

MONTANA ADMINISTRATIVE REGISTER

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MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 11

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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
 ARM 6.6.8301 pertaining to) PROPOSED AMENDMENT
 establishment, deletion, or revision of)
 classifications for various industries)
 for supplementing the NCCI Basic)
 Manual for Workers' Compensation)
 and Employers Liability Insurance)

TO: All Concerned Persons

1. On July 8, 2020, at 10:00 a.m., the Classification Review Committee will hold a public hearing via remote conferencing to consider the proposed amendment of the above-stated rule. Because there currently exists a state of emergency in Montana due to the public health crisis caused by the novel coronavirus, there will be no in-person hearing. Interested parties may access the remote conferencing platform by telephone at 1-978-990-5402 and enter Conference ID 8288428. This conference will be recorded.

2. The Classification Review Committee 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 Classification Review Committee no later than 5:00 p.m. on June 23, 2020, to advise us of the nature of the accommodation that you need. Please contact Michael Craddock, Underwriting Dispute Consultant, NCCI, c/o Regulatory Assurance Department, 901 Peninsula Corporate Circle, Boca Raton FL 33487-1362; telephone (561) 893-3820; fax (561) 893-5365; or e-mail Michael_Craddock@NCCI.com.

3. The affected rule is shown below and no changes will be made to that rule. However, the Basic Manual for Workers' Compensation and Employers Liability Insurance (Basic Manual) incorporated by reference in this rule is supplemented by classification codes that are established, deleted, or revised in accordance with (2) of the rule and 33-16-1023(3), MCA.

6.6.8301 ESTABLISHMENT OF CLASSIFICATION FOR COMPENSATION PLAN NO.2 AND PLAN NO.3 (1) and (2) remain the same.

AUTH: 33-16-1012, MCA
 IMP: 2-4-103, 33-1-115, 33-16-1012, MCA

REASON: It is necessary to supplement the NCCI Basic Manual incorporated by reference in ARM 6.6.8301 by establishing, deleting or revising classification codes in the Basic Manual that apply to various industries, through rulemaking procedures. The Classification Review Committee approved proceeding to rulemaking to supplement the Basic Manual with Item Filing B-1438 classifications for oil and gas

field operations; Item Filing B-1439 classifications and Appendix E including construction salespersons and estimators; Item Filing B-1440 revisions to basic manual and reformatting, preface and Appendix G; Item Filing 01-MT-2020, classifications for irrigation pipe installation, Item Filing B-1440 to be effective October 1, 2020, and the remaining filings to be effective July 1, 2021.

For additional details on classifications to be established, deleted, or revised in the filing see the Montana Workers Compensation Classification Review (CR) Committee materials, including executive summaries, at: <https://csimt.gov/laws-rules/public-notices/>.

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 the CR Committee attention of: Michael Craddock, Regulatory Disputes Consultant, NCCI, c/o Regulatory Operations Department, 901 Peninsula Corporate Circle, Boca Raton FL 33487-1362; telephone (561) 893-3820; fax (561) 893-5365; or e-mail Michael_Craddock@NCCI.com, and must be received no later than 5:00 p.m. MST, July 16, 2020.

5. Mary Belcher, State Auditor's Office, has been designated to preside over and conduct this hearing.

6. The Classification Review Committee maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this committee. 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 committee.

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 Classification Review Committee has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Mary Belcher
Mary Belcher
Rule Reviewer

/s/ Greg Rodifer
Greg Rodifer
Committee Chair

Certified to the Secretary of State June 2, 2020.

BEFORE THE BOARD OF OIL AND GAS CONSERVATION AND THE
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PROPOSED
ARM 36.22.1242 pertaining to the) AMENDMENT
Board of Oil and Gas Conservation)
privilege and license tax) NO PUBLIC HEARING
) CONTEMPLATED

To: All Concerned Persons

1. On September 25, 2020, the Board of Oil and Gas Conservation and the Department of Natural Resources and Conservation propose to amend the above-stated rule.

2. The 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 Board of Oil and Gas Conservation no later than 5:00 p.m. on June 23, 2020, to advise us of the nature of the accommodation that you need. Please contact Jim Halvorson, Board of Oil and Gas Conservation, 2535 St. Johns Avenue, Billings, Montana, 59102; telephone (406) 656-0040; fax (406) 655-6015; TDD/Montana Relay Service (406) 444-1421; or e-mail jhalvorson@mt.gov.

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

36.22.1242 REPORTS BY PRODUCERS – TAX REPORT – TAX RATE

(1) remains the same.

(2) The privilege and license tax on each barrel of crude petroleum and each 10,000 cubic feet of natural gas produced, saved, and marketed, or stored within the state or exported therefrom shall be ~~83.33~~ 100 percent of the rate authorized in 82-11-131, MCA, (3/10 of 1%) of the market value thereof. This rule is effective on all crude petroleum and natural gas produced on and after ~~January 1, 2020~~ October 1, 2020.

AUTH: 82-11-111, MCA

IMP: 82-11-123, 82-11-131, MCA

REASON: Under current forecasts for oil and gas prices and production, the proposed rate increase is necessary to provide adequate income for board operations and other activities required by statute.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Jim Halvorson, Board of Oil and Gas Conservation and the Department of Natural Resources and Conservation, 2535 St.

Johns Avenue, Billings, Montana, 59102; telephone (406) 656-0040; fax (406) 655-6015; or e-mail jhalvorson@mt.gov, and must be received no later than 5:00 p.m., July 10, 2020.

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 Jim Halvorson at the above address no later than 5:00 p.m., July 10, 2020.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 20 persons based on the number of oil and gas producers in the state.

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 number 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/ Steve Durrett
Steve Durrett, Chairman
Board of Oil and Gas
Conservation
Rule Reviewer

/s/ John E. Tubbs
John E. Tubbs
Director
Department of Natural Resources and
Conservation

/s/ Robert Stutz
Robert Stutz
Rule Reviewer

Certified to the Secretary of State June 2, 2020.

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 4.12.3011 pertaining to)
Restricted Weed Seeds)

TO: All Concerned Persons

1. On March 27, 2020, the Department of Agriculture published MAR Notice No. 4-20-266 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 514 of the 2020 Montana Administrative Register, Issue Number 6.

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
Department of Agriculture

Certified to the Secretary of State June 2, 2020.

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the adoption of New) NOTICE OF ADOPTION AND
Rules I, II, and III, and amendment of) AMENDMENT
ARM 4.12.1018, 4.12.1020, and)
4.12.1031 pertaining to Commodity)
Dealer Licenses)

TO: All Concerned Persons

1. On March 27, 2020, the Department of Agriculture published MAR Notice No. 4-20-267 pertaining to the public hearing on the proposed adoption and amendment of the above-stated rules at page 517 of the 2020 Montana Administrative Register, Issue Number 6.

2. The department has adopted the following rules as proposed: New Rules I (4.12.1032), II (4.12.1033), and III (4.12.1034).

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

4. No comments or testimony were received.

/s/ Cort Jensen
Cort Jensen
Rule Reviewer

/s/ Ben Thomas
Ben Thomas
Director
Department of Agriculture

Certified to the Secretary of State June 2, 2020.

BEFORE THE DEPARTMENT OF TRANSPORTATION
OF THE STATE OF MONTANA

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

TO: All Concerned Persons

1. On April 30, 2020, the Department of Transportation published MAR Notice No. 18-180 pertaining to the proposed amendment of the above-stated rules at page 769 of the 2020 Montana Administrative Register, Issue Number 8.
2. The department has amended the above-stated rules as proposed.
3. No comments or testimony were received.

/s/ Carol Grell Morris
Carol Grell Morris
Rule Reviewer

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

Certified to the Secretary of State June 2, 2020.

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 24.29.1433, 24.29.1534, and)
24.29.1538 pertaining to medical fee)
schedules for workers' compensation)
purposes)

TO: All Concerned Persons

1. On April 17, 2020, the Department of Labor and Industry (department) published MAR Notice No. 24-29-354 pertaining to the public hearing on the proposed amendment to the above-stated rules at page 634 of the 2020 Montana Administrative Register, Issue Number 7.

2. The department held a public hearing in Helena on May 8, 2020, over the Zoom videoconference and telephonic platform at which one member of the public commented on the proposed rule actions. Written comments were not received during the public comment period.

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

COMMENT 1: A commenter spoke in favor of the proposed rules, noting that the amendments to the proposed rules are based on the governing statutes and rules.

RESPONSE 1: The department acknowledges the comment.

4. The department has amended ARM 24.29.1433, 24.29.1534, and 24.29.1538 as proposed.

/s/ MARK CADWALLADER
Mark Cadwallader
Alternate Rule Reviewer

/s/ BRENDA NORDLUND
Brenda Nordlund, Acting Commissioner
DEPARTMENT OF LABOR AND
INDUSTRY

Certified to the Secretary of State June 2, 2020.

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 March 31, 2020. This table includes notices in which those rules adopted during the period December 6, 2019, through May 29, 2020, 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 March 31, 2020, 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 2019 and 2020 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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