

MONTANA ADMINISTRATIVE REGISTER

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MONTANA ADMINISTRATIVE REGISTER

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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

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

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

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

TO: All Concerned Persons

1. On April 27, 2019, the Public Employees' Retirement Board proposes to amend the above-stated rules.

2. The Public Employees' Retirement Board will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Montana Public Employee Retirement Administration no later than 5:00 p.m. on April 5, 2019, to advise us of the nature of the accommodation that you need. Please contact Kris Vladic, Montana Public Employee Retirement Administration, P.O. Box 200131, Helena, Montana, 59620-0131; telephone (406) 444-2578; fax (406) 444-5428; TDD (406) 444-1421; or e-mail kvladic@mt.gov.

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

2.43.3502 ADOPTION OF INVESTMENT POLICY STATEMENT AND
STABLE VALUE FUND INVESTMENT GUIDELINES (1) The board adopts and incorporates by reference the State of Montana 401(a) Defined Contribution Plan Investment Policy Statement approved by the board on February 8, ~~2018~~ 14, 2019. The Investment Policy Statement provides investment guidelines for the defined contribution plan, a long-term retirement-savings vehicle that permits participants to invest employer and participant contributions on a tax-deferred basis. The investment guidelines help the board to meet its fiduciary responsibilities to evaluate and positively influence the direction of the plan and its investments for the benefit of the plan participants and beneficiaries.

(2) and (3) remain the same.

AUTH: 19-3-2104, MCA

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

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

Investment Policy Statement approved by the board on February 8, ~~2018~~ 14, 2019. The Investment Policy Statement provides investment guidelines for the 457(b) deferred compensation plan, a supplemental retirement-savings vehicle that permits participants to invest on either a pre-tax or a tax-deferred basis. The investment guidelines help the board to meet its fiduciary responsibilities to evaluate and positively influence the direction of the plan and its investments for the benefit of the plan participants and beneficiaries.

(2) and (3) remain the same.

AUTH: 19-50-102, MCA

IMP: 19-50-102, MCA

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

Pursuant to the recommendation of the board's investment consultant, Buck, and the board's advisory committee, the Employee Investment Advisory Council, the board amended the investment policy statements on February 14, 2019, to eliminate reference to brokerage options as neither plan allows brokerage options. A second amendment replaces arcane industry-specific terminology with common terminology explaining that investment options should provide a member or participant the ability to impact both the potential return and the degree of risk in their individual portfolios. The board believes this language is easier to understand and provides clearer guidance to participants regarding investment option goals.

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

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

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Montana Public Employee Retirement Administration, P.O. Box 200131, Helena, Montana, 59620-0131; telephone (406) 444-3154; fax (406) 444-5428; or e-mail mpera@mt.gov, and must be received no later than 5:00 p.m., April 12, 2019.

5. If persons who are directly affected by the proposed amendments wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments they have to Kris Vladic at the above address no later than 5:00

p.m., April 12, 2019.

6. If the Public Employees' Retirement Board receives requests for a public hearing on the proposed amendments from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed amendment; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 1,341 persons based on approximately 4,080 participants in the Defined Contribution Retirement Plan and 9,339 participants in the 457(b) Deferred Compensation Plan as of June 30, 2018, for a total of 13,419 participants.

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

8. 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 Public Employees' Retirement Board has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Melanie A. Symons

Melanie A. Symons
Chief Legal Counsel
and Rule Reviewer

/s/ Marty Tuttle

Marty Tuttle
President
Public Employees' Retirement Board

Certified to the Secretary of State March 5, 2019.

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the adoption of New	)	NOTICE OF PUBLIC HEARING ON
Rules I, II, III, and IV and the	)	PROPOSED ADOPTION AND
amendment of ARM 4.12.3104 and	)	AMENDMENT
4.19.101 through 4.19.106 pertaining)	
to hemp)	

TO: All Concerned Persons

1. On April 9, 2019, at 10:00 a.m., the Department of Agriculture will hold a public hearing in Room 225 of the Scott Hart Building, at 302 N. Roberts, Helena, Montana, to consider the proposed adoption and amendment of the above-stated rules.

2. The Department of Agriculture will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Agriculture no later than 5:00 p.m. on April 5, 2019, to advise us of the nature of the accommodation that you need. Please contact Cort Jensen, Department of Agriculture, P.O. Box 200201, Helena, Montana, 59620-0201; telephone (406) 444-3156; fax (406) 444-5409; or e-mail agr@mt.gov.

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

NEW RULE I HEMP VARIETY (1) Applicants must inform the department of what varieties they are planting and the location of each variety by sending the information to the department.

(2) The department will send the full Montana State Hemp License for the year after receiving variety information from the applicant.

(3) The department will utilize a four-category system, found in [NEW RULE II], to determine the amount of testing required and frequency of random sampling.

(4) Persons distributing hemp seeds for planting must comply with the Montana Agricultural Seed and Patented Plant Material Act, excluding exemptions listed in 80-5-130(4), MCA.

(5) Clones of industrial hemp plants may be approved for commercial production of industrial hemp. Clones are in the same category as their parent plant. Clones must comply with the Montana Disease, Pest and Weed Control Act, and additional documentation may be required for interstate shipments.

(6) The department will publish an annual list of approved varieties for planting in the current license season by March 1 each year.

AUTH: 80-18-107, MCA

IMP: 80-18-102, 80-18-103, 80-18-106, MCA

Reason: Although industrial hemp is no longer a DEA regulated controlled substance, the growing of hemp and hemp products, including seed for planting, is still regulated by state and federal regulations. Additionally, most forms of industrial hemp, including planting seeds and the plants grown from seed, are indistinguishable from marijuana without laboratory testing. To help assure that only approved industrial hemp seeds are distributed for the industrial hemp program, the department needs to review the varieties being proposed for planting in Montana's hemp program. This includes any amount of seed and propagative plant parts (clones).

An element of consumer protection is provided by these regulations which sufficiently monitor seed quality, differentiate between hemp and marijuana plants, and comply with the 2018 Farm Bill and state plan pending approval by the USDA.

New Rule I (Hemp Variety) is an updated version of New Rule I (Hemp Planting Seed) proposed in MAR Notice No. 4-19-254 and published on page 75 of Issue No. 2 of the 2019 Montana Administrative Register. While revisions were made to this new rule, the main principles remain the same. The department will not adopt the rules proposed in MAR Notice No. 4-19-254 but intends to adopt the rules proposed in MAR Notice No. 4-19-255.

Economic Impact: Additional resources are necessitated by department staff to review new seed varieties as well as ensure compliance with Montana's hemp regulations and the 2018 Farm Bill. Although it is difficult to determine precisely, the department estimates this work will require 2.0 FTE. The cost for personnel services based on two Environmental Science Specialist positions is \$134,729 annually.

NEW RULE II HEMP VARIETY CATEGORIES (1) Categories will be as follows: Category A are varieties formally approved by the department, Category B are certified varieties approved by other states or countries at a level equivalent to the department, Category C are all other hemp varieties that an applicant reasonably believes will not produce a plant with over 0.3 percent THC at any time prior to harvest and are not in Category D, and Category D includes all varieties forbidden by any federal law or regulation or added by rule by the department because of its inability to consistently produce hemp.

(a) Category A: CFX-1, CFX-2, CRS-1, Canda, Carmagnola, Carmagnola Select, Fedora 17, Grandi, Joey, Katani, Picolo.

(b) Category B: Altair, Alyssa, Angie, Anka, Armanca, Asso, B 11, Beniko, Bialobrzieskie, C S, CanMa, Cannakomp, Carma, Carmen, Carmaleonte, Chameleon, Codimono, CHA, CHY, Crag, Dacia Secuieni, Debbie, Delores, Delta 405, Deltallosa, Denise, Diana, Dioca 88, Deni, ESTA-1, Eco Aglegra, Eco Nebliss, Eletta Campana, Epsilon 68, Elite, Fasamo, Fedrina 74, Felina 32, Felina 34, Ferimon, Fibrol, Fibranova, Fibrante, Fibriko, Fibrimon 24, Fibrimon 56, Finola, Futura 75, Georgina, GranMa, Glecia, Giana, Helena, Henola, Hiration, IDA-0103, Ivory, Judy, Jutta, KC Bonusz, KC Dora, KC Virtus, KC Zuzana, Kompolti, Kompolti Hibrid TC, Kompolti Sargaszaru, Laura Secord, Lipko, Lovrin 110, Marcell, Marina, Markant, Martha, Medicine Mother, Monoica, Nadine, Novosadska, Petera,

Quida, Rajan, Ratza, Santhica 23, Santhica 27, Santhica 70, Secuieni Jubileu, Silesia, Silistrenski, Silvana, Succesiv, Szarvasi, Tiborszálási, Tisza, Tygra, UC-RGM, USO 14, USO 31, Uniko B, VC Star, Victoria, Villanova, Wojko, X-59 (Hemp Nut), Yvonne, Zenit, Zolotonosha 11, Zolotonosha 15.

(c) Category C: All other hemp varieties that an applicant reasonably believes will not produce a plant with over 0.3 percent THC at any time prior to harvest and is not listed in Category D.

(d) Category D: Any varieties forbidden by any federal law or regulation.

AUTH: 80-18-107, MCA

IMP: 80-18-102, 80-18-103, 80-18-106, MCA

Reason: In order to create a regulatory framework now and for the future, a system is necessary to both exclude some varieties (Category D) and define some varieties that require less testing (Categories A and B) by the department. This list will be modified as more information becomes known about hemp. The department will publish and/or update a categorized list of varieties by March 1 each year, per New Rule I(6).

New Rule II was not included in MAR Notice No. 4-19-254 (page 75, 2019 Issue No. 2) which necessitates this proposal, MAR Notice No. 4-19-255. The department will not adopt the rules proposed in MAR Notice No. 4-19-254 but intends to adopt the rules proposed in MAR Notice No. 4-19-255.

No fiscal impact is associated with New Rule II.

NEW RULE III PROHIBITION ON GROWING BOTH HEMP AND MEDICAL MARIJUANA (1) A licensed hemp grower in Montana may not grow both hemp and medical marijuana at the same location unless one is grown indoors and the other is grown outdoors or both are grown in separate buildings at the same location.

AUTH: 80-18-107, MCA

IMP: 80-18-102, 80-18-103, 80-18-106, MCA

Reason: The ability to cross-pollinate could create situations in which entire hemp crops would have to be disposed of to comply with state and federal laws. This rule is a reasonable compromise to prevent that circumstance.

New Rule III was not included in MAR Notice No. 4-19-254 (page 75, 2019 Issue No. 2) which necessitates this proposal, MAR Notice No. 4-19-255. The department will not adopt the rules proposed in MAR Notice No. 4-19-254 but intends to adopt the rules proposed in MAR Notice No. 4-19-255.

No fiscal impact is associated with New Rule III.

NEW RULE IV HEMP SAMPLING (1) The department may allow a grower to self-sample if the department believes the grower can successfully follow the protocol and it is in the best interest of the department to have the grower do so.

AUTH: 80-18-107, MCA

IMP: 80-18-102, 80-18-103, 80-18-106, MCA

Reason: To run a cost-effective program, it may be appropriate, in some instances, such as high travel distance situations with low risk hemp, to have the grower perform sampling.

New Rule IV was not included in MAR Notice No. 4-19-254 (page 75, 2019 Issue No. 2) which necessitates this proposal, MAR Notice No. 4-19-255. The department will not adopt the rules proposed in MAR Notice No. 4-19-254 but intends to adopt the rules proposed in MAR Notice No. 4-19-255.

Economic Impact: New Rule IV will help control sampling costs, but it is impossible to calculate an exact impact due to the hemp industry being new to Montana.

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

4.12.3104 LABELING FOR SEED KIND AND VARIETY (1) Agricultural seeds ~~shall~~ must be labeled with kind and variety information as stated in this rule:
(a) the following agricultural seeds ~~shall~~ must be labeled to show kind and variety:

- (i) barley;
 - (ii) bean, field;
 - (iii) beet, field;
 - (iv) canola;
 - (v) corn, field;
 - (vi) ~~oats~~ hemp;
 - (vii) ~~peas, field~~ oats;
 - (viii) ~~safflower~~ peas, field;
 - (ix) ~~soybean~~ safflower;
 - (x) ~~sunflower~~ soybean; and
 - (xi) ~~wheat~~ sunflower; and
 - (xii) wheat.
- (b) through (2) remain the same.

AUTH: 80-5-139, MCA

IMP: 80-5-123, MCA

Reason: Although industrial hemp is no longer a DEA regulated controlled substance, the growing of hemp and hemp products, including seed for planting, is still regulated by state and federal regulations. Varietal characteristics can affect seed quality, end-product use, and the amount of regulatory oversight required. To

make sound purchasing decisions, industrial hemp purchasers must know the kind and variety. Knowing the kind and variety allows the Department of Agriculture to review and determine approval for seed varieties as outlined in the pending USDA-state plan. All agricultural seeds require labeling as outlined in the Montana Agricultural Seed Act.

Proposed amendments to ARM 4.12.3104 in MAR Notice No. 4-19-254 (page 75, 2019 Issue No. 2) are identical to these proposed amendments. The department will not adopt the rules proposed in MAR Notice No. 4-19-254 but intends to adopt the rules proposed in MAR Notice No. 4-19-255.

No fiscal impact is associated with the addition of kind and variety as a requirement to a hemp seed.

4.19.101 DEFINITIONS (1) "Clone" means an organism developed asexually from another and genetically identical to it, such as a group of genetically identical plants produced by vegetative propagation, including but not limited to cutting, grafting, or division.

~~(1)(2)~~ (2) "Hemp" means the plant *Cannabis sativa* L. and any part of such plant, whether growing or not, with a delta-nine tetrahydrocannabinol (THC) concentration of not no more than 0.3 percent on a dry weight basis.

~~(3)~~ (3) "Location" means a single location as determined by the Director.

~~(2)(4)~~ (4) "Pilot program" "Montana State Hemp Program" means a program to grow hemp under the regulation of the Montana Department of Agriculture for the purposes of complying with federal law.

~~(3)~~ ~~"Seed repository" means the storage area for those approved varieties of hemp available for sale by the department.~~

~~(4)~~ ~~"Specialty variety" means a variety of hemp that the department has not already made an approved variety or does not currently plan to import for that growing year.~~

(5) "State hemp license" means a license to grow hemp that shows the holder is in compliance with Montana state hemp laws. The holder is also responsible for obeying all applicable federal and tribal regulations.

(6) "Testing" means a testing for the amount of THC, pesticides, or other tests for legal compliance of departmental or federal regulations.

AUTH: 80-18-107, MCA

IMP: 80-18-101, 80-18-102, 80-18-103, 80-18-106, 80-18-107, 80-18-110, 80-18-111, MCA

Reason: Definition additions are necessary to clarify the intent of the new rules.

Minor changes were made to ARM 4.19.101 in this proposal that were not made in MAR Notice No. 4-19-254 (page 75, 2019 Issue No. 2). Additional amendments are necessary to clarify hemp definitions before the growing season. The department will not adopt the rules proposed in MAR Notice No. 4-19-254 but intends to adopt the rules proposed in MAR Notice No. 4-19-255.

No fiscal impact is associated with amendments to ARM 4.19.101.

4.19.102 APPLICATION FOR HEMP LICENSE MONTANA STATE HEMP PROGRAM LICENSE (1) An applicant must:

(a) provide the information required by state law for a hemp license on the form provided by the department;

(b) apply to the department for participation in the program by May 1 unless the department extends the application deadline;

~~(b)(c)~~ pay all fees as established by rule; and

~~(e)(d)~~ consent to entrance of their property by the department to inspect their hemp fields.

(2) If the applicant is not a single individual, then all proper filings with the Secretary of State must be current and in good order.

~~(3) The applicant, including all corporate officers, must be fingerprinted at a law enforcement agency. The law enforcement agency, not the applicant, must send the fingerprint sheet to the department.~~

~~(4)(3)~~ Licenses will expire on the last day of ~~December~~ April following of the year that they are the license is issued for.

~~(5) Renewals do not require new fingerprinting unless the department requests it or if the corporate officers have changed.~~

~~(6)(4)~~ The licensee must also provide all material required under 80-18-106, MCA.

AUTH: 80-18-107, MCA

IMP: 80-18-102, 80-18-103, 80-18-106, MCA

Reason: Changing the license year from January through December to May through April and the license application due date to May 1 aligns better with the hemp growing season. Doing so allows growers more time for seed purchasing and planting decisions. License application and location information submitted by growers in May instead of January will improve the process for submitting information to the department. The fingerprinting requirement is addressed in Montana law and is not required in these rules.

Amendments to ARM 4.19.102 are identical to those proposed in MAR Notice No. 4-19-254 (page 75, 2019 Issue No. 2). The department will not adopt the rules proposed in MAR Notice No. 4-19-254 but intends to adopt the rules proposed in MAR Notice No. 4-19-255.

No fiscal impact is associated with amendments to ARM 4.19.102.

4.19.103 PILOT MONTANA STATE HEMP PROGRAM (1) An applicant to the pilot program Montana State Hemp Program must:

~~(a) have a Montana hemp license;~~

~~(b)(a)~~ not be forbidden from participating by a federal agency and agree to a criminal background check;

~~(c)(b)~~ meet any additional requirements that the ~~DEA~~ USDA or FDA places on the department for the continuation of the program;

~~(d)(c)~~ ~~only obtain seed through the program or program-approved methods~~ not grow Category D varieties listed in [NEW RULE II]; and

~~(e)~~ pay a pilot program participation program fee;

~~(f)~~ if they wish to have the department import a hemp specialty variety, they must pay the specialty variety fee as well; and

~~(g)(d)~~ have applied apply to the department for participation in the program by ~~January 31st~~ May 1 unless the department extends the application deadline.

(2) and (3) remain the same.

AUTH: 80-18-107, MCA

IMP: 80-18-102, 80-18-103, 80-18-106, MCA

Reason: Pilot program rules remain in effect until the USDA approves Montana's state hemp plan. The pilot program name is renamed the Montana State Hemp Program.

No changes were made to (1)(a) through (f) in MAR Notice No. 4-19-254 (page 75, 2019 Issue No. 2). In this proposal, the department amends (1)(a) to include applicant agreement to a criminal background check, removes DEA requirements and replaces with USDA or FDA requirements per the 2018 Farm Bill in (1)(b), and amends (1)(c) to clarify prohibited varieties. Amendments to the application deadline are identical in both proposals. The department will not adopt the rules proposed in MAR Notice No. 4-19-254 but intends to adopt the rules proposed in MAR Notice No. 4-19-255.

No fiscal impact is associated.

4.19.104 FEES (1) The fee for a ~~state hemp license~~ Montana State Hemp License is ~~\$50~~ \$450.

~~(2) The fee for participation in the state pilot program is \$400.~~

~~(3) The special variety fee of the pilot program is \$600.~~

(2) The fee for location registration is \$400 per location of a single owner plus:

(a) \$5 per acre or partial acre outdoors; or

(b) \$0.35 per 1,000 square feet indoors.

(3) The total fees under (2) may not exceed \$10,000.

~~(4) If official sampling is requested by a licensed hemp grower, the fee for providing such a service will be consistent with ARM 4.12.1811.~~

AUTH: 80-18-107, MCA

IMP: 80-18-102, 80-18-103, 80-18-106, MCA

Reason: Section 80-18-107, MCA requires fees be commensurate with department activities for the implementation of the hemp program. Applicants are required to pay \$450 to participate in the Montana State Hemp Program and receive a state license. The acres of commercial hemp grown in Montana increased from zero in 2016 to 21,600 in 2018. Additional revenue is needed to fund the department's increased activities under the 2018 Farm Bill.

MAR Notice No. 4-19-254 (page 75, 2019 Issue No. 2) proposed minor changes to ARM 4.19.104 with no associated fiscal impact. In this proposal, the department includes new fees in (2)(a) through (c) and strikes (3) and (4). The department will not adopt the rules proposed in MAR Notice No. 4-19-254 but intends to adopt the rules proposed in MAR Notice No. 4-19-255.

Economic Impact: \$450 is the current licensing fee amount. Section 80-18-107, MCA requires fees be commensurate with department activities for the implementation of the hemp program.

In 2018, 21,600 acres of commercial hemp were grown on approximately 200 Montana field locations and 6 indoor locations of approximately 400 sq. ft. per location. Using 2018 numbers, this proposed rule change would result in an additional \$190,400.84 in revenue to the department. Assumptions are listed below:

200 field locations x \$400 = \$80,000
21,600 acres x \$5 = \$108,000
6 indoor locations x \$400 = \$2,400
2,400 sq. ft. total x \$0.35 = \$0.84

This is consistent with a two-person unit and the travel, testing, and training required by this commodity.

4.19.105 LAB TESTING FEES (1) The department will charge any licensee or law enforcement agency \$250 per test for THC levels of a plant.

(2) Any lab approved by DPHHS for THC testing for medical marijuana may be used by hemp growers for THC testing.

~~(2)~~(3) The department may approve third party testing providers.

AUTH: 80-18-107, MCA

IMP: 80-18-102, 80-18-103, 80-18-106, MCA

Reason: Amendments were made to lab testing fees to bring consistency in Montana testing options available for MDA and DPHHS.

Amendments to ARM 4.19.105 were not proposed in MAR Notice No. 4-19-254 (page 75, 2019 Issue No. 2), which will not be adopted by the department. The department intends to adopt the rules proposed in MAR Notice No. 4-19-255.

No fiscal impact is associated.

4.19.106 PENALTIES OR REVOCATIONS (1) After notice to the licensee, the department may suspend a license and start an administrative hearing under MAPA for permanent revocation.

(2) The department may suspend or terminate the hemp license for any violation of county, state, or federal law. This will be done in a manner consistent with Section 297 of The Agricultural Marketing Act of 1946 as amended (2018).

(3) The department may reinstate the license if good cause is shown and a reinstatement fee is paid. The reinstatement fee is ~~\$450~~ \$50 for the state hemp license and \$400 for the state pilot program Montana State Hemp Program license.

AUTH: 80-18-107, MCA

IMP: 80-18-101, 80-18-103, 80-18-106, 80-18-107, MCA

Reason: Amendments create consistency in language with the 2018 Farm Bill and the current federal legal situation of hemp.

Amendments to ARM 4.19.106 were not included in MAR Notice No. 4-19-254 (page 75, 2019 Issue No. 2), which will not be adopted by the department. The department intends to adopt the rules proposed in MAR Notice No. 4-19-255.

No fiscal impact is associated.

5. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Cort Jensen, Department of Agriculture, P.O. Box 200201, Helena, Montana, 59620-0201; telephone (406) 444-3156; fax (406) 444-5409; or e-mail agr@mt.gov, and must be received no later than 5:00 p.m., April 15, 2019.

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

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

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

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

/s/ Cort Jensen
Cort Jensen
Rule Reviewer

/s/ Ben Thomas
Ben Thomas
Director
Agriculture

Certified to the Secretary of State March 5, 2019.

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 4.10.101 through 4.10.103,) PROPOSED AMENDMENT
4.10.108, 4.10.401, 4.10.403, and)
4.10.404 pertaining to financial)
responsibility)

TO: All Concerned Persons

1. On April 16, 2019, at 10:00 a.m., the Department of Agriculture will hold a public hearing in Room 225 of the Scott Hart Building, at 302 N. Roberts, in Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Department of Agriculture will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Agriculture no later than 5:00 p.m. on April 12, 2019, to advise us of the nature of the accommodation that you need. Please contact Cort Jensen, Department of Agriculture, P.O. Box 200201, Helena, Montana, 59620-0201; telephone (406) 444-3144; fax (406) 444-5409; or e-mail agr@mt.gov.

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

4.10.101 FINANCIAL RESPONSIBILITIES (1) Applicants Effective January 2021, persons applying for a commercial pesticide applicator's license shall must provide, on forms approved by the department, proof of insurance in the amount required ~~evidence of financial responsibility, establishing ability of applicant and/or his employees, to respond to and indemnify any persons for all damages to their person or property arising out of the use, misuse, or attempted use of application of pesticides, within the financial limits set forth below. Provided, however, that this requirement for financial responsibility has no application to, and cannot be subjected to pay for any injury or damage to the person or property of the landowner hiring the pesticide application. as follows:~~

(a) the minimum insurance financial responsibility shall must be in the amount of \$50,000 ~~one thousand five hundred dollars (\$1,500.00)~~ for aerial applicators, and \$30,000 ~~five hundred dollars (\$500.00)~~ for all other applicators; and

(b) the insurance must cover damages caused by the unintentional violations of the Montana Pesticides Act in MCA Title 80, chapters 1 through 4.

~~(2) The department may require each applicator that experiences or causes chemical accidents or occurrences during one or more licensing periods, to increase his financial responsibility requirement up to and including ten thousand dollars (\$10,000).~~

~~(3) An applicator possessing insurance coverage exceeding the requirements of this rule and its subsections, upon documentation approved by the department, shall be considered as meeting the requirements of this section.~~

~~(4)~~(2) Commercial seed treatment and elevator pest control applicators, whether at farm sites or their own business locations, vertebrate pest control applicators using ground applied baits only, and public utility, and non-commercial applicators applying pesticides in or on properties managed by them are exempt from the financial responsibilities required in ARM 4.10.101 through 4.10.103. Demonstration and research pest-control applicators may be exempt from the financial responsibilities required in ARM 4.10.101 through 4.10.103 upon appropriate application for exemption duly approved by the department. The department will evaluate each applicant's situation as shown on the waiver application considering particularly the following factors: actual pesticide applications used by the applicant, the use of co-operators, the size of plots, and the hazards and drift potential of pesticides utilized. All applicators must ~~shall~~ comply with the requirements in ARM 4.10.104 through 4.10.108, ~~inclusive~~.

~~(5) An applicator whose financial responsibility requirements has been increased, but who has, for two consecutive spray seasons, operated without any pesticide accidents or occurrences of pesticide damage, may make application to the department to be allowed to revert back to the minimum financial requirements of ARM 4.10.101.~~

AUTH: 80-8-105, MCA

IMP: 80-8-214, MCA

Reason: The amended rule transitions the department out of accepting certificate of deposits/bonds as proof of financial responsibility and into using insurance. This move will take effect on January 1, 2021, and will protect farmers and their neighbors who contract for pesticide services. MAR Notice No. 4-18-251 (page 2271, 2018 MAR Issue No. 22) proposed amendments to ARM 4.10.101 but will not be adopted by the department. MAR Notice No. 4-19-256 includes some of the amendments proposed in MAR Notice No. 4-18-251 and other additional amendments deemed necessary following the public hearing held on December 11, 2018, comments received before December 31, 2018, and additional internal review. The department added an effective date of January 2021 for proof of insurance.

Economic Impact: Cost for commercial applicator licenses may be affected for those not already insured, but the exact amount depends on factors outside the department's control.

4.10.102 TYPES AND CONDITIONS OF FINANCIAL RESPONSIBILITY

~~(1) In meeting the financial responsibility requirements of ARM 4.10.101, applicant shall have the option to utilize and provide any one or more of the following means: (a) policy of liability insurance; or (b) a surety bond; or (c) by a deposit of cash, or certificate of deposit, or deposit of bond or other obligations for the payment of which the full faith and credit of the United States or of this state are pledged, and which has the capability of being directly converted to legal tender by this~~

department, and approved by the department, conditioned to indemnify the people of the state of Montana for all damages to property and/or injury or death to any person or persons as set forth in ARM 4.10.101. After a deposit is made pursuant to (c) above, and after a license has been issued conditioned thereon, the deposit may not be withdrawn except with the prior written consent of the department and any unauthorized withdrawal or attempt to so withdraw may subject all persons involved with the withdrawal or any attempt thereof, to a charge violating section 80-8-306 (1) MCA.

~~(a)(1)~~ The insurance policy or surety bond options shall only be approved if issued by an insurance company or bonding company currently qualified to do business in the state of Montana, and which provides must provide for chemical pesticide damage responsibility coverage for each and every chemical or pesticide the applicator may choose to apply.

~~(b)~~ The total aggregate liability of each insurer or surety for claims shall be limited to the face amount of the policy or surety bond, and not exceeding the limits of each applicant under ARM 4.10.101 in the event the face amount of the policy or bond exceeds the required limits, for the current year together with all unresolved or unpaid claims, timely filed, pending from previous calendar years coverage.

~~(2)~~ The department may accept a liability insurance policy in the proper face amount that contains a deductible clause in an amount not to exceed five hundred dollars (\$500.00) for all applicators. The department may allow a deductible greater than \$500 if an application submits documentation that a deductible of \$500 or less is not available from any insurer. This exception shall only be based upon the lack of availability of the established deductible, not the increase or decrease in premium value of a higher deductible. When the deductible is greater than \$500, the applicator shall be required to obtain a bond or an indemnity as specified in ARM 4.10.102 (1) (c) for any amount greater than \$500. If the licensee has not satisfied the requirements of the deductible amount of any prior damage claim, such deductible clause in a currently submitted policy shall not be accepted by the department to satisfy the licensing requirements unless and until the application satisfies the prior damage claim. Insurance policies may have the pollution exclusion clause removed.

~~(3)(2)~~ The financial responsibility requirement imposed by ARM 4.10.101 must be maintained in full force and effect during each entire licensing period, except as provided in ARM 4.10.108. In the event of a lapse, suspension, or termination in the means assuring financial responsibility, the applicator's license(s) shall will automatically terminate, ~~coincidental in time~~ coinciding with the lapse, suspension, or termination of financial responsibility, and the licensee and any employees shall must immediately cease all applications of pesticides, ~~and without further notice~~ shall immediately return to the department, in person or by certified mail, all licenses issued to him and/or his employees for the current calendar year; and failure to so return shall constitute a violation under ARM 4.10.208. In the event a previously licensed applicator whose license(s) was terminated by the provisions of this rule desires to have their his license reissued for the balance of the calendar year, they must notify the department he shall file a new application, accompanied by a new filing fee, and demonstrate, to the satisfaction of the department, that they he once again meet ~~meets~~ the financial responsibility requirements of ARM

4.10.101. ~~and upon~~ Upon re-approval by the department, the applicator's his license(s) may be reissued unless some other legal or regulatory cause exists for non-issuance.

AUTH: 80-8-105, MCA

IMP: 80-8-214, MCA

Reason: Language in ARM 4.10.102 was stricken and modernized to clarify conditions of financial responsibility for licensed applicators as required by ARM 4.10.101. MAR Notice No. 4-18-251 (page 2271, 2018 MAR Issue No. 22) proposed amendments to ARM 4.10.102 but will not be adopted by the department. MAR Notice No. 4-19-256 includes some of the amendments proposed in MAR Notice No. 4-18-251 and other amendments deemed necessary following the public hearing held on December 11, 2018, comments received before December 31, 2018, and additional internal review. No fiscal impact is associated with amendments to ARM 4.10.102.

4.10.103 APPROVAL, MODIFICATION, AND CANCELLATION OF FINANCIAL RESPONSIBILITY ELEMENTS (1) The department ~~shall~~ must ascertain that the means establishing financial responsibility filed by the applicant fully complies with the act, and fully satisfies the rules adopted thereunder, prior to issuance of any license. The information demonstrating financial responsibility ~~shall~~ must be submitted on forms of the type approved by the department. ~~License application approval shall not be granted until a complete copy of the bond, verification of the indemnity trust fund deposit, or a certificate or binder of insurance coverage is filed along with the license application.~~ The licensee ~~shall~~ must provide a complete copy of the insurance policy upon written request of ~~from~~ the department. ~~In the event the applicator options to utilize a liability insurance policy as the means of establishing financial responsibility, then and in that event, the~~ The applicator has the duty and responsibility, to ~~ascertain~~ ensure that the policy ~~proposed to be submitted~~ obtained provides chemical damage coverage for every pesticide proposed to be applied during the licensing period. In the event ~~the~~ applicator's proposed policy of insurance contains exclusions against coverage of one or more ~~chemicals~~ pesticides ~~the~~ applicator proposed to apply, then and in that event, the applicator may submit the proposed insurance policy to provide such coverage as it affords, ~~but the~~ The applicator must, in addition ~~thereto~~, provide evidence of financial responsibility to indemnify the public against ~~chemical~~ pesticide damage arising out of the use, misuse, or attempted use of each and every ~~chemical~~ pesticide proposed to be used or applied which is excluded from coverage of the proposed liability insurance policy. The amount of additional coverage ~~shall~~ must be in the minimum amount required under ARM 4.10.101 ~~and the means to be utilized shall be the options provided in ARM 4.10.102 (1) (b) or (c).~~

(2) The department ~~shall~~ must be notified by registered mail ten ~~(10)~~ days prior to any proposed modification of the liability insurance policy ~~or surety bond~~ requested by the licensee. Such modification must be approved by the department before the proposed modification can become final. ~~Ten (10) A notice of ten days notice by registered mail to the department is also required prior to the surety or an~~

insurer cancelling the licensee's ~~surety bond or liability insurance~~, and prior to settlement of claims made against ~~the licensee's bond or liability insurance~~. ~~Modification of the indemnity trust fund, for any reason by any party, shall not be completed until the department has approved the proposed modification by written authorization to the licensee and the bank, trust, or other financial official or institution.~~

~~(a) If the financial responsibility is to be canceled, the requirements and procedures established in ARM 4.10.108 shall be followed.~~

AUTH: 80-8-105, MCA

IMP: 80-8-214, MCA

REASON: Amendments to ARM 4.10.103 remove language that previously accepted certificate of deposits/bonds as proof of financial responsibility. Applicators will accept proof of financial responsibility using insurance beginning in January 2021. MAR Notice No. 4-18-251 (page 2271, 2018 MAR Issue No. 22) proposed amendments to ARM 4.10.103 but will not be adopted by the department. MAR Notice No. 4-19-256 includes some of the amendments proposed in MAR Notice No. 4-18-251 and other amendments deemed necessary following the public hearing held on December 11, 2018, comments received before December 31, 2018, and additional internal review. No fiscal impact is associated with amendments to ARM 4.10.103.

4.10.108 LICENSING PERIOD (1) The licensing period shall be from the date of license issuance through December 31 of that calendar year. An applicator who applies pesticides seasonally may cancel ~~or put on hold their~~ his financial responsibility (in effect, ~~cancelling his terminating their license~~) ~~sixty (60) days after the date of his the day after their last pesticide application. The sixty (60) day requirement may be waived if his means of providing financial responsibility is such that it provides effective ongoing coverage during the period of time a damage action could be maintained under statute of limitation section 27-2-204 and 27-2-207, MCA.~~

~~(2) An applicator who provides an indemnity trust fund as his means of establishing financial responsibility may cancel his financial responsibility sixty (60) days after the date of his last application. Cancellation of an indemnity trust fund may be accomplished by submitting a notarized statement to the department, for its discretionary approval, declaring that there are no known claims pending or judgement unsatisfied.~~

~~(a) The fact that an applicator obtains a cancellation of his indemnity trust fund in no way is cancels or puts on hold their financial responsibility is not to be construed as absolving an applicator from a suit ~~nor~~ or a claim of damages filed in a court of competent jurisdiction within the time provided by statute of limitation sections 27-2-204 and/or 27-2-207, MCA.~~

AUTH: 80-8-105, MCA

IMP: 80-8-214, MCA

Reason: MAR Notice No. 4-18-251 (page 2271, 2018 MAR Issue No. 22) proposed to repeal ARM 4.10.108 but will not be adopted by the department. MAR Notice No. 4-19-256 proposes to amend ARM 4.10.108 following the public hearing held on December 11, 2018, comments received before December 31, 2018, and additional internal review. No fiscal impact is associated with amendments to ARM 4.10.108.

4.10.401 FARM APPLICATOR CERTIFICATION (1) A farm applicator desiring to use and apply restricted use pesticides ~~shall be~~ is required to make application apply for a special use permit or certificate on a form approved by the department. Each application form ~~shall~~ must be completed in its entirety prior to processing by the department.

(a) Applicants, who have completed the application form, paid the fee, passed the required examination or have attended an approved training course and have taken an ungraded quiz at the conclusion of the course, ~~shall~~ will be issued a certificate by the department to purchase and use restricted use pesticides. Passage of the required examination or attendance at a training course ~~shall qualify~~ qualifies applicators for five consecutive years. The applicator's first requalification and recertification date will be based upon the staggered schedule established for the permit district in which the person resides.

(b) The certificate ~~shall be in effect~~ is effective for five years from the date of issuance to December 31 of the fifth year except as provided in (1)(a). Farm applicators may renew their certification to purchase and use restricted use pesticides by submitting their application and fee to the department.

(c) Training manuals and/or training materials for farm applicators ~~will be~~ are designated approved by the department. If the applicator elects to qualify by examination, these training manuals and/or training materials ~~will~~ serve as the basis for the examination.

(2) The farm applicator examination or training standards, as a minimum requirement, ~~shall~~ must include those set forth in 80-8-209(3), MCA.

(3) The farm applicant passing the examination or attending an approved training course ~~shall be~~ is certified to use restricted use pesticides for the purpose of producing agricultural commodities. The passing examination score ~~shall be~~ is 70%.

(4) Certified farm applicators ~~shall requalify for certification~~ must recertify to use restricted use pesticides ~~prior to issuance of a certificate~~. Requalification Recertification may be achieved by passing an examination or by ~~attending~~ earning ~~six hours~~ credits of training approved by the department. ~~Each farm applicator qualification period shall conform to the established staggered system set forth in this rule. The qualification period of each district ends December 31 of the year indicated and every five years thereafter. A listing of counties within each district follows:~~ The certification period is determined by the county and district the farm applicator resides in, and the established recertification year for each district. The districts are staggered on a five-year rotation, and the recertification period ends on December 31 of the fifth year. The districts and the counties within are listed below:

(a) DISTRICT I: Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli, and Sanders;

(b) DISTRICT II: Beaverhead, Broadwater, Deer Lodge, Gallatin, Granite, Jefferson, Lewis and Clark, Madison, Meagher, Park, Powell, and Silver Bow;

(c) DISTRICT III: Blaine, Cascade, Choteau, Glacier, Hill, Liberty, Pondera, Teton, and Toole;

(d) DISTRICT IV: Carter, Custer, Daniels, Dawson, Fallon, Garfield, McCone, Phillips, Powder River, Prairie, Richland, Roosevelt, Rosebud, Sheridan, Treasure, Valley, and Wibaux;

(e) DISTRICT V: Big Horn, Carbon, Fergus, Golden Valley, Judith Basin, Musselshell, Petroleum, Stillwater, Sweet Grass, Wheatland, and Yellowstone.

DISTRICT I — 2013

Flathead	Missoula
Lake	Ravalli
Lincoln	Sanders
Mineral	

DISTRICT II — 2009

Beaverhead	Lewis and Clark
Broadwater	Madison
Deer Lodge	Meagher
Gallatin	Park
Granite	Powell
Jefferson	Silver Bow

DISTRICT III — 2010

Blaine	Liberty
Cascade	Pondera
Chouteau	Teton
Glacier	Toole
Hill	

DISTRICT IV — 2011

Carter	Prairie
Custer	Richland
Daniels	Roosevelt
Dawson	Rosebud
Fallon	Sheridan
Garfield	Treasure
McCone	Valley
Phillips	Wibaux
Powder River	

DISTRICT V — 2012

Big Horn	Petroleum
Carbon	Stillwater
Fergus	Sweet Grass
Golden Valley	Wheatland
Judith Basin	Yellowstone
Musselshell	

AUTH: 80-8-105, MCA
IMP: 80-8-105, 80-8-209, MCA

Reason: Amendments to ARM 4.10.401 clarify language and simplify the district and county format. These amendments were not included in MAR Notice No. 4-18-251 (page 2271, 2018 MAR Issue No. 22) which necessitates this proposal, MAR Notice No. 4-19-256. The department will not adopt the rules proposed in MAR Notice No. 4-18-251 but intends to adopt the rules proposed in MAR Notice No. 4-19-256.

4.10.403 CREDENTIALS (1) Certified farm applicators may request the department to issue credentials to ~~for~~ two members of ~~his~~ their immediate family or employees allowing them to purchase and use pesticides under the applicator's certificate and supervision. A person in possession of such credentials ~~shall~~ may only purchase ~~for use and application~~ restricted use pesticides for which the farm applicator is ~~qualified~~ certified and may only use such pesticides upon lands owned, rented, or leased by the farm applicator.

AUTH: 80-8-105, MCA
IMP: 80-8-105, 80-8-209, MCA

Reason: Amendments to ARM 4.10.403 clarify and modernize language. MAR Notice No. 4-18-251 (page 2271, 2018 MAR Issue No. 22), pertaining to financial responsibility, did not include these amendments and will not be adopted by the department.

4.10.404 IMPROPER PURCHASE OR USE (1) No farm applicator, family member or employee ~~shall~~ may use or recommend use of a pesticide in a manner inconsistent with registered labeling, or with any agency or department restrictions that have been placed on the use of that pesticide.

(2) No farm applicator, family member, or employee ~~shall~~ may purchase or use a restricted pesticide without either a permit or a credential. All applications made by family members or employees ~~shall~~ must be under the direct supervision of a farm applicator.

(3) For the purposes of applying 80-8-209, MCA, the term "vicinity" ~~will~~ means using nonrestricted (general use) pesticides on lands immediately adjacent or across a road from lands owned, leased, or rented by the farm applicator doing the applications.

(4) Except as allowed in 80-8-209, MCA, and (3), a farm applicator, family member, or employee who applies pesticides for hire or regularly engages in the business of applying pesticides for others must be licensed as a commercial applicator.

AUTH: 80-8-105, 80-8-211, 80-8-306, MCA
IMP: 80-8-105, 80-8-211, 80-8-306, MCA

Reason: Amendments to ARM 4.10.404 clarify language and state that a farm applicator must become a commercial applicator if hiring out or engaging in the business of applying pesticides and will therefore need proof of financial responsibility as stated in ARM 4.10.101. MAR Notice No. 4-18-251 (page 2271, 2018 MAR Issue No. 22), pertaining to financial responsibility, did not include these amendments and will not be adopted by the department. Instead, the department will move forward with the rulemaking process for this proposal, MAR Notice No. 4-19-256.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Cort Jensen, Department of Agriculture, 302 N. Roberts, P.O. Box 200201, Helena, Montana, 59620-0201; telephone (406) 444-3156; fax (406) 444-5409; or e-mail agr@mt.gov, and must be received no later than 5:00 p.m., April 19, 2019.

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

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

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

8. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rules will significantly and directly impact small businesses. The proposed amendments will increase the cost for commercial applicators in the case that applicators are not already insured, but the exact amount of increased costs depends on factors outside the department's control.

/s/ Cort Jensen

Cort Jensen
Rule Reviewer

/s/ Ben Thomas

Ben Thomas
Director
Agriculture

Certified to the Secretary of State March 5, 2019.

BEFORE THE FISH AND WILDLIFE COMMISSION
OF THE STATE OF MONTANA

In the matter of the adoption of NEW) NOTICE OF EXTENSION OF
RULE I and the amendment of ARM) COMMENT PERIOD ON AMENDED
12.11.3201 and 12.11.3205) PROPOSED ADOPTION AND
pertaining to No Wake Zones on) AMENDMENT
Canyon Ferry Reservoir)

TO: All Concerned Persons

1. On November 2, 2018, the Fish and Wildlife Commission (commission) published MAR Notice No. 12-507 pertaining to the public hearing on the proposed adoption and amendment of the above-stated rules at page 2163 of the 2018 Montana Administrative Register, Issue Number 21.

2. A public hearing was held on November 29, 2018, to consider the proposed adoption and amendment. In response to public comments, the commission is proposing an alternative to be considered. The commission proposes to amend the following rule with the following changes from the original proposal, new matter underlined, deleted matter interlined:

12.11.3201 CANYON FERRY RESERVOIR - LEWIS AND CLARK COUNTY

(1) In Lewis and Clark County, Canyon Ferry Reservoir is limited to a controlled no wake speed, as defined in ARM 12.11.101(1), within 300 feet of public docks and public boat ramps, and from the shoreline to 200 feet from the shoreline starting from Kayley Bay and continuing along the northern shore to the dam, and continuing from the dam along the southern shore ending at Crittenden Bay. ~~or as buoyed or described otherwise below, in the following areas:~~

~~(a) Chinaman's Bay;~~

~~(b)~~(2) Hellgate Bay is limited to a controlled no wake speed, as defined in ARM 12.11.101(1), 300 feet southwest from the boat ramp, and extending north to the opposite shore;

~~(c) Magpie Bay; and~~

~~(d) Shannon Boat Launch.~~

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

~~(3) Kayley Bay is limited to a controlled no wake speed, as defined in ARM 12.11.101(1), approximately 500 yards from the mouth of the stream entering the lake and extending southwest to the point of the bay that narrows at the peninsula at Tranquility Drive on the north side of the bay, to the opposite shore southeast, or as buoyed.~~

(4) and (5) remain as proposed.

AUTH: 87-1-303, MCA

IMP: 87-1-303, MCA

3. The following rules remain as originally proposed:

NEW RULE I CANYON FERRY RESERVOIR – BROADWATER COUNTY

AUTH: 87-1-303, MCA

IMP: 87-1-303, MCA

12.11.3205 HAUSER RESERVOIR

AUTH: 87-1-303, MCA

IMP: 87-1-303, MCA

4. The Department of Fish, Wildlife and Parks (department) will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m. on March 22, 2019, to advise us of the nature of the accommodation that you need. Please contact Kaedy Gangstad, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, Montana, 59620-0701; telephone (406) 444-4594; or e-mail kgangstad@mt.gov.

5. Concerned persons may submit their data, views, or arguments in writing to: Department of Fish, Wildlife and Parks Enforcement Division, Attn: Phil Kilbreath, P.O. Box 200701, Helena, Montana, 59620-0701; or e-mail pkilbreath@mt.gov, and must be received no later than March 29, 2019.

6. No additional public hearing will be held to consider this amended proposal notice.

/s/ Aimee Hawkaluk
Aimee Hawkaluk
Rule Reviewer

/s/ Dan Vermillion
Dan Vermillion
Chair
Fish and Wildlife Commission

Certified to the Secretary of State March 5, 2019.

BEFORE THE BOARD OF ARCHITECTS AND LANDSCAPE ARCHITECTS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING ON
ARM 24.114.501 architect	)	PROPOSED AMENDMENT
examination, 24.114.502 architect)	
licensure by examination,)	
24.114.1402 education and)	
experience required for landscape)	
architect licensure, 24.114.2105)	
architect continuing education)	
requirements, and 24.114.2301)	
unprofessional conduct)	

TO: All Concerned Persons

1. On April 9, 2019, at 9:00 a.m., a public hearing will be held in the Small Conference Room, 301 South Park Avenue, 4th Floor, Helena, Montana, to consider the proposed amendment 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 Architects and Landscape Architects (board) no later than 5:00 p.m., on April 2, 2019, to advise us of the nature of the accommodation that you need. Please contact Grace Berger, Board of Architects and Landscape Architects, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2244; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsdark@mt.gov (board's e-mail).

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

24.114.501 ARCHITECT EXAMINATION (1) through (2)(b)(i) remain the same.

(ii) by actively participating in a NAAB-accepted integrated path to architectural licensure option within a NAAB-accredited degree program; or

(iii) by meeting education standards through the NCARB Education Evaluation Service for Architects (EESA) evaluation; and

(c) through (5) remain the same.

AUTH: 37-1-131, 37-65-204, MCA

IMP: 37-1-131, 37-65-303, MCA

REASON: The board determined it is reasonably necessary to add the NCARB EESA evaluation as a means of meeting the education requirements to qualify for the Architect Registration Examination (ARE) as a Montana candidate. The amendment will bring the requirements for Montana candidates to sit for the ARE in line with those alternative education options to qualify for an NCARB certificate and therefore qualify for a Montana license through reciprocity.

24.114.502 ARCHITECT LICENSURE BY EXAMINATION (1) through (1)(d) remain the same.

(e) ~~obtain~~ submit a complete NCARB record.

AUTH: 37-1-131, 37-65-204, MCA

IMP: 37-1-131, 37-65-301, 37-65-303, MCA

REASON: The board is amending this rule to clarify that license applicants must submit a complete NCARB record to the board rather than just obtain the record. Submission of the NCARB record provides the necessary information to verify that an applicant meets the examination, education, and experience requirements. While the board has always required the submission, the board is amending the rule to remove any ambiguity.

24.114.1402 EDUCATION AND EXPERIENCE REQUIRED FOR LANDSCAPE ARCHITECT LICENSURE (1) through (2)(a) remain the same.

(b) "Direct supervision" means working conditions where a ~~licensed landscape~~ design professional supervises the applicant through personal contact and/or remote communication (e-mail, online markups, Internet), and is directly responsible for all tactical and technical decisions on the applicant's work.

(c) remains the same.

AUTH: 37-1-131, 37-65-204, MCA

IMP: 37-1-131, 37-66-304, MCA

REASON: The board determined it is reasonably necessary to delete "licensed landscape" from those design professionals able to directly supervise qualifying experience for landscape architect licensure. Section (2) provides the acceptable practical experience to qualify for a landscape architect license. Because a portion of the practical experience can be gained under direct supervision of a licensed engineer or architect, or a certified city planner, the board is amending this rule to address confusion and questions from license applicants.

24.114.2105 ARCHITECT CONTINUING EDUCATION REQUIREMENTS

(1) and (2) remain the same.

(3) ~~Qualified CE~~ Continuing education courses must be formal group or self-study courses designed to increase or update the knowledge and professional competence of architects in technical and professional subjects related to the practice of architecture that safeguard the public's health, safety, and welfare, as follows:

(a) and (b) remain the same.

(c) at least 75 percent of the course content and instruction time must be devoted to health, safety, and welfare subjects ~~such as technical and professional subjects~~ necessary for proper evaluation, design, construction, and utilization of buildings and the built environment that are within the following enumerated areas:

~~(i) Building Systems: structural, mechanical, electrical, plumbing, communications, security, fire protection;~~

~~(ii) Construction Contract Administration: contracts, bidding, contract negotiations;~~

~~(iii) Construction Documents: drawings, specifications, delivery methods;~~

~~(iv) Design: urban planning, master planning, building design, site design, interiors, safety and security measures;~~

~~(v) Environmental: energy efficiency, sustainability, natural resources, natural hazards, hazardous materials, weatherproofing, insulation;~~

~~(vi) Legal: laws, codes, zoning, subdivisions, regulations, standards, life safety, accessibility, ethics, insurance to protect owners and public;~~

~~(vii) Materials and Methods: construction systems, products, finishes, furnishings, equipment;~~

~~(viii) Occupant Comfort: air quality, lighting, acoustics, ergonomics;~~

~~(ix) Pre Design: land use analysis, programming, site selection, site and soils analysis, surveying; and~~

~~(x) Preservation: historic, reuse, adaptation.~~

(i) Practice Management focuses on areas related to the management of architectural practice and the details of running a business. Examples include applicable laws and regulations, ethics, insurance to protect the owner and public, business management, risk management, information management, design for community needs, and supervisor training.

(ii) Project Management focuses on areas related to the management of architectural projects through execution. Examples include project delivery methods, contract negotiation, pre-design services, site and soils analysis, consultant management, and project scheduling.

(iii) Program & Analysis focuses on areas related to the evaluation of project requirements, constraints, and opportunities. Examples include land-use analysis, programming, site section, historic preservation, adaptive reuse, codes, regulations, standards, natural resources, environmental impact and ecosystem risk assessment, hazardous materials, resilience to natural and human impacts, life safety, and feasibility.

(iv) Project Planning & Design focuses on areas related to the preliminary design of sites and buildings. Examples include building systems, urban planning, master planning, building design, site design, safety and security measures, impacts adoptions and mitigation of a changing climate, energy efficiency and positive energy design, sustainability, indoor air quality, ergonomics, lighting, acoustics, accessibility, construction systems, and budget development.

(v) Project Development & Documentation focuses on areas related to the integration and documentation of building systems, material selection, and material assemblies into a project. Examples include construction documents, materials and assemblies, fixture furnishing, and equipment.

(vi) Construction & Evaluation focuses on areas related to construction contract administration and post-occupancy evaluation of projects. Examples include construction contract administration, bidding and negotiation, post occupancy evaluation (POE), and building commissioning.

(4) through (6) remain the same.

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

IMP: 37-1-131, 37-1-141, 37-1-306, MCA

REASON: The board is amending this rule to align the health, safety, and welfare (HSW) CE categories with the current areas of experience in the Architectural Experience Program and the Architect Registration Examination, and as reflected in the recently amended NCARB model law/rules. The amendments will address licensee confusion when seeking CE, while continuing to enforce the HSW aspect in continued competence.

24.114.2301 UNPROFESSIONAL CONDUCT (1) through (1)(b) remain the same.

(c) failing to comply with applicable federal, state, and local building laws and regulations;

(c) through (e) remain the same but are renumbered (d) through (f).

(g) performing professional services with or after acquiring a conflict of interest that is not fully disclosed and waived in writing by all parties;

(f) through (p) remain the same but are renumbered (h) through (r).

(s) failing to respond to correspondence from the board or to comply with orders of the board;

(q) and (r) remain the same but are renumbered (t) and (u).

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

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

REASON: The board determined it is reasonably necessary to amend this rule to align unprofessional conduct more closely with recently amended NCARB model rules. These amendments will ensure the rule remains relevant to current architectural practice and that expected professional and ethical conduct stays focused on the protection of public health, safety, and welfare. Aligning board rules to model rules reduces the chance of licensees licensed in multiple jurisdictions to inadvertently violate Montana rules while complying with widely accepted model rules and provides a consistent base of unprofessional conduct standards that apply to licensees with licenses in multiple jurisdictions.

4. 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 Architects and Landscape Architects, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibsdark@mt.gov, and must be received no later than 5:00 p.m., April 12, 2019.

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

6. 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 Architects and Landscape Architects, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsdark@mt.gov; or made by completing a request form at any rules hearing held by the agency.

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

8. Regarding the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.114.501, 24.114.502, 24.114.1402, 24.114.2105, and 24.114.2301 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determination is available upon request to the Board of Architects and Landscape Architects, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2244; facsimile (406) 841-2305; or to dlibsdark@mt.gov.

9. Grace Berger, Executive Officer, has been designated to preside over and conduct this hearing.

BOARD OF ARCHITECTS AND
LANDSCAPE ARCHITECTS
DALE NELSON, PRESIDENT

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

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

Certified to the Secretary of State March 5, 2019.

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

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 24.171.401 fees, 24.171.408) PROPOSED AMENDMENT
outfitter records, 24.171.412 safety)
and first aid provisions, 24.171.509)
insurance for outfitters, and)
24.171.602 guide license)

TO: All Concerned Persons

1. On April 9, 2019, at 10:00 a.m., a public hearing will be held in the Small Conference Room, 301 South Park Avenue, 4th Floor, Helena, Montana, to consider the proposed amendment 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 Outfitters (board) no later than 5:00 p.m., on April 2, 2019, to advise us of the nature of the accommodation that you need. Please contact Steve Gallus, Board of Outfitters, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2370; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsout@mt.gov (board's e-mail).

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

24.171.401 FEES (1) through (1)(b) remain the same.

(c) Renewal of outfitter license

(i) outfitter annual license

375 210

(ii) outfitter inactive status

200 100

(d) and (e) remain the same.

(f) ~~Initial and~~ Renewal guide license

150 50

(g) Initial guide application

150

(g) through (i) remain the same but are renumbered (h) through (j).

AUTH: 37-1-131, 37-1-134, 37-47-201, 37-47-306, MCA

IMP: 37-1-134, 37-1-141, 37-47-304, 37-47-306, 37-47-307, 37-47-308, 37-47-310, MCA

REASON: The board concluded that projected revenues are exceeding its expenses at a rate that will result in cash reserves exceeding two times the board's annual appropriation level, as prohibited by 17-2-302, MCA. The board determined it is reasonably necessary to decrease renewal fees for outfitters and guides to

reduce its cash reserves to an acceptable level. The board reviewed its revenues and expenses in the prior five years and reasonable projections for the next five years and determined this fee adjustment will maintain appropriate cash reserves. The board estimates the fee change will affect approximately 2,500 persons and decrease annual revenue by \$291,500. Additionally, the board is adding (1)(g) to separate the fees for guide renewals from initial applications.

24.171.408 OUTFITTER RECORDS (1) through (2)(a) remain the same.

(b) ~~each client's name and automated licensing system number and/or unique identifier assigned to the client by the Department of Fish, Wildlife and Parks;~~
(c) through (4) remain the same.

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

IMP: 37-1-131, 37-47-201, 37-47-301, MCA

REASON: The board is amending (2) to streamline data reporting requirements so the board and the Department of Fish, Wildlife and Parks (FWP) require the same data to be reported. Currently, outfitters must report to the board names and automated licensing system numbers for clients. The FWP does not require outfitters to report client names in all cases, only automated licensing system numbers. The board is amending (2)(b) to simplify the process so hunting and fishing outfitters can report consistent information to both agencies.

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

24.171.412 SAFETY AND FIRST AID PROVISIONS (1) through (2)(a) remain the same.

(b) The provider program must include, at a minimum, universal precautions for self-protection and training specific to the following types of injuries:

(i) through (vi) remain the same.

(vii) bites and stings; and

(viii) medical emergencies; ~~and~~

~~(ix) injuries associated with confined spaces.~~

(c) Instruction in the principles and first aid intervention of injuries must refer to body extremities ~~cover the following sites:~~

~~(i) head and neck;~~

~~(ii) eye;~~

~~(iii) nose;~~

~~(iv) mouth and teeth;~~

~~(v) chest;~~

~~(vi) abdomen;~~

~~(vii) arm;~~

~~(viii) leg;~~

~~(ix) hand;~~

~~(x) finger; and~~

~~(xi) foot.~~

(3) For purposes of initial licensure, only basic first aid certification that involves the direct, hands-on application of first aid materials and techniques is acceptable. An applicant for an outfitter license who was previously licensed as a guide must hold current certification from a hands-on first aid course.

(4) remains the same.

(5) An applicant may also meet basic first aid certification if the applicant provides proof of a certification, license, or other credential that is equivalent to or greater than basic first aid certification, approved on a case-by-case basis by the ~~board~~ department. The board may also maintain on its web site a list of certifications, licenses, and other credentials that will be routinely accepted as equivalent to or greater than basic first aid.

(6) through (8) remain the same.

AUTH: 37-47-201, MCA

IMP: 37-47-201, MCA

REASON: Following staff recommendation, the board is amending (2) regarding required first aid course material. The board is striking (2)(b)(ix) for consistency with current accepted standards in first aid education. Further, staff experienced difficulty approving courses that did not mention specific body parts in a syllabus, but otherwise appeared to meet the board's intent for required first aid instruction and instead referred to body parts in more general terms. The board determined it is reasonably necessary to amend this rule to clarify acceptable courses and expand the board-approved providers for greater access to first aid education.

To address staff confusion, the board is amending (3) to clarify first aid certification requirements for outfitter applicants who were previously licensed as guides. Staff had questioned whether a guide obtaining an outfitter license for the first time was considered as seeking "initial licensure" under this rule. Additionally, the board is amending (5) to align the rule with the current procedure for department staff review of equivalent first aid credentials.

24.171.509 INSURANCE FOR OUTFITTERS (1) An outfitter, other than an outfitter licensed on inactive status, shall have liability insurance, as a named insured, in effect at all times during the license year, and shall submit proof of such insurance with an application for renewal. Liability insurance must cover bodily injury to clients at all times services are being provided, including while the outfitter or employed or retained guides are transporting clients. Minimum amounts of liability insurance shall ~~be~~ meet or exceed minimum requirements of state or federal regulator agencies for outfitters operating on state or federal lands, but in no case may minimum amounts be less than \$10,000 for property damage, \$100,000 for personal injury to one person and a total of \$300,000 for personal injury to more than one person.

AUTH: 37-47-201, MCA

IMP: 37-47-201, 37-47-301, 37-47-304, MCA

REASON: The board has received anecdotal evidence that insurance carriers have denied coverage to clients injured during automobile collisions when a guide is transporting clients to or from the location where hunting or fishing activities occur. The board has determined it is reasonably necessary to amend this rule to clarify that outfitters must maintain insurance that will cover injury to clients in those situations, as well. The board also recognizes that outfitter agreements with state or federal agencies when operating on state or federal lands may exceed the minimum amount of liability coverage currently required in rule. The board is amending the rule to reflect that outfitters must comply with those requirements. Implementation citations are being amended to accurately reflect all statutes implemented through the rule.

24.171.602 GUIDE LICENSE (1) remains the same.

(2) An applicant must submit proof of current basic hands-on first aid certification with the application.

(3) and (4) remain the same.

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

IMP: 37-1-131, 37-47-101, 37-47-201, 37-47-301, 37-47-303, 37-47-307, 37-47-308, MCA

REASON: The board is amending this rule to align with changes proposed to ARM 24.171.412(3) and clarify for license applicants that first-aid certification requires hands-on instruction. Implementation citations are being amended to accurately reflect all statutes implemented through the rule.

4. 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 Outfitters, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibsout@mt.gov, and must be received no later than 5:00 p.m., April 12, 2019.

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

6. 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 Outfitters, 301 South Park Avenue, P.O. Box 200513,

Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsout@mt.gov; or made by completing a request form at any rules hearing held by the agency.

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

8. Regarding the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.171.401, 24.171.408, 24.171.412, 24.171.509, and 24.171.602 will not significantly and directly impact small businesses.

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

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

BOARD OF OUTFITTERS
JOHN WAY, CHAIRPERSON

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

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

Certified to the Secretary of State March 5, 2019.

BEFORE THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PROPOSED
ARM 32.8.205 Manner, Positioning,) AMENDMENT
and Size of Labeling)
) NO PUBLIC HEARING
) CONTEMPLATED

TO: All Concerned Persons

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

2. The Department of Livestock will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Livestock no later than 5:00 p.m. on April 8, 2019, to advise us of the nature of the accommodation that you need. Please contact the Department of Livestock, 301 N. Roberts St., Room 308, P.O. Box 202001, Helena, Montana, 59620-2001; telephone: (406) 444-9321; TTD number: 1 (800) 253-4091; fax: (406) 444-1929; or e-mail: MDOLcomments@mt.gov.

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

32.8.205 MANNER, POSITIONING, AND SIZE OF LABELING (1) Labels required by ARM 32.8.203 ("Sell-By" date) must be of a color clearly contrasting with the area immediately surrounding the label. The labels may be put on by printing, stamping, or burning, a combination of any of those methods, or by some other method specifically approved in writing by the department.

(2) Labels placed on "pure paks" or similar containers must be located on the top sealing fin. Labels on molded plastic jugs may be placed anywhere on the upper half of the container (or on the printed product label) except the lid. Labels for containers must be at least 1/8 inch in height.

(3) All characters in the labels required by ARM 32.8.203 must be at least 1/8 inch in height.

(4) The "Sell-By" date must be located above any other date code label on molded plastic jugs. Labels placed on "pure paks" or similar containers must have the "Sell-By" date label to the left of any other date code label.

(5) No date code label shall be printed in a font size larger than the font of the label of the "Sell-By" date.

AUTH: 81-2-102, MCA
IMP: 81-2-102, MCA

REASON: The department proposes to amend this rule to provide standards for labeling of date code labels required in ARM 32.8.203. Current rules do not specify

how additional date codes should be placed on milk packaging. This change will provide department milk inspectors with clear and consistent standards of milk labeling, and they will be able to more efficiently and effectively review milk labels from producers. The department anticipates companies affected will be fewer than ten.

Additional date coding is optional and should have little to no effect on small businesses.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to the Executive Officer, Department of Livestock, Room 308, P.O. Box 202001, Helena, Montana, 59620-2001; by faxing (406) 444-1929; or by e-mailing MDOLcomments@mt.gov to be received no later than 5:00 p.m., April 12, 2019.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to the Executive Officer at the above address no later than 5:00 p.m., April 12, 2019.

6. If the department receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a 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 less than 10 companies because additional date coding is optional and therefore will have little to no effect on small businesses.

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

8. 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 rule will not significantly and directly impact small businesses.

/s/ Cinda Young-Eichenfels

Cinda Young-Eichenfels
Rule Reviewer

/s/ Michael S. Honeycutt

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

Certified to the Secretary of State March 5, 2019.

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

In the matter of the adoption of New	)	NOTICE OF ADOPTION AND
Rule I adopting by reference the	)	AMENDMENT
amended state of Montana public)	
employees pooled trust in the Defined)	
Contribution Retirement Plan, the)	
amendment of ARM 2.43.3502 and)	
ARM 2.43.5102 adopting by)	
reference the amended stable value)	
fund investment policy statement in)	
the Defined Contribution Retirement)	
Plan and the 457(b) Deferred)	
Compensation plan respectively, and)	
the amendment of ARM 2.43.5104)	
adopting by reference the amended)	
state of Montana public employees)	
pooled trust in the 457(b) Deferred)	
Compensation plan)	

TO: All Concerned Persons

1. On January 11, 2019, the Public Employees' Retirement Board published MAR Notice No. 2-43-578 pertaining to the proposed adoption and amendment of the above-stated rules at page 1 of the 2019 Montana Administrative Register, Issue Number 1.

2. The Public Employees' Retirement Board has amended the following rules as proposed: ARM 2.43.3502 and 2.43.5102.

3. The Public Employees' Retirement Board has adopted the following rule as proposed, but with the following changes from the original proposal, new matter underlined:

NEW RULE I (2.43.3506) ADOPTION OF STATE OF MONTANA PUBLIC EMPLOYEES POOLED TRUST (1) The board adopts and incorporates by reference the amended Declaration of Trust – State of Montana Public Employees Pooled Trust that was approved by the board on December 13, 2018, and became effective on January 31, 2019. The Declaration of Trust created a pooled trust effective January 1, 2010, under which stable value assets in the 401(a) defined contribution plan and the 457(b) deferred compensation plan were commingled and jointly invested, but separately maintained and recorded.

(2) remains as proposed.

AUTH: 19-3-2104, MCA
IMP: 19-3-2102, MCA

4. The Public Employees' Retirement Board has amended the following rule as proposed, but with the following changes from the original proposal, new matter underlined:

2.43.5104 ADOPTION OF STATE OF MONTANA PUBLIC EMPLOYEES POOLED TRUST (1) The board adopts and incorporates by reference the amended Declaration of Trust – State of Montana Public Employees Pooled Trust that was approved by the board on December 13, 2018, and became effective on January 31, 2019. The Declaration of Trust created a pooled trust effective January 1, 2010, under which stable value assets in the 401(a) defined contribution plan and the 457(b) deferred compensation plan were commingled and jointly invested, but separately maintained and recorded.

(2) remains as proposed.

AUTH: 19-3-2104, 19-50-102, MCA

IMP: 19-3-2102, 19-50-102, MCA

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

COMMENT 1: A comment was received from legislative staff assigned to the administrative rule review committee responsible for reviewing the board's rules. The commenter noted that NEW RULE I and ARM 2.43.5104 do not contain a statement of the general subject matter of the referenced document as required by 2-4-307(2), MCA.

RESPONSE 1: The board agrees and has amended NEW RULE I and ARM 2.43.5104 accordingly.

/s/ Melanie Symons
Melanie Symons
Chief Legal Counsel and
Rule Reviewer

/s/ Marty Tuttle
Marty Tuttle
President
Public Employees' Retirement Board

Certified to the Secretary of State March 5, 2019.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of ARM) NOTICE OF AMENDMENT
2.59.406 pertaining to definitions for)
credit unions)

TO: All Concerned Persons

1. On December 7, 2018, the Department of Administration published MAR Notice No. 2-59-572 pertaining to the proposed amendment of the above-stated rule on page 2357 of the 2018 Montana Administrative Register, Issue Number 23.

2. No comments were received.

3. The department has amended ARM 2.59.406 exactly as proposed.

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

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

Certified to the Secretary of State March 5, 2019.

BEFORE THE STATE LOTTERY COMMISSION
DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of ARM) NOTICE OF AMENDMENT
2.63.204, 2.63.407, 2.63.606, and) AND ADOPTION
2.63.1201 pertaining to general)
provisions, retailer commission,)
duplicate licenses, and prizes and)
adoption of New Rule I pertaining to)
acceptable forms of payment)

TO: All Concerned Persons

1. On January 11, 2019, the State Lottery Commission published MAR Notice No. 2-63-579 pertaining to the amendment and adoption of the above-stated rules at page 6 of the 2019 Montana Administrative Register, Issue Number 1.

2. The commission received one comment. The commission has thoroughly considered the comment received. A summary of the comment received and the commission's response follow:

COMMENT #1: The retailer states when customers use a debit card, he is assessed a processing fee and does not feel he should incur any charges related to selling lottery tickets.

RESPONSE #1: The use of debit cards is not mandatory and is at the retailer's sole discretion.

3. The commission has amended ARM 2.63.204, 2.63.407, 2.63.606, and 2.63.1201 exactly as proposed. The commission has adopted New Rule I (ARM 2.63.409) exactly as proposed.

By: Wilbur Rehmann
Wilbur Rehmann, Chair
State Lottery Commission

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

Certified to the Secretary of State March 5, 2019.

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 4.6.202 pertaining to potato)
commodity assessment collection)

TO: All Concerned Persons

1. On December 7, 2018, the Department of Agriculture published MAR Notice No. 4-18-252 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 2359 of the 2018 Montana Administrative Register, Issue Number 23.

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

3. No comments or testimony were received.

/s/ Cort Jensen
Cort Jensen
Rule Reviewer

/s/ Ben Thomas
Ben Thomas
Director
Agriculture

Certified to the Secretary of State March 5, 2019.

BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
MONTANA STATE AUDITOR

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 6.6.313 pertaining to)
replacement of life insurance or)
annuities)

TO: All Concerned Persons

1. On January 11, 2019, the Office of the Montana State Auditor, Commissioner of Securities and Insurance (CSI) published MAR Notice No. 6-249 pertaining to the proposed amendment of the above-stated rule at page 11 of the 2019 Montana Administrative Register, Issue Number 1.

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

3. No comments or testimony were received.

/s/ Ivan C. Evilsizer
Ivan C. Evilsizer
Rule Reviewer

/s/ Kristin Hansen
Kristin Hansen
Chief Legal Counsel

Certified to the Secretary of State March 5, 2019.

BEFORE THE FISH AND WILDLIFE COMMISSION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 12.11.3210 pertaining to)
recreating on the Helena Valley)
Regulating Reservoir)

TO: All Concerned Persons

1. On November 2, 2018, the Fish and Wildlife Commission (commission) published MAR Notice No. 12-484 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 2160 of the 2018 Montana Administrative Register, Issue Number 21.

2. The commission has amended ARM 12.11.3210 as proposed.

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

Comment 1: The commission received one comment from the Last Chance Audubon Society in support of the rule amendment.

Response 1: The commission appreciates the interest and participation in this rulemaking process.

/s/ Aimee Hawkaluk
Aimee Hawkaluk
Rule Reviewer

/s/ Dan Vermillion
Dan Vermillion
Chair
Fish and Wildlife Commission

Certified to the Secretary of State March 5, 2019.

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

In the matter of the adoption of an) NOTICE OF ADOPTION OF
emergency rule closing the York's) EMERGENCY RULE
Islands Fishing Access Site in)
Broadwater County)

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of an emergency rule closing the York's Islands Fishing Access Site:

(a) There is ice gorging and ice jams on the Missouri River that have caused water to channel through multiple portions of the fishing access site, which is then freezing.

(b) The combination of dangerous conditions includes changing flooded areas throughout the site, freezing and rendering unsafe conditions for pedestrian and vehicle travel.

(c) Persons recreating at the fishing access site would be at risk of unsafe roadways, injury, or drowning.

(d) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, due to the combination of unsafe conditions and this threat cannot be averted or remedied by any other administrative act, the department adopts the following emergency rule. The emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties, and published as an emergency rule in Issue No. 5 of the 2019 Montana Administrative Register.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on March 30, 2019, to advise us of the nature of the accommodation that you need. Please contact Kaedy Gangstad, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; or e-mail kgangstad@mt.gov.

3. The emergency rule is effective February 20, 2019, when this rule notice is filed with the Secretary of State.

4. The text of the emergency rule provides as follows:

RULE 1 YORK'S ISLANDS FISHING ACCESS SITE EMERGENCY
CLOSURE (1) The York's Islands Fishing Access Site is located along the Missouri River in Broadwater County.

(2) The York's Islands Fishing Access Site is closed to all public occupation and recreation as signed.

(3) This rule will remain in effect until the department determines that the site is again safe for public occupancy. This will depend on the extent and duration of the ice jams on the river causing flooding into the fishing access site. Signs closing the fishing access site will be removed when the rule is no longer effective.

AUTH: 2-4-303, 87-1-202, MCA
IMP: 2-4-303, 87-1-202, MCA

5. The rationale for the emergency rule is as set forth in paragraph 1.

6. Concerned persons are encouraged to submit their comments to the department. They should submit their comments along with their names and addresses to Jay Pape, Fish, Wildlife and Parks, 1400 South 19th Avenue, Bozeman, MT 59718-5496; or e-mail jpape@mt.gov. Any comments must be received no later than April 12, 2019.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, or may be made by completing the request form at any rules hearing held by the department.

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

/s/ Mike Volesky
Mike Volesky
Chief of Operations
Department of Fish, Wildlife and Parks

/s/ William Schenk
William Schenk
Rule Reviewer

Certified to the Secretary of State February 20, 2019.

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

In the matter of the adoption of an) NOTICE OF ADOPTION OF
emergency rule closing the Rosebud) EMERGENCY RULE
Isle Fishing Access Site in Stillwater)
County)

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of an emergency rule closing the Rosebud Isle Fishing Access Site:

(a) There is ice gorging and ice jams on West Rosebud Creek that have caused water to channel through multiple portions of the fishing access site, which is then freezing.

(b) The combination of dangerous conditions includes changing flooded areas throughout the site, freezing and rendering unsafe conditions for pedestrian and vehicle travel.

(c) Persons recreating at the fishing access site would be at risk of unsafe roadways, injury, or drowning.

(d) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, due to the combination of unsafe conditions and this threat cannot be averted or remedied by any other administrative act, the department adopts the following emergency rule. The emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties, and published as an emergency rule in Issue No. 5 of the 2019 Montana Administrative Register.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on March 30, 2019, to advise us of the nature of the accommodation that you need. Please contact Jessica Snyder, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; or e-mail jesssnyder@mt.gov.

3. The emergency rule is effective February 22, 2019, when this rule notice is filed with the Secretary of State.

4. The text of the emergency rule provides as follows:

RULE I ROSEBUD ISLE FISHING ACCESS SITE EMERGENCY CLOSURE

(1) The Rosebud Isle Fishing Access Site is located along West Rosebud Creek in Stillwater County.

(2) The Rosebud Isle Fishing Access Site is closed to all public occupation and recreation as signed.

(3) This rule will remain in effect until the department determines that the site is again safe for public occupancy. This will depend on the extent and duration of the ice jams on the creek causing flooding into the fishing access site. Signs closing the fishing access site will be removed when the rule is no longer effective.

AUTH: 2-4-303, 87-1-202, MCA

IMP: 2-4-303, 87-1-202, MCA

5. The rationale for the emergency rule is as set forth in paragraph 1.

6. Concerned persons are encouraged to submit their comments to the department. They should submit their comments along with their names and addresses to Jason Rhoten, Fish, Wildlife and Parks, 2300 Lake Elmo Drive, Billings, MT 59105; or e-mail jrhoten@mt.gov. Any comments must be received no later than April 12, 2019.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, or may be made by completing the request form at any rules hearing held by the department.

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

/s/ Martha Williams

Martha Williams

Director

Department of Fish, Wildlife and Parks

/s/ Aimee Hawkaluk

Aimee Hawkaluk

Rule Reviewer

Certified to the Secretary of State February 22, 2019.

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the adoption of a) NOTICE OF ADOPTION OF
Temporary Emergency Rule) TEMPORARY EMERGENCY RULE
pertaining to Locking Arrangements)
in Educational Occupancies)

TO: All Concerned Persons

1. The Department of Justice is adopting the following emergency rule because the department has learned that some Montana schools are securing classroom doors with unlisted devices that have not been evaluated to ensure they operate properly and do not impair door operation. The emergency rule is necessary to ensure that the locking devices used do not constitute an imminent peril to the public health, safety, and welfare, while at the same time allowing schools to respond to the threat of gun violence.

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 April 2, 2019, to advise us of the nature of the accommodation that you need. Please contact Pat Clinch, Department of Justice, 2225 11th Avenue, P.O. Box 201417, Helena, Montana, 59620-1417; telephone (406) 444-1919; fax (406) 444-2759; or e-mail pclinch@mt.gov.

3. The temporary emergency rule is effective March 5, 2019, when this rule notice is filed with the Secretary of State.

4. The text of the temporary emergency rule provides as follows:

NEW RULE I LOCKING ARRANGEMENTS IN EDUCATIONAL OCCUPANCIES In educational occupancies, egress doors from classrooms, offices, and other occupied rooms shall be permitted to be provided with locking arrangements designed to keep intruders from entering the room where all of the following conditions are met:

(1) The door shall be capable of being unlocked from outside the room with a key or other approved means.

(2) The door shall be openable from within the room without the use of a key or special knowledge or effort.

(3) The locking means shall be capable of being engaged without opening the door.

(4) The releasing mechanism for unlocking and unlatching shall be located at a height not less than 34 inches (865 mm) and not exceeding 48 inches (1220 mm) above the finished floor.

(5) Modifications shall not be made to existing listed panic hardware, fire door hardware, or door closers.

(6) Modifications to the fire door assemblies shall be in accordance with National Fire Protection Association 80.

AUTH: 2-4-303, 2-4-306, 50-3-102, 50-61-102, MCA

IMP: 50-3-103, 50-61-106, MCA

Reason: Active shooter incidents are a threat in modern society. Over the past two decades, the average number of acts of violence nationally has increased by nearly two-thirds. From 2000 to 2005, there was an average of 31 incidents a year. From 2013 to 2018 that number had risen to nearly 50 incidents per year, with the highest number of violent acts occurring in 2018. The number of people killed has also followed a similar trend. From 2000 to 2005, an average of nearly 14 people were killed each year. From 2013 to 2018, the number of people killed increased to roughly 24 people a year.

School violence and threats to schools and students have affected nearly every community, both rural and urban, in Montana. A sample of recent acts of violence and threats aimed towards Montana schools, students, and faculty highlights the indiscriminate and constant presence of violence. In 2018 alone, several instances of violence and threatened violence targeted Montana's students and schools. For example, a Darby high school student was arrested after allegedly threatening to shoot students. A Big Sky high school student was arrested after shots were fired in the school's parking lot. A Missoula high school student was issued a restraining order and prohibited from owning a gun after threatening to shoot students. Two teenagers were shot by another teenager in the Sentinel high school parking lot. The campus at UM Western in Dillon was evacuated following a bomb threat. These incidents have resulted in the need to quickly secure classrooms and other occupied areas to keep unwanted intruders from entering.

Protecting students and schools is critical. The department has learned, however, that some schools are securing classroom doors with unlisted devices that have not been evaluated to ensure they operate properly and do not impair door operation. Schools are using these devices in periodic lockdown drills. These unlisted devices allow students or unauthorized personnel to secure doors so rooms cannot be entered. This presents a major safety concern because the devices could be employed within the classroom to commit physical assault, sexual assault, or other violent acts. In addition, the devices could prevent students from quickly leaving the classroom during a lockdown, if, for example: an intruder sets a fire; an intruder detonates an explosive device; an intruder or accomplice attempts to enter or fire a weapon into the classroom through an exterior window; or an incendiary device, or other hazard, is thrown into the classroom through an exterior window. Additionally, if a teacher were to become incapacitated for any reason, children, especially younger ones, could be incapable of operating the devices. For all these reasons, the agency finds that the unlisted devices constitute an imminent peril to the public health, safety, and welfare.

Thus, emergency rulemaking is necessary to ensure that the locking devices used do not pose a fire hazard or endanger students while at the same time allowing

schools to respond to the threat of gun violence. Additionally, this rule will promote uniformity as Montana schools implement new safety devices.

This emergency rule allows key-actuated deadbolts or other locks to be provided on classroom doors, where the teacher can lock the door and provide shelter-in-place in the classroom. This rule also requires the door to be able to be unlocked from the opposite side so that school administrators or responders can enter without a forcible entry. This rule also requires free egress to allow students to quickly exit if needed.

No fiscal impact is associated.

5. A standard rulemaking procedure will be undertaken prior to the expiration of this temporary emergency rule.

6. Concerned persons are encouraged to submit their comments during the upcoming standard rulemaking process. If concerned persons wish to be personally notified of that rulemaking process, they should submit their names and addresses to Pat Clinch at the address listed in paragraph 2.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 2 above or may be made by completing a request form at any rules hearing held by the department.

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

/s/ Hannah Tokerud
Hannah Tokerud
Rule Reviewer

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

Certified to the Secretary of State March 5, 2019.

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the adoption of	)	NOTICE OF ADOPTION,
New Rules I, II, III, and IV	)	AMENDMENT, AND REPEAL
pertaining to authorization and)	
regulation of 50/50 raffles and)	
50/50 raffle processing systems,)	
the amendment of 23.16.101,)	
23.16.107, 23.16.125, 23.16.202,)	
23.16.203, 23.16.401, 23.16.402,)	
23.16.403, 23.16.406, 23.16.407,)	
23.16.1822, 23.16.2602, and)	
23.16.3501 pertaining to)	
definitions, grounds for denial of a)	
license, cross-references to)	
alcoholic beverages licenses,)	
credit play, administrative)	
procedure, card dealer licensure,)	
and raffles, and the repeal of)	
23.16.410, and 23.16.411)	
pertaining to card dealer licensure)	

TO: All Concerned Persons

1. On December 21, 2018, the Department of Justice published MAR Notice No. 23-16-256, pertaining to the public hearing on the proposed adoption, amendment, and repeal of the above-stated rules, at page 2482 of the 2018 Montana Administrative Register, Issue Number 24.

2. The department has amended ARM 23.16.101, 23.16.107, 23.16.125, 23.16.202, 23.16.203, 23.16.401, 23.16.402, 23.16.403, 23.16.406, 23.16.407, 23.16.1822, 23.16.2602, and 23.16.3501, adopted New Rules I (23.16.2610), II (23.16.2611), III (23.16.2612), and IV (23.16.2613), and repealed ARM 23.16.410 and 23.16.411 as proposed.

3. The department conducted a public hearing on January 24, 2019, on the proposed adoption, amendment, and repeal of these rules and accepted comments through February 5, 2019. No persons appeared at the public hearing, and no written comments were submitted.

/s/ Hannah Tokerud
Hannah Tokerud
Rule Reviewer

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

Certified to the Secretary of State March 5, 2019.

NOTICE OF FUNCTION OF ADMINISTRATIVE RULE REVIEW COMMITTEE

Interim Committees and the Environmental Quality Council

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

Economic Affairs Interim Committee:

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

Education and Local Government Interim Committee:

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

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

- Department of Public Health and Human Services.

Law and Justice Interim Committee:

- Department of Corrections; and
- Department of Justice.

Energy and Telecommunications Interim Committee:

- Department of Public Service Regulation.

Revenue and Transportation Interim Committee:

- Department of Revenue; and
- Department of Transportation.

State Administration and Veterans' Affairs Interim Committee:

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

Environmental Quality Council:

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

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

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

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

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

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

Definitions:

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

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

Use of the Administrative Rules of Montana (ARM):

Known
Subject

1. Consult ARM Topical Index.
Update the rule by checking recent rulemaking and the table of contents in the last Montana Administrative Register issued.

Statute

2. Go to cross reference table at end of each number and title which lists MCA section numbers and department corresponding ARM rule numbers.

RECENT RULEMAKING BY AGENCY

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies that have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through September 30, 2018. This table includes notices in which those rules adopted during the period September 15, 2018, through February 22, 2019, occurred and any proposed rule action that was pending during the past 6-month period. (A notice of adoption must be published within six months of the published notice of the proposed rule.) This table does not include the contents of this issue of the Montana Administrative Register (MAR or Register).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through September 30, 2018, this table, and the table of contents of this issue of the Register.

This table indicates the department name, title number, notice numbers in ascending order, the subject matter of the notice, and the page number(s) at which the notice is published in the 2018 or 2019 Montana Administrative Registers.

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

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