

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 5

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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 12.11.645 pertaining to) PROPOSED AMENDMENT
Whitefish River)

TO: All Concerned Persons

1. On April 10, 2014, at 6:00 p.m., the Fish and Wildlife Commission (commission) will hold a public hearing at the Whitefish City Hall, 418 Second Street East, Whitefish, Montana, to consider the proposed amendment of the above-stated rule.

2. The commission will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m. on March 28, 2014, to advise us of the nature of the accommodation that you need. Please contact Jessica Snyder, Department of Fish, Wildlife and Parks, PO Box 200701, Helena, Montana, 59620-0701; telephone (406) 444-9785; fax (406) 444-7456; or e-mail jesssnyder@mt.gov.

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

12.11.645 WHITEFISH RIVER (1) Whitefish River is located in Flathead County.

(2) Whitefish River is limited to a controlled no wake speed, as defined in ARM 12.11.101(1), ~~in the following areas:~~ from its confluence with Whitefish Lake to the bridge on JP Road.

~~(a) Whitefish River from its confluence with Whitefish Lake to the bridge on the JP Road.~~

(3) Whitefish River is limited to manually and electric powered watercraft from its confluence at the railroad trestle south of Whitefish Lake outlet to the bridge on JP Road.

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

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

REASON: On December 5, 2013, the City of Whitefish submitted a petition to the Fish and Wildlife Commission to limit a portion of the Whitefish River to manually and electric powered watercraft only. The city's reasoning in the petition for limiting the use on this portion of the river is to provide a unique, quiet, and safe refuge for locals and visitors who are seeking an alternative recreational experience.

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: Department of Fish, Wildlife and Parks Region 1 Office, 490 North Meridian Rd., Kalispell, MT 59901; fax (406) 257-0349; or e-mail cjust@mt.gov, and must be received no later than April 18, 2014.

5. Jim Satterfield or another hearing officer appointed by the department has been designated to preside over and conduct the hearing.

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

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

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

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

/s/ Zach Zipfel
Zach Zipfel
Rule Reviewer

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

Certified to the Secretary of State March 3, 2014.

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF MONTANA

In the matter of the amendment of ARM)
17.55.109 pertaining to incorporation by)
reference)
)
)
)
)
)

NOTICE OF PROPOSED
AMENDMENT

(CECRA)

NO PUBLIC HEARING
CONTEMPLATED

TO: All Concerned Persons

1. On April 28, 2014, the Department of Environmental Quality proposes to amend the above-stated rule.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Elois Johnson, Paralegal, no later than 5:00 p.m., March 24, 2014, 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 rule proposed to be amended provides as follows, stricken matter interlined, new matter underlined:

17.55.109 INCORPORATION BY REFERENCE (1) For the purposes of this subchapter, the department adopts and incorporates by reference:

(a) through (c) remain the same.

(d) U.S. Environmental Protection Agency, Regional Screening Levels for Chemical Contaminants at Superfund Sites (November ~~2014~~ 2013), except when:

(i) through (iii) remain the same.

(e) Montana Department of Environmental Quality, Remediation Division, ~~Action Level for Arsenic Table 4-4, Background Concentrations of Inorganic Constituents in Montana Surface Soil (April 2005~~ September 2013); and

(f) through (5) remain the same.

AUTH: 75-10-702, 75-10-704, MCA

IMP: 75-10-702, 75-10-704, 75-10-711, MCA

REASON: It is necessary to update the regional screening level reference to allow the department to use the most recent version of the document. The regional screening levels are used to screen potential risk at a wide variety of sites. They are being used by various states and EPA and provide screening values that provide the same levels of protection for non-petroleum compounds as are provided by the risk-based guidance for petroleum previously adopted by the department. The regional

screening levels are based on ingestion, inhalation, and dermal contact and include residential and industrial exposure. These regional screening levels also provide soil screening levels that address migration to ground water. The department is proposing to incorporate the most recent version of the regional screening levels to ensure updates, based on new toxicity data or other factors, are adequately considered. EPA updated the regional screening levels in November 2013 and the primary updates are summarized below.

EPA presented tables with target hazard quotients of 1.0 and 0.1. Because ARM 17.55.109(1)(d)(i) already requires this adjustment, addition of the table with a target hazard quotient of 0.1 does not result in a rule change. Twenty-one chemicals have new toxicity values due to updates in EPA's provisional peer-reviewed toxicity values paper and updates by the Agency for Toxic Substances and Disease Registry (ATSDR) and the California Environmental Protection Agency. The reference doses for the numbered, dioxin-like polychlorinated biphenyls in the 2013 screening levels are based on the dioxin reference dose. The high aliphatic and high aromatic total petroleum hydrocarbons are classified as semi-volatile organic compounds and all the total petroleum hydrocarbons are given chemical-specific parameters. Chemical-specific parameter assignment is based on the representative compound identified in the provisional peer-reviewed toxicity values, when available. The medium aliphatic total petroleum hydrocarbon has a surrogate listed in the provisional peer-reviewed toxicity values paper, so n-nonane is assigned. Glyphosate soil organic carbon-water partitioning coefficient is updated. Thiocyanic acid is given the chemical abstract service (CAS) number 463-56-9. This number was previously assigned to thiocyanate. Vanadium and compounds are given the CAS number 7440-62-2; previously they did not have a CAS number. This results in the database matching a reference concentration from ATSDR. The calculator, if operated in site-specific mode would now give the option to substitute the ceiling saturation concentration for the inhalation route screening level as well as giving the opportunity to substitute the theoretical concentration limit of 1E+05 mg/kg for the total screening level. Arsenic screening levels for ingestion of soil would be calculated with the relative bioavailability factor of 0.6.

Using the most current toxicity criteria is necessary to ensure that the department will be adequately protective of human health and the environment when compounds are involved that have been determined to be more toxic than previously understood. In addition, when compounds are determined to be less toxic than previously understood, using the most current screening levels allows the department and stakeholders to focus on sites with contaminant concentrations that may actually represent a risk.

The department also proposes to replace the 2005 arsenic background action level of 40 milligrams/kilogram (mg/kg) with Table 4-4 from the September 2013 report on Background Concentrations of Inorganic Constituents in Montana Surface Soil, which establishes Montana-specific background action levels for a number of inorganic compounds. This report presents the results of an investigation of background concentrations of inorganic constituents in Montana surface soils implemented by the department in 2012-2013. Generic background concentrations of inorganic soil constituents that may be applicable to sites in Montana was previously published by the department in 2007 and was based upon background

concentrations obtained from various statewide, regional, or national studies and investigations. The department recognized the need for more state-specific information on background concentrations of arsenic in soils and, in 2005, established a generic action level for arsenic in surface soil based on an assessment of background soil arsenic concentrations from across Montana. This generic action level was established in recognition that arsenic may occur naturally in Montana soils at levels above risk-based concentrations such as those found in the regional screening levels. In the 2005 paper, the department established arsenic background at 40 mg/kg, compared with the generic EPA regional screening level for residential soils of 0.61 mg/kg. However, the department recognized that a number of inorganic constituents may be present at background concentrations that exceed risk-based concentrations. Therefore, the department completed the September 2013 report, which was designed to provide a coherent set of data for inorganic parameters in surface soils across the state, with representative samples collected using consistent procedures, analyzed using consistent methods, and distributed geographically to provide complete statewide coverage. The analytical results for these samples were evaluated to determine statistically valid background surface soil concentrations that may be used throughout the state as background threshold values for screening contamination at facilities. Table 4-4 of the report summarizes the calculated background threshold values for aluminum, antimony, arsenic, barium, beryllium, cadmium, chromium (III), chromium (VI), cobalt, copper, iron, lead, manganese, mercury, nickel, selenium, silver, thallium, vanadium, and zinc.

All of the documents incorporated by reference are available on the department's web site at: <http://deq.mt.gov/StateSuperfund/default.mcp.x>. In addition, these documents are available upon request from the Department of Environmental Quality, Remediation Division, P.O. Box 200901, Helena, MT 59620-0901.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to 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, no later than April 14, 2014. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

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 they have to 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, no later than April 14, 2014.

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

hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be six based on 60 liable or potentially liable persons under 75-10-715, MCA, who have received notice letters at facilities DEQ is currently addressing.

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 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 supply; 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.

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

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

Reviewed by:

DEPARTMENT OF ENVIRONMENTAL
QUALITY

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

BY: /s/ Tracy Stone-Manning
TRACY STONE-MANNING, Director

Certified to the Secretary of State, March 3, 2014.

BEFORE THE DEPARTMENT OF TRANSPORTATION
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PROPOSED
ARM 18.9.701 and the repeal of ARM	)	AMENDMENT AND REPEAL
18.9.702 pertaining to Motor Fuels)	
tax	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Concerned Persons

1. On April 13, 2014, the Department of Transportation proposes to amend and repeal the above-stated rules.

2. The Department of Transportation will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Transportation no later than 5:00 p.m. on April 3, 2014, to advise us of the nature of the accommodation that you need. Please contact Judy Bauer, Department of Transportation, Motor Fuels Section, P.O. Box 201001, Helena, Montana, 59620-1001; telephone (406) 444-6027; fax (406) 444-5411; TTY Service (406) 444-7696 or (800) 335-7592; or e-mail jbauer@mt.gov.

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

18.9.701 WAIVER OF MOTOR FUEL PENALTIES (1) The department may waive the motor fuel late file and late pay penalties for gasoline, aviation fuel and special fuel if there is "good or reasonable cause." Good or reasonable cause means any late filing and late payment of a motor fuel tax for any of the following reasons:

- (a) and (b) remain the same.
- (c) inability to file and pay because the distributor's assets are impounded or frozen because of bank failure; ~~or~~
- (d) inability to file and pay because of a serious medical emergency of the taxpayer; or
- (e) first time late filing offense within a three year period of timely filings.
- (2) through (5) remain the same.

AUTH: 15-70-104, MCA
IMP: 15-70-210, 15-70-352, MCA

REASON: The proposed amendment is necessary because the Legislative Audit Division conducted an audit on the department's Motor Fuels Section and made a recommendation that ARM 18.9.701 be amended to make it consistent with 15-70-210, MCA. The statute allows the department to waive a late tax filing penalty upon

the distributor showing of good cause. The proposed amendment will clarify that "good cause" includes a first time late filing offense or a timely filing history for a three year period, because IFTA already allows this penalty waiver good cause reason for IFTA users, and this amendment will make the penalty waiver consistent for distributors as well.

The proposed amendment will increase revenue by approximately \$5,071.04, as this amount was suspended under a graduated (suspended) late filing penalty rule for fiscal year 2013. Since the graduated penalty rule will no longer be in effect, the department may assess full 10% penalties at a higher amount unless a good cause finding for penalty waiver can be made under ARM 18.9.701 as amended.

4. The department proposes to repeal the following rule:

18.9.702 SUSPENSION OF PENALTIES

AUTH: 15-70-104, MCA

IMP: 15-70-210, 15-70-352, MCA

REASON: The proposed amendment is necessary because the Legislative Audit Division conducted an audit on the department's Motor Fuels Section and made a recommendation that ARM 18.9.702 be repealed to make it consistent with 15-70-210, MCA. The statute allows the department to waive a penalty upon the distributor showing of good cause, but does not allow for the graduated (suspended) penalty provisions set forth in ARM 18.9.702. The proposed amendment is also necessary because ARM 18.9.702 is archaic and difficult to administer. Since the amendment of 15-70-113, MCA, and ARM 18.9.103 in 2001 to allow electronic filing and payment, including an additional five days to pay, the instances of late payments have been reduced. The department no longer needs to impose graduated penalties for late payments.

The proposed amendment will increase revenue by approximately \$5,071.04, as this amount was suspended under this graduated (suspended) late filing penalty rule for fiscal year 2013. Since the graduated penalty rule will no longer be in effect, the department may assess full 10% penalties at a higher amount unless a good cause finding for penalty waiver can be made under ARM 18.9.701 as amended.

5. Concerned persons may submit their data, views, or arguments concerning the proposed actions in writing to: Judy Bauer, Department of Transportation, P.O. Box 201001, Helena, Montana, 59620-1001; telephone (406) 444-6027; fax (406) 444-5411; or e-mail jbauer@mt.gov, and must be received no later than 5:00 p.m., April 10, 2014.

6. If persons who are directly affected by the proposed actions wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Judy Bauer at the above address no later than 5:00 p.m., April 10, 2014.

7. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 15 persons based on 150 fuel tax distributors in Montana.

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

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

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

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

/s/ Carol Grell Morris
Carol Grell Morris
Rule Reviewer

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

Certified to the Secretary of State March 3, 2014.

BEFORE THE BOARD OF ARCHITECTS AND LANDSCAPE ARCHITECTS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of)
ARM 24.114.301 definitions,)
24.114.503 licensure of applicants)
from other states, 24.114.2101)
renewals, and 24.114.2301)
unprofessional conduct, and the)
adoption of NEW RULE I architect)
continuing education)

NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENT AND
ADOPTION

TO: All Concerned Persons

1. On April 7, 2014, at 9:00 a.m., a public hearing will be held in the Large Conference Room, 4th Floor, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment and adoption of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Architects and Landscape Architects (board) no later than 5:00 p.m., on March 31, 2014, to advise us of the nature of the accommodation that you need. Please contact Linda Grief, Board of Architects and Landscape Architects, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2395; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or e-mail dlibsdark@mt.gov.

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

24.114.301 DEFINITIONS (1) and (2) remain the same.

(3) "Incidental architectural services" per 37-65-103, MCA, means:

(a) those architectural services that are incidental to a professional engineer's engineering practice, which:

(i) can be safely and competently performed by the professional engineer without jeopardizing the health, safety, and welfare of the public;

(ii) are in an area where the professional engineer has demonstrated competence by adequate education, training, and experience;

(iii) arise from, and are directly related to professional engineering work performed by the professional engineer;

(iv) are substantially less in scope and magnitude when compared to the professional engineering work performed or to be performed by the professional engineer; and

(v) comply with all of the laws of Montana relating to the practice of architecture.

(b) A professional engineer performing incidental practice as stated in this rule shall:

(i) perform only that part of the work for which the professional engineer is professionally qualified;

(ii) use architects or other appropriately licensed professionals for those portions of the work in which the professional engineer is not qualified;

(iii) assume responsibility for compliance with all laws, codes, rules, and ordinances of the state or its political subdivisions pertaining to the documents; and

(iv) not hold himself/herself out to be an architect or as performing architectural services.

(3) and (4) remain the same, but are renumbered (4) and (5).

~~(5)~~ (6) "Technical submissions" means the drawing, specifications, studies, and other technical reports prepared in the course of practicing architecture.

AUTH: 37-1-131, 37-1-319, 37-65-204, MCA

IMP: 37-1-131, 37-1-319, 37-65-103, 37-65-303, 37-66-304, MCA

REASON: After considering complaints targeting "incidental practice," the board determined it is reasonably necessary to define the term as it applies to architectural services provided by licensed professional engineers under the statutory exemption. Section 37-65-103(4), MCA, exempts professional engineers from performing architectural services that are incidental to engineering practice. Section 37-66-105(3), MCA, exempts architects, professional engineers, and professional land surveyors from performing landscape architectural services.

The board formed a joint committee with the Board of Professional Engineers and Professional Land Surveyors and met on several occasions over the course of six months to cooperatively draft language on "incidental practice" for each of the respective boards. The board is now proposing to define "incidental practice" as to professional engineers providing architectural services to clearly set forth the board's intent regarding the parameters of the licensure exemption.

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

24.114.503 LICENSURE OF APPLICANTS REGISTERED IN ANOTHER STATE (1) and (1)(a) remain the same.

(b) present proof the applicant is the holder of a blue cover certificate issued by NCARB. Applications for the certificate shall be sent to NCARB for processing; and

(c) submit verification of previous licensure from the licensing entities in all states where the applicant has been licensed.

AUTH: 37-1-131, 37-65-204, MCA

IMP: 37-1-304, 37-65-301, MCA

REASON: The board determined it is reasonably necessary to add verification of previous licensure for those architect applicants registered in other states or jurisdictions. Since the required blue cover certificate issued by the National Council

of Architectural Registration Boards (NCARB) does not contain license verifications from other states or jurisdictions, the board must know whether architect applicants are subject to pending charges or final disciplinary actions in other states or jurisdictions before granting licenses in this state to adequately ensure Montana's public welfare.

24.114.2101 RENEWALS (1) Renewal notices will be sent as specified in ARM 24.101.414.

(2) The renewal date is set by ARM ~~24.101.414~~ 24.101.413.

(3) The provisions of ARM 24.101.408 apply.

AUTH: 37-1-131, ~~37-1-141~~, 37-65-204, MCA

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

REASON: It is reasonably necessary to amend this rule to correct the reference to the department rule containing the renewal dates for all professional licensing boards and programs. Authority citations are amended to provide the complete sources of the board's rulemaking authority.

24.114.2301 UNPROFESSIONAL CONDUCT (1) through (1)(n) remain the same.

(o) failure to comply with the continuing education requirement;

(o) and (p) remain the same but are renumbered (p) and (q).

AUTH: 37-1-131, 37-1-319, 37-65-204, MCA

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

REASON: The department determined it is reasonably necessary to amend this rule by adding to the actions the board considers unprofessional conduct. The board concluded that requiring continuing education for licensed architects will help ensure better protection of public health, safety, and welfare. This addition to unprofessional conduct will make licensees aware of the negative implications to their licenses if they do not receive continuing education and underscores the board's duty in protecting the public.

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

NEW RULE I ARCHITECT CONTINUING EDUCATION REQUIREMENTS

(1) Beginning January 1, 2015, in addition to all other requirements for renewal, each licensed architect shall obtain at least 12 hours of continuing education (CE) annually to renew the license.

(a) Licensees who have been granted emeritus or other similar honorific status are exempt from the CE requirements.

(b) Continuing education is not required for licensees renewing their licenses for the first time.

(2) Continuing education hours shall be reported as follows:

(a) Licensees shall complete and submit renewal forms certifying that licensees completed 12 hours of continuing education during the calendar year immediately preceding the calendar year in which licensees are renewing. The CE requirement is based on a calendar year, beginning on January 1 and ending December 31 of each year.

(b) Failure to comply with continuing education requirements may result in disciplinary action.

(3) Qualified CE courses must be designed to increase or update the knowledge and competence of architects in technical and professional subjects related to the practice of architecture that safeguard the public's health, safety, and welfare, as follows:

(a) acquired in structured educational activities;

(b) at least 75 percent of the content and instructional time is devoted to health, safety, and welfare subjects related to the practice of architecture;

(c) provided by qualified individuals or organizations; and

(d) included health, safety, and welfare subjects such as technical and professional subjects necessary for proper evaluation, design, construction, and utilization of buildings and the built environment that are within the following enumerated areas:

(i) Building Systems: structural, mechanical, electrical, plumbing, communications, security, fire protection;

(ii) Construction Contract Administration: contracts, bidding, contract negotiations;

(iii) Construction Documents: drawings, specifications, delivery methods;

(iv) Design: urban planning, master planning, building design, site design, interiors, safety and security measures;

(v) Environmental: energy efficiency, sustainability, natural resources, natural hazards, hazardous materials, weatherproofing, insulation;

(vi) Legal: laws, codes, zoning, subdivisions, regulations, standards, life safety, accessibility, ethics, insurance to protect owners and public;

(vii) Materials and Methods: construction systems, products, finishes, furnishings, equipment;

(viii) Occupant Comfort: air quality, lighting, acoustics, ergonomics;

(ix) Pre-Design: land use analysis, programming, site selection, site and soils analysis, surveying; and

(x) Preservation: historic, reuse, adaptation.

(4) Continuing education may be acquired at any location, whether direct contact or distance learning through qualified course sponsors. The department will not pre-approve CE courses.

(5) All licensees shall retain course completion certificates for a minimum of six years, for auditing purposes. Course completion certificates must contain all of the following:

(a) date of course;

(b) location of course;

(c) name of instructor(s);

(d) name of licensee;

(e) state-assigned course approval number; and

(f) number of completed hours of instruction.

(6) Continuing education hours may not be carried over to a future calendar year.

(7) For quality assurance and evaluation purposes, department or board representatives may audit CE courses for content without cost. Such representatives are not eligible for and may not receive certificates of completion.

(8) Beginning in 2016, the department may conduct an annual random audit of all licensees for CE compliance following the licensee renewal process indicated in (2).

(a) Audited licensees must furnish to the department certificates of completion or other documentation to verify completion of the 12-hour CE requirement.

(b) Failure to provide certificates of completion when audited constitutes unprofessional conduct and may result in disciplinary proceedings against the licensee.

(c) Licensees shall retain course completion certificates for a minimum of six years for auditing purposes.

(d) A 60-day extension will be provided to licensees who fail to meet CE requirements as a result of an audit. Failure to meet the CE requirements by the end of the extension may result in disciplinary action. Any hours obtained during this extension shall not again be used to meet the requirements of a subsequent licensure renewal.

(9) All licensees reactivating expired licenses must submit documentary proof of meeting CE requirements required to become active.

(10) If a licensee does not file a timely renewal application and thereafter files a late renewal application, the late renewal application must contain documentary proof the licensee met the CE requirements incorporating the year prior to the renewal application year.

AUTH: 37-1-131, 37-1-319, 37-65-204, MCA

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

REASON: The board determined it is reasonably necessary to add a continuing education (CE) requirement for Montana licensed architects. The board notes that several other states and countries have implemented or are in the process of implementing CE requirements for architects. These jurisdictions include Alabama, Alaska, Arkansas, California, Colorado, Delaware, District of Columbia, Florida, Georgia, Guam, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Puerto Rico, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming. The board concluded that adding this CE requirement will help ensure that architects are maintaining current knowledge on various professional and technical subjects, and ultimately result in better protection of Montana's public health, safety, and welfare.

5. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Architects and Landscape Architects, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdark@mt.gov, and must be received no later than 5:00 p.m., April 14, 2014.

6. An electronic copy of this notice of public hearing is available at www.architect.mt.gov (department and board's web site). The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

7. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Architects and Landscape Architects, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsdark@mt.gov; or made by completing a request form at any rules hearing held by the agency.

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

9. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.114.301, 24.114.503, 24.114.2101, and 24.114.2301 will not significantly and directly impact small businesses.

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

Documentation of the board's above-stated determinations is available upon request to the Board of Architects and Landscape Architects, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2395; facsimile (406) 841-2305; or e-mail dlibsdark@mt.gov.

10. Joslyn Hunt, attorney, has been designated to preside over and conduct this hearing.

BOARD OF ARCHITECTS AND
LANDSCAPE ARCHITECTS
BAYLISS WARD, PRESIDENT

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

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

Certified to the Secretary of State March 3, 2014

BEFORE THE BOARD OF BARBERS AND COSMETOLOGISTS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of)
ARM 24.121.605 application for)
postsecondary school licensure and)
24.121.807 school curricula, and the)
adoption of NEW RULE I)
postsecondary education status and)
NEW RULE II military training or)
experience)

NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENT AND
ADOPTION

TO: All Concerned Persons

1. On April 3, 2014, at 3:00 p.m., a public hearing will be held in the Small Conference Room, 4th Floor, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment and adoption of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Barbers and Cosmetologists (board) no later than 5:00 p.m., on March 28, 2014, to advise us of the nature of the accommodation that you need. Please contact Dennis Clark, Board of Barbers and Cosmetologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2390; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdcos@mt.gov.

3. GENERAL STATEMENT OF REASONABLE NECESSITY: The board licenses and regulates the schools that offer education and training in the areas of barbering, cosmetology, electrology, esthetics, and manicuring in Montana. Currently, students attending schools licensed by the board may qualify for federal student aid under Title IV of the Higher Education Act of 1965. Title IV federal student aid is an important means to assist students to pay for their education and training.

On October 29, 2010, the United States Department of Education (DOE) published final regulations that are commonly referred to as "State authorization regulations." These regulations require education programs, such as those licensed by the board, to meet certain criteria for their students to qualify for Title IV federal student aid. The deadline for complying with the state authorization regulations is July 1, 2014. The DOE has encouraged states to communicate with the DOE to determine whether their processes would meet the state authorization regulations. Through that process, the board received confirmation that the proposed amendments to ARM 24.121.605 and 24.121.807 and the adoption of NEW RULE I will bring those schools regulated by the board into compliance with the state

authorization regulations. The board is amending the implementation citations to accurately reflect all statutes implemented through the rules.

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

24.121.605 APPLICATION FOR POSTSECONDARY SCHOOL LICENSURE

(1) through (8) remain the same.

(9) To qualify for licensure, a school shall be recognized by the board as an institution of postsecondary study under [NEW RULE I].

AUTH: 37-1-131, 37-31-203, MCA

IMP: 37-31-101, 37-31-302, 37-31-311, 37-31-312, MCA

24.121.807 SCHOOL CURRICULA (1) and (2) remain the same.

(a) 1500 hours of training, of which at least 150 hours is₁ in theory, distributed as follows:

(i) through (4) remain the same.

(a) 600 hours of training, of which at least 120 hours is₂ in theory, distributed as follows:

(i) through (6)(a)(ii) remain the same.

(iii) manicures (including water, oil, hand₁ and arm massage), pedicures (including foot, ankle, and lower leg massage), polish applications, paraffin wax treatments, and the proper use of manicuring implements including the electric nail file, 35 hours; and

(iv) through (7) remain the same.

~~(8) The board shall not grant credit for hours earned by students for postsecondary education under any circumstances.~~

AUTH: 37-1-131, 37-31-203, 37-31-311, MCA

IMP: 37-31-101, 37-31-304, 37-31-305, 37-31-311, MCA

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

NEW RULE I POSTSECONDARY EDUCATION STATUS (1) A school shall be recognized by the board as an institution of "postsecondary study," authorized to offer one or more training programs beyond the secondary level only upon meeting each of the following conditions:

(a) the school shall admit as regular students only those individuals who:

(i) have earned a recognized high school diploma or the equivalent of a recognized high school diploma; or

(ii) are beyond the age of compulsory education as provided in 20-5-102, MCA;

(b) no more than 50 percent of a school's enrolled students may be admitted who have not been granted a high school diploma or the recognized equivalent of a high school diploma; and

(c) each school shall report annually to the board the number of enrolled students and whether the students were admitted on the basis of being beyond the age of compulsory education or on the basis of having been granted a high school diploma or the recognized equivalent of a high school diploma. The report shall be submitted on a form approved by the board prior to the annual school licensure renewal date.

(2) A school whose enrollment exceeds the limitation provided in (1)(b) may be summarily suspended pending proceedings for revocation.

(3) Failure to timely submit the report required in (1)(c) shall subject the school to a disciplinary action.

AUTH: 37-1-131, 37-31-203, MCA

IMP: 37-31-101, 37-31-302, 37-31-311, MCA

NEW RULE II MILITARY TRAINING OR EXPERIENCE (1) Pursuant to 37-1-145, MCA, the board shall accept relevant military training, service, or education toward the requirements for licensure as a barber, cosmetologist, electrologist, manicurist, or esthetician.

(2) Relevant military training, service, or education must be completed by an applicant while a member of either:

- (a) United States Armed Forces;
- (b) United States Reserves;
- (c) state national guard; or
- (d) military reserves.

(3) An applicant must submit satisfactory evidence of receiving military training, service, or education that is equivalent to relevant licensure requirements as a barber, cosmetologist, electrologist, manicurist, or esthetician. At a minimum, satisfactory evidence shall include:

- (a) a copy of the applicant's military discharge document (DD 214);
- (b) a document that clearly shows all relevant training, certification, service, or education the applicant received while in the military, including dates of training and completion or graduation; and
- (c) any other documentation as required by the board.

(4) The board shall consider all documentation received to determine whether an applicant's military training, service, or education is equivalent to relevant licensure requirements.

AUTH: 37-1-145, MCA

IMP: 37-1-145, MCA

REASON: The 2013 Montana Legislature enacted House Bill 259 and Senate Bill 183, acts requiring the professional and occupational licensing boards and programs to accept satisfactory evidence of relevant military education, training, or service to satisfy licensing or certification requirements. The bill was signed by the Governor and became effective on April 26, 2013, and is codified at 37-1-145, MCA.

The new statute requires each licensing board and program to adopt rules providing that certification or licensure requirements of the board or program may be

met by relevant military training, service, or education, completed as a member of the armed forces or reserves of the United States, a state's national guard, or the military reserves. In consulting with the bill sponsors regarding the rulemaking, it was clarified that the sponsor received input on the bill draft from Montana military personnel and the U.S. Department of Defense. The sponsor was assured that the bill language, as reflected in this proposed rule, is intended to include relevant military training, service, or education received while serving in all branches of the military and reserves, including the U.S. Coast Guard. It is reasonably necessary for the board to adopt New Rule II to coincide with and further implement the legislation.

6. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Barbers and Cosmetologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdcos@mt.gov, and must be received no later than 5:00 p.m., April 11, 2014.

7. An electronic copy of this notice of public hearing is available at www.cosmetology.mt.gov (department and board's web site). The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

8. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Barbers and Cosmetologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsdcos@mt.gov; or made by completing a request form at any rules hearing held by the agency.

9. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsors were contacted on December 16, 2013, by electronic mail.

10. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.121.605 and 24.121.807 will not significantly and directly impact small businesses.

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

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

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

BOARD OF BARBERS AND
COSMETOLOGISTS
DARLENE BATTAIOLA, PRESIDENT

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

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

Certified to the Secretary of State March 3, 2014

BEFORE THE BOARD OF CLINICAL LABORATORY SCIENCE PRACTITIONERS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the adoption of NEW) NOTICE OF PUBLIC HEARING ON
RULE I military training or experience) PROPOSED ADOPTION

TO: All Concerned Persons

1. On April 3, 2014, at 2:00 p.m., a public hearing will be held in the Small Conference Room, 4th Floor, 301 South Park Avenue, Helena, Montana, to consider the proposed adoption of the above-stated rule.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Clinical Laboratory Science Practitioners (board) no later than 5:00 p.m., on March 28, 2014, to advise us of the nature of the accommodation that you need. Please contact Linda Grief, Board of Clinical Laboratory Science Practitioners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2395; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdcis@mt.gov.

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

NEW RULE I MILITARY TRAINING OR EXPERIENCE (1) Pursuant to 37-1-145, MCA, the board shall accept relevant military training, service, or education toward the requirements for licensure as a clinical laboratory scientist, clinical laboratory specialist, or clinical laboratory technician.

(2) Relevant military training, service, or education must be completed by an applicant while a member of either:

- (a) United States Armed Forces;
- (b) United States Reserves;
- (c) state national guard; or
- (d) military reserves.

(3) An applicant must submit satisfactory evidence of receiving military training, service, or education that is equivalent to relevant licensure requirements as a clinical laboratory scientist, clinical laboratory specialist, or clinical laboratory technician. At a minimum, satisfactory evidence shall include:

- (a) a copy of the applicant's military discharge document (DD 214);
- (b) a document that clearly shows all relevant training, certification, service, or education the applicant received while in the military, including dates of training and completion or graduation; and
- (c) any other documentation as required by the board.

(4) The board shall consider all documentation received to determine whether an applicant's military training, service, or education is equivalent to relevant licensure requirements.

AUTH: 37-1-145, MCA
IMP: 37-1-145, MCA

REASON: The 2013 Montana Legislature enacted House Bill 259 and Senate Bill 183, acts requiring the professional and occupational licensing boards and programs to accept satisfactory evidence of relevant military education, training, or service to satisfy licensing or certification requirements. The bill was signed by the Governor and became effective on April 26, 2013, and is codified at 37-1-145, MCA.

The new statute requires each licensing board and program to adopt rules providing that certification or licensure requirements of the board or program may be met by relevant military training, service, or education, completed as a member of the armed forces or reserves of the United States, a state's national guard, or the military reserves. In consulting with the bill sponsors regarding the rulemaking, it was clarified that the sponsor received input on the bill draft from Montana military personnel and the U.S. Department of Defense. The sponsor was assured that the bill language, as reflected in this proposed rule, is intended to include relevant military training, service, or education received while serving in all branches of the military and reserves, including the U.S. Coast Guard. It is reasonably necessary for the board to adopt New Rule I to coincide with and further implement the legislation.

4. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Clinical Laboratory Science Practitioners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdcsls@mt.gov, and must be received no later than 5:00 p.m., April 11, 2014.

5. An electronic copy of this notice of public hearing is available at www.cls.mt.gov (department and board's web site). The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

6. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or

delivered to the Board of Clinical Laboratory Science Practitioners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsdcsls@mt.gov; or made by completing a request form at any rules hearing held by the agency.

7. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsors were contacted on December 16, 2013, by electronic mail.

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

Documentation of the board's above-stated determination is available upon request to the Board of Clinical Laboratory Science Practitioners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2395; facsimile (406) 841-2305; or e-mail dlibsdcsls@mt.gov.

9. Anne O'Leary, attorney, has been designated to preside over and conduct this hearing.

BOARD OF CLINICAL LABORATORY
SCIENCE PRACTITIONERS
ALISON MIZNER, CHAIRPERSON

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

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

Certified to the Secretary of State March 3, 2014

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

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING ON
ARM 24.138.402 fee schedule,	)	PROPOSED AMENDMENT AND
24.138.403 mandatory certification,	)	ADOPTION
24.138.406 dental auxiliary functions,)	
24.138.425 limited access permits,)	
24.138.502 dentist licensure by)	
exam, 24.138.503 dental hygienist)	
licensure by exam, 24.138.506 dental)	
hygienist licensure by credentials,)	
24.138.2101 continuing education)	
definition, 24.138.2104 continuing)	
education requirements, and the)	
adoption of NEW RULE I military)	
training or experience, II dental)	
hygienist committee, and III denturist)	
committee)	

TO: All Concerned Persons

1. On April 4, 2014, at 8:30 a.m., a public hearing will be held in the Large Conference Room, 4th Floor, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment and adoption of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Dentistry (board) no later than 5:00 p.m., on March 28, 2014, to advise us of the nature of the accommodation that you need. Please contact Dennis Clark, Board of Dentistry, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2390; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdden@mt.gov.

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

24.138.402 FEE SCHEDULE (1) through (12) remain the same.
~~(13) Laws and rules packet~~ 40
(14) through (18) remain the same, but are renumbered (13) through (17).

AUTH: 37-1-131, 37-1-134, 37-4-205, 37-4-340, 37-4-341, 37-4-405, 37-29-201, MCA

IMP: 37-1-134, 37-1-141, 37-4-301, 37-4-307, 37-4-340, 37-4-341, 37-4-402, 37-4-405, 37-29-303, MCA

REASON: In 2012, the department decided that, due to liability concerns, the department would no longer create and provide to the public unofficial versions of board statutes and rules. Instead, staff now refers inquiries to the state agencies responsible for maintaining and publishing the official versions of the Montana Code Annotated (Legislative Services) and Administrative Rules of Montana (Secretary of State), and provides electronic links to the agency information on the board web sites.

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

24.138.403 MANDATORY CERTIFICATION (1) through (3) remain the same.

(4) Internet CPR, ACLS, or PALS courses will be accepted if a hands-on evaluation of clinical competency is also included.

AUTH: 37-1-131, 37-4-205, 37-29-201, MCA
IMP: 37-1-131, 37-29-201, 37-29-401, MCA

REASON: It is reasonably necessary to amend (4) and allow certification through online ACLS and PALS courses, in addition to already-accepted CPR courses. The American Heart Association now offers ACLS certification mostly through online methods. Additionally, this change will align with recommendations of the anesthesia rules committee in drafting the 2011 anesthesia rules.

24.138.406 FUNCTIONS FOR DENTAL AUXILIARIES (1) through (8)(a) remain the same.

(b) has been certified in dental radiology in another state prior to June 1, 2014; or

(c) through (10) remain the same.

AUTH: 37-4-205, 37-4-408, MCA
IMP: 37-4-408, MCA

REASON: The board is amending this rule to clearly explain that after June 1, 2014, another state's dental radiology certification will no longer qualify a dental auxiliary to expose radiographs in Montana. The board discussed the wide variation in other states' qualifications for radiology certification and concluded that it is nearly impossible to know another state's requirements at any given time, as well as whether such requirements would meet the minimum standards of practice and competency to ensure the health and safety of patients and co-workers.

24.138.425 LIMITED ACCESS PERMIT TREATMENT GUIDELINES-PRACTICING UNDER PUBLIC HEALTH SUPERVISION (1) and (1)(a) remain the

same.

(b) The LAP dental hygienist may provide dental hygiene preventative services to a patient without prior physician, ~~or dentist, nurse practitioner, or physician assistant~~ authorization, unless the patient has:

(i) through (iii) remain the same.

(c) If a patient has one or more severe systemic diseases, the LAP dental hygienist shall consult with a physician, ~~or dentist, nurse practitioner, or physician assistant responsible for the patient's care~~ regarding the appropriateness of treatment and the conditions under which to provide dental hygiene preventative services.

(2) remains the same.

AUTH: 37-1-131, 37-4-205, 37-4-405, MCA

IMP: 37-4-405, MCA

REASON: The board determined it is reasonably necessary to amend this rule and adjust the treatment guidelines established by the board for Limited Access Permit (LAP) holders. It is common practice in some public health facilities for health care providers other than physicians or dentists to provide oversight of the residents' care. The board is therefore amending these guidelines to allow LAP dental hygienists to also consult with nurse practitioners or physician assistants when patients have severe systemic diseases.

24.138.502 INITIAL LICENSURE OF DENTISTS BY EXAMINATION

(1) remains the same.

(a) an original score card from the Joint Commission on National Dental Examinations showing the applicant's ~~score and~~ passage of the written examination administered by the Joint Commission on National Dental Examinations;

(b) through (4) remain the same.

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

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

REASON: The board determined it is reasonably necessary to amend this rule, ARM 24.138.503, and 24.138.506 to remove the requirement that the Joint Commission on National Dental Examinations score card contain the applicant's actual exam score. Following a change in practice, the score cards show only whether an applicant passed or failed the exam, and the actual score is no longer provided.

24.138.503 INITIAL LICENSURE OF DENTAL HYGIENISTS BY EXAMINATION (1) remains the same.

(a) an original score card from the Joint Commission on National Dental Examinations showing the applicant's ~~score on and~~ passage of the written dental hygiene examination administered by the Joint Commission on National Dental Examinations;

(b) through (4) remain the same.

AUTH: 37-1-131, 37-4-205, MCA
IMP: 37-1-131, 37-4-401, 37-4-402, MCA

24.138.506 DENTAL HYGIENIST LICENSURE BY CREDENTIALS (1) and (1)(a) remain the same.

(b) an original score card from the Joint Commission on National Dental Examinations showing the applicant's ~~score on~~ and passage of the written dental hygiene examination administered by the Joint Commission on National Dental Examinations;

(c) through (4) remain the same.

AUTH: 37-1-131, 37-4-205, MCA
IMP: 37-1-131, 37-1-304, MCA

24.138.2101 DEFINITION OF CONTINUING EDUCATION (1) remains the same.

(2) Continuing education programs are designed for part-time enrollment and are usually of short duration, although longer programs with structured, sequential curricula may also be included within this definition. College courses will not be accepted to satisfy the continuing education requirements.

AUTH: 37-1-319, 37-4-205, 37-29-201, MCA
IMP: 37-1-306, 37-1-319, 37-4-205, 37-29-306, MCA

REASON: The board is amending (2) to address licensee questions and clarify the board's belief that college courses do not fall within the parameters set forth in this rule for board-accepted continuing education programs.

24.138.2104 REQUIREMENTS AND RESTRICTIONS (1) remains the same.

(a) for dentists, 60 per three-year cycle. Dentists who have deep sedation/general anesthesia permits must complete 20 hours of anesthesia specific continuing education as part of the 60 continuing education credits required. Dentists who have ~~conscious~~ moderate sedation permits must complete 12 hours of anesthesia specific continuing education as part of the 60 continuing education credits required;

(b) through (5) remain the same.

(6) Continuing education credits will be allowed for a dentist or dental hygienist holding an active license issued by the board to perform volunteer dental services in the state of Montana subject to ARM 24.138.2105.

(a) One credit hour of continuing education will be earned for every hour of verified volunteer dental services. The maximum continuing education credit allowed for volunteer dental services is 10 percent of the required credits per cycle.

(b) A licensee shall not accept any form of remuneration for providing volunteer dental services.

(c) All volunteer dental services performed shall be within the scope of practice of the licensee.

(d) A licensee seeking to earn continuing education credit for volunteer dental services must submit, upon request of the board, documentation from the dental facility director or person responsible for the program or institution attesting to the licensee's participation, including the date(s), location(s), and number of hours of service.

AUTH: 37-1-319, 37-4-205, 37-29-201, MCA

IMP: 37-1-306, 37-1-319, 37-4-205, 37-29-306, MCA

REASON: The board is amending (1)(a) to correct terminology and align with the updated 2011 anesthesia rules in subchapter 32.

Following discussion, the board is adding (6) to encourage professional volunteerism in the dental profession by granting a limited number of continuing education (CE) credits for volunteer services provided during a CE cycle.

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

NEW RULE I MILITARY TRAINING OR EXPERIENCE (1) Pursuant to 37-1-145, MCA, the board shall accept relevant military training, service, or education toward the requirements for licensure as a dentist, dental hygienist, or denturist.

(2) Relevant military training, service, or education must be completed by an applicant while a member of either:

- (a) United States Armed Forces;
- (b) United States Reserves;
- (c) state national guard; or
- (d) military reserves.

(3) An applicant must submit satisfactory evidence of receiving military training, service, or education that is equivalent to relevant licensure requirements as a dentist, dental hygienist, or denturist. At a minimum, satisfactory evidence shall include:

- (a) a copy of the applicant's military discharge document (DD 214);
- (b) a document that clearly shows all relevant training, certification, service, or education the applicant received while in the military, including dates of training and completion or graduation; and
- (c) any other documentation as required by the board.

(4) The board shall consider all documentation received to determine whether an applicant's military training, service, or education is equivalent to relevant licensure requirements.

AUTH: 37-1-145, MCA

IMP: 37-1-145, MCA

REASON: The 2013 Montana Legislature enacted House Bill 259 and Senate Bill 183, acts requiring the professional and occupational licensing boards and programs to accept satisfactory evidence of relevant military education, training, or service to

satisfy licensing or certification requirements. The bill was signed by the Governor and became effective on April 26, 2013, and is codified at 37-1-145, MCA.

The new statute requires each licensing board and program to adopt rules providing that certification or licensure requirements of the board or program may be met by relevant military training, service, or education, completed as a member of the armed forces or reserves of the United States, a state's national guard, or the military reserves. In consulting with the bill sponsors regarding the rulemaking, it was clarified that the sponsor received input on the bill draft from Montana military personnel and the U.S. Department of Defense. The sponsor was assured that the bill language, as reflected in this proposed rule, is intended to include relevant military training, service, or education received while serving in all branches of the military and reserves, including the U.S. Coast Guard. It is reasonably necessary for the board to adopt New Rule I to coincide with and further implement the legislation.

NEW RULE II DENTAL HYGIENIST COMMITTEE (1) The board hereby creates a committee to be known as the Dental Hygienist Committee. The committee shall consist of:

- (a) the two dental hygienist board members; and
- (b) one dentist board member who either:
 - (i) employs a dental hygienist; or
 - (ii) is employed by a Federally Qualified Health Center that also employs a dental hygienist.

(2) The committee shall meet at least once a year and review issues pertaining to dental hygienists and make recommendations to the full board.

AUTH: 37-4-205, MCA
IMP: 37-4-205, MCA

REASON: The board is proposing New Rule II to formally establish the board's dental hygienist committee and set forth the committee's composition and meeting schedule. This is being done in conjunction with the establishment of the denturist committee.

NEW RULE III DENTURIST COMMITTEE (1) The board hereby creates a standing committee to be known as the Denturist Committee. The committee shall consist of:

- (a) one current denturist board member who shall serve as committee chair;
- (b) one current dentist board member with a working knowledge of removable prosthodontics; and
- (c) a member of the public who is not a board member and who holds a current Montana denturist license in good standing.

(2) The committee shall meet at least once a year and review issues pertaining to denturists and make recommendations to the full board.

AUTH: 37-29-201, MCA
IMP: 37-29-201, MCA

REASON: It is reasonably necessary to propose New Rule III to establish the board's denturist committee and comply with the direction of the Economic Affairs Interim Committee of the 2013 Montana Legislature.

5. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Dentistry, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdden@mt.gov, and must be received no later than 5:00 p.m., April 11, 2014.

6. An electronic copy of this notice of public hearing is available at www.dentistry.mt.gov (department and board's web site). The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

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

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsors were contacted on December 16, 2013, by electronic mail.

9. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.138.402, 24.138.403, 24.138.406, 24.138.425, 24.138.502, 24.138.503, 24.138.506, 24.138.2101, and 24.138.2104 will not significantly and directly impact small businesses.

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

Documentation of the board's above-stated determination is available upon request to the Board of Dentistry, 301 South Park Avenue, P.O. Box 200513,

Helena, Montana 59620-0513; telephone (406) 841-2390; facsimile (406) 841-2305; or e-mail dlibsdden@mt.gov.

10. Mark Jette, attorney, has been designated to preside over and conduct this hearing.

BOARD OF DENTISTRY
TERRY KLISE, D.D.S., PRESIDENT

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

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

Certified to the Secretary of State March 3, 2014

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

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 24.155.301 definitions,) PROPOSED AMENDMENT AND
24.155.401 fee schedule, 24.155.604) ADOPTION
licensure by examination, and)
24.155.608 licensure by)
endorsement, and the adoption of)
NEW RULE I military training or)
experience, NEW RULE II)
anonymous complaints, NEW RULE)
III nonroutine applications, and NEW)
RULE IV inactive license)

TO: All Concerned Persons

1. On April 3, 2014, at 3:30 p.m., a public hearing will be held in the Small Conference Room, 4th Floor, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment and adoption of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Massage Therapy (board) no later than 5:00 p.m., on March 28, 2014, to advise us of the nature of the accommodation that you need. Please contact Jason Steffins, Board of Massage Therapy, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2329; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdlmt@mt.gov.

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

24.155.301 DEFINITIONS (1) through (4) remain the same.
(5) "NESL" means national examination for state licensing as provided by the NCBTMB.

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

AUTH: 37-1-131, 37-33-405, MCA

IMP: 37-1-141, 37-33-404, 37-33-501, 37-33-502, MCA

REASON: The board is amending this rule to establish a definition of the NESL to coincide with the addition of this examination to those accepted by the board for massage therapist licensure in ARM 24.155.604 and 24.155.608.

24.155.401 FEE SCHEDULE (1) The department will collect the following fees:

- ~~(a) application/licensing by grandfather clause~~ \$130
- (b) (a) application/licensing by endorsement credential \$140
- (c) and (d) remain the same but are renumbered (b) and (c).
- (d) annual inactive license renewal 45
- (2) and (3) remain the same.

AUTH: 37-1-131, 37-33-405, MCA

IMP: 37-1-134, 37-1-141, 37-33-502, ~~37-33-503~~, MCA

REASON: The board is striking (1)(a) from this rule to remove the application fee associated with licensure by grandfather clause. Section 37-33-503, MCA, provided for this type of licensure to be effective only from July 1, 2010 to July 1, 2012. The board intends to seek the repeal of this statute in the next legislative session, as the statutory authority for licensure by grandfathering has terminated. The board is also amending the implementation citations to remove this statute.

The board is updating the term "endorsement" to "credential" in (1)(b) to assist the department in streamlining and standardizing licensure processes for all the administratively attached licensing boards. Using consistent terms among numerous boards will help in this effort.

The board determined it is reasonably necessary to set a fee for annual renewal of inactive license to coincide with the establishment of inactive licensure in proposed New Rule IV. This new fee will affect approximately 135 licensees and result in a reduction in annual revenue of approximately \$6,075, since it is expected that the 135 affected will not pay the full active status renewal fee.

24.155.604 LICENSURE BY EXAMINATION (1) through (1)(a)(v) remain the same.

(vi) a passing score on either the MBLEx, NCETMB, NESL, or the NCETM examination or a state examination deemed by the board to be equivalent.

AUTH: 37-1-131, 37-33-405, MCA

IMP: 37-1-131, 37-33-502, MCA

REASON: Like the NCETMB (national certification examination for therapeutic massage and bodywork) and the NCETM (national certification examination for therapeutic massage), the NESL (national examination for state licensing) is administered by the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB). In fact, the NESL is the same exam as the NCETMB, but it is a noncertifying or credentialing exam used by those who want to take the test for state licensing, but do not wish to carry NCBTMB certification. Because the board currently accepts the NCETMB, the board concluded that it is appropriate to accept the NESL and is amending this rule and ARM 24.155.608(2)(e)(ii) accordingly.

24.155.608 LICENSURE BY ENDORSEMENT CREDENTIAL (1) through (2)(e) remain the same.

(i) ~~a minimum of 500 hours of study that meets or exceeds the curriculum guidelines established by any program or organization accredited by the national commission for certifying agencies or its equivalent or successor; and proof of completing a program demanding a course of studies that includes, at a minimum, each of the following:~~

(A) 200 hours of in-class and instructor-supervised massage and bodywork assessment, theory, and application instruction;

(B) 150 hours combined of instruction on the body systems (anatomy, physiology, and kinesiology) and pathology; and

(C) 150 hours combined of business and ethics instruction and instruction in an area or related field that completes the massage program of study; and

(ii) a passing score on either the MBLEx, NCETMB, NESL, or the NCETM examination, or a state examination deemed to be equivalent.

AUTH: 37-1-131, 37-33-405, MCA

IMP: 37-1-131, 37-1-304, 37-33-502, MCA

REASON: The board determined it is reasonably necessary to amend (2)(e)(i) to specify the complete curriculum requirements and clearly define what is needed from out-of-state applicants to obtain Montana licensure. The current rule language does not break down the 500 total hours and does not adequately show equivalency to Montana's curriculum guidelines as provided by NCBTMB.

The board is amending (2)(e)(ii) for the reasons stated in ARM 24.155.604. The board is amending the rule's catchphrase to coincide with standardization of license terms within the department.

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

NEW RULE I MILITARY TRAINING OR EXPERIENCE (1) Pursuant to 37-1-145, MCA, the board shall accept relevant military training, service, or education toward the requirements for licensure as a massage therapist.

(2) Relevant military training, service, or education must be completed by an applicant while a member of either:

(a) United States Armed Forces;

(b) United States Reserves;

(c) state national guard; or

(d) military reserves.

(3) An applicant must submit satisfactory evidence of receiving military training, service, or education that is equivalent to relevant licensure requirements as a massage therapist. At a minimum, satisfactory evidence shall include:

(a) a copy of the applicant's military discharge document (DD 214);

(b) a document that clearly shows all relevant training, certification, service, or education the applicant received while in the military, including dates of training and completion or graduation; and

(c) any other documentation as required by the board.

(4) The board shall consider all documentation received to determine whether an applicant's military training, service, or education is equivalent to relevant licensure requirements.

AUTH: 37-1-145, MCA
IMP: 37-1-145, MCA

REASON: The 2013 Montana Legislature enacted House Bill 259 and Senate Bill 183, acts requiring the professional and occupational licensing boards and programs to accept satisfactory evidence of relevant military education, training, or service to satisfy licensing or certification requirements. The bill was signed by the Governor and became effective on April 26, 2013, and is codified at 37-1-145, MCA.

The new statute requires each licensing board and program to adopt rules providing that certification or licensure requirements of the board or program may be met by relevant military training, service, or education, completed as a member of the armed forces or reserves of the United States, a state's national guard, or the military reserves. In consulting with the bill sponsors regarding the rulemaking, it was clarified that the sponsor received input on the bill draft from Montana military personnel and the U.S. Department of Defense. The sponsor was assured that the bill language, as reflected in this proposed rule, is intended to include relevant military training, service, or education received while serving in all branches of the military and reserves, including the U.S. Coast Guard. It is reasonably necessary for the board to adopt New Rule I to coincide with and further implement the legislation.

NEW RULE II ANONYMOUS COMPLAINTS (1) Anonymous complaints will be viewed with greater skepticism than other complaints. The screening panel for the board is less likely to investigate an anonymous complaint to seek information regarding witnesses or other corroborative evidence. An anonymous complaint may also be dismissed whenever a reasonable basis for the use of anonymity is not apparent to the screening panel.

AUTH: 37-1-131, 37-33-405, MCA
IMP: 37-1-307, 37-1-308, MCA

REASON: The board determined it is reasonably necessary to adopt New Rule II and address the receipt of complaints from anonymous sources. Some anonymous complaints have appeared to be baseless and improperly motivated. While the board recognizes a legitimate purpose for anonymous complaints in some circumstances, the board believes that it is reasonably necessary to adopt this rule and put complainants on notice of how the board generally views anonymous complaints. The board intends for New Rule II to discourage baseless complaints brought under the cover of anonymity and to encourage full disclosure to assist the board in pursuing legitimate complaints.

NEW RULE III NONROUTINE APPLICATIONS (1) An application for licensure as a massage therapist must be considered nonroutine in nature requiring

board review and approval prior to issuance of the license if the application discloses:

- (a) that the applicant has a prior felony conviction of any nature or a prior misdemeanor conviction relating to sex or violence;
 - (b) that the applicant has had two or more alcohol or drug related convictions within the last three years;
 - (c) that any professional license held by the applicant was disciplined or was voluntarily surrendered in another state or jurisdiction, or that the applicant's massage therapy license was denied in another state or jurisdiction;
 - (d) that the applicant's education program does not clearly meet the board's requirements;
 - (e) that the applicant passed a licensing examination other than MBLEx, NCETMB, NESL, or NCETM;
 - (f) that the applicant has been a respondent in a complaint for unlicensed practice of massage therapy that led to a cease and desist letter or an injunctive action; or
 - (g) any substantive irregularity deemed by department staff to warrant board review and approval prior to issuance of the license.
- (2) Any disposition in a criminal case other than acquittal will be deemed a "conviction" for purposes of this rule without regard to the nature of the plea or whether the applicant received a suspended or deferred sentence.

AUTH: 37-1-131, 37-33-405, MCA

IMP: 37-1-101, 37-1-131, 37-33-501, 37-33-502, MCA

REASON: Section 37-1-101, MCA, specifies that the department is responsible for receipt and processing of routine applications for all boards administratively attached to the department. Because the board meets only quarterly, the requirement that the board review all applications having some type of irregularity has resulted in unnecessary delays in issuing licenses. The board concluded that with the guidance provided in this new rule, as well as in the board's current rules and Title 37, chapter 33, MCA, department staff will be able to competently process more applications and issue original licenses and renewals without additional board review.

NEW RULE IV INACTIVE LICENSE (1) A licensee who wishes to retain a license, but who will not be practicing massage therapy, may place the license on inactive status by submitting a written request on a form prescribed by the department.

(2) An individual licensed on inactive status may not practice massage therapy during the period in which the license remains on inactive status.

(3) A licensee on inactive status shall:

(a) renew along with active licensees according to renewal dates specified in ARM 24.101.413;

(b) pay the annual inactive status fee specified in ARM 24.155.401; and

(c) be exempt from continuing education requirements.

(4) A licensee on inactive status may change to active status by:

(a) submitting a written request on a form prescribed by the department;

(b) paying the balance of the renewal fee that would be due for an active license in the then-current renewal period; and

(c) providing proof that either of the following were completed within 12 months of activation:

(i) six hours of continuing education; or

(ii) any of the examinations identified in ARM 24.155.604.

AUTH: 37-1-131, 37-1-319, 37-33-405, MCA

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

REASON: The board determined it is reasonably necessary to adopt New Rule IV to establish criteria for massage therapists to place their licenses on inactive status. The board notes that, at times, massage therapists may have periods without work, but may still want to maintain their license and not practice. This new rule will allow those individuals to maintain their licenses without the additional costs of reapplying and testing.

5. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Massage Therapy, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdlmt@mt.gov, and must be received no later than 5:00 p.m., April 11, 2014.

6. An electronic copy of this notice of public hearing is available at www.massagetherapists.mt.gov (department and board's web site). The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

7. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Massage Therapy, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsdlmt@mt.gov; or made by completing a request form at any rules hearing held by the agency.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsors were contacted on December 16, 2013, by electronic mail.

9. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.155.301, 24.155.401, 24.155.604, and 24.155.608 will not significantly and directly impact small businesses.

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

Documentation of the board's above-stated determination is available upon request to the Board of Massage Therapy, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2329; facsimile (406) 841-2305; or e-mail dlibsdlmt@mt.gov.

10. Darcee L. Moe, attorney, has been designated to preside over and conduct this hearing.

BOARD OF MASSAGE THERAPY
CAROLE LOVE, CHAIR

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

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

Certified to the Secretary of State March 3, 2014

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

In the matter of the adoption of NEW) NOTICE OF PUBLIC HEARING ON
RULE I military training or experience) PROPOSED ADOPTION

TO: All Concerned Persons

1. On April 3, 2014, at 1:00 p.m., a public hearing will be held in the Small Conference Room, 4th Floor, 301 South Park Avenue, Helena, Montana, to consider the proposed adoption of the above-stated rule.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Optometry (board) no later than 5:00 p.m., on March 28, 2014, to advise us of the nature of the accommodation that you need. Please contact Linda Grief, Board of Optometry, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2395; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdopt@mt.gov.

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

NEW RULE I MILITARY TRAINING OR EXPERIENCE (1) Pursuant to 37-1-145, MCA, the board shall accept relevant military training, service, or education toward the requirements for licensure as an optometrist.

(2) Relevant military training, service, or education must be completed by an applicant while a member of either:

- (a) United States Armed Forces;
- (b) United States Reserves;
- (c) state national guard; or
- (d) military reserves.

(3) An applicant must submit satisfactory evidence of receiving military training, service, or education that is equivalent to relevant licensure requirements as an optometrist. At a minimum, satisfactory evidence shall include:

- (a) a copy of the applicant's military discharge document (DD 214);
- (b) a document that clearly shows all relevant training, certification, service, or education the applicant received while in the military, including dates of training and completion or graduation; and
- (c) any other documentation as required by the board.

(4) The board shall consider all documentation received to determine whether an applicant's military training, service, or education is equivalent to relevant licensure requirements.

AUTH: 37-1-145, MCA

IMP: 37-1-145, MCA

REASON: The 2013 Montana Legislature enacted House Bill 259 and Senate Bill 183, acts requiring the professional and occupational licensing boards and programs to accept satisfactory evidence of relevant military education, training, or service to satisfy licensing or certification requirements. The bill was signed by the Governor and became effective on April 26, 2013, and is codified at 37-1-145, MCA.

The new statute requires each licensing board and program to adopt rules providing that certification or licensure requirements of the board or program may be met by relevant military training, service, or education, completed as a member of the armed forces or reserves of the United States, a state's national guard, or the military reserves. In consulting with the bill sponsors regarding the rulemaking, it was clarified that the sponsor received input on the bill draft from Montana military personnel and the U.S. Department of Defense. The sponsor was assured that the bill language, as reflected in this proposed rule, is intended to include relevant military training, service, or education received while serving in all branches of the military and reserves, including the U.S. Coast Guard. It is reasonably necessary for the board to adopt New Rule I to coincide with and further implement the legislation.

4. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Optometry, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdopt@mt.gov, and must be received no later than 5:00 p.m., April 11, 2014.

5. An electronic copy of this notice of public hearing is available at www.optometry.mt.gov (department and board's web site). The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

6. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Optometry, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to

dlibsdopt@mt.gov; or made by completing a request form at any rules hearing held by the agency.

7. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsors were contacted on December 16, 2013, by electronic mail.

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

Documentation of the board's above-stated determination is available upon request to the Board of Optometry, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2395; facsimile (406) 841-2305; or e-mail dlibsdopt@mt.gov.

9. Darcee L. Moe, attorney, has been designated to preside over and conduct this hearing.

BOARD OF OPTOMETRY
DOUG KIMBALL, PRESIDENT

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

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

Certified to the Secretary of State March 3, 2014

BEFORE THE BOARD OF PHYSICAL THERAPY EXAMINERS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the adoption of NEW) NOTICE OF PUBLIC HEARING ON
RULE I military training or experience) PROPOSED ADOPTION

TO: All Concerned Persons

1. On April 3, 2014, at 1:30 p.m., a public hearing will be held in the Small Conference Room, 4th Floor, 301 South Park Avenue, Helena, Montana, to consider the proposed adoption of the above-stated rule.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Physical Therapy Examiners (board) no later than 5:00 p.m., on March 28, 2014, to advise us of the nature of the accommodation that you need. Please contact Linda Grief, Board of Physical Therapy Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2395; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdtpt@mt.gov.

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

NEW RULE I MILITARY TRAINING OR EXPERIENCE (1) Pursuant to 37-1-145, MCA, the board shall accept relevant military training, service, or education toward the requirements for licensure as a physical therapist or physical therapist assistant.

(2) Relevant military training, service, or education must be completed by an applicant while a member of either:

- (a) United States Armed Forces;
- (b) United States Reserves;
- (c) state national guard; or
- (d) military reserves.

(3) An applicant must submit satisfactory evidence of receiving military training, service, or education that is equivalent to relevant licensure requirements as a physical therapist or physical therapist assistant. At a minimum, satisfactory evidence shall include:

- (a) a copy of the applicant's military discharge document (DD 214);
- (b) a document that clearly shows all relevant training, certification, service, or education the applicant received while in the military, including dates of training and completion or graduation; and
- (c) any other documentation as required by the board.

(4) The board shall consider all documentation received to determine whether an applicant's military training, service, or education is equivalent to relevant licensure requirements.

AUTH: 37-1-145, MCA
IMP: 37-1-145, MCA

REASON: The 2013 Montana Legislature enacted House Bill 259 and Senate Bill 183, acts requiring the professional and occupational licensing boards and programs to accept satisfactory evidence of relevant military education, training, or service to satisfy licensing or certification requirements. The bill was signed by the Governor and became effective on April 26, 2013, and is codified at 37-1-145, MCA.

The new statute requires each licensing board and program to adopt rules providing that certification or licensure requirements of the board or program may be met by relevant military training, service, or education, completed as a member of the armed forces or reserves of the United States, a state's national guard, or the military reserves. In consulting with the bill sponsors regarding the rulemaking, it was clarified that the sponsor received input on the bill draft from Montana military personnel and the U.S. Department of Defense. The sponsor was assured that the bill language, as reflected in this proposed rule, is intended to include relevant military training, service, or education received while serving in all branches of the military and reserves, including the U.S. Coast Guard. It is reasonably necessary for the board to adopt New Rule I to coincide with and further implement the legislation.

4. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Physical Therapy Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdp@mt.gov, and must be received no later than 5:00 p.m., April 11, 2014.

5. An electronic copy of this notice of public hearing is available at www.pt.mt.gov (department and board's web site). The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

6. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or

delivered to the Board of Physical Therapy Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsdptp@mt.gov; or made by completing a request form at any rules hearing held by the agency.

7. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsors were contacted on December 16, 2013, by electronic mail.

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

Documentation of the board's above-stated determination is available upon request to the Board of Physical Therapy Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2395; facsimile (406) 841-2305; or e-mail dlibsdptp@mt.gov.

9. Mark Jette, attorney, has been designated to preside over and conduct this hearing.

BOARD OF PHYSICAL THERAPY
EXAMINERS
BRIAN MILLER, 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 March 3, 2014

BEFORE THE BOARD OF PRIVATE SECURITY
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the adoption of NEW) NOTICE OF PUBLIC HEARING ON
RULE I military training or experience) PROPOSED ADOPTION

TO: All Concerned Persons

1. On April 3, 2014, at 4:00 p.m., a public hearing will be held in the Small Conference Room, 4th floor, 301 South Park Avenue, Helena, Montana, to consider the proposed adoption of the above-stated rule.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Private Security (board) no later than 5:00 p.m., on March 28, 2014, to advise us of the nature of the accommodation that you need. Please contact Melissa Billman, Board of Private Security, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2330; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdsp@mt.gov.

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

NEW RULE I MILITARY TRAINING OR EXPERIENCE (1) Pursuant to 37-1-145, MCA, the board shall accept relevant military training, service, or education toward the requirements for licensure by the board of private security.

(2) Relevant military training, service, or education must be completed by an applicant while a member of either:

- (a) United States Armed Forces;
- (b) United States Reserves;
- (c) state national guard; or
- (d) military reserves.

(3) An applicant must submit satisfactory evidence of receiving military training, service, or education that is equivalent to relevant licensure requirements by the board of private security. At a minimum, satisfactory evidence shall include:

- (a) a copy of the applicant's military discharge document (DD 214);
- (b) a document that clearly shows all relevant training, certification, service, or education the applicant received while in the military, including dates of training and completion or graduation; and

(c) any other documentation as required by the board.

(4) The board shall consider all documentation received to determine whether an applicant's military training, service, or education is equivalent to relevant licensure requirements.

AUTH: 37-1-145, MCA

IMP: 37-1-145, MCA

REASON: The 2013 Montana Legislature enacted House Bill 259 and Senate Bill 183, acts requiring the professional and occupational licensing boards and programs to accept satisfactory evidence of relevant military education, training, or service to satisfy licensing or certification requirements. The bill was signed by the Governor and became effective on April 26, 2013, and is codified at 37-1-145, MCA.

The new statute requires each licensing board and program to adopt rules providing that certification or licensure requirements of the board or program may be met by relevant military training, service, or education, completed as a member of the armed forces or reserves of the United States, a state's national guard, or the military reserves. In consulting with the bill sponsors regarding the rulemaking, it was clarified that the sponsor received input on the bill draft from Montana military personnel and the U.S. Department of Defense. The sponsor was assured that the bill language, as reflected in this proposed rule, is intended to include relevant military training, service, or education received while serving in all branches of the military and reserves, including the U.S. Coast Guard. It is reasonably necessary for the board to adopt New Rule I to coincide with and further implement the legislation.

4. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Private Security, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdpsp@mt.gov, and must be received no later than 5:00 p.m., April 11, 2014.

5. An electronic copy of this notice of public hearing is available at www.privatesecurity.mt.gov (department and board's web site). The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

6. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Private Security, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-

mailed to dlibsdp@mt.gov; or made by completing a request form at any rules hearing held by the agency.

7. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsors were contacted on December 16, 2013, by electronic mail.

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

Documentation of the board's above-stated determination is available upon request to the Board of Private Security, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2330; facsimile (406) 841-2305; or e-mail dlibsdp@mt.gov.

9. Kevin Maki, attorney, has been designated to preside over and conduct this hearing.

BOARD OF PRIVATE SECURITY
HOLLY DERSHEM-BRUCE, CHAIR

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

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

Certified to the Secretary of State March 3, 2014

BEFORE THE BOARD OF PUBLIC ACCOUNTANTS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of)
ARM 24.201.502 accounting and)
auditing experience requirements and)
the adoption of NEW RULE I)
pertaining to military training or)
experience)

NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENT AND
ADOPTION

TO: All Concerned Persons

1. On April 3, 2014, at 2:30 p.m., a public hearing will be held in the Small Conference Room, 4th Floor, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment and adoption of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Public Accountants (board) no later than 5:00 p.m., on March 28, 2014, to advise us of the nature of the accommodation that you need. Please contact Grace Berger, Board of Public Accountants, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2244; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2323; e-mail dlibsdpac@mt.gov.

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

24.201.502 ACCOUNTING AND AUDITING EXPERIENCE
REQUIREMENTS (1) remains the same.

(2) ~~Accounting~~ Acceptable accounting and auditing experience ~~will be considered acceptable by the board if satisfactory evidence is presented of having performed~~ performing accounting and auditing functions ordinarily required in the practice of public accounting, provided this experience:

(a) ~~be~~ is attested to by a holder of a permit to practice that was current at the time of attestation or for military experience attested to by the applicant's commanding officer; and

(b) takes place in the three years prior to the date of the application ~~for permit to practice;~~ and

(c) remains the same.

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-1-131, 37-50-203, 37-50-325, MCA

REASON: It is necessary for the board to amend this rule to consider experience received in the military when evaluating an application for a public accountant permit to practice. The 2013 Montana Legislature enacted House Bill 259 and Senate Bill 183, acts requiring the professional and occupational licensing boards and programs to accept satisfactory evidence of relevant military education, training, or service to satisfy licensing or certification requirements.

The new statute requires each licensing board and program to adopt rules providing that certification or licensure requirements of the board or program may be met by relevant military training, service, or education, completed as a member of the armed forces or reserves of the United States, a state's national guard, or the military reserves.

This amendment will allow the board to determine if an applicant meets the current requirements by accepting attestation of experience from the commanding officer for an applicant who served in the military, rather than the current requirement of experience attestation from a current holder of a permit to practice only.

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

NEW RULE I MILITARY TRAINING OR EXPERIENCE (1) Pursuant to 37-1-145, MCA, the board shall accept relevant military training, service, or education toward the requirements for licensure as a certificate holder or a permit holder.

(2) Relevant military training, service, or education must be completed by an applicant while a member of either:

- (a) United States Armed Forces;
- (b) United States Reserves;
- (c) state national guard; or
- (d) military reserves.

(3) An applicant must submit satisfactory evidence of receiving military training, service, or education that is equivalent to relevant licensure requirements as a certificate holder or permit holder. At a minimum, satisfactory evidence shall include:

- (a) a copy of the applicant's military discharge document (DD 214);
 - (b) a document that clearly shows all relevant training, certification, service, or education the applicant received while in the military, including dates of training and completion or graduation; and
 - (c) any other documentation as required by the board.
- (4) The board shall consider all documentation received to determine whether an applicant's military training, service, or education is equivalent to relevant licensure requirements.

AUTH: 37-1-145, MCA

IMP: 37-1-145, MCA

REASON: The 2013 Montana Legislature enacted House Bill 259 and Senate Bill 183, acts requiring the professional and occupational licensing boards and programs to accept satisfactory evidence of relevant military education, training, or service to

satisfy licensing or certification requirements. The bill was signed by the Governor and became effective on April 26, 2013, and is codified at 37-1-145, MCA.

The new statute requires each licensing board and program to adopt rules providing that certification or licensure requirements of the board or program may be met by relevant military training, service, or education, completed as a member of the armed forces or reserves of the United States, a state's national guard, or the military reserves. In consulting with the bill sponsors regarding the rulemaking, it was clarified that the sponsor received input on the bill draft from Montana military personnel and the U.S. Department of Defense. The sponsor was assured that the bill language, as reflected in this proposed rule, is intended to include relevant military training, service, or education received while serving in all branches of the military and reserves, including the U.S. Coast Guard. It is reasonably necessary for the board to adopt New Rule I to coincide with and further implement the legislation.

5. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Public Accountants, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2323, or by e-mail to dlibsdpac@mt.gov, and must be received no later than 5:00 p.m., April 11, 2014.

6. An electronic copy of this notice of public hearing is available at www.publicaccountant.mt.gov (department and board's web site). The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

7. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Public Accountants, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2323; e-mailed to dlibsdpac@mt.gov; or made by completing a request form at any rules hearing held by the agency.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsors were contacted on December 16, 2013, by electronic mail.

9. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.201.502 will not significantly and directly impact small businesses.

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

Documentation of the board's above-stated determination is available upon request to the Board of Public Accountants, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2323; e-mail dlibsdpac@mt.gov.

10. Darcee L. Moe, attorney, has been designated to preside over and conduct this hearing.

BOARD OF PUBLIC ACCOUNTANTS
LINDA HARRIS, CPA,
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 March 3, 2014

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

In the matter of the amendment of	)	NOTICE OF PROPOSED
ARM 37.57.102 pertaining to the	)	AMENDMENT
update of current federal poverty)	
guidelines for the children's special	)	NO PUBLIC HEARING
health services program	)	CONTEMPLATED

TO: All Concerned Persons

1. On April 14, 2014, the Department of Public Health and Human Services proposes to amend the above-stated rule.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Public Health and Human Services no later than 5:00 p.m. on April 3, 2014, 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 MT 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

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

37.57.102 DEFINITIONS Unless otherwise indicated, the following definitions apply throughout this subchapter:

(1) through (16) remain the same.

(17) "Poverty income guidelines" means the poverty income guidelines published in ~~2013~~ 2014 in the Federal Register by the U.S. Department of Health and Human Services. The department adopts and incorporates by reference the federal poverty guidelines that establish income thresholds according to family unit size for purposes of determining eligibility for government assistance or services and that are published in the February ~~2013~~ 2014, Federal Register. A copy of the ~~2013~~ 2014 poverty guidelines may be obtained from the Department of Public Health and Human Services, Public Health and Safety Division, Children's Special Health Services Program, 1400 Broadway Rm A-116, Helena, MT 59620, telephone (406) 444-3617.

(18) through (23) remain the same.

AUTH: 50-1-202, MCA

IMP: 50-1-202, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (the department) is proposing amendments to ARM 37.57.102 pertaining to Children's Special Health Services (CSHS). CSHS is located in the Family and Community Health Bureau of the Montana Department of Public Health and Human Services. The program is charged by the federal Maternal Child Health Block Grant (MHBG) to: "Support development and implementation of comprehensive, culturally competent, coordinated systems of care for children and youth who have or are at risk for chronic physical, developmental, behavioral or emotional condition and who require health and related services of a type or amount beyond that required by children generally."

ARM 37.54.102

The department is proposing to update this rule to reflect current poverty income guidelines published in 2014 in the Federal Register by the U.S. Department of Health and Human Services. Each year the U.S. Department of Health and Human Services revises and publishes the new poverty income guidelines. The federal poverty income guidelines are the resource used to confirm that the family income falls within the CSHS rules.

Fiscal Impact

There is no fiscal impact related to this proposed amendment.

5. The department intends to apply this rule amendment retroactively to April 1, 2014. A retroactive application of the proposed rule amendment does not result in a negative impact to any affected party.

6. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Kenneth Mordan, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena MT 59604-4210, no later than 5:00 p.m. on April 10, 2014. Comments may also be faxed to (406) 444-9744 or e-mailed to dphslegal@mt.gov.

7. 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 Kenneth Mordan at the above address no later than 5:00 p.m., April 10, 2014.

8. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative

Register. Ten percent of those directly affected has been determined to be 2 persons based on an anticipated enrollment of 16 clients.

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 6 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 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.

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

/s/ Shannon L. McDonald
Shannon L. McDonald
Rule Reviewer

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

Certified to the Secretary of State March 3, 2014.

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the amendment of)
ARM 44.5.114 through 44.5.121,)
44.6.104 and 44.6.105, and the)
repeal of ARM 44.2.202 and 44.2.203)
pertaining to fees charged by the)
Business Services Division)

NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENT AND
REPEAL

TO: All Concerned Persons

1. On April 3, 2014, at 9:30 a.m., the Secretary of State will hold a public hearing in the Secretary of State's Office Conference Room, Room 260, State Capitol Building, Helena, Montana, to consider the proposed amendment and repeal of the above-stated rules.

2. The Secretary of State will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Secretary of State no later than 5:00 p.m. on March 27, 2014, 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) 461-5173; fax (406) 444-4249; TDD/Montana Relay Service (406) 444-9068; or e-mail jquintana@mt.gov.

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

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

(j) appointment of commercial registered agent 100.00

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

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

(5) Documents filed with inadequate funds will be rejected and when refiled must be accompanied by a dollar amount that satisfies the initial filing fee and includes the 50 percent reprocessing fee.

AUTH: 2-15-405, ~~35-1-1206, 35-1-1207~~, 35-1-1307, 35-2-1107, ~~35-6-201~~, 35-7-103, MCA

IMP: 2-15-405, ~~35-1-216, 35-1-217, 35-1-1026, 35-1-1028~~, 35-1-1206, 35-1-1207, 35-1-1307, 35-2-119, 35-2-1003, 35-6-201, MCA

REASON: The Secretary of State is required by statute to set fees commensurate with the overall costs of the office that reasonably reflect the prevailing rates charged in the public and private sectors for similar services. See 2-15-405, MCA. Business Services Division fees have remained the same since the 1980s and several corporation fees were actually eliminated in the 1990s. The fee for the appointment of commercial registered agent in (3)(j) is the current fee for this filing and is added to comply with 2-15-405, MCA. The 50 percent reprocessing fee in (4) reflects the cost to the office of reprocessing documents that are filed with deficiencies. Section (5) is added to clarify that documents filed with inadequate funds are considered deficient and must be refiled with a dollar amount sufficient to satisfy both the initial filing fee and the reprocessing fee. The authority and implementation statutes were reviewed and updated.

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

(g) articles of revocation of dissolution 15.00

(g) and (h) remain the same, but are renumbered (h) and (i).

(2) and (3) remain the same.

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

(5) Documents filed with inadequate funds will be rejected and when refiled must be accompanied by a dollar amount that satisfies the initial filing fee and includes the 50 percent reprocessing fee.

AUTH: 2-15-405, ~~35-1-1307~~, ~~35-8-211~~, MCA

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

REASON: The Secretary of State is required by statute to set fees commensurate with the overall costs of the office that reasonably reflect the prevailing rates charged in the public and private sectors for similar services. See 2-15-405, MCA. Business Services Division fees have remained the same since the 1980s and several corporation fees were actually eliminated in the 1990s. The fee for articles of revocation of dissolution in (1)(g) is the current fee for this filing and is added to comply with 2-15-405, MCA. The 50 percent reprocessing fee in (4) reflects the cost to the office of reprocessing documents that are filed with deficiencies. Section (5) is added to clarify that documents filed with inadequate funds are considered deficient and must be refiled with a dollar amount sufficient to satisfy both the initial filing fee and the reprocessing fee. The authority and implementation statutes were reviewed and updated.

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

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

(9) Documents filed with inadequate funds will be rejected and when refiled must be accompanied by a dollar amount that satisfies the initial filing fee and includes the 50 percent reprocessing fee.

AUTH: 2-15-405, 35-10-111, 30-13-217, MCA

IMP: 2-15-405, 30-13-203, 30-13-217, 35-10-111, 35-10-720, MCA

REASON: The Secretary of State is required by statute to set fees commensurate with the overall costs of the office that reasonably reflect the prevailing rates charged in the public and private sectors for similar services. See 2-15-405, MCA. Business Services Division fees have remained the same since the 1980s and several corporation fees were actually eliminated in the 1990s. The 50 percent reprocessing fee in (8) reflects the cost to the office of reprocessing documents that are filed with deficiencies. Section (9) is added to clarify that documents filed with inadequate funds are considered deficient and must be refiled with a dollar amount sufficient to satisfy both the initial filing fee and the reprocessing fee. The authority and implementation statutes were reviewed and updated.

44.5.117 LIMITED PARTNERSHIP FEES (1) remains the same.

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

(3) Documents filed with inadequate funds will be rejected and when refiled must be accompanied by a dollar amount that satisfies the initial filing fee and includes the 50 percent reprocessing fee.

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

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

REASON: The Secretary of State is required by statute to set fees commensurate with the overall costs of the office that reasonably reflect the prevailing rates charged in the public and private sectors for similar services. See 2-15-405, MCA. Business Services Division fees have remained the same since the 1980s and several corporation fees were actually eliminated in the 1990s. The 50 percent reprocessing fee in (2) reflects the cost to the office of reprocessing documents that are filed with deficiencies. Section (3) is added to clarify that documents filed with inadequate funds are considered deficient and must be refiled with a dollar amount sufficient to satisfy both the initial filing fee and the reprocessing fee. The authority and implementation statutes were reviewed and updated.

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

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

(6) Documents filed with inadequate funds will be rejected and when refiled must be accompanied by a dollar amount that satisfies the initial filing fee and includes the 50 percent reprocessing fee.

AUTH: 2-15-405, ~~35-15-201~~, ~~35-15-205~~, ~~35-16-101~~, ~~35-17-205~~, ~~35-18-502~~, 35-15-210, MCA

IMP: 2-15-405, 35-15-201, 35-15-205, 35-15-210, ~~35-16-101~~, 35-17-205, 35-18-502, MCA

REASON: The Secretary of State is required by statute to set fees commensurate with the overall costs of the office that reasonably reflect the prevailing rates charged in the public and private sectors for similar services. See 2-15-405, MCA. Business Services Division fees have remained the same since the 1980s and several corporation fees were actually eliminated in the 1990s. The 50 percent reprocessing fee in (5) reflects the cost to the office of reprocessing documents that are filed with deficiencies. Section (6) is added to clarify that documents filed with inadequate funds are considered deficient and must be refiled with a dollar amount sufficient to satisfy both the initial filing fee and the reprocessing fee. The authority and implementation statutes were reviewed and updated.

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

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

(9) Documents filed with inadequate funds will be rejected and when refiled must be accompanied by a dollar amount that satisfies the initial filing fee and includes the 50 percent reprocessing fee.

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

IMP: 2-15-405, 30-13-217, ~~30-13-320~~, MCA

REASON: The Secretary of State is required by statute to set fees commensurate with the overall costs of the office that reasonably reflect the prevailing rates charged in the public and private sectors for similar services. See 2-15-405, MCA. Business Services Division fees have remained the same since the 1980s and several corporation fees were actually eliminated in the 1990s. The 50 percent reprocessing fee in (8) reflects the cost to the office of reprocessing documents that are filed with deficiencies. Section (9) is added to clarify that documents filed with inadequate funds are considered deficient and must be refiled with a dollar amount sufficient to satisfy both the initial filing fee and the reprocessing fee. The authority and implementation statutes were reviewed and updated.

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

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

(7) Documents filed with inadequate funds will be rejected and when refiled must be accompanied by a dollar amount that satisfies the initial filing fee and includes the 50 percent reprocessing fee.

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

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

REASON: The Secretary of State is required by statute to set fees commensurate with the overall costs of the office that reasonably reflect the prevailing rates charged in the public and private sectors for similar services. See 2-15-405, MCA. Business Services Division fees have remained the same since the 1980s and several corporation fees were actually eliminated in the 1990s. The 50 percent reprocessing fee in (6) reflects the cost to the office of reprocessing documents that are filed with deficiencies. Section (7) is added to clarify that documents filed with inadequate funds are considered deficient and must be refiled with a dollar amount sufficient to satisfy both the initial filing fee and the reprocessing fee. The authority and implementation statutes were reviewed and updated.

44.5.121 MISCELLANEOUS FEES (1) and (2) remain the same.

(3) Business Services Documents or copies returned by fax	5.00
(a) <u>24-hour</u> priority handling per document or request	20.00
<u>(b) one-hour expedited filing for all documents</u>	<u>100.00</u>
(b) through (e) remain the same, but are renumbered (c) through (f).	
(4) through (6) remain the same.	
<u>(7) Geophysical exploration bond, cashier's check, or certificate of deposit</u>	<u>15.00</u>

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

(9) Documents filed with inadequate funds will be rejected and when refiled must be accompanied by a dollar amount that satisfies the initial filing fee and includes the 50 percent reprocessing fee.

AUTH: 2-15-405, 30-9A-526, 35-1-1307, 35-2-1107, 35-7-103, MCA

IMP: 2-6-103, 2-15-405, 30-9A-525, 30-13-320, 35-1-1206, 35-2-119, 35-2-1003, 35-2-1107, 35-7-103, 82-1-104, MCA

REASON: The words "Business Services" are removed from (3) because they are unnecessary. The Secretary of State is required by statute to set fees commensurate with the overall costs of the office that reasonably reflect the prevailing rates charged in the public and private sectors for similar services. See 2-15-405, MCA. Business Services Division fees have remained the same since the 1980s and several corporation fees were actually eliminated in the 1990s. Subsection (3)(a) is amended to specify the time period for priority handling of documents. Subsection (3)(b) is added to set forth the fee for expedited filing of documents pursuant to the requirements of 2-15-405, MCA. The priority and expedite fees reflect current filing fees for these services. The fee for the filing of a

geophysical exploration bond, cashier's check, or certificate of deposit in (7) is added to reflect the existing filing fee and to comply with 2-15-405, MCA. The 50 percent reprocessing fee in (8) reflects the cost to the office of reprocessing documents that are filed with deficiencies. Section (9) is added to clarify that documents filed with inadequate funds are considered deficient and must be refiled with a dollar amount sufficient to satisfy both the initial filing fee and the reprocessing fee. The authority and implementation statutes were reviewed and updated.

44.6.104 FEES FOR FILING NOTICE OF FEDERAL TAX LIEN FEES

~~(1) Effective May 1, 1988, the Secretary of State and the county clerk and recorder shall charge and collect for:~~

- ~~(a)(1) filing a Notice of federal tax lien, \$7.00;~~
- ~~(b)(2) filing Any amendment, \$5.00;~~
- ~~(c)(3) filing a Certificate of release/termination statement, no fee; and~~
no charge
- ~~(d)(4) issuing a Certificate of federal tax lien from the filing officer, \$7.00 per name.~~

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

(6) Documents filed with insufficient funds will be rejected and when refiled must be accompanied by a dollar amount that satisfies the initial filing fee and includes the 50 percent reprocessing fee.

AUTH: 2-15-405, 30-9A-525, 30-9A-526, MCA

IMP: 2-15-405, 30-9A-519, 30-9A-525, 71-3-205, 71-3-206, MCA

REASON: Section (1) is deleted because the Secretary of State's office no longer coordinates its fees with the county clerks and recorders. The Secretary of State is required by statute to set fees commensurate with the overall costs of the office that reasonably reflect the prevailing rates charged in the public and private sectors for similar services. See 2-15-405, MCA. Business Services Division fees have remained the same since the 1980s and several corporation fees were actually eliminated in the 1990s. The 50 percent reprocessing fee in (5) reflects the cost to the office of reprocessing documents that are filed with deficiencies. Section (6) is added to clarify that documents filed with inadequate funds are considered deficient and must be refiled with a dollar amount sufficient to satisfy both the initial filing fee and the reprocessing fee. The format of the rule was changed to mirror the format of the other Secretary of State fee rules. The authority and implementation statutes were reviewed and updated.

44.6.105 FEES FOR FILING DOCUMENTS – UNIFORM COMMERCIAL CODE FEES

~~(1) The Secretary of State and the county clerk and recorder shall charge and collect for:~~

- ~~(a)(1) filing a Financing statement, \$7.00;~~
- ~~(b)(2) filing a Termination statement, no fee;~~ no charge
- ~~(c)(3) filing a Continuation statement, \$5.00;~~

- ~~(d)(4)~~ filing an Assignment, \$5.00;
 - ~~(e)(5)~~ filing a Statement of partial release, \$5.00;
 - ~~(f)(6)~~ filing a Statement, adding, changing, or deleting collateral, \$5.00;
 - ~~(g)(7)~~ filing a Statement, adding, changing, or deleting debtor information, \$5.00;
 - ~~(h)(8)~~ filing a Statement, adding, changing, or deleting secured party information, \$5.00;
 - ~~(i)(9)~~ filing Any other amendment, \$5.00;
 - ~~(j)(10)~~ issuing a Certificate from the filing officer, \$7.00 per name;
 - ~~(k)(11)~~ Hookup fee for public access to Uniform Commercial Code computer system per month, \$25.00;
 - ~~(l)(12)~~ Computer printout of farm product collateral description, ~~no fee; and no charge~~
 - ~~(m)(13)~~ Copies of Uniform Commercial Code documents, \$5.00 per search request form.
 - (14) If a document is rejected because of deficiencies in the filing, a reprocessing fee of 50 percent of the initial filing fee will be assessed each time the document is resubmitted.
 - (15) Documents filed with inadequate funds will be rejected and when refiled must be accompanied by a dollar amount that satisfies the initial filing fee and includes the 50 percent reprocessing fee.
- (2) through (4) remain the same, but are renumbered (15) through (17).

AUTH: 2-15-405, 30-9A-526, MCA

IMP: 2-15-405, ~~30-9A-501~~, ~~30-9A-502~~, 30-9A-525, 71-3-125, MCA

REASON: Section (1) is deleted because the Secretary of State's office no longer coordinates its fees with the county clerks and recorders. The Secretary of State is required by statute to set fees commensurate with the overall costs of the office that reasonably reflect the prevailing rates charged in the public and private sectors for similar services. See 2-15-405, MCA. Business Services Division fees have remained the same since the 1980s and several corporation fees were actually eliminated in the 1990s. The 50 percent reprocessing fee in (14) reflects the cost to the office of reprocessing documents that are filed with deficiencies. Section (15) is added to clarify that documents filed with inadequate funds are considered deficient and must be refiled with a dollar amount sufficient to satisfy both the initial filing fee and the reprocessing fee. The format of the rule was changed to mirror the format of the other Secretary of State fee rules. The authority and implementation statutes were reviewed and updated.

4. The Secretary of State proposes to repeal the following rules:

44.2.202 FEES FOR FACSIMILE TRANSMISSIONS OF DOCUMENTS

AUTH: 2-15-405, 35-1-1307, MCA

IMP: 2-15-405, 35-1-1206, MCA

REASON: The Secretary of State proposes to repeal this rule because the Business Services Division is the only division within the Secretary of State's office that charges for this service and the fee is set forth in ARM 44.5.121.

44.2.203 PRIORITY HANDLING OF DOCUMENTS

AUTH: 30-9A-526, 35-1-1307, 35-2-1107, MCA

IMP: 30-13-217, 35-2-1003, 35-12-521, MCA

REASON: The Secretary of State proposes to repeal this rule because the Business Services Division is the only division within the Secretary of State's office that charges for this service and the fee is set forth in ARM 44.5.121.

5. Concerned persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to 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., April 11, 2014.

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, do not apply.

10. The Secretary of State estimates that the cumulative amount for all persons of the reprocessing fee will be \$219,304 and the number of persons affected is 16,262 based on the current number of business filings that are rejected which is estimated to be 25 to 30 percent of all corporate filings and 15 percent for all Uniform Commercial Code filings. The Secretary of State expects these numbers to decline for the next two to three years by a factor of 35 percent and then stabilize at a rate of about 8 percent based on the volume of business filings at that point in time.

11. With regard to the requirements of 2-4-111, MCA, the Secretary of State has determined that the amendment and repeal of the above-referenced rules will not significantly and directly impact small businesses because the reprocessing fee will only impact businesses with deficiencies in their filed documents, which is estimated to be approximately 25 to 30 percent for corporate filings and 15 percent for Uniform Commercial Code (UCC) filings. Also, the reprocessing fee will not impact UCC lien documents filed online as the Secretary of State has two full time employees dedicated to handling hundreds of incoming calls to ensure that UCC lien filings are in compliance when filed.

/s/ Jorge Quintana
JORGE QUINTANA
Rule Reviewer

/s/ Linda McCulloch
LINDA MCCULLOCH
Secretary of State

Dated this 3rd day of March, 2014.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the adoption of New	)	NOTICE OF ADOPTION AND
Rule I pertaining to service of process	)	AMENDMENT
and the amendment of ARM 2.59.301,)	
2.59.302, 2.59.303, 2.59.304, 2.59.305,)	
and 2.59.306 pertaining to advertising,)	
fee disclosures and computation of)	
interest, credit insurance, fees to public)	
officials, receipt form, and licensee)	
records affecting consumer loan)	
licensees)	

TO: All Concerned Persons

1. On December 26, 2013, the Department of Administration published MAR Notice No. 2-59-501 pertaining to the public hearing on the proposed adoption and amendment of the above-stated rules at page 2345 of the 2013 Montana Administrative Register, Issue Number 24.

2. No comments or testimony were received.

3. The department has adopted New Rule I (ARM 2.59.309) exactly as proposed.

4. The department has amended ARM 2.59.301, 2.59.302, 2.59.303, 2.59.304, 2.59.305, and 2.59.306 exactly as proposed.

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, March 3, 2014.

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 4.5.313 pertaining to Noxious)
Weed Seed Free Forage minimum)
fees)

TO: All Concerned Persons

1. On January 30, 2014, the Department of Agriculture published MAR Notice No. 4-14-216 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 161 of the 2014 Montana Administrative Register, Issue Number 2.

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

3. The department has thoroughly considered the comments and testimony received. One comment was received and the department's response is as follows:

COMMENT #1: Commenter believes the \$45 minimum inspection fee is too high for small producers (in his case 3 acres) and should be lower.

RESPONSE #1: While the department sympathizes with his concern, the minimum fee of \$45 reflects the cost of the department performing any inspection.

/s/ Cort Jensen
Cort Jensen
Rule Reviewer

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

Certified to the Secretary of State March 3, 2014.

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the adoption of New	)	NOTICE OF ADOPTION
Rules I through IV pertaining to)	
Montana Corn Crop Advisory)	
Committee, Definitions, Annual Corn)	
Crop Commodity Assessment-)	
Collection, and Applications for Corn)	
Crop Research and Marketing Project)	
Funds)	

TO: All Concerned Persons

1. On January 30, 2014, the Department of Agriculture published MAR Notice No. 4-14-217 pertaining to the public hearing on the proposed adoption of the above-stated rules at page 164 of the 2014 Montana Administrative Register, Issue Number 2.

2. The department has adopted New Rule I (4.6.501), II (4.6.502), III (4.6.503), and IV (4.6.504) 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 March 3, 2014.

BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
MONTANA STATE AUDITOR

In the matter of the amendment of	)	NOTICE OF AMENDMENT AND
ARM 6.6.3702, 6.6.3703, 6.6.3704,	)	ADOPTION
6.6.3705, 6.6.3706, 6.6.3707,)	
6.6.3708, 6.6.3709, 6.6.3710,)	
6.6.3711, 6.6.3712, 6.6.3713,)	
6.6.3714, 6.6.3715, 6.6.3716 and the)	
adoption of New Rule I pertaining to)	
Reporting by Holding Company)	
Systems)	

TO: All Concerned Persons

1. On October 17, 2013, the Commissioner of Securities and Insurance, Montana State Auditor, published MAR Notice No. 6-202 pertaining to the public hearing on the proposed amendment and adoption of the above-stated rules at page 1755 of the 2013 Montana Administrative Register, Issue Number 19.

2. On November 12, 2013, a public hearing was held on the proposed amendment and adoption of the above-stated rules with one person from the public in attendance. No comments or testimony were received.

3. The department has amended the following rules as proposed: ARM 6.6.3702, 6.6.3703, 6.6.3704, 6.6.3705, 6.6.3706, 6.6.3707, 6.6.3708, 6.6.3709, 6.6.3710, 6.6.3711, 6.6.3712, 6.6.3713, 6.6.3714, 6.6.3715, and 6.6.3716.

4. The department has adopted New Rule I (ARM 6.6.3717) as proposed.

/s/Nick Mazanec
Nick Mazanec
Rule Reviewer

/s/Jesse Laslovich
Jesse Laslovich
Chief Legal Counsel

Certified to the Secretary of State March 3, 2014.

BEFORE THE DEPARTMENT OF TRANSPORTATION
OF THE STATE OF MONTANA

In the matter of the adoption of New) NOTICE OF ADOPTION AND
Rule I and the amendment of ARM) AMENDMENT
18.8.1501, 18.8.1502, and 18.8.1503)
pertaining to motor carrier services)
safety assistance program)

TO: All Concerned Persons

1. On January 16, 2014, the Department of Transportation published MAR Notice No. 18-145 pertaining to the proposed adoption and amendment of the above-stated rules at page 4 of the 2014 Montana Administrative Register, Issue Number 1.
2. The department has amended the above-stated rules as proposed.
3. The department has adopted the above-stated rule as proposed: New Rule I (18.8.1506).
4. No comments or testimony were received.

/s/ Carol Grell Morris
Carol Grell Morris
Rule Reviewer

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

Certified to the Secretary of State March 3, 2014

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 37.91.102, 37.91.106,)
37.91.201, 37.91.205, 37.91.210,)
37.91.220, 37.91.401, 37.91.402,)
37.91.407, and 37.91.601 pertaining)
to certification of mental health)
professional person)

TO: All Concerned Persons

1. On December 26, 2013, the Department of Public Health and Human Services published MAR Notice No. 37-662 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 2397 of the 2013 Montana Administrative Register, Issue Number 24.

2. The department has amended ARM 37.91.102, 37.91.201, 37.91.205, 37.91.210, 37.91.220, 37.91.401, 37.91.402, 37.91.407, and 37.91.601 as proposed.

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

37.91.106 DEFINITIONS (1) through (9) remain as proposed.

(10) "Mental Health Professional Person" means a type of professional person who is certified by the department under 53-21-106, MCA, to perform the privileges granted under ARM 37.91.402.

~~(10)~~ (11) "Professional person" means a mental health professional person as defined in 53-21-102~~(10)(b)(16)~~, MCA.

AUTH: 53-21-106, MCA

IMP: 53-21-106, MCA

4. 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: A commenter expressed concern with the proposed requirement found in ARM 37.91.106 to have a standardized "approved facility training program" as it would place a burden on agencies. The commenter also expressed concern on the deletion of the rule allowing the order of restraint and seclusion by facility professional persons.

RESPONSE #1: In the existing administrative rule there are two types of professional person certifications. They are described in ARM 37.91.106 as full mental health certification and facility mental health certification. A facility professional person is certified to act as a mental health professional person only in the facility for which the person is certified and only with those privileges described in ARM 37.91.407. At the present time, facility professional person status is confined to the Montana State Hospital, where they have their own internal six-month training program and examination tailored to their stated privileges and duties. There was a time when at least one community hospital also used the facility type of certification. Regarding facility professional person restraint and seclusion, state hospital policy has never permitted restraint and/or seclusion of patients except on the order of a medical doctor. The department does permit restraint/seclusion by full mental health professional persons when necessary as per 53-21-146, MCA.

COMMENT #2: A commenter expressed concern that the removal of language pertaining to college transcripts in ARM 37.91.201 would remove an important safeguard, especially with respect to persons coming from out-of-state to provide mental health services to Montana consumers.

RESPONSE #2: The rule change in ARM 37.91.201 proposes that in order to qualify as a professional person an applicant must be licensed as a mental health professional. If the license is from outside of Montana, then the licensee must demonstrate that the license was obtained under standards equal to or superior to those of Montana. The professional person applicant must demonstrate having met education standards of the National Council on Social Work Education, a Licensed Clinical Professional Counselor (LCPC) exam, and 3,000 supervised hours of clinical practice as described in ARM 24.219.504, 24.219.604; and 37-22-301, 37-23-202, MCA.

COMMENT #3: A commenter testified at the public hearing that the proposed language found in ARM 37.91.106(5), requiring training with mental health consumers over the age of 18, should be amended to also allow training applicable to consumers under the age of 18.

RESPONSE #3: The proposed rule amendment states that "clinical mental health experience" means work experience evaluating persons for mental illness and providing direct mental health treatment to a caseload which includes persons 18 years and older who are seriously impaired due to mental illness. The proposed change does not preclude also having experience treating persons under age 18. The proposed rule is targeting adults because persons under age 18 are not committed to the state hospital.

COMMENT #4: A commenter raised a concern that in ARM 37.91.201 the department requiring professional persons to be licensed could make it very difficult for employers to hire a new graduate or an out-of-state clinician.

RESPONSE #4: This proposed rule amendment is designed to protect the public by requiring that clinicians participating in involuntary commitments achieve at least a mental health professional license, thus establishing a level of integrity of the mental health commitment process and raising the standard of qualification to a more professional level.

COMMENT #5: A commenter was concerned that the proposed amendment to ARM 37.91.210 would allow the certification committee to revoke an individual's certification for failing to meet ongoing educational requirements.

RESPONSE #5: The department may revoke an individual's certification for failing to meet ongoing educational requirements when it threatens to or causes the individual's mental health professional license to be revoked due to failure to meet ongoing educational requirements. These continuing educational units are the same as those referred to by licensure requirements.

COMMENT #6: A commenter requested clarification on the difference between a "mental health professional person" and a "professional person."

RESPONSE #6: The department has added a definition for "mental health professional person" in order to distinguish the difference between that and a "professional person." The department also corrected a citation to the Montana Code Annotated under the definition for "professional person."

/s/ John C. Koch
John C. Koch
Rule Reviewer

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

Certified to the Secretary of State March 3, 2014

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 37.85.105 pertaining to the)
revision of fee schedules for Medicaid)
provider rates in January 2014)

TO: All Concerned Persons

1. On January 16, 2014, the Department of Public Health and Human Services published MAR Notice No. 37-664 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 88 of the 2014 Montana Administrative Register, Issue Number 1.

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

3. No comments or testimony were received.

4. The department intends to apply this rule amendment retroactively to January 1, 2014. A retroactive application of the proposed rule amendment does not result in a negative impact to any affected party.

/s/ John C. Koch
John C. Koch
Rule Reviewer

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

Certified to the Secretary of State March 3, 2014.

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

In the matter of the adoption of New) NOTICE OF ADOPTION AND
Rule I and the amendment of ARM) AMENDMENT
37.86.2907 and 37.86.3001)
pertaining to ICD CM and PCS)
Services: adoption of ICD-10)

TO: All Concerned Persons

1. On January 16, 2014, the Department of Public Health and Human Services published MAR Notice No. 37-665 pertaining to the public hearing on the proposed adoption and amendment of the above-stated rules at page 94 of the 2014 Montana Administrative Register, Issue Number 1.

2. The department has adopted the above-stated rule as proposed: New Rule I (37.85.403).

3. The department has amended ARM 37.86.2907 and 37.86.3001 as proposed.

4. No comments or testimony were received.

/s/ John C. Koch
John C. Koch
Rule Reviewer

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

Certified to the Secretary of State March 3, 2014.

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 38.2.5031 pertaining to Public)
Utility Executive Compensation)

TO: All Concerned Persons

1. On September 19, 2013, the Department of Public Service Regulation published MAR Notice No. 38-2-220 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 1680 of the 2013 Montana Administrative Register, Issue Number 18.

2. The department has amended the following rule as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

38.2.5031 INFORMATION TRANSPARENCY RULE (1) Any information held in the possession of the commission is open to the public for inspection and copying in accordance with 2-6-102, MCA, during regular business hours, as defined by 2-16-117, MCA, except for information listed in (2).

(a) Information includes: pleadings, petitions, applications, motions, communications, exhibits, reports, records, accounts, files, papers, and memoranda or other document(s); of every nature, ~~which may include utility compensation information; in whole or in part, whether individual or in aggregate, whether organized by job title or name, whether executive or otherwise.~~

(2) The following information is not open to public inspection:

~~(a) commission personnel files;~~

(ba) information for which the commission has issued a protective order pursuant to 69-3-105(2), MCA; and

(eb) internal commission non-utility information, or other information, required by law or requirements of personal privacy to remain confidential.

AUTH: 69-3-103, MCA

IMP: 69-3-102, 69-3-106, 69-3-201, 69-3-203, 69-3-330, MCA

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: One commenter questioned why the rule contains language specifically identifying utility compensation information which would be included in the definition of information nonetheless.

RESPONSE 1: The commission agrees with the commenter that it is unnecessary to single out just one specific category of information in the rule. The definition of

information contained in the rule states that documents of every nature are subject to this rule. The definition of information covers utility compensation information by any manner the commission receives it, whether by annual utility reports or in the form of a rate case filing. Therefore, the commission has removed the language singling out just one type of information, utility compensation information.

COMMENT 2: One commenter stated that the rule only needs to specify that information for which the commission has issued a protective order pursuant to 69-3-105(2), MCA, is the only information that should not be open to public inspection. The commenter initially believed that (2)(a) and (2)(c) were unnecessary. However, as the rulemaking hearing continued, the commenter became aware of the commission's privacy concerns about internal commission, non-utility information, such as utility customer information and commission personnel files. The commenter generally agreed that the commission may not be able to limit the rule to just (2)(a) and may need to expand the categories as set out in the rule.

RESPONSE 2: The commission generally disagrees with the commenter that the rule only needs to specify that information for which the commission has issued a protective order pursuant to 69-3-105(2), MCA, is the only information that should not be open to public inspection. In some cases, the commission is in receipt of utility customer information such as social security numbers, which the commission is required by law to maintain as confidential even without the existence of a protective order. In addition, the commission may be required pursuant to Montana law to keep confidential some commission personnel files, without the existence of a protective order. However, based on this comment, the commission has reworded the exceptions in (2) and combined two of those categories into one category.

COMMENT 3: One commenter discussed whether the rule language stating that information required by law or requirements of personal privacy to remain confidential could be used to allow a utility to argue that a protective order is not needed for some utility information. The commenter confirmed that the utilities he represents are well aware of the commission practice to only keep confidential, information that is subject to an approved protective order. The commenter proposed that the commission could add limiting language such as non-utility to further limit those exceptions.

RESPONSE 3: The commission appreciates these comments and has added the language "internal commission, non-utility" to (2)(b) of the rule. Therefore (2)(b) will now read, "internal commission, non-utility information or other information required by law or requirements of personal privacy to remain confidential." The commission agrees with the commenter and interprets (2)(b) to allow the commission to protect limited information such as commission personnel files and utility customer information, without the necessity of a protective order being filed and then processed by the commission itself. The long-standing process of utility protective orders will remain unchanged. If a utility is seeking to protect confidential information that it is required to file with the commission, then that utility must seek a protective order from the commission. The commission will then make a decision to

grant or deny the protective order request consistent with Montana law and the Montana Constitution.

/s/ JUSTIN KRASKE
Justin Kraske
Rule Reviewer

/s/ W.A. (BILL) GALLAGHER
W.A. (Bill) Gallagher
Chairman
Public Service Commission

Certified to the Secretary of State on March 3, 2014

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

IN THE MATTER OF the Petition of) REGULATORY DIVISION
Crazy Mountain Wind, LLC for)
Declaratory Ruling) DOCKET NO. D2014.1.7

DECLARATORY RULING

BACKGROUND

1. On January 15, 2014, Crazy Mountain Wind, LLC (Crazy Mountain) filed a *Petition for Declaratory Ruling* (Petition) with the Montana Public Service Commission (Commission); it filed an *Errata* with the *Affidavit of Martin Wilde* on January 16, 2014. On January 17, 2014, Crazy Mountain filed a *Motion for Expedited Consideration*.

2. On January 21, 2014, the Commission issued a *Notice of Petition for Declaratory Ruling and Opportunity to Comment*. The Commission received *Comments* from the following entities: Diana's Great Idea, LLC; Engwis Investment Company, Ltd. and R. F. Building Company, LLP; NorthWestern Corporation; Rock Creek Ranch, Ltd.; and Wild Eagle Ranch, LLC. Crazy Mountain filed *Response Comments* on February 19, 2014.

3. In its Petition, Crazy Mountain presented legal questions pertaining to Section 69-3-2003 of the Montana Code Annotated, which defines "community renewable energy project" (CREP) in part as "an eligible renewable resource . . . in which local owners have a controlling interest."

4. Crazy Mountain requested "a declaratory ruling by the Commission that: (1) Local owners have a controlling interest if, over the life of the [purchase power agreement], the local owners demonstrate they own a majority of voting interests, equity interests, and income interests from the project; and (2) That an ownership structure that permits a tax equity investor to receive the vast majority of income interests in the first 10 years of the project will qualify as a CREP so long as the owners eventually will have accumulated a majority interest in the voting, equity, and income rights of the CREP at the end of the term of the PPA." Pet. pp. 10-11.

CONCLUSIONS OF LAW

5. The Commission "shall provide by rule for the filing and prompt disposition of petitions for declaratory rulings as to the applicability of any statutory provision. . . ." Mont. Code Ann. § 2-4-501 (2013). "A declaratory ruling or the refusal to issue such a ruling shall be subject to judicial review in the same manner as decisions or orders in contested cases." *Id.*; Admin. R. Mont. 1.3.229(2) (2014).

6. The Commission has adopted the Attorney General's Model Procedural Rules governing declaratory rulings. Admin. R. Mont. 38.2.101. "A party may seek a declaratory ruling from the agency when doubt exists as to how a statute or rule administered by an agency affects the party's legal rights." *Id.* at 1.3.226.

7. A "community renewable energy project" is, in relevant part, "an eligible renewable resource that is interconnected on the utility side of the meter in which local owners have a controlling interest and that is less than or equal to 25 megawatts in total calculated nameplate capacity."

8. The Commission declines to issue the declaratory ruling sought by Crazy Mountain; instead, the Commission declares that under Section 69-3-2003 of the Montana Code Annotated, an eligible renewable resource does not qualify as a CREP unless "local owners have a controlling interest" at the time of its interconnection and at any point thereafter.

DONE AND DATED this 25th day of February, 2014, by a vote of 4 to 1.
Commissioner Kavulla dissenting

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

/s/W.A. (BILL) GALLAGHER
W.A. (BILL) GALLAGHER
Chairman

/s/BOB LAKE
BOB LAKE
Vice Chair

/s/ KIRK BUSHMAN
KIRK BUSHMAN
Commissioner

/s/TRAVIS KAVULLA
TRAVIS KAVULLA
Commissioner

/s/ROGER KOOPMAN
ROGER KOOPMAN
Commissioner

ATTEST:

Aleisha Solem
Commission Secretary

(SEAL)

CERTIFICATE OF MAILING

The undersigned hereby certifies that on the 3rd day of March 2014, a true and correct copy of the foregoing has been serviced by placing the same in the United States Mail, postage prepaid, to the service list in the PSC's master file which can be viewed at 1701 Prospect Avenue, Helena, MT 59601:

/s/Aleisha Solem
PSC Paralegal-Commission Secretary

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 September 30, 2013. This table includes those rules adopted during the period October 1, 2013, through December 31, 2013, and any proposed rule action that was pending during the past 6-month period. (A notice of adoption must be published within six months of the published notice of the proposed rule.) This table does not include the contents of this issue of the Montana Administrative Register (MAR or Register).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through September 30, 2013, 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 2013/2014 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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