single family units." The word 'homeownership' will be changed to 'affordable housing.' Additionally, Section III B on page 5 encourages grantees to promote equitable, affordable housing consistent with the 2015-2020 Montana Consolidated Plan goals to the maximum extent possible. This includes establishing and implementing smoke-free housing policies for CDBG-assisted rental units.

COMMENT #22: Pages 4 and 6: On page 4, the guidelines describe submitting an application and being eligible (but not funded) to request use of a pool of funding, for which a separate request would have to be made. But the public hearing process described in Section IV.A implies that one would have to have a specific project included in the application to become eligible for the pool of funding. That is confusing.

RESPONSE #22: Thank you for your comment. CDBG regulations require all applicants to hold two public hearings.

COMMENT #23: Page 7, Section IV.C.4: Another example of why smaller municipalities might not feel they can use this program. They are often unlikely to have staff available that can assess what it will take to comply with those regulations whereas the CHDO or experienced non-profit housing developer will have extensive experience in this. If the municipality MUST be the grantee for some reason, how about requiring or allowing the CHDO or non-profit to provide this certification. The reality is that they are likely to be the ones doing the majority of the work that will need to comply with the regulations anyway.

RESPONSE #23: Thank you for your comment. CDBG regulations require eligible applicants to be non-entitlement cities, towns, and counties. Local governments must also agree to comply with federal law and regulations when accessing federal funds. The program has encouraged creating partnerships with non-profits and CHDOs to carry out activities.

COMMENT #24: Page 7, Section IV.C.5: Again implies no new construction on vacant land would be allowed, unless "where applicable" is added to this requirement.

RESPONSE #24: Thank you for your comment. Please see response to comment #9.

COMMENT #25: The beginning of the plan seems to lay out the framework of a two part application. The first part gets the applicant approved to apply for use of this funding pool for five years. The second part seems to imply an application where a specific project is being described to ask for actual funding. However, as one reads further into the guidelines, that distinction gets murkier and murkier. In many locations the guidelines seem only to refer to an application where a specific project is included in the application. So it seems confusing that there would be this reference in the second paragraph of Section III that seems to describe a process that is not detailed anywhere else in the guidelines. After being "awarded" the ability

to access this funding pool, how does one actually access the funding? Does one submit a "proposal" that restates all the project details (that they already had to include in the original application) in order to actually get the funding?

RESPONSE #25: Thank you for your comment. These application guidelines are the mechanism Commerce uses to qualify applicants to access CDBG Small-Scale Housing funding. This qualification will last for a period of five years, after which the grantee will need to reapply. During the five-year period, applicants will submit requests for individual activities (specific to a housing unit), which will receive funding. CDBG staff will be holding grant administration workshops to assist all potential applicants and grantees with the administration of this program.

COMMENT #26: Page 8, Section VI: Several places in this section the guidelines are establishing the roles and responsibilities for the grantee, something that earlier in the guidelines was stated to be a decision of the grantee. Please recognize that in most cases the non-profit housing developer is going to be doing all the activities described in these sections (all the actual "on the ground" work, in other words), so it would be helpful for the guidelines to say "development team" or "grantee/sub-recipient" or something to make it clear to the grantees that they are not going to have to do a boatload of work that they have neither the staff capacity nor the expertise to do.

RESPONSE #26: Thank you for your comment. Please see the response to comment #23.

COMMENT #27: Page 9, Section VI: Again, if rental is allowed, this section should be identified as "where applicable."

RESPONSE #27: Thank you for your comment.

COMMENT #28: Page 11, Section I, Community Planning: If a small community has not made a lot of progress in the community planning areas (i.e., no CIP, minimal Growth Policy, etc.) will that prevent the community from being successful in their quest for an award? We have worked in several small communities that just don't have those types of resources, but still have a critical need for affordable housing.

RESPONSE #28: Thank you for your comment. As outlined in the 2015-2020 Montana Consolidated Plan and the Annual Action Plans, Commerce has established goals and objectives to address the priority needs and specific objectives of the State, regarding the use of HUD funds. One of the goals and objectives is to support development of communities through comprehensive planning to ensure activities completed with CDBG funds support identified community goals and plans. Communities are strongly encouraged to identify needs and develop strategies to address them, regardless of size, through comprehensive planning. Commerce is committed to assisting communities develop these plans and provides a host of resources and technical assistance opportunities. No

applicant will be considered ineligible solely on the basis that they have not made a lot of progress in community planning.

COMMENT #29: Page 25, Appendix D: Sorry to be a bit obsessed, but again, this wording "the applicant has the legal jurisdiction and authority to construct, finance, operate, and maintain," "the (Name of applicant) agrees to comply with all applicable parts of Title I of the Housing and Community Development Act of 1974, as amended" – the small local jurisdictions that take things literally are not going to feel comfortable with that kind of responsibility. They are unlikely to want to own and maintain the housing; they are unlikely to feel comfortable with what compliance with "Title I" means for them. These are all things they are going to rely on the non-profit for accomplishing and maintaining, and the non-profit should either be signing this jointly or there should a "higher level" resolution for the municipality, referring to the roles and responsibilities determined by their unique and individual management plan, and this, or one this detailed should be signed by the non-profit.

RESPONSE #29: Thank you for your comment. CDBG regulations require eligible applicants to be non-entitlement cities, towns, and counties. Local governments must also agree to comply with federal law and regulations when accessing federal funds. The program has encouraged creating partnerships with non-profits and CHDOs to carry out activities. Applicants that partner with non-profit organizations must create agreements to identify roles and responsibilities, respective of the long-term success of the project.

COMMENT #30: The concept that seemed to be expressed at the beginning of the guidelines (but isn't clearly carried through or described) that the municipality could do a basic almost "boiler plate" type of application to become eligible to apply for the funding pool, is a really neat idea. If the smaller municipalities could do a fairly simple low impact application and get "qualified" for funding, that gives them a tool, a "carrot" so to speak, with which they can interest non-profit housing developers to come and talk to them about specific projects, and allows the non-profit to shoulder the majority of the responsibility for all the development work and a more detailed "proposal application." But the guidelines go on to describe a pretty typical time and detail intensive application, at the end of which the applicant and sub-recipient don't even get any actual funding. So that seems a little unfortunate, like a great idea that just didn't get to "develop."

RESPONSE #30: Thank you for your comment. Please see the response to comment #25.

3. The department has adopted NEW RULE I (ARM 8.94.3731) as proposed.

/s/ MARTY TUTTLE
MARTY TUTTLE
Rule Reviewer

/s/ DOUGLAS MITCHELL
DOUGLAS MITCHELL
Deputy Director
Department of Commerce

Certified to the Secretary of State October 17, 2016.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the adoption of NEW	)	NOTICE OF ADOPTION,
RULES I through X, the amendment	)	AMENDMENT, AND REPEAL
of ARM 10.53.101 and 10.54.2501,)	
and the repeal of ARM 10.54.5010)	
through 10.54.5013, 10.54.5020)	
through 10.54.5023, 10.54.5030)	
through 10.54.5033, 10.54.5040)	
through 10.54.5043, 10.54.5050)	
through 10.54.5053, 10.54.5060)	
through 10.54.5063, and 10.54.5087)	
through 10.54.5098 pertaining to K-)	
12 science content standards)	

TO: All Concerned Persons

1. On August 5, 2016, the Board of Public Education published MAR Notice No. 10-53-277 pertaining to the public hearing on the proposed adoption, amendment, and repeal of the above-stated rules at page 1298 of the 2016 Montana Administrative Register, Issue Number 15.

2. The board has adopted the following new rules:

NEW RULE I	ARM 10.53.801	SCIENCE CONTENT STANDARDS
NEW RULE II	ARM 10.53.802	DEFINITIONS
NEW RULE III	ARM 10.53.803	SCIENCE CONTENT STANDARDS FOR KINDERGARTEN
NEW RULE IV	ARM 10.53.804	SCIENCE CONTENT STANDARDS FOR FIRST GRADE
NEW RULE V	ARM 10.53.805	SCIENCE CONTENT STANDARDS FOR SECOND GRADE
NEW RULE VI	ARM 10.53.806	SCIENCE CONTENT STANDARDS FOR THIRD GRADE
NEW RULE VII	ARM 10.53.807	SCIENCE CONTENT STANDARDS FOR FOURTH GRADE
NEW RULE VIII	ARM 10.53.808	SCIENCE CONTENT STANDARDS FOR FIFTH GRADE
NEW RULE IX	ARM 10.53.809	SCIENCE CONTENT STANDARDS FOR SIXTH THROUGH EIGHTH GRADES
NEW RULE X	ARM 10.53.910	SCIENCE CONTENT STANDARDS FOR NINTH THROUGH TWELFTH GRADES

3. The board has amended ARM 10.53.101 and 10.54.2501 as proposed.

4. The board has repealed 10.54.5010 through 10.54.5013, 10.54.5020

through 10.54.5023, 10.54.5030 through 10.54.5033, 10.54.5040 through 10.54.5043, 10.54.5050 through 10.54.5053, 10.58.5060 through 10.54.5063, and 10.54.5087 through 10.54.5098 as proposed.

5. The effective date of these rules is July 1, 2017.

6. The following comments were received.

COMMENT 1: Mr. Pat Audet, Associate Director, School Administrators of Montana (SAM), stated that SAM has reviewed and is in full support of the new standards. He stated that excellent minds in education were on the committee that wrote the standards. As a former science teacher he felt the standards would support successful learning.

RESPONSE: The Board of Public Education thanks the commenter for his comments.

COMMENT 2: Mr. Marco Ferro, Director of Public Policy and Professional Development for MEA-MFT, submitted written comments in support of the science standards. He stated MEA-MFT's appreciation for the board's and OPI's willingness to have educators involved as part of the revision process.

RESPONSE: The Board of Public Education thanks the commenter for his comments.

COMMENT 3: An educator from Bozeman, Montana stated her support for the new science standards. She stated the need for more students entering STEM fields and feels the new standards will help them get there.

RESPONSE: The Board of Public Education thanks the commenter for her comments.

COMMENT 4: Gerald F. Wheeler, PhD., President of Quality STEM Education, Inc. and William J. Tietz, DVM, PhD., Vice President of Quality STEM Education, Inc. submitted written comments in support of the proposed science standards. They feel improving STEM education is important for Montana's economic health and will help attract high-tech industries to Montana.

RESPONSE: The Board of Public Education thanks the commenters for their comments.

COMMENT 5: Judy Boyle, President-Elect of the Montana Science Teachers Association, has been teaching for 30 years and stated the new standards will allow science classes to feel like science and our students to feel like scientists. She has been involved with teaching the Next Generation Science Standards (NGSS) for over four years. The new standards were modeled after the NGSS. She stated that the financial impact on teaching to the new standards has been minimal. She stated

that the new standards are supported by the Montana Science Teachers Association.

RESPONSE: The Board of Public Education thanks the commenter for her comments.

COMMENT 6: A high school science teacher commented that the new standards were geared toward having students actively do science and engineering rather than passively learning about it. The new standards have three parts: practices, cross-cutting concepts and disciplinary core ideas. The disciplinary core ideas are similar to the current standards. She felt that although implementing the practices and cross-cutting concepts was a challenging shift, there was a significant increase in student understanding, motivation, and engagement.

RESPONSE: The Board of Public Education thanks the commenter for her comments.

COMMENT 7: A commenter stated that a local science teacher who had been implementing the NGSS in her classroom has seen remarkable improvements in student achievement, depth of learning, and growth. She encouraged adoption of the new standards.

RESPONSE: The Board of Public Education thanks the commenter for her comments.

COMMENT 8: A commenter asked the board to not underestimate the ability of Montana's teachers and administrators to train for the new standards. She stated that STEM has become very important for science and math and that numerous state grants support the training of teachers in connection with the new standards.

RESPONSE: The Board of Public Education thanks the commenter for her comments.

/s/ Peter Donovan
Peter Donovan
Rule Reviewer

/s/ Sharon Carroll
Sharon Carroll, Chair
Board of Public Education

Certified to the Secretary of State October 17, 2016.

BEFORE THE BOARD OF NURSING HOME ADMINISTRATORS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF AMENDMENT,
ARM 24.162.415 general	)	ADOPTION, AND REPEAL
requirements, 24.162.420 fee)	
schedule, 24.162.502 military training)	
or experience, 24.162.504)	
examinations, 24.162.510 reciprocity)	
licenses, 24.162.515 inactive license,)	
and 24.162.2105 continuing)	
education, the adoption of NEW)	
RULE I nonroutine applications, and)	
the repeal of ARM 24.162.401)	
quorum, 24.162.403 submittals and)	
requests, 24.162.407 record of)	
minutes and hearings, 24.162.408)	
application denial, 24.162.409)	
hearings or proceedings, 24.162.509)	
reinstatement, and 24.162.2101)	
renewals)	

TO: All Concerned Persons

1. On July 22, 2016, the Board of Nursing Home Administrators (board) published MAR Notice No. 24-162-40 regarding the public hearing on the proposed amendment, adoption, and repeal of the above-stated rules at page 1222 of the 2016 Montana Administrative Register, Issue No. 14.

2. On August 15, 2016, a public hearing was held on the proposed amendment, adoption, and repeal of the above-stated rules in Helena. One comment was received by the August 19, 2016, deadline.

3. The board has thoroughly considered the comment received. A summary of the comment and the board response are as follows:

COMMENT 1: Several commenters asserted that the proposed changes to ARM 24.162.415(1) requiring licensees to display their licenses in the facility served by that licensee along with "evidence of current validation" of the license was either unclear or duplicative. The commenters noted that the displayed license includes the licensee's name, license status, and expiration date, and asked the board to either define "evidence of current validation" or delete the language. The commenters believed it is unnecessary and impractical for licensees to carry evidence of current license validation in their possession at all times. The commenters stated that displaying the license in the facility, as required in the rule, should be sufficient and suggested the board delete this requirement.

RESPONSE 1: The board agreed with the comments and is amending the rule accordingly.

4. The board has amended ARM 24.162.420, 24.162.502, 24.162.504, 24.162.510, 24.162.515, and 24.162.2105 exactly as proposed.

5. The board has adopted NEW RULE I (24.162.503) exactly as proposed.

6. The board has repealed ARM 24.162.401, 24.162.403, 24.162.407, 24.162.408, 24.162.409, 24.162.509, and 24.162.2101 exactly as proposed.

7. The board has amended ARM 24.162.415 with the following changes, stricken matter interlined, new matter underlined:

24.162.415 GENERAL REQUIREMENTS (1) The license, together with evidence of current validation, shall be conspicuously displayed within the facility served by the licensee, ~~and the licensee shall have evidence of current validation in the licensee's possession at all times.~~

(2) remains as proposed.

BOARD OF NURSING HOME
ADMINISTRATORS
KATHRYN BEATY, BOARD CHAIR

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

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

Certified to the Secretary of State October 17, 2016

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

In the matter of the amendment of)
ARM 24.171.401 fees, 24.171.408) NOTICE OF AMENDMENT AND
outfitter records, 24.171.413) REPEAL
watercraft identification, 24.171.502)
outfitter qualifications, 24.171.505)
fishing outfitter operations plan,)
24.171.507 outfitter examination,)
24.171.520 operations plans and)
amendments, 24.171.2101 renewals,)
24.171.2301 unprofessional conduct)
and misconduct, and the repeal of)
24.171.702 transfer of river-use days)

TO: All Concerned Persons

1. On May 20, 2016, the Board of Outfitters (board) published MAR Notice No. 24-171-36 regarding the public hearing on the proposed amendment and repeal of the above-stated rules, at page 855 of the 2016 Montana Administrative Register, Issue No. 10.

2. On June 10, 2016, a public hearing was held on the proposed amendment and repeal of the above-stated rules in Helena. Several comments were received by the June 17, 2016, deadline.

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

COMMENT 1: Numerous commenters expressed general agreement with one or more of the proposed rule changes and specifically regarding the amendments to ARM 24.171.408 and 24.171.520, which implement statutory changes following enactment of House Bill 274 in 2013.

RESPONSE 1: The board appreciates all comments made during the rulemaking process. The board is amending and repealing the rules exactly as proposed, with only minor, non-substantive changes to ARM 24.171.408 and 24.171.2301.

COMMENT 2: Commenters supporting the proposed changes urged the board to accept the proposed amendments as eliminating wasteful, redundant, and unnecessary reporting requirements. Some commenters stated that the current process of collecting information that is also reported on forms provided by the department is a waste of both time and money, results in confusing and voluminous records that are neither organized nor useful, and contributed to the recent publication of an admittedly inaccurate and erroneous map purporting to describe

private property accessible to licensed outfitters. One commenter likened the submission of underlying permits and other documents to support an outfitter's operations plan to submitting all of one's receipts to the Internal Revenue Service and then expecting the IRS to prepare the tax return. Commenters believed the information should be reported in summary fashion, and remain subject to audits and investigations by the board and law enforcement agencies such as the Montana Department of Fish, Wildlife and Parks and other state and federal agencies.

RESPONSE 2: In general, the board agrees with these comments, though one or more board members may not agree with the IRS analogy.

COMMENT 3: One commenter stated that the amendments to ARM 24.171.2101 will properly reduce unnecessary expenditures of time and money at renewal.

RESPONSE 3: The board acknowledges this was one reason for the proposed amendment to the rule.

COMMENT 4: Some commenters supported the proposed rule changes on the basis that their privacy interests in their records are appropriately recognized by the amendments to ARM 24.171.408 and 24.171.2301. One commenter asserted that the current rule allows for an infringement of constitutional rights. The commenters acknowledged that governmental agencies may properly access outfitter records for legitimate purposes, such as law enforcement, though some believed that an outfitter must be notified when an investigation is occurring.

RESPONSE 4: While discussing these comments regarding the balance between the public's right to know and an outfitter's right of privacy, the board determined that the language proposed in ARM 24.171.408 and 24.171.2301 is somewhat ambiguous. The board decided to further amend the organizational structure of these rules to remove the ambiguity, but remain consistent with the board's original intent. The board does not believe the rule violates the Montana or U.S. Constitution, as it does not authorize the search of the outfitter's premises by law enforcement without a warrant. The board notes that an outfitter may not always be informed of an investigation, but will know of requests for production of business documents under ARM 24.171.408, as those requests go to the outfitter.

COMMENT 5: One commenter rejected the board's rationale for not allowing optional submission of supportive documentation as part of an outfitter's annual reporting, especially relevant to the operations plan. The commenter believed the auditing process is a dual reporting system, and that optional submission of documentation would improve efficiency by eliminating the need to request documents already in the board's possession.

RESPONSE 5: The board does not agree with the commenter's rationale and is amending the rules regarding documentation exactly as proposed. The board concluded that voluntary submission of documents by only some licensees would not create efficiencies since audited outfitters can already supplement previously

submitted information, and notes that because prior submissions are voluntary, they are not necessarily complete. The comments addressing department auditing process are beyond the scope of this rule notice.

COMMENT 6: Several commenters expressed concern that the elimination of certain reporting requirements does a disservice to the public while benefitting the industry. The commenters believed using technology in cooperation with other regulatory agencies ought to benefit those burdened with regulatory reporting requirements by making reporting efficient and meaningful. Commenters further stated that some of the proposed changes may prevent the accurate, complete, and timely reporting necessary to ensure the public is provided information relevant to the public's resources.

RESPONSE 6: The board strongly agrees that the considerations raised by these commenters are extremely important to the public, and thus to the board. The board also agrees that the use of technology ought to increase efficiencies for both the outfitters producing the data and the regulatory agencies that maintain and use the data for the public benefit. However, the board disagrees that any proposed change decreases the effectiveness or the completeness of the information being provided. The proposed changes will increase the accuracy and timeliness of data reporting while avoiding the collection and storage of repetitive records that are rarely used. The data set being collected is consistent with requests from the Department of Fish, Wildlife and Parks, and the means of collection is expected to be more efficient while the resulting records should be more usable to the board and FWP. While the underlying records upon which the data is based will be maintained by the outfitters rather than the board, those records remain subject to audit and investigation. The board concluded that the proposed amendments will maintain transparency and, being a more efficient process, reinforce the public's trust in the board's work.

COMMENT 7: One commenter offered specific support for the boat decal amendments, indicating the use of multi-year decals eliminates an unnecessary expense related to the annual issuance of decals.

RESPONSE 7: The board appreciates all comments made during the rulemaking process.

COMMENT 8: Some commenters insisted the reporting of harvested game animals, and other biological data, ought to be included. The commenters reminded the board of its obligation under the Montana Constitution with respect to the public's right to know, and urged the board to reconsider the amendments to include the "who, what, when, and where" as biological data available to the public. The commenters stated the information is important to the public since it is the harvest of public trust resources by commercial interests, even though much of it occurs on private land, and needs to be archived for use by biologists now and into the future.

RESPONSE 8: The board notes that this comment exceeds the scope of this rule notice as no changes were proposed to ARM 24.171.408(2), which requires all

outfitters to report a set of data to the board on forms prescribed by the department, including the "outfitter log." Moreover, the board obtained input from the Department of Fish, Wildlife and Parks regarding amendments to ARM 24.171.408(2), as part of MAR Notice No. 24-171-34 and effective on January 30, 2015. As a licensing agency, the board cooperates with FWP, but it is FWP's responsibility to collect data for the purpose of, and develop policies relevant to, managing Montana's wildlife and providing public access to those opportunities.

COMMENT 9: A few commenters opposed the elimination of "at all times" from ARM 24.171.408(1), and suggested that a reasonable alternative would be a 48-hour requirement for updating records.

RESPONSE 9: The board cannot impose a requirement that would make it a misdemeanor crime and the basis of unprofessional conduct whenever an outfitter's records do not immediately reflect the business transacted. In reality, the operation of a small business necessarily provides a time between an event and the recordation of the event. Specifying "at all times" seemed to mandate a real-time updating of records under penalty of sanction, and the suggestion that an arbitrary timeline of 48 hours or so would be reasonable is without any kind of precedence in the recordkeeping requirements of other businesses. The proposed rule amendments do not excuse outfitters from keeping accurate records.

COMMENT 10: One commenter expressed support for proposed amendments to the outfitter experience requirements in ARM 24.171.502. The commenter noted that the rule amendments will allow credit for comparable out-of-state guiding experience to those seeking licensure in Montana, but the credit will only apply to those seeking a fishing outfitter license. The proposed amendments do not reflect a similar change for those seeking a hunting outfitter license.

RESPONSE 10: The board acknowledges that an error was made in the preparation of the proposal notice. The board intended out-of-state guiding experience to qualify as experience toward a Montana outfitter license, regardless of whether the applicant was seeking licensure as a hunting outfitter or a fishing outfitter. However, to correct the error, the board is required to republish the entire notice, and allow another public comment period. As time is of the essence regarding the other amendments in this notice, and because proceeding with the changes as proposed will not create any new problems, the board is amending ARM 24.171.502 exactly as proposed and will address the error in a future project.

COMMENT 11: One commenter suggested the board should audit a significant number of licensees to ensure or encourage compliance.

RESPONSE 11: The comment falls outside the scope of this rule notice. While the auditing of licensees is necessarily a part of the board's business as it relates to enforcing the rules as amended in this rule notice, the determination of how many to audit is not set by rule. Instead, the board will consider audit percentage at a future

board meeting and may change it from time to time based on the needs of the board and the rates of compliance.

A number of other comments received during the comment period spoke to matters outside the scope of the rule proposal notice and are not addressed in this document.

4. The board has amended ARM 24.171.401, 24.171.413, 24.171.502, 24.171.505, 24.171.507, 24.171.520, and 24.171.2101 exactly as proposed.

5. The board has repealed ARM 24.171.702 exactly as proposed.

6. The board has amended ARM 24.171.408 and 24.171.2301 with the following changes to the original proposal, stricken matter interlined, new matter underlined:

24.171.408 OUTFITTER RECORDS (1) Outfitters shall maintain current, true, complete, and accurate records, submit the records to the board as required by administrative rule, and make the records available at all times at the outfitter's main base camp or business office ~~to enforcement or investigative personnel authorized or appointed by the board, upon subpoena or order of a court, or written request of the board or a state or federal agency for law enforcement purposes. ;~~

(a) to enforcement or investigative personnel authorized or appointed by the board;

(b) upon subpoena or order of a court;

(c) upon written request of the board; or

(d) upon written request of a state or federal agency for law enforcement purposes.

(2) through (4) remain as proposed.

AUTH: 37-1-131, 37-47-201, MCA

IMP: 37-47-201, 37-47-301, MCA

24.171.2301 UNPROFESSIONAL CONDUCT AND MISCONDUCT

(1) through (1)(k) remain as proposed.

(l) make all client records available at the outfitter's main base camp or business office in accordance with ARM 24.171.408 ~~to enforcement or investigative personnel authorized or appointed by the board upon subpoena or order of a court or written request of the board or a state or federal agency for law enforcement purposes;~~

(m) through (3) remain as proposed.

AUTH: 37-1-131, 37-1-319, 37-47-201, MCA

IMP: 37-1-312, 37-1-316, 37-1-319, 37-47-201, 37-47-341, MCA

BOARD OF OUTFITTERS
ROBIN CUNNINGHAM, CHAIRPERSON

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

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

Certified to the Secretary of State October 17, 2016

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 38.2.4801, 38.2.4802,)
38.2.4803, 38.2.4804, 38.2.4805, and)
38.2.4806 pertaining to procedural)
rules)

TO: All Concerned Persons

1. On April 8, 2016, the Department of Public Service Regulation published MAR Notice No. 38-2-234 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 580 of the 2016 Montana Administrative Register, Issue Number 7. On May 20, 2016, the department published an amended notice of proposed amendment of the above-stated rules at page 877 of the 2016 Montana Administrative Register, Issue Number 10.

2. The department has amended ARM 38.2.4801, 38.2.4802, 38.2.4803, 38.2.4804, and 38.2.4805 as proposed.

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

38.2.4806 RECONSIDERATION (1) through (7) remain as proposed.
(8) If and only if a party applies to a court for an injunction staying or suspending the operation of a commission order, within the applicable statutory deadlines, does the filing of a motion for reconsideration become optional for the purpose of finalizing a commission order for appeal.

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

COMMENT NO. 1: Commenter number one explains that changing ARM 38.2.4806 from its current version would render the reconsideration process a mandatory prerequisite to judicial review of a commission order or decision. The commenter argues that the commission's current practice of post-hearing briefing is sufficient and that an additional mandatory motion would be redundant and a waste of resources. The commenter requests that the commission leave the rule unchanged or add the following sentence to (6): If no motion to reconsider is filed, the order if final and appealable within 30 days of its service.

RESPONSE: The commission appreciates the comments. However, the commission proposed the revisions to ARM 38.2.4806 in order to minimize litigation expense for the parties to a proceeding and the commission. Clear benefits exist in

providing the commission with an opportunity to correct any mistakes alleged by a party at the administrative level in order to reduce the need for an appeal to district court. District courts have limited resources and a large caseload, therefore, the agency should first have an opportunity to resolve possible issues with an order which may help limit appeals to the courts.

COMMENT NO. 2: Commenter number two testified that ARM 38.2.4806 in its current form was intended to give parties an optional process in which a party can choose to either seek reconsideration or proceed directly to district court. The commenter argued that pursuant to 69-3-401, MCA, parties have a right to seek an injunction within 20 days of the filing of an order and that changing reconsideration from an optional process to a mandatory one would frustrate that right. The commenter testified that if the commission were to prevail under a failure to exhaust administrative remedies argument, a party would be precluded from seeking an injunction or stay. The commenter further argued that by making reconsideration mandatory, the commission risks doubling its work load. The commenter indicated that parties would double file, an injunction in district court and a motion to reconsider in front of the commission, to preserve all of their options. The commenter indicated that the driver for this rule is the filed rate doctrine.

RESPONSE: The commission does not agree that the previous version of the rule intended to give parties an optional reconsideration process. However, the commission agrees that in some limited circumstances a party may decide to file with the court an injunction staying or suspending the operation of a commission order. Under those circumstances, the commission agrees there may be some confusion on whether the filing of a motion for reconsideration is still mandatory. Based on these comments the commission has amended ARM 38.2.4806 as shown above.

5. No other comments or testimony were received.

/s/ JUSTIN KRASKE
Justin Kraske
Rule Reviewer

/s/ BRAD JOHNSON
Brad Johnson
Chairman
Department of Public Service Regulation

Certified to the Secretary of State October 17, 2016.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 42.19.1401, 42.19.1403,)
42.19.1404, 42.19.1407, 42.19.1408,)
and 42.19.1411 pertaining to urban)
renewal districts (URD), targeted)
economic development districts)
(TEDD), and tax increment finance)
districts (TIFD))

TO: All Concerned Persons

1. On August 19, 2016, the Department of Revenue published MAR Notice No. 42-2-957 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 1424 of the 2016 Montana Administrative Register, Issue Number 16.

2. On September 13, 2016, a public hearing was held to consider the proposed amendment. Robert Story, Montana Taxpayers Association, appeared and testified at the hearing and provided written comments. No other members of the public appeared for the hearing and no additional written comments were received.

3. The department is not amending ARM 42.19.1403 and 42.19.1404.

4. The department amends ARM 42.19.1411 as proposed.

5. Based upon the comments received, the department amends ARM 42.19.1401, 42.19.1407, and 42.19.1408 as proposed, but with the following changes, new matter underlined, deleted matter interlined:

42.19.1401 DEFINITIONS The following definitions apply to this subchapter:

(1) "Levy district" means a geographically distinct area where all of the properties are subject to the same combination of taxing ~~jurisdictions~~ jurisdiction's mill levies. Levy districts are created for administrative purposes and do not have any taxing authority.

(2) and (3) remain as proposed.

(4) "Taxing jurisdiction" means a government entity authorized to impose tax on property. A taxing jurisdiction may include the properties in one or more levy districts.

(5) and (6) remain as proposed.

42.19.1407 DETERMINATION OF BASE YEAR AND INCREMENTAL VALUES OF TAX INCREMENT FINANCING DISTRICTS (TIFD) (1) remains as proposed.

(2) The incremental value of a TIFD cannot be less than zero.

42.19.1408 DETERMINATION AND REPORT OF BASE YEAR, ACTUAL, AND INCREMENTAL TAXABLE VALUES – TIMING (1) through (4) remain as proposed.

(5) A TIFD may include one or more levy districts. If a TIFD ~~encompasses two or includes more than one~~ levy districts district, the department will apportion the base taxable value and the incremental taxable value between the levy districts by:

(a) ~~calculate~~ calculating the total base taxable value and the total and incremental taxable value for the TIFD; and

(b) ~~apportion~~ apportioning the base taxable value and the incremental taxable value to each levy district according to its contribution to the total taxable value of the TIFD.

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

COMMENT 1: Robert Story, Executive Director, Montana Taxpayers Association, commented that his organization concurs with most of the proposed changes in the rules and thinks it is a good idea to get a levy district definition in the rules. However, with regard to ARM 42.19.1407, he stated his understanding is that incremental taxable values can never get below zero and, if true, this should be mentioned in the rule unless it is found elsewhere in the Administrative Rules of Montana.

RESPONSE 1: The department appreciates Mr. Story's comments and agrees that an amendment to ARM 42.19.1407 is necessary to make the rule clearer, as language regarding values below zero is not currently found elsewhere in the rules. Therefore, the department has added a new section to the rule to include this detail.

COMMENT 2: Mr. Story further commented that ARM 42.19.1408 is confusing. There are many levy districts in any taxing jurisdiction. There may be no increment in some levy districts, while one levy district may have all the increments. A levy district may be as small as one property. He stated that he does not understand the purpose of the proposed new language in (5)(b) and would like the department to explain the operation of this section of the rule. He further stated that he is uncertain that the language in that section means what the department intended it to mean, why the language exists, and if it will operate properly as worded.

RESPONSE 2: The department appreciates Mr. Story's insight, as TIFDs can be very confusing. Taxing jurisdictions and levy districts serve different purposes. Mr. Story may be referring to a taxing jurisdiction which has the ability to generate an increment. Levy districts do not generate increments, but rather they are groups of geographically distinct parcels that are subject to the same mill levies. The

department has further amended the language in ARM 42.19.1408(5) to make this clearer, and is also further amending ARM 42.19.1401(1) and (4) to expand the language in the definitions for the same reason.

/s/ Laurie Logan
Laurie Logan
Rule Reviewer

/s/ Mike Kadas
Mike Kadas
Director of Revenue

Certified to the Secretary of State October 17, 2016.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the adoption of New Rule I pertaining to requests for nondisclosure of property owner record information) NOTICE OF ADOPTION
)
)
)

TO: All Concerned Persons

1. On August 19, 2016, the Department of Revenue published MAR Notice No. 42-2-958 pertaining to the public hearing on the proposed adoption of the above-stated rule at page 1429 of the 2016 Montana Administrative Register, Issue Number 16.

2. On September 13, 2016, a public hearing was held to consider the proposed adoption. Jennie Stapp, of the Montana State Library, appeared and testified at the hearing and also provided written comments. Other members of the public attended the hearing but did not testify. No additional written comments were received.

3. Based upon the comments received, the department adopts New Rule I (42.2.328) as proposed but with the following changes, new matter underlined, deleted matter interlined:

NEW RULE I (42.2.328) NONDISCLOSURE OF PROPERTY RECORD INFORMATION (1) Information obtained and records prepared in the course of property tax administration in Montana are available to the public, including the property owner's name. An individual who is at risk of physical harm or to their personal safety may have a reasonable expectation of privacy. A qualified property owner, as defined in (2), may request that the department ~~withhold~~ not display the name of the owner ~~from~~ on the department's web ~~sites~~ applications upon demonstrating that the right of the individual's privacy clearly exceeds the public's right to access property records.

(2) A "qualified property owner," for the purposes of this rule, means an individual who:

(a) owns real property that is ~~listed~~ displayed on the department's online web ~~application~~ applications ~~located at svc.mt.gov/dor/property;~~ and

(b) remains as proposed.

(3) A qualified property owner must apply for nondisclosure of their name on the department's web ~~sites~~ applications using an application form provided by the department. In addition to the application, the applicant shall submit:

(a) through (4) remain as proposed.

(5) If approved for nondisclosure status, the individual's name will ~~be withheld from~~ not be displayed on the department's online web ~~application~~ applications. ~~located at svc.mt.gov/dor/property. The Montana State Library, which obtains property record data from the department, will also withhold~~

~~the individual's name from the Montana Cadastral online web application located at svc.mt.gov/msl/mtcadastral. However, property record data, including the property owner's name, may remain available on other state or county web applications or web sites or any other media outside the department's or the Montana State Library's control.~~

(6) and (7) remain as proposed.

(8) If the renewal application required in (7) is not timely received or is not approved by the department, the individual's name will appear on the department's online web ~~applications application located at svc.mt.gov/dor/property and the Montana Cadastral online web site located at svc.mt.gov/msl/mtcadastral~~ by June 1.

(9) remains as proposed.

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

COMMENT 1: Jennie Stapp, of the Montana State Library, testified that in consultation with the agency legal staff for the library, their contention is that it is inappropriate for another state agency to be named within the administrative rules of the Department of Revenue. The language of the new rule could be amended to remove any direct mention of the Montana State Library or its web address and still accomplish the same mission of the proposed new rule.

Ms. Stapp stated that she was also submitting written recommendations for technical changes to the new rule language that would make it more broadly applicable and that will serve the department further in the future by not referencing specific applications and by also removing any specific reference to the Montana State Library. The changes submitted by Ms. Stapp are as follows:

In (1), sentence one, change the words "withhold" to "not display," "from" to "on," and "sites" to "applications."

In (2)(a), change the word "listed" to "displayed," pluralize the word "application," and strike the web site address reference.

In (3), sentence one, change the word "sites" to "applications."

In (5), sentence one, change the phrase "be withheld from" to "not displayed on," pluralize the word "application," and strike the web site address reference; strike sentence two altogether; and strike the words "or the Montana State Library's" from the last sentence.

In (8), strike both web site address references.

RESPONSE 1: The department appreciates Ms. Stapp's and the Montana State Library's interest and assistance in this rulemaking process. The department agrees with their recommended changes to the rule language and agrees that the changes will meet the needs of both agencies. Therefore, the department has adopted the new rule with the language changes exactly as proposed by Ms. Stapp.

COMMENT 2: Ms. Stapp also commented that a second concern is that the Montana State Library has a statutory obligation to provide permanent public access to state government information and, by statute, the definition of government

information is anything that is deemed intended for public display. Therefore, any information that comes to the library comes with a statutory obligation to provide that information to the public. She stated that the submitted recommendation for changes to the proposed new rule will prevent the library from ever receiving that information in the first place. If the information does not come to the library, the library is under no obligation to make the information accessible to the public.

RESPONSE 2: The department understands the concerns raised by Ms. Stapp and the library and has adopted the new rule with the changes they recommend.

/s/ Laurie Logan

Laurie Logan
Rule Reviewer

/s/ Mike Kadas

Mike Kadas
Director of Revenue

Certified to the Secretary of State October 17, 2016

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 42.17.101, 42.17.105,)
42.17.114, 42.17.122, 42.17.131, and)
42.17.218 pertaining to the)
computation of wage withholding for)
state income taxes)

TO: All Concerned Persons

1. On September 2, 2016, the Department of Revenue published MAR Notice No. 42-2-961 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 1557 of the 2016 Montana Administrative Register, Issue Number 17.

2. On September 29, 2016, a public hearing was held to consider the proposed amendment. No members of the public appeared for the hearing and no written comments were received.

3. The department amends the above-stated rules as proposed.

/s/ Laurie Logan
Laurie Logan
Rule Reviewer

/s/ Mike Kadas
Mike Kadas
Director of Revenue

Certified to the Secretary of State October 17, 2016.

NOTICE OF FUNCTION OF ADMINISTRATIVE RULE REVIEW COMMITTEE

Interim Committees and the Environmental Quality Council

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

Economic Affairs Interim Committee:

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

Education and Local Government Interim Committee:

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

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

- Department of Public Health and Human Services.

Law and Justice Interim Committee:

- Department of Corrections; and
- Department of Justice.

Energy and Telecommunications Interim Committee:

- Department of Public Service Regulation.

Revenue and Transportation Interim Committee:

- Department of Revenue; and
- Department of Transportation.

State Administration and Veterans' Affairs Interim Committee:

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

Environmental Quality Council:

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

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

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

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

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

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

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

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

Use of the Administrative Rules of Montana (ARM):

- | | |
|---------------|---|
| Known Subject | 1. Consult ARM Topical Index.
Update the rule by checking the accumulative table and the table of contents in the last Montana Administrative Register issued. |
| Statute | 2. Go to cross reference table at end of each number and title which lists MCA section numbers and department corresponding ARM rule numbers. |

ACCUMULATIVE TABLE

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies that have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through June 30, 2016. This table includes those rules adopted during the period April 1, 2016, through June 30, 2016, 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, 2016, 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 2016 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.

ADMINISTRATION, Department of, Title 2

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2.5.701	and other rules - State Surplus Property Program, p. 355, 719
2.21.4002	and other rules - Equal Employment Opportunity - Nondiscrimination - Harassment Prevention, p. 617, 1838
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2.59.104	and other rules - Semiannual Assessment - Retention of Bank Records - Definitions - Change in Location - Application and Review Procedures - State, County, and Municipal Issues for Banks, p. 1744
2.59.301	and other rules - Advertising - Standardized Forms and Procedures - Annual Reporting Form for Consumer Loan Licensees - Transition of Licenses to the NMLS, p. 1750
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2.59.416	and other rules - Credit Union Investments, p. 359, 720
2.59.1735	Determining the Amount of Surety Bond for a New Mortgage Broker or Mortgage Lender, p. 630, 1052
2.59.1738	and other rule - Definition of "Regularly Engage" - Renewal Fees for Mortgage Brokers, Lenders, Servicers, and Originators, p. 1287, 1845

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BOARD APPOINTEES AND VACANCIES

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

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

In this issue, appointments effective in September 2016 appear. Vacancies scheduled to appear from November 1, 2016 through January 31, 2017, are listed, as are current vacancies due to resignations or other reasons. Individuals interested in serving on a board should refer to the bill that created the board for details about the number of members to be appointed and necessary qualifications.

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

IMPORTANT

Membership on boards and commissions changes constantly. The following lists are current as of October 1, 2016.

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.

BOARD AND COUNCIL APPOINTEES FROM SEPTEMBER 2016

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Alternative Health Care Board (Labor and Industry)			
Mr. Hubert Abrams Wibaux Qualifications (if required): Naturopath	Governor	reappointed	9/1/2016 9/1/2020
Dr. Christine White Deeble Missoula Qualifications (if required): Naturopath	Governor	reappointed	9/1/2016 9/1/2020
Board of Medical Examiners (Labor and Industry)			
Dr. James Feist Bozeman Qualifications (if required): Doctor of Medicine	Governor	reappointed	9/16/2016 9/1/2020
Board of Nursing (Labor and Industry)			
Ms. Shari Brownback Helena Qualifications (if required): Licensed Practical Nurse	Governor	reappointed	9/16/2016 7/1/2020
Board of Private Security (Labor and Industry)			
Mr. Dirk Bauwens Billings Qualifications (if required): Electronic security company	Governor	reappointed	9/16/2016 8/10/2019
Board of Public Accountants (Labor and Industry)			
Ms. Lucinda Willis Polson Qualifications (if required): Certified public accountant actively engaged in the practice of public accounting	Labor and Industry	Rosenleaf	9/2/2016 7/1/2020

BOARD AND COUNCIL APPOINTEES FROM SEPTEMBER 2016

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Research and Commercialization Technology (Commerce)			
Ms. Prairie Bighorn Billings	Governor	reappointed	9/2/2016 7/1/2018
Qualifications (if required): enrolled member of a Montana tribal government			
Board of Veterans' Affairs (Military Affairs)			
Mr. Bruce W Knutson Helena	Governor	reappointed	9/16/2016 8/1/2020
Qualifications (if required): Representative of U.S. Senator Jon Tester Non-Voting Member			
Mr. Denny Lenoir Helena	Governor	reappointed	9/16/2016 8/1/2020
Qualifications (if required): Representative of U.S. Senator Steve Daines Non-Voting Member			
Mr. Peter Olson Culbertson	Governor	reappointed	9/16/2016 8/1/2020
Qualifications (if required): Region 5 Veteran			
Board of Veterinary Medicine (Labor and Industry)			
Ms. Rebecca Mattix Bozeman	Governor	reappointed	9/16/2016 8/1/2021
Qualifications (if required): Licensed Veterinarian			
Commission on Community Service (Governor)			
Mr. Kevin Myhre Lewistown	Governor	Boham	9/2/2016 7/1/2019
Qualifications (if required): Business representative			

BOARD AND COUNCIL APPOINTEES FROM SEPTEMBER 2016

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Governor's Advisory Council on Aging (Public Health and Human Services)			
Ms. Connie Bremner Browning	Governor	reappointed	9/2/2016 7/1/2019
Qualifications (if required): Public Member			
Commissioner Marianne Roose Eureka	Governor	reappointed	9/2/2016 7/1/2019
Qualifications (if required): Public Member			
Ms. Joan Taylor Helena	Governor	reappointed	9/2/2016 7/1/2019
Qualifications (if required): Public Member			
Mr. Alex Ward Helena	Governor	reappointed	9/2/2016 7/1/2019
Qualifications (if required): Public Member			
Montana Wheat and Barley Committee (Agriculture)			
Mr. Randy Hinebauch Conrad	Governor	reappointed	9/16/2016 6/1/2019
Qualifications (if required): District 2 and a Republican			
Mr. Chris Kolstad Ledger	Governor	reappointed	9/16/2016 6/1/2019
Qualifications (if required): District 3 and a Republican			

BOARD AND COUNCIL APPOINTEES FROM SEPTEMBER 2016

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Public Defender Commission (Administration)			
Sen. Roy Brown Billings	Governor	reappointed	9/2/2016 7/1/2018
Qualifications (if required): Nominee from the President of the Senate			
Mr. Brian Gallik Bozeman	Governor	reappointed	9/2/2016 7/1/2019
Qualifications (if required): Attorney nominated by the Supreme Court			
Mr. Richard Gillespie Helena	Governor	reappointed	9/2/2016 7/1/2019
Qualifications (if required): Attorney nominated by the State Bar Association			
Mr. Michael Metzger Billings	Governor	reappointed	9/2/2016 7/1/2019
Qualifications (if required): Member employed by an organization that provides addictive behavior counseling			
Ms. Margaret Novak Chester	Governor	reappointed	9/2/2016 7/1/2019
Qualifications (if required): Member of an organization that advocates on behalf of indigent persons			
Ms. Bonnie Olson Marion	Governor	reappointed	9/2/2016 7/1/2018
Qualifications (if required): Nominee from the Speaker of the House			

BOARD AND COUNCIL APPOINTEES FROM SEPTEMBER 2016

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
State-Tribal Economic Development Commission (Commerce)			
Mr. Rodney Miller	Governor	reappointed	9/16/2016
Wolf Point			6/30/2019
Qualifications (if required): Fort Peck Tribes Alternate			

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2016 THROUGH JANUARY 31, 2017

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p>Board of Aeronautics (Transportation) Representative Walter L. McNutt, Sidney Qualifications (if required): member of the Montana Chamber of Commerce</p>	Governor	1/1/2017
<p>Mr. Fred Leistiko, Kalispell Qualifications (if required): representative of the Montana Airport Management Association</p>	Governor	1/1/2017
<p>Ms. Tricia McKenna, Bozeman Qualifications (if required): member of the Montana Pilots' Association</p>	Governor	1/1/2017
<p>Mr. Roger Lincoln, Gildford Qualifications (if required): member of the Association of the Montana Aerial Applicators</p>	Governor	1/1/2017
<p>Mr. Bill Hunt Jr., Shelby Qualifications (if required): representative of the Montana League of Cities and Towns and an Attorney</p>	Governor	1/1/2017
<p>Mr. Robert Buckles, Bozeman Qualifications (if required): representative of interstate commercial airline operators</p>	Governor	1/1/2017
<p>Mr. Daniel Hargrove, Billings Qualifications (if required): engaged in aviation education in this state</p>	Governor	1/1/2017
<p>Board of Crime Control (Justice) Mr. James R. Cashell, Bozeman Qualifications (if required): Public Representative</p>	Governor	1/1/2017
<p>Mr. Steve McArthur, Butte Qualifications (if required): Community Corrections Representative</p>	Governor	1/1/2017

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2016 THROUGH JANUARY 31, 2017

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Crime Control (Justice) cont. Sheriff Leo C. Dutton, Helena Qualifications (if required): Local Law Enforcement Representative	Governor	1/1/2017
Chief William Dial, Whitefish Qualifications (if required): Local Law Enforcement Representative	Governor	1/1/2017
Mr. Nickolas C. Murnion, Glasgow Qualifications (if required): Law Enforcement Representative	Governor	1/1/2017
Commissioner Laura Obert, Townsend Qualifications (if required): Local Government Representative	Governor	1/1/2017
Mr. Tim Brurud, Havre Qualifications (if required): Youth Justice Council Representative	Justice	1/1/2017
Ms. Pamela Carbonari, Kalispell Qualifications (if required): Youth Justice Council Chair	Governor	1/1/2017
Mr. Curtis Harper, Billings Qualifications (if required): Public Representative	Governor	1/1/2017
Mrs. Michelle Miller, Butte Qualifications (if required): Community Based Organization Representative	Governor	1/1/2017
Ms. Kelly McIntosh, Dillon Qualifications (if required): Public Representative	Governor	1/1/2017

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2016 THROUGH JANUARY 31, 2017

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p>Board of Crime Control (Justice) cont. Ms. Danna Jackson, Helena Qualifications (if required): Professional and Community Organizations</p>	Governor	1/1/2017
<p>Mr. Hubert Abrams, Wibaux Qualifications (if required): Public Representative</p>	Justice	1/1/2017
<p>Board of Dentistry (Labor and Industry) Dr. George Johnston, Dillon Qualifications (if required): Licensed Dentist</p>	Governor	1/1/2017
<p>Board of Environmental Review (Environmental Quality) Mr. Chris D. Tweeten, Helena Qualifications (if required): attorney</p>	Governor	1/1/2017
<p>Director Joan Miles, Helena Qualifications (if required): Local Government</p>	Governor	1/1/2017
<p>Ms. Robin Shropshire, Helena Qualifications (if required): Hydrologist</p>	Governor	1/1/2017
<p>Ms. Marietta Canty, Clancy Qualifications (if required): Environmental Sciences</p>	Governor	1/1/2017
<p>Board of Hail Insurance (Agriculture) Representative Monica J. Lindeen, Huntley Qualifications (if required): State Auditor</p>	Governor	1/1/2017

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2016 THROUGH JANUARY 31, 2017

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p>Board of Hearing Aid Dispensers (Labor and Industry) Mr. Edward Eaton, Helena Qualifications (if required): Public Member</p>	Governor	1/1/2017
<p>Board of Horse Racing (Commerce) Sen. Dale Mahlum, Missoula Qualifications (if required): member of the horse racing industry</p>	Governor	1/1/2017
<p>Mr. Shawn Real Bird, Garryowen Qualifications (if required): District 2 Representative</p>	Governor	1/1/2017
<p>Mr. Steve Austin, Helena Qualifications (if required): District 5 Representative</p>	Governor	1/1/2017
<p>Mr. Ralph Young, Columbus Qualifications (if required): member of the horse racing industry</p>	Governor	1/1/2017
<p>Board of Housing (Commerce) Mr. Doug Kaercher, Havre Qualifications (if required): Public Representative</p>	Governor	1/1/2017
<p>Mr. J.P. Crowley, Helena Qualifications (if required): Public Representative</p>	Governor	1/1/2017
<p>Ms. Ingrid Firemoon, Wolf Point Qualifications (if required): Public Representative</p>	Governor	1/1/2017

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2016 THROUGH JANUARY 31, 2017

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p>Board of Housing (Commerce) cont. Mr. Patrick E. Melby, Helena Qualifications (if required): Attorney</p>	Governor	1/1/2017
<p>Board of Investments (Commerce) Rep. Mark E. Noennig, Billings Qualifications (if required): business person</p>	Governor	1/1/2017
<p>Ms. Marilyn J. Ryan, Missoula Qualifications (if required): Teachers Retirement System Board member</p>	Governor	1/1/2017
<p>Mr. Jack Prothero, Great Falls Qualifications (if required): small business representative</p>	Governor	1/1/2017
<p>Ms. Sheena Wilson, Helena Qualifications (if required): Public Employees Retirement System Board Representative</p>	Governor	1/1/2017
<p>Commissioner Kathy Bessette, Havre Qualifications (if required): agriculture representative</p>	Governor	1/1/2017
<p>Board of Labor Appeals (Labor and Industry) Sen. Joseph Tropila, Great Falls Qualifications (if required): Alternate</p>	Governor	1/1/2017
<p>Mr. Brian Boland, Great Falls Qualifications (if required): Public Representative</p>	Governor	1/1/2017

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2016 THROUGH JANUARY 31, 2017

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p>Board of Labor Appeals (Labor and Industry) cont. Mr. John Hart, Missoula Qualifications (if required): Attorney</p>	Governor	1/1/2017
<p>Ms. Leslie Thomas, Boulder Qualifications (if required): Alternate</p>	Governor	1/1/2017
<p>Ms. Sara Novak, Anaconda Qualifications (if required): Alternate Member</p>	Governor	1/1/2017
<p>Board of Milk Control (Livestock) Mr. Jim Parker, Missoula Qualifications (if required): Public Representative and a Democrat</p>	Governor	1/1/2017
<p>Mrs. Dahlman Lemire, Forsyth Qualifications (if required): Public Representative and a Democrat</p>	Governor	1/1/2017
<p>Ms. Ariel Overstreet-Adkins, Helena Qualifications (if required): Public Representative and Independent</p>	Governor	1/1/2017
<p>Mr. Erik Somerfeld, Power Qualifications (if required): Public Representative</p>	Governor	1/1/2017
<p>Board of Occupational Therapy Practice (Labor and Industry) Ms. Brenda Toner, Missoula Qualifications (if required): Occupational Therapist</p>	Governor	12/31/2016

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2016 THROUGH JANUARY 31, 2017

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p>Board of Occupational Therapy Practice (Labor and Industry) cont. Ms. Lora Wier, Choteau Qualifications (if required): Public Representative</p>	Governor	12/31/2016
<p>Board of Oil and Gas Conservation (Natural Resources and Conservation) Sen. Linda Nelson, Medicine Lake Qualifications (if required): landowner with minerals</p>	Governor	1/1/2017
<p>Director Mary Sexton, Helena Qualifications (if required): public representative</p>	Governor	1/1/2017
<p>Mr. Wayne Smith, Valier Qualifications (if required): oil and gas industry representative</p>	Governor	1/1/2017
<p>Mr. John Evans, Butte Qualifications (if required): oil and gas industry representative</p>	Governor	1/1/2017
<p>Mrs. Peggy Nerud, Circle Qualifications (if required): Public Representative</p>	Governor	1/1/2017
<p>Board of Pardons and Parole (Corrections) Mr. Jack Puckett, Missoula Qualifications (if required): Public Representative</p>	Governor	1/1/2017
<p>Mr. Pete Lawrenson, Missoula Qualifications (if required): Public Representative</p>	Governor	1/1/2017

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2016 THROUGH JANUARY 31, 2017

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p>Board of Pardons and Parole (Corrections) cont. Ms. Coleen Magera, Plains Qualifications (if required): Attorney</p>	Governor	1/1/2017
<p>Board of Personnel Appeals (Labor and Industry) Mr. James Reardon, East Helena Qualifications (if required): Labor Union Representative</p>	Governor	1/1/2017
<p>Mr. Quinton Nyman, Helena Qualifications (if required): Labor Union Representative</p>	Governor	1/1/2017
<p>Ms. Rina Fontana-Moore, Great Falls Qualifications (if required): Management Representative</p>	Governor	1/1/2017
<p>Mr. Jim Soumas, Joliet Qualifications (if required): Full-time employee or elected official of a labor union</p>	Governor	1/1/2017
<p>Board of Public Assistance (Public Health and Human Services) Commissioner Marianne Roose, Eureka Qualifications (if required): Public Representative</p>	Governor	1/1/2017
<p>Ms. Amy D. Christensen, Helena Qualifications (if required): an Attorney</p>	Governor	1/1/2017
<p>Ms. Laura John, Missoula Qualifications (if required): Public Representative</p>	Governor	1/1/2017

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2016 THROUGH JANUARY 31, 2017

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p>Board of Public Education (Higher Education) Ms. Erin Williams, Missoula Qualifications (if required): resident of District 1 and identifies herself as a Democrat</p>	Governor	1/1/2017
<p>Board of Respiratory Care Practitioners (Labor and Industry) Mr. Tony Jay Miller, Joplin Qualifications (if required): Respiratory Care Practitioner</p>	Governor	1/1/2017
<p>Mr. Leonard Bates, Great Falls Qualifications (if required): Respiratory Care Practitioner</p>	Governor	1/1/2017
<p>Ms. Maria Clemons, Libby Qualifications (if required): Public Representative</p>	Governor	1/1/2017
<p>Mr. Rusty Davies, Billings Qualifications (if required): Respiratory Care Practitioner with a Pulmonary Function Specialty</p>	Governor	1/1/2017
<p>Board of Review (Revenue) Director Angela Wong, Helena Qualifications (if required): Director of Montana Lottery</p>	Governor	1/1/2017
<p>Board of Behavioral Health (Labor and Industry) Mr. John Lynn, Missoula Qualifications (if required): licensed counselor</p>	Governor	1/1/2017
<p>Mr. Henry Pretty On Top, Crow Agency Qualifications (if required): licensed Social Worker</p>	Governor	1/1/2017

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2016 THROUGH JANUARY 31, 2017

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Behavioral Health (Labor and Industry) cont. Ms. Kimberly Gardner, Helena Qualifications (if required): licensed Social Worker	Governor	1/1/2017
Ms. Vonnie Brown, Great Falls Qualifications (if required): licensed Social Worker	Governor	1/1/2017
Board of Speech-Language Pathologists and Audiologists (Labor and Industry) Ms. Sharon Dinstel, Colstrip Qualifications (if required): Speech-Language Pathologist	Governor	12/31/2016
Ms. Lucy Hart-Paulson, Missoula Qualifications (if required): Speech Language Pathologist	Governor	12/31/2016
Mr. Rich Turner, Billings Qualifications (if required): Consumer	Governor	12/31/2016
Butte Natural Resource Damage Restoration Council (Justice) Rep. Edith McClafferty, Butte Qualifications (if required): Public Representative	Governor	1/1/2017
Ms. Helen O'Connor, Butte Qualifications (if required): Public Representative	Governor	1/1/2017
Mr. Dave Williams, Butte Qualifications (if required): Public Representative	Governor	1/1/2017

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2016 THROUGH JANUARY 31, 2017

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p>Capitol Complex Advisory Council (Administration) Ms. Sheena Wilson, Helena Qualifications (if required): Public Representative</p>	Governor	1/1/2017
<p>Rep. Diane Sands, Missoula Qualifications (if required): Montana General Public</p>	Administration	1/1/2017
<p>Coal Board (Commerce) Sen. Thomas E. "Tom" Towe, Billings Qualifications (if required): District 2 and an attorney</p>	Governor	1/1/2017
<p>Mayor John Williams, Colstrip Qualifications (if required): District 2 impact area</p>	Governor	1/1/2017
<p>Mr. Dan F. Miles, Butte Qualifications (if required): District 1</p>	Governor	1/1/2017
<p>Mr. C.J. Stewart, Crow Agency Qualifications (if required): District 1 Impact Area</p>	Governor	1/1/2017
<p>Commission for Human Rights (Labor and Industry) Mr. Chuck Tooley, Billings Qualifications (if required): public member</p>	Governor	1/1/2017
<p>Confederated Salish and Kootenai Tribes' Fish and Wildlife Board (Fish, Wildlife and Parks) Mr. Michael Jamison, Whitefish Qualifications (if required): Public Representative</p>	Governor	1/1/2017

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2016 THROUGH JANUARY 31, 2017

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Confederated Salish and Kootenai Tribes' Fish and Wildlife Board (Fish, Wildlife and Parks) cont. Ms. Pelah Hoyt, Missoula Qualifications (if required): Public Representative	Governor	1/1/2017
Mr. Rodd Richardson, St. Ignatius Qualifications (if required): Public Representative	Governor	1/1/2017
Drought and Water Supply Advisory Committee (Natural Resources and Conservation) Ms. Angela McLean, Anaconda Qualifications (if required): Governor's Office Representative	Governor	1/1/2017
Education Commission of the States (Governor) Mr. Mike Thiel, Kalispell Qualifications (if required): Educator Engaged in K-12 Education	Governor	1/1/2017
Ms. Carmen Taylor, Polson Qualifications (if required): Educator Engaged in Higher Education	Governor	1/1/2017
Ms. Elly Driggers, Helena Qualifications (if required): Educator Engaged in K-12 Education	Governor	1/1/2017
Equal Pay for Equal Work Task Force (Governor) Sheriff Craig Anderson, Glendive Qualifications (if required): Elected Official	Governor	11/1/2016
Director Sheila Hogan, Helena Qualifications (if required): Co-Chair	Governor	11/1/2016

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2016 THROUGH JANUARY 31, 2017

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Equal Pay for Equal Work Task Force (Governor) cont. Ms. Aimee Grmoljez Shanight, Helena Qualifications (if required): Business Background	Governor	11/1/2016
Rep. Clarena M. Brockie, Harlem Qualifications (if required): Higher Education	Governor	11/1/2016
Ms. Jacquie Helt, Missoula Qualifications (if required): Organized Labor	Governor	11/1/2016
Ms. Barbara Stiffarm, Havre Qualifications (if required): Tribal Member	Governor	11/1/2016
Ms. Kimberly Rickard, Helena Qualifications (if required): Organized Labor	Governor	11/1/2016
Commissioner Pam Bucy, Helena Qualifications (if required): Co-Chair	Governor	11/1/2016
Mr. Scott Wilson, Bozeman Qualifications (if required): Business Background	Governor	11/1/2016
Ms. Deb Larson, Bozeman Qualifications (if required): Business Background	Governor	11/1/2016
Ms. Jen Euell, Helena Qualifications (if required): Non-Profit Representative	Governor	11/1/2016

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2016 THROUGH JANUARY 31, 2017

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p>Equal Pay for Equal Work Task Force (Governor) cont. President Waded Cruzado, Bozeman Qualifications (if required): Higher Education</p>	Governor	11/1/2016
<p>Mrs. K'Lynn Sloan Harris, Helena Qualifications (if required): Interagency Committee for Change by Women</p>	Governor	11/1/2016
<p>Ms. Stacy Klippenstein, Miles City Qualifications (if required): Higher Education</p>	Governor	11/1/2016
<p>Mayor Gene Mim Mack, Stevensville Qualifications (if required): Elected Official</p>	Governor	11/1/2016
<p>Fish and Wildlife Commission (Fish, Wildlife and Parks) Rep. Bob Ream, Helena Qualifications (if required): District 1 Representative</p>	Governor	1/1/2017
<p>Mr. Richard Stuker, Chinook Qualifications (if required): District 3 Representative</p>	Governor	1/1/2017
<p>Mr. Matthew Turlotte, Billings Qualifications (if required): District 5 Representative</p>	Governor	1/1/2017
<p>Mr. Gary Wolfe, Missoula Qualifications (if required): District 1</p>	Governor	1/1/2017

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2016 THROUGH JANUARY 31, 2017

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Hard-Rock Mining Impact Board (Commerce)		
Ms. Mary Ellen Cremer, Big Timber Qualifications (if required): Financial Industry or Institution, District 1 and an Impact Area	Governor	1/2/2017
Mr. Joe Michaletz, Helena Qualifications (if required): Industry Representative, District 2 and an Impact Area	Governor	1/2/2017
Mr. Andrew Werk Jr., Harlem Qualifications (if required): Public Representative and District 2	Governor	1/2/2017
Human Rights Commission (Labor and Industry)		
Mr. Dennis M. Taylor, Billings Qualifications (if required): Public Representative	Governor	1/1/2017
Ms. Rhonda Howlett, Arlee Qualifications (if required): Public Representative	Governor	1/1/2017
Ms. Shelley Hayes, Billings Qualifications (if required): Public Representative	Governor	1/1/2017
Information Technology Board (Administration)		
Rep. Mike Kadas, Missoula Qualifications (if required): Agency Representative	Governor	1/1/2017
Mr. James E. Reno, Billings Qualifications (if required): Local Government Representative	Governor	1/1/2017

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2016 THROUGH JANUARY 31, 2017

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Information Technology Board (Administration) cont. Mr. Scott Darkenwald, Helena Qualifications (if required): Agency Representative	Governor	1/1/2017
Director Richard Opper, Helena Qualifications (if required): Agency Representative	Governor	1/1/2017
Ms. Amanda Kelly, Stanford Qualifications (if required): Local Government Representative	Governor	1/1/2017
Mr. Dan Burke, Missoula Qualifications (if required): Private Sector	Governor	1/1/2017
Commissioner Pam Bucy, Helena Qualifications (if required): Agency Representative	Governor	1/1/2017
Director John Tubbs, Helena Qualifications (if required): Agency Representative	Governor	1/1/2017
Ms. Jennie Stapp, Helena Qualifications (if required): Agency Representative	Governor	1/1/2017
Mr. Jonathan Anderson, Whitefish Qualifications (if required): Local Government	Governor	1/1/2017
Mr. Jason Wiener, Missoula Qualifications (if required): representative of the private sector	Governor	1/1/2017

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2016 THROUGH JANUARY 31, 2017

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Information Technology Board (Administration) cont. Commissioner Chris Mehl, Bozeman Qualifications (if required): Local government	Governor	1/1/2017
Interstate Oil Compact Commission (Natural Resources and Conservation) Mr. Jim Halvorson, Billings Qualifications (if required): Associate Official Representative	Governor	1/1/2017
Judicial Nomination Commission (Judicial Branch) Sen. Lane Larson, Billings Qualifications (if required): lay member	Governor	1/1/2017
Ms. Elizabeth Halverson, Billings Qualifications (if required): not listed	Supreme Court	1/1/2017
Land Information Advisory Council (State Library) Rep. Mike Kadas, Missoula Qualifications (if required): Agency Representative	Governor	1/1/2017
Ms. Tracy Stone-Manning, Missoula Qualifications (if required): Agency Representative	Governor	1/1/2017
Director Jeff Hagener, Helena Qualifications (if required): Agency Representative	Governor	1/1/2017
Director Mike Tooley, Helena Qualifications (if required): Agency Representative	Governor	1/1/2017

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2016 THROUGH JANUARY 31, 2017

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Livestock Loss Board (Livestock) Mr. James Cross, Kalispell Qualifications (if required): Wildlife Conservation	Governor	1/1/2017
Mrs. Whitney Klasna, Lambert Qualifications (if required): Public Representative with experience in Livestock	Governor	1/1/2017
Mr. Seth Wilson, Missoula Qualifications (if required): Wildlife Conservation	Governor	1/1/2017
Montana Alfalfa Seed Committee (Agriculture) Mr. Tom Matchett, Billings Qualifications (if required): Alfalfa Seed Grower	Governor	12/1/2016
Mr. Tom Neibur, Malta Qualifications (if required): Alfalfa Seed Grower	Governor	12/1/2016
Montana Children's Trust Fund Board (Public Health and Human Services) Ms. Valerie Widmer, Hamilton Qualifications (if required): Public Representative	Governor	1/1/2017
Montana Committee for the Humanities (Governor) Ms. Carmen McSpadden, Bozeman Qualifications (if required): Public Representative	Governor	1/1/2017
Mr. Aaron Pruitt, Bozeman Qualifications (if required):	Governor	1/1/2017

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2016 THROUGH JANUARY 31, 2017

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Montana Committee for the Humanities (Governor) cont. Ms. Mandy Smoker Broaddus, Helena Qualifications (if required): Public Representative	Governor	1/1/2017
Mr. David Irion, Billings Qualifications (if required): Public Representative	Governor	1/1/2017
Montana Council on Developmental Disabilities (Commerce) Ms. Diana Tavary, Helena Qualifications (if required): Advocacy Organization	Governor	1/1/2017
Ms. Erin Butts, Helena Qualifications (if required): Agency Representative	Governor	1/1/2017
Ms. Kimm Evermann, Helena Qualifications (if required): Agency Representative	Governor	1/1/2017
Mr. Jeff Sturm, Helena Qualifications (if required): Agency Representative	Governor	1/1/2017
Rep. Robyn Driscoll, Billings Qualifications (if required): Legislator	Governor	1/1/2017
Mr. Shawn Parker, Box Elder Qualifications (if required): Primary Consumer	Governor	1/1/2017
Rep. Clarena M. Brockie, Harlem Qualifications (if required): Legislator	Governor	1/1/2017

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2016 THROUGH JANUARY 31, 2017

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Montana Council on Developmental Disabilities (Commerce) cont. Mr. Don Berryman, Anaconda Qualifications (if required): Secondary Consumer	Governor	1/1/2017
Rep. Edith McClafferty, Butte Qualifications (if required): State Legislator	Governor	1/1/2017
Ms. Debra Ekblom, Boulder Qualifications (if required): Secondary Consumer	Governor	1/1/2017
Mr. Isaiah Devereaux, Glasgow Qualifications (if required): Primary Consumer	Governor	1/1/2017
Ms. Marla Swanby, Helena Qualifications (if required): Agency Representative	Governor	1/1/2017
Mr. Jim Marks, Helena Qualifications (if required): Agency Representative	Governor	1/1/2017
Mr. Marty Blair, Missoula Qualifications (if required): University Program Representative	Governor	1/1/2017
Mr. Bob DeJardins, Dillon Qualifications (if required): Secondary Consumer	Governor	1/1/2017
Mr. Jacob Harrison, Helena Qualifications (if required): Primary Consumer	Governor	1/1/2017

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2016 THROUGH JANUARY 31, 2017

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Montana Council on Developmental Disabilities (Commerce) cont. Ms. Denise Higgins, Helena Qualifications (if required): Agency Representative	Governor	1/1/2017
Mr. Matt Kuntz, Helena Qualifications (if required): representing an advocacy organization	Governor	1/1/2017
Ms. Charlene Carley Lefthand-Irvine, Polson Qualifications (if required): Primary Consumer	Governor	1/1/2017
Ms. Virgeana Brown, Belgrade Qualifications (if required): Secondary Consumer	Governor	1/1/2017
Mr. Blake Reese, Coumbia Falls Qualifications (if required): Primary Consumer	Governor	1/1/2017
Ms. Nanette Whiteman-Holmes, Helena Qualifications (if required): Secondary Consumer	Governor	1/1/2017
Mrs. Shiree Lyons, Great Falls Qualifications (if required): Secondary Consumer	Governor	1/1/2017
Ms. Rebecca DeCamera, Helena Qualifications (if required): Agency Representative	Governor	1/1/2017
Mr. Trenton Butler, Big Sandy Qualifications (if required): primary Consumer	Governor	1/1/2017

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2016 THROUGH JANUARY 31, 2017

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Montana Facility Finance Authority (Commerce) Mr. James W. (Bill) Kearns, Townsend Qualifications (if required): Public Representative	Governor	1/1/2017
Mr. Jon Marchi, Polson Qualifications (if required): Public Representative	Governor	1/1/2017
Mr. Larry Putnam, Helena Qualifications (if required): Public Representative	Governor	1/1/2017
Mr. Richard C. King, Missoula Qualifications (if required): Public Representative	Governor	1/1/2017
Montana Small Business Development Center Advisory Council (Commerce) Ms. Kathie Bailey, Lewistown Qualifications (if required): Small Business Owner	Director	1/1/2017
Mr. Jim Atchison, Colstrip Qualifications (if required): Economic Developer	Director	1/1/2017
Mr. John Cech, Billings Qualifications (if required): Educator	Director	1/1/2017
Ms. Linda Kindrick, Clancy Qualifications (if required): Economic Developer	Director	1/1/2017
Mr. Kevin Keeler, Helena Qualifications (if required): Small Business Owner	Director	1/1/2017

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2016 THROUGH JANUARY 31, 2017

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Montana Small Business Development Center Advisory Council (Commerce) cont. Mr. Dave Glaser, Missoula Qualifications (if required): Economic Developer	Director	1/1/2017
Ms. Carol Cunningham, Polson Qualifications (if required): Economic Developer	Director	1/1/2017
Rep. Patricia Rae Peppers, Lame Deer Qualifications (if required): Small Business Owner	Director	1/1/2017
Mr. Paddy Fleming, Bozeman Qualifications (if required): Economic Developer	Director	1/1/2017
Pacific Northwest Economic Region (Commerce) Ms. Diane Smith, Whitefish Qualifications (if required): Governor's Designee	Governor	1/1/2017
Phillips County Transportation Improvement Authority (Local Government) Mr. Duane Murray, Malta Qualifications (if required): Public Representative	Governor	1/1/2017
Public Safety Officer Standards and Training Council (POST Council) (Justice) Mr. Mike Batista, Helena Qualifications (if required): Department of Corrections Representative	Governor	1/1/2017
Sheriff Tony Harbaugh, Miles City Qualifications (if required): Sheriff	Governor	1/1/2017

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2016 THROUGH JANUARY 31, 2017

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Public Safety Officer Standards and Training Council (POST Council) (Justice) cont. Mr. John Strandell, Helena Qualifications (if required): State Government Law Enforcement Representative	Governor	1/1/2017
Mr. William J. "Bill" LaBrie, Whitefish Qualifications (if required): Board of Crime Control Representative	Governor	1/1/2017
Ms. Kim Burdick, Fort Benton Qualifications (if required): Public Representative	Governor	1/1/2017
Mrs. Laurel Bulson, Helena Qualifications (if required): Detention Center Representative	Governor	1/1/2017
Mr. Jim Thomas, Canyon Creek Qualifications (if required): Public Representative	Governor	1/1/2017
Rail Service Competition Council (Transportation) Mr. Todd O'Hair, Helena Qualifications (if required): Knowledge of Coal Industry Transportation	Governor	1/1/2017
Mr. Michael V. O'Hara, Fort Benton Qualifications (if required): Knowledge of Farm Commodity Transportation	Governor	1/1/2017
Mr. Jerry Jimison, Glendive Qualifications (if required): Knowledge of Class I Railroads	Governor	1/1/2017
Commissioner Tony Berget, Libby Qualifications (if required): Knowledge of Mineral Industry Transportation	Governor	1/1/2017

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2016 THROUGH JANUARY 31, 2017

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p>Rangeland Resources Committee (Natural Resources and Conservation) Mr. John Hollenback, Gold Creek Qualifications (if required): Cattle Producer/Rancher West of the Divide</p>	Governor	1/1/2017
<p>Mr. Les Gilman, Alder Qualifications (if required): Cattle Producer/Rancher Western Montana</p>	Governor	1/1/2017
<p>Mr. Steve Hedstrom, Raynesford Qualifications (if required): Cattle Producer/Rancher Central Montana</p>	Governor	1/1/2017
<p>Ms. Diane Ahlgren, Winnett Qualifications (if required): Cattle Producer/Rancher Eastern Montana</p>	Governor	1/1/2017
<p>Mr. Noel Keogh, Nye Qualifications (if required): Cattle Producer/Rancher Southern Montana</p>	Governor	1/1/2017
<p>Ms. Connie Iversen, Culbertson Qualifications (if required): Cattle Producer/Rancher Northern Montana</p>	Governor	1/1/2017
<p>State Emergency Response Commission (Military Affairs) Ms. Siri Smillie, Helena Qualifications (if required): Governor's Office Representative</p>	Governor	1/1/2017
<p>State Employee Group Benefits Advisory Council (Administration) Mr. John Putnam, Helena Qualifications (if required): state employee representative</p>	Governor	12/31/2016

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2016 THROUGH JANUARY 31, 2017

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
State Lottery Commission (Administration) Mr. Frank DiFonzo, Sidney Qualifications (if required): Law Enforcement	Governor	1/1/2017
Mr. Wilbur Rehmann, Helena Qualifications (if required): Public Representative	Governor	1/1/2017
State Parks and Recreation Board (Fish, Wildlife and Parks) Ms. Diane Conradi, Whitefish Qualifications (if required): District 1	Governor	1/1/2017
Mr. Jeff Welch, Livingston Qualifications (if required): District 2	Governor	1/1/2017
Mr. Douglas Smith, Plentywood Qualifications (if required): District 4	Governor	1/1/2017
State Tax Appeal Board (Administration) Ms. Samantha Sanchez, Helena Qualifications (if required): public representative	Governor	1/1/2017
State Trails Advisory Committee (STAC) (Fish, Wildlife and Parks) Mr. William Parker, Malta Qualifications (if required): none specified	Director	1/1/2017
Mr. Michael J. Dailey, Glasgow Qualifications (if required): none specified	Director	1/1/2017

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2016 THROUGH JANUARY 31, 2017

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
State Trails Advisory Committee (STAC) (Fish, Wildlife and Parks) cont. Mr. Garry Edson, Bozeman Qualifications (if required): none specified	Director	1/1/2017
Mr. Thomas Kilmer, Helena Qualifications (if required): none specified	Director	1/1/2017
Mr. Frank LaLiberty, Cascade Qualifications (if required): none specified	Director	1/1/2017
Ms. Katie Morrison, Big Sky Qualifications (if required): none specified	Director	1/1/2017
Mr. Dick Owenby, Dillon Qualifications (if required): none specified	Director	1/1/2017
Mr. Mark Reinsel, Missoula Qualifications (if required): none specified	Director	1/1/2017
Mr. Larry Skiles, Dillon Qualifications (if required): none specified	Director	1/1/2017
Mr. Dan Thompson, Victor Qualifications (if required): none specified	Director	1/1/2017
Ms. Betsy Miller, Helena Qualifications (if required): none specified	Director	1/1/2017

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2016 THROUGH JANUARY 31, 2017

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
State Trails Advisory Committee (STAC) (Fish, Wildlife and Parks) cont. Ms. Christina Miller, Billings Qualifications (if required): none specified	Director	1/1/2017
Mr. Tom Reilly, Helena Qualifications (if required): none specified	Director	1/1/2017
Ms. Beth R. Shumate, Helena Qualifications (if required): none specified	Director	1/1/2017
Mr. Alan Woodmansey, Helena Qualifications (if required): none specified	Director	1/1/2017
Ms. Angie Zanin, Helena Qualifications (if required): none specified	Director	1/1/2017
State Workforce Innovation Board (Labor and Industry) Director Richard Opper, Helena Qualifications (if required): Director of Department of Public Health and Human Services	Governor	1/1/2017
Ms. Meg O'Leary, Big Sky Qualifications (if required): Director of Department of Commerce	Governor	1/1/2017
Mr. John Rogers, Helena Qualifications (if required): Governor's Office Representative	Governor	1/1/2017
Commissioner Pam Bucy, Helena Qualifications (if required): Labor and Industry Commissioner	Governor	1/1/2017

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2016 THROUGH JANUARY 31, 2017

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Statewide Independent Living Council (Public Health and Human Services)		
Ms. Karen Underwood, Billings Qualifications (if required): At-Large Member	Governor	12/1/2016
Ms. Barbara Varnum, Kalispell Qualifications (if required): Disabilities Community Representative	Governor	12/1/2016
Mr. Dick Trerise, Helena Qualifications (if required): Agency Representative	Governor	12/1/2016
Mr. Troy Spang, Ashland Qualifications (if required): Section 121 Representative	Governor	12/1/2016
Mr. Tom Osborn, Black Eagle Qualifications (if required): Independent Living Center Representative	Governor	12/1/2016
Mr. Jarrett Clark, Denton Qualifications (if required): Disabilities Community Representative	Governor	12/1/2016
Ms. Lori Gaustad, Billings Qualifications (if required): Disabilities Community Representative	Governor	12/1/2016
Task Force on State Public Defender Operations (Legislative Services Division)		
Ms. Wendy Holton, Helena Qualifications (if required): Group Facilitator	Governor	12/31/2016
Mr. Mike Eakin, Billings Qualifications (if required): Attorney experienced in the federal Indian Child Welfare Act	Governor	12/31/2016

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2016 THROUGH JANUARY 31, 2017

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Task Force on State Public Defender Operations (Legislative Services Division) cont.		
Mr. Jason Trinity Holden, Great Falls	Governor	12/31/2016
Qualifications (if required): Attorney with experience in the criminal defense of misdemeanor and felony offenses		
Ms. Juli Pierce, Billings	Governor	12/31/2016
Qualifications (if required): Attorney with experience in the prosecution of misdemeanor and felony offenses		
Transportation Commission (Transportation)		
Ms. Barb Skelton, Billings	Governor	1/1/2017
Qualifications (if required): District 5 Representative		
Sen. John Cobb, Augusta	Governor	1/1/2017
Qualifications (if required): District 3 Representative		
Mr. Rick Griffith, Butte	Governor	1/1/2017
Qualifications (if required): District 2 Representative		
Trauma Care Committee (Public Health and Human Services)		
Dr. Freddy Bartoletti, Anaconda	Governor	11/2/2016
Qualifications (if required): representative of the Montana Medical Association		
Ms. Lauri Jackson, Great Falls	Governor	11/2/2016
Qualifications (if required): representative of the Central Region Trauma Care Advisory Council		
Mr. Bradley Von Bergen, Billings	Governor	11/2/2016
Qualifications (if required): representative of the Eastern Region Trauma Care Advisory Council		

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2016 THROUGH JANUARY 31, 2017

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Trauma Care Committee (Public Health and Human Services) cont. Dr. Brad Pickhardt, Missoula Qualifications (if required): representative of the Western Region Trauma Advisory Council	Governor	11/2/2016
Mr. Rick Haraldson, Sidney Qualifications (if required): Montana Hospital Association	Governor	11/1/2016
Traumatic Brain Injury Advisory Council (Public Health and Human Services) Ms. Kathy Smith, Great Falls Qualifications (if required): Advocate of Brain-Injured Persons	Governor	1/1/2017
Ms. Melveena Malatare, Browning Qualifications (if required): Advocate for Brain-Injured Persons	Governor	1/1/2017
Water Pollution Control Advisory Council (Environmental Quality) Dr. Debra Bucklin Sanchez, Helena Qualifications (if required): Licensed Professional Engineer with Experience in Sanitary Engineering	Governor	1/1/2017
Mr. Mitchell Leu, Columbia Falls Qualifications (if required): Organic Waste Disposal Industry Representative	Governor	1/1/2017
Mr. Dudley L. Tyler, Livingston Qualifications (if required): Realtor Representative	Governor	1/1/2017
Mr. Earl Salley, Great Falls Qualifications (if required): Inorganic Waste Disposal Industry Representative	Governor	1/1/2017

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2016 THROUGH JANUARY 31, 2017

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Water Pollution Control Advisory Council (Environmental Quality) cont. Mr. Michael Wendland, Rudyard Qualifications (if required): Production Agriculture	Governor	1/1/2017
Mr. Trevor Selch, Helena Qualifications (if required): Fisheries Biologist	Governor	1/1/2017
Mr. Keith Smith, Hamilton Qualifications (if required): Public Works Director	Governor	1/1/2017
Mr. Norris "Mack" Cole, Forsyth Qualifications (if required): Irrigated Agriculture	Governor	1/1/2017
Ms. Barbara Hall, Missoula Qualifications (if required): Conservation Organization	Governor	1/1/2017
Ms. Stevie Newman, Vaughn Qualifications (if required): Supervisor for a Soil and Water Conservation District	Governor	1/1/2017
Western Interstate Energy Board (Governor) Mr. Andy Poole, Helena Qualifications (if required): Alternate Board Member	Governor	1/1/2017
Mr. Jeff Blend, Helena Qualifications (if required): Board Member	Governor	1/1/2017
Mr. Craig Jones, Helena Qualifications (if required): Alternate Montana Representative	Governor	1/1/2017