

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 4

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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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 STATE COMPENSATION INSURANCE FUND
OF THE STATE OF MONTANA

| | | |
|---------------------------------------|---|--------------------|
| In the matter of the amendment of ARM |) | NOTICE OF PROPOSED |
| 2.55.327A, pertaining to the |) | AMENDMENT |
| construction industry premium credit |) | |
| program |) | NO PUBLIC HEARING |
| |) | CONTEMPLATED |

TO: All Concerned Persons

1. On May 2, 2014, the Montana State Fund proposes to amend the above-stated rule.

2. The Montana State Fund will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of this notice. If you require an accommodation, contact the Montana State Fund no later than 5:00 p.m. on March 21, 2014, to advise us of the nature of the accommodation that you need. Please contact Nancy Butler, Montana State Fund, P.O. Box 4759, 855 Front Street, Helena, Montana 59604-4759; telephone (406) 495-5138; fax (406) 495-5023; or e-mail nbutler@mt.gov.

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

2.55.327A CONSTRUCTION INDUSTRY PREMIUM CREDIT PROGRAM

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

(b) apply for the premium credit program and submit the completed and signed application form to State Fund no later than seven calendar days after ~~by~~ the stated due date on the application form;

(c) through (6) remain the same.

AUTH: 39-71-2315, 39-71-2316, MCA

IIMP: 39-71-2211, 39-71-2311, 39-71-2316, 39-71-2330, MCA

REASON: This amendment to ARM 2.55.327A is reasonably necessary at this time for the following reasons: Montana State Fund has had a policy of accepting applications for the construction credit program within seven days following the stated due date on the application form. This was done for the purpose of taking into account mailing time, and other factors that may have prevented the application from being received by the stated due date. Based on a recent Legislative Audit Division audit, Montana State Fund determined the rule should be changed to comport with this policy of allowing a grace period for receipt of applications.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to Nancy Butler, Montana State Fund, P.O. Box 4759, 855 Front Street, Helena, Montana 59604-4759; telephone (406) 495-5138; fax (406) 495-5023; or e-mail nbutler@mt.gov. Any comments must be received no later than 5:00 p.m., April 4, 2014.

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 a written request for a hearing and submit this request along with any written comments to Nancy Butler at the above address no later than 5:00 p.m., April 4, 2014.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons who are directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 2600 persons based on 26,000 policyholders.

7. The Montana State Fund 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, e-mail, and mailing address of the person and specifies that the person wishes to receive notices regarding the Montana State Fund. If you prefer to receive notices by e-mail, please indicate this in your request. Such written request may be mailed or delivered to Nancy Butler, Montana State Fund, P.O. Box 4759, 855 Front Street, Helena, Montana 59604-4759; faxed to the office at (406) 495-5023; e-mail nbutler@mt.gov; or may be made by completing a request form at any rules hearing held by the Montana State Fund.

8. An electronic copy of this notice of proposed amendment 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 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 Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

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

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

/s/ Nancy Butler
Nancy Butler, General Counsel
Rule Reviewer

/s/ Elizabeth Best
Elizabeth Best
Chair of the Board

/s/ Michael P. Manion
Michael P. Manion, Chief Legal Counsel
and Rule Reviewer

Certified to the Secretary of State February 18, 2014.

BEFORE THE DEPARTMENT OF COMMERCE
OF THE STATE OF MONTANA

| | | |
|-------------------------------------|---|--------------------|
| In the matter of the amendment of |) | NOTICE OF PROPOSED |
| ARM 8.2.501 pertaining to the |) | AMENDMENT |
| administration of the 2015 Biennium |) | |
| Quality Schools Grant Program – |) | NO PUBLIC HEARING |
| Planning Grants |) | CONTEMPLATED |

TO: All Concerned Persons

1. On March 29, 2014, the Department of Commerce proposes to amend the above-stated rule.

2. The Department of Commerce 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 Department of Commerce no later than 5:00 p.m. on March 20, 2014, to advise us of the nature of the accommodation that you need. Please contact Maria Jackson, Planning Program Specialist, Department of Commerce, 301 South Park Avenue, P.O. Box 200523, Helena, Montana 59620-0523; telephone (406) 841-2550; fax (406) 841-2771; TDD (406) 841-2702; or e-mail mjackson3@mt.gov.

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

8.2.501 INCORPORATION BY REFERENCE OF RULES FOR THE ADMINISTRATION OF THE QUALITY SCHOOLS GRANT PROGRAM – PLANNING GRANTS (1) The Department of Commerce adopts and incorporates by reference the 2015 Biennium Quality Schools Grant Program Application and Guidelines for Planning Grants as rules for the administration of the Quality Schools Grant Program – Planning Grants program (February 2014 Draft).

(2) remains the same.

(3) Copies of the regulations adopted by reference in (1) may be obtained from the Department of Commerce, Quality Schools Grant Program, 301 South Park Avenue, P.O. Box 200549, Helena, Montana 59620-0549, or on the Quality Schools Grant Program web site at <http://commerce.mt.gov/QualitySchools>.

AUTH: 90-6-819, MCA

IMP: 90-6-819, MCA

REASON: The Quality Schools Program has 2014 biennium planning grant funds remaining to disburse; the Department of Commerce proposed to amend the rule in order to allow for the award of these remaining funds to eligible school districts that apply to the program on or after the adoption of this rule amendment.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to the Department of Commerce, Planning Bureau, 301 South Park Avenue, P.O. Box 200523, Helena, Montana 59620-0523; telephone (406) 841-2770; TDD 841-2702; fax (406) 841-2771; or e-mail DOCQS@mt.gov, and must be received no later than 5:00 p.m., March 27, 2014.

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 Maria Jackson at the above address no later than 5:00 p.m., March 27, 2014.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 41 persons based on the number of school districts who are interested in the Quality Schools Grant Program.

7. Maria Jackson, Planning Specialist, Department of Commerce, 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 listed in 4 above or may be made by completing a request form at any rules hearing held by the department.

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

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

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

/s/ Kelly A. Lynch
KELLY A. LYNCH
Rule Reviewer

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

Certified to the Secretary of State February 18, 2014.

BEFORE THE DEPARTMENT OF COMMERCE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 8.111.602 and 8.111.603) PROPOSED AMENDMENT
pertaining to the Low Income Housing)
Tax Credit Program)

TO: All Concerned Persons

1. On March 19, 2014, at 1:00 p.m., the Department of Commerce will hold a public hearing in Room 226 of the Park Avenue Building at 301 South Park Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Department of Commerce 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 Department of Commerce no later than 5:00 p.m. on March 14, 2014, to advise us of the nature of the accommodation that you need. Please contact Paula Loving, Board of Housing, Department of Commerce, 301 South Park Avenue, P.O. Box 200528, Helena, Montana, 59620-0528; telephone (406) 841-2840; fax (406) 841-2841; TDD (406) 841-2702; or e-mail plovings@mt.gov.

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

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

(3) "QAP" means the board's "Montana ~~Low Income~~ Housing Tax Credit Program ~~2014~~ 2015 Qualified Allocation Plan," which sets forth the application process and selection criteria used by the board for evaluation and selection of projects to receive awards for allocation of tax credits for calendar year ~~2014~~ 2015, copies of which may be obtained by contacting the Board of Housing by mail at P.O. Box 200528, Helena, MT 59620-0528, by telephone at (406) 841-2845 or (406) 841-2838, or at the board's web site www.housing.mt.gov.

(4) remains the same.

AUTH: 90-6-106, MCA

IMP: 90-6-104, MCA

REASON: The proposed amendments to ARM 8.111.602 are necessary to update the Qualified Allocation Plan (QAP) definition to reference the 2015 Qualified Allocation Plan for the Montana Housing Tax Credit Program.

Federal low income housing tax credits are allocated by the federal government to the states, according to their population, for allocation to particular buildings. Each state's share of federal low income housing tax credits is allocated to particular buildings under programs administered by the respective states' housing credit

agencies. The Montana Board of Housing is Montana's housing credit agency for purposes of administering the tax credit program and allocating tax. In Montana, the program is now known as the Montana Housing Tax Credit Program. Federal law requires that tax credits allocated to the state by the federal government must be allocated by the state pursuant to a "qualified allocation plan" or "QAP."

Prior to publication of this notice, the board conducted several public meetings to consider suggestions and comments regarding the provisions of the 2015 QAP. Thereafter, at its December 9, 2013 meeting, the board considered and approved public notice and distribution of the proposed 2015 QAP. After public notice of the proposed 2015 QAP and of the opportunity for public comment was published and distributed, a public hearing on the proposed 2015 QAP was held on January 8, 2014 and written comments were also received. At its January 22, 2014 meeting, after considering all written and oral comments on the proposed 2015 QAP, staff recommendations, additional public comment and various proposed revisions in response to comments, the board approved the 2015 QAP for submission to and approval by the Montana Governor, as required by the federal tax credit statute, 26 U.S.C. § 42. The 2015 QAP has been submitted to the Governor for approval. Adoption of the proposed rule is contingent upon the Governor's approval of the 2015 QAP.

A copy of the 2015 QAP is available on the Internet at <http://housing.mt.gov/About/MF/lihtcallocation.mcp> or by requesting a copy from: Mary Bair, Board of Housing, Department of Commerce, 301 South Park Avenue, P.O. Box 200528, Helena, Montana, 59620-0528; telephone (406) 841-2845; fax (406) 841-2841; or e-mail mbair@mt.gov.

8.111.603 TAX CREDIT ALLOCATION PROCEDURE (1) Letters of intent Pre-applications and applications for tax credits shall be prepared and submitted in conformance with the criteria and requirements contained in the QAP.

(2) Letters of intent Pre-applications and applications shall be submitted to the board on the dates specified in or otherwise designated according to the QAP. The board may extend or change any of the ~~pre-application or application~~ submission or presentation dates or deadlines specified in the QAP if circumstances warrant, and in such event, the board will provide notice of such extension or change by posting on its web site.

(3) At a board meeting after the ~~pre-application~~ letter of intent submission deadline and before the application submission deadline, ~~the board~~ staff will provide an opportunity for applicants to present letters of intent ~~their respective projects and pre-applications~~ to the board and will provide an opportunity for public comment on ~~proposed projects and pre-applications~~, all according to the provisions of the QAP. The board may ask questions of applicants and discuss proposed projects, but there will be no applicant presentations and the board will not make any award determination at this meeting. Board Presentations, questions, comments, and discussion are for purposes of assisting applicants in presenting better ~~full~~ applications and shall not be binding upon the board in any later award determination or other board process.

(4) Following submission of ~~full~~ applications, board staff will evaluate each application for conformance with the threshold and other requirements of the QAP. Applications meeting all minimum threshold requirements and not excluded from further consideration under the QAP will be evaluated for the amount of tax credits needed for feasibility and long-term viability and will be further evaluated and scored according to the development evaluation criteria of the QAP. The points awarded to each project pursuant to the evaluation criteria of the QAP are for the purposes specified in (9), ~~below~~, and not for purposes of ranking projects for allocation of tax credits. Following application evaluation and scoring, board staff may provide recommendations to the board for allocation of tax credits to qualifying projects.

(5) ~~After At the board's meeting in the month of full~~ application submission, the board will provide an opportunity for applicants to ~~again~~ make a presentation to the board regarding their projects and applications ~~to the board~~ and will provide an opportunity for public comment on proposed projects and applications, all according to the provisions of the QAP.

(6) Copies of ~~all~~ applications and other information submitted to the board in connection with applications are available to other applicants for tax credit projects and members of the public to the extent provided and according to ~~under the procedures specified provisions contained~~ in the QAP.

(7) remains the same.

(8) At the award determination meeting provided under ~~(6)~~(7), applicants should be available to the board to answer questions regarding their respective applications and shall be provided an opportunity ~~at the board meeting described in (6)~~ to respond to any negative comments regarding their respective projects or applications.

(9) The board will select those projects to receive an allocation award of tax credits that it determines best meet the most pressing housing needs of low income people within the state of Montana, taking into consideration the selection criteria as defined in the QAP. The awarding of points to projects pursuant to the development evaluation criteria of the QAP is for the purposes of determining that the projects meet at least a the minimum threshold criteria required for further consideration under the QAP and to assist the board in evaluating and comparing projects. Development evaluation ~~Evaluation~~ criteria scoring is only one of several considerations taken into account by the board and does not control the selection of projects that will receive an award ~~or allocation~~ of tax credits. In addition to any other selection criteria specified in the QAP, the board may consider the following factors in selecting projects for an award ~~or allocation~~ of tax credits to qualifying projects:

- (a) the geographical distribution of tax credit projects;
- (b) the rural or urban location of the projects;
- (c) the overall income levels targeted by the projects;
- (d) the need for affordable housing in the community, including but not limited to current vacancy rates;
- (e) rehabilitation of existing low income housing stock;
- (f) sustainable energy savings initiatives;
- (g) financial and operational ability of the applicant to fund, complete, and maintain the project through the extended use period;

(h) past performance of an applicant in initiating and completing tax credit projects; ~~and~~

(i) cost of construction, land, and utilities, including but not limited to costs/credits per square foot/unit; and/or

(j) the frequency of awards in the respective areas where projects are located.

AUTH: 90-6-106, MCA

IMP: 90-6-104, MCA

REASON: The proposed amendments to ARM 8.111.603 are necessary to revise the tax credit allocation application, evaluation, and award process to conform to changes adopted by the board in the 2015 QAP.

The board has added a separate and additional pre-application step to the allocation process. The board has determined in consultation with developers and other interested parties that the pre-application process will assist project developers in presenting better full applications and in better refining project proposals. The pre-application process will allow applicants to obtain feedback regarding proposed projects and project characteristics from board staff and the board before submitting full applications. In addition, applicants will benefit from knowledge about other projects under consideration. The board expects that this process will assist developers in presenting projects that better meet the most pressing housing needs of low income individuals in the state of Montana, and proposing to use available tax credits in the most appropriate and efficient manner.

In addition, the board has adjusted the annual application schedule to allow for tax credit awards in December rather than April or May. This change is necessary to provide successful applicants with the certainty of tax credit awards early enough in the year to take full advantage of Montana's limited construction season and bring projects into service more quickly.

The proposed rule revisions are also necessary to more clearly state the standard for the board's selection of projects to receive tax credits and the criteria that may be considered in making such awards. These criteria are set forth in detail in the 2014 QAP.

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: Mary Bair, Board of Housing, Department of Commerce, 301 South Park Avenue, P.O. Box 200528, Helena, Montana, 59620-0528; telephone (406) 841-2845; fax (406) 841-2841; or e-mail mbair@mt.gov, and must be received no later than 5:00 p.m., March 27, 2014.

5. Mary Bair, Department of Commerce, has been designated to preside over and conduct this hearing.

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

7. 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 department has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses.

/s/ G. Martin Tuttle
G. MARTIN TUTTLE
Rule Reviewer

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

Certified to the Secretary of State February 18, 2014.

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

In the matter of the amendment of ARM)
17.8.102 pertaining to incorporation by)
reference--publication dates)
)
NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENT

(AIR QUALITY)

TO: All Concerned Persons

1. On March 20, 2014, at 1:30 p.m., the Board of Environmental Review will hold a public hearing in Room 40, Metcalf Building, 1520 East Sixth Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rule.

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 Elois Johnson, Paralegal, no later than 5:00 p.m., March 10, 2014, to advise us of the nature of the accommodation that you need. Please contact Elois Johnson at Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2630; fax (406) 444-4386; or e-mail ejohnson@mt.gov.

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

17.8.102 INCORPORATION BY REFERENCE--PUBLICATION DATES

(1) In this chapter where the board has:

(a) adopted a federal regulation by reference, the reference is to the July 1, ~~2010~~ 2013, edition of the Code of Federal Regulations (CFR);

(b) adopted a section of the United States Code (USC) by reference, the reference is to the ~~2006~~ 2012 edition of the USC and Supplement IV ~~(2010)~~ as it exists on December 31, 2013;

(c) adopted ~~another a~~ a rule of the department or of another agency of the state of Montana by reference, the reference is to the ~~December 31, 2010, edition~~ from another chapter of the Administrative Rules of Montana (ARM), the reference is to the rule in effect on June 30, 2013.

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

(a) ~~40 CFR 60, Subpart CCCC, Standards of Performance for Commercial and Industrial Solid Waste Incineration Units for which Construction is Commenced After November 30, 1999, or for which Modification or Reconstruction is Commenced on or After June 1, 2001 (40 CFR 60.2000 through 60.2265, and all associated appendices and tables), as vacated June 8, 2007, by the U.S. Circuit Court of Appeals, D.C. Circuit, ruling; and~~

(b) ~~40 CFR Part 60, Subpart HHHH, Emission Guidelines and Compliance Times for Coal-fired Electric Steam Generating Units.~~

(3) (2) For purposes of this chapter, the following subparts, ~~or portions~~

thereof, of 40 CFR Part 63 are excluded from incorporation by reference:

(a) 40 CFR 63, Subpart JJJJJ, National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing (40 CFR 63.8380 through 63.8515, and all associated appendices and tables), ~~as vacated March 13, 2007, by the U.S. Circuit Court of Appeals, D.C. Circuit; and~~

(b) 40 CFR 63, Subpart KKKKK, National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing (40 CFR 63.8530 through 63.8665, and all associated appendices and tables), ~~as vacated March 13, 2007, by the U.S. Circuit Court of Appeals, D.C. Circuit; and~~

(c) ~~40 CFR 63, Subpart DDDDD, National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters (40 CFR 63.7480 through 63.7575, and all associated appendices and tables), as vacated June 8, 2007, by the U.S. Circuit Court of Appeals, D.C. Circuit.~~

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

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

(a) National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161; phone: (800) 553-5847 or (703) 504-5000; fax: (703) 504-5900; e-mail: orders@ntis.gov; web: <http://www.ntis.gov>;

(b) National Service Center for Environmental Publications (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419; phone: (800) 490-9198 or (513) 489-8190; fax: (513) 489-8595; e-mail: ncepimal@one.net; web: <http://www.epa.gov/ncepihom>;

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

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

AUTH: 75-2-111, MCA

IMP: Title 75, chapter 2, MCA

REASON: The board is proposing to amend the air quality rules to adopt the current editions of federal and state statutes, regulations, and rules that are incorporated by reference. The board is proposing to amend ARM 17.8.102(1) to adopt revisions to federal laws and regulations published in the 2012 edition of the U.S. Code, as it exists on December 31, 2013; the July 1, 2013, edition of the Code of Federal Regulations (CFR); and revisions to Montana administrative rules in effect on June 30, 2013. The rules in effect on that date will be contained in the Administrative Rules of Montana (ARM) as updated by the replacement pages dated June 30, 2013. The board is also proposing to amend ARM 17.8.102 to remove exceptions from incorporation by reference of certain subparts of federal regulations that were vacated by the courts and removed from the CFR or amended and readopted. The board adopts and incorporates by reference federal regulations to ensure that Montana's air quality rules are at least as stringent as federal air quality

regulations, to maintain primacy and federal delegation of Montana's air quality program, and to implement federal emission standards pursuant to a federal program of emissions control.

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 Elois Johnson, Paralegal, 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 ejohnson@mt.gov, no later than 5:00 p.m., March 27, 2014. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

5. Katherine Orr, 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 Elois Johnson, Paralegal, 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 Elois Johnson at ejohnson@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 rule will not significantly and directly impact small businesses.

Reviewed by: BOARD OF ENVIRONMENTAL REVIEW

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

BY: /s/ Robin Shropshire
ROBIN SHROPSHIRE
Chairman

Certified to the Secretary of State, February 18, 2014.

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the adoption of New) NOTICE OF PUBLIC HEARING
Rules I through III, pertaining to the) ON PROPOSED ADOPTION
license plate age-based reissuance)
process)

TO: All Concerned Persons

1. On March 19, 2014, at 10:00 a.m., the Department of Justice will hold a public hearing in the auditorium of the Scott Hart Building, 303 North Roberts, Helena, Montana, to consider the proposed adoption of the above-stated rules.

2. The Department of Justice 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 Justice no later than 5:00 p.m. on March 12, 2014, to advise us of the nature of the accommodation that you need. Please contact Jaime Burkhalter, Department of Justice, 215 North Sanders, P.O. Box 201401, Helena, MT 59620-1401; telephone (406) 444-2026; Montana Relay Service 711; fax (406) 444-3549; or e-mail jburkhalter@mt.gov.

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

NEW RULE I GENERAL PROVISIONS (1) Beginning in 2014, the department will implement an age-based license plate reissuance process. License plate reissuance is required when a set of license plates has been assigned to one or more vehicles for five years or more.

(2) Except as provided in (3), the five-year license plate reissuance process applies to all plates assigned to a vehicle that is subject to annual registration.

(3) The following plates are exempt from the five-year license plate reissuance process:

- (a) permanently registered plates issued pursuant to 61-3-562, MCA;
- (b) collector's or vintage plates issued pursuant to 61-3-412, MCA; and
- (c) plates for registered apportionable motor vehicles as defined in 61-3-712, MCA.

(4) License plates may not be transferred to another motor vehicle if, at the time of transfer, the plates are more than five years old and are subject to reissue.

AUTH: 61-3-315, 61-3-332, MCA

IMP: 61-3-315, 61-3-332, MCA

NEW RULE II SCHEDULE FOR REISSUANCE (1) Except as provided in (2), license plates issued on or before December 31, 2009, will be reissued in 2014; plates issued in 2010 will be reissued in 2015; plates issued in 2011 will be reissued in 2016; plates issued in 2012 will be reissued in 2017; plates issued in 2013 will be

reissued in 2018; and plates issued in 2014 will be reissued in 2019. Plates issued in 2015 or thereafter will be reissued during the registration renewal five years after the initial issuance.

(2) License plates that are not reissued in accordance with (1) must be reissued at the next registration renewal for that vehicle. For example, if a vehicle bearing plates issued on or before December 31, 2009, is renewed in 2014 before reissuance is initiated, those plates must be reissued the next year the vehicle registration is renewed (2015).

AUTH: 61-3-315, 61-3-332, MCA

IMP: 61-3-315, 61-3-332, MCA

NEW RULE III NOTIFICATION AND PROCESS FOR REISSUANCE

(1) When the license plates issued to a vehicle are due for reissuance, the department will send an annual registration renewal notice to the vehicle owner. The notice will include the total fees required for registration renewal, including the plate fee established in 61-3-321(13), MCA.

(2) When a customer renews a vehicle registration online or by mail and pays the required fees, the county treasurer will mail the customer a new registration decal and reissued plates of the same design, including personalized license plates and amateur radio plates.

(a) For purposes of this rule, "same design" means an identical design or the most current version of that plate. For example:

(i) a sponsor plate will be reissued as the same design sponsor plate; if the sponsor has revised the plate's design, then the most current version will be provided; or

(ii) a standard issue plate will be reissued as a plate with the same graphics and year. This means that a vehicle with a 1989 standard issue plate will be reissued a 1989 standard issue plate, and a vehicle with a 2006 standard issue plate will be reissued a 2006 standard issue plate. Standard plate designs and years can be viewed at <https://doj.mt.gov/driving/license-plates/>.

(b) To select a different license plate design, a vehicle owner must contact the county treasurer's office.

(3) When renewing a vehicle registration in person at the county treasurer's office, the customer may select a different plate design for reissued plates. A customer may retain the license plate number from expiring plates by paying the fee established in 61-3-321(13)(b), MCA. This fee is exclusive of other license plate specific fees and does not apply to retain a personalized license plate or the call sign text on an amateur radio plate.

(4) Regular replacement plate fees will apply to any plate replacement that occurs separately from the mandatory five-year reissuance cycle.

AUTH: 61-3-315, 61-3-332, MCA

IMP: 61-3-315, 61-3-332, MCA

REASON: Section 61-3-332, MCA, requires that license plates issued on or after January 1, 2010, must be replaced with new license plates if, upon renewal of

registration, the license plates are five or more years old or will become older than five years during the registration period. Section 61-3-315, MCA, requires rulemaking by the department to set an implementation schedule for license plates issued on or before December 31, 2009. These rules are proposed to meet those requirements.

The license plate replacement system enhances public safety. First, the new system will assist law enforcement officers by enhancing their ability to correctly identify motor vehicle license plates. Second, the general public will directly benefit from the improved ability to see vehicles at nighttime, especially vehicles parked in roadways. As license plates age, their reflectivity levels commonly drop well below 50 percent within as little as five years of issuance.

The five-year plate-based reissuance process will also minimize the production and distribution impacts of past practices: the statewide reissuance of all license plates in a single year, regardless of age or years of assignment to a vehicle.

These factors were important considerations in enacting the statutory five-year license plate reissuance requirement.

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: James Scheier, Department of Justice, 215 North Sanders, P.O. Box 201401, Helena, MT 59620-1401; telephone (406) 444-2026; Montana Relay Service 711; fax (406) 444-3549; or e-mail jscheier@mt.gov, and must be received no later than March 27, 2014.

5. James Scheier, Department of Justice, has been designated to preside over and conduct this hearing.

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

7. An electronic copy of this proposal notice is available through the department's web site at <https://doj.mt.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.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. On February 6, 2014, John Brueggeman, primary bill sponsor of SB 508, 2009 session, was sent a draft by e-mail.

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

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

/s/ Tim Fox
Tim Fox
Attorney General
Department of Justice

Certified to the Secretary of State February 18, 2014.

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

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 24.22.301, 24.22.307,) PROPOSED AMENDMENT
24.22.311, 24.22.316, 24.22.321)
regarding incumbent worker training)
fund availability)

TO: All Concerned Persons

1. On March 21, 2014, at 9:00 a.m., the Department of Labor and Industry will hold a public hearing in the Second Floor Conference Room of the Walt Sullivan Building, at 1315 Lockey Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Department of Labor and Industry 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 Department of Labor and Industry no later than 5:00 p.m. on March 19, 2014, to advise us of the nature of the accommodation that you need. Please contact Jordon Dyrdaahl-Roberts, Department of Labor and Industry, P.O. Box 1728, Helena, Montana, 59624; telephone (406) 444-4493; fax (406) 444-1394; Montana Relay Service at 711; or e-mail jordonroberts@mt.gov.

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

24.22.301 DEFINITIONS (1) remains the same.

(2) "Conference" means a meeting, seminar, discussion, or other similar event where the principal presentation, in the format of a lecture or similar presentation, is the primary purpose, and participation by attendees is a secondary purpose.

(2) through (6) remain the same but are renumbered (3) through (7).

(8) "Skills-based training" means a training program which increases the quality of tasks an employee is able to perform or increases the number of types of tasks an employee is able to perform. One must have the ability to demonstrate that an employee be able to execute new tasks, or old tasks in new ways, as a direct result of the training. The term does not refer to increasing generally an employee's knowledge of a topic area or areas.

AUTH: 53-2-1220, MCA

IMP: 53-2-1215, 53-2-1216, MCA

REASON: Reasonable necessity exists to include these definitions because of apparent confusion to this point about the types of trainings allowable under the Incumbent Worker Training Program. In concert with the definition of "skills-based

training," reasonable necessity exists to define "conference" to allow employers ample understanding of what sorts of trainings are or are not available for funding under this program. The addition of a definition for "skills-based training" is designed to clarify the purpose of the Incumbent Worker Training Program by defining a term used throughout the regulations. Further, the definition allows a closer alignment of the regulations with the intention of the creating acts, by increasing the regulation's particularity.

24.22.307 GENERAL REQUIREMENTS (1) The department provides grant funding on a first-come, first-served basis, in accordance with the day date of receipt of an application for funding by the department. ~~Facsimile transmissions are accepted.~~

(2) The department shall review the expenditures of the incumbent worker training program throughout the fiscal year. ~~One-fourth of the total annual grant funds shall be available during each quarter-year of the program. When funds allotted for a quarter are depleted before the end of the quarter~~ fiscal year, the department may suspend the grant program until the beginning of the next quarter and consider pending applications at the start of the next quarter fiscal year. ~~The department shall carry over to the next quarter any funds not expended by the end of a quarter.~~

(3) The department shall accept only those grant applications and approval recommendations for incumbent worker training submitted to the department by a recommending entity. Only those grant applications that have been approved recommended to receive grant funding by a recommending entity are eligible for funding.

(4) remains the same.

(5) The department shall enter into funding agreements for incumbent worker training with the employers upon grant application approval. Funding agreements must contain the following:

(a) the terms of the grant;

(b) a schedule for direct payment to the eligible training provider, when applicable;

(c) a schedule for ~~pre-payment~~ or reimbursement of approved costs to the employer, when applicable; and

(d) the grant reporting requirements of the employer.

(6) remains the same.

(7) Matching share paid by the employer may include:

(a) cost of tuition, fees for certified education, or skills-based training;

(b) employee wages for the time of actual training and travel time to and from training;

(c) direct employee benefits for actual training and travel time, excluding mandatory payroll taxes, premiums for workers compensation, and unemployment insurance;

(d) cost of educational materials, training supplies, or lab fees required for training; and

(e) ~~travel~~ transportation and lodging costs required for training, calculated at the current state of Montana rate. A minimum of 50 percent of out-of-state travel costs, if any, must be paid by the employer as matching share.

(8) Incumbent worker training grant funds may pay for:

(a) certified education or skills-based training for permanent employees;

(b) educational materials, training supplies, or lab fees required for training;

and

(c) ~~travel~~ transportation and lodging costs required for training, calculated at the current state of Montana reimbursement rate for state employees. Grant funds may pay for no more than 50 percent of out-of-state travel costs.

AUTH: 53-2-1220, MCA

IMP: 53-2-1217, 53-2-1218, MCA

REASON: There is reasonable necessity to change ARM 24.22.307(1) to prevent confusion for applicants that facsimile might be the only way to submit applications, when, in fact, a number of transmission possibilities exist. Reasonable necessity exists to change the allocation timing of funding because the purpose of the Incumbent Worker Training Program is to provide training funding on an as-needed basis. The changes to the remaining sections are semantic, designed to clarify wording. The changes are necessary to avoid confusion about the purpose of the program and the way in which funding is allocated. Section (3) changes reflect that recommending entities merely recommend, rather than approve funding. The change to (5) better reflects the current reality that funding is available by reimbursement, rather than prepayment. The changes in (7) and (8) reiterate that funding is available only for training, not for general purposes. Finally, changes to (7)(e) and (8)(c) clarify that funding is available only for transportation, not all travel-related costs. This has been a source of confusion for applicants.

24.22.311 GRANT APPLICATION PROCEDURES (1) The department shall make available the incumbent worker training grant application form(s), which a business entity ~~and recommending entity~~ must complete in conjunction with a recommending entity for the purpose of applying for a grant award.

(2) The fiscal year for this program is from July 1 through June 30. A business entity may submit an application to a recommending entity during the fiscal year for eligible training that will begin during that same fiscal year. The recommending entity shall verify that the business entity is an employer that meets the definition of ARM 24.22.301 and that the information contained in the application is accurate and complete. The recommending entity shall evaluate the application based upon the incumbent worker training program grant award criteria provided in 53-2-1218, MCA, and makes a recommendation as to:

(a) and (b) remain the same.

(3) Applications submitted to the department for grant funding must be signed and dated by both the employer and an authorized representative of the recommending entity, and address at a minimum the following:

(a) the goals of the proposed training of incumbent workers; and

(b) the anticipated economic benefits from the training.

(4) The recommending entity shall submit a recommendation for approval or denial cover letter to the department with each completed grant application. ~~The cover letter must address, at a minimum, an analysis of the following:~~

- ~~(a) the goals of the proposed training of incumbent workers;~~
- ~~(b) the anticipated economic benefits from the training; and~~
- ~~(c) the recommendation for a specific amount of grant funding.~~

(5) If the grant application seeks funding for a conference, the application must be accompanied by additional justification as required by the department.

AUTH: 53-2-1220, MCA

IMP: 53-2-1217, 53-2-1218, MCA

REASON: There is reasonable necessity to change ARM 24.22.311(1) because multiple forms exist which applicants are required to complete. This change is designed to prevent the confusion that presently exists with that issue. The second change is necessary to create additional clarity as to which entity must complete the forms. There is reasonable necessity to change (2) to stop confusion about when applications may be submitted to receive funding under the program. Changes to (3) and (4) require applicants to include goals and benefits of funding within the application itself. Additionally, the changes to (4) reflect the reality that recommending entities must recommend approval or denial of applications. This recommendation need not be in the form of a cover letter, and is currently on the application itself, to be completed by the recommending entity. The addition of (5) reflects the need of the department to limit funding to skills-based training based upon the goals in the statute. The submission of additional justification will allow the department to evaluate fully whether a conference meets the requirements of the Incumbent Worker Training Program. Much of the information sought has previously been obtained piecemeal by administrators of the fund. By requesting the materials in the application, the administrator and employer burden of the current process should be lessened.

24.22.316 EVALUATION CRITERIA AND LIMITATIONS (1) The department shall award incumbent worker training grants to employers in accordance with the grant award criteria set forth by 53-2-1218, MCA, and the approval recommendation of a recommending entity.

(2) remains the same.

(3) The department shall award grant funding only to employers who have demonstrated that incumbent worker training is an integral part of a plan for worker retention, skill improvement, ~~and~~ or wage enhancement.

(4) remains the same.

(5) Conferences generally do not meet the requirements of the program. Applications for conferences must be submitted with additional justification as required by the department. If a conference application is submitted without such justification, it will be rejected. Employers should err on the side of submitting justification if they are not sure whether the event for which funding is requested is a conference or not. This justification provides employers the opportunity to make a compelling case that a conference will advance the worker and his or her skill level.

Justification must be accompanied by all documents relevant to answer the questions thereon. Employers must submit information about the conference including, but not limited to:

(a) justification that the proposed training will advance the worker and his or her skill level;

(b) justification that the conference is skills-based training; and

(c) which specific sessions of the conference the worker will attend.

AUTH: 53-2-1220, MCA

IMP: 53-2-1217, 53-2-1218, MCA

REASON: The change to ARM 24.22.316(1) provides consistency in noting that recommending entities merely recommend grant awards, rather than approve them. There is reasonable necessity to clarify for employers that conferences often do not meet the requirements of the Incumbent Worker Training Program, which has caused confusion in recent applications. Currently, administrators of the program have been required to conduct extensive reviews of conferences to determine whether they meet the requirements of the program. These reviews cost a great deal of administrative time, as well as the time of employers who must continue to provide information throughout the review. Through the submission of conference justifications, employers and fund administrators will be able more efficiently to evaluate whether conferences can be funded. The submission of additional justification will also ensure that the program meets the criteria set forth in 53-2-1218, MCA.

24.22.321 APPEAL PROCEDURE (1) remains the same.

(2) Within 30 calendar days of the date the determination letter was issued, the employer may appeal a funding recommendation and subsequent determination.

The employer first must seek informal administrative review of a funding recommendation by submitting a written request for review, a copy of the grant application, and a copy of the notice letter to the appropriate entity, as follows:

(a) funding ~~decisions~~ recommendations of a BEAR program must be submitted for review to the Montana Economic ~~Development~~ Developers Association, MEDA-BEAR Working Group, 118 E. Seventh Street, Suite 2A, Anaconda, MT 59711; (406) 563-5259;

(b) funding ~~decisions~~ recommendations of an SBDC must be submitted for review to the Department of Commerce, SBDC Lead Center, Business Resources Division, Room 116, P.O. Box 200505, Helena, MT 59620-0505; (406) 841-2769; and

(c) funding ~~decisions~~ recommendations of MMEC must be submitted for review to the Montana Manufacturing Extension Center, P.O. Box 174255, Bozeman, MT 59717; (406) 994-3876.

(3) The entity providing administrative review shall evaluate the funding decision and send a written notice of findings and recommendations to the employer and the department within 30 calendar days of receipt of the request for review.

(4) Within 20 calendar days of the mailing of the notice of findings and recommendations by the entity providing administrative review, the department shall

consider the findings and recommendations and make a final decision on the grant application and notify the parties in writing.

(5) Within 20 calendar days of the mailing of the notice of the final decision of the department, the employer may submit a written request to the department for a contested case proceeding, pursuant to Title 2, chapter 4, MCA, to challenge a department action to deny a grant application or to provide less grant funding than requested.

(6) and (7) remain the same.

AUTH: 2-4-201, 53-2-1220, MCA

IMP: 2-4-201, 53-2-1218, MCA

REASON: Reasonable necessity exists to amend ARM 24.22.321(2) because of the need for disputes to be resolved before money for a fiscal year has been used. A thirty-day appeal period allows employers ample opportunity to review an application recommendation and dispute any problems found while also ensuring that funding can be used. The remaining changes merely clarify that other entities make funding recommendations rather than decisions, and clarify that days within this part are intended to be calendar days. Additionally, the change in (2)(a) of "Development" to "Developers" merely corrects a typographical error.

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: Pam Watson, Workforce Services Division, Department of Labor and Industry, P.O. Box 1728, Helena, Montana, 59624; fax (406) 444-3037; Montana Relay Service at 711; or e-mail pwatson@mt.gov, and must be received no later than 5:00 p.m., March 28, 2014.

5. The department's Hearings Bureau has been designated to preside over and conduct this hearing.

6. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program or areas of law the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the Department of Labor and Industry, Attention: Mark Cadwallader, 1315 E. Lockey Avenue, P.O. Box 1728, Helena, Montana 59624-1728, faxed to the department at (406) 444-1394, e-mailed to mcadwallader@mt.gov, or may be made by completing a request form at any rules hearing held by the agency.

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 department has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses. The Incumbent Worker Training Program is designed to provide limited funding on a first-come first-served basis to small businesses based upon applications submitted each year. As such, the limited changes to these rules do not significantly change the ongoing operations or costs for businesses.

10. The department proposes to make the above amendments effective on July 1, 2014, in order to coincide with the start of the state fiscal year. The department believes that there is reasonable necessity to propose the amendments now, so that businesses have sufficient notice of the changes prior to the changes becoming effective. The department reserves the right to make the proposed amendments effective on a different date, or to not make the proposed changes.

/s/ Mark Cadwallader
Mark Cadwallader
Rule Reviewer

/s/ Pam Bucy
Pam Bucy
Commissioner
Department of Labor and Industry

Certified to the Secretary of State February 18, 2014.

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

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 24.101.413 renewal notification) PROPOSED AMENDMENT AND
and the adoption of NEW RULE I) ADOPTION
military training or experience)

TO: All Concerned Persons

1. On March 24, 2014, at 10:30 a.m., a public hearing will be held in the Basement Conference Room, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment and adoption of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the State Electrical Board (board) no later than 5:00 p.m., on March 14, 2014, to advise us of the nature of the accommodation that you need. Please contact Jason Steffins, State Electrical Board, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2329; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; dlibsdele@mt.gov (board e-mail).

3. The department is proposing to amend the following rule. The rule proposed to be amended provides as follows, stricken matter interlined, new matter underlined:

24.101.413 RENEWAL DATES AND REQUIREMENTS (1) through (5)(am) remain the same.

| | | | | |
|------|------------------------|-------------------------|---|----------------|
| (an) | State Electrical Board | Electrical Contractor | Nonrenewable, must reapply. License expires July 15. <u>Biennially, Even Numbered Years</u> | <u>July 15</u> |
| | | Journeyman Electrician | Biennially, Even Numbered Years | July 15 |
| | | Master Electrician | Biennially, Even Numbered Years | July 15 |
| | | Residential Electrician | Biennially, Even Numbered Years | July 15 |

(ao) through (6)(e) remain the same.

(f) land surveyor intern, engineer intern, emeritus status license issued by the Board of Professional Engineers and Professional Land Surveyors; and

(g) all licenses issued by the Board of Athletics end on June 30 of each year and the licensee must reapply; and

~~(h) electrical contractor licenses issued by the State Electrical Board end on July 15 biennially and the licensee must reapply.~~

(7) remains the same.

AUTH: 37-1-101, 37-1-141, MCA

IMP: 37-1-101, 37-1-141, MCA

REASON: The board has determined it is reasonably necessary to amend the department's renewal rule to provide for renewal of electrical contractor licenses and not require reapplication. This amendment will not change the current processing of renewals, but will align the department rule with the board's rules and processes.

4. The board is proposing to adopt the following rule. The new rule proposed to be adopted provides as follows:

NEW RULE I MILITARY TRAINING OR EXPERIENCE (1) Pursuant to 37-1-145, MCA, the board shall accept relevant military training, service, or education toward the requirements for licensure as an electrician.

(2) Relevant military training, service, or education must be completed by an applicant while a member of either:

- (a) United States Armed Forces;
- (b) United States Reserves;
- (c) state national guard; or
- (d) military reserves.

(3) An applicant must submit satisfactory evidence of receiving military training, service, or education that is equivalent to relevant licensure requirements as an electrician. At a minimum, satisfactory evidence shall include:

- (a) a copy of the applicant's military discharge document (DD 214);
- (b) a document that clearly shows all relevant training, certification, service, or education the applicant received while in the military, including dates of training and completion or graduation; and
- (c) any other documentation as required by the board.

(4) The board shall consider all documentation received to determine whether an applicant's military training, service, or education is equivalent to relevant licensure requirements.

AUTH: 37-1-145, MCA

IMP: 37-1-145, MCA

REASON: The 2013 Montana Legislature enacted House Bill 259 and Senate Bill 183, acts requiring the professional and occupational licensing boards and programs to accept satisfactory evidence of relevant military education, training, or service to satisfy licensing or certification requirements. The bill was signed by the Governor and became effective on April 26, 2013, and is codified at 37-1-145, MCA.

The new statute requires each licensing board and program to adopt rules providing that certification or licensure requirements of the board or program may be met by relevant military training, service, or education, completed as a member of the armed forces or reserves of the United States, a state's national guard, or the military reserves. In consulting with the bill sponsors regarding the rulemaking, it was clarified that the sponsor received input on the bill draft from Montana military personnel and the U.S. Department of Defense. The sponsor was assured that the bill language, as reflected in this proposed rule, is intended to include relevant military training, service, or education received while serving in all branches of the military and reserves, including the U.S. Coast Guard. It is reasonably necessary for the board to adopt New Rule I to coincide with and further implement the legislation.

5. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the State Electrical Board, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdele@mt.gov, and must be received no later than 5:00 p.m., March 28, 2014.

6. An electronic copy of this notice of public hearing is available at www.electrician.mt.gov (department and board's web site). The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

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

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsors were contacted on December 16, 2013, by electronic mail.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of ARM 24.101.413 will not significantly and directly impact small businesses.

With regard to the requirements of 2-4-111, MCA, the board has determined that the adoption of New Rule I will not significantly and directly impact small businesses.

Documentation of the board's above-stated determination is available upon request to the State Electrical Board, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdele@mt.gov.

10. A department representative will preside over and conduct this hearing.

STATE ELECTRICAL BOARD
RICK HUTCHINSON, MASTER
ELECTRICIAN, PRESIDENT

/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 February 18, 2014

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

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 24.180.2301 unprofessional) PROPOSED AMENDMENT AND
conduct and the adoption of NEW) ADOPTION
RULE I military training or experience)

TO: All Concerned Persons

1. On March 24, 2014, at 9:30 a.m., a public hearing will be held in the Basement Conference Room, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment and adoption of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Plumbers (board) no later than 5:00 p.m., on March 14, 2014, to advise us of the nature of the accommodation that you need. Please contact Jason Steffins, Board of Plumbers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2329; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlbsdplu@mt.gov.

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

24.180.2301 UNPROFESSIONAL CONDUCT (1) through (1)(g) remain the same.

(h) allowing false or misleading advertising in relation to the licensee's business as it relates to the field of plumbing; ~~and~~

(i) engaging in a commercial activity that conflicts with responsibility to clients or to other licensees or apprentices; and

(j) failing or refusing to provide the board verification of an employee's hours worked in the employ of the licensee when the request for verification is made for purposes of licensure.

(2) remains the same.

AUTH: 37-1-131, 37-1-136, 37-1-319, 37-69-202, MCA

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

REASON: It is a matter of law that an applicant for a master plumber license must provide evidence of work performed as a journeyman plumber, verified by time or pay records of actual plumbing experience, to qualify for licensure as a master plumber. It is also a matter of law, in nearly all cases, that a journeyman plumber must work in the employ of a master plumber. As a result, most journeyman

plumbers rely upon a master plumber to provide the written verification of hours worked. The board concluded that if a master plumber refuses to verify actual hours worked, the master plumber is withholding information that belongs to the journeyman plumber and is interfering with the journeyman plumber's legitimate interest to seek a master plumber license.

The board has observed a number of instances in the past few years when the master plumber has refused to provide the requested evidence of hours worked. This amendment will clarify that such a refusal is unprofessional conduct. In amending this rule, the board is not suggesting that a master plumber is endorsing or recommending the journeyman plumber, nor is the master plumber making any representation of competence or skill with respect to the journeyman plumber when written verification of hours is made.

4. The new rule proposed to be adopted provides as follows:

NEW RULE I MILITARY TRAINING OR EXPERIENCE (1) Pursuant to 37-1-145, MCA, the board shall accept relevant military training, service, or education toward the requirements for licensure as a plumber or medical gas endorsee.

(2) Relevant military training, service, or education must be completed by an applicant while a member of either:

- (a) United States Armed Forces;
- (b) United States Reserves;
- (c) state national guard; or
- (d) military reserves.

(3) An applicant must submit satisfactory evidence of receiving military training, service, or education that is equivalent to relevant licensure requirements as a plumber or medical gas endorsee. At a minimum, satisfactory evidence shall include:

- (a) a copy of the applicant's military discharge document (DD 214);
- (b) a document that clearly shows all relevant training, certification, service, or education the applicant received while in the military, including dates of training and completion or graduation; and
- (c) any other documentation as required by the board.

(4) The board shall consider all documentation received to determine whether an applicant's military training, service, or education is equivalent to relevant licensure requirements.

AUTH: 37-1-145, MCA

IMP: 37-1-145, MCA

REASON: The 2013 Montana Legislature enacted House Bill 259 and Senate Bill 183, acts requiring the professional and occupational licensing boards and programs to accept satisfactory evidence of relevant military education, training, or service to satisfy licensing or certification requirements. The bill was signed by the Governor and became effective on April 26, 2013, and is codified at 37-1-145, MCA.

The new statute requires each licensing board and program to adopt rules providing that certification or licensure requirements of the board or program may be

met by relevant military training, service, or education, completed as a member of the armed forces or reserves of the United States, a state's national guard, or the military reserves. In consulting with the bill sponsors regarding the rulemaking, it was clarified that the sponsor received input on the bill draft from Montana military personnel and the U.S. Department of Defense. The sponsor was assured that the bill language, as reflected in this proposed rule, is intended to include relevant military training, service, or education received while serving in all branches of the military and reserves, including the U.S. Coast Guard. It is reasonably necessary for the board to adopt New Rule I to coincide with and further implement the legislation.

5. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Plumbers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsplu@mt.gov, and must be received no later than 5:00 p.m., on March 28, 2014.

6. An electronic copy of this notice of public hearing is available at www.plumber.mt.gov (department and board's web site). The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

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

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsors were contacted on December 16, 2013, by electronic mail.

9. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.180.2301 will not significantly and directly impact small businesses.

With regard to the requirements of 2-4-111, MCA, the board has determined that the adoption of New Rule I will not significantly and directly impact small businesses.

Documentation of the board's above-stated determination is available upon request to the Board of Plumbers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2329; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdpplu@mt.gov.

10. A department representative will preside over and conduct this hearing.

BOARD OF PLUMBERS
TIM REGAN, PRESIDING OFFICER

/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 February 18, 2014

BEFORE THE BOARD OF RADIOLOGIC TECHNOLOGISTS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of)
ARM 24.204.408 radiologic)
technologists applications and the)
adoption of NEW RULE I military)
training or experience)

NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENT AND
ADOPTION

TO: All Concerned Persons

1. On March 24, 2014, at 10:00 a.m., a public hearing will be held in the Basement Conference Room, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment and adoption of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Radiologic Technologists (board) no later than 5:00 p.m., on March 14, 2014, to advise us of the nature of the accommodation that you need. Please contact Jason Steffins, Board of Radiologic Technologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2329; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdrts@mt.gov.

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

24.204.408 RADIOLOGIC TECHNOLOGISTS APPLICATIONS

(1) Applications shall be made on ~~printed~~ forms provided by the department and ~~signed by the applicant.~~

(2) remains the same.

(3) The board shall review ~~fully-completed~~ fully completed nonroutine applications for compliance with board law and rules. The board may request additional information or clarification of information provided in the application as it deems reasonably necessary. ~~Incomplete applications shall be returned to the applicant~~ Applicants shall be informed of incomplete applications with a statement regarding incomplete portions.

(4) The applicant shall correct any deficiencies and ~~resubmit the application~~ provide the missing information as requested. Failure to resubmit the application missing information within 60 days shall be treated as a voluntary withdrawal of the application. In order to consider an applicant after voluntary withdrawal, a new application and fee(s) is required.

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

(c) original license fee; and ~~either:~~

(d) evidence of certification by the American Registry of Radiologic Technologists (ARRT) in x-ray technology. This evidence shall consist of the applicant being listed in the current ARRT directory. When the applicant is not listed in the current ARRT directory, the applicant shall submit to the board a certified copy issued by the ARRT of the original registration certificate, ~~or~~

~~(e) at the board's discretion, documentation of successful completion of a course of study in an approved school of radiologic technology as defined in 37-14-303, MCA, and having obtained a passing score on the examination in diagnostic radiologic technology given by the ARRT. A scaled score of 75 constitutes a passing score.~~

(6) remains the same.

AUTH: 37-1-131, 37-14-202, MCA

IMP: 37-14-302, 37-14-305, MCA

REASON: The board determined it is reasonably necessary to amend the application rule to streamline and update to current application processes and standard terminology.

The board is striking (5)(e) to clarify the board's intent to require license applicants to hold American Registry of Radiologic Technologists (ARRT) certification. Because ARRT certificate holders must obtain continuing education, the board believes that requiring the certification will help ensure that applicants are current in industry practices. Additionally, the statute cited in (5)(e) was repealed in 2005.

4. The new rule proposed to be adopted provides as follows:

NEW RULE I MILITARY TRAINING OR EXPERIENCE (1) Pursuant to 37-1-145, MCA, the board shall accept relevant military training, service, or education toward the requirements for licensure as a radiologic technologist.

(2) Relevant military training, service, or education must be completed by an applicant while a member of either:

- (a) United States Armed Forces;
- (b) United States Reserves;
- (c) state national guard; or
- (d) military reserves.

(3) An applicant must submit satisfactory evidence of receiving military training, service, or education that is equivalent to relevant licensure requirements as a radiologic technologist. At a minimum, satisfactory evidence shall include:

- (a) a copy of the applicant's military discharge document (DD 214);
- (b) a document that clearly shows all relevant training, certification, service, or education the applicant received while in the military, including dates of training and completion or graduation; and
- (c) any other documentation as required by the board.

(4) The board shall consider all documentation received to determine whether an applicant's military training, service, or education is equivalent to relevant licensure requirements.

AUTH: 37-1-145, MCA

IMP: 37-1-145, MCA

REASON: The 2013 Montana Legislature enacted House Bill 259 and Senate Bill 183, acts requiring the professional and occupational licensing boards and programs to accept satisfactory evidence of relevant military education, training, or service to satisfy licensing or certification requirements. The bill was signed by the Governor and became effective on April 26, 2013, and is codified at 37-1-145, MCA.

The new statute requires each licensing board and program to adopt rules providing that certification or licensure requirements of the board or program may be met by relevant military training, service, or education, completed as a member of the armed forces or reserves of the United States, a state's national guard, or the military reserves. In consulting with the bill sponsors regarding the rulemaking, it was clarified that the sponsor received input on the bill draft from Montana military personnel and the U.S. Department of Defense. The sponsor was assured that the bill language, as reflected in this proposed rule, is intended to include relevant military training, service, or education received while serving in all branches of the military and reserves, including the U.S. Coast Guard. It is reasonably necessary for the board to adopt New Rule I to coincide with and further implement the legislation.

5. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Radiologic Technologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdrts@mt.gov, and must be received no later than 5:00 p.m., March 28, 2014.

6. An electronic copy of this notice of public hearing is available at www.radiology.mt.gov (department and board's web site). The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

7. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or

delivered to the Board of Radiologic Technologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to dlibsdrts@mt.gov, or made by completing a request form at any rules hearing held by the agency.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsors were contacted on December 16, 2013, by electronic mail.

9. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.204.408 will not significantly and directly impact small businesses.

With regard to the requirements of 2-4-111, MCA, the board has determined that the adoption of New Rule I will not significantly and directly impact small businesses.

Documentation of the board's above-stated determination is available upon request to the Board of Radiologic Technologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to dlibsdrts@mt.gov, or made by completing a request form at any rules hearing held by the agency.

10. Anne O'Leary, attorney, has been designated to preside over and conduct this hearing.

BOARD OF RADIOLOGIC
TECHNOLOGISTS
KELLI BUSH, VICE PRESIDENT

/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 February 18, 2014

BEFORE THE BOARD OF SPEECH-LANGUAGE PATHOLOGISTS AND
AUDILOGISTS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the adoption of NEW) NOTICE OF PUBLIC HEARING ON
RULES I through VII telepractice of) PROPOSED ADOPTION
speech-language pathology and)
audiology and NEW RULE VIII)
military training or experience)

TO: All Concerned Persons

1. On March 24, 2014, at 11:00 a.m., a public hearing will be held in the Basement Conference Room, 301 South Park Avenue, Helena, Montana, to consider the proposed adoption of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Speech-Language Pathologists and Audiologists (board) no later than 5:00 p.m., on March 14, 2014, to advise us of the nature of the accommodation that you need. Please contact Cyndi Reichenbach, Board of Speech-Language Pathologists and Audiologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2392; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; dlibsdspl@mt.gov (board e-mail).

3. GENERAL STATEMENT OF REASONABLE NECESSITY: The 2013 Montana Legislature enacted Chapter 162, Laws of 2013 (Senate Bill 230), an act revising audiology and speech-language pathology licensing to allow for telepractice. The bill was signed by the Governor on April 5, 2013, and became effective on October 1, 2013. The board is proposing to adopt New Rules I through VII to implement the legislation by establishing standards for telepractice in Montana. Specifically, the board is proposing these new rules to establish minimum safe standards for both delivery and quality of telepractice services provided to Montana patients. Additionally, the new rules establish minimum qualifications for audiologists and speech-language pathologists to satisfy prior to providing telepractice services, and parameters for establishing the practitioner-patient relationship.

4. The proposed new rules provide as follows:

NEW RULE I DEFINITIONS (1) "Asynchronous" means a method of exchanging information that does not require the patient and the provider to be available at the same time. Examples of such communication, also known as "store-

and-forward" transmission, include e-mails, faxes, recorded video clips, audio files and virtual technologies and e-learning programs.

(2) "Synchronous" means interactive transmission of data occurring bi-directionally in real time and requiring the patient and the provider be available at the same time.

AUTH: 37-1-131, 37-15-202, MCA

IMP: 37-1-131, 37-15-102, 37-15-202, 37-15-314, 37-15-315, MCA

NEW RULE II PROVISION OF TELEPRACTICE SERVICES (1) The provision of speech-language pathology or audiology services in this state through telepractice, regardless of the physical location of the speech-language pathologist or audiologist, constitutes the practice of speech-language pathology or audiology and is subject to state licensure requirements and regulation by the board.

AUTH: 37-1-131, 37-15-202, MCA

IMP: 37-1-131, 37-15-102, 37-15-202, 37-15-314, 37-15-315, MCA

NEW RULE III LIMITS ON TELEPRACTICE (1) No person licensed as a speech-language pathologist or audiologist in another state may engage in the practice of speech-language pathology or audiology in Montana, including telepractice services, unless a license to practice has been issued in Montana.

(2) A person located outside this state who provides speech-language pathology or audiology telepractice services to any patient in Montana shall be appropriately licensed in the jurisdiction in which the person providing telepractice services is located.

(3) All telepractitioners must abide by any statute or rule of this state governing the maintenance of patient records and patient confidentiality, regardless of the state where the records are maintained.

AUTH: 37-1-131, 37-15-202, MCA

IMP: 37-1-131, 37-15-102, 37-15-202, 37-15-314, 37-15-315, MCA

NEW RULE IV DELIVERY OF TELEPRACTICE SERVICES

(1) Telepractice services may be delivered in a variety of ways, including:

(a) Asynchronous transmission:

(i) store-and-forward model/electronic transmission of stored clinical data from one location to another usually by the Internet via e-mail or fax; and

(ii) video and audio transmission through regular mail service delivery and express delivery services; and

(b) Synchronous transmission:

(i) clinician interactive model is a real time interaction between provider and patient that may occur via audio or audio/video transmission over telecommunication links such as telephone, Internet, or other methods for distance communication, including:

(A) videoconferencing;

(B) remote control software applications;

(C) computer applications;
(D) e-mail correspondence, including attachments; or
(E) self-monitoring/testing model, which refers to the patient who receives the services and provides data to the provider without a facilitator present at the site of the patient.

(2) Live versus stored data refers to the actual data transmitted during the telepractice. Live, real time, and stored clinical data may be included during the telepractice.

AUTH: 37-1-131, 37-15-202, MCA

IMP: 37-1-131, 37-15-102, 37-15-202, 37-15-314, 37-15-315, MCA

NEW RULE V QUALITY OF TELEPRACTICE SERVICES (1) Elements of quality assurance include the competency of licensees, selection of patients, appropriateness of technology to the service being delivered, identification of appropriate outcome measures, collection of data, and satisfaction of the patient, caregiver, and provider.

(2) Telepractice services must conform to professional standards, including all appropriate and applicable codes of ethics.

(3) Licensees shall not engage in false, misleading, or deceptive advertising of telepractice services.

(4) Telepractice services may not be provided solely by correspondence, e.g., mail, e-mail, and faxes, although such may be adjuncts to telepractice.

(5) Licensees shall engage in only those aspects of the professions that are within the scope of their competence, considering their level of education, training, and experience.

(6) Licensees must be competent in delivering telepractice services via an electronic communications environment.

(7) The scope, nature, and quality of telepractice services must be the same as those provided by the licensee during in-person sessions.

(8) Optimal audio and video quality is dependent on the consistent and reliable operation and connection of telepractice equipment and networks.

(9) Telepractice service delivery includes the responsibility for calibration and maintenance of clinical instruments and telepractice equipment in accordance with standard operating procedures of the telepractice site(s) and manufacturer's specifications.

(10) Telepractice services must be in compliance with safety and infection control policies and procedures.

AUTH: 37-1-131, 37-15-202, MCA

IMP: 37-1-131, 37-15-102, 37-15-202, 37-15-314, 37-15-315, MCA

NEW RULE VI ESTABLISHING THE PRACTITIONER-PATIENT RELATIONSHIP (1) A practitioner-patient relationship may commence via telepractice following a practitioner's in-person evaluation of the prospective patient to assess the patient's:

(a) need for services; and

(b) candidacy for telepractice, including behavioral, physical, and cognitive abilities to participate in telepractice services. Telepractice services may be provided by the patient's evaluator or another qualified speech-language pathologist or audiologist by the board.

(2) Prior to initiating services, a speech-language pathologist or audiologist shall:

- (a) make reasonable attempts to verify the identity of the patient;
- (b) obtain alternative means of contacting the patient other than electronically;
- (c) provide to the patient alternative means of contacting the licensee other than electronically;
- (d) document whether the patient has the necessary knowledge and skills to benefit from the type of telepractice provided by the licensee;
- (e) determine the availability of a facilitator, if needed, with the necessary level of training to assist at the patient's location;
- (f) provide orientation and training to the patient in the use of telepractice equipment and the telepractice protocol at an appropriate level for the patient; and
- (g) inform the patient in writing of the following:
 - (i) the limitations of using technology in the provision of telepractice;
 - (ii) the potential risks to the confidentiality of information due to technology used in telepractice;
 - (iii) the potential risks of disruption in the use of telepractice;
 - (iv) when and how the licensee will respond to routine electronic messages;
 - (v) in what circumstances the licensee will use alternative communications for emergency purposes;
 - (vi) who else may have access to patient communications with the licensee;
 - (vii) how communications can be directed to a specific licensee;
 - (viii) how the licensee stores electronic communications from the patient; and
 - (ix) that the licensee may elect to discontinue the provision of telepractice services.

(3) The written document required by (2)(g) shall be signed by both the licensee and the patient and maintained in the clinical record. If the patient is a minor, the document shall be signed by the patient's parent or guardian.

AUTH: 37-1-131, 37-15-202, MCA

IMP: 37-1-131, 37-15-102, 37-15-202, 37-15-314, 37-15-315, MCA

NEW RULE VII COMPETENCE - PRACTICE LIMITS - MAINTENANCE AND RETENTION OF RECORDS (1) A licensee using telepractice to deliver services shall:

- (a) complete four hours of board-approved telepractice training prior to engaging in telepractice in Montana;
- (b) limit telepractice services to the licensee's scope of practice;
- (c) maintain continuing competency or associate with a group who has experience in telepractice delivery of care;
- (d) use methods for protecting health information that include authentication and encryption technology;

- (e) limit access to protected health information to only those necessary for the provision of services or those required by law; and
 - (f) ensure that confidential communications obtained and stored electronically cannot be recovered and accessed by unauthorized persons when the licensee disposes of electronic equipment and data.
- (2) A speech-language pathology or audiology aide or assistant may function as a facilitator, but may not provide telepractice services.

AUTH: 37-1-131, 37-15-202, MCA

IMP: 37-1-131, 37-15-102, 37-15-202, 37-15-314, 37-15-315, MCA

NEW RULE VIII MILITARY TRAINING OR EXPERIENCE (1) Pursuant to 37-1-145, MCA, the board shall accept relevant military training, service, or education toward the requirements for licensure as a speech-language pathologist or audiologist.

(2) Relevant military training, service, or education must be completed by an applicant while a member of either:

- (a) United States Armed Forces;
- (b) United States Reserves;
- (c) state national guard; or
- (d) military reserves.

(3) An applicant must submit satisfactory evidence of receiving military training, service, or education that is equivalent to relevant licensure requirements as a speech-language pathologist or audiologist. At a minimum, satisfactory evidence shall include:

- (a) a copy of the applicant's military discharge document (DD 214);
- (b) a document that clearly shows all relevant training, certification, service, or education the applicant received while in the military, including dates of training and completion or graduation; and
- (c) any other documentation as required by the board.

(4) The board shall consider all documentation received to determine whether an applicant's military training, service, or education is equivalent to relevant licensure requirements.

AUTH: 37-1-145, MCA

IMP: 37-1-145, MCA

REASON: The 2013 Montana Legislature enacted House Bill 259 and Senate Bill 183, acts requiring the professional and occupational licensing boards and programs to accept satisfactory evidence of relevant military education, training, or service to satisfy licensing or certification requirements. The bill was signed by the Governor and became effective on April 26, 2013, and is codified at 37-1-145, MCA.

The new statute requires each licensing board and program to adopt rules providing that certification or licensure requirements of the board or program may be met by relevant military training, service, or education, completed as a member of the armed forces or reserves of the United States, a state's national guard, or the military reserves. In consulting with the bill sponsors regarding the rulemaking, it

was clarified that the sponsor received input on the bill draft from Montana military personnel and the U.S. Department of Defense. The sponsor was assured that the bill language, as reflected in this proposed rule, is intended to include relevant military training, service, or education received while serving in all branches of the military and reserves, including the U.S. Coast Guard. It is reasonably necessary for the board to adopt New Rule VIII to coincide with and further implement the legislation.

5. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Speech-Language Pathologists and Audiologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibsdspl@mt.gov, and must be received no later than 5:00 p.m., March 28, 2014.

6. An electronic copy of this notice of public hearing is available at www.slpaud.mt.gov (department and board's web site). The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

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

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor for the new telepractice rules was contacted on April 26, 2013, by regular mail. The primary bill sponsors for the military training rule were contacted on December 16, 2013, by electronic mail.

9. With regard to the requirements of 2-4-111, MCA, the board has determined that the adoption of NEW RULES I-VIII will not significantly and directly impact small businesses.

Documentation of the board's above-stated determination is available upon request to the Board of Speech-Language Pathologists and Audiologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2395; facsimile (406) 841-2305; or e-mail dlibsdspl@mt.gov.

10. Darcee L. Moe, attorney, has been designated to preside over and conduct this hearing.

Board of Speech-Language Pathologists
and Audiologists
Lynn Harris, AuD, 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 February 18, 2014

BEFORE THE MONTANA COAL BOARD
DEPARTMENT OF COMMERCE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 8.101.302 and 8.101.305)
pertaining to the policies of the)
Montana Coal Board and applications)
for Montana Coal Board grant)
assistance)

TO: All Concerned Persons

1. On January 16, 2014, the Department of Commerce published MAR Notice No. 8-101-119 pertaining to the proposed amendment of the above-stated rules at page 1 of the 2014 Montana Administrative Register, Issue Number 1.

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

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

COMMENT #1: Two comments were received regarding question 15, one addressing bullet point #1 and both addressing bullet points #3 & #4. One comment suggested removing bullet point #1, since it is already addressed on page 6 with questions 8 & 9. Both comments addressed the difficulty obtaining accurate and quantifiable information to address bullet points #3 & #4, and one of those comments recommended deleting bullet points #3 & #4 from the question.

RESPONSE #1: The department agrees that bullet point number one from question number 15 is duplicative and will remove bullet number one from the question. In response to comments regarding bullet points number three and number four, the department has deleted both bullet points and has modified question number 15 to read as follows:

IMPACTS FROM COAL INDUSTRY:

- *Number of residents that are currently employed by the coal industry within the applicant's jurisdiction*

COMMENT #2: One comment was made suggesting that references to "non-profit/not-for-profit" organizations be deleted from the application since they are not listed as eligible entities.

RESPONSE #2: While nonprofit organizations are not eligible applicants, eligible applicants can carryout eligible activities through a nonprofit organization. The

eligible applicant and nonprofit relationship or subrecipient agreement is a typical method that Coal Board applicants use carryout eligible activities and other activities to meet needs in the coal impacted area. Therefore, the department will keep the nonprofit reference in the application, to provide the eligible applicant as much opportunity to discuss all activities completed in the impacted area including activities of partnering nonprofit organizations.

COMMENT #3: One comment was received regarding the inconsistent language regarding submitting applications, specifically, when applicants who have submitted electronic versions of their respective application should send the hard copies and if applicants should submit a CD with a word format of the application after already submitting an electronic version of the application. The comment also indicates that applicants do not have control over the delivery time of a package once it is turned over to a carrier. The comment suggests changing the language to:

Electronically submitted applications must be followed with the original and seven (7) signed hard copies that are mailed to the Department within seven days of the electronic submittal.

RESPONSE #3: The department agrees there is inconsistent language and no control over delivery dates. Therefore, the applicant will not need to provide a second electronic submission and applicants who have submitted an electronic copy must have seven copies postmarked by the application deadline. The department will change the language to read as follows:

Electronically submitted applications must be followed with the original and seven (7) signed hard copies that are postmarked by the application deadline.

COMMENT #4: One comment was received regarding the PAR requirements. The comment states that the language is inconsistent and that requiring a PAR for all community facilities would increase project costs significantly. The comment suggests changing the wording from:

- A. *A PAR MUST BE SUBMITTED AS PART OF COAL BOARD APPLICATIONS FOR:*
 - a. *Projects that are non-water/non-wastewater projects – community facilities such as a hospital, senior center, school facility, nursing home; and*

to:

- A. *A PAR PREPARED FOR NON-WATER/NON-WASTEWATER COMMUNITY FACILITIES PROJECTS SUCH AS HOSPITALS, SENIOR CENTERS, SCHOOL FACILITIES, NURSING HOMES, ETC. SHALL MEET THE FOLLOWING GUIDELINES:*

RESPONSE #4: Appendix A has been an existing requirement but was found outside of the Coal Board application. The change to the Coal Board application guidelines has been to add Appendix A within these guidelines so the applicant does not need to reference a separate document. Therefore, the department does not agree that costs would significantly increase as this has been an existing requirement.

The department agrees the language does not clearly state the requirement of submitting a PAR. As has been previously required by the Coal Board all funds awarded to complete a PAR must follow the PAR outline, and those that apply for funds to complete construction activities following a PAR must meet the PAR outline. Therefore the language will be modified, as follows:

- A. *A PAR MUST BE SUBMITTED AS PART OF A COAL BOARD APPLICATION FOR:*
 - a. *Utilization of a PAR for rehabilitation or construction of Coal Board funded activities for Non-Water/Non-Wastewater community facility projects;*
 - b. *New construction of a Non-Water/Non-Wastewater community facility project;*

- B. *A PAR MUST MEET THE REQUIREMENTS FOR:*
 - a. *Preparation of a PAR as a planning activity*

COMMENT #5: One comment was received recommending that in regard to question 14, Coal Board staff provide the amounts allocated (by the Department of Revenue) with the summary reports so that the information is up-to-date and consistently presented for all coal impact areas. The comment also states that local government units receiving Coal Gross Proceeds tax pool the proceeds with other funds and are therefore unable to provide accurate information regarding the amount expended and the balance of available proceeds that remain. The comment suggests deleting Question 14 in its entirety.

RESPONSE #5: At this time the only method the department has for collecting the Coal Gross Proceeds Tax information is to obtain it from the local government applying for Coal Board funding. Therefore, the applicant will need to continue to provide the information as part of their application responses. However, the department will continue to work with the Department of Revenue to obtain direct access to the information to provide a thorough Coal Board application review. Additionally, the comment received also noted the need to clarify the question to more accurately reflect the information being requested. Therefore question 14 has been modified to read as follows:

AMOUNT OF COAL GROSS PROCEEDS TAX:

Please provide the following details:

- Total amount of Coal Gross Proceeds tax the applicant has received during the last two years
 - How those monies are allocated (i.e. to general fund, etc.)
- How does the applicant decide the use of the gross proceeds?

COMMENT #6: One comment suggests changing Section B, Question 1 from:

What proportion or percentage of the need for the expansion or improvement to the public facility or public service is attributable to coal-related impacts?

to:

Describe why the need for the expansion or improvement to the public facility or public service is attributable to coal-related impacts. If possible, provide the percentage of the project that is a result of coal impacts.

RESPONSE #6: During a previous meeting, the board members specifically requested that a question be added to the guidelines to seek information regarding the proportion of a proposed project's relationship with coal-related impacts. This question was added to assist with the consideration required for analysis of the impact; however, to provide the applicant better opportunity to respond with more accurate information the department will modify Section B Question 1 to read as follows:

Describe why the need for the expansion or improvement to the public facility or public service is attributable to coal-related impacts. Additionally, please provide the percentage of the project that is a result of coal impacts.

COMMENT #7: One comment was received regarding the opportunities interested parties were able to get to review the draft application guidelines.

RESPONSE #7: The department maintains a list of interested parties, which contains over seventy people, including consultants, nonprofits, local governments, and professional services such as engineering firms who have indicated interest in Coal Board activities. The majority of these contacts have regularly submitted applications and received funding. An electronic notice announcing the hearing and directing the interested parties to review the draft guidelines was sent to the

department's list of interested parties on February 3, 2014. Additionally, a notice of the Administrative Rules Hearing was published in the Montana Administrative Register on January 16, 2014.

/s/ Kelly A. Lynch
KELLY A. LYNCH
Rule Reviewer

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

Certified to the Secretary of State February 18, 2014.

BEFORE THE FISH AND WILDLIFE COMMISSION
OF THE STATE OF MONTANA

In the matter of the adoption of NEW) NOTICE OF ADOPTION
RULE I regarding state land access)
tax credit)

TO: All Concerned Persons

1. On November 27, 2013, the Fish and Wildlife Commission (commission) published MAR Notice No.12-402 pertaining to the proposed adoption of the above-stated rule at page 2212 of the 2013 Montana Administrative Register, Issue Number 22.

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

NEW RULE I (ARM 12.2.601) STATE LAND ACCESS TAX CREDIT

(1) through (4) remain as proposed.

(5) The department must consider the following when awarding contracts:

(a) verification that the state lands are not restricted or closed to general recreational use by Department of Natural Resources and Conservation;

(b) verification that the state land will be available for a majority of the year to all general recreational use including hunting, fishing, hiking, wildlife watching, and other uses compatible with the use of state lands;

(c) access routes restricted to foot travel only;

(i) must be capable of accommodating normal ambulatory travel; and

(ii) must not exceed half a mile one linear mile from the beginning to the end of the access route; and

(d) access routes available to vehicles must be capable of accommodating typical road use vehicles.

(6) A landowner may impose reasonable limitations through temporary closure of a public access route to address concerns related to high fire danger, weather-related impact to travel route, safety, or agricultural production activities such as livestock handling or harvest and planting of crops, provided so long as:

(a) the landowner notifies department regional headquarters at least 24 hours prior to the closure;

(b) the landowner posts notice to the public on-site; and

(c) the closure ~~is not in effect:~~

(i) is in effect for no more than seven days without department review and approval; ~~or~~ and

(ii) is removed within 24 hours after ~~until~~ the natural environmental conditions no longer exist.

(7) and (8) remain as proposed.

AUTH: 87-1-294, MCA

IMP: 15-30-2380, 87-1-294, MCA

3. The commission received a total of 33 comments, 21 supporting adoption of the rule, 6 voicing non-support, 2 posing questions, and 4 offering comments not pertinent to the proposed rule. The commission has thoroughly considered the comments received, and the commission's responses are as follows:

Comment 1: The commission received several comments stating landowners should not be required to allow hunting on the private land that provides access to state land.

Response 1: Landowners will not be required to allow hunting on the private land enrolled in this program.

Comment 2: The commission received one comment suggesting that public access corridors where travel is restricted to foot travel only should be allowed to exceed half a mile if it is direct.

Response 2: The rule language has been adopted allowing for routes restricted to foot travel only to not exceed one linear mile from the beginning to the end of the access route.

Comment 3: The commission received one comment suggesting that temporary closures should not extend past the time the event that triggered the closure is no longer in effect.

Response 3: The rule language has been adopted providing that the closure must be removed within 24 hours after the natural environmental conditions no longer exist.

Comment 4: The commission received four comments suggesting that the state land parcel to which access is being provided should be of a certain size or provide for a certain quality of habitat or certain kind of recreational opportunity.

Response 4: The law creating this new program did not provide authority for imposing those kinds of restrictions through administrative rule.

Comment 5: The commission received two comments asking how the public would be made aware of these project sites.

Response 5: When the department implements the program, this type of information will be made available to the public through the department web site.

Comment 6: The commission received several comments suggesting alternative methods that may be used to gain access to otherwise inaccessible state lands including offering land trades, forcing access on historic travel routes, offering special late season hunts, or pursuing section line access laws.

Response 6: The suggestions offered in these comments were outside the scope of this rulemaking authority.

Comment 7: The commission received several comments concerning potential behavior of public recreationists on private and state land involved with this program.

Response 7: This new program is a voluntary program that offers a tax benefit to a landowner willing to enter into a contract with the department that determines when, where, and how the public may gain access to enrolled private land to reach an adjacent parcel of otherwise inaccessible state land. All applicable laws that apply to private and state lands will be enforced by the appropriate law enforcement agency.

Comment 8: The commission received several comments suggesting mandating motorized game retrieval, denying access by all-terrain vehicle, or requiring walk-in only access.

Response 8: The terms of each contract negotiated between the department and a landowner will be specific to each project site. The landowner may determine when, where, and how the public may gain access to and across the enrolled private land to reach the adjacent state land parcel.

/s/ Dan Vermillion
Dan Vermillion, Chairman
Fish and Wildlife Commission

/s/ Rebecca Jakes Dockter
Rebecca Jakes Dockter
Rule Reviewer

Certified to the Secretary of State February 18, 2014

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

In the matter of the adoption of New) NOTICE OF ADOPTION
Rules I through VII pertaining to)
simplified regulatory options for small)
water and sewer utilities)

TO: All Concerned Persons

1. On September 5, 2013, the Department of Public Service Regulation published MAR Notice No. 38-5-219 pertaining to the public hearing on the proposed adoption of the above-stated rules at page 1583 of the 2013 Montana Administrative Register, Issue Number 17.

2. The department has adopted the following rules as proposed: New Rule IV 38.5.2529, New Rule V 38.5.2530, New Rule VI 38.5.2531, and New Rule VII 38.5.2532.

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

NEW RULE I (38.5.2526) DEFINITIONS (1) "Contribution in aid of construction" means any money, services, or property received by a water or sewer utility to fund capital investments at no cost to the company with no obligation to repay.

(2) "Customer" means any individual or entity supplied with water or sewer service by means of a water or sewer line that connects a single building or living unit to the utility's water or sewer system. For purposes of these rules, each single building or living unit connected to the utility's system is one customer.

(23) "Operating ratio" means the ratio of a utility's operating expenses to operating revenues. For purposes of ARM 38.5.2529, a small water or sewer utility's operating ratio will be determined based on the expense and revenue information required to be submitted by the utility on the department's operating ratio methodology form referred to in ARM 38.5.2529(2).

(34) "Small water or sewer utility" means a water or sewer utility subject to the commission's jurisdiction that serves fewer than 500 customers.

AUTH: 69-2-101, 69-3-103, 69-3-301, MCA
IMP: 69-2-101, 69-3-103, 69-3-301, MCA

NEW RULE II (38.5.2527) SIMPLIFIED REGULATORY TREATMENT OPTIONS (1) Two simplified regulatory treatment options are available to a small water or sewer utility that allow it to establish or change its rates by a method other than filing a rate application in accordance with the minimum rate case filing standards of ARM 38.5.101, et seq. The options are:

(a) adoption of the commission-approved standard rate tariff to establish ~~initial~~ rates as described in ARM 38.5.2528; or

(b) filing a rate application in accordance with the operating ratio methodology as described in ARM 38.5.2529.

(2) A small water or sewer utility is not required to establish or change its rates using the simplified regulatory treatment options. It may elect to file a rate application in accordance with ARM 38.5.101, et seq.

(3) If a utility's election of either of the two simplified regulatory options described in ARM 38.5.2527(1)(a) or (1)(b) would result in increased rates to customers, it may request, or the commission may require the utility to implement the rates in increments over a reasonable time period.

(4) An existing small water or sewer utility must be in compliance with 69-3-203, MCA (annual report requirement), in order to elect either of the simplified regulatory treatment options or to request authorization for a reserve account as provided in ARM 38.5.2531.

AUTH: 69-2-101, 69-3-103, 69-3-301, MCA

IMP: 69-2-101, 69-3-103, 69-3-301, MCA

NEW RULE III (38.5.2528) STANDARD RATE TARIFF (1) A small water or sewer utility may establish its ~~initial~~ rates by adopting the commission's standard rates for small water or sewer utilities or by adopting its own rates if they are lower than the applicable standard rates. The standard rate tariff forms to be submitted for commission approval by the utility are available from the commission upon request or by obtaining them from the commission's web site at www.psc.mt.gov.

(2) The standard rates for small water and sewer utilities that choose to establish rates using this simplified regulatory option are:

(a) a flat charge of \$50 per connection per month for a water utility that provides water to its customers on an unmetered basis;

(b) a monthly service charge of \$40 per connection, plus a usage rate of \$2.00 per 1,000 gallons for customer usage in excess of 10,000 gallons, for a small water utility that provides water to its customers on a metered basis;

(c) a flat charge of \$30 per connection per month for a small sewer utility.

(3) Other terms and conditions of service are those provided in the commission's standard rate tariff forms and in ARM 38.5.2501, et seq.

(4) A person who seeks to challenge (2)(a), (b), or (c) may submit a complaint pursuant to ARM 38.2.2101, et seq.

(5) A small water or sewer utility that intends to adopt the standard rates must notify the commission and every customer in writing of its intention at least 30 days in advance of the proposed effective date of the standard rate tariff adoption.

(6) The customer notification must be mailed to each customer's billing address. The notification must inform customers of the standard rates, provide information that shows the typical bill impact of the application of the standard rates to the utility's average level of customer usage, and provide contact information for the utility, the Montana Consumer Counsel, and the commission.

(7) The commission notification must include the standard rates in tariff form, a copy of the notification provided to customers, and verification that all customers

were mailed a notice of the proposed rate change. A small water or sewer utility must, if applicable, include in its commission notification a complete copy of the information regarding the utility's financial capacity that the utility provided to the Montana Department of Environmental Quality as part of that agency's public water system review process.

(8) The commission will act on the request to adopt the standard rate tariff no later than 45 days after it is received by the commission.

(9) The standard rate tariff adopted by a small water or sewer utility expires three years after its effective date, unless the commission approves an extension. At least three months prior to the expiration of the standard rate tariff, the utility must notify the commission whether it will file a request for an extension of the standard rate tariff option, a rate application in accordance with the minimum rate case filing standards of ARM 38.5.101, et seq., or ~~in~~ an application in accordance with the operating ratio methodology pursuant to ARM 38.5.2529.

(10) The commission may deny the adoption of the standard rate tariff by a small water or sewer utility if the utility has been operating pursuant to commission-approved rates and the commission determines it would be unjust and unreasonable to approve adoption of the standard rate tariff for the utility.

(11) Nothing contained in these rules shall be construed to limit the statutory and constitutional authority of the Montana Consumer Counsel to participate and represent the interests of the utility ratepayers in these proceedings.

AUTH: 69-2-101, 69-3-103, 69-3-301, MCA

IMP: 69-2-101, 69-3-103, 69-3-301, MCA

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

COMMENT 1: One commenter suggested that to be consistent with the rest of the rule and for ease of regulation the rule should be changed from defining a small utility on a customer basis to a connection basis. In the alternative, the commenter suggested a definition of customers be added.

RESPONSE 1: The commission appreciates the comment and has defined customer in New Rule I (38.5.2526). The commission decided on using customer because that is consistent with the language used in the commission's other rules involving water utilities.

COMMENT 2: One commenter applauded the commission for its efforts to simplify the process of filing rate cases for small water utilities. The commenter stated that the proposed changes will allow it to prepare a rate case at a significant savings by preparing the filing and documents in-house and avoiding contracting with specialized accounting and legal firms.

RESPONSE 2: The commission appreciates the comment. One factor the commission considered when initiating this rulemaking was to simplify the process of

filing for rates and to minimize the regulatory costs that ratepayers are ultimately responsible for.

COMMENT 3: A commenter supported the use of a standard, tariffed rate in the rule. The commenter stated that there are benefits to systems and consumers in having a reasonable, affordable, and streamlined system for charging rates, which outweighs any potential benefits achieved by a more expensive, burdensome, and granular case-by-case ratemaking process intended for large utilities. The commenter supported having the standard rate subject to rate examination in rulemaking instead of by an individual basis during a rate case. The simplified standard rate also decreases the demand for agency services and is a more productive use of limited agency resources.

RESPONSE 3: The commission agrees and appreciates the comment.

COMMENT 4: One commenter suggested the standard tariffed rate should be tied to an economic indicator such as the Consumer Price Index. Therefore, the rate would rise or fall on an annual basis with the overall economy and this would prevent rate shock.

RESPONSE 4: The commission disagrees with the implementation of an automatic adjustment mechanism to the standard tariff rate. The commission determines that a preferred practice would be for the commission to reevaluate the standard tariff as necessary during future rulemaking proceedings. Reviewing the tariff during subsequent rulemaking proceedings will allow the commission to receive public comment before making any adjustment to the standard rate.

COMMENT 5: A commenter recommended that the commission consider allowing extensions of the three-year period for standard rates pursuant to New Rule III (38.5.2528). The commenter stated that the extension makes sense if notice is provided at least three months prior to the end of the three-year period.

RESPONSE 5: The commission agrees with the comment and has amended the rule to allow extensions of the three-year period.

COMMENT 6: In response to New Rule VI (38.5.2531), one commenter suggested that the commission could establish a target reserve amount based on a per-hookup calculation to replace or repair some percentage of the system. The per-hookup amount could be established based on recommendations from water associations or home insurance groups. The commenter also stated that the entire amount of the replacement of the system should not be required as a reserve. Finally the commenter suggested that the utility could appoint an independent trustee to manage the trust account instead of the utility relying on the commission.

RESPONSE 6: The commission disagrees that a target reserve amount per-hookup should be established in the rule. The commission determines that it should maintain flexibility on the amount of the reserve account. As stated in New Rule VI

(38.5.2531), the burden of demonstrating that actual and proposed expenditures are reasonable and in the public interest shall be borne by the utility.

COMMENT 7: One commenter stated that they understand the rule is trying to obtain efficiency in the administrative process while also providing proper due process for utilities and ratepayers. The commenter further stated they appreciate and share the commission's concern for rate-making efficiencies, but that the proposed rules shouldn't be adopted at this time. The commenter also states that the number of small water and sewer filings is not unmanageable at this time, and once it becomes unmanageable then the commission should revisit these proposals. Further, the current commission practice of setting initial rates by allowing the utility to use existing rates or to rely on operating information protects customers because interim rates are subject to refund. Setting initial rates on a standard rate is arbitrary.

RESPONSE 7: The commission disagrees with the commenter. The commission is aware that there may be a substantial number of water utilities that are currently operating without commission-approved rates that need to establish rates. Under the current regulatory regime, small water utilities have an incentive to avoid establishing commission-approved rates because of the substantial regulatory cost. The rules are being established to reduce the regulatory cost to establish rates. The commission needs to establish initial rates in some manner when utilities first start serving customers. Utilities generally have limited financial information available when they first start operating so standard rates are the best way to establish initial rates until complete financial information is available.

COMMENT 8: One commenter stated that after three years, the proposed rules would allow utilities to choose between traditional cost of service rates or rates based on an operating ratio of 80%. The operating ratio method is less accurate than the commission's current practice of cost of service approach, because the operating ratio only focuses on certain elements of operation, which is a disadvantage to ratepayers. Utilities could analyze the two approaches available and choose the one that generates more revenue. There are often disagreements with regard to expenses and revenues which may require a traditional cost of service analysis in addition to the operating ratio calculations. The commenter also stated that the commission has expressed concerns about the availability of rate consultants and regulatory legal assistance; however, they believe the initial need for financial analysis would still exist and may be increased under the proposed rules.

RESPONSE 8: The commission generally disagrees with the commenter. While it is correct that the rules allow a utility to choose between two options, most utilities will likely not want to undertake a traditional cost of service rate case based on the substantial cost for rate consultants and legal assistance. That consultant cost must be paid for up front by the utility and can only be recovered over a number of years by the utility and would likely limit interest in traditional rate cases. The commenter's

own analysis included with its comments show that the operating ratio, in most cases, results in lower rates than the traditional cost of service approach.

COMMENT 9: One commenter stated that the commission should consider under the operating ratio methodology the inclusion of depreciation expense.

RESPONSE 9: The commission appreciates this comment; however, this expense is not addressed by the rules but the operating ratio forms that the commission has prepared for rate applications. The commission will consider this change in the operating ratio forms.

COMMENT 10: One commenter stated that they did not favor the operating ratio approach because utilities could game the regulatory paradigm. The commenter feels that one concern would be that a utility would have an incentive to inflate or "gold plate" expenses as expenses have become the rate base. The commenter further states, income taxes actually paid by the utility should be an expense that is recoverable only on a dollar for dollar basis, and over time other expenses may emerge as candidates to receive only dollar for dollar recovery.

RESPONSE 10: The commission generally disagrees with the commenter. A utility can attempt to game any regulatory paradigm. Even under current cost of service regulation, a water utility has an incentive to inflate expenses. The operating ratio attempts to standardize some of the expenses, such as management expenses, to avoid inflation of these expenses. The commission shares the concerns of the commenter about only allowing income taxes actually paid by the utility. The commission will consider this change in the operating ratio forms.

COMMENT 11: One commenter stated that a number of small water and sewer utilities may experience significant rate shock. The commenter suggested that the commission consider allowing for a stair-stepped implementation of new rates if the increase exceeds a certain dollar and/or percentage amount.

RESPONSE 11: The commission agrees with the concerns of the commenter and has added a requirement to New Rule II (38.5.2527) which requires that if either of the two simplified regulatory options result in increased rates, the commission may require the utility to implement the rates in increments over a reasonable time period.

COMMENT 12: One commenter stated that New Rule IV (38.5.2529) provides that a formal hearing may be held if 20 percent of the utility's customers or the Montana Consumer Counsel submits a written request for hearing. The rule should be clarified that if a hearing is requested, the burden of proof is not shifted to the customers or the MCC, but remains with the filing utility.

RESPONSE 12: The commission determines that specific language in the rules are unnecessary as the burden of proof is always on the utility in a rate proceeding;

however, based on this comment the commission has added language to New Rule III (38.5.2528).

COMMENT 13: One commenter stated that New Rule VI (38.5.2531) provides for the establishment of a reserve account approved by the commission and funded by customer contributions collected through rates for the purpose of making capital improvements in relation to long-range planning. The commenter stated that they felt this provision was unnecessary as well as the complicated processes it would require. Further, the commenter felt that it is clear that utility management, not the commission, is the manager of the utility. The commenter also expressed concern that there appears to be no public involvement in considering and approving the proposed long-range plan or decisions on how the funds could be spent.

RESPONSE 13: The commission generally disagrees with the commenter. The commission believes this is one possible tool for the commission to establish for a utility. The commission may allow a reserve account to be established but is not required to grant the utility's request. The burden of demonstrating that actual and proposed expenditures are reasonable and in the public interest shall be borne by the utility. The commission determines that a reserve account will not unnecessarily complicate the regulatory process and may likely provide long-term stability and benefit to the ratepayers through a properly maintained water utility. The commission intends to establish a procedure prior to approving a reserve account request that would include public comment and involvement of any interested persons.

/s/ JUSTIN KRASKE
Justin Kraske
Rule Reviewer

/s/ W.A. (BILL) GALLAGHER
W.A. (Bill) Gallagher
Chairman
Department of Public Service Regulation

Certified to the Secretary of State February 18, 2014.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 42.19.401, 42.19.405,)
42.19.406, and 42.19.501 pertaining)
to property tax assistance and)
exemptions)

TO: All Concerned Persons

1. On January 16, 2014, the Department of Revenue published MAR Notice Number 42-2-905 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 98 of the 2014 Montana Administrative Register, Issue Number 1.

2. On February 6, 2014, a public hearing was held to consider the proposed amendments. 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: Robert Story, President of the Montana Taxpayers Association, appeared and testified at the hearing. He stated that he applauds the department for attempting to make these programs more understandable to the average citizen. The rules regarding late applications being applied to the following year will help people get in sync with the system, which is good.

Mr. Story expressed concern with ARM 42.19.405, regarding the definition of total household income as it relates to the EPTAP program, specifically where it talks about the income of all members of the household or all other persons who are owners of the property. When the legislature enacted this statute, we were really looking at the income of the residents of the property who are not renters. The original intent of the program was to reach these people. Reading the rule, the provision may include a person who is purchasing the property. The definition is broad and might encompass more people than we intended. He commented that he hopes the department will look at this to see if the definition needs to be made clearer and tightened up a little bit.

Mr. Story explained that when you bring into the definition the income of all other persons who are owners of the property, you might be grabbing the income of people who shouldn't be counted, such as an owner who sold the property under contract. Certain properties sold under contract for deed do not transfer ownership until the contract is paid off, and it is the same with escrows. He further explained that while some people put their property in trusts and are the trustee/beneficiary of that trust, there are other properties put into a trust where the trustee may be a bank, or a management company. I don't think you want their income included.

RESPONSE NO. 1: The department appreciates Mr. Story's participation at the hearing and his comments point out a potential problem. However, the definition for "total household income" is statutory and would require legislative action to change.

Specifically, 15-6-193(4)(d), MCA, states in part that total household income is "the sum of the income of all members of the household and all other persons who are owners of the property" and also states in part that a household is "an association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses. For single-family rental dwellings, total household income does not include the income of the tenant."

Household income varies among the property tax assistance programs and as such the department proposed to include the definitions in rule to help property taxpayers understand the differing eligibility requirements between the programs.

3. The department has amended ARM 42.19.406 as proposed.

4. Upon further review, the department has amended the following rules as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

42.19.401 PROPERTY TAX ASSISTANCE PROGRAM (PTAP) (1) remains as proposed.

(2) The benefit is a reduction in taxable value that applies to the first \$100,000 or less of the taxable market value of any improvement on real property, including trailers, manufactured homes, or mobile homes, and appurtenant land not exceeding five acres owned or under contract for deed and actually occupied for at least seven months a year as the primary residential dwelling of one or more qualified applicants. ~~Buildings used for agricultural purposes do not qualify for the benefit.~~

(3) through (14) remain as proposed.

42.19.405 DEFINITIONS The following definitions apply to rules found in this chapter.

(1) through (7) remain as proposed.

AUTH: 15-1-201, MCA

IMP: 15-6-134, 15-6-193, 15-30-2101, MCA

42.19.501 PROPERTY TAX EXEMPTION FOR QUALIFIED DISABLED VETERANS (1) remains as proposed.

(2) The exemption applies to any residential improvement on real property, including trailers, manufactured homes, or mobile homes, and appurtenant land, not to exceed five acres, that is owned and occupied by a veteran or a veteran's spouse provided for in 15-6-211, MCA. ~~Land in excess of five acres and buildings used for agricultural purposes will not be exempt.~~

(3) through (14) remain as proposed.

5. An electronic copy of this notice is available on the department's web site, revenue.mt.gov. Select the "Resources" tab at the top of the homepage and then locate the "Adoption Notices" section below. The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed

in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. While the department also strives to keep its web site accessible at all times, in some instances it may be temporarily unavailable due to system maintenance or technical problems.

/s/ Laurie Logan
LAURIE LOGAN
Rule Reviewer

/s/ Mike Kadas
MIKE KADAS
Director of Revenue

Certified to the Secretary of State on February 18, 2014

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.

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 September 30, 2013. This table includes those rules adopted during the period October 1, 2013, through December 31, 2013, 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 September 30, 2013, this table, and the table of contents of this issue of the MAR.

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 2013/2014 Montana Administrative Register.

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

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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 January 2014 appear. Vacancies scheduled to appear from March 1, 2014 through May 31, 2014, 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 February 1, 2014.

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 JANUARY 2014

| <u>Appointee</u> | <u>Appointed by</u> | <u>Succeeds</u> | <u>Appointment/End Date</u> |
|--|---------------------|-----------------|-----------------------------|
| Historic Preservation Review Board (Historical Society) | | | |
| Ms. Carol Bronson Great Falls | Governor | Matlock | 1/3/2014 10/1/2017 |
| Qualifications (if required): Public Representative | | | |
| Judicial Nomination Commission (Justice) | | | |
| Mrs. Nancy Zadick Great Falls | Governor | Tuss | 1/3/2014 1/1/2018 |
| Qualifications (if required): Public Representative | | | |
| Local Government Advisory Council (Revenue) | | | |
| Commissioner Carol Brooker Plains | Director | Not Listed | 1/24/2014 12/31/2015 |
| Qualifications (if required): Governance, taxation, finance & budgetary issue expertise for Local Govt, Schools or Tribe | | | |
| Ms. Kim Buchanan Bozeman | Director | Not Listed | 1/24/2014 12/31/2015 |
| Qualifications (if required): Governance, taxation, finance & budgetary issue expertise for Local Govt, Schools or Tribe | | | |
| Mr. Greg Chilcott Hamilton | Director | Not Listed | 1/24/2014 12/31/2015 |
| Qualifications (if required): Governance, taxation, finance & budgetary issue expertise for Local Govt, Schools or Tribe | | | |
| Ms. Paulette DeHart Helena | Director | Not Listed | 1/24/2014 12/31/2015 |
| Qualifications (if required): Governance, taxation, finance & budgetary issue expertise for Local Govt, Schools or Tribe | | | |

BOARD AND COUNCIL APPOINTEES FROM JANUARY 2014

| <u>Appointee</u> | <u>Appointed by</u> | <u>Succeeds</u> | <u>Appointment/End Date</u> |
|--|---------------------|-----------------|-----------------------------|
| Local Government Advisory Council (Revenue) cont. | | | |
| Mr. Jerry Jimison Glendive | Director | Not Listed | 1/24/2014 12/31/2015 |
| Qualifications (if required): Governance, taxation, finance & budgetary issue expertise for Local Govt, Schools or Tribe | | | |
| Mr. Doug Kaercher Havre | Director | Not Listed | 1/24/2014 12/31/2015 |
| Qualifications (if required): Governance, taxation, finance & budgetary issue expertise for Local Govt, Schools or Tribe | | | |
| Ms. Carole Lankford Pablo | Director | Not Listed | 1/24/2014 12/31/2015 |
| Qualifications (if required): Governance, taxation, finance & budgetary issue expertise for Local Govt, Schools or Tribe | | | |
| Ms. Donnie McVee Laurel | Director | Not Listed | 1/24/2014 12/31/2015 |
| Qualifications (if required): Governance, taxation, finance & budgetary issue expertise for Local Govt, Schools or Tribe | | | |
| Ms. Betty Romo Wolf Point | Director | Not Listed | 1/24/2014 12/31/2015 |
| Qualifications (if required): Governance, taxation, finance & budgetary issue expertise for Local Govt, Schools or Tribe | | | |
| Ms. Christina Volek Billings | Director | Not Listed | 1/24/2014 12/31/2015 |
| Qualifications (if required): Governance, taxation, finance & budgetary issue expertise for Local Govt, Schools or Tribe | | | |
| Mr. Jason Wiener Missoula | Director | Not Listed | 1/24/2014 12/31/2015 |
| Qualifications (if required): Governance, taxation, finance & budgetary issue expertise for Local Govt, Schools or Tribe | | | |

BOARD AND COUNCIL APPOINTEES FROM JANUARY 2014

| <u>Appointee</u> | <u>Appointed by</u> | <u>Succeeds</u> | <u>Appointment/End Date</u> |
|--|---------------------|-----------------|-----------------------------|
| Small Business Compliance Assistance Advisory Council (Environmental Quality) | | | |
| Ms. Michelle Bryan Mudd Missoula | Governor | reappointed | 1/3/2014 5/1/2016 |
| Qualifications (if required): Public Representative | | | |
| Ms. Diana Vanek Bozeman | Governor | reappointed | 1/3/2014 5/1/2016 |
| Qualifications (if required): Public Representative | | | |
| State Lottery Commission (Administration) | | | |
| Rep. Cynthia Hiner Deer Lodge | Governor | reappointed | 1/3/2014 1/1/2018 |
| Qualifications (if required): Public Representative | | | |
| Mr. Tom Keegan Helena | Governor | reappointed | 1/3/2014 1/1/2018 |
| Qualifications (if required): Attorney | | | |
| Western Interstate Commission for Higher Education (Governor) | | | |
| Rep. Franke Wilmer Bozeman | Governor | Gillan | 1/3/2014 6/19/2014 |
| Qualifications (if required): Legislator | | | |

VACANCIES ON BOARDS AND COUNCILS -- MARCH 1, 2014 THROUGH MAY 31, 2014

| <u>Board/current position holder</u> | <u>Appointed by</u> | <u>Term end</u> |
|---|---------------------|-----------------|
| 9-1-1 Advisory Council (Administration) | | |
| Mr. Joe Calnan, Montana City Qualifications (if required): Montana State Volunteer Fire Fighters Association | Director | 5/1/2014 |
| Mr. Kevin Myhre, Lewistown Qualifications (if required): Montana League of Cities and Towns | Director | 5/1/2014 |
| Ms. Kim Burdick, Fort Benton Qualifications (if required): Association of Public Safety Communications Officials (APCO) | Director | 5/1/2014 |
| Sheriff Leo C. Dutton, Helena Qualifications (if required): Montana Sheriffs and Peace Officers Association | Director | 5/1/2014 |
| Commissioner Gary A. Macdonald, Wolf Point Qualifications (if required): Montana Association of Counties (MACO) | Director | 5/1/2014 |
| Ms. Joanna Hamilton, Hamilton Qualifications (if required): Public Safety Answering Point (PSAP Representative for populations of more than 30,000 | Director | 5/1/2014 |
| Ms. Peggy Hartwell, no city listed Qualifications (if required): Public Safety Answering Point (PSAP) Representative for populations of 30,000 or less | Director | 5/1/2014 |
| Mr. Justin Grohs, Great Falls Qualifications (if required): Montana Emergency Medical Services Association | Director | 5/1/2014 |
| Mr. Rick Musson, Laurel Qualifications (if required): Montana Association of Chiefs of Police | Director | 5/1/2014 |

VACANCIES ON BOARDS AND COUNCILS -- MARCH 1, 2014 THROUGH MAY 31, 2014

| <u>Board/current position holder</u> | <u>Appointed by</u> | <u>Term end</u> |
|--|---------------------|-----------------|
| 9-1-1 Advisory Council (Administration) cont. Mr. Jeff Miller, Butte Qualifications (if required): Montana State Fire Chiefs Association | Director | 5/1/2014 |
| Mr. Ed Aufer, Hardin Qualifications (if required): Association of Disaster & Emergency Services Coordinators | Director | 5/1/2014 |
| Board of Architects and Landscape Architects (Labor and Industry) Mr. Bayliss Ward, Bozeman Qualifications (if required): registered architect with three years continuous practice | Governor | 3/27/2014 |
| Board of Dentistry (Labor and Industry) Ms. Jennifer Porter, Bozeman Qualifications (if required): dental hygienist | Governor | 3/29/2014 |
| Dr. Dale R. Chamberlain, Lewistown Qualifications (if required): dentist | Governor | 3/29/2014 |
| Board of Hail Insurance (Agriculture) Mr. Gary Gollehon, Brady Qualifications (if required): public member | Governor | 4/18/2014 |
| Board of Nursing Home Administrators (Labor and Industry) Mr. Loren Hines, Butte Qualifications (if required): representative of an institution caring for chronically ill or aged | Governor | 5/28/2014 |

VACANCIES ON BOARDS AND COUNCILS -- MARCH 1, 2014 THROUGH MAY 31, 2014

| <u>Board/current position holder</u> | <u>Appointed by</u> | <u>Term end</u> |
|---|---------------------|-----------------|
| Board of Plumbers (Labor and Industry) Mr. Timothy E. Regan, Miles City Qualifications (if required): master plumber | Governor | 5/4/2014 |
| Mr. Olaf Stimac, Great Falls Qualifications (if required): journeyman plumber | Governor | 5/4/2014 |
| Board of Real Estate Appraisers (Labor and Industry) Mr. Todd Schmidt, Kalispell Qualifications (if required): real estate appraiser | Governor | 5/1/2014 |
| Ms. Anzarina Moore, Great Falls Qualifications (if required): real estate appraiser | Governor | 5/1/2014 |
| Mr. Thomas G. Stevens, Missoula Qualifications (if required): real estate appraiser | Governor | 5/1/2014 |
| Mr. George Simek, Billings Qualifications (if required): real estate appraiser | Governor | 5/1/2014 |
| Board of Realty Regulation (Labor and Industry) Mr. Stephen Hess, Butte Qualifications (if required): public representative and identifies himself as a Democrat | Governor | 5/9/2014 |
| Board of Water Well Contractors (Natural Resources and Conservation) Mr. Jeffrey Herrick, no city listed Qualifications (if required): representative on the Board of Water Well Contractors | Director | 3/19/2014 |

VACANCIES ON BOARDS AND COUNCILS -- MARCH 1, 2014 THROUGH MAY 31, 2014

| <u>Board/current position holder</u> | <u>Appointed by</u> | <u>Term end</u> |
|---|---------------------|-----------------|
| Family Support Services Advisory Council (Public Health and Human Services) | | |
| Ms. Sylvia Danforth, Miles City Qualifications (if required): provider representative | Governor | 4/9/2014 |
| Ms. Cristin Volinkaty, Missoula Qualifications (if required): provider representative | Governor | 4/9/2014 |
| Ms. Lucy Hart-Paulson, Missoula Qualifications (if required): language therapist | Governor | 4/9/2014 |
| Ms. Novelene Martin, Miles City Qualifications (if required): parent representative | Governor | 4/9/2014 |
| Mr. Ronald Herman, Helena Qualifications (if required): agency representative | Governor | 4/9/2014 |
| Mr. Verne Beffert, Livingston Qualifications (if required): special education representative | Governor | 4/9/2014 |
| Ms. Dawn Piazzzi, Helena Qualifications (if required): agency representative | Governor | 4/9/2014 |
| Ms. Beverly Hertweck, Helena Qualifications (if required): agency representative | Governor | 4/9/2014 |
| Ms. Danni McCarthy, Helena Qualifications (if required): agency representative | Governor | 4/9/2014 |

VACANCIES ON BOARDS AND COUNCILS -- MARCH 1, 2014 THROUGH MAY 31, 2014

| <u>Board/current position holder</u> | <u>Appointed by</u> | <u>Term end</u> |
|--|---------------------|-----------------|
| Family Support Services Advisory Council (Public Health and Human Services) cont. Rep. Jean Price, Great Falls Qualifications (if required): legislator | Governor | 4/9/2014 |
| Ms. McKee Laura, Billings Qualifications (if required): parent | Governor | 4/9/2014 |
| Ms. Elizabeth Jones, Kalispell Qualifications (if required): parent representative | Governor | 4/9/2014 |
| Ms. Lucy Hart-Paulson, Missoula Qualifications (if required): provider representative | Governor | 4/9/2014 |
| Ms. Laura Copp, Bozeman Qualifications (if required): representative for the School for the Deaf & Blind | Governor | 4/9/2014 |
| Ms. Brittany McKenzie, Hamilton Qualifications (if required): Head Start/Early Head Start representative | Governor | 4/9/2014 |
| Ms. Norma Zelzer, Great Falls Qualifications (if required): family support specialist | Governor | 4/9/2014 |
| Library Commission (Higher Education) Mr. Richard Quillin, Whitefish Qualifications (if required): public representative | Governor | 5/22/2014 |
| Ms. Lee Phillips, Butte Qualifications (if required): public representative | Governor | 5/22/2014 |

VACANCIES ON BOARDS AND COUNCILS -- MARCH 1, 2014 THROUGH MAY 31, 2014

| <u>Board/current position holder</u> | <u>Appointed by</u> | <u>Term end</u> |
|--|---------------------|-----------------|
| <p>MSU Northern Local Executive Board (University System) Rep. John L. Musgrove, Havre Qualifications (if required): public representative</p> | Governor | 4/15/2014 |
| <p>Montana Arts Council (Governor) Mr. Rick Johnson, Kalispell Qualifications (if required): nominated by an Adolescent Treatment Program</p> | Governor | 4/19/2014 |
| <p>Montana Cherry Commodity Advisory Committee (Agriculture) Ms. Tanya Campbell, no city listed Qualifications (if required): none specified</p> | Director | 5/3/2014 |
| <p>Mr. Cody Herring, Big Fork Qualifications (if required): none specified</p> | Director | 5/3/2014 |
| <p>Montana Heritage Preservation and Development Commission (Commerce) Rep. Bob Lawson, Whitefish Qualifications (if required): public representative</p> | Governor | 5/23/2014 |
| <p>Mr. Paul Tuss, Havre Qualifications (if required): Tourism Advisory Council representative</p> | Governor | 5/23/2014 |
| <p>Ms. Cynthia Andrus, Bozeman Qualifications (if required): representative of the Tourism Advisory Council</p> | Governor | 5/23/2014 |
| <p>General James Womack, Dillon Qualifications (if required): Montana historian</p> | Governor | 5/23/2014 |

VACANCIES ON BOARDS AND COUNCILS -- MARCH 1, 2014 THROUGH MAY 31, 2014

| <u>Board/current position holder</u> | <u>Appointed by</u> | <u>Term end</u> |
|---|---------------------|-----------------|
| Montana Heritage Preservation and Development Commission (Commerce) cont. Dr. Timothy Lehman, Billings Qualifications (if required): Montana historian | Governor | 5/23/2014 |
| Montana Small Business Development Center Advisory Council (Commerce) Mr. Andy Poole, Helena Qualifications (if required): none specified | Director | 4/3/2014 |
| Mr. Joe McClure, Billings Qualifications (if required): none specified | Director | 4/3/2014 |
| Mr. John Cech, Billings Qualifications (if required): none specified | Director | 4/3/2014 |
| Mr. Tony Ennenga, Kalispell Qualifications (if required): none specified | Director | 4/3/2014 |
| Mr. Kevin Keeler, Helena Qualifications (if required): none specified | Director | 4/3/2014 |
| Ms. Carla Lott, Helena Qualifications (if required): none specified | Director | 4/3/2014 |
| Ms. Lisa Ballard, Bozeman Qualifications (if required): none specified | Director | 4/3/2014 |
| Mr. Dave Glaser, Missoula Qualifications (if required): none specified | Director | 4/3/2014 |

VACANCIES ON BOARDS AND COUNCILS -- MARCH 1, 2014 THROUGH MAY 31, 2014

| <u>Board/current position holder</u> | <u>Appointed by</u> | <u>Term end</u> |
|---|---------------------|-----------------|
| Montana Small Business Development Center Advisory Council (Commerce) cont. Ms. Carol Cunningham, Polson Qualifications (if required): none specified | Director | 4/3/2014 |
| Mr. Peter Christ, Red Lodge Qualifications (if required): none specified | Director | 4/3/2014 |
| Montana State University - Billings (University System) Mr. Jeremy Seidlitz, Billings Qualifications (if required): public representative | Governor | 4/15/2014 |
| Montana State University - Bozeman (University System) Mr. Bill Bryan, Bozeman Qualifications (if required): public representative | Governor | 4/15/2014 |
| Montana State University - Great Falls College of Technology (University System) Mr. Dave Pierce, Billings Qualifications (if required): public representative | Governor | 4/15/2014 |
| Potato Commodity Advisory Council (Agriculture) Mr. Sid Schutter, Manhattan Qualifications (if required): potato producer | Director | 5/20/2014 |
| Mr. Roger Starkel, Ronan Qualifications (if required): none specified | Director | 5/20/2014 |

VACANCIES ON BOARDS AND COUNCILS -- MARCH 1, 2014 THROUGH MAY 31, 2014

| <u>Board/current position holder</u> | <u>Appointed by</u> | <u>Term end</u> |
|--|---------------------|-----------------|
| Private Alternative Adolescent Residential or Outdoor Programs Board (Governor) Rep. Tim Callahan, Great Falls Qualifications (if required): public member | Governor | 4/19/2014 |
| Mr. John Santa, Marion Qualifications (if required): representative of a residential adolescent program (large size) | Governor | 4/19/2014 |
| Ms. Darcie Kelly, Helena Qualifications (if required): public member | Governor | 4/19/2014 |
| Ms. Penny James, Trout Creek Qualifications (if required): representative of a residential adolescent program (medium size) | Governor | 4/19/2014 |
| Mr. Michael Chism, Thompson Falls Qualifications (if required): representative of a residential adolescent program (small size) | Governor | 4/19/2014 |
| Public Employees Retirement Board (Administration) Mr. Patrick McKittrick, Great Falls Qualifications (if required): having experience in investment management | Governor | 4/1/2014 |
| Mr. Terrence Smith, Bozeman Qualifications (if required): public employee in the defined contribution plan | Governor | 4/1/2014 |
| Mr. Bob Bugni, East Helena Qualifications (if required): experienced in investment management | Governor | 4/1/2014 |
| Mr. Wilbert Lee Smith Jr., Great Falls Qualifications (if required): public employee/active in retirement system | Governor | 3/19/2014 |

VACANCIES ON BOARDS AND COUNCILS -- MARCH 1, 2014 THROUGH MAY 31, 2014

| <u>Board/current position holder</u> | <u>Appointed by</u> | <u>Term end</u> |
|--|---------------------|-----------------|
| <p>University of Montana - Helena College of Technology (University System) Mr. Philip Campbell, Helena Qualifications (if required): public representative</p> | Governor | 4/15/2014 |
| <p>University of Montana - Missoula (University System) Mayor John Engen, Missoula Qualifications (if required): public representative</p> | Governor | 4/15/2014 |
| <p>University of Montana - Montana Tech (University System) Mr. Doug Peoples, Butte Qualifications (if required): public representative</p> | Governor | 4/15/2014 |
| <p>University of Montana - Western (University System) Ms. Mary Ann Nicholas, Dillon Qualifications (if required): public representative</p> | Governor | 4/15/2014 |
| <p>Youth Justice Council (Justice) Judge Pedro Hernandez, Billings Qualifications (if required): representative of law enforcement</p> | Governor | 3/6/2014 |
| <p>Ms. Katie Champion, Bozeman Qualifications (if required): representative of private non-profit agencies</p> | Governor | 3/6/2014 |
| <p>Mr. Tim Brurud, Havre Qualifications (if required): representative of private non-profit agencies</p> | Governor | 3/6/2014 |
| <p>Mr. Larry Dunham, Condon Qualifications (if required): volunteer who works with delinquents</p> | Governor | 3/6/2014 |

VACANCIES ON BOARDS AND COUNCILS -- MARCH 1, 2014 THROUGH MAY 31, 2014

| <u>Board/current position holder</u> | <u>Appointed by</u> | <u>Term end</u> |
|--|---------------------|-----------------|
| Youth Justice Council (Justice) cont. Mr. Adam Stern, Livingston Qualifications (if required): local elected official | Governor | 3/6/2014 |
| Mr. Nick Korthais, Townsend Qualifications (if required): representative of law enforcement | Governor | 3/6/2014 |
| Mr. Roy Tanniehill, Helena Qualifications (if required): representative of law enforcement | Governor | 3/6/2014 |
| Ms. Laura Bomboy Singley, Lewistown Qualifications (if required): representative of law enforcement | Governor | 3/6/2014 |
| Ms. Jilyn Oliveira, Helena Qualifications (if required): representative of public agencies | Governor | 3/6/2014 |
| Ms. Cindy McKenzie, Helena Qualifications (if required): representative of public agencies | Governor | 3/6/2014 |
| Ms. Leah Heffelfinger, East Helena Qualifications (if required): youth representative | Governor | 3/6/2014 |
| Mr. Nolan Cavanaugh, East Helena Qualifications (if required): youth representative | Governor | 3/6/2014 |
| Mr. Chaz McGurn, Helena Qualifications (if required): youth representative | Governor | 3/6/2014 |

VACANCIES ON BOARDS AND COUNCILS -- MARCH 1, 2014 THROUGH MAY 31, 2014

| <u>Board/current position holder</u> | <u>Appointed by</u> | <u>Term end</u> |
|---|---------------------|-----------------|
| Youth Justice Council (Justice) cont. Ms. Elinor Nault, Box Elder Qualifications (if required): competency in addressing problems facing youth | Governor | 3/6/2014 |
| Ms. Pamela Carbonari, Kalispell Qualifications (if required): competency in addressing problems facing youth | Governor | 3/6/2014 |
| Ms. Erika Lindbloom, Lewistown Qualifications (if required): youth representative | Governor | 3/6/2014 |
| Mr. Randy Shipman, Dillon Qualifications (if required): representative of public agencies | Governor | 3/6/2014 |