

# MONTANA ADMINISTRATIVE REGISTER

2020 ISSUE NO. 17  
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PAGES 1690-1718



# MONTANA ADMINISTRATIVE REGISTER

## ISSUE NO. 17

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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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) 444-9009.

Page Number

### TABLE OF CONTENTS

#### PROPOSAL NOTICE SECTION

##### FISH, WILDLIFE AND PARKS, Department of, Title 12

12-530 (Fish and Wildlife Commission) Notice of Public Hearing on Proposed Adoption and Amendment - Closing the Shields River to All Motorized Watercraft. 1690-1692

##### CORRECTIONS, Department of, Title 20

20-25-70 (Board of Pardons and Parole) Amended Notice of Public Hearing on Proposed Adoption and Amendment - Parole Guidelines - Conditional Discharge From Supervision. 1693-1694

##### SECRETARY OF STATE, Office of, Title 44

44-2-240 Notice of Public Hearing on Proposed Amendment - Scheduled Dates for the 2021 Montana Administrative Register. 1695-1697

RULE ADOPTION SECTION

ADMINISTRATION, Department of, Title 2

2-59-596 Notice of Adoption, Amendment, and Repeal - Banking - Bank Branches - Limitations on Loans - Bank Branch Relocations.	1698-1703
2-59-603 Notice of Amendment - Adoption of Model Bylaws and Statutory Reference.	1704

FISH, WILDLIFE AND PARKS, Department of, Title 12

12-532 Notice of Adoption of Temporary Emergency Rule - Closing Spring Meadow Lake State Park in Lewis and Clark County.	1705-1706
--	-----------

PUBLIC HEALTH AND HUMAN SERVICES, Department of, Title 37

37-928 Notice of Decision on Proposed Adoption and Amendment - Home and Community-Based Services.	1707
---	------

SPECIAL NOTICE AND TABLE SECTION

Function of Administrative Rule Review Committee.	1708-1709
How to Use ARM and MAR.	1710
Recent Rulemaking by Agency.	1711-1718

BEFORE THE FISH AND WILDLIFE COMMISSION  
OF THE STATE OF MONTANA

In the matter of the adoption of New Rule I and the amendment of ARM 12.11.4101 pertaining to closing the Shields River to all motorized watercraft ) NOTICE OF PUBLIC HEARING ON PROPOSED ADOPTION AND AMENDMENT ) ) ) )

TO: All Concerned Persons

1. On October 6, 2020, at 10:00 a.m., the Fish and Wildlife Commission (commission) will hold a telephonic public hearing via ZOOM meeting platform to consider the proposed adoption and amendment of the above-stated rules. Because there currently exists a state of emergency in Montana due to the public health crisis by the novel coronavirus, COVID-19, there will be no in-person hearing. Interested parties may access the remote conferencing in the following way:

(a) Dial by telephone, 1-646-558-8656  
Meeting ID: 923 3117 9115  
Password: 508621

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

2. The commission will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m. on September 25, 2020, to advise us of the nature of the accommodation that you need. Please contact Kaedy Gangstad, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, Montana, 59620-0701; telephone (406) 444-4594; or e-mail kgangstad@mt.gov.

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

NEW RULE I SHIELDS RIVER (1) The Shields River is located in Park and Meagher counties.

(2) The Shields River and its tributaries are closed to any motorized watercraft from the headwaters of the Shields River to the confluence with the Yellowstone River.

AUTH: 87-1-303, MCA  
IMP: 87-1-303, MCA

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

12.11.4101 PARK COUNTY (1) All rivers and streams in Park County east of the continental divide are closed to the use of all watercraft propelled by machinery of over 10 horsepower with the following exceptions:

(a) on the Yellowstone River, downriver from Highway 89 bridge (near mouth of Shields River); and

(b) the Shields River, which is closed to all motorized watercraft pursuant to [NEW RULE I].

AUTH: ~~23-1-106~~, 87-1-303, MCA

IMP: ~~23-1-106~~, 87-1-303, MCA

REASON: At their August 13, 2020 meeting, the commission initiated rulemaking on a petition to ban motorized use on the Shields River from the headwaters to its confluence with the Yellowstone River and all tributaries of the Shields River. The petition was submitted by Jeff Welch on behalf of co-petitioners Mike and Leigh McDaniel, Bob Means, Sally Epps, Nancy Etheridge, and Stuart and Victoria Schilling. The petition also included a letter in support signed by 49 persons. The petition references safety concerns with jet boats that can operate at high rates of speed within the current 10hp restriction. The petition indicates that motorized travel on the small stream creates the dangerous possibility of a collision between a jet boat and irrigation equipment, livestock, children swimming, inner-tubers, and residents fishing.

Currently, the portion of the Shields River that is in Park County has a 10hp restriction on motorboats pursuant to ARM 12.11.4101. Portions of the Shields River located in Meagher County have no restrictions. The commission is proposing to amend ARM 12.11.4101 and adopt NEW RULE I to ban all motorized use on the Shields River pursuant to the petition.

5. Concerned persons may submit their data, views, or arguments orally at the telephonic hearing. Written data, views, or arguments may also be submitted to: Phil Kilbreath, Department of Fish, Wildlife and Parks Enforcement Division, P.O. Box 200701, Helena, Montana, 59620-0701; or e-mail [pkilbreath@mt.gov](mailto:pkilbreath@mt.gov), and must be received no later than October 9, 2020.

6. Kaedy Gangstad or another hearing officer appointed by the department has been designated to preside over and conduct the hearing.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to: Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, or may be emailed to [kgangstad@mt.gov](mailto:kgangstad@mt.gov).

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

/s/ Zach Zipfel  
Zach Zipfel  
Rule Reviewer

/s/ Shane Colton  
Shane Colton  
Chair  
Fish and Wildlife Commission

Certified to the Secretary of State September 1, 2020.

BEFORE THE BOARD OF PARDONS AND PAROLE  
OF THE STATE OF MONTANA

In the matter of the adoption of New ) AMENDED NOTICE OF PUBLIC  
Rule I pertaining to parole guidelines ) HEARING ON PROPOSED  
and the amendment of ARM ) ADOPTION AND AMENDMENT  
20.25.704 pertaining to conditional )  
discharge from supervision )

TO: All Concerned Persons

1. On August 28, 2020, the Board of Pardons and Parole (board) published MAR Notice No. 20-25-70 pertaining to the public hearing on the proposed adoption and amendment of the above-stated rules at page 1556 of the 2020 Montana Administrative Register, Issue No. 16.

2. It is necessary for the board to clarify information published in the original proposal notice pertaining to the remote conferencing platform that will be used for the conduct of the public hearing and to correct information concerning the means by which participants may present data, views, or arguments during the remote conferencing hearing. The proposed rule adoption and rule amendments are unchanged from the original proposal notice, but the public hearing date has been changed.

3. On October 1, 2020, at 11:00 a.m., the board will hold a public hearing via remote conferencing to consider the proposed adoption and 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 in the following ways:

(a) Join Zoom Meeting at: [https://mt-gov.zoom.us/webinar/register/WN\\_CVo9BOPuRcCle-psFlaJ\\_A](https://mt-gov.zoom.us/webinar/register/WN_CVo9BOPuRcCle-psFlaJ_A); or

(b) Dial by telephone +1 646 558 8656; meeting ID: 964 7135 5644. Find your local number: <https://mt-gov.zoom.us/j/96471355644>.

4. The board will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Corrections no later than 5:00 p.m. on September 24, 2020, to advise us of the nature of the accommodation that you need. Please contact Griffin Burns, Department of Corrections, P. O. Box 201301, Helena, Montana 59620-1301; telephone (406) 444-1551; fax (406) 444-3920; TDD/Montana Relay Service (406) 444-4290; or e-mail [GBurns@mt.gov](mailto:GBurns@mt.gov).

5. Concerned persons may also submit written data, views, or arguments to: Griffin Burns, Department of Corrections, 5 S. Last Chance Gulch, P.O. Box 201301, Helena, Montana 59620-1301; telephone (406) 444-1551; fax (406) 444-4920; or e-

mail GBurns@mt.gov, and must be received no later than 5:00 p.m., October 9, 2020.

/s/ Colleen E. Ambrose  
Colleen E. Ambrose  
Rule Reviewer

/s/ Annette Carter  
Annette Carter  
Chair  
Board of Pardons and Parole

Certified to the Secretary of State September 1, 2020.



BEFORE THE SECRETARY OF STATE  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 1.2.419 pertaining to the ) PROPOSED AMENDMENT  
scheduled dates for the 2021 )  
Montana Administrative Register )

TO: All Concerned Persons

1. On October 7, 2020, at 1:00 p.m., the Secretary of State will hold a public hearing via remote conferencing to consider the proposed amendment of the above-stated rule. Interested persons may access the public hearing in the following ways:

(a) Join Zoom Meeting: <https://mt-gov.zoom.us/j/98781439898?pwd=OWpobGJNWXFtMytuQ01kcFFtTXlIZz09>;  
Meeting ID: 98781439898; Password: 150276

(b) Dial by Telephone: +1.406.444.9999 or +1.646.558.8656, Meeting ID: 98781439898; Password: 150276; Find your local number: <https://mt-gov.zoom.us/j/98781439898>

(c) Join by SIP: 98781439898@zoomcrc.com;

(d) Join by H.323 (Polycom): 162.255.37.11##98781439898; or

(e) Join by Skype for Business: <https://mt-gov.zoom.us/skype/98781439898>.

2. The Secretary of State will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Secretary of State no later than 5:00 p.m., September 30, 2020, to advise us of the nature of the accommodation that you need. Please contact Ray Dagnall, Secretary of State's Office, P.O. Box 202801, Helena, MT 59620-2801; telephone (406) 444-9009; fax (406) 444-3976; TDD/Montana Relay Service (406) 444-9068; or e-mail [rdagnall@mt.gov](mailto:rdagnall@mt.gov).

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

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

2020 Register Publication Schedule		
Issue	Filing (due by noon)	Publication
1	January 7	January 17
2	January 21	January 31
3	February 4	February 14
4	February 18	February 28

5	March 3	March 13
6	March 17	March 27
7	April 7	April 17
8	April 21	April 30
9	May 5	May 15
10	May 19	May 29
11	June 2	June 12
12	June 16	June 26
13	June 30	July 10
14	July 14	July 24
15	July 28	August 7
16	August 18	August 28
17	September 1	September 11
18	September 15	September 25
19	September 29	October 9
20	October 13	October 23
21	October 27	November 6
22	November 10	November 20
23	December 4	December 11
24	December 15	December 24

2021 Register Publication Schedule

<u>Issue</u>	<u>Filing (due by noon)</u>	<u>Publication</u>
<u>1</u>	<u>January 5</u>	<u>January 15</u>
<u>2</u>	<u>January 19</u>	<u>January 29</u>
<u>3</u>	<u>February 2</u>	<u>February 12</u>
<u>4</u>	<u>February 16</u>	<u>February 26</u>
<u>5</u>	<u>March 2</u>	<u>March 12</u>
<u>6</u>	<u>March 16</u>	<u>March 26</u>
<u>7</u>	<u>April 6</u>	<u>April 16</u>
<u>8</u>	<u>April 20</u>	<u>April 30</u>
<u>9</u>	<u>May 4</u>	<u>May 14</u>
<u>10</u>	<u>May 18</u>	<u>May 28</u>
<u>11</u>	<u>June 1</u>	<u>June 11</u>
<u>12</u>	<u>June 15</u>	<u>June 25</u>
<u>13</u>	<u>June 29</u>	<u>July 9</u>
<u>14</u>	<u>July 13</u>	<u>July 23</u>
<u>15</u>	<u>July 27</u>	<u>August 6</u>
<u>16</u>	<u>August 17</u>	<u>August 27</u>
<u>17</u>	<u>August 31</u>	<u>September 10</u>
<u>18</u>	<u>September 14</u>	<u>September 24</u>
<u>19</u>	<u>September 28</u>	<u>October 8</u>
<u>20</u>	<u>October 12</u>	<u>October 22</u>
<u>21</u>	<u>October 26</u>	<u>November 5</u>
<u>22</u>	<u>November 9</u>	<u>November 19</u>

<u>23</u>	<u>November 30</u>	<u>December 10</u>
<u>24</u>	<u>December 14</u>	<u>December 23</u>

(2) remains the same.

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

REASONABLE NECESSITY: ARM 1.2.419 is proposed to be amended to set dates pertinent to the twice-monthly publication of the Montana Administrative Register during 2021. The schedule is being proposed at this time in order that it may be adopted in a timely manner to allow state agencies the opportunity to plan their rulemaking schedule to meet program needs for the upcoming year.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Ray Dagnall, Secretary of State's Office, P.O. Box 202801, Helena, Montana 59620-2801, or by e-mailing rdagnall@mt.gov, and must be received no later than 5:00 p.m., October 9, 2020.

5. Ray Dagnall, Secretary of State's Office, has been designated to preside over and conduct the hearing.

6. The Secretary of State maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding administrative rules, corporations, elections, notaries, records, uniform commercial code, or combination thereof. Such written request may be mailed or delivered to the Secretary of State's Office, Administrative Rules Services, 1301 E. 6th Avenue, P.O. Box 202801, Helena, MT 59620-2801, or faxed to the office at (406) 444-3976.

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

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

/s/ AUSTIN JAMES  
Austin James  
Rule Reviewer

/s/ COREY STAPLETON  
Corey Stapleton  
Secretary of State

Dated this 1st day of September, 2020.

BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the adoption of New ) NOTICE OF ADOPTION,  
Rules I through XXIII pertaining to ) AMENDMENT, AND REPEAL  
banking, the amendment of ARM )  
2.59.1101 through 2.59.1103, )  
pertaining to bank branches, and the )  
repeal of ARM 2.59.108, pertaining to )  
limitations on loans, and 2.59.901, )  
pertaining to bank branch relocations )

TO: All Concerned Persons

1. On July 24, 2020, the Department of Administration published MAR Notice No. 2-59-596 pertaining to the proposed adoption, amendment, and repeal of the above-stated rules at page 1296 of the 2020 Montana Administrative Register, Issue Number 14.

2. The department has adopted the following rules as proposed: NEW RULE III (2.59.904), NEW RULE IV (2.59.905), NEW RULE V (2.59.906), NEW RULE VII (2.59.908), NEW RULE VIII (2.59.909), NEW RULE IX (2.59.130), NEW RULE X (2.59.131), NEW RULE XI (2.59.132), NEW RULE XII (2.59.133), NEW RULE XIII (2.59.134), NEW RULE XIV (2.59.135), NEW RULE XV (2.59.136), NEW RULE XVI (2.59.137), NEW RULE XVII (2.59.138), NEW RULE XVIII (2.59.139), NEW RULE XIX (2.59.140), NEW RULE XX (2.59.141), NEW RULE XXI (2.59.142), and NEW RULE XXII (2.59.143).

3. The department has amended ARM 2.59.1101, 2.59.1102, and 2.59.1103 exactly as proposed.

4. The department has repealed ARM 2.59.108 and 2.59.901 as proposed.

5. The department has withdrawn proposed NEW RULE XXIII.

6. The department has adopted the following proposed rules with changes, new material underlined, deleted material interlined:

NEW RULE I (2.59.902) DEFINITIONS For purposes of this subchapter, the following definitions apply:

(1) remains as proposed.

(2) "Customer" means a person who opened an account at the branch location in question, is currently associated with that branch, or whose address is within the same municipal area as the branch, as the bank determines is appropriate.

(3) "Principal city" means an area designated as a "principal city" by the federal Office of Management and Budget.

~~(3) (4) "Relocate" means a movement within the same immediate neighborhood that does not substantially affect the nature of the business or customers served. Generally, relocations involve movement over a short distance. For example, moves across the street, around the corner, or within two blocks are relocations. Moves of less than 1,000 feet are relocations. In less densely populated areas of the state or where neighborhoods extend farther, a longer move that does not substantially affect the nature of the business or the customers served by the office location may also be a relocation. Banks that are in doubt about whether a relocation or a closing has occurred should consult the department.~~

(5) "Short distance" means:

(a) within a 1,000-foot radius of the current location of the branch if it is located within the principal city of a metropolitan statistical area (MSA);

(b) within a one-mile radius of the current location of the branch if the branch is not located within a principal city, but is within an MSA; or

(c) within a two-mile radius of the branch if it is not located in an MSA.

NEW RULE II (2.59.903) LOAN PRODUCTION OFFICE (1) and (2) remain as proposed.

(3) A Montana state-chartered bank that desires to relocate or close a loan production office temporarily or permanently shall give the notice to its customers using the customer Notice of Relocation form dated June 29, 2020, or customer Notice of Closure form dated June 29, 2020, located at [www.banking.mt.gov](http://www.banking.mt.gov).

(4) through (8) remain as proposed.

NEW RULE VI (2.59.907) CLOSING OR RELOCATING A BRANCH BANK

(1) A Montana state-chartered bank that desires to relocate or close a branch temporarily or permanently shall give the notice to its customers using the customer Notice of Relocation form dated June 29, 2020, or customer Notice of Closure form dated June 29, 2020. The forms are located at [www.banking.mt.gov](http://www.banking.mt.gov). A bank may amend the form as needed or include additional information in the form as appropriate.

(2) and (3) remain as proposed.

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

COMMENT #1: A comment was received pertaining to the definition of "relocate" in NEW RULE I. The commenter noted the FDIC elaborates further on the meaning of "relocate" in their Statement of Policy Concerning Branch Closing Notices and Policies (Statement of Policy). Specifically, the Statement of Policy references 12 CFR 5.3(l) for banks and 12 CFR 545.95(c) for thrifts. 12 CFR 5.3(l) states:

"Short-distance relocation means moving the premises of a branch or main office of a national bank or a branch or home office of a Federal savings association within a:

- (1) One thousand foot-radius of the site if the branch, main office, or home office is located within a principal city of an MSA [metropolitan statistical area];
- (2) One-mile radius of the site if the branch, main office, or home office is not located within a principal city, but is located within an MSA; or
- (3) Two-mile radius of the site if the branch, main office, or home office is not located within an MSA."

A principal city is defined as an area designated as a "principal city" by the Office of Management and Budget.

The commenter requested that the department adopt the definitions listed above.

RESPONSE #1: The department appreciates the comment and is adopting the rule with amendments to better align with FDIC definitions.

COMMENT #2: With respect to the definition of "customer" in NEW RULE I, a commenter indicated the FDIC allows greater room for interpretation in its Statement of Policy. The FDIC uses an example similar to the definition of "customer" originally proposed by the department but leaves open the option of using other methods if they are better suited to the situation. The commenter requested that the definition of "customer" be rephrased to allow more flexibility.

RESPONSE #2: The department agrees with this comment and is amending the definition adopted in rule accordingly.

COMMENT #3: The department received a comment regarding the Notice of Intent to Establish a Loan Production Office form referenced in NEW RULE II. The commenter stated that while they would likely be able to provide information about who is managing a loan production office (LPO) upon opening, they would not be able to guarantee that this information stayed current. The commenter suggested listing a higher ranking official at the bank because there may be less turnover at higher levels of the bank.

RESPONSE #3: The department acknowledges the commenter's concern; however, the department is seeking information regarding the initial manager of the LPO. The department realizes this information may change over time.

COMMENT #4: Another comment was received pertaining to sections (3), (4), and (6) of NEW RULE II. The commenter asked the department to clarify whether the requirements apply only to LPOs in the state of Montana or to LPOs in any state where a Montana-chartered bank has an LPO. The commenter also requested that the rule specify whether multiple forms needed to be submitted if the requirement applies to LPOs outside Montana.

RESPONSE #4: Sections (3) and (4) apply to all LPOs that are owned by a Montana state-chartered bank, wherever they are located. The Nationwide

Cooperative Agreement dated December 17, 1997, (which all the states' banking departments have signed) specifies that unless otherwise expressly provided under host state law, the home state supervisor shall have approval authority over all applications from a multi-state bank. Section (2) is being amended to make clear that (3) and (4) apply to all Montana state-chartered banks.

Section (6) applies to all non-federal entities doing business in this state by operation of law. The department believes this is clear from the language originally proposed and is therefore adopting (6) as proposed.

COMMENT #5: One commenter expressed concern regarding the possibility of differing publication requirements set forth in NEW RULE IV and the requirements of the host state for a branch opening outside Montana. The commenter asked the department to clarify that when a new branch opens outside Montana, the summary process in NEW RULE III can be utilized in providing notice to the department as well as the required information for the host state.

RESPONSE #5: In accordance with the Nationwide Cooperative Agreement, there should not be different publication standards, since the host state should defer to the home state, unless there is a specific provision in the host state's law. Therefore, the department is adopting NEW RULE IV as proposed.

COMMENT #6: A commenter recommended amending NEW RULE V to encompass branches and LPOs.

RESPONSE #6: NEW RULE V applies to banks organized outside of Montana branching into Montana. New Rule II(1) addresses the requirements of a bank organized outside Montana that wants to open an LPO in Montana. The department prefers to have all rules regarding LPOs in one rule and all rules regarding branches in another for organizational purposes.

COMMENT #7: A comment was received pertaining to NEW RULE VI. The commenter recommended clarifying whether this rule pertains only to branches located in Montana or if it includes branches in other states. If the rule only pertains to branches in Montana, the commenter suggested amending the rule to clarify that the bank must follow the host state rules for branch closures and relocations. If the rule pertains to branches both located in and outside of Montana, and there are differing forms required by each state, the commenter recommended clarifying whether the bank must post both states' forms.

RESPONSE #7: The department is amending NEW RULE VI to clarify that the rule applies to all Montana state-chartered banks. Under the Nationwide Cooperative Agreement, the host state should defer to the home state laws, unless there is a specific provision in the host state's law.

COMMENT #8: A commenter suggested amending NEW RULE VI to allow banks to either post the Notice of Relocation form or Notice of Closure form or a substantially

similar form which would include the required information and allow banks some flexibility to include additional information and/or bank logos.

RESPONSE #8: The department appreciates the comment and is amending the rule to allow use of a form substantially similar to the Notice of Relocation form and the Notice of Closure form.

COMMENT #9: A bank noted a discrepancy between the edition date shown on the Notice of Closure form and the date listed in the proposed rule. The form itself was dated June 9, 2020, but the edition date identified in the proposed rule was June 29, 2020.

RESPONSE #9: The edition date stated in the rule proposal is accurate. The department will correct the edition date on the form to June 29, 2020.

COMMENT #10: One commenter sought clarification regarding the scope of NEW RULES VII and VIII. The commenter asked whether the rules apply only to branches located in Montana or to branches in all states. If the scope is limited to Montana branches, the commenter recommended amending the rules to direct banks to apply the branch closure rules of the host state. If the rules apply to branches in all states, the commenters asked the department to advise whether banks must post the notices required by both the host and home state.

RESPONSE #10: If a Montana-chartered multistate bank branch must close due to a temporary emergency not to exceed 48 hours or for an emergency exceeding 48 hours, the bank should use NEW RULE VII or VIII as appropriate. Under the Nationwide Cooperative Agreement, the host state should defer to the home state's laws, unless there is a specific provision in the host state's law.

COMMENT #11: Regarding NEW RULES VII and VIII, when a bank is completing a Temporary Emergency Branch Closure form, a commenter asked whether the department would prefer to be advised of the likelihood of an emergency extending past 48 hours resulting in a duty to submit an Emergency Branch Closure form.

RESPONSE #11: The department would appreciate banks providing notice that a temporary emergency closure may turn into a longer emergency closure if the bank is aware of that information at the time an application is submitted.

COMMENT #12: A comment was received pertaining to NEW RULE XVI. The commenter recommended amending the rule to include a specific timeframe for banks to submit a request to engage in any activity or business in which the bank could engage if it were operating as a national bank before performing the requested activity or business. The commenter also asked whether there would be a specific timeframe within which the department would respond to the bank's request.

RESPONSE #12: While the department could set timeframes for submitting and responding to requests, the appropriate length of time needed will vary by situation.



In some cases, a request may clearly be allowed and may take very little time to authorize, and in others, circumstances may dictate a longer and more complicated process. The department prefers to allow the bank to determine when to submit a request to the department based on how quickly it needs a response.

COMMENT #13: A commenter noted the subject matter covered in NEW RULE XXIII was already addressed in ARM 2.59.128.

RESPONSE #13: The department agrees and has withdrawn NEW RULE XXIII. Accordingly, the scope of the definitions set forth in NEW RULE XVII (2.59.138) will be limited to NEW RULES XVIII through XXII.

COMMENT #14: One commenter asked about the department's preferred method receiving applications. The commenter requested the option to submit applications through other means, such as FDIC Connect.

RESPONSE #14: The department appreciates the question and comment. Because only examiners have access to FDIC Connect, other department personnel would not have access to the necessary information if the examiner were gone for some reason. Therefore, the supplied email is the preferred method for notifying the department of applications. The supplied email is constantly monitored by the department and will ensure the application is received and routed to the proper person in the department.

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 September 1, 2020.

BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 2.59.429 pertaining to adoption )  
of model bylaws and statutory )  
reference )

TO: All Concerned Persons

1. On July 24, 2020, the Department of Administration published MAR Notice No. 2-59-603 pertaining to the proposed amendment of the above-stated rule at page 1316 of the 2020 Montana Administrative Register, Issue Number 14.

2. No comments were received.

3. The department has amended ARM 2.59.429 exactly as proposed.

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 September 1, 2020.

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

In the matter of the adoption of an emergency rule closing Spring Meadow Lake State Park in Lewis and Clark County )  
) NOTICE OF ADOPTION OF AN EMERGENCY RULE  
)  
)

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of an emergency rule closing Spring Meadow Lake State Park:

- (a) A wildfire is burning near Spring Meadow Lake State Park (park).
- (b) Heavy equipment, including aircraft, stationed and operating within the park, pose a threat to persons recreating within the park.
- (c) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, and this threat cannot be averted or remedied by any other administrative act, the department adopts the following emergency rule. The emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties, and published as an emergency rule in Issue No. 17 of the 2020 Montana Administrative Register.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on September 28, 2020, to advise us of the nature of the accommodation that you need. Please contact Kaedy Gangstad, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; or e-mail kgangstad@mt.gov.

3. The emergency rule is effective September 2, 2020, when this rule notice is filed with the Secretary of State.

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

NEW RULE I SPRING MEADOW LAKE STATE PARK EMERGENCY CLOSURE (1) Spring Meadow Lake State Park is located in Lewis and Clark County.

(2) Spring Meadow Lake State Park is closed to all public occupation and recreation.

(3) This rule will expire as soon as the department determines Spring Meadow Lake State Park is again safe for occupation and recreation. This will depend on the extent and duration of the fire in the area. Signs restricting use of the Spring Meadow Lake State Park will be removed when the rule is no longer effective.

AUTH: 2-4-303, 23-1-106, MCA  
IMP: 2-4-303, 23-1-106, MCA

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

6. Concerned persons are encouraged to submit their comments to the department. Please submit comments along with names and addresses to: Jessica Snyder, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT, 59602-0701; e-mail [jesssnyder@mt.gov](mailto:jesssnyder@mt.gov). Any comments must be received no later than October 9, 2020.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the department.

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

/s/ Aimee Hawkaluk  
Aimee Hawkaluk  
Rule Reviewer

/s/ Martha Williams  
Martha Williams  
Director  
Department of Fish, Wildlife and Parks

Certified to the Secretary of State September 2, 2020.

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

In the matter of the adoption of New ) NOTICE OF DECISION ON  
Rule I and the amendment of ARM ) PROPOSED ADOPTION AND  
37.40.1426 pertaining to home and ) AMENDMENT  
community-based services )

TO: All Concerned Persons

1. On August 7, 2020, the Department of Public Health and Human Services (department) published MAR Notice No. 37-928 pertaining to the public hearing on the proposed adoption and amendment of the above-stated rules at page 1486 of the 2020 Montana Administrative Register, Issue Number 15.

2. A public hearing on the notice of proposed adoption and amendment of the above-stated rules was scheduled to be held on August 27, 2020. That public hearing was cancelled.

3. The primary intent of these proposed rules changes is to place an existing policy manual, in its current form, into rule to increase accessibility and awareness. Initial public comment and communications from our partners have indicated that there is significant confusion and concern about the effects of this change on the delivery of waiver benefits and services. Accordingly, the department hereby withdraws MAR Notice No. 37-928 from consideration and will invest time and consideration in revisiting the provisions of the policy manual to address these concerns before committing them to rule.

4. The department remains committed to its mission to protect the health and well-being of Montanans.

/s/ Nicholas Domitrovich  
Nicholas Domitrovich  
Rule Reviewer

/s/ Sheila Hogan  
Sheila Hogan, Director  
Public Health and Human Services

Certified to the Secretary of State September 1, 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.<br>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 March 13, 2020, through August 28, 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

2-59-596	Banking - Bank Branches - Limitations on Loans - Bank Branch Relocations, p. 1296
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, 1515
2-59-602	Report Due Dates for Mortgage Servicers - When Initial Mortgage License Applications Are Deemed Abandoned, p. 1247, 1615
2-59-603	Adoption of Model Bylaws and Statutory Reference, p. 1316
2-59-604	Designated Manager Supervisory Requirements, p. 1544
2-59-606	Renewal Fees of Mortgage Brokers, Mortgage Lenders, Mortgage Servicers, and Mortgage Loan Originators, p. 1547

(Public Employees' Retirement Board)

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, 1614

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  
4-20-269 Montana Hemp Research and Market Development Program, p. 1319

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

(Classification Review Committee)

- 6-262 Establishment, Deletion, or Revision of Classifications for Various Industries for Supplementing the NCCI Basic Manual for Workers' Compensation and Employers Liability Insurance, p. 1014

COMMERCE, Department of, Title 8

- 8-22-179 Board of Horse Racing, p. 227, 574  
8-22-181 Board of Horse Racing, p. 433, 777  
8-94-178 Procedural Rules of the Coal Board, p. 127, 575  
8-94-180 Governing the Submission and Review of Applications for Funding Under the Treasure State Endowment Program (TSEP), p. 350, 660  
8-94-182 Administration of the CDBG Program, p. 436, 778  
8-94-183 Administration of the CDBG Program, p. 523, 956  
8-94-184 Administration of the 2021 Biennium Federal Community Development Block Grant (CDBG) Program—Planning Grants, p. 1378

EDUCATION, Title 10

(Board of Public Education)

- 10-53-137 Technology Integration Content Standards, p. 1380  
10-54-134 K-12 Career and Technical Education Content Standards, p. 1398  
10-55-135 K-12 Computer Science Content Standards, p. 1416  
10-55-136 Library Media Content Standards, p. 1428  
10-55-138 K-12 Social Studies Content Standards, p. 1446

(Office of Public Instruction)

10-13-133 Traffic Education, p. 939, 1281

FISH, WILDLIFE AND PARKS, Department of, Title 12

- 12-525 Public Access Land Agreements, p. 129, 779
- 12-526 Personal Flotation Devices, p. 133, 576
- 12-527 Replacement Licenses, p. 352, 900
- 12-528 Closing the Smith River From Camp Baker to Eden Bridge, p. 662
- 12-529 Closing Bird Island on Flathead Lake in Lake County, p. 1616

GOVERNOR, Office of, Title 14

- 14-7 Energy Supply Emergency Rules, p. 136, 1322

ENVIRONMENTAL QUALITY, Department of, Title 17

- 17-406 Technologically Enhanced Naturally Occurring Radioactive Material (TENORM) Waste, p. 1239, 159, 1118
- 17-409 Wind Generation Facility and Solar Facility Decommissioning and Bonding, p. 231, 957
- 17-410 Incorporation by Reference - Definitions - Asbestos Project Permits - Training Provider Requirements - Fees - Refunds, p. 354, 525, 633, 1150, 1325

(Board of Environmental Review)

- 17-411 MPDES Program Updates, p. 750, 942
- 17-412 Natural and Nonanthropogenic Water Quality Standards, p. 765, 944, 1618
- 17-413 Air Quality Operation Fees, p. 1550

TRANSPORTATION, Department of, Title 18

- 18-180 Motor Carrier Services Safety Requirements, p. 769, 1020
- 18-181 MDT Employee Grievance Procedures, p. 840, 1045, 1516
- 18-182 Motor Carrier Services, p. 1251, 1626

CORRECTIONS, Department of, Title 20

- 20-4-65 Rental Vouchers for Re-Entering Offenders, p. 2290, 577
- (Board of Pardons and Parole)
- 20-25-70 Parole Guidelines - Conditional Discharge From Supervision, p. 1556

JUSTICE, Department of, Title 23

- 23-16-259 Late Payment Penalties on Quarterly VGM Taxes, p. 666

(POST Council)

23-13-257 Certification of Public Safety Officers, p. 1940, 580, 664

LABOR AND INDUSTRY, Department of, Title 24

Boards under the Business Standards Division are listed in alphabetical order by chapter following the department notices.

- 24-2-361 Commissioner's Active Supervision of the Board of Professional Engineers and Professional Land Surveyors Regarding a Proposed Rule Adding Experience With the Public Land Survey System, p. 1461
- 24-11-355 Unemployment Insurance Benefits Related to the COVID-19 Pandemic, p. 584
- 24-11-357 Unemployment Insurance Benefits Related to the COVID-19 Pandemic, p. 787
- 24-11-360 Unemployment Insurance Benefits Related to the COVID-19 Pandemic, p. 1264, 1628
- 24-29-354 Medical Fee Schedules for Workers' Compensation Purposes, p. 634, 1021
- 24-101-308 Registration for Out-of-State Volunteer Professionals, p. 946, 1326
- 24-301-348 Underground Facility Protection Program - Assessment and Collection of Civil Penalties - Collection of Annual Fees - Disputes Regarding Penalties and Fines–Mediation - Training and Educational Grants, p. 1463, 1572
- 24-351-356 Waiver of Fuel Specifications Related to the COVID-19 Pandemic, p. 793

(Board of Architects and Landscape Architects)

- 24-114-38 Licensure of Applicants Registered in Another State - Landscape Architect Licensure by Endorsement, p. 167, 790

(Board of Chiropractors)

- 24-126-37 Continuing Education Requirements - Acceptable Continuing Education - Dry Needling, p. 638

(Board of Dentistry)

- 24-138-77 Dental Hygienist Committee - Definitions - Functions for Dental Auxiliaries - Initial Licensure of Dentists by Examination - Initial Licensure of Dental Hygienists by Examination - Unprofessional Conduct for Denturists - Denturist Scope of Practice–Dentures Over Implants, p. 1, 588
- 24-138-78 Approved Clinical Exam Criteria for Dentists and Dental Hygienists - Specialty Advertising - Dental Hygienists–Temporary Practice Permits, p. 1268, 1631

(Board of Funeral Service)

24-147-40 Definitions - Fee Schedule - Name Change, Closure, Transfer, or Change of Ownership—Mortuary, Branch Establishment, Crematory, or Cemetery - Mortician Licenses - Crematory Records - Cremation Authorizations - Integrity of Identification of Human Remains - Cremation Procedures - Crematory Prohibitions - Requirements for Sale of At-Need, Preneed, and Prepaid Funeral Arrangements - Continuing Education Requirements—Morticians - Unprofessional Conduct - Preneed Arrangements—Notification of Closure or Change of Ownership—Mortuary, Branch Establishment, or Crematory, p. 1769, 670

(Board of Massage Therapy)

24-155-8 Licensure of Out-of-State Applicants - Unprofessional Conduct - Records - Standards of Practice, p. 9, 247, 1327

(Board of Medical Examiners)

24-156-86 Application for Licensure - Chart Review - Definitions - ECP Licensure Qualifications - ECP License Application - Continuing Education and Refresher Requirements - ECP Training Courses - Medical Direction - Levels of ECP Licensure Including Endorsements - ECP Scope of Practice - CIHC Endorsement, p. 18, 679

24-156-87 Definitions - Training of Student Physician Assistants - Application for Physician Assistant License - Physician Assistant Fees - Reporting to the Board - Supervision of Physician Assistant - Patient Rights - Unprofessional Conduct - Management of Infectious Wastes - Physician Assistant License Renewal, p. 1561

24-156-88 ECP Training Courses, p. 644, 963

(Board of Nursing)

24-159-90 Proposed 2020 Rulemaking by the Interstate Commission of Nurse Licensure Compact Administrators, p. 647

24-159-91 Curriculum Goals and General Requirements for Programs, p. 648, 965

(Board of Optometry)

24-168-44 General Practice Requirements - Continuing Education Requirements—Audit - Approved Continuing Education - Unprofessional Conduct - Board Meetings, p. 256, 901

(Board of Outfitters)

24-171-40 Outfitter Records - Safety and First Aid Provisions - Operations Plans and Amendments - Unprofessional Conduct and Misconduct, p. 28, 262, 1157

(Board of Pharmacy)

24-174-75 Suspension of Telepharmacy Monthly Inspections in Response to the COVID-19 Pandemic, p. 902

(Board of Physical Therapy Examiners)

24-177-35 Fees - Temporary Permit - Continuing Education, p. 267, 904

(Board of Psychologists)

24-189-41 Fee Schedule - Psychologist Application Procedures - Examination - Temporary Permit - Behavior Analyst Experience and Supervision, p. 1272

(Board of Public Accountants)

24-201-53 Accounting and Auditing Experience Requirements - Granting of Examination Credit - Records - Basic Continuing Education Requirement - Credit for Service as Lecturer, Instructor, Technical Reviewer, Speaker, or Report Reviewer, p. 273, 792

(Board of Behavioral Health)

24-219-35 Application and Licensing Rules for Licensed Clinical Social Workers (LCSW), Licensed Baccalaureate Social Workers (LBSW), Licensed Master's Social Workers (LMSW), Licensed Clinical Professional Counselors (LCPC), Licensed Marriage and Family Therapists (LMFT), Licensed Addiction Counselors (LAC), and Certified Behavioral Health Peer Support Specialists (CBHPSS), p. 278, 1517

(Board of Veterinary Medicine)

24-225-41 Definitions - Patient Medical Records and Recordkeeping - Unprofessional Conduct - Continuing Education - Certified Euthanasia Technicians—License Requirements - Board-Approved Training Program Criteria - Certified Euthanasia Technician Examinations—Written and Practical - Application for Certified Euthanasia Agencies - Inspections—Initial and Annual - Continuing Education— Certified Euthanasia Technicians - Certified Euthanasia Agency Operation Standards - Change of Attorney-in-Fact - Closure of a Certified Euthanasia Agency or Loss of DEA Permit - Termination of Certified Euthanasia Technician Employment and Retirement of Certificate, p. 440, 1633

LIVESTOCK, Department of, Title 32

32-18-293 Recalls, p. 1468

32-19-302 Federal-State Poultry Grading Service—Shell Eggs, p. 305, 591

32-19-304 Importation of Restricted or Prohibited Alternative Livestock - Import Requirements for Cervids, p. 2307, 905

32-19-306 Definitions and Adoption of Grade A Pasteurized Milk Ordinance and Associated Documents, p. 307, 592

- 32-20-307 Brands Enforcement Division Fees, p. 527, 912
- 32-20-308 Label Review, p. 1278
- 32-20-310 Designated Surveillance Area, p. 843, 1282
- 32-20-311 Special Requirements for Poultry - Special Requirements for Alternative Livestock, p. 1472

(Board of Milk Control)

- 32-20-309 Dumped Milk Related to the COVID-19 Pandemic, p. 681

NATURAL RESOURCES AND CONSERVATION, Department of, Title 36

- 36-22-203 Management of State Forested Lands, p. 1046
- 36-22-206 Renewable Resource Grant and Loan and Reclamation Development Grant Application Deadlines Related to the COVID-19 Pandemic, p. 685

(Board of Oil and Gas Conservation)

- 36-22-209 Privilege and License Tax, p. 1016

PUBLIC HEALTH AND HUMAN SERVICES, Department of, Title 37

- 37-902 Pools, Spas, and Other Water Features, p. 530, 913
- 37-904 Child Care, p. 32, 687
- 37-907 Montana Medical Marijuana Program, p. 170, 914
- 37-908 Child Welfare Prevention and Support Services Contract Enrollment and Participation, p. 1087, 1528
- 37-910 Increase in Rates and Billing Practices, p. 310, 593
- 37-911 Updates for Targeted Case Management - Outpatient Therapy - Reference Revisions, p. 372, 691
- 37-912 Child Support Enforcement Division Program Name Change, p. 533, 966
- 37-913 Substantiation of Abuse and Neglect Reports - Disclosure of Information, p. 1574
- 37-914 Residency, p. 563, 925
- 37-916 Updating Medicaid and Non-Medicaid Provider Rates, Fee Schedules, and Effective Dates, p. 846, 1158
- 37-917 Medicaid and Non-Medicaid Manual Updates, p. 856, 1161
- 37-918 Home and Community Based Services for Adults With Severe and Disabling Mental Illness, p. 861, 1173
- 37-919 Nursing Facility Reimbursement, p. 949, 1330
- 37-920 Developmental Disabilities Program Services Manual Updates, p. 1094, 1529
- 37-921 Durable Medical Equipment Order and Record Requirement Update, p. 1098, 1530
- 37-922 Healthy Montana Kids Dental Benefits, p. 1102, 1531
- 37-923 Flavored Electronic Smoking Devices, p. 1105, 1637
- 37-924 Limiting COVID-19 Exposure in Assisted Living Facilities, p. 1333

- 37-925 Medicaid Rates and Services, p. 1476
- 37-926 Graduate Medical Education Methodology Changes, p. 1481
- 37-928 Home and Community-Based Services, p. 1486
- 37-929 Low Income Energy Assistance Program (LIEAP), p. 1582
- 37-930 Trauma Facility Designation, p.1591

PUBLIC SERVICE REGULATION, Department of, Title 38

- 38-5-245 Small Generator Interconnection Definitions and Procedures, p. 651, 955

REVENUE, Department of, Title 42

- 42-1014 Resort Areas, Determinations, and Licenses, p. 2322, 697
- 42-1016 Limited All-Beverages Licenses for Continuing Care Retirement Communities, p. 2333, 497
- 42-1017 Approval of a Licensee Without Premises - Concession Agreements, p. 462, 566, 772, 1177, 1283
- 42-1018 Tax Incentive for New or Expanding Industry, p. 388, 703
- 42-1019 Montana Economic Development Industry Advancement Act (MEDIAA), p. 473, 568, 774, 1638
- 42-1020 Alternative County Business Office Hours, p. 1115, 1648
- 42-1021 Forest Land Classification Requirements and Valuation, p. 1490
- 42-1022 State Liquor Warehouse Inventory Practices - Amendments to Bailment Limits - Revisions to Product Classification, p. 1506
- 42-1023 Classification and Valuation of Class Three Property (i.e., Agricultural Land), p. 1594

SECRETARY OF STATE, Office of, Title 44

- 44-2-238 Electronic Notary Stamps, p. 704, 1186
- 44-2-239 Extending the Deadline to Submit Annual Reports to the Secretary of State's Office for Corporations and Limited Liability Companies Doing Business in the State of Montana, p. 796



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**COREY STAPLETON**  
SECRETARY OF STATE

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