

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 14

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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

In the matter of the amendment of ARM) NOTICE OF PROPOSED
2.59.1738 pertaining to renewal fees for) AMENDMENT
mortgage brokers, lenders, servicers,)
and originators) NO PUBLIC HEARING
) CONTEMPLATED

TO: All Concerned Persons

1. On September 14, 2015, the Department of Administration proposes to amend the above-stated rule.

2. The Department of Administration will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Administration no later than 5:00 p.m. on August 14, 2015, to advise us of the nature of the accommodation that you need. Please contact Wayne Johnston, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; telephone (406) 841-2918; TDD (406) 841-2974; facsimile (406) 841-2930; or e-mail to banking@mt.gov.

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

2.59.1738 RENEWAL FEES (1) Licenses issued under Title 32, chapter 9, part 1, MCA, expire December 31. Licensees shall submit their renewal applications by December 1 of each year to ~~assure~~ ensure issuance of the license to qualified renewal applicants by January 1 of the following year. The renewal fees for the license period January 1 through December 31 are:

Mortgage Broker Entity	\$500.00
Mortgage Broker Branch	\$250.00
Mortgage Lender Entity	\$750.00
Mortgage Lender Branch	\$250.00
Mortgage Loan Originator	\$400.00
Mortgage Servicer	\$750.00
Mortgage Servicer Branch	\$250.00

~~(except as provided in 32-9-117(1)(b), MCA).~~

(2) The renewal fees listed in (1) are reduced by 50 percent for 2016. This section sunsets on March 17, 2016.

AUTH: 32-9-117, MCA
IMP: 32-9-117, 32-9-130, MCA

STATEMENT OF REASONABLE NECESSITY: The department is removing the last clause of (1) because 32-9-117(1)(b), MCA, only applies to initial applications for licensure, not renewals.

The department is proposing to reduce by 50 percent the renewal fees charged to mortgage licensees for 2016. The department's Division of Banking and Financial Institutions is self-funded through its licensing fees and endeavors to keep its licensing fees consistent with the expenditures of each licensing program. The mortgage program is currently generating more revenue than it is spending. The department believes this excess revenue is largely due to Montana's recent adoption of the Uniform State Test, which has resulted in an increased number of mortgage loan originators applying for a Montana license. A 50 percent reduction will approximate needed expenditures for the year.

The department does not intend to permanently decrease renewal fees for the mortgage program because it does not know whether this trend will continue, and has elected to reduce the renewal fees by 50 percent for 2016 only. The department will continue to monitor its revenue and expenses in the future and may, if necessary, revise the licensing and/or renewal fees up or down as necessary to keep mortgage program revenues in line with expenses.

Currently licensed in Montana, there are:

- 92 mortgage broker entities, 158 mortgage lender entities, and 136 mortgage servicer entities;
- 75 mortgage broker branches, 224 mortgage lender branches, and 120 mortgage servicer branches; and
- 1861 mortgage loan originators.

The department expects that not all the current licensees will renew their licenses for 2016. However, based on prior years' renewals, the department predicts that approximately 80 percent of its mortgage loan originators, 97 percent of mortgage companies, and 91 percent of mortgage company branch licensees will renew their licenses for 2016. This proposed change to the rule will reduce department revenues by approximately \$474,500.

4. Concerned persons may present their data, views, or arguments concerning the proposed action to Kelly O'Sullivan, Legal Counsel, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; faxed to the office at (406) 841-2930; or e-mailed to banking@mt.gov; and must be received no later than 5:00 p.m., August 31, 2015.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to the person listed in 4 above no later than 5:00 p.m., August 31, 2015.

6. If the Division of Banking and Financial Institutions receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who

will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 267 persons based on the 2,666 existing licensed mortgage entities, branches, and mortgage loan originators.

7. An electronic copy of this proposal notice is available through the department's web site at <http://doa.mt.gov/administrativerules>. The department 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 if a discrepancy exists 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 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 Division of Banking and Financial Institutions maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this division. Persons who wish to have their name added to the mailing list shall make a written request that includes the name, mailing address, and e-mail address of the person to receive notices and specifies that the person wishes to receive notices regarding division rulemaking actions. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written requests may be mailed or delivered to Wayne Johnston, Division of Banking and Financial Institutions, 301 S. Park, Ste. 316, P.O. Box 200546, Helena, Montana 59620-0546; faxed to the office at (406) 841-2930; e-mailed to banking@mt.gov; or may be made by completing a request form at any rules hearing held by the department.

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

10. The department has determined that under 2-4-111, MCA, the proposed rule amendment will not significantly and directly affect small businesses.

By: /s/ Sheila Hogan
Sheila Hogan, Director
Department of Administration

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

Certified to the Secretary of State July 20, 2015.

BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
MONTANA STATE AUDITOR

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 6.10.209 and 6.10.210) PROPOSED AMENDMENT
pertaining to Offerings)

TO: All Concerned Persons

1. On August 20, 2015, at 9:00 a.m., the Commissioner of Securities and Insurance (CSI), Montana State Auditor, will hold a public hearing in the 2nd floor conference room, at the office of the CSI, 840 Helena Ave., Helena, Montana, to consider the proposed amendment of the above-stated rules.

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., August 13, 2015, 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 rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

6.10.209 NOTICE FILINGS FOR OFFERINGS OF FEDERAL COVERED SECURITIES UNDER 18(b)(3) OR (4) OF THE SECURITIES ACT OF 1933

(1) Except as provided in (3), a notice filing for a security that is a federal covered security under 18(b)(3) ~~of~~ or (4) of the Securities Act of 1933 shall consist of:

(a) a letter explaining that the security is a federal covered security pursuant to 18(b)(3) ~~of~~ or (4) of the Securities Act of 1933;

(b) through (2) remain the same.

(3) The notice filing requirements for an issuer offering a security that is a covered security under 18(b)(4)(D) of the Securities Act of 1933 are contained in ARM 6.10.210.

AUTH: 30-10-107, MCA

IMP: 30-10-107, 30-10-201, MCA

6.10.210 NOTICE FILING PROCEDURES FOR RULE 506 OFFERINGS

(1) An issuer offering a security that is a covered security under 18(b)(4)(D) of the Securities Act of 1933 shall file a notice on Form D (17 CFR 239.500), ~~a consent to service of process on a form prescribed by the commissioner,~~ and pay the fee required by 30-10-209(1)(a) and (1)(c), MCA, no later than 15 days after the first sale of the security in this state. An issuer shall file a renewal for each

succeeding year that a security is offered in this state, and pay the fee required by 30-10-209(1)(b), MCA.

(2) remains the same.

(3) Any Form D filing or renewal required under (1) must be submitted to the commissioner through the Electronic Filing Depository (EFD) operated by the North American Securities Administrators Association, Inc., and must comply with the following:

(a) All filing or renewal fees shall likewise be submitted through the EFD;

(b) A person duly authorized by the issuer shall affix his or her electronic signature to the Form D filing by typing his or her name in the appropriate fields and submitting the filing through the EFD, which shall constitute irrefutable evidence of legal signature by the individual whose name is typed on the filing; and

(c) Any documents or fees required under (1) to be filed with the commissioner that are not permitted to be filed with, or cannot be accepted by, the EFD must be filed directly with the commissioner, and must be accompanied by a statement from the issuer providing the date the filing was attempted through the EFD.

AUTH: 30-10-107, MCA

IMP: 30-10-202, 30-10-211, 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 Montana Insurance Code and regulating the business of securities and insurance.

The commissioner is a member of the North American Securities Administrators Association (NASAA). The NASAA is the oldest international organization of securities regulators from the 50 states, the District of Columbia, the U.S. territories, Canada, and Mexico. The NASAA provides a forum for the development of uniform policy and regulation when uniformity is appropriate.

The NASAA created an online Electronic Filing Depository (EFD) in 2014. The EFD provides national uniformity for filing securities offerings among multiple jurisdictions, and allows issuers to file notices in multiple jurisdictions at one time.

The legislature enacted 30-10-211, MCA, in 1997, which provides discretion to the commissioner over whether to require notice filing of federal covered securities, and if so, the form of that notice. The commissioner has determined that these amendments to ARM 6.10.209 and 6.10.210 will streamline the notice process for both the issuers and CSI personnel.

The amendments to ARM 6.10.209 are reasonably necessary to remove any confusion over the process for filing certain notices. The proposed changes are not substantive.

The amendments to ARM 6.10.210 are reasonably necessary to streamline the notice filing process for Rule 506 offerings. Filing through the EFD should make it easier for national issuers to file notice with multiple states at once, and it will reduce the amount of hardcopy paperwork CSI personnel must process.

5. Concerned persons may submit their data, views, or arguments concerning the proposed actions either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Michael Kakuk, 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 mkakuk@mt.gov, and must be received no later than 5:00 p.m., August 28, 2015.

6. Michael Kakuk, Staff 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 paragraph two, 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. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

10. With regard to the requirements of 2-4-111, MCA, they apply to these proposed rule amendments. The CSI has determined there will be little economic impact on businesses, because the filing fees are not being modified. Small businesses have the same level of access to the EFD as large businesses, so they will not be adversely or disproportionately impacted.

/s/ Lynne Egan
Lynne Egan
Rule Reviewer

/s/ Jesse Laslovich
Jesse Laslovich
Chief Legal Counsel

Certified to the Secretary of State July 20, 2015.

BEFORE THE DEPARTMENT OF COMMERCE
OF THE STATE OF MONTANA

In the matter of the adoption of New Rule I pertaining to actions that qualify as categorical exclusions under the Montana Environmental Policy Act) NOTICE OF PUBLIC HEARING ON PROPOSED ADOPTION)))))

TO: All Concerned Persons

1. On August 24, 2015, at 1:00 p.m., the Department of Commerce will hold a public hearing in Room 228 of the Park Avenue Building at 301 South Park Avenue, Helena, Montana, to consider the proposed adoption of the above-stated rule.

2. The Department of Commerce 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 Commerce no later than 5:00 p.m., August 19, 2015, to advise us of the nature of the accommodation that you need. Please contact Bonnie Martello, Department of Commerce, 301 South Park Avenue, P.O. Box 200523, Helena, Montana 59620-0523; telephone (406) 841-2596; TDD 841-2702; fax (406) 841-2771; or e-mail bmartello@mt.gov.

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

NEW RULE I ACTIONS THAT QUALIFY FOR A CATEGORICAL EXCLUSION (1) The following types of actions do not individually, collectively, or cumulatively require the preparation of an environmental assessment or an environmental impact statement, unless the action involves one or more of the extraordinary circumstances stated in (3).

(2) The following actions meet the criteria for categorical exclusions and will not normally require preparation of either an environmental assessment or an environmental impact statement in considering applications for grants or loans to finance these projects:

(a) projects that will be partially funded by, or for which the applicant must obtain a permit from, a state or federal agency which, by reason of its funding or permitting function, has primary responsibility to consider the environmental impacts of the project under MEPA or the National Environmental Policy Act;

(b) activities which do not involve or lead directly to construction, such as planning studies, scientific research and analysis, surveys, or engineering;

(c) projects primarily involving the acquisition of capital equipment;

(d) projects that involve only minor repairs or rehabilitation to an existing facility, including functional replacement of an existing facility or facility components;

(e) projects where the footprint of the proposed structures, pipelines, or other infrastructure would be substantially unchanged from existing conditions, and there is no increase in the population served by the facility; or

(f) emergency repairs, reconstruction, restoration, retrofitting, or replacement of an existing facility that is in operation or under construction when damaged and the action:

(i) occurs within the existing facility footprint and in a manner that substantially conforms to the preexisting design, function, and location as the original (which may include upgrades to meet existing codes and standards as well as upgrades warranted to address conditions that have changed since the original construction); and

(ii) is commenced within six months after the date of the emergency.

(3) Actions described in (2) may not be processed as categorical exclusions if:

(a) they involve a public controversy over the project's potential effect on the quality of the human environment;

(b) the proposed project might have a significant effect on the quality of the human environment; or

(c) the project might affect sensitive environmental or cultural resource areas or endangered or threatened species and their critical habitats.

(4) If information available to the department indicates that a proposed project in one of the categories described in (2) may involve one of the situations described in (3), the department may, in its sole discretion, require an applicant to prepare an environmental assessment or environmental impact statement as may be appropriate.

AUTH: 2-3-103, 2-4-201, MCA

IMP: 2-3-104, 75-1-201, MCA

REASON: State agencies are provided with the option of adopting, through rulemaking, categorical exclusions that do not require further environmental review. Through the adoption of New Rule I, the department is defining the types of actions that it considers to seldom, if ever, cause significant impacts; identifying the circumstances that could cause an otherwise excluded action to potentially have significant environmental impacts; and providing a procedure whereby these situations would be discovered and appropriately analyzed.

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 Bonnie Martello, Department of Commerce, 301 South Park Avenue, P.O. Box 200523, Helena, Montana 59620-0523; telephone (406) 841-2596; TDD 841-2702; fax (406) 841-2771; or e-mail bmartello@mt.gov, and must be received no later than 5:00 p.m., September 1, 2015.

5. Bonnie Martello, Paralegal, Office of Legal Affairs, Department of Commerce, has been designated to preside over and conduct this hearing.

6. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact listed in 4 above or may be made by completing a 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 adoption of the above-referenced rule will not significantly and directly impact small businesses.

/s/ Kelly A. Lynch
KELLY A. LYNCH
Rule Reviewer

/s/ Douglas Mitchell
DOUGLAS MITCHELL
Deputy Director
Department of Commerce

Certified to the Secretary of State July 20, 2015.

BEFORE THE DEPARTMENT OF COMMERCE
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PROPOSED
ARM 8.94.3816 pertaining to the	)	AMENDMENT
administration of the 2017 Biennium)	
Treasure State Endowment Program	)	NO PUBLIC HEARING
– Emergency Grants	)	CONTEMPLATED

TO: All Concerned Persons

1. On August 29, 2015, the Department of Commerce proposes to amend the above-stated rule.

2. The Department of Commerce 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 Commerce no later than 5:00 p.m., August 20, 2015, to advise us of the nature of the accommodation that you need. Please contact Amy Peck, Department of Commerce, 301 South Park Avenue, P.O. Box 200523, Helena, Montana 59620-0523; telephone (406) 841-2770; TDD 841-2702; fax (406) 841-2771; or e-mail DOCTSEP@mt.gov.

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

8.94.3816 INCORPORATION BY REFERENCE OF RULES FOR THE ADMINISTRATION OF THE TREASURE STATE ENDOWMENT PROGRAM (TSEP) – EMERGENCY GRANTS (1) The Department of Commerce adopts and incorporates by reference the ~~2015~~ 2017 Biennium Emergency Grant Application Guidelines for TSEP Emergency Grants as rules for the administration of the ~~2015~~ 2017 Biennium Treasure State Endowment Program – Emergency Grants.

(2) and (3) remain the same.

AUTH: 90-6-701, MCA
IMP: 90-6-701, MCA

REASON: It is reasonably necessary to amend this rule to update the 2017 biennium guidelines. The guidelines can be found at <http://comdev.mt.gov/planningbureau/planningbureau.mcp>.

4. Concerned persons may submit their data, views, or arguments in written form or a request for opportunity to submit data, views, or arguments in oral form to: Allison Mouch, Department of Commerce, 301 South Park Avenue, P.O. Box 200523, Helena, Montana, 59620-0523; telephone (406) 841-2770; TDD (406) 841-2731; facsimile (406) 841-2771 or e-mail to amouch@mt.gov, and must be received no later than 5:00 p.m., August 27, 2015.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Allison Mouch at the above address no later than 5:00 p.m., August 27, 2015.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Ten percent of those directly affected has been determined to be 25, based on the 56 counties that are eligible to apply for an emergency grant. Notice of the hearing will be published in the Montana Administrative Register.

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

8. 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.

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/ KELLY A. LYNCH
KELLY A. LYNCH
Rule Reviewer

/s/ DOUGLAS MITCHELL
DOUGLAS MITCHELL
Deputy Director
Department of Commerce

Certified to the Secretary of State July 20, 2015.

BEFORE THE DEPARTMENT OF COMMERCE
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PROPOSED
ARM 8.99.806 pertaining to the	)	AMENDMENT
administration of the Business)	
Workforce Training Grant	)	NO PUBLIC HEARING
	)	CONTEMPLATED

1. On August 29, 2015, the Department of Commerce proposes to amend the above-stated rule.

2. The Department of Commerce 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 Commerce no later than 5:00 p.m. on August 20, 2015, to advise us of the nature of the accommodation that you need. Please contact Bonnie Martello, Paralegal, Director's Office, Department of Commerce, 301 South Park Avenue, P.O. Box 200501, Helena, Montana 59620-0501; telephone (406) 841-2596; fax (406) 841-2701; TDD (406) 841-2702; or e-mail bmartello@mt.gov.

3. The department proposes to amend the following rule:

8.99.806 INCORPORATION BY REFERENCE OF RULES GOVERNING SUBMISSION AND REVIEW OF APPLICATIONS (1) The department adopts and incorporates by reference the ~~2015~~ 2017 Biennium Primary Sector Workforce Training Grant Application Guidelines, with the guidelines being posted on the Primary Sector Workforce Training Grant web site, as rules governing the submission and review of applications under the program.

(2) remains the same.

(3) Copies of the ~~2015~~ 2017 Biennium Primary Sector Workforce Grant Application Guidelines adopted by reference in (1) may be obtained from the Department of Commerce, Business Resources Division, 301 South Park Avenue, P.O. Box 200501, Helena, Montana 59620-0501, or on the web site at <http://wtg.mt.gov/default.mcp>.

AUTH: 39-11-202, MCA

IMP: 90-11-202, MCA

REASON: It is reasonably necessary to amend this rule to update the 2017 biennium guidelines.

4. Concerned persons may submit their data, views, or arguments in written form or a request for opportunity to submit data, views, or arguments in oral form to: Bonnie Martello, Department of Commerce, 301 South Park Avenue, P.O. Box 200501, Helena, Montana, 59620-0501; telephone (406) 841-2596; TDD (406) 841-

2731; facsimile (406) 841-2701; or e-mail to bmartello@mt.gov, and must be received no later than 5:00 p.m., August 27, 2015.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Bonnie Martello at the above address no later than 5:00 p.m., August 27, 2015.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Ten percent of those directly affected has been determined to be 20, based on 52 counties, 130 municipalities, and 15 eligible economic development organizations. Notice of the hearing will be published in the Montana Administrative Register.

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

8. 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.

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/ G. Martin Tuttle
G. MARTIN TUTTLE
Rule Reviewer

/s/ Douglas Mitchell
DOUGLAS MITCHELL
Deputy Director
Department of Commerce

Certified to the Secretary of State June 20, 2015.

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF MONTANA

In the matter of the amendment of ARM)
17.74.359, 17.74.364, 17.74.401,)
17.74.402, and 17.74.403 pertaining to)
annual asbestos project permits, training)
provider requirements, permit fees,)
accreditation and accreditation renewal)
fees, and course approval and renewal)
fees, and the repeal of ARM 17.74.404)
pertaining to course audit fees)

NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENT AND
REPEAL

(ASBESTOS CONTROL)

TO: All Concerned Persons

1. On August 20, 2015, at 9:00 a.m., the Department of Environmental Quality will hold a public hearing in Room 111, Metcalf Building, 1520 East Sixth Avenue, Helena, Montana, to consider the proposed amendment and repeal of the above-stated rules.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact Elois Johnson, Paralegal, no later than 5:00 p.m., August 10, 2015, to advise us of the nature of the accommodation that you need. Please contact Elois Johnson at Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2630; fax (406) 444-4386; or e-mail ejohnson@mt.gov.

3. The department administers the Asbestos Control Act (Title 75, chapter 2, part 5, MCA) and the Federal Asbestos National Emission Standards for Hazardous Air Pollutants (NESHAP), which require the department to accredit asbestos-related occupations, approve training course providers, and ensure regulated asbestos projects are conducted according to standards that are protective of human health and the environment. The department's asbestos program is fee-based and must set the fees commensurate with costs in order to comply with the provisions of 75-2-503, MCA.

The current fee structure was adopted in 2008. Since that time through the end of FY2014, department costs to administer the program have increased 18 percent and revenues have decreased 40 percent. The department has determined that reasonable necessity exists to generally amend the fee rules to establish sufficient accreditation, training course provider, and regulated asbestos project fees to enable the department to effectively operate and implement the federal and state regulatory obligations. This fee proposal is intended to simplify the existing fee structure, apply the fees equitably across the regulated community, provide predictability, be commensurate with costs as required by 75-2-503(1)(k), MCA, and generate sufficient revenue to meet department mandates. The department estimates that the proposed fee increases will affect 338 persons with department-

issued accreditations resulting in approximately \$25,350 in additional annual revenue to the department. This is assuming that each affected person is accredited in two disciplines costing \$325 under current rules and costing \$400 under this proposal (338 x \$75). The department also estimates the proposed fee increases will affect ten training course providers, resulting in approximately \$10,000 in additional annual revenue to the department. This is assuming that the department will receive requests for ten training course approvals per year at a cost of \$2,000 each for a two-year approval period (10 x \$2,000/2). Finally, the department estimates the proposed fee increases will affect 160 asbestos project permittees; approximately 120 demolition notifications or permit revisions; ten annual permit holders; eight emergency notifications; and six work practice waivers resulting in a cumulative increase of \$57,000 in project permit fees annually. This amount is assuming that the department will receive 160 project permit fees annually at an additional cost of \$100 per permit; 120 demolition notices or permit revisions at an additional cost of \$150 per notice; ten annual asbestos project permits at an additional cost of \$2,000 per permit; eight emergency notices at an additional cost of \$300 per notice; six work practice waivers at an additional cost of \$100 per waiver. ((160 x \$100) + (120 x \$150) + (10 x \$2,000) + (8x \$300) + (6 x \$100)). In sum, these rule amendments are estimated to generate an additional \$82,350 each fiscal year in accreditation, course approval, asbestos project, and annual asbestos fees. This amount does not include increased revenue to the department from asbestos unit measurement fees, which are based on the amount of asbestos-containing material disturbed under an asbestos project permit or annual asbestos permit that exceeds the "base amount," as that term is defined in proposed ARM 17.74.401(3). Reviewing the last three fiscal years, the department expects revenue generated from AUM fees to be approximately \$73,000. This amount is based on the department's assumption that approximately 450,000 cubic, linear, or square feet of asbestos-containing material is disturbed under department-permitted projects annually. The cumulative result of these proposed fee amendments is increased revenue to the department estimated at \$150,000 annually. With the additional \$150,000 revenue from this proposal, it is projected that the total program revenue would be approximately \$370,000, which is the projected average annual expenditure of the program, with an accommodation for the variability in revenue from year to year.

Where a different or additional basis for a proposed amendment exists, the department will identify the reason immediately following that rule.

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

17.74.359 ANNUAL ASBESTOS PROJECT PERMITS (1) An annual asbestos project permit authorizes a facility to conduct asbestos projects within the confines of the facility's controlled area during the ~~period~~ year for which the permit is in force. After [the effective date of these rules], the annual asbestos project permit period is January 1 through December 31.

(2) through (4)(c)(v)(C) remain the same.

(5) An annual asbestos project permit expires ~~on~~ December 31 of the

year ~~after issuance~~ for which the permit is issued, unless the facility owner applies for renewal ~~at least 45 days before the expiration date~~ by November 15 and the department approves the application.

(6) An application for renewal of an annual asbestos project permit must:

(a) report the amount of regulated asbestos-containing material proposed to be disturbed or removed during the permit period;

(b) address in detail only the portions of the permit application that require revision, updating, supplementation, or deletion; and

(c) may reference any required information that has been previously submitted.

(7) An amendment to the permit is required when:

(a) there is a change in project contractor;

(b) there is a change in demolition/renovation contractor, transporter, or disposal site;

(c) the amount of regulated asbestos-containing material being disturbed exceeds 20 percent of the amount of asbestos-containing material identified, pursuant to (6)(a), in the approved permit application; or

(d) ~~either~~ there is another change of similar scope or magnitude.

AUTH: 75-2-503, MCA

IMP: 75-2-503, 75-2-504, MCA

REASON: The amendments being proposed to this rule are necessary to coordinate the requirements associated with annual facility permits and the fee changes being proposed in ARM 17.74.401. The department is proposing to establish a standard annual facility permit cycle, beginning January 1 and ending December 31, and to set a specific renewal date of November 15, to ensure annual facility permit holders have ample time to submit the necessary information for department approval. Setting a specific renewal deadline allows the department to eliminate the 45-day submission requirement, but provides an adequate review period before the annual facility permit period begins. Adopting a standard permit year will allow the department to better stage the workload associated with approving facility permits and renewals and will provide annual permit applicants with a consistent and stable planning period. The fee associated with annual permits is proposed as a flat rate plus a unit measurement of regulated asbestos-containing material that is removed or disturbed. Therefore, the renewal application must include documentation of asbestos-containing material being proposed for removal to ensure the correct fee is assessed. The proposed amendments will also provide the department with a consistent method for tracking the amount of asbestos-containing material being identified during inspections, projects, and ultimately disposed of during an annual asbestos project permit period, so as to protect human health and the environment from inappropriate or illegal asbestos management. The department is proposing to clarify when an amendment to an annual permit is necessary by aligning the rule with the Asbestos NESHAP notification requirements. Under the proposed change, an annual facility permit holder must notify the department when the amount of asbestos-containing material identified in the original permit application exceeds 20% of the total amount identified

in the annual permit application. The proposed amendments are necessary to align this rule with fee rule amendments being proposed in ARM 17.74.401.

17.74.364 TRAINING PROVIDER REQUIREMENTS (1) through (4) remain the same.

(5) The training course approval period is the two-year period beginning January 1 of the year following the year the training course is first approved by the department. The department will not accept applications for training course approval before October 1 of the year preceding the training course approval period. All training course materials and examinations must be submitted to the department in advance for approval. A person may apply for approval of a training course for January 1 by submitting all of the following to the department at least 45 calendar days prior to the proposed date of course presentation by November 15 of the preceding year:

(a) through (d) remain the same.

(e) a list of the proposed instructors who will teach the course and documentation of the instructors' qualifications, which must include significant academic and/or field experience in asbestos control;

(f) remains the same.

(g) a course schedule indicating the time allotted and the proposed instructor for each subject;

(h) through (6) remain the same.

(7) ~~The department must be notified~~ A training course provider shall notify the department 45 days in advance of implementation of any proposed changes in the content of approved training courses, examinations, or instructors during the two-year course approval period in (5). The department shall approve or deny in writing any proposed changes in training course or examination contents or change in instructor(s) within ten working days of receiving the changes.

(8) remains the same.

~~(9) The department may audit an approved training course and examination and may audit a training course following any change in the course.~~

~~(10) Following an audit conducted under this rule, the course provider shall pay the audit fee specified in ARM 17.74.404.~~

(11) through (12)(g) remain the same, but are renumbered (9) through (10)(g).

(11) Training provider course approval expires at the end of the two-year approval period established in (5), unless the training provider applies for renewal by November 15 of the year that the approval period expires. A training provider seeking to renew course approval shall provide the department with the information listed in (5) and pay the appropriate fee as provided in ARM 17.74.403.

AUTH: 75-2-503, MCA

IMP: 75-2-511, MCA

REASON: The department is proposing to amend this rule by establishing a consistent two-year time frame for training course approvals and requirements for submitting training course renewals by setting a date approximately 45 days in

advance for the submittal of course approval materials required in this rule. This amendment allows the department to allocate staff resources more effectively during the winter months in a business cycle where asbestos projects are generally in the planning phase and prior to the traditional construction season. Specifying a standard course approval and renewal period ensures that training providers can plan effectively for the courses they offer and for costs assessed for course approval. The department is proposing to strike language authorizing the department to conduct course audits for the same reasons given for the proposed amendments to ARM 17.74.403 and for the repeal of ARM 17.74.404.

17.74.401 PERMIT FEES (1) ~~Concurrent with submittal of~~ An applicant for an asbestos project permit, application, the applicant or for an annual facility permit, shall submit with the application a the applicable permit fee plus the applicable asbestos unit measurement fee, based on the projected amount of asbestos-containing material to be disturbed under the permit, to the department as follows: according to the schedule in (8).

- ~~(a) asbestos project permit 10.0% of the contract volume, as defined in (2)~~
- ~~(b) annual permit.....\$2,000~~
- ~~(c) amendments to annual permit\$600~~

~~(2) "Contract volume Asbestos unit measurement (AUM)" means, for purposes of calculating the asbestos project permit fee or the annual facility permit fee, the itemized contract charges directly associated with conducting the asbestos project. If there is no itemization of charges, the total of all charges associated with the contract is the contract volume. The cost of the asbestos project permit fee is not included in the determination of the contract volume if the fee is separately itemized in the contract each unit of regulated asbestos-containing material equal to 50 square, 50 linear, or 50 cubic feet rounded to the next highest 50-foot increment.~~

~~(3) The asbestos project permit applicant shall submit a copy of the contract to the department to verify the contract volume specified in the permit application. "Base amount" means:~~

~~(a) the amount of regulated asbestos-containing material that an annual facility permit holder may disturb with an annual facility permit, or an annual facility permit amendment, during the year the annual facility permit is in effect; or~~

~~(b) the amount of regulated asbestos-containing material that a permittee may disturb with an asbestos project permit.~~

~~(4) The fee for requested inspections of asbestos projects is \$500 for each inspection. The base amount of asbestos-containing material that may be disturbed upon payment of the following annual facility permit fee is:~~

~~(a) 5,000 square, 5,000 linear, or 5,000 cubic feet for an annual facility permit fee;~~

~~(b) 1,500 square, 1,500 linear, or 1,500 cubic feet for an annual facility permit amendment fee.~~

~~(5) The base amount of asbestos-containing material that may be disturbed upon payment of an asbestos project permit fee is 100 square, 100 linear, or 100 cubic feet.~~

~~(6) The total asbestos unit measurement fee may not exceed \$25,000 for asbestos project permits or annual facility permits in the year the permit is in effect.~~

(7) A permit holder shall maintain and submit to the department, within 60 days of project completion or within 60 days of expiration of the annual asbestos project permit period, a record of the amount of asbestos-containing material disturbed during the period the permit is in effect, along with any additional asbestos project permit fee for asbestos-containing material disturbed under the permit that exceeds the amount initially permitted by more than 50 square, 50 linear, or 50 cubic feet.

(8) The project permit fees are as follows:

<u>(a) asbestos unit measurement</u>	<u>\$20 per each 50 square, 50 linear, or 50 cubic feet</u>
<u>(b) asbestos project permit</u>	<u>\$100</u>
<u>(c) demolition notice without project</u>	<u>\$150</u>
<u>(d) demolition notice as part of project permit</u>	<u>\$ 75</u>
<u>(e) emergency notifications</u>	<u>\$300</u>
<u>(f) demolition or project permit revisions</u>	<u>\$100</u>
<u>(g) work practice waiver</u>	<u>\$100</u>
<u>(h) annual permit</u>	<u>\$4,000</u>
<u>(i) annual permit amendment</u>	<u>\$700</u>

AUTH: 75-2-503, MCA
IMP: 75-2-503, 75-2-504, MCA

REASON: The department is proposing to increase project permit fees, annual facility permit fees, and add new fee categories to ARM 17.74.401 to reflect the time and costs associated with administering the Asbestos Control Act and the Federal Asbestos NESHAP. The department is proposing to set a flat fee for an asbestos project permit at \$100 plus \$20 for each asbestos unit measurement of 50 square, 50 linear, or 50 cubic feet up to a maximum AUM fee of \$25,000. The department is proposing to increase the annual facility permit fee to \$4,000, provide for an annual facility permit amendment fee of \$700, and cap an asbestos unit measurement fee at \$25,000. The term "contract volume" is being stricken and replaced with "asbestos unit measurement" to set a specific amount of asbestos-containing material a permit holder will pay for during a project. The term "base amount" is being proposed to establish the amount of asbestos-containing material an annual facility permit holder may remove or disturb during the year the permit is in effect, without a permit amendment and without additional AUM fees and the amount of asbestos-containing material an asbestos project permit holder may disturb upon payment of the asbestos project permit fee without additional AUM fees. Adding this definition will allow facility owners and operators to remove up to 5,000 square, linear, or cubic feet of asbestos-containing material under the \$4,000 annual permit fee; up to 1,500 square, linear, or cubic feet under the annual permit amendment fee provisions if the total amount of asbestos-containing material exceeds the 5,000 square, linear or cubic-foot measurement by 20 percent; or 100 square, linear, or cubic feet under the asbestos project permit fee. This proposal also aligns the rule with the notification requirements in the Federal Asbestos NESHAP. The following examples represent how the proposed fee structure is intended to be applied to annual permits and project permits.

Example 1: Initial Annual Facility Permit

A facility owner or operator submits an application to the department for an annual permit stating that work proposed in the facility for the calendar year will result in 6,000 linear feet of asbestos-containing material to be removed. The owner submits a \$4,400 fee; \$4,000 for the permit plus \$400 to account for the 1,000 linear feet of ACM being removed in excess of the 5,000 linear-foot base amount granted under the rule.

Example 2: Amendment to the Initial Annual Facility Permit

The same facility owner in Example 1 identifies that the work being done at the facility will result in an additional 2,500 linear feet of ACM being removed. Because the additional ACM represents an amount greater than 20 percent of the originally identified amount of 6,000 linear feet, the facility owner must file a permit amendment with the department as required by NESHAP notification requirements. The fee for the amendment is \$700 which represents a base amendment amount of ACM of 1,750 linear feet. The remaining 750 linear feet of ACM is assessed a fee of \$20 per 50 linear feet for an AUM fee of \$300. The total fee paid in this example is \$700 (permit amendment) + \$300 (AUM) = \$1,000.

Example 3: Asbestos Project Permit

An accredited asbestos contractor submits an asbestos project permit application identifying a proposed renovation project will disturb 450 square feet of ACM. Based on the proposed fee structure, the asbestos contractor would pay \$100 for the flat fee plus \$140 in AUM fees for a total project permit fee of \$240.

Example 4: Asbestos Project Permit

An accredited asbestos contractor submits an asbestos project permit application identifying a proposed renovation project will disturb 70,000 cubic feet of ACM. Based on the proposed fee structure, the asbestos contractor would pay \$100 for the asbestos project permit fee and \$25,000 in AUM fees for a total project permit fee of \$25,100. Because the AUM calculation results in a total amount greater than \$25,000, the maximum AUM fee proposed in the rule would apply.

The department is proposing to set maximum AUM fees for two reasons. First, the amounts represent the maximum permit fees for projects permitted by the department over the last three fiscal years based on records submitted by permit holders. That revenue has allowed the department to assign staff to meet the statutory and administrative functions of the Asbestos Control Act and as a result comply with the intent of the requirements of "commensurate with costs" provisions of 75-2-503, MCA. Second, a maximum fee avoids the possibility that the department would receive a financial windfall from an unusually large asbestos project. Under the current fee structure, an asbestos contractor would pay 10

percent of the total contract price, minus unassociated costs for activities that do not disturb asbestos-containing material. A large renovation project could result in an assessed fee in excess of the proposed maximum fees. Compliance assistance services would not cost more than the maximum fee being proposed. The new fee categories being proposed represent specific administrative activities that department staff has engaged in since the existing fee structure was adopted in 2008. Demolition notices, revisions to permits, requests for emergency permits, and requests for alternative work practices are regularly received and processed by the department and no fee has been assessed for the completion of those functions. As an example, the department processed approximately 100 demolition notifications (required as part of the obligation to issue project permits) in the last year, which is nearly one-third the number of fee-paying renovation project permits. Without the new fee categories being proposed, the department has no mechanism to collect a fee from a significant portion of the regulated community that must conduct projects in a way that is protective of human health and the environment. Additionally, without these new categories, the department does not meet the provisions of 75-2-502, MCA, and is not collecting a fee commensurate with the administrative costs associated with reviewing and documenting activities that disturb regulated asbestos-containing material. The department is also proposing to strike the fee for requests for a department inspection. The department no longer conducts inspections and discourages individuals from seeking a department inspection when there are a number of accredited inspectors available in the private sector. The department does not intend to compete with accredited asbestos inspectors. The department is proposing to eliminate the requirement that contracts be submitted to verify asbestos volumes because it is no longer necessary to review contracts for the assessment of fees under this proposal. The language in (4) and (5) reflects the base amount of ACM annual facility and asbestos project permit holders may remove before paying additional AUM fees. The proposed language in (6), clearly states the maximum AUM fees for the reasons stated earlier. The new language being proposed in (7) establishes recordkeeping requirements that allow the department to better track asbestos-containing material from the point of identification in an inspection through the project and final disposal to protect human health and the environment from inappropriate or illegal asbestos management.

17.74.402 ACCREDITATION AND ACCREDITATION RENEWAL FEES

(1) Except for persons applying for accreditation under (2), A a person seeking accreditation or renewal of accreditation in an asbestos-related occupation shall pay a fee to the department. ~~The fees for accreditation or renewal of accreditation are:~~ according to the schedule in (3)(a) through (e).

(a) asbestos project worker.....	\$ 45
(b) asbestos project contractor/supervisor.....	\$170
(c) asbestos inspector.....	\$170
(d) asbestos management planner.....	\$170
(e) asbestos project designer.....	\$170

(2) ~~For accreditation or accreditation renewal~~ based on completion of an initial ~~or refresher~~ training course that has been approved by another state having accreditation requirements at least as stringent as Montana's, a person shall pay a

surcharge of \$15 plus the out-of-state accreditation or accreditation renewal fee for an application under (1)(a), or \$35 plus the accreditation or accreditation renewal fee for an application under (1)(b) through (e) in (3)(f).

(3) For simultaneous, i.e., on the same application with the same date, accreditation or accreditation renewal in more than one asbestos-related occupation, the fee is \$325 plus any applicable surcharges, or the total of the two highest fees plus any applicable surcharges for those two occupations, whichever is less. The asbestos occupation accreditation fees are as follows:

<u>(a) asbestos project worker</u>	<u>\$200</u>
<u>(b) asbestos project contractor/supervisor</u>	<u>\$200</u>
<u>(c) asbestos inspector</u>	<u>\$200</u>
<u>(d) asbestos management planner</u>	<u>\$200</u>
<u>(e) asbestos project designer</u>	<u>\$200</u>
<u>(f) out-of-state accreditation</u>	<u>\$250</u>

AUTH 75-2-503, MCA
IMP: 75-2-503, MCA

REASON: The department is proposing to increase the accreditation and accreditation renewal fees for asbestos occupations to reflect the increase to the department in the cost of processing accreditations. The proposed increases reflect the department's costs to review and issue accreditations and maintain the online services in place. The department is also proposing to eliminate the discount for multiple accreditation applications submitted simultaneously. The department can no longer justify the original intention of offering a reduced rate for multiple applications. The time saved is minimal because each application for accreditation must be reviewed for completeness and entered in the department database.

17.74.403 COURSE APPROVAL AND RENEWAL FEES (1) A person seeking approval or a renewal of a training course for accreditation in an asbestos-related occupation shall pay to the department a the fee of \$1,100 per course established in (3).

(2) A person who has received approval of a training course by the department on or before [the effective date of this rule] and the person intends to continue to provide training under the approved course after [the effective date of this rule] shall pay the fee for approval of a training course established in (3)(a). Payment of the fee allows the training provider to continue to offer courses through the course approval period established in ARM 17.74.364.

(3) The training course fees are as follows:

<u>(a) courses approved on or before [the effective date of this rule]</u>	<u>\$1,000</u>
<u>(b) courses approved after [the effective date of this rule]</u>	<u>\$2,000</u>
<u>(c) initial course renewal</u>	<u>\$300</u>
<u>(d) refresher course renewal</u>	<u>\$200</u>

AUTH: 75-2-503, MCA
IMP: 75-2-503, MCA

REASON: The department proposes to increase the course approval fees from \$1,100 to \$2,000 for courses approved after the effective date of this rule. The department is proposing a renewal fee for all initial and refresher courses to be paid prior to the end of the two-year course approval period established in ARM 17.74.364. The department is also proposing a lower fee for training providers with existing courses that were approved by the department on or before the effective date of this rule. The proposed lower fee for courses approved on or before the effective date of this rule acknowledges training providers who have been offering approved training courses, while providing revenue to the department to ensure training course visits can occur during the first two years of the proposed course approval period. This will allow the department to plan and budget for ongoing visits to review the courses being offered by training providers.

5. The rule proposed for repeal is as follows:

17.74.404 COURSE AUDIT FEES (AUTH: 75-2-503, MCA; IMP: 75-2-503, MCA), located at page 17-8403, Administrative Rules of Montana. The rule is proposed for repeal because audits conducted by the department are expensive, time-consuming, and represent a dual assessment on training providers. The department described the reason for increasing course approval fees and adding the ability to charge renewal fees in ARM 17.74.364 and 17.74.403. The department believes that a thorough initial review to grant approval and the additional recordkeeping requirements proposed in ARM 17.74.364 is sufficient to ensure that training providers are meeting the regulatory requirements of course materials without having to charge for an audit of a course already approved. Additionally, the department is proposing to repeal this rule because the department is proposing a course renewal fee to be paid every two years to ensure that the required information is being taught to the students seeking accreditation in asbestos-related occupations. A standard two-year renewal cycle is a more efficient way to maintain a continual and regular process to ensure that course material is up-to-date and designed to be protective.

6. 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 Elois Johnson, Paralegal, Department of Environmental Quality, 1520 E. Sixth Avenue, P.O. Box 200901, Helena, Montana 59620-0901; faxed to (406) 444-4386; or e-mailed to ejohnson@mt.gov, no later than 5:00 p.m., August 27, 2015. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

7. Kirsten Bowers, attorney for the Department of Environmental Quality, has been designated to preside over and conduct the hearing.

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 that the

person wishes to receive notices regarding: air quality; hazardous waste/waste oil; asbestos control; water/wastewater treatment plant operator certification; solid waste; junk vehicles; infectious waste; public water supplies; public sewage systems regulation; hard rock (metal) mine reclamation; major facility siting; opencut mine reclamation; strip mine reclamation; subdivisions; renewable energy grants/loans; wastewater treatment or safe drinking water revolving grants and loans; water quality; CECRA; underground/above ground storage tanks; MEPA; or general procedural rules other than MEPA. 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 Elois Johnson, Paralegal, Department of Environmental Quality, 1520 E. Sixth Ave., P.O. Box 200901, Helena, Montana 59620-0901, faxed to the office at (406) 444-4386, e-mailed to Elois Johnson at ejohnson@mt.gov; or may be made by completing a request form at any rules hearing held by the department.

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

10. 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 significantly and directly impact small businesses.

Reviewed by:

DEPARTMENT OF ENVIRONMENTAL
QUALITY

/s/ John F. North
JOHN F. NORTH
Rule Reviewer

BY: /s/ Tom Livers
TOM LIVERS, Director

Certified to the Secretary of State, July 20, 2015.

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

In the matter of the adoption of NEW	)	NOTICE OF PUBLIC HEARING ON
RULE I; the amendment of ARM	)	PROPOSED ADOPTION,
37.87.1201, 37.87.1202, 37.87.1203,	)	AMENDMENT, AND REPEAL
37.87.1206, 37.87.1207, 37.87.1215,)	
37.87.1216, 37.87.1217, and)	
37.87.1223; and the repeal of ARM)	
37.87.1210 and 37.87.1214,)	
pertaining to provider participation,)	
program requirements, and)	
reimbursement procedures for)	
psychiatric residential treatment)	
facility (PRTF) services)	

TO: All Concerned Persons

1. On August 19, 2015, at 9:00 a.m., the Department of Public Health and Human Services will hold a public hearing in Room 207 of the Department of Public Health and Human Services Building, 111 North Sanders, at Helena, Montana, to consider the proposed adoption, amendment, and repeal of the above-stated rules.

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 August 12, 2015, 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 adopted provides as follows:

NEW RULE I OUT-OF-STATE PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY SERVICES, REIMBURSEMENT (1) Out-of-state psychiatric residential treatment facility (PRTF) services will be reimbursed at 50% of their usual and customary charges.

(2) The bundled per diem rate for out-of-state PRTFs services coverage includes the following services:

(a) all services, therapies, and items related to treating the condition of the youth;

(b) all services provided by licensed physicians, psychiatrists, midlevel practitioners, psychologists, clinical social workers, and professional counselors;

(c) psychological testing;

- (d) lab and pharmacy services; and
- (e) supportive services necessary for daily living and safety.
- (3) The Montana Medicaid Program will reimburse enrolled providers directly for the following services which are not included in the out-of-state per diem rate:
 - (a) up to 80 units of targeted case management services, as defined in ARM 37.86.3301, per PRTF stay; and
 - (b) a clinical intake assessment by a licensed mental health center, with an endorsement to provide adult services for transition age youth 17 to 18, to determine whether they have a severe and disabling mental illness and if they qualify for adult mental health services.
- (4) The Montana Medicaid Program will reimburse state plan ancillary services in addition to the out-of-state bundled per diem rate when these ancillary services are provided by a different provider under arrangement with the PRTF. The ancillary services provided must be:
 - (a) directed by the PRTF physician;
 - (b) stated in the treatment plan of the youth; and
 - (c) documented in the medical records for the youth.

AUTH: 53-6-101, MCA
IMP: 53-6-113, MCA

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

37.87.1201 PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY SERVICES, PURPOSE (1) The purpose of ~~ARM 37.87.1201, 37.87.1202, 37.87.1203, 37.87.1206, 37.87.1207, 37.87.1214, 37.87.1215, 37.87.1216, 37.87.1217, 37.87.1222, 37.87.1223, 37.87.1224, 37.87.1225, and 37.87.1210~~ ARM Title 37, chapter 87, subchapter 12 is to specify provider participation and program requirements and to define the basis and procedure the department will use to pay for psychiatric residential treatment facility (PRTF) services.
(2) remains the same.

AUTH: 53-2-201, 53-6-113, MCA
IMP: 53-2-201, 53-6-101, 53-6-111, MCA

37.87.1202 PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY SERVICES, DEFINITIONS As used in this subchapter, the following definitions apply:

- (1) through (3) remain the same.
- (4) "Inpatient psychiatric services" means psychiatric residential treatment facility services, or hospital-based psychiatric residential treatment facility services.
- (5) remains the same.
- (6) "Psychiatric residential treatment facility (PRTF)" ~~means a facility other than a hospital that provides psychiatric services only to persons under age 21. The PRTF must be certified for Medicaid participation by:~~
 - (a) ~~the department as a PRTF; or~~

~~(b) the appropriate agency in the state where the facility is located as a PRTF is defined in the Children's Mental Health Bureau Medical Services Provider Manual, adopted and incorporated by reference in ARM 37.87.903.~~

AUTH: 53-2-201, 53-6-113, MCA

IMP: 53-2-201, 53-6-101, 53-6-111, MCA

37.87.1203 PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY SERVICES (1) Inpatient psychiatric services are services that comply with the requirements of this subchapter and the applicable federal regulations and are provided in a psychiatric residential treatment facility (PRTF) that is devoted to the provision of inpatient psychiatric care for persons under the age of 21.

(2) ~~42 CFR 440.160 and 441.150 through 441.156 (2008)~~ Title 42 CFR, part 441, subpart D provide federal definitions and federal PRTF program requirements, and the department adopts and incorporates them by reference 42 CFR 440.160 (2010) and Title 42 CFR, part 441, subpart D (2010). A copy of the regulations may be obtained through the Department of Public Health and Human Services, Health Resources Developmental Services Division, 1400 Broadway 111 N. Sanders, P.O. Box 202954 4210, Helena, MT 59620-2905 4210.

AUTH: 53-2-201, 53-6-113, MCA

IMP: 53-2-201, 53-6-101, 53-6-111, MCA

37.87.1206 PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY SERVICES, PARTICIPATION REQUIREMENTS (1) These requirements are in addition to those contained in rule generally applicable to Medicaid providers.

(2) Psychiatric residential treatment facility (PRTF) providers, as a condition of participation in the Montana Medicaid program, must comply with the following requirements:

(a) through (d) remain the same.

~~(e) accept, as payment in full for all operating and property costs, the amounts paid in accordance with the reimbursement method set forth in this rule and ARM 37.87.1201, 37.87.1202, 37.87.1203, 37.87.1207, 37.87.1214, 37.87.1215, 37.87.1216, 37.87.1217, 37.87.1222, 37.87.1223, 37.87.1224, and 37.87.1225;~~

~~(f) (e) for providers maintaining patient trust accounts, ensure that any funds maintained in those accounts are used only for those purposes for which the youth, or legal guardian, or personal representative of the patient has given written authorization. A provider may not borrow funds from these accounts for any purpose;~~

~~(g) (f) maintain accreditation as a PRTF by the Joint Commission on Accreditation of Health Care Organizations (JCAHO), Council on Accreditation (COA), or the Commission on Accreditation of Rehabilitation Facilities (CARF) or any other an organization designated by the Secretary of the United States Department of Health and Human Services as authorized to accredit PRTF for Medicaid participation;~~

~~(h) (g) submit to the department prior to receiving initial reimbursement payments and thereafter within 30 days after of receipt, all accreditation~~

determinations, findings, reports, and related documents documentation issued by the accrediting organization to the provider;

~~(i) provide PRTF services according to the service requirements for individuals under age 21 specified in Title 42 CFR, part 441, subpart D (2008). The department adopts and incorporates by reference Title 42 CFR, part 441, subpart D. A copy of these regulations may be obtained through the Department of Public Health and Human Services, Health Resources Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951;~~

~~(j) (h) agree to indemnify the department in the full amount of the state and federal shares of all Medicaid inpatient psychiatric services reimbursement paid to the facility during any period when federal financial participation is unavailable due to facility failure to meet the conditions of participation specified in these rules or due to other facility deficiencies or errors;_~~

~~(k) complete periodic surveys requested by the department. At a minimum, a PRTF must provide the following information:~~

~~(i) average length of stay;~~

~~(ii) special treatment programs offered or facility's ability to treat co-occurring issues such as developmental disabilities, chemical dependency; medically fragile and sexual reactivity or offending issues;~~

~~(iii) specialized staff or evidence based practices used;~~

~~(iv) special assessments used, such as psychosexual or forensic; and~~

~~(v) frequency of seclusion and restraint.~~

AUTH: 53-2-201, 53-6-113, MCA

IMP: 53-2-201, 53-6-101, 53-6-111, MCA

37.87.1207 HOSPITAL-BASED PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY SERVICES, REQUIREMENTS (1) A hospital-based psychiatric residential treatment facility (PRTF) must meet the following requirements:

(a) through (f) remain the same.

AUTH: 53-2-201, 53-6-113, MCA

IMP: 53-2-201, 53-6-101, 53-6-111, MCA

37.87.1215 PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY SERVICES, ASSESSMENT SERVICES (1) Psychiatric residential treatment facility (PRTF) assessment services are provided by in-state PRTF facilities and must comply with the requirements of this subchapter and the applicable federal regulations for PRTF services.

(2) PRTF assessment services:

(a) and (b) remain the same.

(c) are reimbursed 15% higher than the department's current Medicaid Mental Health and Mental Health Services Plan, Individuals Under 18 Years of Age Youth Mental Health Fee Schedule for PRTF sServices.

(3) Assessment services include the following, as clinically indicated:

(a) through (c) remain the same.

(d) chemical dependency substance use disorder assessment; and

(e) through (5) remain the same.

~~(6) Assessment services must be provided by qualified staff or contractors operating within the scope of their practice.~~

AUTH: 53-2-201, 53-6-113, MCA

IMP: 53-2-201, 53-6-101, 53-6-111, MCA

37.87.1216 PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY SERVICES, BENEFIT LIMITS, CERTIFICATION OF NEED, UTILIZATION REVIEW AND INSPECTIONS OF CARE REQUIREMENTS

(1) Prior to admission and as frequently as the department deems necessary, the department or its agents may evaluate the medical necessity and quality of services for each Medicaid ~~client~~ member.

(a) In addition to the other requirements of these rules, the provider must provide to the department or its agent upon request any records related to services or items provided to a Medicaid member.

(b) and (2) remain the same.

~~(3) Medicaid reimbursement for PRTF services is not available for youth 18 years of age and older. A provider must submit a certificate of need as described in the Children's Mental Health Bureau Medicaid Services Manual, adopted and incorporated by reference in ARM 37.87.903.~~

~~(4) Medicaid reimbursement is not available for PRTF services unless the provider submits to the department or its designee a complete and accurate certificate of need for services that complies with the requirements of 42 CFR, part 441, subpart D (2008) and these rules.~~

~~(a) For youth determined Medicaid eligible by the department at the time of admission to the facility, the certificate of need must:~~

~~(i) be completed, signed, and dated prior to, but no more than 30 days before admission; and~~

~~(ii) be made by an independent team of health care professionals that has competence in diagnosis and treatment of mental illness and that has knowledge of the youth's situation, including the youth's psychiatric condition. The team must include a physician that has competence in diagnosis and treatment of mental illness, preferably in child psychiatry, and a licensed mental health professional. No more than one member of the team of health care professionals may be professionally or financially associated with a PRTF program.~~

~~(b) For youth who are transferred between levels of inpatient psychiatric care within the same facility, the certificate of need may be completed by the facility-based team responsible for the plan of care within 14 days after admission provided that the:~~

~~(i) admission has been prior authorized by the department or the department's designee.~~

~~(c) For youth who apply for and become Medicaid eligible after admission to the facility, the certificate of need must be made by the facility-based team responsible for the plan of care as specified in 42 CFR, 441.156:~~

~~(i) within 90 days of the eligibility determination and must cover any period before application for which claims are made; and~~

~~(ii) services are determined medically necessary by the department or the department's designee.~~

~~(d) All certificates of need must be actually and personally signed by each team member, except that signature stamps may be used if the team member actually and personally initials the document over the signature stamp.~~

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

AUTH: 53-2-201, 53-6-113, MCA

IMP: 53-2-201, 53-6-101, 53-6-111, MCA

37.87.1217 PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY (PRTF) SERVICES, TREATMENT REQUIREMENTS

~~(1) PRTF services must include active treatment designed to achieve the discharge of the youth to a less restrictive level of care at the earliest possible time. Active treatment includes, but is not limited to, the following services provided regularly and as clinically indicated:~~

~~(a) individual psychotherapy;~~

~~(b) group psychotherapy; and~~

~~(c) family therapy.~~

~~(2) remains the same.~~

~~(3) A PRTF must submit a request for an eligibility determination to the department's developmental disability program (DDP) for youth suspected of having a developmental disability if a request has not already been made for youth 8 to 18 years of age. An eligibility determination for adult services may be requested for youth 16 years or older.~~

~~(a) the PRTF must complete and submit to the DDP a cover letter along with the psychological testing and assessments required by the DDP; and~~

~~(b) the PRTF must complete and submit additional documentation, if requested by the DDP.~~

~~(4) The PRTF must use the Montana children and adolescent needs and strengths (MT-CANS) functional assessment for youth on admission and prior to discharge to assist in the development of the plan of care and the discharge plan.~~

~~(5) (3) The PRTF plan of care treatment plan must be comprehensive and address all psychiatric, medical, educational, psychological, social, behavioral, and developmental treatment needs.~~

~~(6) (4) The plan of care treatment plan and discharge plan for the youth must be reviewed at least every 30 days at the multidisciplinary treatment team meeting, and more frequently if there is a significant change in the condition of the youth. The parent or legal representative of the youth must be invited to participate in these meetings, and given adequate notice to participate. Adequate notice means generally a week unless the condition of the youth dictates otherwise. At a minimum the following must be discussed, if applicable to the needs of the youth:~~

~~(a) diagnosis or changes to diagnosis;~~

~~(b) mental status or changes to mental status;~~

~~(c) medication use, purpose, and any changes;~~

~~(d) treatment goals of the youth, progress or lack of progress, and revisions to the treatment plan;~~

~~(e) risk behaviors and the use of special treatment procedures;~~

~~(f) co-occurring issues that impact treatment of the youth, such as developmental or cognitive delays, substance use disorder, and sexual reactivity or offending;~~

~~(g) individual, group, and family therapy outcomes; and~~

~~(h) readiness for discharge of the youth, specific services needed on discharge, and who will be making the appointments for discharge services.~~

~~(7) remains the same, but is renumbered (5).~~

~~(8) In addition to the other requirements in this rule that pertain to discharge planning the following activities are required. The PRTF must:~~

~~(a) identify the community to which the youth will discharge;~~

~~(b) develop a discharge plan within 30 days of admission that identifies the youth and family's needed services and supports upon discharge:~~

~~(i) the discharge plan must address psychiatric, medical, educational, psychological, social, behavioral, developmental, and chemical dependency treatment needs, as appropriate.~~

~~(c) make appointments for needed services and supports upon discharge, no less than seven days before discharge; and~~

~~(d) work with the parent or legal representative of the youth independently, or for out-of-state PRTFs, with a targeted case manager, in making agreed upon discharge plans and referrals for needed services.~~

~~(e) provide targeted case management services according to the limitations in ARM 37.87.1223, as needed.~~

~~(6) The content of the treatment plan and discharge plan must meet all minimum state and federal requirements.~~

~~(9) If appropriate arrangements for services upon discharge are not made as required in (6) the PRTF may be at risk of losing its enrollment in the Montana Medicaid program.~~

~~(10) As part of the discharge planning requirements, PRTFs must ensure the youth has a seven-day supply of needed medication and a written prescription for medication to last through the first outpatient visit in the community with a prescribing provider. Prior to discharge, the PRTF must identify a prescribing provider in the community and schedule an outpatient visit. Documentation of the medication plan and arrangements for the outpatient visit must be included in the medical record for the youth. If medication has been used during the PRTF treatment of the youth, but is not needed upon discharge, the reason the medication is being discontinued must be documented in the medical record for the youth.~~

AUTH: 53-2-201, 53-6-113, MCA

IMP: 53-2-201, 53-6-101, 53-6-111, MCA

37.87.1223 IN-STATE PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY (PRTF) SERVICES, REIMBURSEMENT

(1) The Montana Medicaid Program will reimburse providers of inpatient psychiatric services provided to a youth in a psychiatric residential treatment facility (PRTF) for each patient day, as provided in these rules, effective December 31, 2013 which is consistent with the definition of a PRTF and all other applicable requirements are met.

~~(2) Medicaid payment is not allowable for treatment or services provided in a PRTF that are not consistent with the definition of PRTF in ARM 37.87.1202 and unless all other applicable requirements are met.~~

~~(3) (2) For in-state PRTFs, t~~The Montana Medicaid Program will pay a provider for each Medicaid patient day, the following bundled per diem rate less any third party or other payments. The bundled per diem rate for in-state PRTF services is the lesser of:

~~(a) and (b) remain the same.~~

~~(4) (3) The bundled per diem rate for in-state PRTFs coverage includes the following services:~~

~~(a) a direct-care wage add-on through a contract with the department or in the bundled per diem rate, as applicable; effective July 1, 2013;~~

~~(b) through (f) remain the same, but are renumbered (a) through (e).~~

~~(4) A direct-care wage add-on is reimbursed in addition to the in-state per diem through a contract with the department or in the bundled per diem rate, as applicable.~~

~~(5) The bundled per diem rate for in-state PRTFs does not include the services listed in (a) through (d). The Montana Medicaid Program will reimburse enrolled providers directly for the following services which are not included in the in-state per diem rate:~~

~~(a) services provided by a licensed physician, psychiatrist, and or midlevel practitioner services;~~

~~(b) remains the same.~~

~~(c) adult mental health center evaluations for transition age youth 17 to 18, to determine whether or not they qualify for adult mental health services and have a severe and disabling mental illness; and,~~

~~(d) (6) The Montana Medicaid Program will reimburse state plan ancillary services as directed by the PRTF physician, except targeted case management provided by either the PRTF or by outside providers. Medicaid state plan ancillary services must be stated in the plan of care of the youth. in addition to the in-state PRTF bundled per diem rate when these ancillary services are provided by a PRTF or by a different provider under arrangement with the PRTF. The ancillary services provided must be:~~

~~(a) directed by a PRTF physician;~~

~~(b) stated in the treatment plan of the youth; and~~

~~(c) maintained in the medical records for the youth.~~

~~(6) Out-of-state PRTFs will be reimbursed 50% of their usual and customary charges. Services that must be included in the out-of-state PRTFs usual and customary rate are outlined in (7).~~

~~(7) The bundled per diem rate for out-of-state PRTFs coverage includes the following services:~~

~~(a) all services, therapies, and items related to treating the condition of the youth;~~

~~(b) licensed physician, psychiatrist, and midlevel practitioner, psychologist, clinical social worker, and professional counselor services;~~

~~(c) psychological testing;~~

~~(d) lab and pharmacy services; and~~

- ~~(e) supportive services necessary for daily living and safety.~~
- ~~(8) The bundled per diem rate for out-of-state PRTFs does not include the services listed in (a) through (c). The Montana Medicaid Program will reimburse enrolled providers directly for the following services:
 - ~~(a) up to 80 units of targeted case management services as defined in ARM 37.87.802 per PRTF stay;~~
 - ~~(b) a clinical intake assessment by a licensed mental health center, with an endorsement to provide adult services, for transition age youth 17 to 18, to determine whether or not they have a severe and disabling mental illness and if they qualify for adult mental health services; and~~
 - ~~(c) Medicaid state plan ancillary services, as directed by the PRTF physician, provided by the PRTF or by outside providers, enrolled as Montana Medicaid providers. Medicaid state plan ancillary services must be stated in the plan of care of the youth.~~~~
- ~~(9) The in-state and out-of-state PRTFs must maintain the medical records for Medicaid state plan ancillary services the youth receives.~~
- ~~(10) Providers must bill for PRTF services using the revenue codes designated by the department.~~
- ~~(11) Notice of the admission and discharge dates for the youth must be submitted to the department or its designee the day of admission or discharge. The department may impose a \$100 charge against the facility for each instance where the department does not receive timely notification.~~

AUTH: 53-2-201, 53-6-113, MCA
IMP: 53-2-201, 53-6-101, 53-6-111, MCA

5. The department proposes to repeal the following rules:

37.87.1210 OUT-OF-STATE PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY (PRTF) SERVICE REQUIREMENTS found on page 37-21371 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, MCA
IMP: 53-2-201, 53-6-101, 53-6-111, MCA

37.87.1214 PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY SERVICES, SUBSTANCE USE DISORDER ASSESSMENT AND TREATMENT found on page 37-21373 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, MCA
IMP: 53-2-201, 53-6-101, 53-6-111, MCA

6. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (the department) is proposing to adopt NEW RULE I; amend ARM 37.87.1201, 37.87.1202, 37.87.1203, 37.87.1206, 37.87.1207, 37.87.1215, 37.87.1216, 37.87.1217, and 37.87.1223; and

repeal 37.87.1210 and 37.87.1214. These rules specify psychiatric residential treatment facility (PRTF) services provider participation and program requirements and define procedures the department uses to pay providers for PRTF services under the Montana Medicaid Program. The proposed rulemaking is the result of feedback received by the department from providers, the department's required periodic review of its administrative rules, and is a continuation of the Children's Mental Health Bureau's efforts to incorporate certain regulations, program policies, and procedures into the Children's Mental Health Bureau Medicaid Services Provider Manual (Manual), which is adopted and incorporated by reference in ARM 37.87.903.

NEW RULE I

The department proposes the adoption of NEW RULE I to specify reimbursement requirements for out-of-state PRTF providers. The department has determined through reviewing ARM Title 37, chapter 87, subchapter 12, that a new rule specific to provider reimbursements for of out-of-state PRTF provider services is necessary because current rule language is not specific enough for consistent application of the rules by the department to out-of-state versus in-state PRTFs. If the department does not adopt NEW RULE I, there may be confusion for affected out-of-state providers and inconsistent interpretation of reimbursement parameters by the department.

ARM 37.87.1201, 37.87.1202, 37.87.1203, 37.87.1206, 37.87.1207, 37.87.1215, 37.87.1216, 37.87.1217, and 37.87.1223

The department proposes to amend rule language in these rules to achieve greater language consistency between the rules within the rule subchapter as well as achieve greater consistency between these administrative rules and the Manual. Additionally, the proposed amendments will remove redundancies that currently exist within these rules. Specifically, the department proposes the following amendments:

ARM 37.87.1201

The department proposes to strike individual rule references adopted for the subchapter's purpose and alternatively identify subchapter 12 in its entirety. This "housekeeping" amendment is necessary because the department intends for the rule to state a purpose for the entire subchapter, not just select rules, and providing a concise reference is consistent with departmental goals for improved rule writing.

ARM 37.87.1202

The department proposes to amend the definition in (6) for PRTF and cite directly to the definition in the Manual.

ARM 37.87.1203

The department proposes updating its adoption by reference of 42 CFR 440.160 (2008), to the most current version of the regulations which were amended by the Centers for Medicare and Medicaid (CMS) in 2010. The department has deemed this change necessary to achieve consistency with the most current federal guidelines that govern PRTF services under Medicaid. The department further proposes adopting and incorporating by reference 42 CFR, part 441, subpart D (2010), in its entirety, instead of the specific regulations currently listed (42 CFR 441.150 through 156) because all of subpart D of these regulations apply to PRTF services. Currently, the adoption and incorporation of portions of these federal regulations are located in ARM 37.87.1203 and ARM 37.87.1206. By amending the rule to adopt and incorporate by reference all pertinent federal regulations, the department consolidates its federal regulations references relating to PRTF services into one rule. Lastly, the department proposes to amend this rule further by changing reference adoption language to be consistent with the provisions of ARM 1.2.210. The department has deemed this change necessary to be consistent with departmental goals for improved rule writing.

ARM 37.87.1206

The department proposes the amendment of several subsections to improve internal references and general rule language to reflect departmental goals towards clear and understandable rule writing. Based on the proposed changes in ARM 37.87.1203, the department proposes removing subsections (2)(e), (2)(i), and (2)(k) from this rule. Subsection (2)(e) addresses the Montana Medicaid Program's requirement to accept payment in full, (2)(k) addresses provider compliance with periodic department requests for the completion of requested surveys, and (2)(i) adopts and incorporates certain federal regulations. The department contends the proposed amendments are necessary since ARM Title 37, chapter 85 addresses provider participation requirements for the Montana Medicaid Program and it is redundant to identify these specific requirements in (2)(e) and (2)(k). Further, ARM 37.87.1203 provides a better location for the referenced federal regulations than in (2)(k). The changes are also consistent with departmental goals for improved rule writing.

ARM 37.87.1207

The department proposes amending this rule to provide for the original reference of the words from which the acronym PRTF is derived: Psychiatric Residential Treatment Facility. Currently, PRTF is used multiple times in this rule but lacks an original reference. The department has deemed it necessary to fully reference the term first where used in a rule that is consistent with the department's current style of rule writing.

ARM 37.87.1215

The department proposes to amend the term "chemical dependency" to "substance use disorder" and to update the title of the fee schedule in (1)(c) to the current title. These changes are necessary to achieve consistent language between the rule, Manual, and current terminology. The department also proposes to remove (6) as it is substantially redundant of (1).

As with the proposed amendment in ARM 37.87.1207, the department proposes amending this rule to provide for the original reference of the words from which the acronym PRTF is derived: Psychiatric Residential Treatment Facility, which is consistent with the department's current style of rule writing.

ARM 37.87.1216

The department proposes to amend the term "client" to "member" throughout the rule. These proposed changes are necessary as a continuation of departmental efforts to use terminology throughout its manuals and rules that conforms with current usage in the federal Medicaid programs.

The department proposes to remove certificate of need requirements and add these identical requirements into the Manual, as well as adding a new (3) which directs providers to the Manual for certificate of need requirements. These changes are necessary to incorporate the certificate of need service requirements into the Manual. They respond to specific provider feedback for inclusion of the subject matter into the Manual.

ARM 37.87.1217

The department proposes to remove specific treatment plan content requirements, discharge plan requirements, and therapy requirements from this rule and incorporate them into the Manual, as well as proposing to remove the requirements for serving youth with Serious Emotional Disturbance and Developmental Disability from rule and incorporating them into the Manual. The department has determined these changes are necessary to incorporate the treatment plan content requirements, discharge plan requirements, and therapy requirements into the Manual. They respond to specific provider feedback for inclusion of the subject matter into the Manual.

The department proposes to change the term "plan of care" to "treatment plan."

The department further proposes the addition of new (7) to provide a compliance component to the rule that treatment plans and discharge plans must meet all state and federal regulations.

These proposed changes are necessary to achieve consistent language throughout the rule, as well as achieving consistency between the rule, the Manual, and current department terminology.

ARM 37.87.1223

The department proposes to remove December 31, 2013 subchapter rule references from (1) because referencing the date and other rules in the current manner is unnecessary and is not consistent with administrative rule writing. As with the proposed amendments in ARM 37.87.1207 and ARM 37.87.1215, the department proposes amending this rule to provide for the original reference of the words from which the acronym PRTF is derived: Psychiatric Residential Treatment Facility, which is consistent with the department's current style of rule writing.

The department proposes to strike all language related to an out-of-state PRTF from this rule and adopt similar language as proposed in NEW RULE I. The department has determined through reviewing its PRTF rules that separating requirements for in-state and out-of-state provider is necessary to give the respective providers more specific reimbursement parameters than what is currently being provided in this rule. Additionally, as described above, changes would render this rule only applicable to an in-state PRTF, so the department proposes to add IN-STATE to the rule's title.

The department proposes that the language in (4), (5), and (6) be revised to reflect what is in the current Montana Medicaid Plan for reimbursement of ancillary services.

The department has determined through review of the rule that the proposed amendments are necessary to ensure consistency between Montana Medicaid Plan content and language in rule.

ARM 37.87.1210

The department proposes the repeal of ARM 37.87.1210, which defines service requirements for out-of-state PRTFs, because these requirements are proposed to be relocated into the Manual. The department has determined the incorporation of out-of-state PRTFs requirements into the Manual is appropriate given the purpose of the Manual. This also addresses specific provider feedback for inclusion of the subject matter into the Manual.

ARM 37.87.1214

The department proposes the repeal of ARM 37.87.1214 which addresses substance use disorder assessment and treatment in a PRTF since substance use disorder assessment and treatment is not a service requirement of a PRTF.

FISCAL IMPACT

The department has determined that there is no fiscal impact from the adoption of NEW RULE I; the proposed amendments to ARM 37.87.1201, 37.87.1202, 37.87.1203, 37.87.1206, 37.87.1207, 37.87.1215, 37.87.1216, 37.87.1217, 37.87.1223; and the repeal of 37.87.1210 and 37.87.1214, as proposed.

7. 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, and must be received no later than 5:00 p.m., August 27, 2015.

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

9. 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 7 above or may be made by completing a request form at any rules hearing held by the department.

10. 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.

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

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

/s/ Cary B. Lund
Cary B. Lund, Attorney
Rule Reviewer

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

Certified to the Secretary of State July 20, 2015.

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 37.114.701, 37.114.702,) PROPOSED AMENDMENT
37.114.703, 37.114.704, 37.114.705,)
37.114.708, pertaining to)
implementation of HB 158 (2015))
regarding the modernization of)
immunization laws related to school)

TO: All Concerned Persons

1. On August 19, 2015, at 3:30 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 rules.

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 August 12, 2015, 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 rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

37.114.701 DEFINITIONS The following definitions, together with the definitions contained in 20-5-402, MCA, apply throughout this subchapter:

(1) through (5) remain the same.

(6) "DT vaccine" means a vaccine containing a combination of diphtheria and tetanus toxoids ~~for pediatric use.~~

(7) "DTP vaccine" and "DTAP vaccine" mean vaccines containing diphtheria and tetanus toxoids and pertussis (whooping cough) vaccine combined ~~that are recommended for children under seven years of age.~~

(8) remains the same.

(9) "Immunization information system" means a confidential, computerized, population-based system managed and maintained by the department that collects and consolidates vaccination data from vaccine providers.

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

~~(40)~~ (11) "Montana Certificate of Immunization Form (HES 101)" means the form prescribed by the department as required by 20-5-406, MCA. Copies of the

form may be requested from the Department of Public Health and Human Services, Public Health and Safety Division, Communicable Disease Control and Prevention Bureau, Immunization Section, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951, telephone: (406)444-4735 or (406)444-5580.

(11) remains the same, but is renumbered (12).

~~(12)~~ (13) "Official ~~parent maintained~~ immunization record" means a standard ~~document~~ electronic or paper record that is ~~distributed~~ maintained by the department, ~~or by another state's principal health agency, or by a healthcare provider~~ to record the immunization status of a child, ~~is designed to be retained and maintained by the parents of that child,~~ and includes the following:

(a) child's legal name;

(b) birthdate;

(c) sex; and

(d) vaccination date (month, day, and year) by vaccine type, or, in the case of a postsecondary record, the month and year of vaccine administration.

~~(a) the child's legal name, birthdate, sex and vaccination date (month, day and year) by vaccine type, except that in a postsecondary school, if only the month and year of administration are listed, the administration date will be considered to be the first day of that month; and~~

~~(b) for each administration of vaccine, the vaccination data must be completed and signed or stamped by the physician or officer of a health department who administered the vaccine or designee of the physician or officer.~~

(13) through (17) remain the same, but are renumbered (14) through (18).

~~(18)~~ (19) "Td vaccine" means a vaccine containing tetanus and diphtheria toxoids and intended for administration to adults and to children seven years of age and older.

(20) "Tdap vaccine" means a vaccine containing tetanus and diphtheria toxoids, and acellular pertussis.

(19) and (20) remain the same, but are renumbered (21) and (22).

(23) "Varicella vaccine" means a vaccine containing a live-attenuated varicella vaccine.

AUTH: 20-5-407, MCA

IMP: 20-5-402, 52-2-703, MCA

37.114.702 GENERAL IMMUNIZATION REQUIREMENTS FOR ALL SCHOOLS (1) through (3) remain the same.

~~(4) Doses of MMR vaccine, to be acceptable under these rules, must be given no earlier than 12 months of age, and a child who receives a dose prior to 12 months of age must be revaccinated before attending school. Dose two must be separated from dose one by at least 28 days. Vaccine doses given up to four days before the minimum interval or age are counted as valid. Live vaccines not administered at the same visit must be separated by at least four weeks.~~

~~(5) DTP and DTaP vaccines are not recommended or required to be administered to children seven years of age or older. Documentation of immunity from varicella, measles, mumps, or rubella by laboratory evidence, or~~

diagnosis/verification of disease by physician, nurse practitioner, or physician's assistant, may be used in lieu of the vaccine requirement.

AUTH: 20-5-407, MCA

IMP: 20-5-403, MCA

37.114.703 REQUIREMENTS FOR ADEQUATE DOCUMENTATION OF IMMUNIZATION STATUS (1) The following are considered adequate documentation of immunization for the purposes of this subchapter, subject to the restriction in (2):

(a) and (b) remain the same.

(c) any official immunization record, if information has been recorded and signed or stamped by a physician, physician's designee, local health officer, or that officer's designee; or an official report from the statewide immunization information system, or a healthcare provider's medical record system;

(d) and (e) remain the same.

(f) the international certificates of vaccination approved by the world health organization; or

~~(g) the conditional enrollment form prescribed by the department;~~

~~(h) documentation of a medical exemption signed by a physician;~~

~~(i) documentation of a religious exemption, signed and notarized at the start of each school year, or, in a postsecondary setting, each year beginning with the date the pupil commences attendance; or~~

(j) remains the same, but is renumbered (g).

(2) remains the same.

(3) The following are considered adequate documentation in lieu of receiving required vaccines:

(a) the conditional enrollment form prescribed by the department;

(b) documentation of a medical exemption signed by a physician;

(c) documentation of immunity from varicella, measles, mumps, or rubella by laboratory evidence or diagnosis/verification of disease by physician, nurse practitioner, or physician's assistant; or

(d) documentation of a religious exemption, signed and notarized at the start of each school year; or in a postsecondary setting, each year beginning with the date the pupil commences attendance.

AUTH: 20-5-407, MCA

IMP: 20-5-402, MCA

37.114.704 REQUIREMENTS FOR UNCONDITIONAL ATTENDANCE AT A PRESCHOOL (1) Before a prospective pupil may attend a Montana preschool, that school must be provided with adequate documentation that the prospective pupil has been immunized in accordance with the following standards:

(a) remains the same.

(b) the prospective pupil must receive one dose of MMR vaccine, administered no earlier than 12 months of age; ~~— A prospective pupil who receives a~~

dose prior to 12 months of age must be revaccinated before attending a preschool; and

(c) one dose of Hib vaccine must be administered on or after the first birthday, unless the prospective pupil is older than 59 months of age; and

(d) the prospective pupil must have received one dose of varicella vaccine, administered no earlier than 12 months of age.

(2) If a prospective pupil is not vaccinated with all of the vaccines required in (1), the prospective pupil ~~must be immediately excluded from the preschool unless the prospective pupil is completely vaccinated, an exemption from a vaccine or vaccines is claimed, or the prospective pupil is enrolled conditionally~~ may be admitted conditionally in accordance with the requirements of ARM 37.114.710.

~~(3) A prospective pupil may attend a preschool with conditional enrollment if:~~

~~(a) the prospective pupil has received at least one dose of each of the vaccines required for the prospective pupil's age;~~

~~(b) a department prescribed form documenting the prospective pupil's conditional immunization status is on file at the preschool, attached to HES 101; and~~

~~(c) the prospective pupil is not past due for the next required dose (as noted on the conditional enrollment form) of the vaccine in question.~~

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

~~(5) HES 101 must be completed with adequate documentation provided by the pupil's guardian, copies of which must be attached to HES 101 if the form is completed by daycare or school personnel.~~

~~(6) remains the same, but is renumbered (4).~~

AUTH: 20-5-407, MCA

IMP: 20-5-403, 20-5-406, MCA

37.114.705 REQUIREMENTS FOR UNCONDITIONAL ATTENDANCE AT A SCHOOL OFFERING ANY PORTION OF GRADES KINDERGARTEN THROUGH 12 (1) remains the same.

(2) Vaccines immunizing against diphtheria, pertussis, and tetanus must be administered as follows:

(a) remains the same.

(b) A pupil or prospective pupil seven years old or older who has not completed the requirement in (2)(a) must receive additional doses of Tdap vaccine or Td vaccine to reach a minimum of three doses of any combination of DTP, DTAP, DT or Td. Pertussis vaccine is not required for a pupil seven years of age or older to become current in accordance with the ACIP schedule;

~~(c) Beginning with the 2006-2007 school year, p~~Prior to entering the seventh grade, a pupil must receive a dose of vaccine containing Td Tdap vaccine if the following criteria are met:

~~(i) at least a five year interval must have passed since the pupil's previous doses of DTP, DTaP, DT or Td;~~

~~(ii) (i) the pupil is 11 years of age or older; or~~

~~(iii) (ii) a dose of Td Tdap vaccine was not given to the pupil at seven years of age or older;~~

(d) If a pupil enters the seventh grade before reaching 11 years of age, a booster shot of ~~Td~~ Tdap vaccine must be administered to the pupil as soon as possible after the pupil attains that age, unless the pupil already was administered a dose of ~~Td~~ Tdap vaccine at seven years of age or older;.

~~(e) DT vaccine administered to pupils less than seven years of age is acceptable only if accompanied by a medical exemption that exempts the pupil from pertussis vaccination.~~

(3) remains the same.

(4) ~~Beginning with the 2005-2006 school year, the following~~ A pupils or prospective pupil must have received two doses of live measles, mumps, and rubella vaccine ~~at/or after~~ no earlier than 12 months of age, ~~separated by at least one month between doses:~~

~~(a) a pupil entering kindergarten, or, in the case of a school with no kindergarten, first grade; or~~

~~(b) a pupil entering any grade from seventh grade to twelfth grade who has not already received the two required doses.~~

(5) A pupil or prospective pupil must have received two doses of live varicella vaccine no earlier than 12 months of age.

AUTH: 20-5-407, MCA

IMP 20-5-403, 20-5-405, 20-5-406, MCA

37.114.708 DOCUMENTATION OF IMMUNIZATION STATUS OF PERSONS COMMENCING ATTENDANCE IN PRESCHOOL OR KINDERGARTEN THROUGH GRADE 12 (1) remains the same.

(2) HES 101 may be accepted by the school without reference to other adequate documentation if:

(a) sections I and II are completed and signed by a physician, local health department official, ~~or the designee of either,~~ or the form is directly obtained from the immunization information system; and

~~(b) section IV is signed by a physician~~ the pupil claims no exemptions.

(3) If the information required by (1) has not been provided to the school on HES 101:

(a) immunization data must be transferred onto HES 101 from adequate documentation;

(b) sections I and II of HES 101 must be signed and dated by a school official or the official's designee; and

~~(c) beginning with pupils entering a Montana school for the first time during or after the 2005-2006 school year,~~ a copy of the adequate documentation must be attached to HES 101.

AUTH: 20-5-407, MCA

IMP: 20-5-406, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) proposes to amend ARM 37.114.701, 37.114.702, 37.114.703, 37.114.704, 37.114.705, and 37.114.708, which specify the immunizations required for school-age children between preschool and 12th grade, to implement House Bill 158 passed by the 64th Montana Legislature. House Bill 158 generally revises school immunization laws; adds varicella to the list of required immunizations; revises requirements related to the pertussis vaccination; and amends 20-5-403 and 20-5-404, MCA. With the passage of House Bill 158, Montana became the last state to mandate a varicella (chickenpox) vaccine requirement and the 46th state to require a pertussis booster at middle school entry. House Bill 158 changes become effective October 1, 2015.

Substantively, the proposed rule amendments implement new vaccination requirements and use in accordance with national standards established by the Advisory Committee on Immunization Practice (ACIP). Recommendations of ACIP are adopted nationally by the U.S. Centers for Disease Control and Prevention and are considered to be the standard of care for the immunization of children. Based upon experiences in other states, the addition of the varicella vaccine to the required list of immunizations provided in 20-5-403, MCA, for school attendance will reduce the burden of those stated conditions on school populations.

Specifically, the proposed amendments include the following:

ARM 37.114.701

The department is proposing to amend this rule by updating existing definitions to clarify terminology and remove repetitive language from the rule. New definitions are proposed to be added for "immunization information system," which is the department's vaccination data system, "Tdap vaccine," and "varicella vaccine." The addition of the new definitions is necessary as those terms are not defined in statute. The revision of certain existing definitions to remove outdated, repetitive, or superfluous language is necessary because such revisions are consistent with the department's statutory obligations under the administrative procedures act for periodic rule review and for providing clear and understandable rules.

ARM 37.114.702

The department is proposing to amend this rule by revising general immunization requirements for all schools by removing unnecessary and confusing language from the rule. Additionally, recommendations are proposed to be added to align the rule with ACIP recommendations for a four-day grace period relative to established immunization intervals or ages together with providing exemptions for pupils who may not be required to receive a vaccine due to a history of disease. The department has determined through its review of the rule that the amendments are necessary because both the four-day grace period and the history of disease recommendations are standards of care that have not been previously addressed in rule. The addition of the language will make the standard of care official and avoid potential confusion.

ARM 37.114.703

Requirements for documentation are proposed for update by removing outdated terminology. These amendments are necessary for the rule to remain consistent with advancements in medical records technology. Additional language has been proposed and deemed necessary to add a documented history of disease, including the need for varicella protection addressed by House Bill 158, to the list of adequate documentation in lieu of receiving required vaccines.

ARM 37.114.704

The department is proposing to revise rule language for preschool attendance by adding the new varicella requirement for this age group, which is necessary for the department to implement House Bill 158. The department also proposes to remove repetitive language from the rule as conditional attendance requirements are addressed in ARM 37.114.710 in more precise detail.

ARM 37.114.705

The department is proposing to revise rule language for attendance for entry into school grades kindergarten through twelfth grade by adding language to address the new varicella and pertussis requirements under House Bill 158. These amendments are necessary because prior to the addition of the pertussis requirement for middle school, the tetanus, diphtheria, and pertussis requirements did not align with the ACIP recommendations. The proposed text now aligns with the ACIP recommendation and alleviates confusion between school rules and standard of care.

ARM 37.114.708

Consistent with the department's statutory obligations under the administrative procedures act for periodic rule review, the department is proposing changes to the documentation of immunization status by adding language to modernize and align the code with current practices. New rule language is necessary to address the prevailing use of electronic systems for documentation of immunization.

FISCAL IMPACT

The proposed rule changes may immediately affect all parents of students attending Montana schools beginning with the 2015-2016 school year as students may be required to have a doctor's visit and update their vaccination status.

The fiscal impact of this rulemaking implementing House Bill 158 is undetermined at this time because (1) the department can only approximate the number of pupils whose immunizations will need to be brought up to date based on limited vaccination rate data; and (2) of those affected students, the cost of bringing immunizations

current varies on whether the pupil has private insurance, Medicaid, or no insurance coverage at all. Provided, however, the fiscal impact to parents with some form of insurance should be minimal because vaccines are preventative care and fully covered under most insurance. Moreover, the federally funded Vaccines for Children (VFC) program exists to provide vaccines without cost to those who would normally not be vaccinated due to inability to pay.

5. The department intends to adopt these rule amendments effective October 1, 2015.

6. 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, and must be received no later than 5:00 p.m., August 27, 2015.

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

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 the contact person in 6 above or may be made by completing a request form at any rules hearing held by the department.

9. An electronic copy of this proposal notice is available 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, apply and have been fulfilled. The primary bill sponsor was notified by mail on July 30, 2015.

11. 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/ Nicholas Domitrovich
Nicholas Domitrovich
Rule Reviewer

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

Certified to the Secretary of State July 20, 2015.

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

In the matter of the adoption of New Rules I through XI pertaining to the production and sale of cottage food products) NOTICE OF PUBLIC HEARING ON PROPOSED ADOPTION)))

TO: All Concerned Persons

1. On August 20, 2015, at 1:30 p.m., the Department of Public Health and Human Services will hold a public hearing in Room 107 of the Department of Public Health and Human Services Building, 111 North Sanders, at Helena, Montana, to consider the proposed adoption of the above-stated rules.

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 August 13, 2015, 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 rules as proposed to be adopted provide as follows:

NEW RULE I PURPOSE (1) The purpose of this subchapter is to provide rules in addition to the provisions stated in 50-50-102, 50-50-116, 50-50-117, and 50-50-121, MCA, so that cottage food products may be safely produced for the public in approved home kitchens.

AUTH: 50-50-103, MCA

IMP: 50-50-102, 50-50-103, 50-50-116, 50-50-117, 50-50-121, MCA

NEW RULE II DEFINITIONS In addition to the definitions contained in 50-50-102, MCA, the following definitions apply to this subchapter:

(1) "Baked goods" means breads, candies, cookies, pastries, and pies that are non-potentially hazardous because they are non-time temperature controlled for safety.

(2) "Cottage food operator" means a person registered with the regulatory authority to operate a cottage food operation.

(3) "Approved" means acceptable to the regulatory authority based on their determination of conformity with principles, practices, and generally recognized standards that protect public health.

AUTH: 50-50-103, MCA

IMP: 50-50-102, 50-50-103, 50-50-116, 50-50-117, 50-50-215, MCA

NEW RULE III APPROVED COTTAGE FOOD PRODUCTS (1) Only those products approved by the department and listed in the registration may be produced by a cottage food operation. A cottage food operation is allowed to produce the following food items as long as they are a non-potentially hazardous food:

- (a) baked good products that are cooked in an oven including:
 - (i) loaf breads, rolls, biscuits, quick breads, and muffins;
 - (ii) cakes including celebration cakes such as birthday, anniversary, and wedding cakes;
 - (iii) pastries and scones;
 - (iv) cookies and bars;
 - (v) crackers;
 - (vi) cereals, trail mixes, and granola;
 - (vii) pies, except that custard style pies, pies with fresh fruit that is unbaked, or pies that require refrigeration after baking are not approved;
 - (viii) nuts and nut mixes; and
 - (ix) snack mixes;
- (b) standardized jams, jellies, preserves, and fruit butters as identified under 21 CFR, Part 150, subject to the following:
 - (i) fresh picked or harvested fruits from noncommercial sources are allowed for use;
 - (ii) fresh fruits may be frozen in a household freezer and used at a later time;
 - (iii) all recipes must have a cook step included such as a hot fill or hot water bath, and freezer or refrigerator-style products are not approved;
 - (iv) all jams, jellies, preserves and fruit butters must be sealed in containers that are sterilized prior to filling; and
 - (v) paraffin wax is not allowed for sealing;
 - (c) repackaged, commercially dried fruit from an approved source as described in [New Rule VIII(2)], except that cottage food operators may not dry or package fresh fruits or vegetables;
 - (d) dry herb combining and packaging, and seasoning and mixture combining; examples of which are dry bean soup mixes, dry teas and coffees, and spice seasonings;
 - (e) popcorn, popcorn balls, cotton candy;
 - (f) fudge, candies, and confections that require a cook step;
 - (g) molded chocolate using commercial chocolate melts; and
 - (h) honey.
- (2) The following provisions apply to the production of cottage food products:
 - (a) fresh picked or harvested fruits from noncommercial sources are allowed in baked good products;
 - (b) fresh fruits can be frozen and used at a later time as long as there is a cook step in the recipe; and
 - (c) all frostings or glazes must have a cook step or be made with ingredients (such as a large amount of sugar) that when combined are stable at room temperature.

(3) Other products may be approved on a case-by-case basis by the department in consultation with the local health department of the county in which the cottage food operator is registered.

AUTH: 50-50-102, 50-50-103, MCA
IMP: 50-50-102, 50-50-116, 50-50-117, MCA

NEW RULE IV LABELING (1) Cottage food operations must adhere to the labeling requirements outlined in 50-50-116, MCA.

(2) The following is representative of a label meeting the requirements of (1):

<p style="text-align: center;">MADE IN A HOME KITCHEN THAT IS NOT SUBJECT TO RETAIL FOOD ESTABLISHMENT REGULATIONS OR INSPECTIONS</p> <p style="text-align: center;">Chocolate Chip Cookies</p> <p style="text-align: center;">Net Wt. 8oz (227g)</p> <p>Ingredients: Enriched flour (Wheat flour, niacin, reduced iron, thiamine, mononitrate, riboflavin and folic acid), butter (milk, salt), chocolate chips (sugar, chocolate liquor, cocoa butter, butterfat (milk), soy lecithin as an emulsifier), walnuts, sugar, eggs, salt, artificial vanilla extract, baking soda. Contains: Wheat, eggs, milk, soy, walnuts.</p> <p style="text-align: center;">Ashley Bryant 2550 Helena Lane Helena, MT 59620</p>

(3) The department may allow large cakes or a container of bulk products to be handled and labeled in the following manner:

- (a) be protected from contamination during transportation to the consumer;
- and
- (b) have a product label sheet with all the required information as listed in (1) that is provided to the consumer.

AUTH: 50-50-103, 50-50-116, MCA
IMP: 50-31-103, 50-50-116, 50-50-117, MCA

NEW RULE V COTTAGE FOOD OPERATOR HEALTH (1) Cottage food operators must not manufacture cottage food products (for example, working with exposed food; working with cleaning equipment, utensils, and linens; or working with unwrapped single-service or single-use articles) while experiencing the following symptoms:

- (a) vomiting;
- (b) diarrhea;
- (c) jaundice;

- (d) sore throat with fever;
 - (e) a lesion containing pus such as a boil or infected wound that is open or draining and is:
 - (i) on the hands or wrists, unless an impermeable cover such as a finger cot or stall protects the lesion and a single-use glove is worn over the impermeable cover;
 - (ii) on exposed portions of the arms, unless the lesion is protected by an impermeable cover; or
 - (iii) on other parts of the body, unless the lesion is covered by a dry, durable, tight-fitting bandage;
 - (f) symptoms of any of the following illnesses as diagnosed by a health practitioner:
 - (i) norovirus;
 - (ii) hepatitis A virus;
 - (iii) shigella spp.;
 - (iv) shiga toxin-producing escherichia coli;
 - (v) salmonella typhi; or
 - (vi) nontyphoidal salmonella.
- (2) A cottage food operator experiencing persistent sneezing, coughing, or a runny nose that causes discharges from the eyes, nose, or mouth must not work with exposed food; clean equipment, utensils, and linens; or unwrapped single-service or single-use articles.

AUTH: 50-50-103, 50-50-116, MCA

IMP: 50-50-103, 50-50-105, 50-50-116, MCA

NEW RULE VI PERSONAL CLEANLINESS (1) Cottage food operators must keep their hands and exposed portions of their arms clean.

(2) Cottage food operators must use the following procedure in order to keep their hands and exposed portions of their arms clean:

- (a) rinse under clean, running warm water;
- (b) apply an amount of soap;
- (c) rub together vigorously for at least 10 to 15 seconds while:
 - (i) paying particular attention to removing soil from underneath the fingernails during the cleaning procedure; and
 - (ii) creating friction on the surfaces of the hands and arms or surrogate prosthetic devices for hands and arms, finger tips, and areas between the fingers;
- (d) thoroughly rinse under clean, running warm water; and
- (e) immediately follow the cleaning procedure with thorough drying using a single use towel.

(3) Cottage food operators must clean their hands and exposed portions of their arms immediately before engaging in food preparation, which includes working with exposed food, clean equipment and utensils, and unwrapped single-service and single-use articles, and:

- (a) after touching bare human body parts other than clean hands and clean, exposed portions of arms;
- (b) after using the toilet room;

- (c) after caring for or handling service animals, household pets, or aquatic animals;
 - (d) after coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating, or drinking;
 - (e) after handling soiled equipment or utensils;
 - (f) during food preparation, as often as necessary to remove soil and contamination and to prevent cross contamination when changing tasks;
 - (g) when switching between working with raw food and working with ready-to-eat food;
 - (h) before donning gloves to initiate a task that involves working with food; or
 - (i) after engaging in other activities that contaminate the hands.
- (4) Cottage food operators must keep their fingernails trimmed, filed, and maintained so the edges and surfaces are cleanable and not rough. Unless wearing intact gloves in good repair, a cottage food operator may not wear fingernail polish or artificial fingernails when working with unpackaged food.
- (5) Except for a plain ring such as a wedding band, cottage food operators may not wear jewelry on their arms and hands while preparing food, including medical information jewelry.
- (6) Cottage food operators must wear clean outer clothing to prevent contamination of food, equipment, utensils, linens, and single-service and single-use articles.

AUTH: 50-50-103, MCA
IMP: 50-50-103, 50-50-116, MCA

NEW RULE VII HYGIENIC PRACTICES (1) A cottage food operator must not eat, drink, or use any form of tobacco in the registered area of the domestic residence while preparing a cottage food, or where the contamination of exposed food, clean equipment, utensils, and linens, unwrapped single-service and single-use articles, or other items needing protection can result.

(2) Cottage food operators must provide a barrier between the registered area of their domestic residence and all pets while preparing and packaging cottage food items.

AUTH: 50-50-103, MCA
IMP: 50-50-103, 50-50-116, MCA

NEW RULE VIII MANUFACTURE OF COTTAGE FOOD PRODUCTS

(1) Cottage food products must be safe, unadulterated, honestly presented, and:

(a) must be offered for human consumption in a way that does not mislead or misinform the consumer;

(b) food or color additives and colored overwraps may not be used to misrepresent the true quality of a cottage food product, although dying cookies or other similar products and/or wrapping them for a theme such as a green cookie for St. Patrick's Day or a popcorn ball wrapped in red plastic for Christmas is allowed.

(2) Food must be obtained from approved sources, including:

- (a) retail and wholesale establishments licensed by the state of Montana;
- (b) fluid and dry milk products must:
 - (i) be obtained pasteurized; and
 - (ii) comply with grade A standards.
- (3) Eggs and dairy ingredients must be stored under refrigeration.
- (4) Upon receiving food packages from an approved source, food packages must be maintained in good condition and protect the integrity of the contents so the food is not exposed to adulteration or potential contaminants.
- (5) Cottage food operators must minimize bare hand and arm contact with exposed food that is not in a ready-to-eat form.
- (6) Cottage food operators may not contact exposed, ready-to-eat food with their bare hands, and must use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment.
- (7) A cottage food operator may not use a utensil more than once to taste cottage food products or ingredients that are to be sold or served.
- (8) Food contact surfaces must be easily cleanable.
- (9) Food must only contact surfaces of equipment and utensils that are cleaned and sanitized as specified:
 - (a) equipment food-contact surfaces and utensils must be clean to sight and touch;
 - (b) food-contact surfaces of cooking equipment and pans must be kept free of encrusted grease deposits and other soil accumulations.
- (10) Toxic chemicals such as soap and concentrated bleach must be stored in a way that will not contaminate food, food preparation areas, and food contact surfaces.

AUTH: 50-50-103, MCA

IMP: 50-50-103, 50-50-116, MCA

NEW RULE IX REGISTRATION REQUIREMENTS (1) Registration must follow the requirements provided in 50-50-117, MCA.

- (2) The registrant must provide their name, mailing address, phone number, and e-mail address.
- (3) The registrant must provide a detailed description of cottage food product manufacturing process including equipment and utensils to be used.
- (4) The registrant must dispose of sewage through an approved facility that is:
 - (a) a public sewage treatment plant; or
 - (b) an individual sewage disposal system that is operated according to law.
- (5) The recipe for each product must be submitted with the application for review and kept on file at the cottage food operation location. Ingredient lists are subject to public disclosure, but recipes are proprietary and are not subject to public disclosure.
- (6) The registrant must demonstrate that the water for the cottage food operation is either:
 - (a) from an approved public water system; or

(b) meets minimum drinking water standards from a certified laboratory by providing results for total coliform and nitrates from the private well serving the domestic residence that is being registered for the cottage food operation;

- (i) nitrates must be below 10 mg/L from a sample within the last 12 months;
- (ii) total coliforms must be absent from a sample within the last 6 months;
- (iii) failure to meet minimum drinking water standards will result in registration being withheld until samples are provided that meet the minimum nitrate and total coliform standards in this rule.

(7) A registration fee of \$40.00 must be paid to the county in which the cottage food operation is registered. The cottage food operation must register again with the local regulatory authority and pay the registration fee if it wishes to change the location of its cottage food operation or produce new products. Recipe changes to an existing approved product that necessitate redetermination as to whether that product constitutes a non-potentially hazardous food or contains a major allergen are new products for the purposes of this rule.

(8) A department-approved certificate of registration will be provided to each new registrant. A certificate of registration must be made available to a local health authority upon request when a cottage food operator is vending to the public.

AUTH: 50-50-103, MCA

IMP: 50-50-103, 50-50-116, 50-50-117, MCA

NEW RULE X ENFORCEMENT AND INSPECTIONS (1) Cottage food operations will be inspected according to the requirements of 50-50-301(3), MCA.

(2) Cottage food operators in violation of this subchapter are subject to enforcement action in accordance with Title 50, chapter 50, part 1, MCA.

AUTH: 50-50-103, MCA

IMP: 50-50-103, 50-50-301, 50-50-302, MCA

NEW RULE XI SAMPLES (1) A cottage food operator must furnish cottage food product or ingredient samples for analysis upon request of the regulatory authority when the food is suspected of being associated with an illness or outbreak.

AUTH: 50-50-103, MCA

IMP: 50-50-302, 50-50-303, MCA

4. STATEMENT OF REASONABLE NECESSITY

Summary of Proposed Rules

The Department of Public Health and Human Services (the department) is proposing new rules to regulate the cottage food industry. The proposed cottage food rules are intended to create a safe environment for the production and sales of food produced in a home kitchen. The rules limit the types of food that can be produced to specific non-potentially hazardous foods while leaving open the opportunity for cottage food operators to propose other types of foods that can be reviewed on a case-by-case

basis by the department in consultation with local regulatory authorities. The rules also specify parameters for labeling that include a sample label. Lastly a registration fee is established along with registration requirements. The proposed fee is \$40.00 for the initial registration and an additional \$40.00 fee for any significant changes arising from proposed production of new products, substantially altering existing approved products, or changing the location of a cottage food operation.

Proposed New Rules

The proposed new rules consist of eleven new rules, having the following proposed titles:

- 1) Purpose – this rule provides purpose and context for the rest of the subchapter along with core statutory citations, as they are very specific and will be used in conjunction with statute.
- 2) Definitions – this rule defines important terms that are not defined in statute.
- 3) Approved Cottage Food Products – this rule describes which cottage food products foods will be allowed in cottage food production in addition to what is provided in statute.
- 4) Labeling – this rule primarily cites the statute which gives specifics as to what needs to be on a cottage food label, and it provides a sample label.
- 5) Cottage Food Operator Health – this rule details those circumstances when a cottage food operator must not work with food; specifically, when they are contagious with a communicable disease.
- 6) Personal Cleanliness – this rule specifies how a cottage food operator should wash and maintain personal cleanliness in order to limit diseases that are generally spread through the oral-fecal route.
- 7) Hygienic Practices – this rule details specific practices that are prohibited such as pets in the kitchen while preparing food and smoking and drinking while packaging food.
- 8) Manufacture of Cottage Food Products – this rule details how cottage food items should be prepared and where they, or the food elements comprising the cottage food items, should be stored and from where items must be obtained.
- 9) Registration Requirements – this rule describes the information an individual must provide in order to be approved by the local regulatory authority to operate a cottage food operation.
- 10) Enforcement and Inspections – this rule cites the enforcement and inspection sections provided in statute.
- 11) Samples – this rule details how and when cottage food product or ingredient samples must be provided to the local regulatory authority.

Rule Necessity

The 64th Montana Legislature passed House Bill 478 which grants a person the ability to make food in their home kitchens and then sell this food directly to consumers if registered and approved by the regulatory authority as a cottage food operation. House Bill 478 also extends the department's rulemaking authority

regarding cottage food operations and directs the department to adopt administrative rules consistent with the legislative intent of the bill. The above-described eleven rules are necessary to ensure that the cottage food industry in Montana is administered in a way that is safe to the public and so consumers in Montana do not suffer adverse health effects from consuming food made by the cottage food industry.

Approach Taken to Writing Rules

HB 478 specifically states that whenever possible the cottage food rules should reflect the 2013 FDA Food Code (Food Code). The Food Code identifies five areas that are commonly implicated in disease: improper holding temperatures, inadequate cooking, contaminated equipment, food from unsafe sources, and poor personal hygiene. The department conducted an extensive review of the Food Code and determined which of those rules in the Food Code applied best to Montana home kitchens and would prevent outbreaks of disease from the above-listed sources.

Fiscal Impact

These rules are intended to provide basic health and safety standards for a newly recognized industry in Montana. The fiscal impact of these rules on cottage food operations should be the minor costs associated with conducting a small business, such as the inclusion of a one-time cottage food operator registration fee of \$40.00, the purchase of a barrier to human contact (such as deli tissues, tongs, or gloves) for ready to eat foods, and the purchase of single-use paper towels for drying hands after washing. NEW RULE IX does provide for an additional registration fee to be paid by a cottage food operator if that operator significantly changes the nature of their operation from what has been previously approved by the regulatory authority or if the operator changes location of the cottage food operation.

The cost to local health departments will include the time needed to review new cottage food operator's registration materials. This review time will vary based on the operator's proposed recipes and the number of proposed foods that the cottage food operator plans to make. Hourly cost of an employee's time will vary by county and the department estimates each review will take 1-2 hours to complete.

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, and must be received no later than 5:00 p.m., August 27, 2015.

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, apply and have been fulfilled. The primary bill sponsor was notified by mail on July 30, 2015.

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/ Nicholas Domitrovich
Nicholas Domitrovich, Attorney
Rule Reviewer

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

Certified to the Secretary of State July 20, 2015.

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

In the matter of the amendment of)
ARM 37.85.104 and 37.85.105)
pertaining to updating the fee)
schedules for adult and children's)
mental health fee schedules)

NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENT

TO: All Concerned Persons

1. On August 19, 2015, at 1:30 p.m., the Department of Public Health and Human Services will hold a public hearing in Room 207 of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana, to consider the proposed amendment of the above-stated rules.

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 August 12, 2015, 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 rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

37.85.104 EFFECTIVE DATES OF PROVIDER FEE SCHEDULES FOR MONTANA NON-MEDICAID SERVICES (1) The department adopts and incorporates by reference the fee schedule for the following programs within the Addictive and Mental Disorders Division and Developmental Services Division on the dates stated:

(a) and (b) remain the same.

(c) Youth respite care services, ~~reimbursement for services~~ as provided in ARM ~~37.87.2233~~ 37.87.2203, is effective ~~July 1, 2015~~ October 1, 2015.

(2) remains the same.

AUTH: 53-2-201, 53-6-101, 53-6-113, MCA

IMP: 53-2-201, 53-6-101, 53-6-111, MCA

37.85.105 EFFECTIVE DATES, CONVERSION FACTORS, POLICY ADJUSTERS, AND COST-TO-CHARGE RATIOS OF MONTANA MEDICAID PROVIDER FEE SCHEDULES (1) remains the same.

(2) The department adopts and incorporates by reference, the resource-based relative value scale (RBRVS) reimbursement methodology for specific providers as described in ARM 37.85.212 on the date stated.

(a) and (b) remain the same.

(c) Policy adjustors are effective July 1, 2015. The maternity policy adjustor is 112%. The family planning policy adjustor is 105%. The psychological testing for youth policy adjustor is 145%. The psychological testing policy adjustor applies only to psychologists.

(d) through (4) remain the same.

(5) The department adopts and incorporates by reference, the fee schedule for the following programs within the Addictive and Mental Disorders Division on the date stated:

(a) and (b) remain the same.

(c) Home and community-based services for adults with severe disabling mental illness, reimbursement, as provided in ARM 37.90.408, is effective ~~July 1, 2015~~ October 1, 2015.

(d) remains the same.

(6) The department adopts and incorporates by reference, the fee schedules for the following programs within the Developmental Services Division, on the date stated:

(a) Mental health services for youth, as provided in ARM 37.87.901 in the Medicaid Youth Mental Health Services Fee Schedule, is effective ~~July 1, 2015~~ October 1, 2015.

(b) and (c) remain the same.

AUTH: 53-2-201, 53-6-113, MCA

IMP: 53-2-201, 53-6-101, 53-6-402, MCA

4. STATEMENT OF REASONABLE NECESSITY

Section 53-6-111, MCA, requires the Department of Public Health and Human Services (the department) to establish the Montana Medicaid provider reimbursement rates. The department establishes rates based on the estimated demand for services, the legislative appropriation, and federal matching funds. Rates are stated in program fee schedules and rates are changed by revising the fee schedule as of the stated effective date of the schedule. The department adopts fee schedules and fee schedule changes by amending ARM 37.85.105.

The department also sets provider reimbursement rates for some services not paid for as part of the Medicaid program. The fee schedules and effective date are stated in ARM 37.85.104.

SUMMARY OF PROPOSED AMENDMENTS TO ARM 37.85.104 AND 37.85.105

These summaries are categorized according to the following divisions: Developmental Services Division, Children's Mental Health Bureau (DSD CMHB) and the Addictive and Mental Disorders Division (AMDD).

Summary of Proposed Amendments - DSD CMHB

ARM 37.85.104 and 37.85.105

The department is proposing to amend the rates established in the Medicaid Youth Mental Health Fee Schedule, Individuals Under 18 Years of Age, to change the date from July 1, 2015 to October 1, 2015. Pursuant to 45 CFR 162.1000, the department is required to use applicable medical data code sets as described in 45 CFR 162.1002, Medical data code sets. Per the Health Care Financing Administration Common Procedure Coding System (HCPCS), adopted in 45 CFR 162.1002, the code currently used for the Extraordinary Needs Aide Service (ENA), which is S5145 UD, is defined as a "per diem" or daily rate and cannot be paid at an hourly rate. In order to be in compliance with 45 CFR 162.1002, Medical data code sets, it is necessary for the department to amend procedure code S5145 UD to H2019 TG, which is a 15 minute unit. Providers will need to begin billing for ENA using H2019 TG with a 15 minute unit effective October 1, 2015.

In ARM 37.85.104, the department is proposing to amend the ARM reference for non-Medicaid Respite Care Service from ARM 37.87.2233 to ARM 37.87.2203 and add the word "care" to the description of the service. In MAR Notice No. 37-713, the department is proposing to repeal ARM 37.87.2233 and combine the non-Medicaid Respite Care Services and the Children's Mental Health Bureau's Non-Medicaid Services Program Provider Manual.

In ARM 37.85.105, the department is proposing to amend 37.85.105(2)(c) to clarify that the psychological testing policy adjuster only applies to psychologists. This is not a change in rates or current policy. The clarification is consistent with the intent of the policy adjuster to increase access to psychologists for psychological testing.

Fiscal Impact

There is no fiscal impact to these changes.

Summary of Proposed Amendments - AMDD, Mental Health Services Bureau

ARM 37.85.105

The Severe Disabling Mental Illness Home and Community-Based Services waiver program is discontinuing the supported living bundled service. This fee schedule change will be effective October 1, 2015.

Fiscal Impact

Two providers will be impacted by discontinuing the bundled service. The 26 waiver members will continue to receive services and should not see any difference in the delivery of the service. The services received are personal assistance and

habilitation aid which are currently provided under the bundled service. The two providers can continue providing services but will have to unbundle the services and request reimbursement using the other services listed on the fee schedule.

The fiscal impact, if any, is unknown but is expected to be minimal.

5. The department intends to adopt these rule amendments effective October 1, 2015.

6. 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, and must be received no later than 5:00 p.m., August 27, 2015.

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

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 the contact person in 6 above or may be made by completing a request form at any rules hearing held by the department.

9. An electronic copy of this proposal notice is available 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 department has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses.

12. With regard to the requirement of Chapter 453(1), Session Laws of Montana (2015), the department has determined this is a rule implementing rates and the performance-based measurements do not apply.

/s/ Geralyn Driscoll
Geralyn Driscoll, Attorney
Rule Reviewer

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

Certified to the Secretary of State July 20, 2015.

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 37.87.102, 37.87.901,	)	PROPOSED AMENDMENT AND
37.87.903, 37.87.1303, 37.87.1313;	)	REPEAL
and the repeal of ARM 37.87.723)	
pertaining to the revision of)	
authorization requirements for)	
Medicaid Mental Health Services for)	
Youth)	

TO: All Concerned Persons

1. On August 19, 2015, at 10:00 a.m., the Department of Public Health and Human Services will hold a public hearing in Room 207 of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana, to consider the proposed amendment and repeal of the above-stated rules.

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 August 12, 2015, 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 rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

37.87.102 MENTAL HEALTH SERVICES (MHS) FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE (SED), DEFINITIONS As used in this chapter, the following terms apply:

~~(1) "Accredited secondary school" means a secondary school located in the state of Montana accredited in accordance with Montana Board of Public Education standards for secondary education or the Northwest Accreditation Commission.~~

(2) "Licensed health care professional" means:

(a) a licensed physician;

(b) a physician assistant-certified; or

~~(c) an advanced practice registered nurse who is authorized to prescribe medication within the scope of the license.~~

(3) through (5) remain the same, but are renumbered (1) through (3).

~~(6) "Outpatient therapy services" means the provision of psychotherapy and related services by a licensed mental health professional acting within the scope of the professional's license.~~

(7) through (10) remain the same, but are renumbered (4) through (7).

~~(11) (8) "Youth" means, for Medicaid services, a person 17 years of age and younger or a person who is up to 20 years of age and is enrolled in an accredited secondary school with the exception for PRTF services, a person 17 years of age or younger. A youth may receive Psychiatric Residential Treatment Facility services through the age of 17.~~

AUTH: 53-2-201, 53-6-113, 53-21-703, MCA

IMP: 53-1-601, 53-1-602, 53-1-603, 53-2-201, 53-21-201, 53-21-202, 53-21-701, 53-21-702, MCA

37.87.901 MEDICAID MENTAL HEALTH SERVICES FOR YOUTH, REIMBURSEMENT (1) remains the same.

(2) For services for which Medicare does not specify Relative Value Unit (RVU) as provided in ARM ~~37.87.212~~ 37.85.212, the department determines the Medicaid fee for children's mental health services as follows:

(a) and (b) remain the same.

AUTH: 53-2-201, 53-6-113, MCA

IMP: 53-2-201, 53-6-101, 53-6-111, MCA

37.87.903 MEDICAID MENTAL HEALTH SERVICES FOR YOUTH, AUTHORIZATION REQUIREMENTS (1) remains the same.

(2) Medicaid mental health services for youth requiring approval prior to treatment, prior authorization, or continued stay authorization will be reimbursed only if the following requirements are met:

(a) the youth has been determined to have a serious emotional disturbance defined in the ~~Children's Mental Health Bureau, Medicaid Services Provider Manual~~ adopted and incorporated by reference in (8), which has been verified by the department or designee; or

(b) through (7) remain the same.

(8) In addition to the requirements contained in rule, the department has developed and published a provider manual entitled Children's Mental Health Bureau, Medicaid Services Provider Manual (Manual), dated ~~September 19, 2014~~ October 1, 2015, for the purpose of utilization management. The department adopts and incorporates by reference the Children's Mental Health Bureau, Medicaid Services Provider Manual, dated ~~September 19, 2014~~ October 1, 2015. A copy of the manual may be obtained from the department by a request in writing to the Department of Public Health and Human Services, Developmental Services Division, Children's Mental Health Bureau, 111 N. Sanders, P.O. Box 4210, Helena, MT 59604-4210 or at www.dphhs.mt.gov/publications/index.shtml#cmh <http://dphhs.mt.gov/dsd/CMB/Manuals.aspx>.

(9) and (10) remain the same.

AUTH: 53-2-201, 53-6-113, MCA
IMP: 53-2-201, 53-6-101, 53-6-111, MCA

37.87.1303 HOME AND COMMUNITY-BASED 1915(c) SERVICES BRIDGE WAIVER FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE: FEDERAL AUTHORIZATION AND AUTHORITY OF STATE TO ADMINISTER PROGRAM

(1) In 2007, the U.S. Department of Health and Human Services (HHS) provided a grant to the Montana Department of Public Health and Human Services (department), ~~under Section 6063 of the Deficit Reduction Act of 2005,~~ to foster the establishment of a home and community-based (HCBS) Psychiatric Residential Treatment Facility (PRTF) Demonstration waiver program (HCBS PRTF waiver), approved by the Centers of Medicare and Medicaid Services (CMS). ~~The purpose of the HCBS PRTF waiver was to avoid admitting youth with serious emotional disturbance into psychiatric residential treatment facilities.~~ The HCBS PRTF waiver authority ~~ends~~ ended September 30, 2012.

(2) ~~The Centers for Medicare and Medicaid Services (CMS) is allowing~~ allowed Montana the opportunity to continue to provide 1915(c) HCBS waiver services ~~authorized by section 6063(b)(2) of the Deficit Reduction Act of 2005, only with respect to youth already enrolled in the existing HCBS PRTF waiver program on the termination date of that program and only for the duration of their current eligibility as established under these rules. These youth may continue to receive services through the 1915(c) HCBS bridge waiver, in accordance with these rules and the agreement with CMS, for the continued delivery of home and community services.~~

(3) In accordance with the state and federal statutes and rules generally governing the provision of Medicaid-funded home and community-based services and federal-state agreements specifically governing the provision of the Medicaid-funded home and community-based services to be delivered through this program, and within the fiscal limitations of the funding appropriated and available for the program, the department may determine within its discretion the following features of the program:

(a) through (d) remain the same.

~~(i) Only those youth who were already enrolled in the HCBS PRTF waiver for youth with serious emotional disturbance on September 30, 2012 are eligible to be enrolled in the HCBS bridge waiver for youth with serious emotional disturbance.~~

(e) and (f) remain the same.

(4) Only those youth who were already enrolled in the HCBS PRTF waiver for youth with serious emotional disturbance on September 30, 2012, through the duration of their current eligibility, as established under these rules, are eligible to enroll in the HCBS bridge waiver for youth with serious emotional disturbance.

~~(4) (5)~~ The 1915(c) home and community-based bridge waiver services for youth with serious emotional disturbance must be delivered in accordance with the requirements and limitations of the Home and Community-Based Services Bridge Waiver for Youth with Serious Emotional Disturbance Policy Manual dated ~~July 1, 2013~~ October 1, 2015.

(5) (6) The department adopts and incorporates by reference the 1915(c) HCBS Bridge Waiver for Youth with Serious Emotional Disturbance Policy Manual, dated ~~July 1, 2013~~ October 1, 2015. A copy of the manual may be obtained from the Department of Public Health and Human Services, Developmental Services Division, Children's Mental Health Bureau, 111 N. Sanders, P.O. Box 4210, Helena, MT 59604 or at <http://www.dphhs.mt.gov/mentalhealth/children/> <http://dphhs.mt.gov/dsd/CMB/Manuals.aspx>.

AUTH: 53-2-201, 53-6-113, 53-6-402, MCA
IMP: 53-6-402, MCA

37.87.1313 1915(i) HOME AND COMMUNITY-BASED SERVICES (HCBS) STATE PLAN PROGRAM FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE: FEDERAL AUTHORIZATION AND AUTHORITY OF STATE TO ADMINISTER PROGRAM (1) through (3) remain the same.

(4) The 1915(i) home and community-based services state plan program for youth with serious emotional disturbance must be delivered in accordance with the requirements and limitations of the 1915(i) HCBS State Plan Program for Youth with Serious Emotional Disturbance Policy Manual dated ~~December 13, 2013~~ October 1, 2015.

(5) The department adopts and incorporates by reference the 1915(i) HCBS State Plan Program for Youth with Serious Emotional Disturbance Policy Manual, dated ~~December 13, 2013~~ October 1, 2015. A copy of the manual may be obtained from the Department of Public Health and Human Services, Developmental Services Division, Children's Mental Health Bureau, 111 N. Sanders, P.O. Box 4210, Helena, MT 59604 or at <http://www.dphhs.mt.gov/mentalhealth/children/> <http://dphhs.mt.gov/dsd/CMB/Manuals.aspx>.

AUTH: 53-6-113, MCA
IMP: 53-6-101, MCA

4. The department proposes to repeal the following rule:

37.87.723 MENTAL HEALTH CENTER SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE (SED), PROVIDER REQUIREMENTS found on page 37-21339 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-101, 53-6-113, MCA
IMP: 53-2-201, 53-6-101, 53-6-111, MCA

5. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services, Children's Mental Health Bureau (the department) proposes to amend ARM 37.87.102, 37.87.901 37.87.903, 37.87.1303, and 37.87.1313. The department is proposing the repeal of ARM

37.87.723. These rules specify provider participation, utilization review, and program requirements and define the basis and procedure the department will use to pay children's Medicaid mental health services. The proposed rulemaking is the result of feedback received by the department from providers, the department's required periodic review of its administrative rules and is a continuation of the Children's Mental Health Bureau's efforts to incorporate certain regulations, program policies, and procedures into the Children's Mental Health Bureau Medicaid Services Provider Manual (Manual), which is adopted and incorporated by reference in ARM 37.87.903.

Specifically, the department proposes the following amendments:

ARM 37.87.102:

Move definitions from this rule into the definition section of the Manual, remove the definition of "Outpatient Therapy" as redundant, and amend the definition of "Youth" to provide consistency in the language between the definition of "youth" and the proposed language for Serious Emotional Disturbance (SED) criteria. These "housekeeping" amendments are necessary because they continue an intentional process to move defining terms into the Manual, and provide a concise reference, which is consistent with departmental goals for improved rule writing and clear and understandable policy manuals.

ARM 37.87.901:

Amending the ARM reference in (2) from ARM 37.87.212 to 37.85.212. This amendment is necessary to correct a typographical error in the rule number.

ARM 37.87.903:

Updating the effective date of the Manual as a result of proposed amendments to the Manual. The proposed Manual revisions, effective October 1, 2015, are described as follows:

Chapter 1- Introduction, Overview, and Definitions

- Removal of all information regarding the rationale for the changes to the Manual version that became effective September 19, 2014. The department has deemed the removal of this information necessary as it is not relevant to this proposed Manual revision.
- In the Overview section, update the web site of the claims instructions to the most current address.
- Addition of a Definitions section for the Manual to relocate and consolidate into one location all the terms that are defined in the Manual, which improves navigability of the Manual.

Chapter 2- CANS-MT, Coordination, Discharge

Montana Child and Adolescents Needs and Strengths Functional Assessment Subchapter

- The definitions for CANS-MT and Montana CANS System (MCS) are removed from this section and relocated into the proposed definitions section of the Manual. The department has deemed this change necessary to provide one point of reference for definitions within the Manual to improve navigability of the Manual.
- The language regarding trained staff requirements in section (3) has been revised and renumbered as (1). This amendment is necessary to clarify that providers must have staff that are trained and certified as CANS-MT users, in addition to the provider.
- Section (4), referring to time frame requirements which were put in place during the initial phase of implementing the CANS-MT, has been removed. The amendment is necessary because these time frames have passed and are no longer relevant.
- The CANS-MT admissions, update, and discharge assessment requirements for youth that are transferring services, as well as being provided concurrent services, have been revised. This section is renumbered from (5) to (2). This amendment is necessary based upon provider feedback that the requirements were unclear.
- Section (6) is renumbered to (3) and additional guidance is given concerning the addition of the provider's CANS-MT administrator into the MCS. This amendment attempts to resolve questions the department received from providers assigning their provider administrator roles in the MCS.
- Additional requirements for the coordination and use of the MCS have been added as (5), (6) and (7) as further guidance for the assignment of primary provider and secondary provider in the MCS when there is more than one provider serving a youth and the roles of the primary and secondary providers. This amendment is necessary with the implementation of the MCS to avoid confusion and facilitate communication between providers.
- In the closing paragraph, the term "encourages" has been revised to "recommends" and a statement added which identifies the CANS-MT's intended purpose. The department has deemed these changes necessary to describe better departmental expectations for providers in order to avoid confusion.
- The link to the Children's Mental Health Bureau CAN-MT web site has been updated to the most current web site address.

Coordination of Services Provided Concurrently Subchapter

- Remove language from the section's introductory paragraph regarding habilitation services because Children's Mental Health Bureau Services are rehabilitative rather than habilitative services. This terminology is out of date

with industry practices and does not apply to the content of this Manual in its current state.

- Add language in subsection (1) to describe more specifically provider requirements when providing community services concurrently with other providers or services. These changes are the result of provider feedback to clarify that coordination of services must happen even with providers and services which are outside the array of the services provided through the Children's Mental Health Bureau.
- Add section (7), which references ARM 37.85.406 as the rule giving authority to the department to recover payment. The department added this reference to ensure providers are aware of this rule when coordinating potentially duplicative services.

Discharge from Services Subchapter

- Strike the entire first paragraph of this section and add this identical language under the heading "Discharge after a Denial". The intent of this amendment is to place the information where it is applicable and make this information easier for providers to locate.
- Add language to the first paragraph which describes the purpose for the Discharge Notification form and the process for submitting the Discharge Notification form to the department or its designee. The department also proposes to remove the table identifying discharge notification form requirements for each service and relocate that identical language for each service into the respective sections of the Manual applicable to that service. This amendment is the result of the periodic review of the Manual and feedback from providers and is necessary to avoid meeting this service requirement.

Chapter 3 – Clinical Guidelines and Services

Prompted by the upcoming transition from International Statistical Classification of Diseases and Related Health Problems (ICD) ICD-9 to ICD-10, the department took the opportunity to review the existing covered diagnoses and functional impairment requirements included in the SED criteria for accuracy and application to the population CMHB serves. The department proposes to amend the functional impairment criteria so that it applies from ages 0 to the age of 18 rather than having two separate age-dependent sets of functional impairment requirements. The department also proposes the following amendments to the list of covered diagnoses:

Diagnoses that were removed are as follows:

- Sexual disorders; 302.2, 302.3, 302.4, 302.82, 302.83, 302.84, 302.89.
- Gender identity disorder has been replaced with gender dysphoria in adolescents (F64.1 or 302.85), gender dysphoria in children (F64.2 or 302.6) and other specified gender dysphoria (F64.8 and 302.6).

Diagnoses that were added are as follows:

- schizophreniform disorder (F20.81, 295.40);
- disruptive mood dysregulation disorder (F34.8 and 296.99);
- avoidant/restrictive food intake disorder (F50.8 and 307.59);
- panic disorder (F41.0 and 300.01).

Services Subchapter

Acute Inpatient Hospital Section

- Certificate of Need - remove doctor and mid-level physician references and revise to only physician in the Certificate of Need section. The department has deemed this change necessary to clarify this requirement for providers and provide for consistency between the Manual and the Code of Federal Regulations (CFR).
- Prior Authorization - remove the prior authorization requirements as a prior authorization is no longer required for this service.
- Required Forms – move the time frame requirements for submission of Discharge Notification Form from a table containing all form submission deadlines to this specific section.
- Additional information - remove the statement from the Manual regarding Acute Inpatient Hospital Services compliance with the CFR because it is already in the CFR.

Psychiatric Residential Treatment Facility (PRTF) Section

- Definition - Add a statement to the definition of PRTF describing that a youth must meet Serious Emotional Disturbance Criteria (SED) to receive PRTF services. The department has deemed this change necessary to clarify this requirement for providers and provide for consistency between the Manual and the Code of Federal Regulations (CFR).
- Prior authorization - add requirements for admission to an out-of-state PRTF and remove these requirements from the additional information section. The department has deemed these changes necessary to be more specific in the definition and to provide one location within the PRTF section of the Manual for prior authorization information, providing clarification for providers.
- Service Requirements (Introduction) – specify that it is a requirement for a PRTF to be in compliance with all state and federal regulations in order to provide service. This change is necessary to clarify this requirement for providers and provide for consistency between the Manual and the CFR.
- Service Requirements (1) - add the requirement for a physician to perform an evaluation within 24 hours of the admission of a youth. This change is necessary to align the content of the Manual with the CFR.
- Service Requirements (2) - clarify the requirement for a provider's treatment team to involve a youth's legal representatives unless it is clinically

inappropriate or otherwise not feasible. This change is necessary based on provider feedback to the department that this requirement was unclear.

- Service Requirements (4) - move language from ARM 37.87.1217, as described in pending MAR Notice No. 37-715 and add the word "minimum" to the medication amount required at discharge. This amendment is necessary to continue moving service requirements into the Manual. Additionally, the department desires to provide clarification to PRTFs regarding medication amounts after the department determined some providers were dispensing medication the youth was prescribed at the PRTF because of a misunderstanding that the seven-day supply of medication was a maximum not the minimum.
- Service Requirements (7) - clarify the requirement for written notification to a school district of credits earned by a youth who is discharging from a PRTF. This amendment is necessary, based on feedback received from providers and schools that there is ambiguity of communication in this area of the continuum of care.
- Required Forms - Add a reporting deadline requirement for submission of discharge notification forms to increase providers' reporting compliance. This new requirement is necessary because the department has not specified the need for the timely preparation and submission of required discharge notification forms.
- Information - remove the PRTF Denial Letter form as a required form. This is necessary because the department has discontinued this self-imposed process to require denial letters from the three in-state PRTFs prior to a youth being eligible for out of state PRTF placement because after further review, the process was non-functional.
- Information - add the requirement for seeking an eligibility determination from the department's developmental disability program when providing care to youth with SED and DD. This language is being moved into the Manual from ARM 37.87.1217, as a part of MAR Notice No. 37-715, in order to facilitate continuity of care, increase likelihood of access to services, and increase provider understanding of the requirement.

PRTF - Assessment Services (PRFT-AS) Section

- Definitions - Add a definition for PRTF-AS, which is necessary in order to differentiate this type of service provided by a PRTF from other PRTF services.
- Service requirements section - add a statement of requirement that a PRTF must comply with all state and federal regulations. The department has deemed this change necessary to clarify this requirement for providers and provide for consistency between the Manual and the Code of Federal Regulations (CFR).
- Service Requirements - specify the requirement for written notification to a school district of credits earned by a youth who is discharging from a PRTF. This amendment is necessary, based on feedback received from providers

and schools that there is ambiguity of communication in this area of the continuum of care.

Partial Hospital Services (PHP) Section

- Service Requirements - clarify the requirement for a provider's treatment team to involve a youth's legal representatives unless it is clinically inappropriate or otherwise not feasible. This change is necessary based on provider feedback to the department that the use of the term "pre-admission caregivers" was not specific enough.
- Service Requirements - further amendments to this section are proposed and necessary as "housekeeping," are a result of the department's periodic review of its rules, and are consistent with departmental goals for improved rule writing and clear and understandable policy manuals.

Therapeutic Group Home (TGH) Section

- Prior Authorization - add a prior authorization (PA) requirement and specify the process for requesting a PA. Due to a loss of funding for the utilization review contract, the department discontinued the PA requirement, effective November 2013. Since the discontinuation, the department received feedback from providers that PAs are preferred for initial stays to ensure the department concurs with a provider when a youth meets the medical necessity and admission criteria for TGH services prior to receiving such services, in order to negate a risk of take back upon a retroactive review. To correct this PA issue, the department determined it necessary to create an internal process for utilization review and, in response to the provider feedback, desires to reinstate a PA review process.
- Prior Authorization - provide clarification that a provider may only request a continued stay between 5 and 10 business days prior to the expected discharge date of a youth. The department received feedback from providers who stated that it was unclear that a continued stay would be denied if submitted earlier than 10 business days prior to the discharge of a youth.
- Prior Authorization - update the turnaround time for the psychiatrist review and determination from two to four days. The department is bringing additional utilization review responsibilities in house and as such the turnaround time must be kept reasonable in order for the bureau to meet the deadlines.
- Further amendments to the section are proposed and necessary as "housekeeping," are a result of the department's periodic review of its rules, and are consistent with departmental goals for improved rule writing and clear and understandable policy manuals.

Home Support Services (HSS) Section

- Prior Authorization - remove information pertaining to the "grandfather date" for the lifetime limit of services a youth may receive. This amendment is necessary because the date referenced is no longer applicable for the department's processing of claims.
- Prior Authorization - add information regarding how claims are processed for the U.S. Department of Health and Human Services (HHS). Because Medicaid allows 365 days in which to file a clean claim, providers need to be aware that claims are paid first come first served regardless of the date of service.
- Continued Stay Criteria - modify continued stay criteria to provide that the Children's Mental Health Bureau clinical team will complete reviews for continued stay requests so providers are informed of where to send a continued stay request.
- Continued Stay Criteria - amend continued stay criteria to remove the requirement that a youth must still meet admission criteria and add criteria more applicable to a continued stay. These amendments were determined necessary upon review by the department that a youth having completed 365 days of HSS services should reflect improvement from when the youth first began to receive services, rendering the admission criteria null for continued stays.
- Continued Stay Review - specify the time frame for submission of a continued stay request. This new requirement is necessary because the department received feedback from providers that the department has not adequately specified the need for the timely preparation and submission of these requests.

Outpatient Therapy (OP) Section

- Admission Criteria - add the requirement that a youth must be at least two years of age in order to receive OP. Upon review by the department, it was determined that OP is not appropriate for a youth who has communication skills below the level of a two year old.
- Service Requirements - add a service requirement that family therapy with a youth under the age of 8 must include education and support for the family on how to respond to the needs of the youth, manage their own emotional state, and build secure attachment. The department determined through provider practices and utilization review that the addition of this specification is necessary to ensure the OP services provided primarily support the mental health of the youth.

Targeted Case Management (TCM) Section

- Medical Necessity Criteria - amend the medical necessity criteria to ensure that youth mental health TCM includes the need for at least one other mental health service. The department contends the amendment is necessary to fix

a possible scenario where, as currently policy provides, a youth could receive TCM without having a mental health need for TCM.

Therapeutic Home Visits (THV) Section

- Prior Authorization - add request deadlines for when a THV may be requested. The amendment is necessary because utilization reviews by the department have shown that guidelines surrounding the request deadlines for the request for a PA were lacking from this subsection of the Manual.

Extraordinary Needs Aide (ENA) Section

- Service Requirement - clarify that ENA may not be used to supplant the staffing requirements of ARM 37.97.903 upon the request of the Surveillance and Utilization Review unit (SURS). In the course of completing TGH audits, SURS identified this as an area of rule that was unclear and it could not audit to this requirement.

Chapter 4 - Determinations

The department proposes minor "housekeeping" amendments regarding procedural matters for a technical denial even though the definition of technical denial has been moved to the definitions section. The department contends the amendments are necessary for procedural clarity and are consistent with departmental goals for improved rule writing and clear and understandable policy manuals.

Chapter 5 - Appeals

The department proposes amending this chapter to improve the department's explanation of administrative review timelines, fair hearings process, and to clarify affected parties' rights. The need for a proposed improved explanation came after the department's review of this technical subject matter, which can be difficult to understand by those who believe they have received an adverse determination by the department. The proposed changes are consistent with departmental goals for improved rule writing and clear and understandable policy manuals.

Chapter 6 - Reviews

The department proposes to add language to specify what a provider must submit in order to request a retrospective review. The department has deemed this change necessary to clarify this requirement for providers and provide for consistency between the Manual and the Code of Federal Regulations (CFR).

ARM 37.87.1303:

The department proposes amending obsolete waiver background language from (1) and (2) and a date reference of the "Home and Community-Based Services Bridge

Waiver for Youth with Serious Emotional Disturbance Policy Manual, dated July 1, 2013." These amendments are necessary because the date-specific language describing the history of the waiver is obsolete and removal of Appendix A from this manual, which lists the current SED criteria, is necessary for the upcoming transition from ICD-9/DSM-IV to ICD-10/DSM-V. Additionally, the department proposes amending the internet link to the manual. Due to a reconfiguration of the department's web site, the Uniform Resource Locator (URL) address listed for the Manual is no longer valid.

ARM 37.87.1313:

The department proposes amending the version date of the "1915(i) HCBS Bridge Waiver for Youth with Serious Emotional Disturbance Policy Manual, dated July 1, 2013." This amendment is necessary to remove Appendix A, which lists the current SED criteria, from this manual due to the transition from ICD-9/DSM-IV to ICD-10/DSM-V. Additionally, the department proposes amending the link to the manual. Due to a reconfiguration of the department's web site, the Uniform Resource Locator (URL) address listed for the Manual is no longer valid.

ARM 37.87.723:

The department proposes to repeal ARM 37.87.723 as Mental Health Center Services provider requirements are located in the administrative rules pertaining to licensure and it is unnecessary to repeat those requirements here.

FISCAL IMPACT

The provider manual incorporates a new definition of serious emotional disturbance (SED) that uses new ICD-10 diagnosis codes. The new definition mostly updates the old ICD-9 diagnosis codes with the associated new ICD-10 code. However, the new SED definition has a few new diagnosis codes added, while some codes are removed from the prior definition. Those diagnosis codes added include: panic disorder, disruptive mood dysregulation disorder (dysthymia), and avoidance/restrictive food intake disorder. Conversely, the new manual language removes most sexual disorder diagnosis codes from the prior SED definition.

There is some risk that the ICD-10 mapping and new diagnosis codes could increase the number of clients that meet the SED definition and increase SED related expenditures. It is unknown if providers will adjust diagnosis coding and claims submission that could result in a fiscal impact. Any fiscal impact is unquantifiable at this time, but is not expected to be substantial.

The manual includes the addition of prior authorization (PA) for initial Therapeutic Group Home (TGH) stays. The initial stay authorization is for up to 180 days. Prior to this change, a continued stay prior authorization is required after 120 days, equating to a potential 60 day increase for initial stays.

Based on historical utilization review information, it is anticipated that approximately 60 initial stays will be denied and expenditures will decline by approximately \$500,000 per year. As an offset, there are approximately 100 continued stays that are denied per year where the number of days in the initial stay service could increase by 60 days (180 days is new initial stay period – 120 days current). The additional 60 days is anticipated to increase costs by nearly \$500,000 per year. The net estimated impact is near neutral.

Inpatient stays were required to have a pass-through PA prior to the new language in the manual. It is not anticipated that removing the PA requirement will impact hospital stays.

6. 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, and must be received no later than 5:00 p.m., August 27, 2015.

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

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 the contact person in 6 above or may be made by completing a request form at any rules hearing held by the department.

9. An electronic copy of this proposal notice is available 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 department has determined that the amendment and repeal of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Cary B. Lund
Cary B. Lund, Attorney
Rule Reviewer

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

Certified to the Secretary of State July 20, 2015.

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the adoption of New Rule I and amendment of ARM 44.5.122 pertaining to fees charged by the Secretary of State) NOTICE OF PUBLIC HEARING ON PROPOSED ADOPTION AND AMENDMENT)

TO: All Concerned Persons

1. On August 20, 2015, at 9:30 a.m., the Secretary of State will hold a public hearing in Room 260, State Capitol Building, Helena, Montana, to consider the proposed adoption and 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 rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Secretary of State no later than 5:00 p.m. on August 6, 2015, 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.

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

NEW RULE I FEES CHARGED BY THE SECRETARY OF STATE (1) Fees charged by the Secretary of State must be collected in advance and are only refundable in the following circumstances:

- (a) if it is determined that the Secretary of State made an error;
- (b) if payment received for a service is clearly an overpayment; or
- (c) if the Secretary of State determines that a refund is warranted based on a case-by-case review of the circumstances.

(2) If it is determined a refund is in order, federal regulatory requirements and state policy require that the refund recipient submit a completed W-9 tax form in order to receive payment. The form is available on the following web site link: <http://sfsd.mt.gov/SAB/AccountingFormsInfo>.

AUTH: 2-15-405, MCA
IMP: 2-15-405, MCA

REASON: In 1993, the Montana Legislature passed House Bill 549, which changed the funding structure for the Secretary of State's Office from an agency that operated on appropriated general fund dollars to an agency that operates as an enterprise account, thereby requiring it to operate on the fees it charges to the customers it serves. Every document filed with the Secretary of State or service performed by the Secretary of State requires staff time to process. Therefore, in general, except in unusual circumstances, fees charged by the office cannot be refunded because staff

time spent providing a service must be compensated. However, the Secretary of State does not charge full compensation for business documents that must be resubmitted to correct deficiencies. In that circumstance, the customer is only charged a 50 percent reprocessing fee. The Secretary of State is proposing this new rule to become effective October 1, 2015.

This rule is reasonably necessary based on the fact that the Secretary of State's office operates like a business and is funded by the fees it collects for the services it provides. Per 2-15-405, MCA, the fees charged must be commensurate with the overall costs of the office and must reasonably reflect the prevailing rates charged in the public and private sectors for similar services.

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

44.5.122 MANUAL AND ONLINE SEARCH FEES

(1) Principal search:

~~(a) State agency \$0.50 per search~~

~~(b) State university no charge~~

~~(c) All other customers 2.00 per search~~

(2) Individual name search:

~~(a) State agency 1.00 per search~~

~~(b) State university no charge~~

~~(c) All other customers 4.00 per search~~

(3) There is no charge for a member of the legislature or a public officer for any search relative to matters pertaining to the member's office.

AUTH: 2-15-403, 2-15-404, 2-15-405, MCA

IMP: 2-15-403, 2-15-404, 2-15-405, MCA, Chap. 348, Sec. 4, L. of 2015

REASON: House Bill 123 passed by the 2015 Montana Legislature prohibits the Secretary of State from charging the Legislature or a public officer for any search relative to matters pertaining to the member's office. This legislative change makes it reasonably necessary to amend this rule to reflect that legislative intent. The Secretary of State is proposing this rule amendment to become effective October 1, 2015.

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 Jorge Quintana, Secretary of State's Office, P.O. Box 202801, Helena, Montana 59620-2801, or by e-mailing jquintana@mt.gov, and must be received no later than 5:00 p.m., August 28, 2015.

6. 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.

7. 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.

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, apply and have been fulfilled. The primary bill sponsor was contacted by letter on July 17, 2015.

/s/ Jorge Quintana
JORGE QUINTANA
Rule Reviewer

/s/ Linda McCulloch
LINDA MCCULLOCH
Secretary of State

Dated this 20th day of July, 2015.

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 4.17.105, 4.17.106, and)
4.17.107 pertaining to Organic)
Application Procedures and Fees,)
Fees for Services, and Annual)
Report and Assessment Fees)

TO: All Concerned Persons

1. On May 28, 2015, the Department of Agriculture published MAR Notice No. 4-14-225 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 602 of the 2015 Montana Administrative Register, Issue Number 10.
2. The department has amended the above-stated rules as proposed.
3. No comments or testimony were received.

/s/ Cort Jensen
Cort Jensen
Rule Reviewer

/s/ Ron de Yong
Ron de Yong
Director
Department of Agriculture

Certified to the Secretary of State July 20, 2015.

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 4.5.206, 4.5.208, 4.5.209, and)
4.5.210 pertaining to the state)
noxious weed list and regulated plant)
list)

TO: All Concerned Persons

1. On May 28, 2015, the Department of Agriculture published MAR Notice No. 4-14-226 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 612 of the 2015 Montana Administrative Register, Issue Number 10.

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

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

COMMENT #1: What about adding other weeds?

RESPONSE #1: Suggestions of additional weeds will be presented to the appropriate noxious weed advisory group at their next meeting to allow the stakeholders and experts to weigh the pros and cons of adding an additional noxious weed to the list.

COMMENT #2: A series of comments support the work and the rule change.

RESPONSE #2: No response necessary as they were supportive of the changes proposed and the program in general.

/s/ Cort Jensen _____
Cort Jensen
Rule Reviewer

/s/ Ron de Yong _____
Ron de Yong
Director
Department of Agriculture

Certified to the Secretary of State July 20, 2015.

BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
MONTANA STATE AUDITOR

In the matter of the adoption of New Rules I through III pertaining to Fire Tax) NOTICE OF ADOPTION
)
)

TO: All Concerned Persons

1. On April 30, 2015, the Commissioner of Securities and Insurance, Montana State Auditor, published MAR Notice No. 6-214 pertaining to the public hearing on the proposed adoption of the above-stated rules at page 394 of the 2015 Montana Administrative Register, Issue Number 8.

2. The department has adopted New Rule I (6.6.4801) exactly as proposed.

3. The department has adopted New Rule II (6.6.4802), and New Rule III (6.6.4803), but with the following changes to the original proposal, stricken matter interlined, new matter underlined:

NEW RULE II (6.6.4802) FIRE PREMIUM ALLOCATION PROCEDURE

(1) remains as proposed.

(2) For each line of business identified in 50-3-109(2), MCA, the following requirements apply to an insurer's reporting obligation under (1):

(a) remains as proposed.

(b) If the percentage of fire premium reported is below the presumptively reasonable allocation, the insurer shall provide the basis for the calculation of fire premium along with any supporting documentation to the CSI. If the CSI accepts the insurer's calculation of fire premium, and in subsequent years the percentage of fire premium remains the same, the insurer is not required to provide such justification to the CSI; ~~and~~ or

(c) through (3) remain as proposed.

AUTH: 33-1-313, MCA

IMP: 33-2-705, MCA

NEW RULE III (6.6.4803) PRESUMPTIVELY REASONABLE ALLOCATIONS (1) through (1)(f) remain as proposed.

~~(g) for surplus lines, 60%;~~

(h) through (p) remain as proposed, but are renumbered (g) through (o).

AUTH: 33-1-313, MCA

IMP: 33-2-705, MCA

4. On May 21, 2015, a public hearing was held on the proposed adoption of the above-stated rules. Comments were received by the May 29, 2015, deadline.

5. The department has thoroughly considered the comments and testimony received. Two commenters provided comments in regard to these rules, raising four issues.

COMMENT NO. 1: One commenter stated that surplus lines insurance should not be included in New Rule III (ARM 6.6.4803), because non-admitted carriers are not required to pay the fire premium tax set forth in 50-3-109, MCA. Instead, fire premium tax is paid by insureds and collected by insurance producers. 33-2-311, MCA.

RESPONSE NO. 1: The CSI agrees that surplus lines insurance has a different process for paying taxes, and should not be included in these rules. The CSI has removed the reference to surplus lines insurance in the final rules.

COMMENT NO. 2: Both commenters state that New Rules I (ARM 6.6.4801) through III (ARM 6.6.4803) would shift the burden of establishing the reasonableness of the fire premium tax allocation from the department onto each insurer. Both commenters state that under the New Rules I (ARM 6.6.4801) through III (ARM 6.6.4803) insurers who do not use the presumptively reasonable allocations will have to develop and defend their own methodologies to justify a different allocation percentage, which may be costly and time-consuming.

RESPONSE NO. 2: The department disagrees that New Rules I (ARM 6.6.4801) through III (ARM 6.6.4803) shift any burden onto insurers. Both commenters misinterpret the current legal framework for paying fire premium tax under 33-2-705, MCA. Currently, insurers provide their proposed fire premium tax allocations to the department, which the department reviews for reasonableness pursuant to 33-2-705(3), MCA. Under that existing statute, the department may require—and has required—particular insurers to justify their allocation percentages, which has been a costly and time-consuming process in the past. Thus, there is no shifting of burdens; the purpose of New Rules I (ARM 6.6.4801) through III (ARM 6.6.4803) is to avoid the burdensome process that already exists as much as possible. In addition, 33-2-705, MCA, requires insurers to determine the percentage of premium attributable to risk of fire, so insurers should have already developed a methodology to determine that percentage. Therefore, these rules do not require any new expenditure of resources by insurers.

COMMENT NO. 3: One commenter opined that New Rules I (ARM 6.6.4801) through III (ARM 6.6.4803) may exceed the statutory authority of the department, because "the insurer shall make a reasonable allocation from the entire premium to the fire portion of the coverage as must be stated in the report" pursuant to 33-2-705(3), MCA.

RESPONSE NO. 3: The department disagrees that these rules exceed the department's authority. There is no conflict between these rules and 33-2-705(3), MCA. Under the new rules, insurers will still determine the allocation of fire premium and report that allocation to the CSI, on a form created by the CSI. The new rules

only address the portion of 33-2-705(3), MCA, uncited by the commenters: "as may be approved or accepted by the commissioner."

COMMENT NO. 4: One commenter asked whether the department has considered alternative approaches, such as issuing guidance to insurers for determining their allocation of fire premium.

RESPONSE NO. 4: The department has considered alternative approaches. One approach to meet its statutory duty to review fire premium allocations for reasonableness would be to allocate more personnel and resources to request and review insurers' methodologies for determining those allocations. The department believes issuing these new rules is in the best interests of the department and insurers. As to the commenter's suggestion of issuing guidance to determine the allocation of fire premium, the department's guidance is contained in New Rule II (ARM 6.6.4802).

6. August 1, 2015 will be the effective date for ARM 6.6.4801 through 6.6.4803. The department shall update the fire premium tax form and apply ARM 6.6.4801 through 6.6.4803 to all fire premium tax filings for the 2015 tax year and later.

/s/ Nick Mazanec
Nick Mazanec
Rule Reviewer

/s/ Jesse Laslovich
Jesse Laslovich
Chief Legal Counsel

Certified to the Secretary of State July 20, 2015.

BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
MONTANA STATE AUDITOR

In the matter of the amendment of) NOTICE OF AMENDMENT AND
ARM 6.6.3104A, and the adoption of) ADOPTION
New Rule I pertaining to Long-Term)
Care)

TO: All Concerned Persons

1. On April 30, 2015, the Commissioner of Securities and Insurance (CSI), Montana State Auditor, published MAR Notice No. 6-215 pertaining to the public hearing on the proposed amendment and adoption of the above-stated rules at page 398 of the 2015 Montana Administrative Register, Issue Number 8.

2. The Commissioner of Securities and Insurance, Montana State Auditor, has amended ARM 6.6.3104A, and adopted New Rule I (ARM 6.6.3125) exactly as proposed.

3. On May 20, 2015, a public hearing was held on the proposed amendment and adoption of the above-stated rules. Comments were received by the May 28, 2015, deadline.

4. The CSI has thoroughly considered the comments and testimony received. All comments received for the proposed rule amendment and new rule were submitted jointly by two commenters. A summary of the comments received and the responses are as follows:

COMMENT NO. 1: The commenters stated the new requirement that a notice of lapse of coverage be sent via a method providing delivery confirmation places an undue administrative burden upon the insurer. They believe it increases costs as well as the risk of inadvertent noncompliance. They stated that ARM 6.6.3104A(1)(a) and (2) provides sufficient protection by allowing designation of an alternate recipient of lapse notification.

RESPONSE NO. 1: The benefits the new notification requirements provide to the insured outweigh the relatively minimal additional expense placed upon the insurer. An insured whose long-term care policy lapses often loses access to benefits of hundreds of thousands of dollars. Conversely, an insurer will likely pay at most a few dollars per lapse notification under the new requirement, and will send these notifications to only a small percentage of its insured population. While the CSI understands the concerns with inadvertent noncompliance, an insurer is obligated to comply with Montana law, and the lapse notification is not an arbitrary and arcane process susceptible to error, but one which could be implemented systematically. Finally, the CSI agrees that ARM 6.6.3104A(1)(a) and (2) provide important consumer protection as currently drafted, but these amendments offer further

important safeguards, including to those insureds who do not designate an alternate recipient of lapse notification.

COMMENT NO. 2: The commenters stated that the proposed notification requirement would not significantly increase lapse protection for an insured. They noted that utilizing delivery confirmation does not guarantee an insured will respond to the notice in a timely manner.

RESPONSE NO. 2: The purpose for this amendment is not solely to guarantee an insured responds to a lapse notification. The delivery confirmation receipt requirement provides a recordkeeping safeguard that allows parties to verify whether a lapse notification was sent at all, and ensures such records are available to the insured for a sufficient period of time. However, requiring an insured or other mail recipient to affirmatively acknowledge receipt of delivery also lends the mailing added significance to the recipient and increases the likelihood that he or she will actually review the document.

COMMENT NO. 3: The commenters support the NAIC Long-Term Care Insurance Model Regulation, upon which the current ARM 6.6.3104A is based. The model requires delivery via first-class mail. The commenters believe this model reflects national consensus regarding a balance between insurer obligations and consumer protections, and that the CSI should not deviate from it. They also pointed out that, to their knowledge, only one other jurisdiction has departed from this model.

RESPONSE NO. 3: The CSI supports the NAIC model regulation. However, states often depart from model language when other regulatory conditions are more appropriate in their respective jurisdictions. In this case, the CSI believes that the amendment provides important additional consumer protections justifying deviation from the model. Additionally, the NAIC is in the process of developing new long-term care model language. Therefore, to the extent a consensus exists, it will likely deteriorate as states consider whether to adopt the new model.

COMMENT NO. 4: The commenters note that recently passed HB 118 permits insurers to utilize electronic delivery of notices to satisfy any otherwise-manual delivery process required under the Insurance Code. The commenters point out that HB 118 would thus allow electronic delivery as a substitute for the enhanced delivery requirements proposed under ARM 6.6.3104A. The commenters suggest an affirmative reference to electronic delivery may be helpful in clarifying the applicability of HB 118 to these circumstances.

RESPONSE NO. 4: The CSI agrees that insurers may rely upon electronic delivery to satisfy the proposed notification obligations, so long as the insurer adheres to the specific requirements contained in HB 118. The Insurance Code and associated rules contain numerous references to various methods of delivery, and none of those references discuss electronic delivery as an alternative. HB 118 provides overarching authorization for insurers to utilize electronic delivery under certain

conditions, and for that reason it is unnecessary to insert a specific, redundant reference to electronic delivery in ARM 6.6.3104A.

COMMENT NO. 5: The commenters stated that with respect to New Rule I (ARM 6.6.3125), they would prefer that the CSI adopt the statement in the NAIC Model Bulletin and the NAIC Model LTC Regulation #641 which "require the use of the maximum valuation interest rate as the only basis for discounting of projected values or accumulating past experience with respect to future rate increases."

RESPONSE NO. 5: The CSI agrees, in part, with using only the maximum valuation interest rate. Currently, ARM 6.6.3124(4) already addresses using the maximum valuation interest rate to determine "all present and accumulated values used to determine rate increases[.]" The purpose of New Rule I (ARM 6.6.3125) is slightly different, and addresses the specific use of investment income as a rationale for a rate increase. Therefore the CSI believes New Rule I (ARM 6.6.3125) serves an additional function and is reasonably necessary.

COMMENT NO. 6: The commenters noted that it would take time to change current industry practice, and requested that both amended ARM 6.6.3104A and New Rule I (ARM 6.6.3125) have a delayed effective date of six months to allow time to conform.

RESPONSE NO. 6: With respect to amended ARM 6.6.3104A, the comment is well-taken and it has been given a delayed effective date of six months. New Rule I (ARM 6.6.3125) codifies the CSI's long-held understanding of 33-22-1121(2), MCA. New Rule I (ARM 6.6.3125) is not a departure from current practice, and thus a delayed effective date is not warranted.

5. January 30, 2016, will be the effective date for ARM 6.6.3104A only.

/s/ Nick Mazanec
Nick Mazanec
Rule Reviewer

/s/ Jesse Laslovich
Jesse Laslovich
Chief Legal Counsel

Certified to the Secretary of State July 20, 2015.

BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
MONTANA STATE AUDITOR

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 6.6.507B, 6.6.507C, 6.6.507E,)
6.6.511, and 6.6.511A pertaining to)
Medicare Supplements)

TO: All Concerned Persons

1. On June 11, 2015, the Commissioner of Securities and Insurance (CSI), Montana State Auditor, published MAR Notice No. 6-216 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 689 of the 2015 Montana Administrative Register, Issue Number 11.

2. The CSI has amended ARM 6.6.507B, 6.6.507C, 6.6.507E, 6.6.511, and 6.6.511A exactly as proposed.

3. On July 1, 2015, a public hearing was held on the proposed amendment of the above-stated rules. Comments were received by the July 9, 2015, deadline.

4. The CSI has thoroughly considered the comments and testimony received. A summary of the comments received and the responses are as follows:

COMMENT NO. 1: The commenter supported the guaranteed issue enrollment period as proposed. The commenter also encouraged the creation of an annual open enrollment period with guaranteed issue for all Medicare beneficiaries to enroll in supplement policies.

RESPONSE NO. 1: The commissioner recognizes that annual open enrollment periods with guaranteed issue would allow more Medicare beneficiaries to purchase supplement policies. However, this amendment only seeks to correct a drafting error in the original rule that denied a guaranteed issue enrollment period to disabled individuals under age 65 who enrolled in Medicare before October 18, 2013. The commissioner believes creating an annual enrollment period with guaranteed issue is beyond the scope of this amendment.

COMMENT NO. 2: The commenter supported the guaranteed issue enrollment period as proposed. The commenter also requested a second guaranteed issue enrollment period for individuals who missed their guaranteed issue period at age 65.

RESPONSE NO. 2: The commissioner recognizes that there may be many reasons why an individual might miss their guaranteed issue enrollment period. However, this amendment only seeks to correct the previously noted drafting error. The commissioner believes creating a second guaranteed issue period for those over age 65 is beyond the scope of this amendment.

COMMENT NO. 3: One commenter requested amendments to the rule to change "Medicare supplement" to "Medigap." The commenter noted that the Centers for Medicare & Medicaid Services (CMS) frequently uses the term "Medigap" to describe Medicare supplement policies.

RESPONSE NO. 3: The commissioner recognizes the value of mirroring CMS's language. The commissioner believes updating the rules to use "Medigap" instead of "Medicare supplement" is beyond the scope of this amendment.

COMMENT NO. 4: Two commenters supported the amendment as written. One commenter noted the guaranteed issue enrollment period would allow individuals to avoid spending down assets to become Medicaid eligible. Access to Medicare supplement plans would also reduce strain on state Medicaid funds.

RESPONSE NO. 4: The commissioner agrees that the amendment's increased access to Medicare supplement policies will provide an alternative to Medicaid, which benefits both individuals with disabilities and state taxpayers. The CSI thanks and appreciates the commenters for providing feedback throughout the entire rules process.

/s/ Nick Mazanec
Nick Mazanec
Rule Reviewer

/s/ Jesse Laslovich
Jesse Laslovich
Chief Legal Counsel

Certified to the Secretary of State July 20, 2015.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 10.57.102, 10.57.216, 10.57.410)
through 10.57.417, 10.57.424,)
10.57.428 through 10.57.430,)
10.57.433, and 10.57.437 pertaining)
to educator licensure)

TO: All Concerned Persons

1. On June 11, 2015, the Board of Public Education published MAR Notice No. 10-57-273 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 698 of the 2015 Montana Administrative Register, Issue Number 11.

2. The board has amended ARM 10.57.102, 10.57.216, 10.57.411, 10.57.413, 10.57.414, 10.57.424, 10.57.433 and 10.57.437 as proposed.

3. The board has amended the following rules as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

10.57.410 CLASS 2 STANDARD TEACHER'S LICENSE (1) and (2) remain as proposed.

(3) If the educator preparation program completed by the applicant is not in Montana, upon initial application of a Class 1, Class 2, or Class 3, the applicant must provide proof of a ~~passing~~ minimum score on the PRAXIS II applicable to the requested endorsement as ~~required by the Montana educator preparation programs established by the Office of Public Instruction and approved by the Board of Public Education.~~

(4) and (5) remain as proposed.

10.57.412 CLASS 1 AND 2 ENDORSEMENTS (1) remains as proposed.

(2) Areas approved for endorsement on Class 1 and 2 licenses include the following: agriculture, art K-12, biology, business and information technology education, chemistry, communication, computer science K-12, early childhood (age 3 to grade 3), earth science, economics, elementary education (K-8), English, English as a second language K-12, family and consumer sciences, geography, health, health enhancement K-12, history, industrial trades and technology education, journalism, library K-12, marketing, mathematics, middle grades (4-8), music K-12, physical education K-12, physics, political science, psychology, reading K-12, school counseling K-12, science (broadfield), social studies (broadfield), sociology, special education P-12, theater, traffic education, and world languages K-12.

(3) through (9) remain as proposed.

10.57.415 CLASS 3 ADMINISTRATIVE LICENSE – ELEMENTARY PRINCIPAL ENDORSEMENT (1) through (1)(c) remain as proposed.

(d) completion of three semester credits of college courses in ~~both~~ Montana school law, and including special education law; and
(e) remains as proposed.

10.57.416 CLASS 3 ADMINISTRATIVE LICENSE – SECONDARY PRINCIPAL ENDORSEMENT (1) through (1)(c) remain as proposed.

(d) completion of three semester credits of college courses in ~~both~~ Montana school law, and including special education law; and
(e) remains as proposed.

10.57.417 CLASS 3 ADMINISTRATIVE LICENSE – K-12 PRINCIPAL ENDORSEMENT (1) through (1)(c) remain as proposed.

(d) completion of three semester credits of college courses in ~~both~~ Montana school law, and including special education law; and
(e) remains as proposed.

10.57.428 CLASS 5 PROVISIONAL LICENSE – ELEMENTARY PRINCIPAL ENDORSEMENT (1) remains as proposed.

(2) Applicants required to complete coursework other than Montana school law, including and special education law must ~~also~~ submit written evidence of enrollment in an accredited professional educator preparation program leading to the elementary principal endorsement and enrollment in the Board of Public Education approved internship program as outlined in ARM 10.55.607.

10.57.429 CLASS 5 PROVISIONAL LICENSE – SECONDARY PRINCIPAL ENDORSEMENT (1) remains as proposed.

(2) Applicants required to complete coursework other than Montana school law, including and special education law must ~~also~~ submit written evidence of enrollment in an accredited professional educator preparation program leading to the secondary principal endorsement and enrollment in the Board of Public Education approved internship program as outlined in ARM 10.55.607.

10.57.430 CLASS 5 PROVISIONAL LICENSE – K-12 PRINCIPAL ENDORSEMENT (1) remains as proposed.

(2) Applicants required to complete coursework other than Montana school law, including and special education law must ~~also~~ submit written evidence of enrollment in an accredited professional educator preparation program leading to the K-12 principal endorsement and enrollment in the Board of Public Education approved internship program as outlined in ARM 10.55.607.

4. The following comments were received.

COMMENT 1: Ann Gilkey, Chief Legal Counsel for the Superintendent of Public Instruction, submitted a comment regarding several rules. The commenter stated

that in consultation with the Council of Deans PRAXIS II working committee, University of Montana, School Administrators of Montana, and MEA-MFT, the following changes are requested to be made to the proposed amendments for the reasons listed:

a. It is recommended that the words "Montana educator preparation programs" be changed to the "Office of Public Instruction" in ARM 10.57.410(3) because it is the OPI licensing specialists who evaluate out-of-state applications for licensure and apply the PRAXIS test score requirement.

b. Although "physical education" is now often referred to as "health enhancement," many educator preparation providers still offer endorsements in physical education K-12, health, and health enhancement K-12. It is recommended that "physical education K-12" be returned to ARM 10.57.412.

c. The amendments to ARM Title 10, chapter 58 included more focus on special education law training for principals. However, there is no requirement for a full course in special education law. To be consistent with the changes to Chapter 58, it is recommended that the language in ARM 10.57.415, 10.57.416, 10.57.417, 10.57.428, 10.57.429, and 10.57.430 be changed so that special education law is included in the school law course rather than as a separate course requirement.

d. Concern has been raised about the stricken language on enrollment in an internship program in ARM 10.57.428, 10.57.429, and 10.57.430. As proposed, an applicant for a Class 5 provisional license with a principal endorsement needing more than Montana school law could get a Class 5 license without any supervision. In response to this concern, it is recommended that the stricken language requiring an internship for applicants for a Class 5 license with a principal endorsement who need more than Montana school law be retained. Striking the word "also" clarifies that the applicant does not need both a Class 5 and an internship for the same endorsement.

RESPONSE: The Board of Public Education thanks the commenter for her comments, concurs, and has amended the subject rules as requested with the exception of ARM 10.57.410(3).

COMMENT 2: Steve Meloy, on behalf of the Montana School Boards Association, concurred with Ms. Gilkey's comments and added that the Montana Rural Education Association was involved in the conversation and also concurred with the changes. Mr. Meloy stated he wanted to question the Board of Public Education (BPE) as to whether the PRAXIS II testing requirement be required by the BPE and not OPI since the testing requirement is tied to licensure which is under the purview of the BPE.

RESPONSE: The Board of Public Education thanks the commenter for his comments, concurs, and has amended ARM 10.57.410(3) to incorporate all comments on this section.

COMMENT 3: Marco Ferro, on behalf of the MEA-MFT, concurred with the amendments to the rules submitted by Ms. Gilkey. In later testimony he agreed with Ms. Sheehy Moe's take on the amendments to Class 8 licensure adding that the suggested language does pose a potential problem which the BPE needs to take a close look at, but subsequently withdrew that comment.

RESPONSE: The Board of Public Education thanks the commenter for his comments.

COMMENT 4: Patrick Audet, on behalf of the School Administrators of Montana, stated that he was in agreement with the changes suggested by Ms. Gilkey.

RESPONSE: The Board of Public Education thanks the commenter for his comments.

COMMENT 5: Senator Mary Sheehy Moe, a member of the Education and Local Government Interim Committee, testifying as a private citizen, stated that she had concerns with ARM 10.57.437 dealing with Class 8 licensure. Senator Moe stated that she had been involved in the creation of Class 8 licensure and was concerned that the proposed amendment would require a Class 8 license only when the licensee was teaching at the college or university, but not when faculty members taught at local high schools.

She also commented that, as a legislator, she had heard testimony on a bill requiring that educator license renewal be contingent on suicide prevention training to help educators recognize symptoms and provide strategies for follow up. Senator Moe stated that the BPE and CSPAC should consider requiring suicide prevention training for licensed educators.

RESPONSE: The Board of Public Education thanks the commenter for her comments and states that the intent of the changes to ARM 10.57.437(1) is that college level educators with a Class 8 license teaching high school students dual credit college level courses would do so on the college or university campus.

With regard to the suicide prevention training, the board will refer this issue to CSPAC for study.

/s/ Peter Donovan
Peter Donovan
Rule Reviewer

/s/ Sharon Carroll
Sharon Carroll, Chair
Board of Public Education

Certified to the Secretary of State July 20, 2015.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 10.63.108 pertaining to preschool)
hours)

TO: All Concerned Persons

1. On May 28, 2015, the Board of Public Education published MAR Notice No. 10-63-272 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 616 of the 2015 Montana Administrative Register, Issue Number 10.

2. The board has amended ARM 10.63.108 as proposed.

3. No comments or testimony were received.

/s/ Peter Donovan
Peter Donovan
Rule Reviewer

/s/ Sharon Carroll
Sharon Carroll, Chair
Board of Public Education

Certified to the Secretary of State July 20, 2015.

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

In the matter of the amendment of	)	NOTICE OF AMENDMENT AND
ARM 24.30.102, 24.30.104,	)	REPEAL
24.30.105, 24.30.106, 24.30.107)	
workplace safety, and the repeal of)	
24.16.101, 24.16.1001, 24.16.1003,)	
24.16.1509, 24.16.1510, 24.16.2511,)	
24.16.2545 wage protection,)	
24.21.1001, 24.21.1011, 24.21.1501)	
workforce services, and 24.30.1301,)	
24.30.1303 workplace safety)	

TO: All Concerned Persons

1. On February 12, 2015, the Department of Labor and Industry (department) published MAR Notice No. 24-16-303 regarding the proposed amendment and repeal of the above-stated rules at page 107 of the 2015 Montana Administrative Register, Issue No. 3.

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

3. No comments or testimony were received.

/s/ MARK CADWALLADER
Mark Cadwallader
Alternate Rule Reviewer

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

Certified to the Secretary of State July 20, 2015

BEFORE THE BOARD OF HEARING AID DISPENSERS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of)
ARM 24.150.401 fees, 24.150.501) NOTICE OF AMENDMENT AND
examination, and the repeal of ARM) REPEAL
24.150.2101 renewals)

TO: All Concerned Persons

1. On April 30, 2015, the Board of Hearing Aid Dispensers (board) published MAR Notice No. 24-150-39 regarding the public hearing on the proposed amendment and repeal of the above-stated rules, at page 412 of the 2015 Montana Administrative Register, Issue No. 8.

2. On May 21, 2015, a public hearing was held on the proposed amendment and repeal of the above-stated rules in Helena. No comments were received by the May 29, 2015, deadline.

3. The board has amended ARM 24.150.401 and 24.150.501 exactly as proposed.

4. The board has repealed ARM 24.150.2101 exactly as proposed.

BOARD OF HEARING AID DISPENSERS
ALFRED MCLEES, PRESIDING OFFICER

/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 July 20, 2015

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.

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.
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 March 31, 2015. This table includes those rules adopted during the period April 1, 2015, through June 30, 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 March 31, 2015, this table, and the table of contents of this issue of the MAR.

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 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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I-VIII	Transitioning Existing Consumer Loan Company Licenses to the Nationwide Multistate Licensing System - Use of the System for All Future Licensing, p. 1640, 2447, 367
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2.4.402	Single Audit Act Reporting Fees for Local Governments, p. 781
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2.59.127	and other rules - Derivatives and Securities Financing Transactions as They Relate to Lending Limits and Credit Exposures, p. 390, 814
2.59.1502	and other rule - Annual Report by Deferred Deposit Loan Licensees, p. 2058, 2826
2.59.1716	and other rules - Recovery of the Costs in Bringing an Administrative Action - Treatment of Initial License Applications Submitted Near Year-End - Abandonment of Initial License Applications - Mortgage Licensees, p. 499, 923

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2.43.3505 Establishment of Long-Term Disability Trust Fund, p. 348, 812

(State Compensation Insurance Fund)

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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 June 2015 appear. Vacancies scheduled to appear from August 1, 2015 through October 31, 2015, 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 July 1, 2015.

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 JUNE 2015

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Chiropractors (Labor and Industry)			
Dr. Vincent Maddio Helena	Governor	not listed	6/26/2015 1/1/2018
Qualifications (if required): Practicing Chiropractor			
Board of Environmental Review (Environmental Quality)			
Dr. Robert Byron Hardin	Governor	Russell	6/1/2015 1/1/2019
Qualifications (if required): Expertise or background as a county health officer			
Mr. Roy Sayles O'Connor Missoula	Governor	Mires	6/1/2015 1/1/2019
Qualifications (if required): public representative			
Rep. Michele Reinhart Missoula	Governor	Kaiser	6/1/2015 1/1/2019
Qualifications (if required): public representative			
Board of Public Education (Education)			
Mr. Jesse Miles Barnhart Broadus	Governor	Taylor	6/26/2015 2/1/2018
Qualifications (if required): District 2 Republican			
Commission on Sentencing (Governor)			
Mr. Derek W. Gibbs Lewistown	Governor	not listed	6/26/2015 6/30/2017
Qualifications (if required): member of the public from the list provided			

BOARD AND COUNCIL APPOINTEES FROM JUNE 2015

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Commission on Sentencing (Governor) cont.			
Ms. LeeAnn Montes Box Elder	Governor	not listed	6/26/2015 6/30/2017
Qualifications (if required): member of the public from the list provided			
Reverend Roxanne P. Klingensmith Bozeman	Governor	not listed	6/26/2015 6/30/2017
Qualifications (if required): member of the public from the list provided			
Montana Council on Developmental Disabilities (Commerce)			
Mr. Trenton Butler Big Sandy	Governor	Parker	6/26/2015 1/1/2017
Qualifications (if required): primary Consumer			
Ms. Janet Carlson Malta	Governor	reappointed	6/26/2015 1/1/2019
Qualifications (if required): primary Consumer			
Ms. Heather Juvan Livingston	Governor	Nelson	6/26/2015 1/1/2019
Qualifications (if required): primary Consumer			
Rep. Edith McClafferty Butte	Governor	Brockie	6/26/2015 1/1/2017
Qualifications (if required): State Legislator			

BOARD AND COUNCIL APPOINTEES FROM JUNE 2015

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Montana Council on Developmental Disabilities (Commerce) cont.			
Ms. Tarra Thomas Billings	Governor	reappointed	6/26/2015 1/1/2019
Qualifications (if required): secondary consumer			
Ms. Connie Wethern Glasgow	Governor	reappointed	6/26/2015 1/1/2019
Qualifications (if required): secondary consumer			
Montana Developmental Center Transition Planning Advisory Committee (Public Health and Human Services)			
Mr. Charlie Briggs Helena	Governor	not listed	6/3/2015 6/30/2017
Qualifications (if required): Representative of the State Protection and Advisory Program			
Mr. Erik Burke Helena	Governor	not listed	6/3/2015 6/30/2017
Qualifications (if required): Representative of the Montana Developmental Center Workforce			
Ms. Dianna Crawford Valier	Governor	not listed	6/3/2015 6/30/2017
Qualifications (if required): Family member or Guardian of an individual who is or was committed to the MDC			
Ms. Carol Dailey Bozeman	Governor	not listed	6/3/2015 6/30/2017
Qualifications (if required): Family member or Guardian of an individual who is or was committed to the MDC			

BOARD AND COUNCIL APPOINTEES FROM JUNE 2015

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
MDC Transition Planning Advisory Committee (Public Health and Human Services) cont.			
Ms. Mary Dalton Helena	Governor	not listed	6/3/2015 6/30/2017
Qualifications (if required): Representative of the Department of Public Health and Human Services			
Mr. Bob Mullen Helena	Governor	not listed	6/3/2015 6/30/2017
Qualifications (if required): Jefferson County Commissioner			
Ms. Francine Sadowski Missoula	Governor	not listed	6/3/2015 6/30/2017
Qualifications (if required): Provider of Community-Based Services			
Mr. Carl Seilstad Lewistown	Governor	not listed	6/3/2015 6/30/2017
Qualifications (if required): Representative of Community Mental Health Centers			
Ms. Deborah Swingley Helena	Governor	not listed	6/3/2015 6/30/2017
Qualifications (if required): Member of the Montana Council on Developmental Disabilities			
Ms. Tara Veazey Helena	Governor	not listed	6/3/2015 6/30/2017
Qualifications (if required): Governor's Health Policy Advisor			
Rep. Dan Villa Anaconda	Governor	not listed	6/3/2015 6/30/2017
Qualifications (if required): Representative of the Office of Budget and Program Planning			

BOARD AND COUNCIL APPOINTEES FROM JUNE 2015

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Montana Health Coalition (Public Health and Human Services) Rep. Edith J. Clark Sweet Grass Qualifications (if required): none specified	Director	not listed	6/7/2015 6/1/2017
Mr. Todd Harwell Helena Qualifications (if required): none specified	Director	not listed	6/7/2015 6/1/2017
Mr. Travis Hoffman Missoula Qualifications (if required): none specified	Director	not listed	6/7/2015 6/1/2017
Mr. Roger Holt Billings Qualifications (if required): none specified	Director	not listed	6/7/2015 6/1/2017
Dr. Greg Holzman Helena Qualifications (if required): none specified	Director	not listed	6/7/2015 6/1/2017
Mr. S. Kevin Howlett Arlee Qualifications (if required): none specified	Director	not listed	6/7/2015 6/1/2017
Mr. Bob Marsalli Helena Qualifications (if required): none specified	Director	not listed	6/7/2015 6/1/2017

BOARD AND COUNCIL APPOINTEES FROM JUNE 2015

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Montana Health Coalition (Public Health and Human Services) cont.			
Dr. Gary Mihelish Helena	Director	not listed	6/7/2015 6/1/2017
Qualifications (if required): none specified			
Mr. Eric Shields Missoula	Director	not listed	6/7/2015 6/1/2017
Qualifications (if required): none specified			
Mr. Steve Todd Ronan	Director	not listed	6/7/2015 6/1/2017
Qualifications (if required): none specified			
Western Interstate Commission on Higher Education (Education)			
Mr. Pat Williams Missoula	Governor	reappointed	6/24/2015 7/1/2019
Qualifications (if required): engaged in professional occupation			

VACANCIES ON BOARDS AND COUNCILS -- AUGUST 1, 2015 THROUGH OCTOBER 31, 2015

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Alternative Health Care Board (Labor and Industry) Dr. Nancy Patterson, Great Falls Qualifications (if required): naturopathic physician	Governor	9/1/2015
Dr. Anne Camber, Libby Qualifications (if required): medical doctor	Governor	9/1/2015
Board of Athletic Trainers (Labor and Industry) Mr. Brian Coble, Helena Qualifications (if required): athletic trainer (postsecondary school)	Governor	10/1/2015
Mr. Christopher Heard, Butte Qualifications (if required): athletic trainer (health care facility)	Governor	10/1/2015
Dr. Derrick Johnson, Butte Qualifications (if required): physician	Governor	10/1/2015
Dr. John David Michelotti, Helena Qualifications (if required): Physician	Governor	10/1/2015
Board of Barbers and Cosmetologists (Labor and Industry) Ms. Corie Mora, Great Falls Qualifications (if required): manicurist	Governor	10/1/2015
Ms. Sara Dobbins, Helena Qualifications (if required): public representative	Governor	10/1/2015

VACANCIES ON BOARDS AND COUNCILS -- AUGUST 1, 2015 THROUGH OCTOBER 31, 2015

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p>Board of Barbers and Cosmetologists (Labor and Industry) cont. Ms. Jennifer Gross, Billings Qualifications (if required): Public Representative</p>	Governor	10/1/2015
<p>Ms. Abigail Coburn, Missoula Qualifications (if required): Public Representative</p>	Governor	10/1/2015
<p>Board of Medical Examiners (Labor and Industry) Rep. Mary Anne Guggenheim, Helena Qualifications (if required): doctor of medicine</p>	Governor	9/1/2015
<p>Dr. James D. Upchurch, Crow Agency Qualifications (if required): doctor of medicine</p>	Governor	9/1/2015
<p>Ms. Tanja A. Brekke, Bozeman Qualifications (if required): acupuncturist</p>	Governor	9/1/2015
<p>Board of Outfitters (Labor and Industry) Mr. Robin Cunningham, Gallatin Gateway Qualifications (if required): fishing outfitter</p>	Governor	10/1/2015
<p>Mr. Shawn McNeely, Bozeman Qualifications (if required): fishing and hunting outfitter</p>	Governor	10/1/2015
<p>Board of Private Security (Labor and Industry) Sheriff Leo C. Dutton, Helena Qualifications (if required): county sheriff's office representative</p>	Governor	8/1/2015

VACANCIES ON BOARDS AND COUNCILS -- AUGUST 1, 2015 THROUGH OCTOBER 31, 2015

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p>Board of Private Security (Labor and Industry) cont. Mr. Daniel Taylor, Glasgow Qualifications (if required): contract security company representative</p>	Governor	8/1/2015
<p>Captain George Skuletich, Butte Qualifications (if required): city police department representative</p>	Governor	8/1/2015
<p>Mr. Tom Mangan, Helena Qualifications (if required): licensed private investigator</p>	Governor	8/1/2015
<p>Mr. Charles Pesola, Kalispell Qualifications (if required): Contract Security Company</p>	Governor	8/1/2015
<p>Board of Psychologists (Labor and Industry) Ms. Bonnie Hyatt Murphy, Livingston Qualifications (if required): public representative</p>	Governor	9/1/2015
<p>Board of Veterans' Affairs (Military Affairs) Sen. Joseph Tropila, Great Falls Qualifications (if required): veteran-at-large</p>	Governor	8/1/2015
<p>Sen. Larry Jent, Bozeman Qualifications (if required): representative of the State Administration and Veterans' Affairs Committee</p>	Governor	8/1/2015
<p>Mr. David E. Boyd Sr., Poplar Qualifications (if required): veteran and Tribal member</p>	Governor	8/1/2015

VACANCIES ON BOARDS AND COUNCILS -- AUGUST 1, 2015 THROUGH OCTOBER 31, 2015

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Veterans' Affairs (Military Affairs) cont.		
Mr. William Willing, Anaconda Qualifications (if required): experience with veterans' issues	Governor	8/1/2015
Mr. Gary Sorensen, Missoula Qualifications (if required): experience with veterans' issues	Governor	8/1/2015
Ms. Sarah Price, Helena Qualifications (if required): experience with veterans' issues	Governor	8/1/2015
Mr. Travis Monroe, Bozeman Qualifications (if required): representative of Senator Max Baucus	Governor	8/1/2015
Ms. Anita Old Bull Big Man, Billings Qualifications (if required): representative of Tribal governments	Governor	8/1/2015
Mr. Shawn Backbone, Crow Agency Qualifications (if required): Tribal Member	Governor	8/1/2015
Mr. Richard A. Juvik, Helena Qualifications (if required): Veterans At-Large	Governor	8/1/2015
Burial Preservation Board (Administration)		
Mr. Robert P. Four Star, Poplar Qualifications (if required): Representative of Fort Peck Tribe	Governor	9/1/2015
Mr. Steve Platt, Helena Qualifications (if required): Montana Historical Preservation Officer Representative	Governor	9/1/2015

VACANCIES ON BOARDS AND COUNCILS -- AUGUST 1, 2015 THROUGH OCTOBER 31, 2015

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Burial Preservation Board (Administration) cont. Ms. Marilyn Silva, Miles City Qualifications (if required): Public Representative	Governor	9/1/2015
Ms. Skye Gilham, Browning Qualifications (if required): Physical Anthropologist	Governor	9/1/2015
Ms. Rosemary Caye, Elmo Qualifications (if required): Representative of Confederated Salish and Kootenai Tribes	Governor	9/1/2015
Governor's Healthier Montana Task Force (Public Health and Human Services) Ms. Peggy Kopp, Sidney Qualifications (if required): Hospital Representative	Governor	10/25/2015
Mr. Todd Harwell, Helena Qualifications (if required): Department of Public Health and Human Services Representative	Governor	10/25/2015
Dr. Caitlin Hall, Crow Agency Qualifications (if required): Tribal Health Programs	Governor	10/25/2015
Dr. Roman Hendrickson, Sheridan Qualifications (if required): Healthcare Providers	Governor	10/25/2015
Mr. Clay Vincent, Bozeman Qualifications (if required): Public Health Agency	Governor	10/25/2015

VACANCIES ON BOARDS AND COUNCILS -- AUGUST 1, 2015 THROUGH OCTOBER 31, 2015

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Historic Preservation Review Board (Historical Society) Ms. Miki Wilde, East Helena Qualifications (if required): public representative	Governor	10/1/2015
Mr. Timothy Urbaniak, Billings Qualifications (if required): public representative	Governor	10/1/2015
Ms. Debra Hronek, Red Lodge Qualifications (if required): public representative	Governor	10/1/2015
Historical Records Advisory Council (Historical Society) Ms. Ellen Crain, Butte Qualifications (if required): Public Representative	Governor	10/10/2015
Ms. Anne L. Foster, Huntley Qualifications (if required): Public Representative	Governor	10/10/2015
Ms. Jodie Foley, Helena Qualifications (if required): State Archivist	Governor	10/10/2015
Mr. Jon Ille, Hardin Qualifications (if required): Public Representative	Governor	10/10/2015
Mr. Samuel Meister, Missoula Qualifications (if required): Public Representative	Governor	10/10/2015
Ms. Heather Hultman, Bozeman Qualifications (if required): Public Representative	Governor	10/10/2015

VACANCIES ON BOARDS AND COUNCILS -- AUGUST 1, 2015 THROUGH OCTOBER 31, 2015

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Historical Records Advisory Council (Historical Society) cont. Ms. Kristi Dawn Scott, Great Falls Qualifications (if required): Public Representative	Governor	10/10/2015
Mental Health Ombudsman (Governor) Ms. Jennifer L. Hensley, Butte Qualifications (if required): none specified	Governor	8/2/2015
Mr. Dennis Nyland, Helena Qualifications (if required): Mental Health Ombudsman	Governor	8/2/2015
Montana Wheat and Barley Committee (Agriculture) Mr. Buzz Mattelin, Culbertson Qualifications (if required): resident of District 1 and identifies himself as an Independent	Governor	8/20/2015
Mr. Bruce Myllymaki, Stanford Qualifications (if required): resident of District 5 and identifies himself to be a Democrat	Governor	8/20/2015
Mr. Tom Siderius, Kalispell Qualifications (if required): resident of District 6 and identifies himself to be a Democrat	Governor	8/20/2015
Noxious Weed Seed Free Forage Advisory Council (Agriculture) Ms. Jane Mangold, Bozeman Qualifications (if required): Montana State University-Bozeman Extension Service	Governor	9/1/2015
Poet Laureate (Montana Arts Council) Ms. Tami Haaland, Billings Qualifications (if required): Montana Arts Council Nominee	Governor	8/1/2015

VACANCIES ON BOARDS AND COUNCILS -- AUGUST 1, 2015 THROUGH OCTOBER 31, 2015

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p>Private Land Public Wildlife Advisory Council (Fish, Wildlife and Parks) Mr. Chris King, Winnett Qualifications (if required): Landowner</p>	Governor	10/10/2015
<p>Mr. Pat Gunderson, Glasgow Qualifications (if required): BLM Representative Ex-officio Member</p>	Governor	10/10/2015
<p>State Emergency Response Commission (Military Affairs) Mr. Bruce M. Coccoli, Helena Qualifications (if required): representative of the National Guard</p>	Governor	10/1/2015
<p>Mr. Bruce Suenram, Helena Qualifications (if required): representative of the Department of Natural Resources and Conservation</p>	Governor	10/1/2015
<p>Mr. William T. Rhoads, Butte Qualifications (if required): representative of a utility company</p>	Governor	10/1/2015
<p>Mr. David Mason, Helena Qualifications (if required): representative of the fire services training school</p>	Governor	10/1/2015
<p>Mr. Royce Shipley, Great Falls Qualifications (if required): representative of the U.S. Air Force</p>	Governor	10/1/2015
<p>Mr. Thomas Kuntz, Red Lodge Qualifications (if required): representative of a fire service association</p>	Governor	10/1/2015
<p>Mr. Michael J. McGinley, Dillon Qualifications (if required): representative of the association of counties</p>	Governor	10/1/2015

VACANCIES ON BOARDS AND COUNCILS -- AUGUST 1, 2015 THROUGH OCTOBER 31, 2015

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
State Emergency Response Commission (Military Affairs) cont. Commissioner Ed Tinsley, Fort Harrison Qualifications (if required): representative of the Disaster and Emergency Services	Governor	10/1/2015
Mr. Mike Vogel, Bozeman Qualifications (if required): representative of the university system	Governor	10/1/2015
Mr. Joe Marcotte, Billings Qualifications (if required): representative of Montana hospitals	Governor	10/1/2015
Mr. Jim DeTienne, Helena Qualifications (if required): representative of the Emergency Medical Services and Trauma Services Section/DPHHS	Governor	10/1/2015
Ms. Sheena Wilson, Helena Qualifications (if required): representative of the governor's office	Governor	10/1/2015
Ms. Cheryl Richman, Helena Qualifications (if required): representative of the Department of Transportation	Governor	10/1/2015
Mr. Ron Jendro, Helena Qualifications (if required): representative of the Department of Fish, Wildlife and Parks	Governor	10/1/2015
Mr. Ron Zellar, Helena Qualifications (if required): representative of the Department of Agriculture	Governor	10/1/2015
Mr. Michael Mercer, Great Falls Qualifications (if required): representative of the National Weather Service	Governor	10/1/2015

VACANCIES ON BOARDS AND COUNCILS -- AUGUST 1, 2015 THROUGH OCTOBER 31, 2015

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
State Emergency Response Commission (Military Affairs) cont. Mr. Pete Lawrenson, Missoula Qualifications (if required): representative of a railroad company	Governor	10/1/2015
Mr. Dale Nelson, Ronan Qualifications (if required): representative of a tribal emergency response commission	Governor	10/1/2015
Ms. Bonnie Lovelace, Helena Qualifications (if required): representative of the Department of Environmental Quality	Governor	10/1/2015
Major Thomas Butler, Helena Qualifications (if required): representative of the Department of Justice	Governor	10/1/2015
Ms. Delila Bruno, Helena Qualifications (if required): representative of the Emergency Medical Services and Trauma Services Section/DPHHS	Governor	10/1/2015
Mr. Scott Sanders, Belgrade Qualifications (if required): representative of an emergency medical services association	Governor	10/1/2015
Chief John Turner, Fort Benton Qualifications (if required): representative of a law enforcement association	Governor	10/1/2015
Mr. Roger Ebner, Butte Qualifications (if required): representative of an emergency management association	Governor	10/1/2015
Ms. Judith LaPan, Sidney Qualifications (if required): representative of a public health organization	Governor	10/1/2015

VACANCIES ON BOARDS AND COUNCILS -- AUGUST 1, 2015 THROUGH OCTOBER 31, 2015

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
State Emergency Response Commission (Military Affairs) cont. Mr. Peter Ridgeway, Missoula Qualifications (if required): representative of the transportation industry	Governor	10/1/2015
Ms. Michelle Slyder, Billings Qualifications (if required): representative of the petroleum industry	Governor	10/1/2015
Mr. Andre Marcure, Missoula Qualifications (if required): representative of the insurance industry	Governor	10/1/2015
Mr. Patrick Lonergan, Bozeman Qualifications (if required): DES Association	Governor	10/1/2015
Ms. Jackie Williams, Helena Qualifications (if required): Department of Agriculture Representative	Governor	10/1/2015
Major Shawn Hardy, Fort Harrison Qualifications (if required): National Guard Representative	Governor	10/1/2015
Mr. Walt Kerttula, Helena Qualifications (if required): Department of Transportation Representative	Governor	10/1/2015
Ms. Tara Moore, Bozeman Qualifications (if required): University System Representative	Governor	10/1/2015
General Bradley A. Livingston, Fort Harrison Qualifications (if required): Disaster and Emergency Services Division Representative	Governor	10/1/2015

VACANCIES ON BOARDS AND COUNCILS -- AUGUST 1, 2015 THROUGH OCTOBER 31, 2015

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
State Emergency Response Commission (Military Affairs) cont. Mr. Anthony Bacino, Missoula Qualifications (if required): Railroad Company Representative	Governor	10/1/2015
Mr. Donald Britton, Great Falls Qualifications (if required): National Weather Service Representative	Governor	10/1/2015
Ms. Nikki Johnson, Helena Qualifications (if required): Department of Agriculture Representative	Governor	10/1/2015
LTC Michael Moreni, Fort Harrison Qualifications (if required): Representative of the National Guard	Governor	10/1/2015
Statewide Interoperability Governing Board (Administration) Mr. Tim Fox, Helena Qualifications (if required): Attorney General or Designee	Governor	10/1/2015
Mr. Geoff Feiss, Helena Qualifications (if required): Representative of the Montana Telecommunications Industry	Governor	10/1/2015
Mr. Tim Burton, Helena Qualifications (if required): Governor's Office Representative	Governor	10/1/2015
Mr. Kevin Myhre, Lewistown Qualifications (if required): Representative of Montana League of Cities and Towns	Governor	10/1/2015
Ms. Bonnie Lorang, Helena Qualifications (if required): Representative of the Montana Telecommunications Industry	Governor	10/1/2015

VACANCIES ON BOARDS AND COUNCILS -- AUGUST 1, 2015 THROUGH OCTOBER 31, 2015

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Statewide Interoperability Governing Board (Administration) cont.		
Sheriff Leo C. Dutton, Helena Qualifications (if required): Representative of the Montana Sheriffs and Peace Officers Association	Governor	10/1/2015
Mr. Mike Doto, Butte Qualifications (if required): Representative of the Montana State Volunteer Firefighters Association	Governor	10/1/2015
Director Jason Smith, Helena Qualifications (if required): Director of Governor's Office of Indian Affairs	Governor	10/1/2015
Director Mike Tooley, Helena Qualifications (if required): Department of Transportation Director	Governor	10/1/2015
Mr. Patrick Lonergan, Bozeman Qualifications (if required): Montana Fire Chiefs Association	Governor	10/1/2015
Mr. Ron Baldwin, Helena Qualifications (if required): Chief Information Officer or Designee	Governor	10/1/2015
Commissioner Joe Briggs, Great Falls Qualifications (if required): Representative of the Montana Association of Counties	Governor	10/1/2015
Ms. Jayne Rogers, Great Falls Qualifications (if required): Representative of the Montana EMS Association	Governor	10/1/2015
Colonel Jeff Fisher, Fort Harrison Qualifications (if required): Department of Military Affairs Representative	Governor	10/1/2015

VACANCIES ON BOARDS AND COUNCILS -- AUGUST 1, 2015 THROUGH OCTOBER 31, 2015

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Statewide Interoperability Governing Board (Administration) cont. Chief Roger Nasset, Kalispell Qualifications (if required): Representative of Montana Association of Chiefs of Police	Governor	10/1/2015
Mr. Kevin Box, Whitehall Qualifications (if required): Representative of the Montana Emergency Medical Services Association	Governor	10/1/2015
Water and Wastewater Operators' Advisory Council (Environmental Quality) Mr. Roger Skogen, Valier Qualifications (if required): wastewater plant operator	Governor	10/16/2015