

MONTANA ADMINISTRATIVE REGISTER

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MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 13

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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

In the matter of the amendment of)	NOTICE OF PROPOSED
ARM 2.59.1743 and 2.59.1753)	AMENDMENT
pertaining to report due dates for)	
mortgage servicers and when initial)	NO PUBLIC HEARING
mortgage license applications are)	CONTEMPLATED
deemed abandoned)	

TO: All Concerned Persons

1. On August 29, 2020, the Department of Administration proposes to amend the above-stated rules.

2. The Department of Administration will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Administration no later than 5:00 p.m. on July 22, 2020, to advise us of the nature of the accommodation that you need. Please contact Heather Hardman, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; telephone (406) 841-2922; TDD (406) 841-2974; facsimile (406) 841-2930; or e-mail to banking@mt.gov.

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

2.59.1743 REPORTING FORMS FOR MORTGAGE SERVICERS

(1) through (3) remain the same.

(4) The deadline for submitting the reports listed in (1) is extended by 30 days to allow reports to be submitted within a total of 75 days after the end of each quarter for the quarters ending June 30, 2020, September 30, 2020, December 31, 2020, and March 31, 2021. This section sunsets on June 1, 2021.

AUTH: 32-9-130, MCA

IMP: 32-9-170, MCA

STATEMENT OF REASONABLE NECESSITY: On March 24, 2020, the department published a temporary emergency rule, MAR Notice Number 2-59-597, extending the due date to submit the Quarterly Statement of Montana Mortgage Servicing Activity report for first quarter 2020 by 30 days. The reason for the extension was to allow mortgage servicers more time to provide information due to COVID-19 related closures.

As of June 12, 2020, the Centers for Disease Control and Prevention (CDC) reported that the number of COVID-19 cases reported to the CDC is cumulative and continues to increase. Based on this information, the department proposes to

extend the due dates for the Quarterly Statement of Montana Mortgage Servicing Activity reports by 30 days until June 1, 2021.

2.59.1753 APPLICATIONS FOR INITIAL LICENSE NEAR YEAR-END;
WHEN APPLICATION FOR INITIAL LICENSE MAY BE DEEMED ABANDONED

(1) through (4) remain the same.

(5) The period for applicants to provide documents or information requested by the department listed in (3) is extended by 60 days to allow additional documents or information to be submitted within a total of 120 days of notification to the applicant of deficiencies. This section sunsets on June 1, 2021.

AUTH: 32-9-120, MCA

IMP: 32-9-120, MCA

STATEMENT OF REASONABLE NECESSITY: On March 24, 2020, the department published a temporary emergency rule, MAR Notice Number 2-59-597, extending the amount of time to submit documentation and information regarding application deficiencies by an additional 60 days. The reason for the extension was due to the department receiving reports from applicants, licensees, and other regulators of difficulty in completing applications and making reports due to COVID-19 restrictions. The department understands applicants may not be able to respond to department requests for information as quickly as before given the upheaval in the working lives of applicants due to COVID-19.

Licensees and applicants showing symptoms consistent with COVID-19 may be directed to avoid the workplace and follow recommendations of medical professionals and public health authorities to self-quarantine for specified periods. While the federal government's social distancing guidelines expired on April 30, 2020, people 65 years and older and individuals at higher risk for severe illness from COVID-19, continue to be advised to practice social distancing.

On June 1, 2020, Prometric Test Centers were allowed to resume testing in a limited or full capacity for all programs in numerous states and regions in the U.S. and Canada. However, depending on the number of COVID-19 cases in their respective region, some Prometric Test Centers continue to only offer essential services programs and/or programs with a limited capacity. These facilities and services are necessary for mortgage license applicants to take the necessary tests and complete their applications.

This rule amendment will allow applicants two additional months before their licenses are abandoned, which would require them to reapply and pay another fee. A sixty-day extension was chosen to balance the department's need to receive this information in a timely manner with the need to allow applicants more time to provide information due to COVID-19 related closures and challenges.

Since the number of COVID-19 cases reported to the CDC continues to increase, the department proposes to continue to extend the due date to submit the requirements for deficient applications by an additional 60 days until June 1, 2020.

4. Concerned persons may present their data, views, or arguments concerning the proposed action to Kelly O'Sullivan, Legal Counsel, Division of

Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; faxed to the office at (406) 841-2930; or e-mailed to banking@mt.gov; and must be received no later than 5:00 p.m., August 7, 2020.

5. If persons who are directly affected by the proposed actions wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to the person listed in 4 above no later than 5:00 p.m., July 22, 2020.

6. If the Division of Banking and Financial Institutions receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 19 persons based on the 185 existing mortgage servicer licensees or 549 persons based on the 5,482 existing mortgage brokers, lenders, servicers, and loan originators.

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

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

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

10. The department has determined that under 2-4-111, MCA, the proposed amendment of the above-stated rules will not significantly and directly impact small businesses.

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

By: /s/ Don Harris
Don Harris, Rule Reviewer
Department of Administration

Certified to the Secretary of State June 30, 2020.

BEFORE THE DEPARTMENT OF TRANSPORTATION
OF THE STATE OF MONTANA

In the matter of the amendment of)	NOTICE OF PROPOSED
ARM 18.8.101, 18.8.426, 18.8.508,)	AMENDMENT AND REPEAL
18.8.509, 18.8.510A, 18.8.510B,)	
18.8.511A, 18.8.511B, 18.8.602, and)	NO PUBLIC HEARING
18.8.901 and the repeal of ARM)	CONTEMPLATED
18.8.902 and 18.8.1101 pertaining to)	
Motor Carrier Services)	

TO: All Concerned Persons

1. On August 10, 2020, the Department of Transportation proposes to amend and repeal the above-stated rules.

2. The Department of Transportation 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 Transportation no later than 5:00 p.m. on August 3, 2020, to advise us of the nature of the accommodation that you need. Please contact Kaci Johnson, Department of Transportation, Motor Carrier Services Division, P.O. Box 201001, Helena, Montana, 59620-1001; telephone (406) 444-7205; fax (406) 444-9263; TTY Service (800) 335-7592 or through the Montana Relay Service at 711; or e-mail kacjohnson@mt.gov.

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

18.8.101 DEFINITIONS The following definitions shall apply throughout this chapter.

(1) "Calendar quarter" means a period of three consecutive months ending March 31, June 30, September 30, or December 31.

~~(2) "Commercial motor vehicle" means any self-propelled or towed motor vehicle used on a highway in interstate commerce to transport passengers or property when the vehicle:~~

~~(a) has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight of 10,001 pounds or more;~~

~~(b) is designed or used to transport more than eight passengers (including the driver) for compensation;~~

~~(c) is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or~~

~~(d) is used in transporting material found by the U.S. Secretary of Transportation to be hazardous under 49 USC 5103 and transported in a quantity requiring placarding under regulation prescribed by the Secretary under 49 CFR, subtitle B, chapter 1, subchapter C.~~

(3) remains the same but is renumbered (2).

~~(4) "Construction equipment" means any vehicle, machine, or attachment designed or adapted for and used in construction, heavy construction, highway construction, or remodeling work, as defined in 61-10-102, MCA.~~

~~(5) "Continuous travel" means unrestricted hours of travel for certain vehicles or loads operating under special permits. Movement is allowed 24 hours per day, seven days per week, including holidays and holiday weekends.~~

~~(6) "Convoy" means a group of two to five vehicles or vehicle combinations which would individually require flag vehicles that are permitted to travel together with flag vehicles at the front and rear of the group.~~

~~(7) remains the same but is renumbered (3).~~

~~(4) "Department" means the Montana Department of Transportation.~~

~~(8) remains the same but is renumbered (5).~~

~~(9) "F.O.B. factory list price" and "F.O.B. port of entry list price" mean manufacturer's suggested retail price (MSRP), as determined by the Montana Department of Justice under ARM 23.3.802 for light vehicles, motor homes, motorcycles, quadricycles, and amphibious vehicles, if they are issued a license plate for highway use. For all vehicles over one ton, "F.O.B. factory list price" and "F.O.B. port of entry list price" mean manufacturer's suggested retail price or acquired cost, whichever is less.~~

~~(10) through (13) remain the same but are renumbered (6) through (9).~~

~~(10) "Permittee" means the person or entity to which a special permit has been issued.~~

~~(14) and (15) remain the same but are renumbered (11) and (12).~~

~~(16) "Red route" means those highways upon which certain hours of travel may be prohibited for vehicles or loads operating under special permits. The highways are listed on the "red route restrictions" map, which is available from the department's Motor Carrier Services Division, P.O. Box 4639, Helena, MT 59604.~~

~~(17) and (18) remain the same but are renumbered (13) and (14).~~

~~(15) "Super-load" means an oversize load exceeding dimensions of 18 feet wide, 150 feet long, and 17 feet high, and/or with weights requiring Department Bridge Bureau approval.~~

~~(19) "Telephonic permit" means a computer-generated special permit that is issued to a vehicle or load that originates in a location where the permit cannot be transmitted electronically or purchased in person. A vehicle or load that is operating on a telephonic permit is subject to all applicable statutes and administrative rules which apply to special permits.~~

~~(20) remains the same but is renumbered (16).~~

AUTH: 61-3-710, 61-10-155, MCA

IMP: 61-3-708, 61-3-709, 61-10-107, 61-10-121, 61-10-122, 61-10-123, 61-10-124, 61-10-125, 61-10-201, MCA

REASON: The proposed amendments are necessary to deleted outdated and archaic terms which are no longer needed including "FOB," "red routes," and "telephonic permit." Other terms are being deleted, as they are already defined in statute or administrative rule such as "commercial motor vehicle," "continuous travel," and "construction equipment." Additional terms are being added as the

terms are now used in the administrative rules including "permittee" and "super-load."

18.8.426 CUSTOM COMBINES (1) through (3) remain the same.

(4) Custom combine permits include height up to and including 44 15 feet 6 inches and width up to and including 15 feet, and length up to and including 95 feet.

(5) remains the same.

(6) A custom combine permit may be operated within 100 air mile radius from the harvested field to the point of first unloading.

(7) The oversize portion of custom combine permits is not valid for operations other than those specific to custom combines.

AUTH: 61-10-155, MCA

IMP: 61-10-121, 61-10-122, 61-10-124, 61-10-125, 61-10-141, 61-10-214, MCA

REASON: The proposed amendments are necessary because the 2016 Montana Legislature implemented a statutory change for height for term permits from 14 feet 6 inches to 15 feet 6 inches. The proposed amendment is also necessary to add clarification to 61-10-130(2), MCA, by defining 100-mile radius as air miles, consistent with other regulations. The proposed amendment will also clarify the oversize portion of the custom combine permit is not valid for use outside of custom combine operations, such as operating double-trailer configurations for the remainder of the year.

~~18.8.508 SELF-ISSUING PERMIT ONLINE PERMITTING (1) Upon payment of fees, trip, or term, self-issuing special or GVW self-issued permits may be obtained from the Helena Motor Carrier Services office by utilizing the department's online permitting system, located at <http://www.mdt.gov/business/mcs/>. Permits may be issued for excess width, height, weight, and length provided the dimensions or weights do not require special approval, a vehicle weight analysis or a route analysis. These permits shall be completed for use as needed by the purchaser.~~

~~(2) The permittee must insert all information on the permit form in order to validate the permit. If the permit is not filled out completely, it will be confiscated. Repeated failures to completely fill out information will result in the applicant being denied the privilege of using self-issuing permits.~~

~~(2) Failure to provide accurate information may result in permit confiscation or suspension of online permitting privileges.~~

~~(3) Any questions concerning self-issuing permits the department's online permitting system must be directed to the Motor Carrier Services Division, P.O. Box 4639, Helena, MT 59604-4639, (406) 444-6130.~~

AUTH: 61-10-155, MCA

IMP: 61-10-101, 61-10-102, 61-10-103, 61-10-104, 61-10-106, 61-10-107, 61-10-108, 61-10-109, 61-10-110, 61-10-113, 61-10-121, 61-10-122, 61-10-123, 61-10-124, 61-10-125, 61-10-126, 61-10-127, 61-10-128, 61-10-129, 61-10-130, 61-10-

141, 61-10-142, 61-10-143, 61-10-144, 61-10-145, 61-10-146, 61-10-147, 61-10-148, MCA

REASON: The proposed amendments are necessary because the self-issuing permit process rule language is outdated, and appropriate permits are now issued by utilizing MDT's online permitting system.

18.8.509 GENERAL SPECIAL PERMIT RESTRICTIONS – SUPER-LOAD PERMIT (1) Unless otherwise provided for in statute or in these rules, permits issued under 61-10-121 through 61-10-125, MCA, ~~are subject to have~~ the following requirements.

(2) remains the same.

(3) A permit is not transferable upon change of ownership of a vehicle. If the owner of the vehicle for which a current permit has been issued replaces the vehicle, the department may transfer the permit to the new vehicle. ~~A permit is transferable as provided in 61-10-121(1), MCA.~~

~~(4) The original or legible copy of a computer generated term permit must be carried in the assigned vehicle, unless the vehicle is being operated on a telephonic permit. A term permit issued to a Montana implement dealer, or a term permit issued on financial stationery or a self-issuing prepaid term permit must be the original document and carried in the assigned vehicle.~~

~~(5) Resident implement dealers may purchase a term special permit for width, length, and height determined by the department, pursuant to the following criteria:~~

~~(a) two integrated implements of husbandry may be towed by truck or truck tractor;~~

~~(b) towing unit and driver must comply with safety requirements under 49 CFR 383, and 390 through 399;~~

~~(c) speed shall not exceed 35 mph; and~~

~~(d) travel is restricted to daylight hours.~~

~~(6) Extreme caution in the operation of a motor vehicle shall be exercised when hazardous conditions such as those caused by snow, ice, sleet, fog, mist, rain, dust, or smoke adversely affect visibility or traction. Speed shall be reduced when such conditions exist. The driver of any vehicle equipped with vehicular hazard warning lights may activate such lights whenever necessary to warn the operators of following vehicles of the presence of a traffic hazard ahead of the signaling vehicle, or to warn the operators of other vehicles that the signaling vehicle may itself constitute a traffic hazard. When conditions become sufficiently dangerous, the company or the operator shall discontinue operations, and operations shall not be resumed until the vehicle can be safely operated. No travel is allowed when a route has been placed under severe driving conditions as determined by the Department of Transportation. The Department of Transportation road report is available between November 1 and May 1, 24 hours a day by calling 511 or (800) 226-7623 and on the Department of Transportation web site at www.mdt511.com.~~

~~(7) If any oversize or overweight movement by the permittee constitutes a hazard or is involved in an accident upon any highway in the state of Montana, such permittee shall be subject to additional restrictions at the discretion of the~~

administrator of the M.C.S. Division for special permits for future use of the highways.

~~(8) Convoys will not be allowed unless otherwise specified in these rules.~~

~~(9) All vehicles shall comply with Montana licensing requirements.~~

~~(10) The total responsibility for protection of the public using the highway shall be assumed by the permittee.~~

~~(11) Vehicles operating under special permit are restricted to the posted speed limit unless a lower speed is required as a condition of the permit.~~

~~(12) Unless otherwise specified in statute or in these rules, the following travel restrictions apply to vehicles operating under special permits:~~

~~(a) continuous travel is allowed for vehicles or vehicle combinations with load to and including 10 feet wide, or 110 feet long, or 14 feet 6 inches high;~~

~~(b) vehicles traveling at night must be equipped with lights the full width and length of the vehicle and load which are visible for not less than 500 feet under normal atmospheric conditions at night;~~

~~(c) travel is allowed during daylight hours, seven days a week for the following vehicles and vehicle combinations:~~

~~(i) a single vehicle exceeding 55 feet in length;~~

~~(ii) vehicles or vehicle combinations with load over 10 feet wide to and including 18 feet wide, over 110 feet long to and including 120 feet long, or over 14 feet 6 inches high to and including 18 feet high;~~

~~(iii) no travel on holidays, holiday weekends and "red routes" from 3 p.m. Friday until sunrise Saturday and from 12 noon Sunday until sunrise Monday;~~

~~(d) travel is allowed during daylight hours, five days a week for the following vehicles and vehicle combinations:~~

~~(i) vehicles or vehicle combinations with load exceeding 18 feet wide, or 120 feet long, or 18 feet high;~~

~~(ii) no travel on Saturday, Sunday, holidays and holiday weekends, and "red routes" from 3 p.m. Friday until sunrise Monday.~~

~~(13) The Motor Carrier Services Division administrator or its designee may issue special permits for travel at night, on Saturdays and Sundays, and on holidays in the interests of safety or to minimize disruptions to the traveling public.~~

(4) A legible copy of a printed or electronic permit must be carried in the assigned vehicle.

(5) Resident implement dealers operating under a special permit in accordance with 61-10-121(1)(b), MCA may have dimensions on an as-needed basis.

(6) No travel is allowed when a route has been placed under severe driving conditions as determined by the department.

(7) The carrier shall be liable for any damages to property caused by the permittee. Failure to correct damage to department property may result in revocation of permit privileges. Repairs not completed within a reasonable timeframe may be repaired by the department and costs billed to the permittee.

(8) Unless otherwise specified in statute or rule, the following travel restrictions apply to vehicles operating under special permits:

(a) Interstate highways – travel is allowed 24 hours per day, 7 days per week, up to 18 feet wide, including essential services within one-half mile of the interstate highway.

(b) Non-interstate highways – travel is allowed 24 hours per day, 7 days per week, up to 10 feet wide, 150 feet long, or 15 feet 6 inches high.

(c) Holiday and holiday weekend travel on interstate highways is allowed 24 hours per day, 7 days per week, up to 18 feet wide, including essential services within one-half mile of the interstate highway.

(d) Holiday and holiday weekend travel on non-interstate highways is allowed 24 hours per day, 7 days per week for loads up to 10 feet wide and/or 15 feet 6 inches high. Loads exceeding 10 feet wide and/or 15 feet 6 inches high, up to 12 feet 6 inches wide and/or 15 feet 6 inches high may travel during daylight hours only.

(e) When movement requires pilot vehicles, the permittee must not delay traffic in excess of 15 minutes.

(9) Mobile home towing unit specific requirements include:

(a) A mobile home towing unit (toter) must be equipped with one or more dual-wheel drive axle or wide-based tire as defined in 61-10-107, MCA and have a wheelbase a minimum of 100 inches.

(b) When a manufactured home, double wide mobile home, modular home, or modular building has been assembled, the department may allow the building to be moved as one unit, with house-moving equipment, as a building, under a special permit.

(10) At the discretion of the MCS administrator or designee, any restricted travel may be waived.

(11) Loads which exceed 18 feet in width, 150 feet in length, 17 feet in height, or which require approval by the department's Bridge Bureau due to the weight, truck configuration, and/or route must apply for a super-load permit. The department may impose conditions on the issuance of a complete super-load permit, including, but not limited to, requiring the permittee to:

(a) obtain approval from local governments;

(b) obtain all necessary permits;

(c) obtain approval from affected utilities;

(d) obtain insurance as required by ARM 18.8.801;

(e) submit a travel plan and/or route survey;

(f) provide notice to the traveling public of the movement of loads;

(g) limit travel to specific days and/or hours;

(h) refrain from traveling during inclement weather conditions; and

(i) provide adequate traffic control personnel, equipment, and devices.

(12) Loads exceeding 18 feet wide up to 34 feet wide, 17 feet high up to 24 feet high, and/or 150 feet long up to 200 feet long, must obtain the appropriate department district administrator or designee approval of a completed super-load permit application. The department's decision on a complete super-load application for these dimensions must be issued within two working days of a properly completed application submittal.

(13) Loads exceeding 34 feet wide, 24 feet high, and/or 200 feet long must obtain the appropriate department district administrator or designee approval of the super-load permit application. The department's decision on a super-load

application for these dimensions must be issued within five working days of a properly completed application submittal.

AUTH: 61-10-129, 61-10-155, MCA

IMP: 61-10-121, 61-10-122, 61-10-123, 61-10-124, 61-10-125, MCA

REASON: The proposed amendments are necessary because ARM 18.8.1101 (Movements of Houses, Buildings, Extremely Heavy Machinery, and Other Large and Unusual Objects) and 18.8.509 (General Permit Restrictions) are being consolidated into one rule. The proposed amendment to ARM 18.8.509(4) is necessary because this information is outdated and must be updated to refer to electronic permits. Section (4) amendments will also clarify an original paper copy of the permit is no longer required if it can be viewed electronically. The proposed amendments to ARM 18.8.509(8) are necessary to re-define and update travel restrictions (including flag vehicle requirements, day/night travel, pilot vehicle requirements, night/day travel restrictions, and lights and signing restrictions, etc.) for both non-interstate and interstate highway travel. The former ARM 18.8.509(12) "Red routes" will be eliminated and replaced with the updated travel restrictions. The proposed amendments will move traffic delay restriction (the 10 minute rule) from ARM 18.8.1101 to 18.8.509(8)(e). The proposed amendments to ARM 18.8.509(11), (12), and (13) are necessary because the former "32J Form" application is being replaced with a "super-load" application to match the industry standard. Super-load is now defined in proposed ARM 18.8.101(15). Super-load district administrator approval has been moved from ARM 18.8.1101 to ARM 18.8.509(12) and (13).

18.8.510A REGULATIONS AND EQUIPMENT FOR FLAG PILOT

VEHICLES (1) A flag pilot vehicle may be any passenger car or two-axle truck a minimum of 60 inches wide. The maximum manufacturer's rating for the flag pilot vehicle shall not exceed a gross vehicle weight rating of 14,000 pounds. Service or mechanic trucks owned or contracted by the permittee and used as a flag pilot vehicle shall not exceed a gross vehicle weight rating of 26,001 pounds. A flag pilot vehicle may not exceed legal limits of size and weight. Trucks used as flag pilot vehicles shall be clearly distinguished from and identifiable as the escort vehicle. A flag pilot vehicle may pull a trailer or carry any item or equipment which:

(a) remains the same.

(b) allows an unobstructed view of the flashing lights and signs used by the flag pilot vehicle;

(c) and (d) remain the same.

(2) Service or mechanic trucks used as a flag pilot vehicle must not have a utility box which extends above the cab more than 12 inches or beyond the width of the cab more than 6 inches on either side.

(3) A sign with the words "oversize load" or similar wording shall be visible from the front of the vehicle and rear of the vehicle at all times when piloting an oversize load. Letters shall not be less than 8 inches in height. The letters shall be dark black in color on a light yellow colored background with the exception of digital signs. When not being operated as a flag pilot vehicle, signs must be removed.

(4) Flashing amber lights, visible 360 degrees, shall be mounted at each end of a sign with the words "oversize load" or similar wording, on the roof of the flag pilot vehicle. A revolving or strobe light may be substituted for flashing lights. Lights shall be flashing at all times when piloting an oversize load.

(5) All flag pilot vehicles shall be equipped with two-way communication.

(6) Flag Pilot vehicles must remain within 1,000 feet of the permitted vehicle or load.

AUTH: 61-10-155, MCA

IMP: 61-10-102, 61-10-121, 61-10-122, 61-10-123, 61-10-124, MCA

REASON: The proposed amendments are necessary because "flag" vehicle is being changed to "pilot" vehicle to match industry standards. Digital signage is added in ARM 18.8.510A(3) to update the rule for changing technology. The proposed amendment to (3) will change the oversize load sign definition per industry standards.

18.8.510B REGULATIONS AND EQUIPMENT FOR VEHICLES OR LOADS EXCEEDING 10 FEET WIDE OVERSIZE LOAD SIGNS (1) Vehicles exceeding 10 feet in width must:

(a) Display A a sign with the words "OVERSIZE LOAD" or similar wording ~~shall~~ which must be mounted at any visible height on the front and rear of the load. Letters shall not be less than 8 inches in height. The letters shall be ~~dark black~~ black in color on a ~~light yellow~~ yellow colored background with the exception of digital signs.

~~(2)~~(b) On the power unit, flashing amber lights, a minimum of five inches in diameter, 50 candlepower, 60 to 90 flashes per minute, shall be mounted at each end of the oversize load sign and visible 360 degrees. A revolving light or strobe light may be substituted for flashing lights. Lights shall be flashing at all times when moving an oversize vehicle or load.

~~(3)~~(2) Flag Pilot vehicles may be required under ARM 18.8.511A in lieu of "oversize load" signs and flashing lights.

~~(4)~~(3) Towing vehicles must be equipped with two-way radio communications if flag pilot vehicles are required under ARM 18.8.511A.

(5) remains the same but is renumbered (4).

AUTH: 61-10-155, MCA

IMP: 61-10-121, 61-10-122, MCA

REASON: The proposed amendments are necessary to change the oversize load sign definition per industry standards and add language on digital signage to update for technology purposes. "Flag" vehicle has been changed to "Pilot" vehicle throughout.

18.8.511A WHEN FLAG PILOT VEHICLES ARE REQUIRED ~~(1) Unless otherwise specified in statute or this chapter, flag vehicles are required for vehicles operating under special permit if one or more of the following conditions apply:~~

~~(a) when traveling on interstate highways:~~

- ~~(i) width over 16.5 feet, one rear flag vehicle;~~
- ~~(ii) length over 120 feet, one rear flag vehicle;~~
- ~~(b) when traveling on noninterstate highways:~~
 - ~~(i) width over 12.5 feet, to and including 16.5 feet, one front flag vehicle;~~
 - ~~(ii) width over 16.5 feet, one front and one rear flag vehicle;~~
 - ~~(iii) length over 110 feet, one rear flag vehicle.~~

~~(2) A rear flag vehicle escort is not required for a vehicle that exceeds 12 feet 6 inches in width, that is hauling or towing an implement of husbandry, construction as authorized by special permit if the vehicle is operating at highway speed or with the flow of traffic.~~

~~(3) A vehicle or load not equipped as required in ARM 18.8.510B must use one front and one rear flag vehicle for all travel.~~

~~(4) If a vehicle or load is not required to have a flag vehicle for interstate travel, and the permitted load is not subject to ARM 18.8.602, no flag vehicle is required for a radius of two miles of an interstate interchange.~~

(1) Unless otherwise specified in statute, rule, or the terms of the special permit issued to the permittee, pilot vehicles are required if one or more of the following conditions apply:

(a) Non-Interstate highways:

(i) Width – loads exceeding 12 feet 6 inches to 16 feet 6 inches must have one front pilot vehicle; width over 16 feet 6 inches, one rear pilot vehicle;

(ii) Width – loads exceeding 16 feet 6 inches to 18 feet must have one front and one rear pilot vehicle; length over 120 feet, one rear pilot vehicle;

(iii) Width – loads exceeding 18 feet to 24 feet must have at least two front and one rear pilot vehicles;

(iv) Width – loads exceeding 24 feet must have at least two front and two rear pilot vehicles;

(v) Length – loads exceeding 150 feet must have one rear pilot vehicle;

(vi) Length – loads exceeding 200 feet must have one front and one rear pilot vehicle.

(b) Interstate highways:

(i) Width – loads exceeding 16 feet 6 inches to 18 feet must have one rear pilot vehicle. Vehicles exempted under 61-10-102(2)(a), MCA may only travel during hours of darkness with one rear pilot vehicle;

(ii) Width – loads exceeding 18 feet must have at least two rear pilot vehicles side by side. Vehicles exempted under 61-10-102(2)(a), MCA may only travel during hours of darkness with two rear pilot vehicles;

(c) Height – loads exceeding 17 to 24 feet must have one front pilot vehicle equipped with a height pole and/or any other equivalent device detecting overhead dimensions.

(d) Height – loads exceeding 24 feet must have one front pilot vehicle equipped with a height pole and/or any other equivalent device detecting overhead dimensions and one rear pilot vehicle.

(2) In the event a load meets more than one of the criteria for the use of pilot vehicles, the criteria requiring the greatest number of pilot vehicles will determine the number of pilot vehicles necessary for travel.

(3) A vehicle or load not equipped as required in ARM 18.8.510B must use one front and one rear pilot vehicle for all travel.

(4) If a vehicle or load is not required to have a pilot vehicle for interstate travel, and the permitted load is not subject to ARM 18.8.602, no pilot vehicle is required for a radius of two miles of an interstate interchange.

(5) Overweight vehicles must meet the additional pilot requirements in ARM 18.8.602.

(6) Additional pilot vehicles or traffic control plans may be required and must be approved by the department through the super-load application.

AUTH: 61-10-155, MCA

IMP: 61-10-102, 61-10-121, 61-10-122, 61-10-123, 61-10-124, MCA

REASON: The proposed amendments are necessary because travel restrictions are being updated/changed. The purpose of the change is to split out interstate and non-interstate restrictions to focus on the safety of the traveling public. The proposed amendments will encourage interstate travel for wide loads and allow implements of husbandry the opportunity for night travel on the interstate.

18.8.511B CONVOY MOVES OF OVERSIZE VEHICLES (1) Vehicles operating under a special permit conditions which require the use of flag vehicles may be moved in a convoy under the following conditions: may not travel in a convoy.

~~(a) maximum width is 16.5 feet;~~

~~(b) maximum vehicle length is 120 feet;~~

~~(c) a convoy may not exceed five vehicles or vehicle combinations operating under special permit;~~

(2) Vehicles up to 16 feet 6 inches in width or up to 120 feet in length may travel in a convoy under the following conditions:

(a) a convoy may not exceed five vehicle combinations operating under a special permit;

~~(d)(b)~~ there shall be a minimum of 500 feet and a maximum of 1000 feet between all vehicles in a convoy;

~~(e)(c)~~ one properly equipped flag pilot vehicle is required at the front and rear of the convoy. ~~In addition to the equipment required in ARM 18.8.510A, each escort vehicle shall be equipped with a sign stating "Oversize Load Convoy"; and~~

~~(f)(d)~~ loads operating under ARM 18.8.602 ~~conditions are required to have a properly equipped flag person as specified in ARM 18.8.602 in each escort vehicle.~~ may convoy with no more than two overweight loads.

AUTH: 61-10-155, MCA

IMP: 61-10-121, 61-10-122, 61-10-123, 61-10-124, 61-10-125, MCA

REASON: The proposed amendments are necessary to add exceptions to convoy moves of oversize vehicles for larger loads.

18.8.602 SPEED AND BRIDGE CROSSING CONDITIONS IMPOSED FOR EXCESSIVE OVERWEIGHT VEHICLES (1) and (2) remain the same.

(a) vehicle must reduce speed to a maximum of 10 miles per hour before and while crossing the bridge, remain in driving lane, maintain at least two feet from the shoulder, and provide a minimum of one rear ~~flag~~ pilot vehicle, while other non-overweight traffic may travel simultaneously in all lanes; or

(b) through (5) remain the same.

AUTH: 61-10-155, MCA

IMP: 61-10-121, 61-10-122, 61-10-124, 61-10-125, 61-10-141, MCA

REASON: The proposed amendments are necessary to change "flag" vehicle to "pilot" vehicle to match industry standards.

18.8.901 CONFISCATION OF PERMITS (1) Any violation of state or federal law, rule or regulation, or any violation of a term or conditions of a special permit, will be is grounds for confiscation by an inspecting officer.

~~(2) A violation is considered as such whether it is violation of the laws of Montana, conditions attached to the permit, or the rules and regulations established by the department of transportation. Actions contrary to the rules of suspension as classified below will also be considered a violation.~~

~~(3) In each case where a violation of special permit is apparent to the inspecting officer, the violated portion of the permit will be confiscated. The inspecting officer will notify the M.C.S. office in Helena.~~

~~(4) remains the same but is renumbered (2).~~

(3) In addition to confiscation of a permit, the department may assess administrative penalties as follows:

(a) First violation - re-issue new permit

(b) Second violation - 24-hour suspension

(c) Third violation - 30-day suspension

(d) Fourth violation - 60-day suspension

(e) Fifth violation - 90-day suspension

(f) For violations exceeding the fifth, permits will be revoked.

(4) In order to protect the safety of the traveling public, permit privileges may be revoked by the administrator of the Motor Carrier Services Division for failure by the permittee to comply with any state or federal law, rule, regulation, or condition of a special permit. In making a determination whether to revoke permit privileges under this rule, the administrator shall take into consideration the nature and number of violations by the permittee as well as the need to protect the safety of the traveling public and the protection of personal and public property.

(5) Notice of administrative penalties or revocation of privileges shall:

(a) be given in writing;

(b) state the reason or reasons for revocation; and

(c) advise the permittee of the right to appeal the decision to the Montana Transportation Commission.

AUTH: 61-10-155, MCA. ~~This rule is advisory only but may be a correct interpretation of the law. IMPLIED,~~ 61-10-121, 61-10-122, 61-10-143, MCA
IMP: 61-10-121, 61-10-122, 61-10-143, MCA

REASON: The proposed amendments are necessary to combine ARM 18.8.901 and 18.8.902 into one rule to eliminate redundancy.

4. The following rules are proposed to be repealed:

18.8.902 ADMINISTRATIVE PENALTIES

AUTH: 61-10-155, MCA
IMP: 61-10-121, 61-10-122, 61-10-123, 61-10-143, MCA

REASON: The repeal is necessary because ARM 18.8.902 is being combined with ARM 18.8.901 to eliminate redundancy.

18.8.1101 MOVEMENT OF HOUSES, BUILDINGS, EXTREMELY HEAVY MACHINERY, AND OTHER LARGE AND UNUSUAL OBJECTS

AUTH: 61-10-155, MCA
IMP: 61-10-121, 61-10-122, 61-10-124, MCA

REASON: The repeal of ARM 18.8.1101 is necessary because relevant portions of ARM 18.8.1101 are being combined with ARM 18.8.509 and 18.8.511A. ARM 18.8.1101(1) through (11) have all been amended into ARM 18.8.509. Sections (12) through (14) have been amended into ARM 18.8.509; however, the 32J form name and class codes for 32Js are being eliminated. ARM 18.8.1101(15) has been amended into ARM 18.8.511A where pilot vehicle requirements are defined. Section (16) has been amended into ARM 18.8.509. Section (17) is deleted since class codes are being eliminated.

5. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Kaci Johnson, Department of Transportation, Motor Carrier Services Division, P.O. Box 201001, Helena, Montana, 59620-1001; telephone (406) 444-7205; fax (406) 444-9263; TTY Service at (800) 335-7592 or the Montana Relay Service at 711; or email kacjohnson@mt.gov, and must be received no later than 5:00 p.m., August 7, 2020.

6. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Kaci Johnson at the above address no later than 5:00 p.m., August 7, 2020.

7. 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 763 persons based on the current 7638 active USDOT accounts based in Montana.

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

9. An electronic copy of this proposal notice is available on the Department of Transportation website at www.mdt.mt.gov.

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

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

12. With regard to the requirements of 2-15-142, MCA, the department has determined that the amendment and repeal of the above-referenced rules will not have direct tribal implications.

/s/ Carol Grell Morris
Carol Grell Morris
Rule Reviewer

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

Certified to the Secretary of State June 30, 2020.

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

In the matter of the adoption of New Rule I pertaining to unemployment insurance benefits related to the COVID-19 pandemic) NOTICE OF PUBLIC HEARING ON PROPOSED ADOPTION)

TO: All Concerned Persons

1. On July 31, 2020, at 10:00 a.m., the Department of Labor and Industry (department) will hold a public hearing via remote conferencing to consider the proposed adoption 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, COVID-19, there will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

(a) Join Zoom Meeting, <https://mt-gov.zoom.us/meeting/96546293468>
Meeting ID: 965 4629 3468
OR

(b) Dial by telephone, +1 406 444 9999 or +1 646 558 8656,
Meeting ID: 965 4629 3468

The hearing will begin with a brief introduction by department staff to explain the use of the videoconference and telephonic platform. All participants will be muted except when it is their time to speak.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m., on July 24, 2020, to advise us of the nature of the accommodation that you need. Please contact Kari McManus, P.O. Box 8020, Helena, Montana 59604-8020; telephone (406) 444-4336; facsimile (406) 444-2699; Montana Relay 711; or e-mail KMcManus@mt.gov.

3. The text of the proposed New Rule provides as follows:

NEW RULE I COVID-19 CLAIMS FOR UNEMPLOYMENT INSURANCE BENEFITS FOR WEEKS OF UNEMPLOYMENT BEGINNING ON OR AFTER JULY 12, 2020

(1) For the purposes of this rule, the following definitions apply:

(a) "COVID-19" means the pandemic respiratory disease caused by coronavirus SAR-CoV-2, or mutations of that coronavirus.

(b) "COVID-19 quarantine" means that the claimant has received advice from a medical doctor or a public health authority recommending or requiring that the individual be isolated from others:

(i) for a period of up to 14 days in order to determine whether or not the individual has been exposed to the pathogens that cause COVID-19;
(ii) while the individual is infected with COVID-19; or
(iii) while the individual is subject to a "stay at home" or "shelter in place" order.

(c) "Family member" means a person residing in the same household as the claimant, including a partner or family member as defined in 45-5-206, MCA.

(2) A claimant directed by the employer to leave work or not report for work due to the employer's response to the COVID-19 pandemic, including a COVID-19 induced reduction in demand or unavailability of materials, is deemed to have been temporarily laid off by the employer.

(3) A claimant subject to a COVID-19 quarantine is deemed to be temporarily laid off by the employer during the period of the quarantine.

(4) A claimant who is a caregiver of a family member who is the subject of a COVID-19 quarantine is deemed, in order to further the public health, safety, and welfare, to also be subject to a COVID-19 quarantine.

(5) When a claimant has experienced a temporary layoff due to the COVID-19 pandemic, pursuant to (2), (3), or (4), the claimant is deemed to be able, available, and seeking suitable work when:

(a) the employer intends to recall the claimant to work at the end of the temporary layoff; and

(b) the claimant intends to return to work when recalled by the employer and takes reasonable measures to maintain contact with the employer.

(6) A claimant laid off as the result of being subject to a COVID-19 quarantine is ineligible for benefits if the claimant refuses work that can be performed while complying with the terms of the quarantine.

(7) The department shall apply its usual unemployment insurance rules in a manner that is consistent with providing unemployment benefits to employees who are laid off due to the COVID-19 pandemic through no fault or control of their own.

(8) This rule will not be applied to separations from employment arising after Executive Order 3-2020 is no longer in effect.

AUTH: 39-51-301, 39-51-302, MCA

IMP: 39-51-102, 39-51-301, 39-51-501, MCA

Statement of reasonable necessity: There is reasonable necessity to adopt New Rule I in order to establish a rule for unemployment insurance claims arising out of and during the COVID-19 pandemic. Pursuant to 2-4-303, MCA, temporary emergency rules expire within 120 days. On March 12, 2020, Governor Bullock issued Executive Order 2-2020, pertaining to a state of emergency related to the COVID-19 pandemic. On March 13, 2020, Governor Bullock issued Executive Order 3-2020, regarding the duration of the state of emergency. On March 17, 2020, the department adopted temporary emergency rules I through IV in response to the COVID-19 emergency. Although Montana is still subject to emergency and disaster declarations related to the COVID-19 pandemic, the state is presently in a phased lifting of certain public health orders and directives related to the pandemic (phased reopening). Despite the phased reopening, Montana is still subject to a continuing

threat to public health due to COVID-19, and is likely to remain under threat until the end of the declaration of emergency. Due to the uncertainty of that threat and its impact on society, the department concludes that it is reasonably necessary to adopt New Rule I. The proposed rule will allow the department to comply with recently enacted federal laws that provide for reimbursement to the state of unemployment insurance benefits for pandemic-related layoffs. Such federal laws require the department to provide flexibility in eligibility. Accordingly, the proposed rule clarifies that employees subject to quarantines or temporarily laid off by their employer due to the pandemic will be eligible for benefits. The proposed rule provides the department with the flexibility required by federal law and will allow the department to reasonably respond to the needs of Montana employees and employers. The rule further allows the program to continue to meet its core purpose by mitigating the economic effects of the COVID-19 pandemic on employment in Montana, such as they currently exist under the declaration of emergency.

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 Kari McManus, Unemployment Insurance Division, P.O. Box 8020, Helena, MT 59604-8020; fax (406) 444-2699; or e-mail to KMcManus@mt.gov and must be received no later than 5:00 p.m., on August 7, 2020.

5. The department provides notice to interested persons that the following temporary emergency rules, adopted on March 17, 2020, at page 584 of 2020 MAR Issue Number 6, will expire by operation of law on July 15, 2020:

(TEMPORARY EMERGENCY) NEW RULE I EMERGENCY DEFINITIONS RELATED TO COVID-19 CLAIMS FOR UNEMPLOYMENT INSURANCE BENEFITS

AUTH: 10-3-104, 39-51-302, MCA
IMP: 10-3-104, 39-51-102, MCA

(TEMPORARY EMERGENCY) NEW RULE II EMERGENCY RULE RELATED TO COVID-19 CLAIMS FOR UNEMPLOYMENT INSURANCE BENEFITS

AUTH: 10-3-104, 39-51-302, MCA
IMP: 10-3-104, 39-51-102, MCA

(TEMPORARY EMERGENCY) NEW RULE III EMERGENCY RULE RELATED TO UNEMPLOYMENT INSURANCE DEADLINES ARISING DURING A DECLARED EMERGENCY OR DISASTER RELATED TO COVID-19 PANDEMIC

AUTH: 10-3-104, 39-51-302, MCA
IMP: 10-3-104, 39-51-102, MCA

(TEMPORARY EMERGENCY) NEW RULE IV REGULAR
UNEMPLOYMENT INSURANCE RULES TO BE CONSTRUED TO GIVE EFFECT
TO EMERGENCY RULES RELATED TO COVID-19 PANDEMIC

AUTH: 10-3-104, 39-51-302, MCA

IMP: 10-3-104, 39-51-102, MCA

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, which includes the name and e-mail or mailing address of the person to receive notices, and specifies the particular subject matter or matters regarding which the person wishes to receive notices. Such written request may be mailed or delivered to the Department of Labor and Industry, attention: Mark Cadwallader, 1315 E. Lockey Avenue, P.O. Box 1728, Helena, Montana 59624-1728, faxed to the department at (406) 444-1394, or e-mailed to mcadwallader@mt.gov, or may be made by completing a request form at any rules hearing held by the agency. Please note that the above fax number and e-mail address are not to be used for asking questions about unemployment insurance claims or the application of unemployment compensation rules.

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

8. Pursuant to 2-4-111, MCA, the department has determined that the adoption of NEW RULE I proposed in this notice will not have a significant and direct impact upon small businesses.

9. The department's Office of Administrative Hearings has been designated to preside over and conduct this hearing.

/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 30, 2020.

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

In the matter of the amendment of)
ARM 24.138.504 approved clinical)
exam criteria for dentists and dental)
hygienists, 24.138.3102 specialty)
advertising, and the adoption of New)
Rule I dental hygienists – temporary)
practice permits)

NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENT AND
ADOPTION

TO: All Concerned Persons

1. On July 31, 2020, at 10:00 a.m., a public hearing will be held via remote conferencing to consider the proposed amendment and adoption of the above-stated rules. Because there currently exists a state of emergency in Montana due to the public health crisis caused by the coronavirus, there will be no in-person hearing. Interested parties may access the remote conferencing platform by dialing 406-444-4647 (local) or 1-833-681-5958 (toll free) and entering meeting ID 9432427 when directed to do so.

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 Dentistry no later than 5:00 p.m., on July 24, 2020, to advise us of the nature of the accommodation that you need. Please contact Kevin Bragg, Board of Dentistry, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2390; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsdden@mt.gov (board's e-mail).

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

24.138.504 APPROVED CLINICAL EXAM CRITERIA FOR DENTISTS AND DENTAL HYGIENISTS (1) remains the same.

(2) Dental students who graduate in the year 2020 shall be allowed to substitute the Western Regional Examining Board's manikin-based operative exam in lieu of the patient-based examinations required in (1)(a) and (1)(b). All remaining non-patient-based requirements shall remain in effect. The exception outlined in this section shall expire on December 31, 2020.

(2) through (5) remain the same but are renumbered (3) through (6).

AUTH: 37-1-131, 37-4-205, 37-4-402, MCA

IMP: 37-1-131, 37-4-301, 37-4-402, MCA

REASON: The board determined it is reasonably necessary to amend this rule in response to the COVID-19 pandemic. The current rule requires that dental graduates undertake a patient-based clinical examination with skills performed on live patients. The board has increasingly received requests for accommodation regarding patient-based examinations due to the pandemic. The main issues arise from the closure of many testing facilities, delayed regional examinations, and travel restrictions. The declared emergency and the resulting continued delays to new graduates are indefinite in nature. Additionally, the lack of personal protective equipment or PPE further exacerbates the restarting of patient-based examinations. The board concluded that if graduates are not allowed some accommodation, their licensure will be significantly delayed and the number of providers to Montana's citizens unnecessarily limited. The board has determined that allowing graduates to challenge the Western Regional Examination Board (WREB) manikin examination, for the year 2020, will ensure individuals are trained safely and effectively while allowing students to meet their clinical requirements.

24.138.3102 SPECIALTY ADVERTISING (1) through (2)(h) remain the same.

- (i) oral and maxillofacial radiology; ~~and~~
- (j) oral medicine;
- (k) dental anesthesiology; and
- (j) remains the same but is renumbered (l).
- (3) through (5) remain the same.

AUTH: 37-4-205, MCA

IMP: 37-4-205, MCA

REASON: In 2019 the National Commission on Recognition for Dental Specialties and Certifying Boards (NCRDSCB) approved dental anesthesiology as a recognized specialty. Subsequently in 2020, NCRDSCB approved oral medicine as its 11th approved specialty. The board determined it is reasonably necessary to update this rule to align with national standards and to explicitly authorize the use of these specialty designations by practitioners.

4. The proposed new rule is as follows:

NEW RULE I DENTAL HYGIENISTS – TEMPORARY PRACTICE PERMITS

(1) Dental hygienist applicants shall be issued a temporary practice permit under 37-1-305(2), MCA, while waiting to take either their written national examination or their regional clinical examination.

(2) A dental hygienist holding a temporary practice permit may practice only under the direct supervision of a dentist licensed by the state of Montana.

(3) Any advertisement in which the temporary permit holder is named or pictured must state that the individual holds a temporary permit.

(4) Prior to issuance of the temporary practice permit, applicants and their supervising dentist(s) shall consent to the provisions of this rule and 37-1-305(2), MCA, in a signed statement filed with the department.

(5) Temporary permits shall not be available to nonroutine applicants absent board review and determination that issuance of the permit will not endanger the public.

AUTH: 37-1-131, 37-1-319, 37-4-205, MCA

IMP: 37-1-131, 37-1-305, 37-1-319, 37-4-402, MCA

REASON: The board determined it is reasonably necessary to adopt this new rule in response to the COVID-19 pandemic. Currently, ARM 24.138.504 requires that dental hygienist graduates undertake a patient-based clinical examination with skills performed on live patients. The board has increasingly received requests for accommodation regarding patient-based examinations due to the pandemic. Additionally, in-state dental hygiene graduates have had their written examinations delayed by approximately six months. The declared emergency and the resulting continued delays to new graduates are indefinite in nature. Additionally, the lack of personal protective equipment or PPE further exacerbates the restarting of patient-based examinations. If graduates are not allowed some accommodation, their licensure will be significantly delayed and the number of providers to Montana's citizens limited.

The board has therefore determined that issuing dental hygiene graduates a temporary practice permit will allow these graduates adequate opportunities to enter the workforce while awaiting licensure. Further, to ensure that individuals are trained safely and effectively, a Montana-licensed dentist must directly supervise all work done under such a temporary practice permit. The board concluded it is necessary to make the duration of the permit contingent upon the graduate taking the first available examination. If the examination is passed a full license shall be issued and if failed, the temporary permit shall expire with immediate effect. This expiration requirement aligns with the parameters of the implemented statute, 37-1-305, MCA, and will protect the public from harm performed by unsuccessful candidates.

5. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Dentistry, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibsdden@mt.gov, and must be received no later than 5:00 p.m., August 7, 2020.

6. An electronic copy of this notice of public hearing is available at dentistry.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.

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

mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Dentistry, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsdden@mt.gov; or made by completing a request form at any rules hearing held by the agency.

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

9. Regarding the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.138.504 and 24.138.3102 will not significantly and directly impact small businesses.

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

Documentation of the board's above-stated determinations is available upon request to the Board of Dentistry, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2390; facsimile (406) 841-2305; or to dlibsdden@mt.gov.

10. Kevin Bragg, Executive Officer, has been designated to preside over and conduct this hearing.

BOARD OF DENTISTRY
AIMEE AMELINE, DDS
PRESIDENT

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

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

Certified to the Secretary of State June 30, 2020.

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

In the matter of the amendment of)
ARM 24.189.401 fee schedule,) NOTICE OF PUBLIC HEARING ON
24.189.601 psychologist application) PROPOSED AMENDMENT
procedures, 24.189.610 examination,)
24.189.633 temporary permit, and)
24.189.910 behavior analyst)
experience and supervision)

TO: All Concerned Persons

1. On August 5, 2020, at 9:00 a.m., a public hearing will be held via remote conferencing to consider the proposed amendment of the above-stated rules. Because there currently exists a state of emergency in Montana due to the public health crisis caused by the coronavirus, there will be no in-person hearing. Interested parties may access the remote conferencing platform by dialing 406-444-4647 (local) or 1-833-681-5958 (toll free) and entering meeting ID 2919016 when directed to do so.

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 Psychologists no later than 5:00 p.m., on July 29, 2020, to advise us of the nature of the accommodation that you need. Please contact Sharon Peterson, Board of Psychologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2375; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibspsy@mt.gov (board's e-mail).

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

24.189.401 FEE SCHEDULE (1) through (1)(b) remain the same.
~~(c) Oral examination fee~~ 100
(d) through (k) remain the same but are renumbered (c) through (j).
(2) remains the same.

AUTH: 37-1-134, 37-17-202, 37-17-406, MCA
IMP: 37-1-134, 37-1-141, 37-17-302, 37-17-403, 37-17-406, MCA

REASON: The board is amending this rule to remove the fee for the Montana oral psychiatrist licensure exam to align with proposed changes in this notice. See REASON for ARM 24.189.610. The board estimates this fee elimination will affect 16 applicants and will reduce annual board revenue by approximately \$1600.

24.189.601 PSYCHOLOGIST APPLICATION PROCEDURES

(1) Applications for licensure of a psychologist, when properly filled out by the applicant, must provide the board with that information necessary to ascertain whether or not the applicant meets the requirements of the law as to education and experience. ~~Completed application forms must reflect satisfactorily the requirements of Montana law.~~

(a) Persons seeking licensure must submit a completed application on forms prescribed by the department along with the application fee.

~~(b) Completed applications shall be delivered to the department, accompanied by the application fee, at least 90 days in advance of the examination dates. The examination dates can be found on the board's web site.~~

(c) remains the same but is renumbered (b).

~~(d) (c) An application applicant must resolve deficiencies be completed for final board review no more than 18 months after the board department receives it the application or it will expire and a new application and fee will be required. If a temporary practice permit is issued, the application will not expire until the latter of:~~

(i) the temporary practice permit's expiration date; or

~~(ii) the third failed attempt at the oral examination; or~~

(iii) remains the same but is renumbered (ii).

(e) remains the same but is renumbered (d).

(2) through (4) remain the same.

~~(5) The applicant will be notified in writing as to the time and place of the oral examination once the completed application is received and the board has approved the work samples. It shall be the duty of the applicant to inform the department when it is not feasible to appear at the time and place stated for the examination.~~

~~(a) If a candidate is scheduled for the examination a second time and does not appear without legitimate excused reasons, the applicant may lose eligibility for the examination.~~

~~(b) (5) When the application file is complete and acceptable, the board shall notify an applicant who is licensed in another state or province, and who is now a resident of Montana, that the applicant is allowed to practice as a psychologist pursuant to 37-17-104, MCA, pending satisfactory completion of the next board oral exam for which the applicant is eligible.~~

AUTH: 37-1-131, 37-17-202, MCA

IMP: 37-1-131, 37-17-302, MCA

REASON: See REASON for ARM 24.189.610 regarding removal of the oral examination requirements. Following staff review and recommendations, the board is also amending this rule to align with and further facilitate the department's standardized application and licensure procedures that apply to all licensing boards.

~~24.189.610 WORK SAMPLES - EXAMINATION (1) In addition to an approved license application, each applicant for licensure shall submit three work samples, at least two of which must be complete psychological evaluations, all from work performed with respect to three different individuals within two years of the~~

application date. Collectively, these are referred to as work samples in these rules.

(a) Each of the two psychological evaluations must include a demonstration of competence in:

(i) the integration and interpretation of:

(A) history taking utilizing a clinical interview conducted by the applicant;

(B) intelligence testing utilizing comprehensive current norms; and

(C) personality testing utilizing at least one objective personality inventory that is widely recognized and used in the field/practice of psychology, has strong empirical foundations, and assesses global personality and psychological functioning;

(ii) the formulation of appropriate diagnoses using the current version of the Diagnostic and Statistical Manual of Mental Disorders (DSM); and

(iii) making appropriate recommendations.

(b) Work samples do not include newspaper or other similar articles or publications. Tests utilized must be those widely recognized and respected in the practice of psychology. All identifying information must be removed, as specified on the application form, from work samples submitted to the board. Questions regarding the work samples will be included in the oral examination and candidates may be requested to present the raw data upon which their work samples were based.

(2) (1) Examinations for licensure will be are a computerized national examination and an oral examination a computerized Montana jurisdictional training course with evaluative aspects. These will be conducted by the board or its duly constituted representative(s). The computerized examination developed by the national licensing program, with the support of the Association of State and Provincial Psychology Boards, may be given.

(a) The acceptable level of performance on the computerized national examination shall be is a scaled score of 500.

(b) The acceptable level of performance on the national written examination previously administered by the board shall be 70 percent.

(c) The computerized national examination must be passed before an applicant may be made eligible to take the oral examination.

(3) The applicant will be notified of the oral examination time schedule at least two weeks in advance. This examination schedule will establish time(s), place(s), the amount of the examination fee, and other pertinent information and/or instructions.

(4) The board shall determine the subject matter and scope of specialized psychological areas and techniques for the oral examination. Oral examinations shall include such matters as professional ethics for the purpose of determining the applicant's competence to conduct the applicant in a professional manner and to probe the applicant's knowledge and judgement. The examination shall be scored on a five point scale: 5 (excellent), 4 (good), 3 (fair), 2 (poor), 1 (very poor). A mean score of three derived from the ratings of all examiners is required for passing. Candidates must have a mean of three, based on total points, divided by the number of scales evaluated. Additionally, they cannot have a mean of two or less on any one scale they are evaluated on. Oral examinations for candidates shall include, but not be limited to, questions in the following areas:

- (a) ~~psychopathology and diagnosis;~~
- (b) ~~assessment;~~
- (c) ~~ethics;~~
- (d) ~~Montana mental health law;~~
- (e) ~~psychotherapy;~~
- (f) ~~previously submitted work samples.~~

~~(5) Applicants shall be informed of the results of the examinations by the department. All applicants who pass both examinations shall be considered licensed if they have met all other requirements. The department shall transmit the board's decision in writing to applicants and, when appropriate, inform them of their right to appeal. Reasons for actions shall be specified. The communication shall be sent to the last known address of the applicant by mail.~~

~~(6) (2) Applicants may take the Montana training course as many times as necessary to pass. Applicants who fail the computerized examination will be required to retake the computerized examination. Applicants failing the oral examination once will only be required to retake the oral examination. Applicants who fail the computerized or oral examinations twice shall, in addition to being retested, national examination two or more times must file in advance a plan with the board that must be preapproved by the board and must include a time period for securing to secure further professional training and experience before retaking the exam. The license applicant is then obligated to must complete the preapproved approved plan prior to being authorized to take before retaking the examination or to being licensed.~~

AUTH: 37-1-131, 37-17-202, MCA

IMP: 37-1-131, 37-17-302, MCA

REASON: The board determined it is reasonably necessary to amend this rule to no longer require an oral exam for Montana licensure. Over time, other states have stopped requiring oral exams. Further, the 2019 Montana Legislature amended 37-1-304, MCA, so that boards "shall" issue licenses to those out-of-state applicants already licensed in states with standards substantially equivalent to Montana's. These changes prompted staff and the board to review and compare the board's licensing requirements with other states' standards. The board concluded the oral exam constitutes an unreasonable and unnecessary barrier to licensure, particularly for applicants licensed in other states.

The board is proposing to replace the oral exam with a Montana-specific training course to ensure applicants are familiar with state-specific statutes and administrative rules. With the ultimate goal to ensure that licensees are knowledgeable of Montana's specific statutes and rules, the board will allow applicants to take the training course as many times as needed to pass.

24.189.633 TEMPORARY PERMIT (1) through (8) remain the same.

(9) A temporary permit is valid until the date of the first ~~oral examination examinations~~ for which the person is eligible following issuance of the permit.

~~(10) The first oral examination for which the person is eligible is the next oral examination occurring at least 90 days following the date the person submits the~~

~~required work samples, but not later than the second oral examination test date following the date the temporary permit is issued. Except, however, that on a case-by-case basis, and upon good cause, the first oral examination for which the person is eligible may be set by the board to allow the applicant additional time to obtain the required work samples and to continue the supervised practice of psychology. If the time is extended, it shall be extended to the date of what will then constitute the first oral examination for which the person is eligible.~~

~~(11) (10) A temporary practice permit holder must use reasonable diligence to obtain the necessary work samples for purposes of gaining licensure. Regardless of whether work samples are submitted to or approved by the board, a A temporary practice permit shall terminate no later than two years following issuance.~~

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

IMP: 37-1-131, 37-1-305, MCA

REASON: See REASON for ARM 24.189.610.

24.189.910 BEHAVIOR ANALYST EXPERIENCE AND SUPERVISION

(1) and (2) remain the same.

(3) A behavior analyst may not supervise:

(a) more than ~~one~~ three student ~~intern~~ interns if the analyst is also supervising a behavior ~~technician~~ technicians or an assistant behavior analyst analysts; or

(b) more than seven student interns if the analyst is not ~~also~~ supervising a behavior ~~technician~~ technicians or an assistant behavior analyst analysts.

(4) through (13) remain the same.

AUTH: 37-17-406, MCA

IMP: 37-17-403, 37-17-405, 37-17-406, MCA

REASON: In response to requests from behavior analyst licensees, the board is amending this rule to increase the number of student interns a behavior analyst can supervise. Following licensee feedback that student interns need more opportunities to obtain supervised experience in Montana, the board concluded that behavior analysts are competent to supervise more people than currently allowed and it is reasonably necessary to amend this 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 Psychologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibspsy@mt.gov, and must be received no later than 5:00 p.m., August 7, 2020.

5. An electronic copy of this notice of public hearing is available at www.psy.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 Psychologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibspsy@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 24.189.401, 24.189.601, 24.189.610, 24.189.633, and 24.189.910 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determination is available upon request to the Board of Psychologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2375; facsimile (406) 841-2305; or to dlibspsy@mt.gov.

9. Sharon Peterson, Executive Officer, has been designated to preside over and conduct this hearing.

BOARD OF PSYCHOLOGISTS
LORETTA BOLYARD, Ph.D.
CHAIRPERSON

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

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

Certified to the Secretary of State June 30, 2020.

BEFORE THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the adoption of NEW) NOTICE OF PROPOSED
RULE I pertaining to label review) ADOPTION
)
) NO PUBLIC HEARING
) CONTEMPLATED

TO: All Concerned Persons

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

2. The Department of Livestock will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Livestock no later than 5:00 p.m. on August 3, 2020, 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, MT 59620-2001; telephone: (406) 444-9321; TTD number: (800) 253-4091; fax: (406) 444-1929; e-mail: MDOLcomments@mt.gov.

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

NEW RULE I LABEL REVIEW (1) The label for a single ingredient product produced in an establishment under state inspection may be used on that product without prior review from the department.

(2) The label for a multiple ingredient product produced in an establishment under state inspection may not be used on that product unless the establishment has submitted the label for review and the label has been accepted by the department.

(3) Requests for label review must be submitted on an approved label application form containing all required information.

(4) Establishments must maintain a copy of all labels used on products that bear the state mark of inspection.

(5) The department's acceptance of a label is valid for two years from the date the acceptance was issued unless the department provides a shorter time period in its acceptance. Establishments must resubmit labels for renewal after the acceptance period has expired.

(6) During the acceptance period, the establishment producing the label must ensure that the label is updated to meet all regulatory requirements following changes to the product formulation, processing procedures, regulation, or other events that may render the label noncompliant with applicable regulations.

AUTH: 81-2-102, 81-9-220, MCA

IMP: 81-9-220, 81-9-226, 81-9-228, 81-9-234, MCA

REASON: The Department of Livestock is proposing this new rule to formalize longstanding department practices. The department has required and provided label approval for many years. This rule does not change the existing requirement that the establishment provide labels that fulfill its obligation to ensure meat and poultry products are properly marked, labeled, packaged, and not misbranded. The proposed rule would add a new component in (5) that provides a two-year acceptance period for labels, unless either the department provides a shorter acceptance period, or the manufacturing process or components are changed during the acceptance period. Previously, there was ongoing departmental review of approved labels.

The department provides label review to assist establishments in producing labels that meet the federal regulations required for labeling of meat and poultry products. The department provides expert guidance to establishments about the labeling requirements that exist in federal regulations and policy documents. This guidance assists establishments that have limited resources to devote to the regulatory requirements of labeling.

Requiring label review for state inspected establishments is a departure from the labeling process used by the United States Department of Agriculture's Food Safety Inspection Service (FSIS). FSIS allows federally inspected establishments to produce and apply labels under a process known as "generic labeling." Generic labeling for federal establishments means that for most products the plant creates labels without any oversight from FSIS; FSIS only audits labels for accuracy and regulatory compliance after the label has been used. Many large, federally inspected establishments employ staff with regulatory expertise who work full-time on labels for the establishment. State inspected establishments may not have access to similar resources. Under generic labeling, if FSIS finds noncompliance on the label of a product in commerce, a recall committee would be convened to make a recommendation regarding the need for a recall. Recall recommendations can be costly to the establishment that produced the recalled product in time expended, production lost, and potential damage to relationships with customers.

The department expects that this proposed rule would protect public health, reduce the likelihood of recalls, and formalize the department's practices for labeling review.

4. Concerned persons may submit their data, views, or arguments either orally or in writing concerning the proposed action to the Executive Officer, Department of Livestock, 301 N. Roberts St., Room 308, P.O. Box 202001, Helena, MT 59620-2001, by faxing to (406) 444-1929, or by e-mailing to MDOLcomments@mt.gov to be received no later than 5:00 p.m., August 7, 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 a written request for a hearing and submit this request along with any written comments to the above address no later than 5:00 p.m., August 7, 2020.

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 businesses 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 public hearing will be held at a later date. Notice of the public hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 4 persons based on 37 current businesses that will be impacted by this rule.

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 paragraph 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 adoption of the above-referenced rule will not significantly and directly impact small businesses.

BY: /s/ Michael S. Honeycutt
Michael S. Honeycutt
Executive Director
Board of Livestock
Department of Livestock

BY: /s/ Cinda Young-Eichenfels
Cinda Young-Eichenfels
Rule Reviewer

Certified to the Secretary of State June 30, 2020.

BEFORE THE OFFICE OF PUBLIC INSTRUCTION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 10.13.309 pertaining to traffic)
education)

TO: All Concerned Persons

1. On May 29, 2020, the Office of Public Instruction published MAR Notice No. 10-13-133 pertaining to the proposed amendment of the above-stated rule at page 939 of the 2020 Montana Administrative Register, Issue Number 10.

2. The Office of Public Instruction has amended the above-stated rule as proposed.

3. No comments or testimony were received.

/s/ Julia W. Swingley
Julia W. Swingley
Chief Legal Counsel
Rule Reviewer

/s/ Elsie Arntzen
Elsie Arntzen
Superintendent
Office of Public Instruction

Certified to the Secretary of State June 30, 2020.

BEFORE THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 32.3.433 designated)
surveillance area)

TO: All Concerned Persons

1. On May 15, 2020, the Department of Livestock published MAR Notice No. 32-20-310 pertaining to the proposed amendment of the above-stated rule at page 843 of the 2020 Montana Administrative Register, Issue Number 9.

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

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

COMMENT #1: For producers that are leaving the newly proposed DSA boundary in the spring to go to summer pastures I believe it would be acceptable to grant them a variance to test in the fall instead of the spring prior to leaving. Not only for the convenience of the producer but more importantly it seems that it would be unlikely for cattle, that were exposed in the spring, to seroconvert prior to testing in the spring, making it a less effective time to test when compared to fall testing.

RESPONSE #1: Thank you for your comment. MDOL encourages the development of herd management agreements with DSA producers to assist in determining disease risk. Test variances may be granted based upon a combination of risk factors and/or mitigation efforts. The variance suggested by this comment is consistent with past variances given but will need to be done at the individual producer level.

BY: /s/ Michael S. Honeycutt
Michael S. Honeycutt
Executive Officer
Board of Livestock
Department of Livestock

BY: /s/ Cinda Young-Eichenfels
Cinda Young-Eichenfels
Rule Reviewer

Certified to the Secretary of State June 30, 2020.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of)	CORRECTED NOTICE OF
ARM 42.12.101, 42.12.106,)	AMENDMENT AND REPEAL
42.12.130, 42.12.133, 42.12.209,)	
42.13.101, and 42.13.107, and the)	
repeal of ARM 42.12.207 pertaining)	
to approval of a licensee without)	
premises and concession)	
agreements)	

TO: All Concerned Persons

1. On March 13, 2020, the Department of Revenue (department) published MAR Notice No. 42-1017 pertaining to the public hearing on the proposed amendment and repeal of the above-stated rules at page 462 of the 2020 Montana Administrative Register, Issue Number 5. On June 26, 2020, the department published the Notice of Amendment and Repeal pertaining to MAR Notice No. 42-1017 (adoption notice) at page 1177 of the 2020 Montana Administrative Register, Issue Number 12.

2. The department discovered an inadvertent error in the adoption notice subsequent to its filing with the Secretary of State on June 16, but prior to its publication in the Montana Administrative Register on June 26. The error includes incorrect text finalized within the department's amendment to ARM 42.13.101(11)(a), made in a response to a comment, which was intended to provide for department consideration of mitigating circumstances prior to the department's investigation of a licensee or concessionaire's alleged violations. All other mitigating circumstances - including those where an administrative action has been initiated by the department - are provided in (12), which cross-references the authority in 16-4-406, MCA, and the mitigating circumstances described therein.

3. The rule, as amended in corrected form, reads as follows, deleted matter interlined, new matter underlined:

42.13.101 COMPLIANCE WITH LAWS AND RULES (1) through (10) remain as adopted.

(11) Mitigating circumstances may result in the adjustment of monetary penalties, amount of suspension time, or revocation, and will not bind the department to the progressive penalty schedule. Mitigating circumstances include, but are not limited to:

(a) the admissions of either the licensee or concessionaire regarding violations of the code or a rule of the department prior to the department commencing ~~administrative action against~~ investigation of the licensee or concessionaire; or

(b) through (12) remain as adopted.

AUTH: 16-1-303, 16-4-1009, MCA

IMP: 16-1-302, 16-3-301, 16-4-406, 16-4-1004, 16-4-1008, 16-6-314, MCA

4. The replacement pages for this corrected notice were submitted to the Secretary of State on June 30, 2020.

/s/ Todd Olson
Todd Olson
Rule Reviewer

/s/ Gene Walborn
Gene Walborn
Director of Revenue

Certified to the Secretary of State June 30, 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 January 17, 2020, through June 26, 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 2020 Montana Administrative Register.

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

ADMINISTRATION, Department of, Title 2

2-13-593	Applicant Priority and Criteria for Awarding 9-1-1 Grants, p. 2075, 179
2-59-597	Extension of Time Periods for Annual Reporting to Escrow Businesses, Quarterly Reporting for Mortgage Services, and Abandonment of Initial Mortgage License Applications Related to the COVID-19 Pandemic, p. 654
2-59-598	Annual Meetings Held by Banks and Credit Unions During the COVID-19 Pandemic, p. 657
2-59-599	Semiannual Assessments of Banks and Supervisory Fees of Credit Unions Related to the COVID-19 Pandemic, p. 897
2-59-600	Semiannual Assessment for Banks, p. 1039

(Public Employees' Retirement Board)

2-43-591	Operation of the Retirement Systems and Plans Administered by the Montana Public Employees' Retirement Board - Allocation of Additional Employer Contributions on Behalf of Montana University System Employees in the Optional Retirement Program, p. 2274, 391
2-43-594	Investment Policy Statements for the Defined Contribution Retirement Plan and the 457(b) Deferred Compensation Plan, p. 347, 1117
2-43-601	Adoption by Reference of the State of Montana Public Employee Defined Contribution Plan Document and the Public Employee Deferred Compensation (457) Plan Document, p. 1035

AGRICULTURE, Department of, Title 4

- 4-20-264 Student Loan Assistance Program, p. 123, 570, 776
- 4-20-265 Restricted Weed Seeds, p. 571
- 4-20-266 Restricted Weed Seeds, p. 514, 1018
- 4-20-267 Commodity Dealer Licenses, p. 517, 1019
- 4-20-268 Violations in Commodity Reporting, p. 1042

STATE AUDITOR, Office of, Title 6

- 6-250 Securities Regulation - Filings - Securities Exemptions - Fraudulent and Unethical Practices - Broker-Dealers and Investment Advisers - Transactional Exemption, p. 719
- 6-261 Surety Insurance Producers Who Sell, Solicit, or Negotiate Commercial Bail Bonds, p. 739

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