

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 4

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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

Inquiries regarding the rulemaking process, including material found in the Montana Administrative Register and the Administrative Rules of Montana, may be made by calling the Secretary of State's Office, Administrative Rules Services, at (406) 444-2055.

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BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE  
MONTANA STATE AUDITOR

In the matter of the adoption of New Rule I, and the amendment of ARM 6.6.3702, 6.6.3703, 6.6.3705, and 6.6.3717 pertaining to Reporting by Holding Company Systems	)	NOTICE OF PROPOSED ADOPTION AND AMENDMENT
	)	NO PUBLIC HEARING CONTEMPLATED

TO: All Concerned Persons

1. On March 28, 2016, the Commissioner of Securities and Insurance, Montana State Auditor (CSI), proposes to adopt and amend the above-stated rules.

2. The CSI 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 CSI no later than 5:00 p.m., March 14, 2016, to advise us of the nature of the accommodation that you need. Please contact Darla Sautter, CSI, 840 Helena Avenue, Helena, Montana, 59601; telephone (406) 444-2726; TDD (406) 444-3246; fax (406) 444-3499; or e-mail dsautter@mt.gov.

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

NEW RULE I ENTERPRISE RISK REPORT (1) The ultimate controlling person of an insurer required to file an enterprise risk report pursuant to 33-2-1111(7), MCA, shall furnish the required information on Form F, found in ARM 6.6.3717.

AUTH: 33-1-313, 33-2-1517, MCA  
IMP: 33-2-1111, MCA

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

6.6.3702 FORMS--GENERAL REQUIREMENTS (1) Forms A, B, C, ~~and D,~~ and F are intended to be guides in the preparation of the statements required by 33-2-1104, 33-2-1111, and 33-2-1113, MCA. They are not intended to be blank forms which are to be filled in. The statements filed must contain the numbers and captions of all items, but the text of the items may be omitted, provided the answers are prepared to indicate the scope of the items. All instructions appearing in the forms must be omitted from the statements. Unless expressly provided otherwise, if any item is inapplicable, or the answer to any item is in the negative, an appropriate statement to that effect shall be made.

(2) and (3) remain the same.

AUTH: 33-1-313, 33-2-1517, MCA

IMP: 33-2-1104, 33-2-1111, 33-2-1113, 33-2-1517, MCA

6.6.3703 FORMS--INCORPORATION BY REFERENCE, SUMMARIES, AND OMISSIONS (1) Information required by any item of Forms A, B, ~~or~~ D, or F may be incorporated by reference in answer or partial answer to any other item. Information contained in any financial statement, annual report, proxy statement, statement filed with a governmental authority, or any other document may be incorporated by reference in answer or partial answer to any item of Forms A, B, ~~or~~ D, or F, provided the document or paper is filed as an exhibit to the statement. Excerpts of documents may be filed as exhibits if the documents are extensive. Documents currently on file with the commissioner which were filed within three years need not be attached as exhibits. References to information contained in exhibits or in documents already on file must clearly identify the material and must specifically indicate that such material is to be incorporated by reference in answer to the item. Matter must not be incorporated by reference in any case where such incorporation would render the statement incomplete, unclear, or confusing.

(2) remains the same.

AUTH: 33-1-313, 33-2-1517, MCA

IMP: 33-2-1104, 33-2-1111, 33-2-1113, 33-2-1517, MCA

6.6.3705 FORMS--ADDITIONAL INFORMATION AND EXHIBITS (1) In addition to the information required to be included in Forms A, B, C, ~~and~~ D, and F, any additional material information necessary to make the information contained in the forms not misleading must be added. Additional exhibits not required by the statement may be filed. The additional exhibits must indicate the subject matters they reference. Changes to Forms A, B, C, ~~or~~ D, or F must include on the top of the cover page the phrase: "Change No. (insert number) to Form (A, B, C, ~~or~~ D, or F)" and must indicate the date of the change rather than the date of the original filing.

AUTH: 33-1-313, 33-2-1517, MCA

IMP: 33-2-1104, 33-2-1111, 33-2-1113, 33-2-1517, MCA

6.6.3717 FORMS (1) The following forms apply to this subchapter.

(a)

**FORM A**

**STATEMENT REGARDING THE  
ACQUISITION OF CONTROL OF OR MERGER WITH A DOMESTIC INSURER**

Name of Domestic Insurer

BY

\_\_\_\_\_  
Name of Acquiring Person (Applicant)

Filed with the ~~Montana Commission of Insurance~~ Office of the Montana State Auditor, Commissioner of Securities and Insurance

\_\_\_\_\_  
(State of domicile of insurer being acquired)

Dated: \_\_\_\_\_, 20\_\_\_\_

Name, Title, Address, and Telephone Number of Individual to Whom Notices and Correspondence Concerning this Statement Should be Addressed:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Items 1 through 13 remain the same.

(b)

**FORM B**

**INSURANCE HOLDING COMPANY SYSTEM ANNUAL REGISTRATION STATEMENT**

Filed with the ~~Montana Commission of Insurance~~ Office of the Montana State Auditor, Commissioner of Securities and Insurance

By

\_\_\_\_\_  
Name of Registrant

On Behalf of Following Insurance Companies

Name                                  Address

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_

Name, Title, Address, and Telephone Number of Individual to Whom Notices and Correspondence Concerning this Statement Should be Addressed:

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Items 1 through 10 remain the same.

(c) **FORM C**

**SUMMARY OF CHANGES TO REGISTRATION STATEMENT**

Filed with the ~~Montana Commission of Insurance~~ Office of the Montana State Auditor, Commissioner of Securities and Insurance

By

\_\_\_\_\_  
Name of Registrant

On Behalf of Following Insurance Companies

Name Address

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Date: \_\_\_\_\_, 20\_\_

Name, Title, Address, and Telephone Number of Individual to Whom Notices and Correspondence Concerning This Statement Should Be Addressed:

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Furnish a brief description of all items in the current annual registration statement which represent changes from the prior year's annual registration statement. The description must be in a manner as to permit the proper evaluation thereof by the commissioner, and must include specific references to Item numbers in the annual registration statement and to the terms contained therein.

Changes occurring under Item 2 of Form B insofar as changes in the percentage of each class of voting securities held by each affiliate is concerned, need only be included where such changes are ones which result in ownership or holdings of 10% or more of voting securities, loss or transfer of control, or acquisition or loss of partnership interest.

Changes occurring under Item 4 of Form B need only be included where an individual is, for the first time, made a director or executive officer of the ultimate controlling person; a director or executive officer terminates his or her responsibilities with the ultimate controlling person; or in the event an individual is named president of the ultimate controlling person.

If a transaction disclosed on the prior year's annual registration statement has been changed, the nature of such change must be included. If a transaction disclosed on the prior year's annual registration statement has been effectuated, furnish the mode of completion and any flow of funds between affiliates resulting from the transaction.

The insurer must furnish a statement that transactions entered into since the filing of the prior year's annual registration statement are not part of a plan or series of like transactions the purpose of which is to avoid statutory threshold amounts and the review that might otherwise occur.

#### SIGNATURE AND CERTIFICATION

Signature and certification required as follows:

Pursuant to the requirements of 33-2-1111, MCA, the registrant has caused this summary of registration statement to be duly signed on its behalf in the city of \_\_\_\_\_ and state of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(SEAL) \_\_\_\_\_  
Name of Registrant

By \_\_\_\_\_  
(Name) (Title)

Attest:

\_\_\_\_\_  
(Signature of Officer)

\_\_\_\_\_  
(Title)

**CERTIFICATION**

The undersigned certifies that (s)he has duly executed the attached summary of registration statement dated \_\_\_\_\_, 20\_\_, for and on behalf of \_\_\_\_\_ (Name of Applicant); that (s)he is the \_\_\_\_\_ (Title of Officer) of such company and that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information, and belief.

(Signature) \_\_\_\_\_

(Type or print name beneath) \_\_\_\_\_

(d)

**FORM D**

**PRIOR NOTICE OF A TRANSACTION**

Filed with the ~~Montana Commission of Insurance~~ Office of the Montana State Auditor, Commissioner of Securities and Insurance

By

\_\_\_\_\_  
Name of Registrant

On Behalf of Following Insurance Companies

Name

Address

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_

Name, Title, Address, and Telephone Number of Individual to Whom Notices and Correspondence Concerning This Statement Should be Addressed:

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Items 1 through 7 remain the same.

(e)

**FORM F**

**ENTERPRISE RISK REPORT**

Filed with the Office of the Montana State Auditor, Commissioner of Securities and Insurance

By

\_\_\_\_\_  
Name of Registrant/Applicant

On Behalf of/Related to Following Insurance Companies

Name

Address

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Date: \_\_\_\_\_, 20\_\_\_\_

Name, Title, Address, and Telephone Number of Individual to Whom Notices and Correspondence Concerning This Statement Should Be Addressed:

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ITEM 1.                      ENTERPRISE RISK

The Registrant/Applicant, to the best of its knowledge and belief, shall provide information regarding the following areas that could produce enterprise risk as defined in 33-2-1101(3), MCA, provided such information is not disclosed in the Insurance Holding Company System Annual Registration Statement filed on behalf of itself or another insurer for which it is the ultimate controlling person:

Any material developments regarding strategy, internal audit findings, compliance or risk management affecting the insurance holding company system;

Acquisition or disposal of insurance entities and reallocating of existing financial or insurance entities within the insurance holding company system;

Any changes of shareholders of the insurance holding company system exceeding ten percent (10%) or more of voting securities;

Developments in various investigations, regulatory activities or litigation that may have a significant bearing or impact on the insurance holding company system;

Business plan of the insurance holding company system and summarized strategies for next 12 months;

Identification of material concerns of the insurance holding company system raised by supervisory college, if any, in last year;

Identification of insurance holding company system capital resources and material distribution patterns;

Identification of any negative movement, or discussions with rating agencies which may have caused, or may cause, potential negative movement in the credit ratings and individual insurer financial strength ratings assessment of the insurance holding company system (including both the rating score and outlook);

Information on corporate or parental guarantees throughout the holding company and the expected source of liquidity should such guarantees be called upon; and

Identification of any material activity or development of the insurance holding company system that, in the opinion of senior management, could adversely affect the insurance holding company system.

The Registrant/Applicant may attach the appropriate form most recently filed with the U.S. Securities and Exchange Commission, provided the Registrant/Applicant includes specific references to those areas listed in Item 1 for which the form provides responsive information. If the Registrant/Applicant is not domiciled in the U.S., it may attach its most recent public audited financial statement filed in its country of domicile, provided the Registrant/Applicant includes specific references to those areas listed in Item 1 for which the financial statement provides responsive information.

ITEM 2: OBLIGATION TO REPORT.

If the Registrant/Applicant has not disclosed any information pursuant to Item 1, the Registrant/Applicant shall include a statement affirming that to the best of its knowledge and belief, it has not identified enterprise risk subject to disclosure pursuant to Item 1.

AUTH: 33-1-313, 33-2-1517, MCA

IMP: 33-2-1104, 33-2-1111, 33-2-1113, 33-2-1517, MCA

5. STATEMENT OF REASONABLE NECESSITY: The Commissioner of Securities and Insurance, Montana State Auditor, Monica J. Lindeen, (commissioner) is the statewide elected official responsible for administering the Montana Insurance Code and regulating the business of insurance.

The Commissioner is a member, and former President of the National Association of Insurance Commissioners (NAIC). The NAIC is an organization of insurance regulators from the 50 states, the District of Columbia, and the U.S. Territories. The NAIC provides a forum for the development of uniform policy and regulation when uniformity is appropriate.

House Bill 119 was passed during the 2015 legislative session in order to ensure compliance with the NAIC accreditation standards. These rule amendments and adoption are necessary to bring the holding company rules into compliance with recently passed legislation.

6. Concerned persons may submit their data, views, or arguments concerning the proposed actions in writing to Jennifer Hudson, Attorney, Office of the Commissioner of Securities and Insurance, Montana State Auditor, 840 Helena Ave., Helena, Montana, 59601; telephone (406) 444-2040; fax (406) 444-3499; or e-mail [jhudson@mt.gov](mailto:jhudson@mt.gov), and must be received no later than 5:00 p.m., March 21, 2016.

7. 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 [jhudson@mt.gov](mailto:jhudson@mt.gov) at the above address no later than 5:00 p.m., March 21, 2016.

8. 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 40 persons based on 400 people on the Interested Parties List.

9. Jennifer Hudson, Attorney, has been designated to preside over and conduct this hearing.

10. The CSI 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 and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Such written request may be mailed or delivered to Darla Sautter, Office of the Commissioner of Securities and Insurance, Montana State Auditor, 840 Helena Ave., Helena, Montana, 59601; telephone (406) 444-2726; fax (406) 444-3499; or e-mail dsautter@mt.gov, or may be made by completing a request form at any rules hearing held by the CSI.

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

12. Pursuant to 2-4-302, MCA, the bill sponsor contact requirement does apply. Representative Tom Berry, bill sponsor, was notified via telephone and e-mail on January 25, 2016, regarding the rule.

13. The proposed rule actions do not significantly and directly impact small businesses; therefore, the requirements of 2-4-111, MCA, do not apply.

/s/ Nick Mazanec  
Nick Mazanec  
Rule Reviewer

/s/ Jesse Laslovich  
Jesse Laslovich  
Chief Legal Counsel

Certified to the Secretary of State February 8, 2016.

BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE  
MONTANA STATE AUDITOR

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 6.10.703 pertaining to ) PROPOSED AMENDMENT  
Securities Restitution Fund )

TO: All Concerned Persons

1. On March 10, 2016, at 10:00 a.m., the Commissioner of Securities and Insurance, Montana State Auditor, will hold a public hearing in the 2nd floor conference room, at the Office of the Commissioner of Securities and Insurance, Montana State Auditor (CSI), 840 Helena Ave., Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The CSI 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 CSI no later than 5:00 p.m., March 2, 2016, to advise us of the nature of the accommodation that you need. Please contact Darla Sautter, CSI, 840 Helena Avenue, Helena, Montana, 59601; telephone (406) 444-2726; TDD (406) 444-3246; fax (406) 444-3499; or e-mail dsautter@mt.gov.

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

6.10.703 METHOD FOR CALCULATING PERCENTAGES AS THE FUND APPROACHES ZERO (1) and (2) remain the same.

(a) eligible persons whose loss ratio is less than 10% are eligible for up to \$2,500; Eligible persons 60 years and older are eligible for up to \$5,000;

(b) eligible persons whose loss ratio is between 10% and 25% are eligible for up to \$7,500; Eligible persons 60 years and older are eligible for up to \$15,000;

(c) eligible persons whose loss ratio is between 25% and 50% are eligible for up to \$12,500; Eligible persons 60 years and older are eligible for up to \$25,000;

(d) eligible persons whose loss ratio is between 50% and 75% are eligible for up to \$17,500; Eligible persons 60 years and older are eligible for up to \$35,000;  
and

(e) through (4) remain the same.

AUTH: 30-10-1008, MCA

IMP: 30-10-1006, 30-10-1008, MCA

4. STATEMENT OF REASONABLE NECESSITY: The Commissioner of Securities and Insurance, Montana State Auditor, Monica J. Lindeen, (commissioner) is the statewide elected official responsible for administering the Securities Act of Montana regulating the business of securities and insurance.

House Bill 57 was passed during the 2015 legislative session in order to provide heightened protections to vulnerable persons affected by securities fraud. Included in the bill was the authority to grant increased compensation to such individuals under the securities restitution assistance fund. The amendment to ARM 6.10.703 is reasonably necessary in order to implement this change to the fund compensation schedule.

5. Concerned persons may submit their data, views, or arguments concerning the proposed action either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Jennifer Hudson, Attorney, Office of the Commissioner of Securities and Insurance, Montana State Auditor, 840 Helena Ave., Helena, Montana, 59601; telephone (406) 444-2040; fax (406) 444-5223; or e-mail [jhudson@mt.gov](mailto:jhudson@mt.gov), and must be received no later than 5:00 p.m., March 18, 2016.

6. Jennifer Hudson, Attorney, has been designated to preside over and conduct this hearing.

7. The CSI maintains a list of concerned 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 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 Darla Sautter using the contact information in 2 above, or may be made by completing a request form at any rules hearing held by the CSI.

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

9. Pursuant to 2-4-302, MCA, the bill sponsor contact does apply. Representative Moffie Funk, bill sponsor, was notified via e-mail and phone call regarding this rule on January 26, 2016.



10. Pursuant to 2-4-111, MCA, the proposed rule amendment does not significantly and directly impact small businesses.

/s/ Nick Mazanec  
Nick Mazanec  
Rule Reviewer

/s/ Jesse Laslovich  
Jesse Laslovich  
Chief Legal Counsel

Certified to the Secretary of State February 8, 2016.

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

In the matter of the amendment of	)	NOTICE OF PROPOSED
ARM 12.7.201, 12.7.202, 12.7.203,	)	AMENDMENT AND REPEAL
12.7.204 and the repeal of ARM	)	
12.7.205 and 12.7.206 pertaining to	)	NO PUBLIC HEARING
commercial bait seining	)	CONTEMPLATED

TO: All Concerned Persons

1. On April 22, 2016, the Department of Fish, Wildlife and Parks (department) proposes to amend and repeal the above-stated rules.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than March 4, 2016, 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 rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

12.7.201 APPLICATION ~~(1) Any individual desiring to seine for or otherwise capture nongame bait fish (excepting carp, goldfish, and rainbow smelt) in any lake, stream, or other body of water (other than an artificial pond licensed under 87-4-603, MCA) in the state of Montana for sale or commercial distribution, or who desires to transport such bait fish within the state, must make written application to the director for a commercial bait fish seining license upon a form furnished for that purpose signed by the applicant, stating the name and address of applicant, indicating specifically the waters desired for seining or capturing bait fish, declaring whether or not the applicant has had a seining license revoked at any time and stating the date of revocation if such applies and indicating the purpose for which the bait fish are being seined.~~

(1) A commercial bait fish seining license is required for:

(a) the collection of any nongame bait fish, as identified in the current fishing regulations, for the purpose of selling or commercial transportation and distribution;  
or

(b) the possession of 24 dozen (288) or more nongame bait fish unless the person is under 15 years of age.

(2) An application for a commercial bait seining license must be submitted on a form provided by the department.

~~(2) (3) Said application must be accompanied by a fee of \$10 which shall be returned if the application is refused. A \$10 application fee must be submitted with every application. The application fee will be refunded if the application is denied.~~

~~(3) Any person seining for or capturing such bait fish who shall have more than 24 dozen minnows in his possession within this state shall be deemed seining for sale or commercial distribution and must be licensed as herein provided.~~

~~(4) License shall not be required of any person under 15 years of age who does not seine for or capture more than 24 dozen nongame bait fish per day or have in his possession more than 24 dozen nongame bait fish within this state.~~

~~(5) Unless specifically permitted by statute or other department authorization, bait fish may not be imported into or exported from the state of Montana for commercial or other purposes by a licensee or other person.~~

~~(6) Each year, the department shall describe waters on which commercial seining for bait fish may take place.~~

AUTH: 87-1-301 87-4-609, MCA

IMP: 87-3-204, 87-4-602 87-4-601, 87-4-609, MCA

12.7.202 ISSUANCE ~~(1) Before issuing any seining license, the director must first determine that the applicant has not heretofore had a seining license revoked for cause, and that the waters in which applicant desires to seine have been designated by the commission for the seining desired, and if he so finds, he shall be issued a license which shall expire on the 31st day of December next following, unless earlier revoked as hereinafter provided. The director shall designate on the license the only waters in which the licensee may seine, the type of seining equipment permitted, and the periods, if any, during the term of the license when seining is not permitted.~~

(1) The department shall issue a commercial bait seining license upon approval of an application.

(2) The license must specify the terms of the license.

(3) The department will not license any applicant who has ever had a commercial bait seining license revoked.

AUTH: 87-1-301 87-4-609, MCA

IMP: 87-3-204, 87-4-602 87-4-601, 87-4-602, 87-4-609, MCA

12.7.203 REVOCATION ~~(1) If the director shall find upon evidence submitted to him, that any licensee shall have violated any of the provisions of state law or of these regulations concerning seining, he shall revoke said license and thereafter shall refuse further issuance of a seining license to such person. The director may revoke a license based on sufficient evidence of violation of seining laws, regulations, or terms of the license.~~

AUTH: 87-1-301, 87-4-609, MCA

IMP: 87-3-204, 87-4-602, 87-4-601, 87-4-609, MCA

12.7.204 APPEAL ~~(1) Any person whose seining license has been revoked or an applicant whose application for a license is refused, may appeal such determination to the commission by serving written notice of such appeal upon the director within 20 days after the date of mailing a copy of notice of revocation or~~

~~refusal to the licensee or applicant. Upon receipt of such notice of appeal, the commission shall serve upon the appellant notice of time and place for hearing said appeal not less than 15 days prior to the date set to be held in the offices of the commission in Helena, Montana, or elsewhere as the commission shall order. A person may appeal a determination to deny an application or revoke a license. The contested case provisions of the Montana Administrative Procedure Act, Title 2, chapter 4, part 6, MCA, will apply.~~

AUTH: ~~87-1-301~~ 87-4-609, MCA

IMP: ~~87-3-204, 87-4-602~~ 2-4-631, 87-4-601, 87-4-609, MCA

4. The department proposes to repeal the following rules:

12.7.205 HEARING PROCEDURE

AUTH: 87-1-301, MCA

IMP: 87-3-204, 87-4-602, MCA

12.7.206 VIOLATION

AUTH: 87-1-301, MCA

IMP: 87-3-204, 87-4-602, MCA

REASON: These administrative rules have not been updated since 1972 and 1982 and require updating to reflect current procedures and updates in the law. These changes also ensure consistency between recent changes to the fishing regulations concerning use of fish as bait and the administrative rules concerning bait fish collection.

5. Concerned persons may submit their data, views, or arguments concerning the proposed actions in writing to: Joel Tohtz, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, Montana, 59601-0701; fax (406) 444-4952; or e-mail [jtohtz@mt.gov](mailto:jtohtz@mt.gov), and must be received no later than 5:00 p.m., March 18, 2016.

6. 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 Joel Tohtz at the above address no later than 5:00 p.m., March 18, 2016.

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 6 persons based on the number of commercial bait seining permits that were issued in 2015.

8. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East 6th Street, Helena, Montana 59620-0701, or may be made by completing a request form at any rules hearing held by the department.

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

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

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

/s/ William A. Schenk  
William A. Schenk  
Rule Reviewer

/s/ M. Jeff Hagener  
M. Jeff Hagener  
Director  
Department of Fish, Wildlife and Parks

Certified to the Secretary of State February 8, 2016.

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

In the matter of the amendment of )  
ARM 12.11.341 and the adoption of )  
New Rule I pertaining to aquatic )  
invasive species )  
NOTICE OF PUBLIC HEARING ON  
PROPOSED AMENDMENT AND  
ADOPTION

TO: All Concerned Persons

1. On March 15, 2016, at 6:00 p.m., the Department of Fish, Wildlife and Parks (department) will hold a public hearing at the Fish, Wildlife and Parks Headquarters, 1420 East 6th Avenue, Helena, Montana, to consider the proposed amendment and adoption of the above-stated rules.

On March 15, 2016, at 6:00 p.m., the department will hold a public hearing at the Fish, Wildlife and Parks Region 2 Office, 3201 Spurgin Road, Missoula, Montana, to consider the proposed amendment and adoption of the above-stated rules.

On March 15, 2016, at 6:00 p.m., the department will hold a public hearing at the Fish, Wildlife and Parks Region 3 Office, 1400 South 19th Avenue, Bozeman, Montana, to consider the proposed amendment and adoption of the above-stated rules.

On March 15, 2016, at 6:00 p.m., the department will hold a public hearing at the Fish, Wildlife and Parks Region 4 Office, 4600 Giant Springs Road, Great Falls, Montana, to consider the proposed amendment and adoption of the above-stated rules.

On March 16, 2016, at 6:00 p.m., the department will hold a public hearing at the Fish, Wildlife and Parks Region 1 Office, 490 North Meridian Road, Kalispell, Montana, to consider the proposed amendment and adoption of the above-stated rules.

On March 16, 2016, at 6:00 p.m., the department will hold a public hearing at the Fish, Wildlife and Parks Region 5 Office, 2300 Lake Elmo Drive, Billings, Montana, to consider the proposed amendment and adoption of the above-stated rules.

On March 16, 2016, at 6:00 p.m., the department will hold a public hearing at the Fish, Wildlife and Parks Region 6 Office, 54078 U.S. Highway 2 West, Glasgow, Montana, to consider the proposed amendment and adoption of the above-stated rules.

On March 16, 2016, at 6:00 p.m., the department will hold a public hearing at the Fish, Wildlife and Parks Region 7 Office, 352 I-94 Business Loop, Miles City,

Montana, to consider the proposed amendment and adoption of the above-stated rules.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than March 4, 2016, 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](mailto:kgangstad@mt.gov).

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

12.11.341 AQUATIC INVASIVE SPECIES INSPECTION STATIONS

(1) and (2) remain the same.

(3) Areas subject to the search include but are not limited to:

(a) through (c) remain the same.

(d) ballast tanks;

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

(4) Any vessel at an inspection station found with invasive species will be decontaminated as arranged by the department ~~and must pass a second inspection prior to launching in Montana waters.~~ Decontamination methods may include hot water washing, hot water flushing, and drying time. A decontamination order may be issued that could require a drying period as directed by the department. During the drying period, the department may lock the vessel to the trailer to prevent launching, or put it in a secured location not accessible to the owner or operator until the drying period is complete. The vessel must pass a second inspection prior to launching in Montana waters.

AUTH: 80-7-1007, 80-7-1011, 80-7-1012, 87-1-201, MCA

IMP: 80-7-1007, 80-7-1011, MCA

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

NEW RULE I REMOVAL OF VEGETATION AND PLUGS (1) Upon removing a vessel from any surface waters and before leaving the associated boat launch or parking area, all aquatic vegetation must be removed from the vessel, trailer, and equipment.

(2) Any drain plug, bailer, valves or other device that prevents water drainage from bilges, ballasts or livewells must be removed or opened during transport except where otherwise provided in current published fishing regulations. If the vessel does not have a plug, reasonable measures must be taken to dry or drain all compartments or spaces that hold water. Reasonable measures include emptying bilges, application of absorbents, and ventilation. The following are exempt:

(a) Emergency response vehicles and equipment engaged in emergency response activities; and

(b) Marine sanitary systems, closed engine cooling systems, and containers of drinking water.

AUTH: 80-7-1007, 80-7-1012, 87-1-201, MCA  
IMP: 80-7-1007, MCA

REASON: The department is proposing to amend ARM 12.11.341 as well as adopt a new rule in efforts to further prevent the introduction of aquatic invasive species in Montana waters. In current ARM 12.11.341, the department is proposing to include ballast tanks to the list of items to inspect as a high risk vector, and clarify what the decontamination process entails because decontamination in some circumstances may require drying time. This will allow the department to ensure that a fouled vessel is fully decontaminated and is free of aquatic invasive species prior to launching in Montana waters. The proposed new (1) addresses the illegal transport of aquatic invasive vegetation. Current regulations state that it is illegal to transport aquatic invasive species. Because it is very difficult to determine if aquatic vegetation is invasive or not, the rule would require all vegetation to be removed. The proposed new (2) intends to reduce the threat of transport of aquatic invasive species through standing water in a vessel by removing the drain plug or any other device that prevents water drainage.

5. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Fisheries Division, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, Montana, 59620-0701; or e-mail [fwpfsh@mt.gov](mailto:fwpfsh@mt.gov), and must be received no later than March 25, 2016.

6. Kaedy Gangstad or another hearing officer appointed by the department has been designated to preside over and conduct this 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 written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, or may be made by completing the request form at any rules hearing held by the department.

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its



web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

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

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

/s/ Rebecca Dockter  
Rebecca Dockter  
Rule Reviewer

/s/ M. Jeff Hagener  
M. Jeff Hagener  
Director  
Department of Fish, Wildlife and Parks

Certified to the Secretary of State February 8, 2016.

BEFORE THE FISH AND WILDLIFE COMMISSION  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 12.11.206 and 12.11.211 ) PROPOSED AMENDMENT  
pertaining to temporary client days on )  
the Beaverhead and Big Hole Rivers )

TO: All Concerned Persons

1. On March 16, 2016, at 6:00 p.m., the Fish and Wildlife Commission (commission) will hold a public hearing at the University of Montana Western, Block Hall, Room 311, 710 South Atlantic Street, Dillon, Montana, to consider the proposed amendment of the above-stated rules.

On March 17, 2016, at 6:00 p.m., the commission will hold a public hearing at the United States Forest Service, 1820 Meadowlark Lane, Butte, Montana, to consider the proposed amendment of the above-stated rules.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than March 4, 2016, 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 rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

12.11.206 USE OF TEMPORARY CLIENT DAYS ON THE BEAVERHEAD RIVER (1) One-boat outfitters may apply on an annual basis for up to 60 temporary client days on the Beaverhead River unless the outfitter has:  
(a) surrendered or transferred client days; or  
(b) had a Beaverhead River commercial use permit revoked.  
(2) through (7) remain the same.

AUTH: 87-1-301, 87-1-303, MCA  
IMP: 87-1-303, MCA

12.11.211 USE OF TEMPORARY CLIENT DAYS ON THE BIG HOLE RIVER (1) One-boat outfitters may apply on an annual basis for up to 60 temporary client days on the Big Hole River unless the outfitter has:  
(a) surrendered or transferred client days; or  
(b) had a Big Hole River commercial use permit revoked.  
(2) through (7) remain the same.

AUTH: 87-1-301, 87-1-303, MCA

IMP: 87-1-303, MCA

REASON: The commission is proposing this change to support the original intent of the rules which was to give small, river outfitting businesses a chance to obtain a temporary client day permit on the Big Hole River or Beaverhead River. The proposed changes will not increase or decrease the number of permits and will have no affect on the use of the rivers. Currently, experienced outfitters are surrendering or selling their Big Hole River and Beaverhead River permits and then applying for temporary client days preventing less experienced outfitters the opportunity to do business on the rivers.

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: Cheryl Morris, Department of Fish, Wildlife and Parks, 1400 South 19th Avenue, Bozeman, Montana, 59718; or e-mail [cherylmorris@mt.gov](mailto:cherylmorris@mt.gov), and must be received no later than March 25, 2016.

5. Jessica Snyder or another hearing officer appointed by the department has been designated to preside over and conduct this hearing.

6. 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, or may be made by completing the request form at any rules hearing held by the department.

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

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

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

/s/ Aimee Fausser  
Aimee Fausser  
Rule Reviewer

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

Certified to the Secretary of State February 8, 2016.

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

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING ON
ARM 24.126.411 patient records	)	PROPOSED AMENDMENT,
retention, 24.126.2103 continuing	)	ADOPTION, AND REPEAL
education requirements, 24.126.2105	)	
approved continuing education, and	)	
24.126.2301 unprofessional conduct,	)	
adoption of NEW RULE I sexual	)	
relations with a patient and sexual	)	
misconduct, and repeal of 24.126.405	)	
board meetings, 24.126.406 record of	)	
minutes and hearings, and	)	
24.126.2101 renewals	)	

TO: All Concerned Persons

1. On March 11, 2016, at 1:00 p.m., a public hearing will be held in the Basement Conference Room, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment, adoption, and repeal of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Chiropractors no later than 5:00 p.m., on March 4, 2016, to advise us of the nature of the accommodation that you need. Please contact Dennis Clark, Board of Chiropractors, 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; e-mail dlibsdcchi@mt.gov (board e-mail).

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

24.126.411 PATIENT RECORDS RETENTION (1) Chiropractors Except as provided in [NEW RULE I], ~~chiropractors are required to~~ must retain adult patient records and x-rays for a minimum of ~~five~~ seven years and a minor patient's records and x-rays for a minimum of ~~five~~ seven years from their last treatment or at least one year past their 18th birthday. ~~Medicaid requires that minor patient records be kept until the patient's 23rd birthday.~~

AUTH: 37-1-131, ~~37-12-201~~, MCA  
IMP: 37-1-131, ~~37-1-201~~, MCA

REASON: The board determined it is reasonably necessary to amend this rule to align the board's record retention requirements with those of the IRS. The board concluded that this may be easier for licensees to maintain their professional records while still ensuring adequate retention for processing potential complaints.

The board is striking the reference to a Medicaid requirement, as the federal regulation may change without the board being aware.

Authority and implementation citations are amended to accurately reflect all statutes implemented through the rule and provide the complete sources of the board's rulemaking authority.

24.126.2103 CONTINUING EDUCATION REQUIREMENTS (1) remains the same.

(2) New licensees to ~~the state of~~ Montana have from the date of their original licensure in Montana until the end of their first full renewal period to complete their first 13 hours of continuing education, and shall affirm on their second renewal application that they have attended and successfully completed a minimum of 13 hours of board-approved continuing education during that period.

(3) through (8) remain the same.

AUTH: 37-1-131, 37-1-319, ~~37-12-201~~, MCA

IMP: 37-1-131, 37-1-141, 37-1-306, 37-1-319, MCA

REASON: The board determined it is reasonably necessary to amend (2) to address questions and confusion regarding continuing education (CE) requirements for newly licensed chiropractors. The board intends to allow new licensees from their initial licensure plus one full renewal period to attest to having completed the required CE and be subject to potential selection in a random audit.

Authority and implementation citations are amended to accurately reflect all statutes implemented through the rule and provide the complete sources of the board's rulemaking authority.

24.126.2105 APPROVED CONTINUING EDUCATION (1) remains the same.

(2) From the date of their original licensure in Montana until the end of the first full renewal period, new licensees can fulfill the continuing education requirement by attending one session of the "new doc seminar" in lieu of the 13-hour continuing education requirement.

(3) through (5) remain the same.

~~(6) All continuing education not listed in this rule must be submitted for review and approval by the board on a case-by-case basis.~~

AUTH: 37-1-131, 37-1-319, ~~37-12-201~~, MCA

IMP: 37-1-131, 37-1-141, 37-1-306, 37-1-319, MCA

REASON: See REASON for ARM 24.126.2103 for amendment to (2).

The board determined it is reasonably necessary to strike (6) and no longer approve CE that does not comply with the parameters of this rule. The board notes

that its licensees are competent professionals who are fully capable of reading the rule and determining which courses are acceptable and which are not.

Authority and implementation citations are amended to accurately reflect all statutes implemented through the rule and provide the complete sources of the board's rulemaking authority.

24.126.2301 UNPROFESSIONAL CONDUCT (1) For the purpose of implementing the provisions of 37-1-316, MCA, the board further defines unprofessional conduct as follows:

(a) ~~using or causing to be used advertising matter which contains any representations to patients or prospective patients, whether communicated verbally, by advertisement, or through any other medium, that contain misstatements, falsehoods, distorted or fabulous statements, relative to:~~

(i) ~~misstatements, falsehoods, misrepresentations, or distorted and fabulous statements relative to cures or treatments diagnosis, palpation, treatment, cure, or cost of services;~~

(ii) ~~statements which may in any way reflect against a fellow licensee, including statements which imply superiority over another licensee or health care professional; or~~

(iii) ~~personal advertising claiming the licensee's particular abilities, qualifications, experience, features, or accomplishments regarding the licensee or areas of specialty the licensee's chiropractic practice unless documentation of such abilities, features, accomplishments, or specialties are documented with the board prior to placing the advertisement.~~

(b) ~~engaging in or soliciting sexual relations with a patient, sexual misconduct either verbal or physical, sexual contact, sexual exploitation, or a sex offense, as defined in 45-2-101, MCA, when such act or solicitation is related to the practice of chiropractic violating any provision of [NEW RULE I] regarding sexual misconduct or sexual relations with a patient;~~

(c) through (e) remain the same.

(f) ~~billing charges or fees to a third-party payer or collecting from a third-party payer on behalf of a patient at a different rate than the charge or fee actually billed to or collected from the patient. In the case where services are provided at a reduced rate to a patient because of the patient's inability to pay for the services at their regular or undiscounted rate, any charge or fee billed to or collected from a third party must be based upon the actual reduced rate billed to the patient;~~

(g) through (u) remain the same.

AUTH: 37-1-131, 37-1-319, 37-12-201, MCA

IMP: 37-1-131, 37-1-141, 37-1-316, 37-1-319, 37-12-301, 37-12-322, MCA

REASON: The board screening panel has considered a number of complaints related to licensee advertisements. Noting that licensees do not routinely submit to the board proof of qualifications prior to advertising, the board concluded that the rule is inadequate and difficult to enforce as currently written. The board is amending (1)(a) to clearly delineate enforceable advertising requirements for

licensees and help ensure the public's protection against misleading or false advertisements.

In lieu of listing the types of sexual misconduct the board deems as unprofessional conduct, the board is amending (1)(b) to reference proposed NEW RULE I that sets forth the provisions regarding sexual misconduct and sexual relations with patients.

The board determined it is irrelevant why licensees might provide services at reduced cost; licensees should never misrepresent actual charges to insurance providers. The board is amending (1)(f) to clarify this for licensees.

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

4. The proposed new rule provides as follows:

NEW RULE I SEXUAL RELATIONS WITH A PATIENT AND SEXUAL MISCONDUCT (1) A licensee shall not solicit, engage, or attempt to engage, in any form of sexual relationship or sexual contact with a current patient, unless the sexual relationship or sexual contact was consensual and occurred or commenced prior to the chiropractor-patient relationship.

(2) A licensee shall not solicit, engage, or attempt to engage, in any form of sexual relationship or sexual contact with a former patient, unless the chiropractor-patient relationship is terminated in writing and more than 90 days have passed since the chiropractor-patient relationship terminated. The licensee must permanently retain written record of the terminated chiropractor-patient relationship to demonstrate compliance with this section.

(3) A licensee shall not solicit, engage, or attempt to engage, in verbal or physical sexual harassment, sexual contact, or sexual exploitation, against any person when working in the chiropractic practice or business, or under the guise of providing chiropractic services.

(4) Without regard to a licensee's or applicant's mental intent, a licensee or applicant shall not engage in any conduct defined as a sexual crime in 45-5-501 through 45-5-507, MCA, regardless of whether the conduct occurred in or is related to the licensee's chiropractic practice.

(5) For the purpose of this rule, "sexual contact," "sexual intercourse," and "solicit" or "solicitation" are defined in 45-2-101, MCA; and "without consent" is defined in 45-5-501, MCA.

(6) A licensee's or applicant's violation of this rule constitutes unprofessional conduct pursuant to ARM 24.126.2301(1)(b).

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

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

REASON: The board determined it is reasonably necessary to adopt NEW RULE I in response to concerns raised by the board screening panel and department legal counsel. Currently, sexual misconduct is addressed in the unprofessional conduct rule and the rule language has resulted in confusion and difficulty in prosecuting cases involving allegations of sexual relations with patients or former patients. The



amendments will also address questions as to the ability of licensees to provide chiropractic adjustments on one's spouse. The board is therefore adopting NEW RULE I to clearly delineate the board's intent regarding sexual relations involving patients and sexual conduct, and clarify when these behaviors constitute unprofessional conduct.

5. The rules proposed to be repealed are as follows:

24.126.405 BOARD MEETINGS at ARM page 24-10022.

AUTH: 37-12-201, MCA  
IMP: 37-12-201, MCA

REASON: The board is repealing this rule as unnecessary and outdated, noting that the rule requires written notification of board members and acknowledging that boards can follow Roberts Rules without adopting them in administrative rule.

24.126.406 RECORD OF MINUTES AND HEARINGS at ARM page 24-10022.

AUTH: 2-6-101, MCA  
IMP: 2-6-101, MCA

REASON: The board is repealing this unnecessary rule as it does not account for current online posting of minutes and its provisions are adequately set forth in statute at 2-3-203 and 2-3-212, MCA.

24.126.2101 RENEWALS at ARM page 24-10137.

AUTH: 37-1-131, 37-12-201, MCA  
IMP: 37-1-131, 37-1-141, MCA

REASON: The board is repealing this unnecessary rule because the department administers a standardized renewal process for all professional and occupational licensure boards, and this rule merely references the department rules on renewals.

6. 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 Chiropractors, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to [dlibschi@mt.gov](mailto:dlibschi@mt.gov), and must be received no later than 5:00 p.m., March 18, 2016.

7. An electronic copy of this notice of public hearing is available at [www.chiropractor.mt.gov](http://www.chiropractor.mt.gov) (department and board's web site). The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the

notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

8. 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 Chiropractors, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to [dlibschi@mt.gov](mailto:dlibschi@mt.gov); or made by completing a request form at any rules hearing held by the agency.

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

10. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.126.411, 24.126.2103, 24.126.2105, and 24.126.2301 will not significantly and directly impact small businesses.

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

With regard to the requirements of 2-4-111, MCA, the board has determined that the repeal of ARM 24.126.405, 24.126.406, and 24.126.2101 will not significantly and directly impact small businesses.

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

11. Darcee L. Moe, legal counsel, has been designated to preside over and conduct this hearing.

BOARD OF CHIROPRACTORS  
LEE HUDSON, DC, PRESIDENT

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

/s/ PAM BUCY  
Pam Bucy, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State February 8, 2016

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 24.301.501 applicability of ) PROPOSED AMENDMENT AND  
statutes and rules, 24.301.511 ) REPEAL  
definitions, 24.301.513 commercial or )  
business occupancy, 24.301.516 third )  
party inspections, 24.301.523 )  
reciprocity, 24.301.525 requirements )  
for data plate, 24.301.535 and )  
24.301.536 application for review, )  
24.301.542 plan review termination, )  
24.301.543 quality control, )  
24.301.545 changes to reviewed )  
plans, 24.301.549 unit identification, )  
24.301.550 plan renewal, 24.301.557, )  
24.301.558, 24.301.560, 24.301.561, )  
24.301.562, and 24.301.566 )  
insignias, 24.301.565 and 24.301.567 )  
fees, 24.301.607 inspections - )  
certificates - fees, and the repeal of )  
ARM 24.301.512 effective date, )  
24.301.524 information required to )  
dealer, 24.301.532, 24.301.533, and )  
24.301.534 application for approval, )  
24.301.538 model manufactured )  
location, 24.301.539 out-of-state )  
applicant, 24.301.541 evidence of )  
review, and 24.301.548 )  
discontinuance of review )

TO: All Concerned Persons

1. On March 11, 2016, at 2:00 p.m., a public hearing will be held in the Basement Conference Room #B-07, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment and repeal of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Building Codes Bureau no later than 5:00 p.m., on March 4, 2016, to advise us of the nature of the accommodation that you need. Please contact David White, Building Codes Bureau, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2009; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2050; or [dlibsdbcb@mt.gov](mailto:dlibsdbcb@mt.gov) (bureau's e-mail).

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

24.301.501 APPLICABILITY OF STATE STATUTES AND ADOPTED ADMINISTRATIVE RULES (1) remains the same.

(2) Factory-built buildings shall meet the requirements of the following nationally recognized construction standards:

(a) ~~the latest adopted edition of the International Building Code~~ as adopted by ARM 24.301.131 or, as applicable, the International Residential Code as applicable, as drafted by the International Code Council adopted by ARM 24.301.154;

(b) ~~the latest adopted edition of the National Electrical Code as drafted by the National Fire Protection Association~~ adopted by ARM 24.301.401;

(c) ~~the latest adopted edition of the International Mechanical Code as drafted by the International Code Council~~ adopted by ARM 24.301.172;

(d) ~~the latest adopted edition of the Uniform Plumbing Code as drafted by the International Association of Plumbing and Mechanical Officials~~ adopted by ARM 24.301.301; and

(e) ~~the latest adopted edition of the International Energy Conservation Code as adopted by ARM 24.301.161;~~

(f) the International Swimming Pool and Spa Code as adopted by ARM 24.301.175; and

(g) the International Wildland-Urban Interface Code as adopted by ARM 24.301.181.

(3) remains the same.

AUTH: 50-60-203, 50-60-401, MCA

IMP: 50-60-201, 50-60-203, 50-60-401, MCA

REASON: The department is adopting both the swimming pool and spa code and the wildland-urban interface code in other rulemaking projects as part of the state building code and as they apply to the Factory Built Building Program (FBBP). It is reasonably necessary to add (2)(f) and (g) to align with and reference these other code adoptions.

24.301.511 DEFINITIONS ~~For use throughout these rules, the terms herein set forth shall have the following meanings:~~

(1) remains the same.

(2) "Components" means the prefabricated wall, floor, ceiling, or roof panels or pre-cut building kits or similar units of construction or any combination of such units.

(3) ~~"Custom-made unit" means a factory-built housing unit constructed with individual specifications for one or a limited number of models.~~

(4) ~~"Effective date" means the date these rules governing factory-built buildings became effective according to the provisions of the Administrative Rules of Montana. The effective date of these original rules means March 1, 1975.~~

(5) remains the same, but is renumbered (3).

~~(6)~~ (4) "Factory-built building" means a factory assembled structure or structures equipped with the necessary service connections, but not made so as to be readily movable as a unit or units and designed to be used with a permanent foundation.

(7) and (8) remain the same, but are renumbered (5) and (6).

~~(9)~~ (7) "Local enforcement agency" means the zoning or building department of a city, town, or county.

~~(10)~~ (8) "Alteration or conversion" means the replacement, addition, modification, or removal of any equipment or installations which may affect construction, fire safety, occupancy, plumbing, heat-producing, or electrical systems or the functions thereof, of units subject to these rules.

(11) through (13) remain the same, but are renamed (9) through (11).

~~(14)~~ (12) "System" means an arrangement or method based on maximum capacity for structural, plumbing, heating, or electrical installations.

(15) and (16) remain the same, but are renumbered (13) and (14).

(a) inspects and certifies, in lieu of state inspectors, that any unit ~~manufactured after the effective date of these rules~~ conforms to the requirements and standards set forth herein; and

(b) is not under the control or jurisdiction of any supplier, manufacturer, or dealer, except by a contract for quality control and/or inspections of units for conforming to the requirements and standards set forth herein;

~~(c) reports to the bureau a listing of the manufacturers under contract and also the specific products receiving certification;~~

~~(d) reports to the bureau at least quarterly the level of quality control within the manufacturer's plant, their methods of inspections and the names of personnel making inspections.~~

(17) remains the same, but is renumbered (15).

AUTH: 50-60-203, 50-60-401, MCA

IMP: 50-60-203, 50-60-401, MCA

REASON: The department is eliminating the definition of "custom made unit" in (3) because it is only used in one other rule, ARM 24.301.534, which is being repealed. The department is striking the definition of "effective date" in (4) and amending (14)(a), to address stakeholder confusion. Stakeholders have incorrectly inferred that no FBB built before March 1, 1975 is required to meet department administrative rules when department rules do, in fact, apply if a unit of that vintage is moved or modified, or if the same plans are used in new construction. The original purpose in defining the effective date, as it related to the initial manufacture of new mobile homes, is no longer necessary.

It is reasonably necessary to delete (14)(c) and (d) because the department has updated its processes related to issuance of insignias and has eliminated the requirement for a third-party inspecting agency to report this information.

24.301.513 USE OF MOBILE HOMES AND RECREATIONAL VEHICLES FOR COMMERCIAL OR BUSINESS OCCUPANCY PROHIBITED--EXCEPTION

(1) Mobile homes and recreational vehicles are designed only to meet building code requirements applicable to mobile homes used as private residences and recreational vehicles used as temporary private residences.

(2) These units do not meet code requirements for commercial or business occupancy and are therefore prohibited for these types of uses. Manufactured Except as provided in (4), manufactured (mobile) homes and recreational vehicles shall not be utilized for any occupancy other than as a single family dwelling, whether for transient stay or longer periods. "Transient stay" means a guest staying at one location for 30 days or less.

(3) Units used in one location for not more than 14 days in conjunction with a circus, fair, or other similar use would not fall into this category.

(4) Units used as temporary offices by manufactured (mobile) home dealers, on the premises (lot) where said units are sold, would not fall into this category provided the unit utilized as an office:

- (a) is not used for a period exceeding ~~two~~ five years;
- (b) through (f) remain the same.

AUTH: 50-60-203, 50-60-401, MCA

IMP: 50-60-402, MCA

REASON: The department is deleting the term "private" from (1) to be consistent with the provisions of Senate Bill 324 (2013) that amended the definition of "building" for the purposes of subdivision law to include mobile homes and recreational vehicles. This change will expand the residential occupancy of mobile homes and recreational vehicles beyond mere private use, while still restricting business occupancy (except as provided in (4)(a)) of mobile homes and recreational vehicles.

The department is now amending (2) to include "recreational vehicles" with mobile homes as structures which may not be used for commercial or business occupancy. The department inadvertently omitted this in the past.

It is reasonably necessary to amend (2) to address transient stays and clarify that a permit will still be required regardless of the length of stay of the occupant.

The department is amending (4)(a) to extend the time frame from two to five years during which a mobile home seller may use a mobile home as an office. This is reasonably necessary to acknowledge and align with the time it takes to set up and organize an office.

24.301.516 THIRD PARTY INSPECTIONS TO BE MONITORED (1) State inspectors shall monitor the third party inspection agencies regarding the accuracy and quality of their inspections and reports, and shall inspect and monitor all manufacturers, dealers, and installers regarding compliance with the applicable statutes and these rules. When, upon inspection, the inspector finds that a unit is in violation of these rules, he shall serve a notice of violation upon the manufacturer, dealer, and installer which will set forth the specific statutes or rules which have been violated. The inspector shall post a prohibited sales notice upon each unit and may confiscate the insignia of approval issued by the bureau.

~~(2) Third party inspection agencies who fail to meet the reporting requirements for quarterly reports, set forth in ARM 24.301.511(16)(d), shall cause~~

~~the manufacturer's file and subsequent submittals to be placed in pending status until such time as the aforementioned requirements are met.~~

AUTH: 50-60-203, 50-60-401, MCA  
IMP: 50-60-203, 50-60-401, MCA

REASON: The department determined it is reasonably necessary to strike (2) to align with the proposed deletion of the referenced rule section in ARM 24.301.511.

24.301.523 RECIPROCITY (1) and (2) remain the same.

(3) Reciprocal status for factory-built buildings may be granted to HUD-approved Category III states. ~~States which are approved by HUD and therefore meet the criteria for reciprocal status are:~~

~~(a) Alabama, Arizona, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Maryland, Michigan, Minnesota, Nebraska, New Jersey, North Carolina, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, Washington, Wisconsin.~~

AUTH: 50-60-203, 50-60-401, MCA  
IMP: 50-60-203, 50-60-401, MCA

REASON: The department is deleting the specific list of HUD-approved Category III Housing States in lieu of directing the reader to the HUD web site. This change will reduce the risk of having an outdated list or needing to continually amend the list in administrative rule.

24.301.525 REQUIREMENTS FOR DATA PLATE (1) All factory-built units manufactured or delivered prior to sale or sold or offered for sale in this state must bear a data plate giving the model, serial number, date of completion, and design load maximums: i.e., wind, snow, floor live load, and seismic design ~~Category D or D1 as applicable.~~

(2) The data plate must be permanently affixed either to the inside or the outside of the electrical distribution panel door or other location easily visible without the use of tools or special knowledge to access the data plate.

~~(3) The minimum loads acceptable for factory-built units manufactured or delivered prior to sale or sold or offered for sale in this state are:~~

~~(a) wind load = 25 psf;~~

~~(b) snow load = 30 psf;~~

~~(i) For those areas of the state where snow loads are greater than 30 psf, the units must be designed for the greater snow loads.~~

~~(c) floor live load = 40 psf; and~~

~~(d) seismic design category = D or D1 as applicable.~~

AUTH: 50-60-203, 50-60-401, MCA  
IMP: 50-60-402, MCA

REASON: It is reasonably necessary to amend (1) by striking D or D1 as the design category, because the IRC does not limit the category to D or D1. The IRC states that the load maximum is based on whichever category is applicable to the geographical location where the unit is being installed.

The department is amending (2) to prevent manufacturers from continuing to place the data plate in locations difficult for the department and consumer to locate.

The department is deleting (3) because the minimum acceptable loads are governed by the IRC and may vary depending on the geographic location of the installation of the unit. Listing only the minimum loads was misleading to stakeholders erroneously building to only this standard.

24.301.535 APPLICATION FOR MODEL PLAN REVIEW (1) Any manufacturer of units ~~may~~ shall make application to the bureau for plan review of a model or model group prior to construction. The application shall include:

(a) and (b) remain the same.

(c) substantiating calculations or test results indicating details of construction, plumbing, mechanical, and electrical plans when such details are required;

(d) ~~two copies~~ one copy of the complete plans and specifications drawn on paper of sufficient size to provide complete details of work proposed or presented electronically in such a manner as to provide complete details of work proposed which must show:

(i) through (iii) remain the same.

(iv) all necessary cross sections;

(v) floor, wall, ceiling, and roof construction details;

(vi) typical connections;

(vii) design live and dead loads;

(viii) grade and quality of materials; and

(ix) substantiating calculations or test results, where required including energy calculations as applicable.

(e) the following electrical specifications must be set forth in the plan:

(i) type and size of feeder assembly;

(ii) voltage and amperage of branch circuit panelboard;

(iii) branch circuit identification, amperage, or overcurrent protection device

wire size and type;

(iv) voltage and amperage of fixed appliances;

~~(v)~~ (v) location of all appliances and fixtures;

~~(vi)~~ (vi) location of all electrical outlets (receptacles and lights); and

~~(vii)~~ (vii) number of outlets and appliances on each circuit and circuit rating.

(f) the plan may be drawn to scale or schematic. It must set forth the following mechanical information:

(i) description of all materials, appliances, fittings, pipe, tubing, vents, and ducts;

(ii) BTUH input rating of all fuel burning appliances;

(iii) size of openings for combustion air, except where combustible air is an integral part of an approved appliance;

(iv) size, length, type, and location of vents and vent connectors;

(v) type, minimum dimension, and gauge of air ducts;



- (vi) minimum free area and location of circulating air supply inlet; and
- (vii) minimum free area and location of all air openings.
- (g) the plan may be drawn to scale or schematic. It must set forth the following plumbing specifications:
  - (i) description of all materials, fixtures, fittings, pipe tubing, shower stalls, and walls;
  - (ii) diameter and type of pipe and tubing, and length of all trap arms;
  - (iii) size and type of fittings;
  - (iv) grade of drainage piping; and
  - (v) method of securing all piping.

AUTH: 50-60-203, 50-60-401, ~~50-60-402~~, MCA

IMP: 50-60-203, 50-60-401, 50-60-402, MCA

REASON: The department is combining the substantive content of ARM 24.301.532 and 24.301.533, which address the structural and electrical, mechanical, and plumbing components of a required application separately, and ARM 24.301.534, which addresses submission of drawings, plans, and application fees, into a single rule at ARM 24.301.535. This combination will serve to address all aspects of an application for an FBB. The reference to NFPA 70 in ARM 24.301.533(21)(e) will not be incorporated into ARM 24.301.535, because the controlling electrical code is defined at ARM 24.301.501.

Additionally, the department is changing the term "may" to "shall" in (1) to clarify that application submission is not an option, but a requirement for approval. The department is also reducing the required number of plan copies at (1)(d) to allow for applicants to submit one set of plans instead of two. Because most of the processes are now electronic, the department concluded that requiring two sets is redundant and unnecessary.

Authority citations are being amended to accurately reflect the full statutory authority of the board to promulgate rules.

24.301.536 APPLICATION FOR IN-PLANT QUALITY CONTROL MANUAL REVIEW (1) and (1)(a) remain the same.

(b) one copy of all documents submitted for review, which shall be on substantial paper or cloth not less than 8 1/2" x 11" or electronically in a format acceptable to the department;

(c) an application on forms supplied by the bureau; and

(d) remains the same.

AUTH: 50-60-203, 50-60-401, ~~50-60-402~~, MCA

IMP: 50-60-203, 50-60-401, 50-60-402, MCA

REASON: The department is amending (1)(b) to further facilitate the department's shift to electronic submissions and processes.

Authority citations are being amended to accurately reflect the full statutory authority of the board to promulgate rules.

24.301.542 PLAN REVIEW TERMINATION (1) A plan review issued by the bureau shall remain in effect through December 31 of the year following the original year of approval and through December 31 of each subsequent year of renewal as established in ARM 24.301.550 or until withdrawn or revised by the manufacturer or until revoked by the bureau.

(2) A plan review will be revoked by the bureau upon:

(a) the department's adoption of a different version of codes applicable to that particular review;

(b) a finding that a manufacturer is not complying with the plan as reviewed;  
or

(c) a finding that such a manufacturer has used materials not listed and reviewed by a listing agency, or reviewed as an alternate or equivalent by the bureau.

AUTH: 50-60-203, 50-60-401, MCA

IMP: 50-60-203, 50-60-401, MCA

REASON: The department determined it is reasonably necessary to amend (2) and clarify the necessity to apply a newly adopted code to a plan review in progress. The department's adoption of any new codes will only apply to units not already in production.

24.301.543 IN-PLANT QUALITY CONTROL (1) The manufacturer shall submit a manual, or shall reference an applicable manual previously reviewed by the bureau, outlining a program of quality control concurrent with ~~his~~ their request for plan review. The program outlined must meet the standards of and be reviewed and approved by the bureau. In addition, the manufacturer shall designate a company or corporate officer or other responsible person to be responsible for the quality control program, and shall maintain records to substantiate that each unit has been inspected and complies with the plans as reviewed and approved by the bureau. The bureau may make periodic inspections and may condition the issuance of insignia on compliance with these rules by the manufacturer. Approval of in-plant quality control does not constitute approval of any submitted application, plans, or insignia.

(2) through (2)(i) remain the same.

(j) test procedural manual, including electrical, gas line, water systems and drain/vent/plumbing fixture tests and type of test equipment used; and

(k) remains the same.

AUTH: 50-60-203, 50-60-401, MCA

IMP: 50-60-203, 50-60-401, MCA

REASON: The department is amending (1) to address and clarify stakeholders' mistaken assumptions that if they have received an approved "In-Plant Quality Control" report, no further application, review, or approval by the department is necessary.

24.301.545 CHANGES TO REVIEWED PLANS (1) Where the manufacturer proposes changes in the construction, plumbing, ~~heat-producing~~ mechanical, or electrical equipment or installations or where these rules are amended to necessitate such change, ~~two sets~~ one set of supplemental detailed plans and specifications of such changes shall be submitted to the bureau for plan checking and comparison. Plans shall be accompanied by a letter of transmittal and the plan inspection fee pursuant to ARM 24.301.565. When such supplemental details do not constitute a new model, the supplemental details will be filed with and become part of the existing plan review. Where the supplemental details constitute a model change, application for plan review is to be processed as for a new model.

(2) and (3) remain the same.

AUTH: 50-60-203, 50-60-401, ~~50-60-402~~, MCA

IMP: 50-60-203, 50-60-401, 50-60-402, MCA

REASON: In (1) and various other places in this rule notice, the department is replacing "heat-producing" with "mechanical" to avoid confusion and be consistent with current industry terminology. The department is reducing the required number of plan sets because most of the processes are now electronic and the department concluded that requiring two sets is redundant and unnecessary.

Authority citations are being amended to accurately reflect the full statutory authority of the board to promulgate rules.

24.301.549 UNIT IDENTIFICATION (1) Each unit manufactured, sold, or offered for sale in this state shall bear a legible manufacturer's identifying serial number ~~which shall be prefaced by the letter "S"~~. Each unit shall also bear a separate identification which shall include the date of manufacture and, where applicable, the plan review number. When the date of manufacture is coded, the bureau shall be informed of the method of coding.

(2) remains the same.

AUTH: 50-60-203, 50-60-401, MCA

IMP: 50-60-203, 50-60-401, MCA

REASON: The department is amending (1) to eliminate confusion as the pre-printed insignia already contains the letter "S" allocated, and the department never intended to require two Ss, as only one is necessary.

24.301.550 PLAN RENEWAL (1) Except as established in ARM 24.301.542 for original plan approvals, the manufacturer shall make application to have their plans renewed for the following year prior to the December 31 expiration date of each year. At the time of renewal, plans which have not been changed do not require the submission of plans. If any changes have been made, an updated plan must be submitted. The application shall be accompanied by the fee listed in ARM 24.301.565. If the department adopts new versions of codes applicable to the plans, then renewal of existing plans reviewed under the previous codes are not allowed and an updated plan is required.

AUTH: 50-60-203, 50-60-401, ~~50-60-402~~, MCA  
IMP: 50-60-203, 50-60-401, ~~50-60-402~~, MCA

REASON: See REASON for ARM 24.301.542.

Authority citations are being amended to accurately reflect the full statutory authority of the board to promulgate rules.

24.301.557 INSIGNIA--WHEN REQUIRED (1) All units manufactured or delivered prior to sale or sold or offered for sale in ~~this state~~ Montana shall bear a bureau insignia and if applicable the insignia of a reciprocal state or the certified third party inspection agency. Each insignia shall be assigned and affixed to a specific unit. Assigned insignia are not transferable and are void when not affixed or assigned, and all such insignias shall be returned to or may be confiscated by the bureau. The insignia shall remain the property of the bureau and may be reappropriated by the bureau in the event of violation of the conditions of approval.

~~(2) Any unit manufactured prior to the effective date of these rules need not bear an insignia.~~

~~(3) Any unit manufactured subsequent to the effective date of these rules which was neither manufactured nor delivered prior to sale nor sold nor offered in this state need not bear an insignia.~~

AUTH: 50-60-203, 50-60-401, ~~50-60-402~~, MCA  
IMP: 50-60-203, 50-60-401, ~~50-60-402~~, MCA

REASON: The department is amending (1) by substituting "Montana" for "this state" to assist stakeholder manufacturers who typically reside outside of Montana and deal with numerous jurisdictions. The department is striking (2) and (3) because the department has updated its processes related to issuance of insignias.

Authority citations are being amended to accurately reflect the full statutory authority of the board to promulgate rules.

24.301.558 APPLICATION FOR INSIGNIA PURSUANT TO PLAN REVIEW

~~(1) Following receipt of plan approval, the~~ The unit manufacturer shall make application for an insignia for each individual unit manufactured. The application shall be submitted to the bureau ~~in duplicate~~ on the proper bureau form, accompanied by the insignia fees pursuant to ARM 24.301.566. The application shall include the ~~plan review number and serial number of each unit for which an insignia is requested. Multiple units shall be designated where applicable~~ model number of the approved model the insignia will be applied to and the serial number(s) for each individual unit the insignia(s) will be applied to.

~~(2) Advance inclusions of the unit's serial number may be omitted from the application provided the applicant submits a report of the insignia number and serial number of the specific unit to which the insignia has been assigned. Such report shall be on the monthly insignia report form and shall be submitted no later than the tenth of the month after the use of such insignia.~~

~~(3) Manufacturers that possess insignias issued by the department shall provide monthly insignia reports. Monthly insignia report forms shall be completed and submitted to the department no later than the tenth of each month following issuance of the insignia by the department, until all such insignia have been lawfully affixed to the manufactured products for which they were issued.~~

~~(4) Failure to submit monthly insignia report forms shall result in subsequent plan approval, plan renewal and application for insignia submittals to be placed in a pending status until said reports are submitted.~~

~~(5) (2) The unit manufacturer third party inspector of record for the manufacturer producing the model shall receive the insignia(s) from the bureau and will be responsible to permanently imprint the unit serial number on the insignia when insignia is obtained affixed to the unit pursuant to ARM ~~24.301.557 through 24.301.564~~ 24.301.549.~~

~~(6) (3) An insignia obtained pursuant to the provisions provided by ARM 24.301.558(2) shall be utilized within 12 months of the date of issuance. An insignia which is not utilized within said period, shall be deemed void and shall be promptly returned to the bureau. No refund or credit for an insignia fee shall be issued for a void insignia.~~

AUTH: 50-60-203, 50-60-401, ~~50-60-402~~, MCA

IMP: 50-60-201, 50-60-203, 50-60-401, 50-60-402, MCA

REASON: The department determined it is reasonably necessary to amend this rule to modernize the process for review and approval of plans and issuance of insignias. Internal rule references are being updated due to rules being repealed or modified in this rule notice.

Authority citations are being amended to accurately reflect the full statutory authority of the board to promulgate rules.

24.301.560 INSIGNIA REMOVAL (1) In the event that any unit bearing the insignia is found to be in violation of these rules, the bureau may remove the insignia after furnishing the manufacturer with a written statement of such violations. The bureau will not issue a new insignia until corrections have been made and the manufacturer has requested an inspection pursuant to ARM ~~8.70.519~~ 24.301.567.

(2) remains the same.

AUTH: 50-60-203, 50-60-401, MCA

IMP: 50-60-203, 50-60-401, MCA

REASON: It is necessary to amend this rule to correct an erroneous citation.

24.301.561 LOST OR DAMAGED INSIGNIA (1) When an insignia becomes lost or damaged, the bureau shall be notified immediately in writing by the ~~manufacturer~~ third party certification and inspection agency. The notice shall specify the manufacturer, the unit's serial number and, when possible, the insignia number.

(2) All damaged insignia shall be promptly returned. Damaged and lost insignia will not be replaced by the bureau, ~~with a replacement insignia which shall~~

~~bear the date of issue of the original insignia and which shall be designated as a replacement insignia upon payment of the replacement insignia~~ An application for a new insignia will be required and delivered by the bureau upon payment of the insignia fee as provided in ARM 24.301.566.

AUTH: 50-60-203, 50-60-401, MCA  
IMP: 50-60-203, 50-60-401, MCA

REASON: It is reasonably necessary to amend (1) to reflect that due to changes in the process for review and approval of plans and issuance of insignias, it will no longer be the manufacturer, but the third party certification agency who has obligations respecting the insignia. The department is amending (2) to increase efficiency within the department and eliminate a cumbersome process for replacing insignias.

24.301.562 ALTERATION VOIDS REVIEW--RETURN OR CONFISCATION OF INSIGNIA (1) Any alteration or conversion of the construction, plumbing, ~~heat-producing mechanical~~, or electrical equipment prior to or during installation of a factory-built building, which bears an insignia, shall void such review, and the insignia shall be returned to or be confiscated by the bureau, unless the review of the bureau is first obtained.

- (2) through (2)(b) remain the same.
- (c) adjustment and maintenance of equipment; and
- (d) remains the same.

AUTH: 50-60-203, 50-60-401, MCA  
IMP: 50-60-203, 50-60-401, MCA

REASON: The department is amending (1) to replace "heat-producing" with "mechanical" to avoid confusion and be consistent with current industry terminology.

24.301.565 IN-STATE PLAN AND SYSTEM REVIEW FEES FOR FACTORY-BUILT BUILDINGS (1) remains the same.

(a) <del>Original plan filing:</del>	<del>\$ 30</del> per unit
( <del>b</del> ) (a) Quality control manual:	<del>25</del> <u>\$20</u>
(c) remains the same, but is renumbered (b).	
(i) structural review	<del>350</del> <u>325</u>
(ii) plumbing review	<del>40</del> <u>35</u>
(iii) electrical review	<del>40</del> <u>35</u>
(iv) mechanical review	<del>40</del> <u>35</u>
(d) remains the same, but is renumbered (c).	
(i) structural review	<del>500</del> <u>450</u>
(ii) plumbing review	<del>60</del> <u>55</u>
(iii) electrical review	<del>60</del> <u>55</u>
(iv) mechanical review	<del>60</del> <u>55</u>
(e) remains the same, but is renumbered (d).	
(i) structural review	<del>700</del> <u>650</u>

- (ii) plumbing review 80 75
- (iii) electrical review 80 75
- (iv) mechanical review 80 75
- (f) remains the same, but is renumbered (e).
- (i) structural review 400 125
- (ii) through (iv) remain the same.
- (g) and (h) remain the same, but are renumbered (f) and (g).

(i) ~~\$75~~ 100 for each set of documents describing a unit which is to be utilized during the next approved plan period. Obsolete plans or specifications are to be removed at the time of plan renewal by written notification at no additional cost.

AUTH: 50-60-104, 50-60-203, 50-60-401, MCA  
 IMP: 50-60-104, 50-60-203, 50-60-401, MCA

REASON: The department is striking the requirement and fee for submitting an original plan at (1)(a) to reduce application costs. Because the department no longer requires paper files to be catalogued, scanned, and archived, this requirement and fee are no longer needed.

To align more appropriately with actual costs of services provided, the department is reducing plan and system review fees in (1)(b) through (d), and raising the structural review fee for plan resubmission and the fee for plan renewal. Following these adjustments, the fees will be commensurate with current program costs. The department estimates the fee changes will affect 102 persons and decrease annual revenue by approximately \$250.

Authority and implementation citations are being amended to accurately reflect all statutes implemented through the rule and provide the complete sources of the board's rulemaking authority.

24.301.566 INSIGNIA FEES (1) and (1)(a) remain the same.  
~~(b) Replacement insignia -- \$10 for each replacement insignia.~~

AUTH: 50-60-104, 50-60-203, 50-60-401, MCA  
 IMP: 50-60-104, 50-60-203, 50-60-401, MCA

REASON: The department is deleting the fee for replacement insignias to align with amendments to ARM 24.301.561 that will eliminate replacement insignias. The department estimates the stricken fee will affect 6 persons and decrease annual revenue by approximately \$60.

Authority and implementation citations are being amended to accurately reflect all statutes implemented through the rule and provide the complete sources of the board's rulemaking authority.

24.301.567 MISCELLANEOUS FEES (1) remains the same.  
~~(2) Change in manufacturer name, ownership or address fee -- \$10.~~  
 (3) remains the same, but is renumbered (2).

(a) Requested out-of-state inspection or field technical service fee - total travel cost based on published air fare, or equivalent rate, between Helena,

Montana, and the point of inspection, plus necessary supplemental surface transportation, reimbursement for food and lodging consistent with state of Montana per diem and mileage rate, and inspection fees of ~~\$30~~ 45 per hour, not to exceed eight hours in any one day.

AUTH: 50-60-104, 50-60-203, 50-60-401, MCA

IMP: 50-60-104, 50-60-203, 50-60-401, MCA

REASON: The department is striking (2) to eliminate the address or ownership change fee as this unnecessary fee has not been assessed in years. Eliminating this fee results in no impact to the department's annual revenue.

The department is increasing the per hours inspection fee in (2)(a) to account for standard inflation. The department estimates the higher fee will affect a single individual with a 3-hour average inspection time, and increase annual revenue by approximately \$45.

Authority and implementation citations are being amended to accurately reflect all statutes implemented through the rule and provide the complete sources of the board's rulemaking authority.

24.301.607 INSPECTIONS - CERTIFICATES - FEES (1) through (5) remain the same.

(6) When a department inspection reveals a deficient condition, the department, within 24 hours, will issue a corrective notice providing the owner or lessee ~~14~~ 45 days to correct the deficiencies. Failure by the owner or lessee to correct the deficiencies or to submit a plan of correction acceptable to the department within the time stated will result in the issuance of a formal notice and order to stop operation of the conveyance.

(7) through (9) remain the same.

AUTH: 50-60-705, 50-60-711, MCA

IMP: 50-60-103, 50-60-705, 50-60-706, 50-60-711, 50-60-715, MCA

REASON: Industry stakeholders and building owners have repeatedly reported to the department that 14 days is not a realistic time frame to hire and schedule an elevator contractor to make repairs. The department concluded it is reasonably necessary to extend the time and that such extension helps maintain a level of public safety, especially considering the provisions of ARM 24.301.624, which prescribe "tag out" and "lock out" requirements to disable a conveyance when it presents an imminent threat to public safety.

4. The rules proposed to be repealed are as follows:

24.301.512 EFFECTIVE DATE OF REQUIREMENTS RELATING TO SALES  
found at ARM page 24-31689.

AUTH: 50-60-203, 50-60-401, MCA

IMP: 50-60-203, 50-60-401, 50-60-402, 50-60-404, MCA



REASON: The department is repealing this rule to align with proposed amendments to ARM 24.301.511, specifically the amendments to (4) and (14)(a).

24.301.524 INFORMATION REQUIRED TO BE SUBMITTED UPON DELIVERY OF UNIT TO DEALER found at ARM page 24-31693.

AUTH: 50-60-203, 50-60-401, MCA  
IMP: 50-60-203, 50-60-401, MCA

REASON: The department is repealing this rule to align with proposed amendments to ARM 24.301.511, specifically the deletion of (14)(c) and (d).

24.301.532 APPLICATION FOR TYPICAL STRUCTURAL DESIGN APPROVAL found at ARM page 24-31713.

AUTH: 50-60-203, 50-60-401, 50-60-402, MCA  
IMP: 50-60-203, 50-60-401, 50-60-402, MCA

REASON: The department is combining the substantive content of ARM 24.301.532 and 24.301.533, which address the structural and electrical, mechanical, and plumbing components of a required application separately, and ARM 24.301.534, which addresses submission of drawings, plans, and application fees, into a single rule at ARM 24.301.535. This combination will serve to address all aspects of an application for an FBB. The reference to NFPA 70 in ARM 24.301.533(21)(e) will not be incorporated into ARM 24.301.535, because the controlling electrical code is defined at ARM 24.301.501. It is therefore reasonably necessary to repeal ARM 24.301.532, 24.301.533, and 24.301.534.

24.301.533 APPLICATION FOR ELECTRICAL, MECHANICAL AND PLUMBING SYSTEM APPROVAL found at ARM page 24-31713.

AUTH: 50-60-203, 50-60-401, MCA  
IMP: 50-60-203, 50-60-401, MCA

24.301.534 APPLICATION FOR CUSTOM-MADE FACTORY-BUILT BUILDING UNIT REVIEW found at ARM page 24-31714.

AUTH: 50-60-203, 50-60-401, MCA  
IMP: 50-60-203, 50-60-401, MCA

24.301.538 MODEL MANUFACTURED AT MORE THAN ONE LOCATION found at ARM page 24-31716.

AUTH: 50-60-203, 50-60-401, 50-60-402, MCA  
IMP: 50-60-203, 50-60-401, 50-60-402, MCA

REASON: Because plan review is required for all designs and requires documents to be submitted for all models at the time of application, it is redundant as well as irrelevant to inquire into the place or location of manufacture of a model, whether or not the model is manufactured in numerous locations. It is reasonably necessary to repeal this rule at this time.

24.301.539 OUT-OF-STATE APPLICANT found at ARM page 24-31717.

AUTH: 50-60-203, 50-60-401, 50-60-402, MCA  
IMP: 50-60-203, 50-60-401, MCA

REASON: The department is repealing this rule because it does not matter if the applicant is from Montana or from out of state. There is no valid reason to provide different treatment to the applicant, as the plan review and inspection process undergoes the same level of scrutiny regardless of this status.

24.301.541 EVIDENCE OF BUREAU'S REVIEW found at ARM page 24-31717.

AUTH: 50-60-203, 50-60-401, 50-60-402, MCA  
IMP: 50-60-203, 50-60-401, 50-60-402, MCA

REASON: The department is repealing this rule because electronic submission and electronic storage of plans does not require the number of copies listed in ARM 24.301.541, and, therefore, is not applicable.

24.301.548 DISCONTINUANCE OF MANUFACTURE found at ARM page 24-31720.

AUTH: 50-60-203, 50-60-401, MCA  
IMP: 50-60-203, 50-60-401, MCA

REASON: The department is repealing this rule because there is no public safety or administrative reason for requesting this information, and because the department no longer issues insignias in advance of production, there is no insignia to return.

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 David White, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2050, or e-mail to [dlibsdbcb@mt.gov](mailto:dlibsdbcb@mt.gov) and must be received no later than 5:00 p.m., March 18, 2016.

6. An electronic copy of this notice of public hearing is available at [www.buildingcodes.mt.gov](http://www.buildingcodes.mt.gov) (department and bureau's web site). The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the

notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

7. The department 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 David White, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2050; e-mailed to [dlibsdbcb@mt.gov](mailto:dlibsdbcb@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. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.301.501, 24.301.511, 24.301.513, 24.301.516, 24.301.523, 24.301.525, 24.301.535, 24.301.536, 24.301.542, 24.301.543, 24.301.545, 24.301.549, 24.301.550, 24.301.557, 24.301.558, 24.301.560, 24.301.561, 24.301.562, 24.301.565, 24.301.566, 24.301.567, and 24.301.607 will not significantly and directly impact small businesses.

With regard to the requirements of 2-4-111, MCA, the board has determined that the repeal of ARM 24.301.512, 24.301.524, 24.301.532, 24.301.533, 24.301.534, 24.301.538, 24.301.539, 24.301.541, and 24.301.548 will not significantly and directly impact small businesses.

Documentation of the department's above-stated determinations is available upon request to David White, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2050, or by e-mail to [dlibsdbcb@mt.gov](mailto:dlibsdbcb@mt.gov).

10. Colleen White, attorney, has been designated to preside over and conduct this hearing.

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

/s/ PAM BUCY  
Pam Bucy, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State February 8, 2016

BEFORE THE BOARD OF MILK CONTROL  
AND THE DEPARTMENT OF LIVESTOCK  
OF THE STATE OF MONTANA

In the matter of the adoption of )  
NEW RULES I and II pertaining )  
to penalties )  
)  
) NO PUBLIC HEARING  
) CONTEMPLATED

TO: All Concerned Persons

1. On March 28, 2016, the Board of Milk Control (board) and the Department of Livestock (department) propose to adopt the above-stated rules.

2. The department 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 March 14, 2016, 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: 1 (800) 253-4091; fax: (406) 444-1929; e-mail: MDOLcomments@mt.gov.

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

NEW RULE I PENALTIES (1) The penalty provisions of [NEW RULE II] apply to this chapter.

AUTH: 81-23-104, 81-23-202, MCA  
IMP: 81-23-103, 81-23-104, 81-23-202, 81-23-204, MCA

REASON: The board proposes to adopt this rule to ensure consistent penalty provisions under both ARM Title 32, chapter 23, and ARM Title 32, chapter 24.

NEW RULE II PENALTIES (1) Bureau staff must take reasonable administrative actions to assist a person's compliance with applicable law, rules, and orders before the board may impose any of the penalties in (2). If bureau staff cannot secure a person's compliance through administrative action, they must recommend to the board chair that a hearing be scheduled to consider assessment of a penalty.

(2) The board may refuse to grant a license, may suspend a license already granted, may revoke a license already granted, or may assess a civil penalty for any of the following:

- (a) violation of any provision of Title 81, chapter 23, MCA;
- (b) violation of any provision of ARM Title 32, chapters 23 and 24;
- (c) violation of any board order;

- (d) failure or refusal to make required statements or reports; or
- (e) failure to pay license or assessment fees.

(3) Before imposing any of the penalties in (2), the board must provide due notice, a hearing, and due cause for the penalty. The contested case procedure in the Montana Administrative Procedure Act applies to these hearings.

(4) Following a determination of due cause for a penalty, the board may order that a penalty be imposed. In place of suspension or revocation of the license, the board may assess a civil penalty, not to exceed \$500 per day for each daily failure to comply or each daily violation, with a deadline for when the payment is due. A person assessed a civil penalty who fails to pay that penalty immediately when due may be subject to further compliance proceedings for failure to comply with the board's order and will be subject to civil proceedings to collect the civil penalty.

(5) A license revoked for failure to pay an assessment under ARM 32.23.301 when due may be reinstated.

(a) A license revoked for failure to pay an assessment under ARM 32.23.301 when due must be reinstated upon payment of:

- (i) all accrued assessments through the date the license was revoked; and
- (ii) a delinquency fee not to exceed 200% of the amount of all accrued assessments.

(b) An assessment becomes delinquent the day after it was due.

AUTH: 81-23-104, 81-23-202, MCA  
IMP: 81-23-103, 81-23-202, 81-23-204, MCA

REASON: The board proposes to adopt the above-stated rules to provide:

Due process to carry out 81-23-204, MCA, with an emphasis assisting compliance through reasonable administrative actions prior to proceedings that may result in penalties.

Due process to carry out 81-23-202(6), MCA, as amended by the 2015 Montana Legislature with Senate Bill 183, which provides for reinstatement of revoked licenses "upon payment of all accrued assessments and a delinquency fee established by rule."

The proposed penalty rules affect approximately 132 businesses licensed by the Milk Control Bureau. It is not possible to estimate the civil penalties or delinquency fees that potentially may be assessed because the board anticipates that establishment of these rules will serve as a deterrent to violations and that compliance will be achieved through administrative actions in most situations. Additionally, estimating civil penalties is not possible because the proposed rules provide discretion to the board in setting the amount of the penalty.

4. Concerned persons may submit their data, views, or arguments 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., March 18, 2016.

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 they have to the same address as in 4 above. The written request for a hearing must be received no later than 5:00 p.m., March 18, 2016.

6. If the department receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons who are directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a 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 persons directly affected has been determined to be 14, based upon there being approximately 132 businesses licensed by the Milk Control Bureau.

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

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

9. The bill sponsor contact requirements of 2-4-302, MCA, do apply and have been fulfilled. The primary bill sponsor of SB 183, Senator Taylor Brown, was contacted by telephone and by e-mail at [taylor@northernbroadcasting.com](mailto:taylor@northernbroadcasting.com) on January 28, 2016.

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

/s/ W. Scott Mitchell  
W. Scott Mitchell  
Chair  
Board of Milk Control

/s/ Michael S. Honeycutt  
Michael S. Honeycutt  
Executive Officer  
Department of Livestock

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

Certified to the Secretary of State February 8, 2016.

BEFORE THE DEPARTMENT OF NATURAL RESOURCES  
AND CONSERVATION OF THE STATE OF MONTANA

In the matter of the adoption of New ) NOTICE OF EXTENSION OF  
Rule I regarding the Rye Creek ) COMMENT PERIOD ON  
Stream Depletion Zone ) PROPOSED ADOPTION

TO: All Concerned Persons

1. On December 24, 2015, the Department of Natural Resources and Conservation published MAR Notice No. 36-22-182 pertaining to the public hearing on the proposed adoption of the above-stated rule at page 2235 of the 2015 Montana Administrative Register, Issue Number 24.

2. On January 21, 2016, at 10:00 a.m., the department held a public hearing in the Fred Buck Conference Room (bottom floor), Water Resources Building, 1424 Ninth Avenue, Helena, Montana, to consider the adoption of the above-stated rule. It has come to the attention of the department that certain interested parties were not initially notified of the proposed rule adoption. The comment period is being extended to permit additional opportunity for those parties to provide written comment. If a party has already submitted oral or written comments as a part of this rulemaking, those comments are still considered part of the record and do not need to be resubmitted.

3. The Department of Natural Resources and Conservation 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 Natural Resources and Conservation no later than 5:00 p.m. on March 16, 2016, to advise us of the nature of the accommodation that you need. Please contact Millie Heffner, Department of Natural Resources and Conservation, P.O. Box 201601, Helena, Montana, 59620; telephone (406) 444-0581; fax (406) 444-0533; or e-mail mheffner@mt.gov.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Millie Heffner, Department of Natural Resources and Conservation, P.O. Box 201601, Helena, Montana, 59620; fax (406) 444-0533; or e-mail mheffner@mt.gov, and must be received no later than 5:00 p.m., March 18, 2016.

/s/ John E. Tubbs  
JOHN E. TUBBS  
Director  
Natural Resources and Conservation

/s/ Brian Bramblett  
BRIAN BRAMBLETT  
Rule Reviewer

Certified to the Secretary of State on February 8, 2016



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

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 37.107.117 pertaining to the ) PROPOSED AMENDMENT  
reduction of application and renewal )  
fees associated with the Montana )  
Marijuana Act cardholder registry )

TO: All Concerned Persons

1. On March 10, 2016, at 1:30 p.m., the Department of Public Health and Human Services will hold a public hearing in the auditorium of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The Department of Public Health and Human Services 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 Public Health and Human Services no later than 5:00 p.m. on March 3, 2016, to advise us of the nature of the accommodation that you need. Please contact Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

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

- 37.107.117 FEES (1) The department will assess the following fees:  
(a) registered cardholder application fee of ~~\$75~~ \$5;  
(b) through (d) remain the same.  
(e) annual registered cardholder renewal fee of ~~\$75~~ \$5.  
(2) through (4) remain the same.

AUTH: 50-46-344, MCA  
IMP: 50-46-344, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) proposes to amend ARM 37.107.117 by decreasing Montana Marijuana Program (program) registry cardholder application and renewal fees to \$5.00. The proposed amendment is necessary because the current fee amounts charged to program registry cardholders, combined with the departmental efforts for prudent program expenditures and program staff reductions, have generated excess revenues. The

program is charged only with generating "revenue sufficient to offset all expenses of implementing and administering this part" under 50-46-344(2), MCA.

Imposition of the current cardholder fee amount of \$75 was necessary in 2012 to fund operation of the program, which had previously operated at a deficit of almost \$500,000 over fiscal years 2011 and 2012. That operational deficit was the result of the department implementing new program requirements that resulted from the passage of Senate Bill 423 (2011) and other changes to the Montana Marijuana Act. Despite historic and continuing cost and revenue estimations for operating the program, and prior fee rulemaking efforts, it is the periodic fluctuation in the number of cardholders – and the fees generated by the new or renewing cardholders – that determines whether a current application and renewal fee is sufficient for operation of the program. The department can report that registry applications and fees paid have been greater than anticipated since 2013, rising by an average of 224 persons a month since October 2013. The department foresees this trend likely to continue. Therefore, the lower proposed cardholder fee will reduce the program fund balance, while remaining equitable to current and former cardholders, and maintaining fiscal solvency for the program despite registry fluctuations.

The department considered waiving renewal fees for those cardholders currently on the registry, but determined this approach was not equitable to former cardholders who are no longer on the registry. In charging the same fee for both new applicants and renewal applicants, neither classification is favored resulting in fair treatment of both. Operating the program without the collection of any fees was considered but rejected. Collecting a fee will reduce database programming costs and will conform to the statutory requirements of generating revenue to offset all expenses of implementing and administering the Montana Marijuana Act.

The department also considered the cost of doing the background check and processing the provider/MIPP applications and additional expenses related to potential inspections to registered premises and determined these expenditures must be recovered for future provider/MIPP applicants. Therefore, the department is retaining the existing provider/MIPP fee of \$50.00.

#### Fiscal Impact

Reducing fees for cardholders will reduce the program fund balance. It is anticipated that excess revenue generated in previous years in conjunction with the proposed revised reduced fee would be sufficient to operate the program for approximately four or five years. This assumption is based on current cash balance, comparable expenses, and revenue generated from a \$5.00 fee. As of December 31, 2015, there were 13,431 cardholders on the registry. A \$5.00 fee from these cardholders would generate \$67,155 in revenue. Using the trend of 238 cardholders per month, the anticipated revenue for new cardholders would be \$14,280 affecting 2,856 potential applicants.

5. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail [dphhslegal@mt.gov](mailto:dphhslegal@mt.gov), and must be received no later than 5:00 p.m., March 18, 2016.

6. The Office of Legal Affairs, Department of Public Health and Human Services, has been designated to preside over and conduct this hearing.

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

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

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

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

/s/ Susan Callaghan  
Susan Callaghan, Attorney  
Rule Reviewer

/s/ Richard H. Opper  
Richard H. Opper, Director  
Public Health and Human Services

Certified to the Secretary of State February 8, 2016.

BEFORE THE DEPARTMENT OF REVENUE  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 42.25.1801 pertaining to crude ) PROPOSED AMENDMENT  
oil pricing - stripper well bonus and )  
stripper well exemption definitions )

TO: All Concerned Persons

1. On March 15, 2016, at 10:30 a.m., the Department of Revenue will hold a public hearing in the Third Floor Reception Area Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana, to consider the proposed amendment of the above-stated rule. The conference room is most readily accessed by entering through the east doors of the building facing Sanders Street.

2. The Department of Revenue 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, advise the department of the nature of the accommodation needed no later than 5 p.m. on March 4, 2016. Contact Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail lalogan@mt.gov.

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

42.25.1801 DEFINITIONS In addition to the definitions found in 15-36-303, MCA, the following definitions apply to terms used in this chapter:

(1) through (10) remain the same.

(11) "Stripper well bonus" applies to wells producing an average of three barrels a day or less, and the average price for a barrel of ~~oil as reported in the Wall Street Journal~~ for west Texas intermediate crude oil during a calendar quarter is equal to, or greater than, ~~\$38~~ \$54 a barrel. This is calculated by dividing the amount of production from a lease or unitized area for the year immediately preceding the current calendar year, by the number of producing wells in the lease or unitized area, and by dividing the resulting quotient by 365. The average price for a barrel is computed by dividing the sum of the daily price for west Texas intermediate crude oil ~~as reported in the Wall Street Journal~~ for the calendar quarter by the number of days on which the price was reported in the quarter.

(12) "Stripper well exemption" applies to wells producing an average of three barrels a day or less, and the average price for a barrel of ~~oil as reported in the Wall Street Journal~~ for west Texas intermediate crude oil during a calendar quarter is less than ~~\$38~~ \$54 a barrel. This is calculated by dividing the amount of production from a lease or unitized area for the year immediately preceding the current calendar year by the number of producing wells in the lease or unitized area and by dividing the

resulting quotient by 365. The average price for a barrel is computed by dividing the sum of the daily price for west Texas intermediate crude oil ~~as reported in the Wall Street Journal~~ for the calendar quarter by the number of days on which the price was reported in the quarter.

(13) remains the same

AUTH: 15-36-322, MCA

IMP: 15-1-101, 15-36-301, 15-36-302, 15-36-303, 15-36-304, 15-36-305, 15-36-309, 15-36-310, 15-36-311, 15-36-312, 15-36-313, 15-36-314, 15-36-315, 15-36-319, 15-36-321, 15-36-326, 82-1-111, MCA

REASON: The department proposes amending ARM 42.25.1801 to implement House Bill 67, L. 2015, which removed the Wall Street Journal as the source for determining the average price for a barrel of west Texas intermediate crude oil; and to implement House Bill 411, L. 2015, which revised the price of a barrel of crude oil in relation to the imposition of production tax rates. The proposed amendments to the definitions of "stripper well bonus" and "stripper well exemption" in the rule remove all references to the Wall Street Journal and update the referenced per barrel amount from \$38 to \$54 to correspond with these changes in statute.

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: Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail [lalogan@mt.gov](mailto:lalogan@mt.gov) and must be received no later than March 29, 2016.

5. Laurie Logan, Department of Revenue, Director's Office, has been designated to preside over and conduct this hearing.

6. The Department of Revenue 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 and e-mail or mailing address of the person to receive notices and specifies that the person wishes to receive notice regarding a particular subject matter or matters. Notices will be sent by e-mail unless a mailing preference is noted in the request. A written request may be mailed or delivered to the person in 4 above or faxed to the office at (406) 444-3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

7. An electronic copy of this notice is available on the department's web site at [revenue.mt.gov/rules](http://revenue.mt.gov/rules). The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. While the department

also strives to keep its web site accessible at all times, in some instances it may be temporarily unavailable due to system maintenance or technical problems.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary sponsor of House Bill 67, Representative Bridget Smith, and House Bill 411, Representative Tom Richmond, were contacted by letter on January 19, 2016.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rule will not significantly and directly impact small businesses. Documentation of the department's determination is available at [revenue.mt.gov/rules](http://revenue.mt.gov/rules) or upon request from the person in 4.

/s/ Laurie Logan  
Laurie Logan  
Rule Reviewer

/s/ Mike Kadas  
Mike Kadas  
Director of Revenue

Certified to the Secretary of State February 8, 2016

BEFORE THE SECRETARY OF STATE  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 44.2.301, 44.2.302, and ) PROPOSED AMENDMENT  
44.5.114 through 44.5.121 pertaining )  
to Business Services Division filings )  
and fees )

TO: All Concerned Persons

1. On March 15, 2016, at 9:30 a.m., the Secretary of State will hold a public hearing in the Secretary of State's Office Conference Room, Room 260, State Capitol Building, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Secretary of State 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 Secretary of State no later than 5:00 p.m. on March 1, 2016, to advise us of the nature of the accommodation that you need. Please contact Jorge Quintana, Secretary of State's Office, P.O. Box 202801, Helena, MT 59620-2801; telephone (406) 431-7718; fax (406) 444-4249; TDD/Montana Relay Service (406) 444-9068; or e-mail [jquintana@mt.gov](mailto:jquintana@mt.gov).

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

44.2.301 ACCEPTANCE OF ELECTRONIC RECORDS AND ELECTRONIC SIGNATURES (1) ~~The only electronic records the secretary of state accepts for filing with the business services division are those specified in ARM 44.5.301 and 44.6.113~~ Effective early in 2016, the business services division of the Secretary of State's office will begin accepting business filings electronically.

(2) Electronic signatures contained in the electronic records referenced in (1) must meet the definition set forth in 30-18-102(9), MCA.

(3) Any documents ~~other than those specified in (1) that are filed with the business services division~~ not filed electronically with the business services division must be on paper or by facsimile and must be signed by the person executing the document.

(4) Electronic signatures, as defined in 30-18-102(9), MCA shall be accepted by the business services division if they meet the following criteria. The electronic signature shall:

(a) through (5) remain the same.

AUTH: 30-18-118, MCA

IMP: 30-18-117, MCA

REASON: The Secretary of State's office is in the process of implementing a phase of the electronic online filing system (SIMS) authorized by 2-15-404, MCA, that will allow the online filing of business documents required to be filed with the Secretary of State. The amendments to (1) and (3) are proposed to expand the kinds of electronic records that will be accepted by the agency once the business enterprise portion of the SIMS system goes live. The amendments to (2) and (4) are proposed to conform to the Secretary of State's formatting guidelines that suggest eliminating earmarks in section text.

44.2.302 SECRETARY OF STATE'S STATEWIDE ELECTRONIC FILING SYSTEM (1) through (9) remain the same.

(10) Users submitting a business filing that is rejected by the Secretary of State have 100 days to resubmit the document or it will be removed from the electronic repository that holds documents during the working stage of the filing process.

AUTH: 2-15-404, MCA  
IMP: 2-15-401, 2-15-404, MCA

REASON: The amendment is required because the business registry system used by the vendor that is building the SIMS system requires a deadline or term for each filing action. The Secretary of State determined that a 100-day window to complete an online business filing allowed a sufficient amount of time for businesses to complete a business filing that did not initially meet the required filing criteria.

44.5.114 CORPORATIONS - PROFIT AND NONPROFIT FEES (1) through (3) remain the same.

(4) If a paper-filed document is rejected because of deficiencies in the filing, a reprocessing fee of 50 percent of the initial filing fee will be assessed each time the document is resubmitted.

(5) Electronically filed documents rejected because of deficiencies in the filing will not be assessed a reprocessing fee.

(5) remains the same, but is renumbered (6).

AUTH: 2-15-405, 35-1-1307, 35-2-1107, 35-7-103, MCA  
IMP: 2-15-405, 35-1-217, 35-1-1206, 35-1-1307, 35-2-119, 35-2-1003, 35-6-201, MCA

44.5.115 LIMITED LIABILITY COMPANY FEES (1) through (3) remain the same.

(4) If a paper-filed document is rejected because of deficiencies in the filing, a reprocessing fee of 50 percent of the initial filing fee will be assessed each time the document is resubmitted.

(5) Electronically filed documents rejected because of deficiencies in the filing will not be assessed a reprocessing fee.

(5) remains the same, but is renumbered (6).



AUTH: 2-15-405, MCA

IMP: 2-15-405, 35-8-208, 35-8-211, 35-8-212, MCA

44.5.116 LIMITED LIABILITY PARTNERSHIP FEES (1) through (7) remain the same.

(8) If a paper-filed document is rejected because of deficiencies in the filing, a reprocessing fee of 50 percent of the initial filing fee will be assessed each time the document is resubmitted.

(9) Electronically filed documents rejected because of deficiencies in the filing will not be assessed a reprocessing fee.

(9) remains the same, but is renumbered (10).

AUTH: 2-15-405, 35-10-111, MCA

IMP: 2-15-405, 35-10-111, 35-10-720, MCA

44.5.117 LIMITED PARTNERSHIP FEES (1) remains the same.

(2) If a paper-filed document is rejected because of deficiencies in the filing, a reprocessing fee of 50 percent of the initial filing fee will be assessed each time the document is resubmitted.

(3) Electronically filed documents rejected because of deficiencies in the filing will not be assessed a reprocessing fee.

(3) remains the same, but is renumbered (4).

AUTH: 2-15-405, MCA

IMP: 2-15-405, 35-12-521, MCA

44.5.118 COOPERATIVE ASSOCIATIONS, AGRICULTURAL ASSOCIATIONS, COOPERATIVE AGRICULTURAL AUTHORITY, RURAL COOPERATIVE UTILITIES FEES (1) through (4) remain the same.

(5) If a paper-filed document is rejected because of deficiencies in the filing, a reprocessing fee of 50 percent of the initial filing fee will be assessed each time the document is resubmitted.

(6) Electronically filed documents rejected because of deficiencies in the filing will not be assessed a reprocessing fee.

(6) remains the same, but is renumbered (7).

AUTH: 2-15-405, 35-15-210, MCA

IMP: 2-15-405, 35-15-201, 35-15-205, 35-15-210, 35-17-205, 35-18-502, MCA

44.5.119 ASSUMED BUSINESS NAME FEES (1) through (7) remain the same.

(8) If a paper-filed document is rejected because of deficiencies in the filing, a reprocessing fee of 50 percent of the initial filing fee will be assessed each time the document is resubmitted.

(9) Electronically filed documents rejected because of deficiencies in the filing will not be assessed a reprocessing fee.

(9) remains the same, but is renumbered (10).

AUTH: 2-15-405, MCA  
IMP: 2-15-405, 30-13-217, MCA

44.5.120 TRADEMARK FEES (1) through (5) remain the same.

(6) If a paper-filed document is rejected because of deficiencies in the filing, a reprocessing fee of 50 percent of the initial filing fee will be assessed each time the document is resubmitted.

(7) Electronically filed documents rejected because of deficiencies in the filing will not be assessed a reprocessing fee.

(7) remains the same, but is renumbered (8).

AUTH: 2-15-405, MCA  
IMP: 2-15-405, 30-13-311, 30-13-313, 30-13-315, 30-13-320, MCA

REASON: ARM 44.5.114 through 44.5.120 are amended to eliminate the reprocessing fee for electronically filed documents because electronic filing removes the costs associated with paper filings, i.e., envelopes, postage, paper, receipting by fiscal personnel, and data entry by compliance technicians. The Secretary of State encourages the business community to file documents online to keep their business costs at a minimum and to reduce staff time in processing the documents.

44.5.121 MISCELLANEOUS FEES (1) through (7) remain the same.

(8) Business alert (watch list)—online user will be notified when a document or notice is recorded against a business they want to track \$50.00 per year

~~(8)~~ (9) If a paper-filed document is rejected because of deficiencies in the filing, a reprocessing fee of 50 percent of the initial filing fee will be assessed each time the document is resubmitted.

(10) Electronically filed documents rejected because of deficiencies in the filing will not be assessed a reprocessing fee.

(9) remains the same, but is renumbered (11).

AUTH: 2-15-403, 2-15-405, 20-7-604, 30-9A-526, 35-1-1307, 35-2-1107, 35-7-103, 82-1-104, MCA  
IMP: ~~2-6-103~~, 2-15-403, 2-15-405, 20-7-604, 30-9A-525, 30-13-320, 35-1-1206, 35-2-119, 35-2-1003, 35-2-1107, 35-7-103, 80-8-210, 82-1-104, MCA

REASON: The Secretary of State is offering a new business alert service to notify online users when a document or notice is recorded against a business. A fee of \$50.00 per year will be assessed for this optional service. The amendment to (9) is to eliminate the reprocessing fee for electronically filed documents because electronic filing removes the costs associated with paper filings, i.e., envelopes, postage, paper, receipting by fiscal personnel, and data entry by compliance technicians. The Secretary of State encourages the business community to file documents online to keep their business costs at a minimum and to reduce staff time in processing the documents. The authority and implementation statutes were reviewed and updated.

4. Pursuant to 2-4-302, MCA, the Secretary of State is unable to include an estimate of the cumulative dollar amount for all persons of the proposed fee decrease in ARM 44.5.114 through 44.5.121 for eliminating a reprocessing fee for electronically filed documents. The total dollar amount collected in Fiscal Year 2015 for reprocessing fees was \$51,278 and the number of businesses affected was 8,109. The Secretary of State assumes that the dollar amount will decrease significantly when businesses are offered the opportunity to file their documents online, but until that option is available, there is no way to predict the dollar amount or number of businesses affected.

5. Pursuant to 2-4-302, MCA, the Secretary of State is unable to include an estimate of the cumulative dollar amount for all persons of the proposed business watch fee in ARM 44.5.121. This optional service will provide a benefit to businesses or individuals utilizing this service, but there is no way to predict the dollar amount that will be generated or the number of businesses or individuals that will take advantage of this service.

6. 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 Jorge Quintana, Secretary of State's Office, P.O. Box 202801, Helena, Montana 59620-2801, or by e-mailing [jquintana@mt.gov](mailto:jquintana@mt.gov), and must be received no later than 5:00 p.m., March 18, 2016.

7. Jorge Quintana, Secretary of State's Office, P.O. Box 202801, Helena, Montana 59620-2801, has been designated to preside over and conduct the hearing.

8. 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, 1236 Sixth Avenue, P.O. Box 202801, Helena, MT 59620-2801, faxed to the office at (406) 444-4263, or may be made by completing a request form at any rules hearing held by the Secretary of State's Office.

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

site may be unavailable during some periods, due to system maintenance or technical problems.

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

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

/s/ JORGE QUINTANA  
Jorge Quintana  
Rule Reviewer

/s/ LINDA MCCULLOCH  
Linda McCulloch  
Secretary of State

Dated this 8th day of February, 2016.

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

In the matter of the adoption of New ) NOTICE OF ADOPTION  
Rule I, pertaining to the redirection of )  
certain PERS employer contributions )  
from the defined benefit trust fund for )  
the purposes of paying off the plan )  
choice rate unfunded actuarial liability )  
to defined contribution member )  
accounts )

TO: All Concerned Persons

1. On December 24, 2015, the Public Employees' Retirement Board published MAR Notice No. 2-43-536 pertaining to the proposed adoption of the above-stated rule at page 2179 of the 2015 Montana Administrative Register, Issue Number 24.

2. The Public Employees' Retirement Board has adopted the above-stated rule as proposed: New Rule I (2.43.3533).

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

COMMENT 1: One commenter asked for explanation of what MAR means.

RESPONSE 1: The Montana Administrative Register (also known as the MAR or Register) is a twice-monthly publication by the Secretary of State. It has three sections. The Notice Section contains state agencies' notices of proposed new, amended, or repealed rules; the rationale for the new, amended, or repealed rules; the date and location of public hearings, if any, on the proposals; the deadline for comments and where written comments may be submitted by the public. The Rule Section contains final rule notices which show any amendments to the rules as originally proposed. All rule actions are effective the day after publication of the rule adoption notice unless otherwise specified in the final rule notice. The Interpretation Section contains the Attorney General's opinions and state declaratory rulings. In addition, Special Notices and Tables are found at the end of each Register.

COMMENT 2: A public member asked whether those people who chose the defined benefit plan will have their employer contributions taken from them to pay for the poor planning or management of the defined contribution member accounts.

RESPONSE 2: The employer contributions directed to the plan choice rate (PCR) are contributions paid by the employer on behalf of the employer's employees who have chosen to participate in the PERS Defined Contribution Retirement Plan

(DCRP). They are not and never have been contributions paid by the employer on behalf of the employees participating in the PERS Defined Benefit Retirement Plan (DBRP). Rather, the PCR contributions were directed to the unfunded actuarial liability created within the DBRP itself when the DCRP was enacted. Once that unfunded liability is paid off, the employer's contributions will be redirected to the employer's employees who participate in the DCRP. The employer contributions currently paid into the DBRP are not impacted.

COMMENT 3: One commenter asked how this rule will affect former PERS employees and how it would affect their retirement from the state of Montana.

RESPONSE 3: Former PERS-covered employees are not impacted by this rule. If the employee is a member of the PERS DBRP, the employee's retirement benefit, if any, will remain the same. If the employee is a participant in the DCRP, the member's DCRP account will not be impacted unless and until the participant returns to PERS-covered employment. If the former employee has taken a refund of their PERS account or retired, there is no impact.

/s/ Melanie A. Symons  
Melanie A. Symons  
Chief Legal Counsel  
Rule Reviewer

/s/ Sheena Wilson  
Sheena Wilson  
President  
Public Employees' Retirement Board

Certified to the Secretary of State February 8, 2016

BEFORE THE DEPARTMENT OF TRANSPORTATION  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 18.8.431, 18.8.432, 18.8.510A, )  
18.8.517, 18.8.602, and 18.8.603 )  
pertaining to Motor Carrier Services )

TO: All Concerned Persons

1. On December 24, 2015, the Department of Transportation published MAR Notice No. 18-157 pertaining to the proposed amendment of the above-stated rules at page 2205 of the 2015 Montana Administrative Register, Issue Number 24.

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

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

COMMENT #1: One comment was received stating Montana has too many safety rules, and the MDT officers issue too many citations. The comment stated MDT should make its rules less stringent and reduce the number of restrictions.

RESPONSE #1: MDT proposed the rule amendments to address safety concerns expressed internally within MDT and externally from motor carriers, the pilot car industry, and the public. The rule amendments also updated CFR citations and addressed a 2015 Legislative change for allowable speed limits. The rule amendments were therefore necessary for safety of the traveling public, which could not be accomplished through fewer or less stringent safety rules.

/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 February 8, 2016.

BEFORE THE DEPARTMENT OF CORRECTIONS  
OF THE STATE OF MONTANA

In the matter of the adoption of New	)	NOTICE OF ADOPTION
Rules I through IV pertaining to	)	
implementing the Medicaid rate as	)	
the reimbursement rate the State of	)	
Montana will pay health care	)	
providers for services provided to	)	
individuals in the care or custody of	)	
the Department of Corrections or the	)	
Department of Public Health and	)	
Human Services	)	

TO: All Concerned Persons

1. On December 24, 2015, the Department of Corrections published MAR Notice No. 20-15-59 pertaining to the public hearing on the proposed adoption of the above-stated rules at page 2215 of the 2015 Montana Administrative Register, Issue Number 24.

2. The department has adopted the above-stated rules as proposed: New Rules I (20.15.101), II (20.15.102), III (20.15.103), and IV (20.15.104).

3. No comments or testimony were received.

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

/s/ Mike Batista  
Mike Batista  
Director  
Department of Corrections

Certified to the Secretary of State February 8, 2016.



BEFORE THE BOARD OF FUNERAL SERVICE  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 24.147.402 mortician license, )  
24.147.403 mortuary transfers, )  
inspections and temporary permits, )  
24.147.501 out-of-state mortician )  
licensure, and 24.147.1503 sale of at- )  
need, preneed, and prepaid funeral )  
arrangements )

TO: All Concerned Persons

1. On October 15, 2015, the Board of Funeral Service (board) published MAR Notice No. 24-147-37 regarding the public hearing on the proposed amendment of the above-stated rules, at page 1605 of the 2015 Montana Administrative Register, Issue No. 19.

2. On November 5, 2015, a public hearing was held on the proposed amendment of the above-stated rules in Helena. One comment was received by the November 13, 2015 deadline.

3. The board has thoroughly considered the comment received. A summary of the comment and the board's response is as follows:

COMMENT 1: One commenter expressed support for the proposed rule amendments.

RESPONSE 1: The board appreciates all comments made during the rulemaking process.

4. The board has amended ARM 24.147.402, 24.147.403, 24.147.501, and 24.147.1503 exactly as proposed.

BOARD OF FUNERAL SERVICE  
JOHN TARR, CHAIRPERSON

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

/s/ PAM BUCY  
Pam Bucy, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State February 8, 2016

BEFORE THE BOARD OF MASSAGE THERAPY  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the repeal of ARM        ) NOTICE OF REPEAL  
24.155.601 licensure by grandfather     )  
clause    )

TO: All Concerned Persons

1. On October 15, 2015, the Board of Massage Therapy (board) published MAR Notice No. 24-155-5 regarding the proposed repeal of the above-stated rule, at page 1611 of the 2015 Montana Administrative Register, Issue No. 19.
2. No comments were received by the November 13, 2015 deadline.
3. The board has repealed ARM 24.155.601 exactly as proposed.

BOARD OF MASSAGE THERAPY  
STACY BAIRD, CHAIR

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

/s/ PAM BUCY  
Pam Bucy, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State February 8, 2016

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF AMENDMENT AND
ARM 24.301.301 incorporation by	)	ADOPTION
reference of uniform plumbing code,	)	
24.301.714 fees, and adoption of	)	
NEW RULE I incorporation by	)	
reference of international wildland-	)	
urban interface code (IWUIC)	)	

TO: All Concerned Persons

1. On November 25, 2015, the Department of Labor and Industry (department) published MAR Notice No. 24-301-309 regarding the public hearing on the proposed amendment and adoption of the above-stated rules, at page 2084 of the 2015 Montana Administrative Register, Issue No. 22.

2. On December 17, 2015, a public hearing was held on the proposed amendment and adoption of the above-stated rules in Helena. No comments were received by the December 24, 2015, deadline.

3. The department has amended ARM 24.301.301 and 24.301.714 exactly as proposed.

4. The department has adopted New Rule I (24.301.181) exactly as proposed.

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

/s/ PAM BUCY  
Pam Bucy, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State February 8, 2016

BEFORE THE BOARD OF MILK CONTROL  
AND THE DEPARTMENT OF LIVESTOCK  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 32.23.301 pertaining to licensee )  
assessments )

TO: All Concerned Persons

1. On December 24, 2015, the Board of Milk Control (board) and the Department of Livestock (department) published MAR Notice No. 32-15-269 regarding the proposed amendment of the above-stated rule at page 2227 of the 2015 Montana Administrative Register, Issue Number 24.

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

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

COMMENT 1: One commenter submitted a request that processed dairy products not be subject to the milk control assessment.

RESPONSE: The board thanks the commenter for the comment. The board disagrees that processed dairy products should not be subject to the milk control assessment. The definition of milk in 81-23-101(1)(h), MCA, does not exclude processed dairy products.

COMMENT 2: Commenters submitted comments that expressed concern that the notice of proposed amendment lacks specific detail as to the cost of the milk control assessment to licensees.

RESPONSE: The board thanks the commenters for the comments. The notice of proposed amendment provided both the current and the proposed milk control assessment rates in dollars per hundredweight of milk sold. Businesses currently licensed by the board can estimate the cost of milk control assessments by applying the proposed rate to the volume of sales they report to the bureau. Distributors that report sales by product volume or weight should use milk equivalent factors to estimate the weight of milk sales subject to the milk control assessment. Businesses not currently licensed by the board may contact the bureau for assistance in estimating the cost of future milk control assessments.

COMMENT 3: Commenters submitted comments that expressed confusion about whether out-of-state businesses or in-state businesses were subject to the milk control assessment.

RESPONSE: The board thanks the commenters for the comments. All businesses required to be licensed by the board as producers, producer-distributors, or distributors, whether in-state or out-of-state, are subject to the milk control assessment.

COMMENT 4: One commenter submitted a comment that the notice of proposed amendment lowers the assessment rate for distributors based outside of Montana and may impact Montana operations' ability to compete.

RESPONSE: The board thanks the commenter for the comment. The board is establishing a single assessment rate for licensed distributors, consistent with 81-23-202(2)(c), MCA, that is independent of the licensee's location. The board believes that establishing a single assessment rate will not have a significant impact on any licensed distributor.

COMMENT 5: One commenter submitted comments inquiring how milk control assessments are used and inquired whether milk control assessments can be used to fund the Department of Livestock's milk inspection and milk diagnostic laboratory activities.

RESPONSE: The board thanks the commenter for the comment. The milk control assessments are not used to fund the milk inspection and milk diagnostic laboratory activities, which are administered and enforced by the Department of Livestock, Milk & Egg Bureau. The milk control assessment by the Board of Milk Control is used to fund the administration and enforcement of the Milk Control Act by the Milk Control Bureau. The Milk Control Bureau's administration and enforcement activities include monthly price announcements, monthly pooling calculation, auditing pooling, maintaining quota records, enforcing trade practice rules, collecting and tracking assessments, gathering data to support board decision making, and other administrative activities.

/s/ W. Scott Mitchell  
W. Scott Mitchell  
Chair  
Board of Milk Control

/s/ Michael S. Honeycutt  
Michael S. Honeycutt  
Executive Officer  
Department of Livestock

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

Certified to the Secretary of State February 8, 2016.

BEFORE THE BOARD OF MILK CONTROL  
AND THE DEPARTMENT OF LIVESTOCK  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 32.24.506 and 32.24.511 )  
pertaining to producer committee and )  
pooling plan definitions )

TO: All Concerned Persons

1. On December 24, 2015, the Board of Milk Control (board) and the Department of Livestock (department) published MAR Notice No. 32-15-270 regarding the proposed amendment of the above-stated rules at page 2230 of the 2015 Montana Administrative Register, Issue Number 24.

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

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

COMMENT 1: One commenter stated the proposed rule speaks directly to milk pool members but does not have an invitation to value added processors.

RESPONSE: The board thanks the commenter for the comment. The producer committee is made up of Montana milk producers, not processors. The producer committee assists the board in the operation of the pooling plan and quota system. Montana's pool marketing system, of which the quota system is a component, dictates the compensation of pool producers by pool handlers. The producer committee's authority is limited to matters that impact pool producers and pool handlers. Producer-distributors licensed by the board that do not sell milk to pool handlers, operate independently of the pool milk market system and are not part of that system. Processors not licensed by the board do not purchase milk from pool producers and also operate independently of the pool milk market system.

/s/ W. Scott Mitchell  
W. Scott Mitchell  
Chair  
Board of Milk Control

/s/ Michael S. Honeycutt  
Michael S. Honeycutt  
Executive Officer  
Department of Livestock

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

Certified to the Secretary of State February 8, 2016.

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

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 37.40.422 pertaining to )  
updating direct care wage effective )  
dates and reimbursement updates )  
effective January 1, 2016 )

TO: All Concerned Persons

1. On December 10, 2015, the Department of Public Health and Human Services published MAR Notice No. 37-735 pertaining to the proposed amendment of the above-stated rule at page 2128 of the 2015 Montana Administrative Register, Issue Number 23.

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

3. No comments or testimony were received.

4. The department intends to apply this rule amendment retroactively to January 1, 2016. A retroactive application of the proposed rule amendment does not result in a negative impact to any affected party.

/s/ Valerie A. Bashor  
Valerie A. Bashor, Attorney  
Rule Reviewer

/s/ Richard H. Opper  
Richard H. Opper, Director  
Public Health and Human Services

Certified to the Secretary of State February 8, 2016.

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

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 38.5.2202 and 38.5.2302 )  
pertaining to pipeline safety )

TO: All Concerned Persons

1. On December 10, 2015, the Department of Public Service Regulation published MAR Notice No. 38-5-233 pertaining to the proposed amendment of the above-stated rules at page 2132 of the 2015 Montana Administrative Register, Issue Number 23.

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

3. No comments or testimony were received.

/s/ JUSTIN KRASKE  
JUSTIN KRASKE  
Rule Reviewer

/s/ BRAD JOHNSON  
BRAD JOHNSON  
Chairman  
Department of Public Service Regulation

Certified to the Secretary of State February 8, 2016.



## **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 a soft back, bound publication, issued twice-monthly, containing notices of rules proposed by agencies, notices of rules adopted by agencies, and interpretations of statutes and rules by the Attorney General (Attorney General's Opinions) and agencies (Declaratory Rulings) issued since publication of the preceding register.

### Use of the Administrative Rules of Montana (ARM):

- |               |   |
|---------------|---|
| Known Subject | 1. Consult ARM Topical Index.<br>Update the rule by checking the accumulative table and the table of contents in the last Montana Administrative Register issued. |
| Statute       | 2. Go to cross reference table at end of each number and title which lists MCA section numbers and department corresponding ARM rule numbers.                     |

## ACCUMULATIVE TABLE

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies that have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through September 30, 2015. This table includes those rules adopted during the period October 1, 2015, through December 31, 2015, and any proposed rule action that was pending during the past 6-month period. (A notice of adoption must be published within six months of the published notice of the proposed rule.) This table does not include the contents of this issue of the Montana Administrative Register (MAR or Register).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through September 30, 2015, this table, and the table of contents of this issue of the Register.

This table indicates the department name, title number, rule numbers in ascending order, catchphrase or the subject matter of the rule, and the page number at which the action is published in the 2015/2016 Montana Administrative Register.

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

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## BOARD APPOINTEES AND VACANCIES

Section 2-15-108, MCA, passed by the 1991 Legislature, directed that all appointing authorities of all appointive boards, commissions, committees, and councils of state government take positive action to attain gender balance and proportional representation of minority residents to the greatest extent possible.

One directive of 2-15-108, MCA, is that the Secretary of State publish monthly in the ***Montana Administrative Register*** a list of appointees and upcoming or current vacancies on those boards and councils.

In this issue, appointments effective in January 2016 appear. Vacancies scheduled to appear from March 1, 2016 through May 31, 2016, are listed, as are current vacancies due to resignations or other reasons. Individuals interested in serving on a board should refer to the bill that created the board for details about the number of members to be appointed and necessary qualifications.

Each month, the previous month's appointees are printed, and current and upcoming vacancies for the next three months are published.

### IMPORTANT

Membership on boards and commissions changes constantly. The following lists are current as of February 1, 2016.

For the most up-to-date information of the status of membership, or for more detailed information on the qualifications and requirements to serve on a board, contact the appointing authority.

**BOARD AND COUNCIL APPOINTEES FROM JANUARY 2016**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Board of Crime Control (Justice)</b>			
Mr. Hubert Abrams Wibaux	Justice	McIntosh	1/15/2016 1/1/2017
Qualifications (if required): Public Representative			
Ms. Michelle Aune Bozeman	Justice	McIntosh	1/15/2016 1/1/2017
Qualifications (if required): Public Representative			
Mr. Tim Brurud Havre	Justice	Miller	1/15/2016 1/1/2017
Qualifications (if required): Youth Justice Council Representative			
<b>Board of Radiologic Technologists (Labor and Industry)</b>			
Mr. Daniel Funsch Missoula	Governor	Dale	1/15/2016 7/1/2018
Qualifications (if required): licensed radiologic technologist			
<b>Interim Montana Clean Power Plan Advisory Council (Environmental Quality)</b>			
Rep. Duane Ankney Colstrip	Governor	not listed	1/5/2016 7/6/2016
Qualifications (if required): State Legislature			
Mr. Carl Borgquist Bozeman	Governor	not listed	1/5/2016 7/6/2016
Qualifications (if required): Renewable energy			



**BOARD AND COUNCIL APPOINTEES FROM JANUARY 2016**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Interim Montana Clean Power Plan Advisory Council</b> (Environmental Quality) cont.			
Commissioner Kirk Bushman Billings	Governor	not listed	1/5/2016 7/6/2016
Qualifications (if required): Public Service Commission and Montana Consumer Counsel			
Mr. Christopher Christianes Great Falls	Governor	not listed	1/5/2016 7/6/2016
Qualifications (if required): General member			
Mr. Gordon Criswell Hysham	Governor	not listed	1/5/2016 7/6/2016
Qualifications (if required): Coal-fired power plant owners and investor-owned utilities			
Mr. Alan Ekblad Great Falls	Governor	not listed	1/5/2016 7/6/2016
Qualifications (if required): Organized labor			
Rep. Gary Forrester Billings	Governor	not listed	1/5/2016 7/6/2016
Qualifications (if required): Coal-fired power plant owners and investor-owned utilities			
Director David A. Galt Helena	Governor	not listed	1/5/2016 7/6/2016
Qualifications (if required): Electric cooperatives and large industrial electric consumers			
Mr. Paul Gatzemeier Billings	Governor	not listed	1/5/2016 7/6/2016
Qualifications (if required): General member			

**BOARD AND COUNCIL APPOINTEES FROM JANUARY 2016**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Interim Montana Clean Power Plan Advisory Council</b> (Environmental Quality) cont.			
Ms. Kathy Hadley Deer Lodge Qualifications (if required): Hunters/anglers	Governor	not listed	1/5/2016 7/6/2016
Mr. Douglas Hardy Great Falls Qualifications (if required): Hunters/anglers	Governor	not listed	1/5/2016 7/6/2016
Ms. Britt Erica Ide Bozeman Qualifications (if required): General member	Governor	not listed	1/5/2016 7/6/2016
Sen. Jim Keane Butte Qualifications (if required): Hunters/anglers	Governor	not listed	1/5/2016 7/6/2016
Rep. Krayton Kerns Laurel Qualifications (if required): State Legislature	Governor	not listed	1/5/2016 7/6/2016
Ms. Lorna Luebbe Bellevue Qualifications (if required): Coal-fired power plant owners and investor-owned utilities	Governor	not listed	1/5/2016 7/6/2016
Mr. Charles Magraw Helena Qualifications (if required): Conservation and environment	Governor	not listed	1/5/2016 7/6/2016

**BOARD AND COUNCIL APPOINTEES FROM JANUARY 2016**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Interim Montana Clean Power Plan Advisory Council</b> (Environmental Quality) cont.			
Mr. Darrin Neal Old Coyote Crow Agency Qualifications (if required): Tribal	Governor	not listed	1/5/2016 7/6/2016
Mr. James Phillip Orchard Decker Qualifications (if required): Coal mining	Governor	not listed	1/5/2016 7/6/2016
Mr. William Pascoe Absarokee Qualifications (if required): General member	Governor	not listed	1/5/2016 7/6/2016
Ms. Sania Ruthanne Radcliffe Portland Qualifications (if required): Coal-fired power plant owners and investor-owned utilities	Governor	not listed	1/5/2016 7/6/2016
Mr. Frank Diego Rivas Helena Qualifications (if required): Energy efficiency	Governor	not listed	1/5/2016 7/6/2016
Mr. John Roeber Helena Qualifications (if required): Organized Labor	Governor	not listed	1/5/2016 7/6/2016
Mr. Rex Mervin Rogers Colstrip Qualifications (if required): Organized Labor	Governor	not listed	1/5/2016 7/6/2016

**BOARD AND COUNCIL APPOINTEES FROM JANUARY 2016**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Interim Montana Clean Power Plan Advisory Council</b> (Environmental Quality) cont.			
Mr. Thomas Schneider Helena	Governor	not listed	1/5/2016 7/6/2016
Qualifications (if required): General member			
Mr. Darrell Soyars Spokane	Governor	not listed	1/5/2016 7/6/2016
Qualifications (if required): Coal-fired power plant owners and investor-owned utilities			
Mr. Patrick Sweeney Billings	Governor	not listed	1/5/2016 7/6/2016
Qualifications (if required): Conservation and environment			
Mr. William Wayne Thompson Butte	Governor	not listed	1/5/2016 7/6/2016
Qualifications (if required): Coal-fired power plant owners and investor-owned utilities			
<b>Judicial Nomination Commission</b> (Justice)			
Ms. Janice Bishop Missoula	Governor	Charles	1/1/2016 1/1/2020
Qualifications (if required): lay member who is neither a judge or attorney active or retired			
Mr. Karl Englund Missoula	Supreme Court	Rusche	1/1/2016 12/31/2019
Qualifications (if required): elected			

**BOARD AND COUNCIL APPOINTEES FROM JANUARY 2016**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Montana HELP Act Oversight Committee</b> (Public Health and Human Services)			
Mr. Mike Frank Helena	Governor	not listed	1/15/2016 6/30/2019
Qualifications (if required): third-party administrator			
<b>Pulse Crop Commodity Advisory Committee</b> (Agriculture)			
Mr. Dustin Kreger Great Falls	Governor	reappointed	1/15/2016 2/1/2019
Qualifications (if required): General member			
Mr. Jon Stoner Havre	Governor	reappointed	1/15/2016 2/1/2019
Qualifications (if required): General member			
<b>State Employee Group Benefits Advisory Council</b> (Administration)			
Ms. Carol Ann Andrews Havre	Governor	Cooley	1/15/2016 12/31/2016
Qualifications (if required): state employee representative			
Mr. Mike Fraser Helena	Governor	Cooley	1/15/2016 12/31/2016
Qualifications (if required): state employee representative			
Mr. John Putnam Helena	Governor	Cooley	1/15/2016 12/31/2016
Qualifications (if required): state employee representative			

**BOARD AND COUNCIL APPOINTEES FROM JANUARY 2016**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Youth Justice Council</b> (Board of Crime Control)			
Mr. Tim Lake	Governor	McIntosh	1/15/2016
Polson			3/1/2016
Qualifications (if required): Competency Addressing youth violence and Board of Crime Control member			

**VACANCIES ON BOARDS AND COUNCILS -- MARCH 1, 2016 THROUGH MAY 31, 2016**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Board of Architects and Landscape Architects</b> (Governor) Ms. Shelly Engler, Bozeman Qualifications (if required): Landscape Architect	Governor	3/27/2016
Ms. Maire O'Neill, Bozeman Qualifications (if required): MSU School of Architects	Governor	3/27/2016
Ms. Janet Cornish, Billings Qualifications (if required): Public Representative	Governor	3/27/2016
Mr. Nathan Steiner, Billings Qualifications (if required): Landscape Architect	Governor	3/27/2016
<b>Board of Dentistry</b> (Labor and Industry) Ms. Luella Vogel, Great Falls Qualifications (if required): public representative	Governor	3/29/2016
Dr. Terry Klise, Missoula Qualifications (if required): dentist	Governor	3/29/2016
<b>Board of Massage Therapists</b> (Labor and Industry) Mr. Stacy Baird, East Helena Qualifications (if required): massage therapist	Governor	5/6/2016

**VACANCIES ON BOARDS AND COUNCILS -- MARCH 1, 2016 THROUGH MAY 31, 2016**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p><b>Board of Nursing Home Administrators</b> (Labor and Industry)            Mr. Jim Corson, Billings            Qualifications (if required): 55 years of age or older</p>	Governor	5/28/2016
<p>Mr. Ken Chase, Billings            Qualifications (if required): public representative 55 years of age or older</p>	Governor	5/28/2016
<p><b>Board of Optometry</b> (Labor and Industry)            Mr. Randall Hoch, Lewistown            Qualifications (if required): registered optometrist</p>	Governor	4/3/2016
<p><b>Board of Plumbers</b> (Labor and Industry)            Mr. Jeffrey Gruizenga, Billings            Qualifications (if required): professional engineer (mechanical)</p>	Governor	5/4/2016
<p><b>Board of Realty Regulation</b> (Labor and Industry)            Mr. Pat Goodover, Great Falls            Qualifications (if required): real estate salesperson &amp; a Republican</p>	Governor	5/9/2016
<p><b>Clinical Laboratory Science Practitioners</b> (Labor and Industry)            Mr. Troy Krieger, Billings            Qualifications (if required): clinical laboratory science practitioner</p>	Governor	4/16/2016
<p><b>Family Support Services Advisory Council</b> (Public Health and Human Services)            Ms. Sylvia Danforth, Miles City            Qualifications (if required): Provider Part C</p>	Governor	4/9/2016



**VACANCIES ON BOARDS AND COUNCILS -- MARCH 1, 2016 THROUGH MAY 31, 2016**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Family Support Services Advisory Council</b> (Public Health and Human Services) cont. Mr. David Munson, Helena Qualifications (if required): Provider, Part C	Governor	4/9/2016
Ms. Peggy Grimes, Missoula Qualifications (if required): Experience with Homelessness Advocacy	Governor	4/9/2016
Ms. Novelene Martin, Miles City Qualifications (if required): Parent Representative	Governor	4/9/2016
Mr. Ronald Herman, Helena Qualifications (if required): State Agency Representative, Commissioner of Securities and Insurance	Governor	4/9/2016
Ms. Wendy Sturn, Qualifications (if required): State Agency Representative, Public Health and Human Services	Governor	4/9/2016
Ms. Danni McCarthy, Helena Qualifications (if required): Office of Public Instruction Representative	Governor	4/9/2016
Rep. Jean Price, Great Falls Qualifications (if required): State Legislator	Governor	4/9/2016
Ms. Lucy Hart-Paulson, Missoula Qualifications (if required): Speech Language Therapists Association	Governor	4/9/2016
Ms. Laura Copp, Bozeman Qualifications (if required): Representative of the Montana School for the Deaf and Blind	Governor	4/9/2016

**VACANCIES ON BOARDS AND COUNCILS -- MARCH 1, 2016 THROUGH MAY 31, 2016**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Family Support Services Advisory Council</b> (Public Health and Human Services) cont. Ms. Norma Zelzer, Great Falls Qualifications (if required): Family Support Specialist	Governor	4/9/2016
Ms. Laura McGee, Billings Qualifications (if required): Parent Representative	Governor	4/9/2016
Ms. Zoe Barnard, Helena Qualifications (if required): Agency Representative	Governor	4/9/2016
Ms. Jennifer Banna, Missoula Qualifications (if required): Parent Representative	Governor	4/9/2016
Dr. Corey Fish, Bozeman Qualifications (if required): Health Care Representative	Governor	4/9/2016
Ms. Ryane Holzwarth, Laurel Qualifications (if required): Quality Improvement Specialist	Governor	4/9/2016
Ms. Jody Jones, Ronan Qualifications (if required): Head Start Representative	Governor	4/9/2016
Ms. Debra Kercher, Great Falls Qualifications (if required): Parent Representative	Governor	4/9/2016
Dr. Christine Lux, Bozeman Qualifications (if required): Personnel Preparation Representative	Governor	4/9/2016

**VACANCIES ON BOARDS AND COUNCILS -- MARCH 1, 2016 THROUGH MAY 31, 2016**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Family Support Services Advisory Council</b> (Public Health and Human Services) cont. Mr. Tim Plaska, Helena Qualifications (if required): Agency Representative	Governor	4/9/2016
Ms. Caitlin Jensen, Helena Qualifications (if required): Agency Representative	Governor	4/9/2016
Ms. Heather Racicot, Helena Qualifications (if required): Agency Representative	Governor	4/9/2016
Ms. Angela R. Thompson, Billings Qualifications (if required): Provider of Part C Services	Governor	4/9/2016
Ms. Kandis Franklin, Helena Qualifications (if required): Agency Representative	Governor	4/9/2016
Ms. Rebecca Bogden-Richards, Great Falls Qualifications (if required): Parent Representative	Governor	4/9/2016
Ms. Catherine Murphy, Helena Qualifications (if required): Agency Representative	Governor	4/9/2016
Ms. Latosha Vavak, Columbus Qualifications (if required): Parent Representative	Governor	4/9/2016
Ms. Patty Butler, Lewistown Qualifications (if required): Department of Public Health and Human Services Representative	Governor	4/9/2016

**VACANCIES ON BOARDS AND COUNCILS -- MARCH 1, 2016 THROUGH MAY 31, 2016**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Family Support Services Advisory Council</b> (Public Health and Human Services) cont. Ms. Lori Gaustad, Billings Qualifications (if required): Public Awareness and Education Organization Representative	Governor	4/9/2016
Ms. Marilyn Davis, Bozeman Qualifications (if required): Parent Representative for Region 4	Governor	4/9/2016
Ms. Chelsie Guilford, Billings Qualifications (if required): Part C Provider	Governor	4/9/2016
Ms. Meaghan Kolar, Helena Qualifications (if required): Department of Public Health and Human Services Representative	Governor	4/9/2016
Ms. Laura Simonsen, Billings Qualifications (if required): Parent Representative At-Large	Governor	4/9/2016
<b>Hail Insurance Board</b> (Agriculture) Mr. Jim Schillinger, Baker Qualifications (if required): Public Representative	Governor	4/18/2016
<b>Montana Heritage Preservation and Development Commission</b> (Commerce) Ms. Marilyn Ross, Twin Bridges Qualifications (if required): Historic Preservation	Governor	5/23/2016
Mr. Philip Maechling, Florence Qualifications (if required): Community Planning	Governor	5/23/2016

**VACANCIES ON BOARDS AND COUNCILS -- MARCH 1, 2016 THROUGH MAY 31, 2016**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Montana Heritage Preservation and Development Commission</b> (Commerce) cont. Mr. Jason Davis, Helena Qualifications (if required): Business	Governor	5/23/2016
Ms. Shera Konen, Ennis Qualifications (if required): At-Large Representative	Governor	5/23/2016
<b>Potato Commodity Advisory Committee</b> (Agriculture) Mr. Brad Haidle, Fallon Qualifications (if required): Potato Producer	Director	3/1/2016
Mr. Pat Fleming, Pablo Qualifications (if required): Potato Producer	Director	3/1/2016
<b>Public Employees Retirement Board</b> (Administration) Mr. Timm Twardoski, Helena Qualifications (if required): public representative	Governor	4/1/2016
<b>Small Business Compliance Assistance Advisory Council</b> (Environmental Quality) Ms. Michelle Bryan Mudd, Missoula Qualifications (if required): Public Representative	Governor	5/1/2016
Ms. Diana Vanek, Bozeman Qualifications (if required): Public Representative	Governor	5/1/2016
<b>Smith River State Park and River Corridor Advisory Council</b> (Fish, Wildlife and Parks) Director Mary Sexton, Helena Qualifications (if required): State Parks and Recreation Board Member	Director	3/1/2016

**VACANCIES ON BOARDS AND COUNCILS -- MARCH 1, 2016 THROUGH MAY 31, 2016**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Smith River State Park and River Corridor Advisory Council</b> (Fish, Wildlife and Parks) cont.		
Mr. Joe Lamson, Helena Qualifications (if required): Interested Citizen	Director	3/1/2016
Mr. Gary Wolfe, Missoula Qualifications (if required): Fish and Wildlife Commission Member	Director	3/1/2016
Mr. Triel Culver, Billings Qualifications (if required): Interested Citizen	Director	3/1/2016
Mr. Grant Grisak, Billings Qualifications (if required): Agency Representative	Director	3/1/2016
Ms. Jane Kollmeyer, Helena Qualifications (if required): Interested Citizen	Director	3/1/2016
Mr. Colin Maas, Helena Qualifications (if required): Agency Representative	Director	3/1/2016
Mr. Mike Meloy, Helena Qualifications (if required): Smith River Corridor Landowner	Director	3/1/2016
Mr. John Metrione, Helena Qualifications (if required): U.S. Forest Service Representative	Director	3/1/2016
Mr. Ned Morgans, Helena Qualifications (if required): Smith River Corridor Landowner	Director	3/1/2016

**VACANCIES ON BOARDS AND COUNCILS -- MARCH 1, 2016 THROUGH MAY 31, 2016**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Smith River State Park and River Corridor Advisory Council</b> (Fish Wildlife and Parks) cont. Mr. Joe Sowerby, Missoula Qualifications (if required): Smith River Outfitter	Director	3/1/2016
<b>State Library Commission</b> (State Library) Ms. Fredricka Hunter, Missoula Qualifications (if required): Public Representative	Governor	5/22/2016
Mr. Bruce Newell, Helena Qualifications (if required): Public Representative	Governor	5/22/2016
<b>Youth Justice Council</b> (Justice) Sheriff Craig Anderson, Glendive Qualifications (if required): Law Enforcement, Judge, Judiciary	Governor	3/1/2016
Commissioner Laura Obert, Townsend Qualifications (if required): Local Government	Governor	3/1/2016
Mr. Tim Brurud, Havre Qualifications (if required): Private Non-Profit Agency	Governor	3/1/2016
Judge Mary Jane Knisely, Billings Qualifications (if required): Law Enforcement, Judge, Judiciary	Governor	3/1/2016
Mr. Adam Stern, Livingston Qualifications (if required): Local Government	Governor	3/1/2016

**VACANCIES ON BOARDS AND COUNCILS -- MARCH 1, 2016 THROUGH MAY 31, 2016**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Youth Justice Council</b> (Justice) cont.		
Ms. Laura Bomboy Singley, Lewistown Qualifications (if required): Law Enforcement, Judge, Judiciary	Governor	3/1/2016
Mr. Chaz McGurn, Helena Qualifications (if required): Under 24, has been or is under the Jurisdiction of the Juvenile System	Governor	3/1/2016
Mr. Randy Shipman, Dillon Qualifications (if required): Public Agency	Governor	3/1/2016
Mrs. Michelle Miller, Butte Qualifications (if required): Competency Addressing Youth Violence	Governor	3/1/2016
Ms. Kelly McIntosh, Dillon Qualifications (if required): Private Non-Proft Agency	Governor	3/1/2016
Mr. Dave Bailon, Kalispell Qualifications (if required): Volunteer work with delinquents and potential delinquents	Governor	3/1/2016
Ms. Anna Fischer, East Helena Qualifications (if required): Under 24, has been or is under the jurisdiction of the Juvenile Justice System	Governor	3/1/2016
Mr. Peter Ohman, Bozeman Qualifications (if required): Public Agency	Governor	3/1/2016
Mr. Jack Shevalier, Helena Qualifications (if required): Under 24, has been or is under the Jurisdiction of the Juvenile Justice System	Governor	3/1/2016



**VACANCIES ON BOARDS AND COUNCILS -- MARCH 1, 2016 THROUGH MAY 31, 2016**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Youth Justice Council</b> (Justice) cont. Ms. Kristina Lucero, Helena Qualifications (if required): Special experience and competence in addressing problems related to school violence	Governor	3/1/2016
Mr. Braeden Quinn, Missoula Qualifications (if required): Special experience and competence in addressing problems related to school violence	Governor	3/1/2016
Ms. Geri Small, Lame Deer Qualifications (if required): Special experience and competence in addressing problems related to disabilities	Governor	3/1/2016