

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 9

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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

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

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BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 4.5.112 pertaining to the) PROPOSED AMENDMENT
Noxious Weed Management Advisory)
Council member terms)

TO: All Concerned Persons

1. On May 29, 2013, at 1:00 p.m., the Department of Agriculture will hold a public hearing in Room 225 of the Scott Hart Building, at Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The Department of Agriculture 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 Agriculture no later than 5:00 p.m. on May 23, 2013, to advise us of the nature of the accommodation that you need. Please contact Cort Jensen, Department of Agriculture, 302 N Roberts, Helena, Montana, 59620; telephone (406) 444-3144; fax (406) 444-5409; or e-mail cojensen@mt.gov.

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

4.5.112 NOXIOUS WEED MANAGEMENT COUNCIL (1) The members of the Noxious Weed Management Advisory Council appointed by the director serve two-year terms. ~~Members may serve for a maximum of three consecutive two-year terms.~~

AUTH: 80-7-802, MCA
IMP: 80-7-805, MCA

REASON: Representatives for certain council positions are difficult to recruit given the type of position, expertise needed, and the time commitment. The administrative rule proposes that council terms remain at two years and removes the term limits to ensure the advisory council has adequate representation of all stakeholders. There is no economic impact associated with the proposed changes.

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: Cort Jensen, Department of Agriculture, 302 N. Roberts, Helena, Montana, 59620; telephone (406) 444-3144; fax (406) 444-5409; or e-mail cojensen@mt.gov, and must be received no later than 5:00 p.m., June 6, 2013.

5. Cort Jensen, Chief Legal Counsel, Department of Agriculture, has been designated to preside over and conduct this hearing.

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

7. An electronic copy of this proposal notice is available through the department's web site at agr.mt.gov, under the Administrative Rules section. The department strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that 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 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.

/s/ Cort Jensen
Cort Jensen
Rule Reviewer

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

Certified to the Secretary of State April 29, 2013.

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 4.12.1308 pertaining to an) PROPOSED AMENDMENT
exterior plant health quarantine for)
Japanese beetle)

TO: All Concerned Persons

1. On May 29, 2013, at 3:00 p.m., the Department of Agriculture will hold a public hearing in Room 225 of the Scott Hart Building, at Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The Department of Agriculture 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 Agriculture no later than 5:00 p.m. on May 23, 2013, to advise us of the nature of the accommodation that you need. Please contact Cort Jensen, Department of Agriculture, 302 N. Roberts, Helena, Montana, 59601; telephone (406) 444-3144; fax (406) 444-5409; or e-mail cojensen@mt.gov.

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

4.12.1308 PLANT HEALTH QUARANTINES (1) through (3)(a) remain the same.

(b) Late Blight Quarantine, (*Phytophthora infestans*);~~z~~ See Order MTQ-2008-02.

(c) Japanese Beetle, (*Popillia japonica* Newman);~~z~~ See Order MTQ-2008-03. Intrastate Quarantine.

(d) Japanese Beetle, (*Popillia japonica* Newman). See Order MTQ-2013-01. Interstate Quarantine.

AUTH: 80-7-402, MCA

IMP: 80-7-402, MCA

REASON: The department proposes to amend ARM 4.12.1308, to include the external quarantine for Japanese beetle, *Popillia japonica* Newman, to provide protection to the state of Montana's agricultural and horticultural industries. Restrictions apply only to other states and provinces or portions of states and provinces known to have Japanese beetle. The external quarantine provides the conditions under which nursery stock may be imported into Montana.

The quarantine has no direct financial impact on Montana businesses (small or large) but may cause additional base nursery stock costs if the particular stock is sourced from a known infested area and alternatives prove more expense. The

department has no way of directly knowing what if any effect this would have on individual business.

The department further proposes to correct punctuation errors and clarification of interstate and intrastate in the rule.

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: Cort Jensen, Department of Agriculture, 302 N. Roberts, Helena, Montana, 59620; telephone (406) 444-3144; fax (406) 444-5409; or e-mail cojensen@mt.gov, and must be received no later than 5:00 p.m., June 6, 2013.

5. Cort Jensen, Chief Legal Officer, Department of Agriculture, has been designated to preside over and conduct this hearing.

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

7. An electronic copy of this proposal notice is available through the department's web site at agr.mt.gov, under the Administrative Rules section. The department strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that 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 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.

/s/ Cort Jensen
Cort Jensen
Rule Reviewer

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

Certified to the Secretary of State April 29, 2013.

BEFORE THE DEPARTMENT OF COMMERCE
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING ON
ARM 8.2.501 pertaining to the	)	PROPOSED AMDENDMENT
administration of the 2015 Biennium)	
Quality Schools Grant Program –)	
Planning Grants, and amendment of)	
ARM 8.2.502 pertaining to the)	
administration of the 2015 Biennium)	
Quality Schools Grant Program –)	
Emergency Grants)	

TO: All Concerned Persons

1. On May 29, 2013 at 1:00 p.m., the Department of Commerce will hold a public hearing in Room 504A of the Park Avenue Building at 301 South Park Avenue, in Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Department of Commerce will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Commerce no later than 5:00 p.m., May 24, 2013, to advise us of the nature of the accommodation that you need. Please contact Amy Alton, Department of Commerce, 301 South Park Avenue, P.O. Box 200523, Helena, Montana 59620-0523; telephone (406) 841-2770; TDD 841-2702; fax (406) 841-2771; or e-mail DOCQS@mt.gov.

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

8.2.501 INCORPORATION BY REFERENCE OF RULES FOR THE ADMINISTRATION OF THE QUALITY SCHOOLS GRANT PROGRAM – PLANNING GRANTS (1) The Department of Commerce adopts and incorporates by reference the 2015 Biennium Quality Schools Grant Program Application and Guidelines for Planning Grants as rules for the administration of the Quality Schools Grant Program – Planning Grants program.

(2) The rules incorporated by reference in (1) relate to the scope and procedures for the award, administration, monitoring, and close-out of matching planning grants to public school districts.

(3) Copies of the regulations adopted by reference in (1) may be obtained from the Department of Commerce, ~~Quality Schools Grant Program, 301 South Park Avenue, P.O. Box 200549, Helena, Montana 59620-0549~~ or on the ~~Quality Schools Grant Program website at <http://commere.mt.gov/QualitySchools>~~. Planning Bureau, 301 South Park Avenue, P.O. Box 200523, Helena, Montana 59620-0523, or on the Planning web site at <http://comdev.mt.gov/planningbureau/planningbureau.mcp.x>.

AUTH: 90-6-819, MCA

IMP: 90-6-819, MCA

8.2.502 INCORPORATION BY REFERENCE OF RULES FOR THE ADMINISTRATION OF THE QUALITY SCHOOLS GRANT PROGRAM – EMERGENCY GRANTS (1) The Department of Commerce adopts and incorporates by reference the 2015 Biennium Quality Schools Grant Program Guidelines for Emergency Grants as rules for the administration of the Quality Schools Grant Program – Emergency Grants program.

(2) The rules incorporated by reference in (1) relate to the scope and procedures for the award, administration, monitoring, and close-out of emergency grants to public school districts.

(3) Copies of the regulations adopted by reference in (1) may be obtained from the Department of Commerce, ~~Quality Schools Grant Program, 301 South Park Avenue, P.O. Box 200549, Helena, Montana 59620-0549~~ or on the Quality Schools Grant Program website at <http://commerce.mt.gov/QualitySchools>. Planning Bureau, 301 South Park Avenue, P.O. Box 200523, Helena, Montana 59620-0523, or on the Planning web site at <http://comdev.mt.gov/planningbureau/planningbureau.mcp.x>.

AUTH: 90-6-819, MCA

IMP: 90-6-819, MCA

REASON: It is reasonably necessary to amend these rules to initiate the department's administration of the planning and emergency grant components of the Quality Schools Grant Program, 90-6-801, *et seq.*, MCA. Public school districts must have these guidelines available before the entities may apply to the department for financial assistance under the 2015 Biennium Quality Schools program. The guidelines describe the department requirements with which public school districts must comply in order to apply for, receive, and administer Quality School planning or emergency grant funds.

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 the Department of Commerce, Planning Bureau, 301 South Park Avenue, P.O. Box 200523, Helena, Montana 59620-0523; telephone (406) 841-2770; TDD 841-2702; fax (406) 841-2771; or e-mail DOCQS@mt.gov, and must be received no later than 5:00 p.m., June 6, 2013.

5. Maria Jackson, Planning Specialist, Department of Commerce, has been designated to preside over and conduct this hearing.

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

delivered to the contact listed in 4 above or may be made by completing a request form at any rules hearing held by the department.

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

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

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

/s/ MEG O'LEARY
MEG O'LEARY
Director
Department of Commerce

Certified to the Secretary of State April 26, 2013.

BEFORE THE DEPARTMENT OF COMMERCE
OF THE STATE OF MONTANA

In the matter of the repeal of ARM) NOTICE OF PROPOSED REPEAL
8.97.801, 8.97.802, 8.97.803,)
8.97.804, 8.97.805, 8.97.806,) NO PUBLIC HEARING
8.97.807, 8.97.808, and 8.97.809) CONTEMPLATED
relating to Montana Capital)
Companies)

TO: All Concerned Persons

1. On June 8, 2013 the Department of Commerce proposes to repeal the above-stated rules.

2. The Department of Commerce will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Commerce no later than 5:00 p.m. on May 1, 2013, to advise us of the nature of the accommodation that you need. Please contact Bonnie Martello, Paralegal, Director's Office, Department of Commerce, 301 South Park Avenue, P.O. Box 200501, Helena, Montana 59620-0501; telephone (406) 841-2596; fax (406) 841-2701; TDD (406) 841-2702; or e-mail bmartello@mt.gov.

3. The department proposes to repeal the following rules:

8.97.801 PURPOSE

AUTH: 90-8-105, MCA
IMP: 90-8-103, MCA

8.97.802 DEFINITIONS

AUTH: 90-8-105, MCA
IMP: 90-8-101, 90-8-104, 90-8-201, 90-8-202, MCA

8.97.803 APPLICATION PROCEDURE TO BECOME A "CERTIFIED"
MONTANA CAPITAL COMPANY

AUTH: 90-8-105, MCA
IMP: 90-8-202, 90-8-204, MCA

8.97.804 APPLICATION PROCEDURE TO BECOME A "QUALIFIED"
MONTANA CAPITAL COMPANY

AUTH: 90-8-105, MCA
IMP: 90-8-201, 90-8-202, 90-8-204, MCA

8.97.805 COMPLETED APPLICATIONS DATE

AUTH: 90-8-105, MCA
IMP: 90-8-201, 90-8-202, 90-8-204, MCA

8.97.806 AMENDMENT OF APPLICATION

AUTH: 90-8-105, MCA
IMP: 90-8-201, 90-8-202, 90-8-204, MCA

8.97.807 ALLOCATION OF TAX CREDITS

AUTH: 90-8-705, MCA
IMP: 90-8-202, MCA

8.97.808 QUARTERLY REPORTING OF QUALIFIED INVESTMENTS

AUTH: 90-8-105, MCA
IMP: 90-8-104, 90-8-312, MCA

8.97.809 RESERVATION OF TAX CREDITS

AUTH: 90-8-105, MCA
IMP: 90-8-104, 90-8-202, MCA

REASON: The Department of Commerce and Board of Investments have determined there is reasonable necessity to repeal ARM 8.97.801 through 8.97.809 because Section 7, Ch. 9, L. 2011 (House Bill 0044) repealed the Montana Capital Company Act. These rules are no longer necessary and have no effect.

4. Concerned persons may submit their data, views, or arguments in writing to: Bonnie Martello, Director's Office, Department of Commerce, 301 South Park Avenue, P.O. Box 200501, Helena, Montana 59620-0501; telephone (406) 841-2596; fax (406) 841-2701; or e-mail bmartello@mt.gov, and must be received no later than 5:00 p.m., June 6, 2013.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Bonnie Martello at the above address no later than 5:00 p.m., June 6, 2013.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association

having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register.

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

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

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

/s/ G. Martin Tuttle
G. Martin Tuttle
Rule Reviewer

/s/ Meg O'Leary
Meg O'Leary
Director
Department of Commerce

Certified to the Secretary of State April 26, 2013.

BEFORE THE DEPARTMENT OF COMMERCE
OF THE STATE OF MONTANA

In the matter of the adoption of new	)	NOTICE OF PUBLIC HEARING ON
Rule I pertaining to the	)	PROPOSED ADOPTION AND
implementation of the Primary Sector	)	REPEAL
Workforce Training Grant Program)	
and the repeal of ARM 8.99.801,)	
8.99.802, 8.99.803, 8.99.804, and)	
8.99.805, pertaining to the)	
implementation of the Primary Sector)	
Workforce Training Grant Program)	

TO: All Concerned Persons

1. On May 31, 2013, at 1:30 p.m., the Department of Commerce will hold a public hearing in Room 228, of the Park Avenue Building, 301 South Park Avenue, Helena, Montana, to consider the proposed adoption and repeal of the above-stated rules.

2. The Department of Commerce will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Commerce no later than 5:00 p.m., May 24, 2013, to advise us of the nature of the accommodation that you need. Please contact Nancy Faroni, Department of Commerce, 301 South Park Avenue, P.O. Box 200501, Helena, Montana 59620-0501; telephone (406) 841-2744; TDD (406) 841-2731; facsimile (406) 841-2771; or e-mail to nfaroni@mt.gov.

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

NEW RULE I INCORPORATION BY REFERENCE OF RULES
GOVERNING SUBMISSION AND REVIEW OF APPLICATIONS

(1) The department adopts and incorporates by reference the 2015 Biennium Primary Sector Workforce Training Grant Application Guidelines, with the guidelines being posted on the Primary Sector Workforce Training Grant web site, as rules governing the submission and review of applications under the program.

(2) The guidelines incorporated by reference relate to the following:

- (a) program inquiries;
- (b) program funding;
- (c) application deadlines;
- (d) eligibility;
- (e) program requirements;
- (f) penalties;
- (g) application procedures;
- (h) review of applications; and
- (i) procedures for accessing funds.

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

AUTH: 39-11-202, MCA
IMP: 90-11-202, MCA

REASON: The 2015 Biennium Primary Sector Workforce Training Grant Application Guidelines are incorporated, by reference, into the rules to streamline the process for applicants and thereby making the program more accessible and easily understood. The state statute explicitly details the program's procedures.

4. The department proposes to repeal the following rules:

8.99.801 DEFINITIONS, found at page 8-3659 of the Administrative Rules of Montana.

AUTH: 39-11-202, MCA
IMP: 39-11-202, MCA

8.99.802 GRANT APPLICATION PROCEDURE, found at page 8-3659 of the Administrative Rules of Montana.

AUTH: 39-11-202, MCA
IMP: 39-11-202, MCA

8.99.803 INCORPORATION BY REFERENCE OF RULES GOVERNING SUBMISSION AND REVIEW OF APPLICATIONS FOR GRANTS SUBMITTED TO COMMITTEE, found at page 8-3660 of the Administrative Rules of Montana.

AUTH: 39-11-202, MCA
IMP: 39-11-202, MCA

8.99.804 GRANT AWARD CRITERIA, found at page 8-3660.1 of the Administrative Rules of Montana.

AUTH: 39-11-202, MCA
IMP: 39-11-202, MCA

8.99.805 AUDIT CRITERIA, found at page 8-3660.1 of the Administrative Rules of Montana.

AUTH: 39-11-202, MCA
IMP: 39-11-202, MCA

REASON: These rules are being repealed to streamline the process for the applicants making the program more accessible and easily understood. Current state statutes explicitly detail the program's procedures.

5. Concerned persons may submit their data, views, or arguments in written form or a request for opportunity to submit data, views, or arguments in oral form to: Nancy Faroni, Department of Business Resources Division, 301 South Park Avenue, P.O. Box 200501, Helena, Montana, 59620-0501; telephone (406) 841-2744; TDD (406) 841-2731; facsimile (406) 841-2771; or e-mail to nfaroni@mt.gov, and must be received no later than 5:00 p.m., June 6, 2013.

Nancy Faroni, Section Manager, has been designated to preside over and conduct this hearing.

6. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list may 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 Department of Commerce, 301 South Park Avenue, P.O. Box 200501, Helena, Montana 59620-0501, by fax to (406) 841-2701, by e-mail to bmartello@mt.gov, or by completing a request form at any rules hearing held by the department.

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

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

/s/ G. MARTIN TUTTLE
G. MARTIN TUTTLE
Rule Reviewer

/s/ MEG O'LEARY
MEG O'LEARY
Director
Department of Commerce

Certified to the Secretary of State April 26, 2013.

BEFORE THE DEPARTMENT OF COMMERCE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 8.111.602 and 8.111.603) PROPOSED AMENDMENT
pertaining to the Low Income Housing)
Tax Credit Program)

TO: All Concerned Persons

1. On May 29, 2013 at 11:00 a.m., the Department of Commerce will hold a public hearing in Room 228 of the Park Avenue Building at 301 South Park Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Department of Commerce will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Commerce no later than 5:00 p.m. on May 24, 2013, to advise us of the nature of the accommodation that you need. Please contact Paula Loving, Board of Housing, Department of Commerce, 301 South Park Avenue, P.O. Box 200528, Helena, Montana, 59620-0528; telephone (406) 841-2840; fax (406) 841-2841; TDD (406) 841-2702; or e-mail plovings@mt.gov.

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

8.111.602 DEFINITIONS

(1) and (2) remain the same.

(3) "QAP" means the board's "Low Income Housing Tax Credit Program ~~2013~~ 2014 Qualified Allocation Plan," which sets forth the application process and selection, ~~evaluation criteria, and selection considerations~~ used by the board for evaluation and selection of projects to receive awards for allocation of tax credits for calendar year ~~2013~~ 2014, copies of which may be obtained by contacting the Board of Housing by mail at P.O. Box 200528, Helena, MT 59620-0528, by telephone at (406) 841-2845 or (406) 841-2838, or at the board's web site www.housing.mt.gov.

(4) "Tax credit" ~~is a~~ means the federal low income housing tax credit for owners of qualifying rental housing which meets certain low income occupancy and rent limitation requirements pursuant to 26 U.S.C. 42.

AUTH: 90-6-106, MCA

IMP: 90-6-104, MCA

REASON: The proposed amendments to ARM 8.111.602 are necessary to update the Qualified Allocation Plan ("QAP") definition to reference the 2014 Qualified Allocation Plan for the Low Income Housing Tax Credit Program, to more accurately describe the contents of the QAP and to more accurately define the term "tax credit."

Low income housing tax credits are allocated by the federal government to the states, according to their population, for allocation to particular buildings. The Low Income Housing Tax Credit Program ("Program") is administered and tax credits are allocated by a state's housing credit agency. The Montana Board of Housing is Montana's housing credit agency for purposes of the tax credit program. Federal law requires that the tax credits allocated to the state by the federal government must be allocated by the state pursuant to a "qualified allocation plan" or "QAP".

Prior to publication of this notice, the board conducted several public meetings to consider suggestions and comments regarding the provisions of the 2014 QAP. Thereafter, at its February 25, 2013 meeting, the board considered and approved public notice and distribution of the proposed 2014 QAP. After public notice of the proposed 2014 QAP and of the opportunity for public comment was published and distributed, the board heard public comment regarding the proposed 2014 QAP at its March 18, 2013 meeting and subsequently received written comments. At its April 22, 2013 meeting, after considering written and oral public comment on the proposed 2014 QAP and approving various changes in response to comments, the board approved the 2014 QAP for submission to and approval by the Montana Governor, as required by the federal tax credit statute, 26 U.S.C. § 42. The 2013 QAP has been submitted to the Governor for approval. Adoption of the proposed rule is contingent upon the Governor's approval of the 20124 QAP.

A copy of the 2014 QAP is available on the internet at <http://housing.mt.gov/About/MF/lihtcallocation.mcp> or by requesting a copy from: Mary Bair, Board of Housing, Department of Commerce, 301 South Park Avenue, P.O. Box 200528, Helena, Montana, 59620-0528; telephone (406) 841-2845; fax (406) 841-2841; or e-mail mbair@mt.gov.

8.111.603 TAX CREDIT ALLOCATION PROCEDURE (1) Pre-applications and applications Applications for tax credits shall be prepared and submitted in conformance with the criteria and requirements contained in the QAP.

(2) Pre-applications and applications Applications shall be submitted to the board for the first and second rounds of allocations on the dates specified in or otherwise designated according to the QAP. The board may extend or change any of the pre-application or application submission or presentation dates or deadlines specified in the QAP if circumstances warrant, and in such event, the board will provide notice of such extension or change by posting on its web site.

(3) Following submittal of all applications for allocation of tax credits for each calendar year and prior to scoring and formulation of recommendations by board staff At a board meeting after the pre-application submission deadline and before the application submission deadline, the board will provide an opportunity for applicants to present their respective projects and pre-applications to the board and will provide an opportunity for public comment on proposed projects and pre-applications, all according to the provisions of the QAP. The board may ask questions of applicants and discuss proposed projects, but will not make any award determination at this meeting. Presentations, questions, and discussion are for purposes of assisting

applicants in presenting better full applications and shall not be binding upon the board in any later award determination or other board process.

(4) Following such opportunity for presentation and comment submission of full applications, board staff will evaluate each project application for conformance with the threshold and other requirements of criteria in the QAP. Applications meeting all minimum threshold requirements and not excluded from further consideration under the QAP will be evaluated for the amount of tax credits needed for feasibility and long-term viability and will be evaluated and scored according to the development evaluation criteria of the QAP, using the point system provided for therein. The points awarded to each project are for the purposes specified in (9), below of establishing that the projects meet the criteria set forth in the QAP, and not for purposes of ranking projects for allocation of tax credits. Following their application evaluation and scoring, board staff will may provide recommendations to the board for allocation of tax credits to qualifying projects.

(5) At the board's meeting in the month of full application submission, the board will provide an opportunity for applicants to again make a presentation regarding their projects and applications to the board and will provide an opportunity for public comment on proposed projects and applications, all according to the provisions of the QAP.

(4)(6) Copies of all applications submitted to the board are available to other applicants for tax credit projects and members of the public under the provisions contained in the QAP.

(5)(7) At its one or more regularly scheduled board meetings in the month of April or May of each year, as specified in or otherwise designated according to the QAP, the board will hear public comment and consider award of tax credit allocations in accordance with the QAP. The award of tax credit allocations is not a contested case and the award meeting is not a contested case hearing under Title 2, chapter 4, part 6, MCA.

(6)(8) At the award determination meeting provided under (6), applicants After scoring and formulation of recommendations by board staff, applicants will not be permitted to make additional presentations to the board but should be available to the board to answer questions regarding their respective applications and shall be provided an opportunity at the board meeting described in (5)(6) to respond to any negative comments regarding their respective projects or applications.

(7)(9) The board will select those projects to receive an allocation of tax credits that it determines best meet the most pressing housing needs of low income people within the state of Montana, taking into consideration the selection criteria as defined in the QAP. The awarding of points to projects pursuant to the evaluation criteria of the QAP is for the purposes of determining that the projects meet at least a minimum threshold for further consideration under the requirements of the QAP and to provide guidance to assist the board in evaluating and comparing projects, but. Evaluation criteria scoring is only one of several considerations taken into account by the board and does not control the selection of projects that will receive an award or allocation of tax credits. The board will allocate tax credits to the projects that it determines best meet the needs of low income people within the state of Montana regardless of the score awarded to each of the several projects or staff recommendations. In addition to any other selection criteria specified in the QAP, the

The board may consider the following factors in selecting projects for an award or allocation of allocating tax credits to qualifying projects:

- (a) the geographical distribution of tax credit projects;
- (b) the rural or urban location of the ~~qualifying~~ projects;
- (c) the overall income levels targeted by the projects;
- (d) the need for affordable housing in the community;
- ~~(d)~~(e) rehabilitation of existing low income housing stock;
- ~~(e)~~(f) sustainable energy savings initiatives;
- ~~(f)~~(g) financial and operational ability of the applicant to fund, complete, and maintain the project through the extended use period;
- ~~(g)~~(h) past performance of an applicant in initiating and completing tax credit projects; and
- ~~(h)~~(i) cost of construction, land, and utilities.

AUTH: 90-6-106, MCA

IMP: 90-6-104, MCA

REASON: The proposed amendments to ARM 8.111.603 are necessary to revise the tax credit allocation application, evaluation, and award process to conform to changes adopted by the board in the 2014 QAP.

The board has added a separate and additional pre-application step to the allocation process. The board has determined in consultation with developers and other interested parties that the pre-application process will assist project developers in presenting better full applications and in better refining project proposals. The pre-application process will allow applicants to obtain feedback regarding proposed projects and project characteristics from board staff and the board before submitting full applications. In addition, applicants will benefit from knowledge about other projects under consideration. The board expects that this process will assist developers in presenting projects that better meet the most pressing housing needs of low income individuals in the state of Montana, and proposing to use available tax credits in the most appropriate and efficient manner.

In addition, the board has adjusted the annual application schedule to allow for tax credit awards in December rather than April or May. This change is necessary to provide successful applicants with the certainty of tax credit awards early enough in the year to take full advantage of Montana's limited construction season and bring projects into service more quickly.

The proposed rule revisions are also necessary to more clearly state the standard for the board's selection of projects to receive tax credits and the criteria that may be considered in making such awards. These criteria are set forth in detail in the 2014 QAP.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Mary Bair, Board of Housing, Department of Commerce, 301 South Park Avenue, P.O. Box 200528, Helena,

Montana, 59620-0528; telephone (406) 841-2845; fax (406) 841-2841; or e-mail mbair@mt.gov, and must be received no later than 5:00 p.m., June 6, 2013.

5. Mary Bair, Department of Commerce, has been designated to preside over and conduct this hearing.

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

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

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

/s/ G. MARTIN TUTTLE
G. MARTIN TUTTLE
Rule Reviewer

/s/ MEG O'LEARY
MEG O'LEARY
Director
Department of Commerce

Certified to the Secretary of State April 26, 2013.

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

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 12.11.501, 12.11.3901,) PROPOSED AMENDMENT AND
12.11.3940 and the adoption of NEW) ADOPTION
RULE I regarding recreational use on)
Lake Alva, Harpers Lake, and Lake)
Marshall)

TO: All Concerned Persons

1. On June 5, 2013, at 6:30 p.m., the Fish, Wildlife and Parks Commission (commission) will hold a public hearing at the Seeley Lake Community Center, 3248 Hwy 83 North, Seeley Lake, Montana, to consider the proposed amendment and adoption of the above-stated rules.

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 May 24, 2013, to advise us of the nature of the accommodation that you need. Please contact Jessica Snyder, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, Montana 59620-0701; telephone (406) 444-9785; fax (406) 444-7456; or e-mail jesssnyder@mt.gov.

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

12.11.501 LIST OF WATER BODIES The following is a list of specific regulations on bodies of water with the reference where the rules regarding those bodies of water are located:

~~(1) Alva Lake~~ ~~ARM 12.11.3901~~

(2) through (62) remain the same but are renumbered (1) through (61).

~~(62) Lake Alva~~ ~~ARM 12.11.3901~~

(63) through (67) remain the same.

(68) Lake Marshall NEW RULE I

(68) through (113) remain the same but are renumbered (69) through (114).

AUTH: 23-1106, 87-1-301, 87-1-303, MCA

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

Reasonable Necessity: ARM 12.11.501 lists bodies of water with specific regulations and references the rule pertaining to the bodies of water. The commission is proposing amending ARM 12.11.501 to include the proposed amendment and adoption of this notice.

12.11.3901 ALVA LAKE ALVA (1) remains the same.

(2) All watercraft on Alva Lake ~~Alva pulling, taking off with, and landing water skiers will travel in a general, consistent, counterclockwise direction~~ are limited to a controlled no wake speed as defined in ARM 12.11.101.

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

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

Reasonable Necessity: The commission is proposing amendments to the current rule language and also correcting the name from Alva Lake to Lake Alva. The recreational opportunity provided on the 298 acres of Lake Alva is unique in the Clearwater Chain of Lakes. Historically, Lake Alva has been a destination for people seeking a less developed and quieter setting for water based recreation. Lake Alva is completely surrounded by public land and has no residential development, unlike the other larger lakes in the chain that have a boat ramp. Public opinion suggests that, in the past few years, high-speed motorboat use, including personal watercraft, has become more common on Lake Alva. Numerous comments suggest that increased high-speed motorboat use is now reducing the opportunity to enjoy slower and quieter activities such as canoeing and fishing. Four other large to medium-sized lakes ranging in size from 288 to 1,211 acres in the chain already provide opportunity for faster forms of boating recreation such as water skiing. Managing Lake Alva with a no wake restriction would provide a one-of-a-kind opportunity in the Chain of Lakes to enjoy quieter, motorized and nonmotorized recreation on a medium-sized lake.

Lake Alva is also unique within the Clearwater Chain of Lakes, because common loons nest on an island in the center of the lake rather than using more secluded bays that loons select on other medium to large lakes where faster boating occurs. This exposes their nests and young chicks to more disturbance and wave action. Wave action and close human presence during nesting has been shown to lower common loon nesting success. In addition, fast-moving craft can separate loon chicks from parents resulting in susceptibility to predation or injury from motorboats including personal watercraft. Common loon nesting and rearing success could improve under a no wake regulation. Unsolicited public opinion and unique circumstances on Lake Alva for providing recreational opportunity and protection of loons indicates alternative regulations should be proposed.

12.11.3940 HARPERS LAKE (1) remains the same.

(2) ~~Harpers Lake is closed to use for any motor-propelled watercraft~~ limited to manually operated watercraft and watercraft powered by electric motors.

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

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

Reasonable Necessity: Harpers Lake is a small lake, 15 acres, located within the Harpers Lake Fishing Access Site (FAS). The lake is stocked with hatchery trout with the intention of harvest by anglers. As a result, the lake is a popular fishing destination and frequented by anglers in small boats and float tubes as well as bank anglers. With the popularity of the lake for anglers and the accessibility provided at

the FAS for those with small boats, the commission is proposing electric motors be allowed on the lake. Changing the boating regulations to allow electric motors would increase the accessibility to fish within the lake and likely increase the catch of stocked trout. Use of electric motors would likely be compatible with other recreational users and anglers due to the relatively slow speed and low noise levels associated with electric motors.

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

NEW RULE I LAKE MARSHALL (1) Lake Marshall is located in Missoula County.

(2) Lake Marshall is limited to manually operated watercraft and watercraft powered by electric motors.

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

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

Reasonable Necessity: Lake Marshall is an 80 acre lake located in the northwest portion of the Marshall Creek Wildlife Management Area (WMA) and managed within the context of the Marshall Creek WMA Management Plan. As described in the management plan, "Management of the Marshall Creek WMA will be for the enhancement and protection of native fish and wildlife populations, the habitat that supports them, and for the provision of public recreational access." Furthermore, the management plan states that, "Public access will be provided to the extent that such access is compatible with vegetation, fish and wildlife goals." The management plan also specifically addresses boating on Lake Marshall by stating that, "Consistent with past and current use-patterns, use of non-motorized watercraft will be emphasized on Lake Marshall." Currently, access to Lake Marshall is primitive in nature, with no developed facilities, and only has carry-in launching. Existing boating regulations allow for use of any motorized watercraft on Lake Marshall, which is inconsistent with the management direction for the WMA and other similar-sized lakes and settings in the northern portion of the Clearwater drainage, such as Clearwater Lake and Rainy Lake. Use of electric motors would likely be compatible with WMA management goals, and other recreational users and anglers due to the relatively slow speed and low noise levels associated with electric motors.

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 Sharon Rose, Fish, Wildlife and Parks, 3201 Spurgin Road, Missoula, MT, 59804; fax 406-542-5529; e-mail shrose@mt.gov, and must be received no later than 5:00 P.M. on June 14, 2013.

6. Joe Jaquith or another hearing officer appointed by the department has been designated to preside over and conduct the hearings.

7. The Department of Fish, Wildlife and Parks maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the commission or department. 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 notices and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1712 9th 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 commission department.

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

/s/ Dan Vermillion

Dan Vermillion, Chairman
Fish, Wildlife and Parks Commission

/s/ Zach Zipfel

Zach Zipfel
Rule Reviewer

Certified to the Secretary of State April 29, 2013

BEFORE THE DEPARTMENT OF TRANSPORTATION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PROPOSED
ARM 18.8.414, 18.8.1002, 18.8.1502,) AMENDMENT
18.8.1503, and 18.8.1505, pertaining)
to motor carrier services) NO PUBLIC HEARING
) CONTEMPLATED

TO: All Concerned Persons

1. On June 9, 2013, the Department of Transportation proposes to amend 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 May 30, 2013, to advise us of the nature of the accommodation that you need. Please contact Dan Kiely, Motor Carrier Services, Department of Transportation, P.O. Box 4639, Helena, Montana, 59604-4639; telephone (406) 444-7629; fax (406) 444-9263; TDD 444-7696 or (800) 335-7592; or e-mail dkiely@mt.gov.

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

18.8.414 INCREASE IN WEIGHT AND/OR CHANGE OF CLASSIFICATION

(1) The operator will be entitled to credit for fees already paid when an increase in weight and/or change of classification is made on an intrastate registration. No credit will be given on Interstate Registration Plan (IRP) weight increases unless done through the Helena Motor Carrier Services office on the operator's IRP account.

(2) and (3) remain the same.

AUTH: 61-10-155, MCA

IMP: 61-10-201, ~~61-10-202~~, 61-10-209, 61-10-233, MCA

REASON: The proposed rule amendment is necessary to clarify the difference between increases in weight or change of classification for intrastate registration and interstate registration (IRP), as this has caused confusion among operators in the past. The proposed amendment will clarify that when fees are calculated for an interstate registration (IRP) these fees are based on the percentage of miles travelled in each jurisdiction travelled, while an intrastate registration pays a 100% fee. The proposed amendment will also delete an outdated citation to a repealed statute.

18.8.1002 MOBILE HOME TOWING UNIT (TOTER) REQUIREMENTS

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

~~(2) The rated gross vehicle weight of the tow vehicle is determined by the base width of the manufactured housing which is being transported:~~

Mfg. House Width	Minimum GVW Rating
8.5 feet to 10 feet	6,000 pounds
Over 10 feet to 12 feet	8,000 pounds
Over 12 feet	9,000 pounds

AUTH: 61-10-155, MCA

IMP: 61-10-101, 61-10-102, 61-10-103, 61-10-104, 61-10-106, 61-10-107, 61-10-108, 61-10-109, 61-10-110, 61-10-111, 61-10-113, 61-10-121, 61-10-122, 61-10-123, 61-10-124, 61-10-125, 61-10-126, 61-10-127, 61-10-128, 61-10-129, 61-10-130, 61-10-141, 61-10-142, 61-10-143, 61-10-144, 61-10-145, 61-10-146, 61-10-147, 61-10-148, MCA

REASON: The proposed amendment is necessary to clarify that a wide-base tire may be used for mobile home towing units. The amendment will also eliminate the Minimum GVW Rating because the requirements that are currently listed are archaic. Wide-based tires in use today already exceed the listed weights.

18.8.1502 FEDERAL MOTOR CARRIER SAFETY RULES AND STATE MODIFICATIONS (1) Any commercial motor vehicle or motor carrier subject to regulation by the department under 61-10-154, MCA, shall comply with and the department adopts by reference the following portions of the Federal Motor Carrier Safety Regulations of the U.S. Department of Transportation, subject to the provisions of (2). The regulations adopted are 49 CFR part 373, 49 CFR part 375, 49 CFR part parts 377 through 379, 49 CFR part 382, 49 CFR part 383, 49 CFR part 385, 49 CFR part 387, 49 CFR parts 390 through 399, and Appendix G to subchapter B of chapter III, Title 49 of the Code of Federal Regulations, as updated through April 1, ~~2012~~ 2013. Copies of the regulations may be obtained from the Superintendent of Documents, U.S. Government Printing Office, 732 North Capitol Street, NW, Washington, DC ~~20402~~ 20401-00012, or on the internet at www.gpo.gov.

(2) remains the same.

AUTH: 61-10-155, MCA

IMP: 61-10-141, 61-10-154, MCA

REASON: The proposed amendment is necessary to update to the most current 2013 Code of Federal Regulations and to provide the web site for acquisition of copies of the regulations.

18.8.1503 TRANSPORTATION OF HAZARDOUS MATERIALS (1) A commercial motor vehicle or motor carrier subject to regulation by the department

under 61-10-154, MCA, shall comply with and the department adopts by reference the following federal regulations of the U.S. Department of Transportation concerning the transportation of hazardous materials. The regulations adopted by reference are 49 CFR part 107, 49 CFR part 171, 49 CFR part 172, 49 CFR part 173, 49 CFR part 177, 49 CFR part 178, and 49 CFR part 180. The regulations adopted may be found in the Code of Federal Regulations, Title 49, chapter I, subchapters B and C, as updated through April 1, ~~2012~~ 2013. Copies may be obtained from the ~~Superintendent of Documents~~, U.S. Government Printing Office, 732 North Capitol Street, NW, Washington, DC 20402 20401-0001, or on the internet at www.gpo.gov.

AUTH: 61-10-155, MCA
IMP: 61-10-154, MCA

REASON: The proposed amendment is necessary to update to the most current 2013 Code of Federal Regulations and to provide the web site for acquisition of copies of the regulations.

18.8.1505 SAFETY INSPECTION PROGRAM: PURPOSE AND OUT-OF-SERVICE CRITERIA (1) remains the same.

(2) In addition to the federal regulations adopted in ARM 18.8.1502, the safety inspection program will follow Commercial Vehicle Safety Alliance (CVSA), North American Standard Out-of-Service Criteria (April 1, ~~2012~~ 2013), incorporated by reference. A copy of the North American ~~Uniform Standard~~ Out-of-Service Criteria may be obtained from the Commercial Vehicle Safety Alliance, ~~4101-17th Street, NW, Suite 803, Washington, DC 20036~~ 6303 Ivy Lane, Suite 310, Greenbelt, MD 20770-6319 or on the internet at www.cvsa.org.

(3) remains the same.

AUTH: 61-10-155, MCA
IMP: 61-10-154, MCA

REASON: The proposed amendment is necessary to update to the most current CVSA North American Standard "Out-of-Service" criteria and to provide the web site for acquisition of copies of the criteria.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Dan Kiely, Motor Carrier Services, Department of Transportation, P.O. Box 4639, Helena, Montana, 59604-4639; telephone (406) 444-7629; fax (406) 444-9263; or e-mail dkiely@mt.gov, or Jeff Steeger, Motor Carrier Services, Department of Transportation, P.O. Box 4639, Helena, Montana, 59604-4639; telephone (406) 444-4207; fax (406) 444-7681; or e-mail jsteeger@mt.gov, and must be received no later than 5:00 p.m., June 6, 2013.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written

comments to Dan Kiely or Jeff Steeger at the above address no later than 5:00 p.m., June 6, 2013.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 9,570 persons based on 95,702 permits issued in the 2012 calendar year.

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

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

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

/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 April 29, 2013.

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

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING ON
ARM 24.201.301 definitions,	)	PROPOSED AMENDMENT,
24.201.707 discreditable acts,	)	ADOPTION, AND REPEAL
24.201.1108 alternatives and)	
exemptions, 24.201.2101 renewals,)	
the adoption of NEW RULES I)	
through III peer review programs, and)	
the repeal of ARM 24.201.1102)	
definitions, 24.201.1106 statement by)	
permit holders, 24.201.1107 filing of)	
reports, and 24.201.1115 profession)	
monitoring program reviews and)	
enforcement)	

TO: All Concerned Persons

1. On May 30, 2013, at 1:00 p.m., a public hearing will be held in room 439, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment, adoption, and repeal of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Public Accountants (board) no later than 5:00 p.m., on May 24, 2013, 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) 841-2320; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2323; e-mail dlibsdpac@mt.gov.

3. GENERAL STATEMENT OF REASONABLE NECESSITY: Following an in-depth review of the current board-conducted Profession Monitoring Program (PMP), and discussion of available alternatives to the program by the board and a voluntary task force, the board determined it is reasonably necessary to amend PMP at this time. All proposed rule changes are a direct result of this review and recommended changes to the PMP, and will transition the board-sponsored program to a mandatory board-approved peer review program.

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

24.201.301 DEFINITIONS (1) remains the same.

(2) "Client" means the person, entity, or enterprise, whether organized for profit or not, which retains a permit holder for the performance of professional services. A client may be an entity served by governmental or nongovernmental agencies performing services similar to public accounting firms.

(3) "Engagement peer review report 'Fail'" means the engagements submitted for review by the review practice unit were not performed and reported on in conformity with applicable professional standards in all material respects.

(4) "Engagement peer review report 'Pass'" means the engagements submitted for review by the review practice unit were performed and reported on in conformity with applicable professional standards in all material respects.

(5) "Engagement peer review report 'Pass with deficiencies'" means except for the deficiencies described in the report, the engagements submitted for review by the review practice unit were performed and reported on in conformity with applicable professional standards in all material respects.

~~(3)~~ (6) "Financial statement" means a presentation of financial data, derived from accounting records and intended to communicate an entity's economic resources or obligations at a point in time, or the changes therein for a period of time. Financial presentations included in tax returns are not financial statements for purposes of this definition. Financial statements include, but are not limited to, the following:

(a) through (k) remain the same.

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

(11) "Peer review" means a review under a formal peer review program sponsored by the American Institute of Certified Public Accountants (AICPA), or the Montana Society of Certified Public Accountants (MSCPA) or their successors, or such other formal peer review programs approved by the Board of Public Accountants (board).

(12) "Peer review report 'Failed'" means the system of quality control for the accounting and auditing practice of the reviewed practice unit, in effect for the year most recently ended, has not been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects.

(13) "Peer review report 'Pass'" means the system of quality control for the accounting and auditing practice of the reviewed practice unit, in effect for the year most recently ended, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects.

(14) "Peer review report 'Pass with deficiencies'" means except for the deficiencies described in the report, the system of quality control for the accounting and auditing practice of the reviewed practice unit, in effect for the year most recently ended, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects.

(8) through (10) remain the same, but are renumbered (15) through (17).

(18) "Practice unit" means:

(a) each licensee who practices public accounting as an individual or sole proprietor;

(b) a sole proprietorship, partnership, or professional corporation that practices public accounting; or

(c) a governmental organization that employs a licensee in a public accounting capacity.

~~(11)~~ (19) "Professional services" means any ~~services~~ service performed or offered to be performed by a permit holder for a client in the course of the practice of public accountancy.

~~(12)~~ (20) "Report" (when used with reference to financial statements) means an opinion, report, or other form of language which states or implies assurance as to the reliability of any financial statements (examples include: audits, reviews, and compilations) and which:

(a) ~~also~~ includes or is accompanied by any statement or implication that the person or firm issuing it has special knowledge or competence in accounting or auditing;

(i) Such a statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that the person or the firm is an accountant or auditor, or from the language of the report itself.

(b) ~~The term "report"~~ includes any form of language which disclaims an opinion when such form of language is conventionally understood to imply any positive assurance as to the reliability of the financial statements referred to and/or special competence on the part of the person or firm issuing such language; and

(c) ~~it~~ includes any other form of language that is conventionally understood to imply such assurance and/or such special knowledge or competence.

AUTH: 37-50-203, MCA

IMP: 37-50-203, MCA

REASON: The board is amending this rule to consolidate all definitions into a single location within the board rules. This consolidation will eliminate the need to search in several places to find definitions of relevant board terms.

The board is adding (3), (4), and (5) to identify the ratings used to evaluate the work product in a review of an engagement report. The evaluation of an engagement report is essential in measuring continual competence of a licensee to ensure consumer protection. The board concluded that licensees must be notified of the acceptable standards in order to comply with them.

The board is relocating the definition of "peer review" to (11) from ARM 24.201.1102 and amending the definition to identify the MSCPA or its successor as a board-approved peer review program that will satisfy this definition.

The board is identifying the three levels of ratings for peer review in (12), (13), and (14). These peer review ratings evaluate the quality control systems to determine if those systems are adequate to ensure that the firm is adhering to professional standards. Peer review is a holistic look at a firm to determine if its processes ensure compliance with standards of practice.

The board is moving the definition of "practice unit" to (18) from ARM 24.201.1102 to consolidate all definitions into a single rule.

24.201.707 DISCREDITABLE ACTS (1) A firm, permit holder, certificate holder, license holder, or practice privilege holder shall not commit any act discreditable to the profession. A discreditable act will be considered to have occurred if, for example,:

(a) a firm, permit holder, or practice privilege holder retains any records rightfully belonging to the client in order to enforce payment of fees; or

(b) a practice unit fails to comply with conditions imposed as a result of a "pass with deficiencies" or "failed" peer review classification.

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

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

REASON: Because the PMP is being eliminated and licensees will transition to a board-approved peer review program administered by an outside entity, the board concluded that it is essential that licensees who do not meet peer review expectations understand they must comply with conditions imposed by that peer review program. The board is amending this rule to clarify that failure to comply with those conditions can result in the board taking disciplinary action against the licensee.

~~24.201.1108 ALTERNATIVES AND EXEMPTIONS (1) A practice unit enrolled in the AICPA peer review program is exempt from the board's profession monitoring program (PMP), provided a peer review has been completed within the three preceding calendar years, the report did not receive a peer review rating of "fail," and the practice unit fully participated in the Facilitated State Board Access (FSBA) program. Fully participating in the FSBA means board staff must be able to retrieve the peer review report, letter of response (if any), and acceptance letter from the administering entity.~~

~~(2) Alternative peer reviews (such as legislative audits of government entities) may be sanctioned by the board, which may also exempt a practice unit from the board's PMP.~~

~~(3) The board reserves the authority to request a practice unit to submit a copy of any or all reports, financial statements, and supporting work papers for engagements subject to peer review.~~

~~(4) The board reserves the authority to exempt permit holders who would otherwise be required to file a report under ARM 24.201.1107 for good cause.~~

~~(1) Exemption of the peer review requirement will apply to:~~

~~(a) out-of-state practice units that do not have a physical location in this state, but perform attest or compilation services in this state, and have a peer review in the state in which they are located, and are otherwise qualified for practice privileges;~~

~~(b) practice units that do not perform attest services, compilation services, or other professional services for which a report expressing assurance is prescribed by professional standards in Montana; or~~

~~(c) practice units that prepare financial statements which do not require reports under Statements on Standards for Accounting and Review Services (SSARS) 8 as codified in SSARS 19 (management use only compilation reports) and that perform no other attest or compilation services. Such engagements~~

conducted by a firm that is otherwise required to participate in a peer review program shall be included in the selection of engagements subject to peer review.

(2) Alternative programs to the board-approved peer review program of the Montana Society of Certified Public Accounts (MSCPA) shall include:

(a) the inspection processes of the Public Company Accounting Oversight Board (PCAOB);

(b) peer review programs administered by the American Institute of CPAs (AICPA); and

(c) other programs recognized and approved by the board.

AUTH: 37-50-203, MCA

IMP: 37-50-203, MCA

REASON: The board determined it is reasonably necessary to amend this rule to clearly identify who is exempt from the board-approved peer review requirement and to specifically list peer review programs that are board-approved.

The requirement to comply with peer review does not pertain to out-of-state practice units if they have a peer review completed in their state of residence. If a practice unit does not perform the level of service required for a peer review, they are exempt from the peer review requirement. Additionally, certain attestation and compilation reports are exempt from the peer review requirement if they have been completed according to specific standards for management use only compilation reports. These exemptions and alternatives assure that all practices units performing work in Montana are competently doing so.

24.201.2101 RENEWALS (1) through (4) remain the same.

(5) Every practice unit must submit a statement to the board on their original application and at each renewal, which describes the practice unit's level of association with financial statements.

(6) A practice unit shall be required to file a statement with the board if they:

(a) issue reports which indicate an expert knowledge of accounting or auditing; or

(b) allow their name and designation as a CPA or LPA practice unit to be included on a report that indicates expert knowledge of accounting or auditing.

(7) A practice unit shall not be required to file a statement with the board if they:

(a) do not issue reports which indicate an expert knowledge of accounting or auditing; or

(b) do not allow their name and designation as a CPA or LPA practice unit to be included on a report that indicates expert knowledge of accounting or auditing.

AUTH: 37-1-131, 37-50-201, 37-50-203, MCA

IMP: 37-1-141, 37-50-203, 37-50-314, MCA

REASON: The board determined it is reasonably necessary to amend this rule to include the reporting requirements for practice units at renewal. Currently these annual reporting requirements are found under the PMP process at ARM

24.201.1106, which is proposed for repeal in this notice. Since this is actually a renewal requirement for practice units, the board is relocating it to the renewal rule for clarity.

5. The proposed new rules provide as follows:

NEW RULE I PEER REVIEW ENROLLMENT (1) Practice units shall enroll in and meet board-approved peer review program standards, and pay the required fees associated with the peer review, if they perform any of the following services:

- (a) an audit;
- (b) a review;
- (c) a compilation; or
- (d) agreed upon procedures engagements.

(2) If a practice unit is required to enroll in a board-approved peer review program, the practice unit must provide to the board the name of the approved peer review program in which the practice unit is enrolled, and the period covered by the practice unit's most recent peer review.

(3) At renewal of the practice unit, it must provide the results of its most recent peer review.

(4) Every Montana practice unit that is required to enroll in a peer review program shall enroll with the Montana Society of Certified Public Accountants (MSCPA) or other such board-approved program and have a completed peer review within 18 months of establishing the practice unit. The permit holder shall not be required to become a member of any organization administering a board-approved peer review program.

(5) A practice unit enrolled in a peer review program that receives a "pass" or "pass with deficiencies," and completes all follow-up actions must have a peer review completed every three years. A practice unit that receives a "fail" rating must follow peer review program requirements for subsequent peer reviews.

(6) The peer review completion date for each practice unit enrolled under (2) will be determined by the board, based on the reporting schedule established under the previous board-sponsored profession monitoring program.

(7) Practice units under the pre-issuance review requirement of the board's previous profession monitoring program will remain under board-monitored pre-issuance review until their next peer review is completed. At that time, (4) will apply.

AUTH: 37-50-203, MCA

IMP: 37-50-203, MCA

REASON: The board determined it is reasonably necessary to adopt this new rule to outline the peer review enrollment requirements and process. The requirements mirror the previous PMP in determining who must participate in a board-approved peer review program. If a practice unit participated in the PMP, it will participate in a board-approved peer review program, unless its scope of work has changed.

Because the board-approved peer review programs will not be board-administered, the practice unit will have to provide the board with the name of the

program being utilized by the unit and the results of the most recent peer review. Otherwise, the board would not have access to the information.

The board is establishing a timing requirement for new practice units to enroll in a board-approved peer review program if their scope of work requires a peer review as defined in this rule. Board-approved peer review programs are administered by professional associations and societies. It is important to note that membership in those private organizations is not a requirement to have a board-mandated peer review completed.

The board is proposing (6) to facilitate transition from the board PMP to the board-approved peer review. Currently under PMP, if a practice unit receives a "pass" or "pass with deficiencies" and complies with the conditions imposed by the board, it does not have to submit work product for review under the PMP for three years. If it receives a "fail," it must resubmit the following year. Under the new rules, this schedule would continue as the program transitions from the PMP to peer review and the board will provide the date each practice unit needs to submit under the peer review, based on its PMP requirement.

The board notes that it will maintain oversight of all practice units currently under PMP pre-issuance review, until those practice units have a peer review. After an initial peer review, the peer review submission requirement will apply, depending on the initial peer review outcome.

NEW RULE II PARTICIPATION IN PEER REVIEW (1) Any firm that is dropped from or terminated by a peer review program for any reason shall have 21 days to provide written notice to the board of such termination or drop and to request authorization from the board to enroll in another board-approved peer review program.

(2) In the event a firm is merged, otherwise combined, dissolved, or separated, the peer review program shall determine which firm is considered to be the succeeding firm. The succeeding firm shall retain its peer review status and the review due date.

(3) A firm choosing to change to another peer review program may do so only if there is not an open active peer review and if the peer review is performed in accordance with the minimum standards for performing and reporting on peer reviews.

AUTH: 37-50-203, MCA

IMP: 37-50-203, MCA

REASON: The board determined it is reasonably necessary to adopt New Rule II and address the requirement for firms to remain under a peer review program. If a firm is dropped from a peer review program, it is essential that the firm timely notifies the board of this fact and that the firm enrolls in another board-approved program to maintain peer review oversight.

If a firm combines with another firm, or separates into multiple firms, the peer review program will determine what reporting status the firm maintains, and the submission schedule that will apply to the newly configured firm, since the peer

review program is the entity best equipped to make that determination based on the current peer review status.

Firms may choose to change board-approved peer review programs as long as they are not in the middle of an ongoing peer review. This would eliminate the possibility of a firm changing peer review programs to avoid adverse findings. The new peer review must be completed according to minimum standards of performing and reporting peer reviews, so that all reviews are conducted using comparable evaluation criteria.

NEW RULE III QUALITY ASSURANCE OVERSIGHT (1) The board will appoint a compliance assurance oversight committee to provide oversight of the administration of approved peer review programs in order to provide reasonable assurance that peer reviews are being conducted and reported on in accordance with the AICPA standards for performing and reporting on peer reviews.

AUTH: 37-50-203, MCA
IMP: 37-50-203, MCA

REASON: The board is proposing New Rule III to establish a board oversight committee to assist in administering board-approved peer review programs. This oversight committee will ensure consistent application of peer review criteria among the various programs approved by the board. Consistency among the board-approved programs is essential to retain the credibility of the peer review requirement and ensure practice unit compliance with standards is universally enforced.

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

24.201.1102 DEFINITIONS found on page 24-22681.

AUTH: 37-50-203, MCA
IMP: 37-50-203, MCA

REASON: The board is repealing this rule as part of the consolidation of all definitions into ARM 24.201.301. This will allow licensees and consumers to more easily locate the definitions of various terms used throughout the rules, instead of having to search through several locations in the rules.

24.201.1106 STATEMENT BY PERMIT HOLDERS found on page 24-22681.

AUTH: 37-50-203, MCA
IMP: 37-50-203, MCA

REASON: The board determined it is reasonably necessary to repeal this rule as the board transitions from the PMP to a board-approved peer review since the board will no longer track a firm's level of association with financial statements. This information was previously used by the board to determine whom the board would

contact for participation in the PMP and following the transition, the board will no longer require such information.

The requirement for a permit holder to file reports with the board in compliance with the PMP is being eliminated as unnecessary. The same criteria for required filing under the PMP is being applied to the peer review enrollment, but is being relocated to New Rule I.

24.201.1107 FILING OF REPORTS found on page 24-22682.

AUTH: 37-50-203, MCA

IMP: 37-50-203, MCA

REASON: The board determined it is reasonably necessary to eliminate the submission requirements for the PMP, since the board is eliminating the PMP and transitioning to a board-approved peer review requirement.

24.201.1115 PROFESSION MONITORING PROGRAM (PMP) REVIEWS AND ENFORCEMENT found on page 24-22684.

AUTH: 37-1-319, 37-50-203, MCA

IMP: 37-1-312, 37-50-203, MCA

REASON: The board determined it is reasonably necessary to repeal this rule in conjunction with the elimination of PMP and transition to a board-approved peer review. Relevant definitions of the types of review classifications and terminology to comply with current peer review terminology are relocated to ARM 24.201.301.

The follow-up requirement for the PMP is unnecessary, as it will be done by the peer review program. The requirement to comply with the conditions imposed by the peer review program is relocated to ARM 24.201.707. The conditions available to the peer reviewers are established by the individual peer review programs and are part of the program requirements that the board evaluates when determining whether to approve a program.

7. 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., June 7, 2013.

8. An electronic copy of this Notice of Public Hearing is available through the department and board's web site at www.publicaccountant.mt.gov. 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.

9. 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 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.

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

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

BOARD OF PUBLIC ACCOUNTANTS
BEATRICE ROSENLEAF, 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 April 29, 2013

BEFORE THE BOARD OF REALTY REGULATION
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of)
ARM 24.210.401 and 24.210.801 fee) NOTICE OF PUBLIC HEARING ON
schedule) PROPOSED AMENDMENT

TO: All Concerned Persons

1. On May 30, 2013, at 10:00 a.m., a public hearing will be held in room 439, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment 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 Realty Regulation (board) no later than 5:00 p.m., on May 24, 2013, to advise us of the nature of the accommodation that you need. Please contact Grace Berger, Board of Realty Regulation, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2320; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2323; e-mail dlibsdrre@mt.gov.

3. GENERAL STATEMENT OF REASONABLE NECESSITY: The board determined it is reasonably necessary to amend the board fee schedules. For many years, because of economic incentives, the real estate industry experienced record numbers of individuals taking the licensing examination, applying for a license, and renewing their licenses. As a result, the board accumulated a large cash balance. The reserve was approaching the statutory limit of two times the board's annual spending authority. As the economy cooled, board revenues slowed. The board determined they would delay raising fees while the real estate market was in such record decline.

In addition to increasing regular board expenses, the board was responsible for paying a portion of the cost of a new licensing database purchased by the Business Standards Division of the Department of Labor & Industry for use by all licensing boards. The board did not assess its portion of the cost to licensees, but paid its share with the cash reserves. As a result of legislation or program changes, the board has altered or added some fees over the years, but the board has not done a comprehensive fee review and update since 2000. The board must now increase fees to cover current expense projections and maintain fees commensurate with associated costs, as required by statute. The board estimates these fee changes will affect approximately 7,843 applicants and licensees, and will result in additional annual revenue of \$471,520.

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

24.210.401 FEE SCHEDULE (1) through (3) remain the same.

(4) Original broker license	\$ 100 <u>175</u>
(5) Renewal of a broker license	400 <u>175</u>
(6) Original sales license	87.50 <u>150</u>
(7) Renewal of a sales license	87.50 <u>150</u>
(8) Broker change of place of business or each salesperson	
change of broker or transfer of cancelled license	45 <u>80</u>
(9) Transfer of supervision to a single temporary supervising broker	25 <u>45</u>
(10) Late filing of temporary supervising broker notification	50 <u>90</u>
(11) remains the same.	
(12) Placing active or cancelled license on inactive status	10 <u>20</u>
(13) Activating a license on inactive status	45 <u>80</u>
(14) remains the same.	
(15) Continuing education course application for approval	
or renewal	75 <u>130</u>
(16) Education course instructor application for approval	
or renewal	50 <u>87.50</u>
(17) Rookie continuing education course registration	100 <u>175</u>
(18) remains the same.	
(19) Predetermination, equivalency, or waiver application fee	50 <u>87.50</u>
(20) Each additional course hour option from one course outline	20 <u>35</u>
(21) Individual CE request application (per course)	25 <u>45</u>
(22) remains the same.	
(23) Instructor/course development course	\$100 <u>175</u> per course
(24) remains the same.	

AUTH: 37-1-131, 37-1-134, 37-51-203, MCA

IMP: 37-1-131, 37-1-134, 37-1-141, 37-51-202, 37-51-204, 37-51-207, 37-51-301, 37-51-302, 37-51-303, 37-51-305, 37-51-308, 37-51-309, 37-51-311, 37-51-502, MCA

24.210.801 FEE SCHEDULE (1) through (3) remain the same.

(4) For each original license	\$ 60 <u>105</u>
(5) For each annual renewal	75 <u>130</u>
(6) For each change of place of business or affiliation	45 <u>80</u>
(7) remains the same.	
(8) For placing an active license inactive	10 <u>20</u>
(9) For activating an inactive license	45 <u>80</u>
(10) remains the same.	
(11) Continuing education course application	75 <u>130</u>
(12) Education course instructor application for	
approval or renewal	50 <u>87.50</u>
(13) Prelicensing course <u>application for approval or renewal</u>	150
(14) Individual CE request application (per course)	25 <u>45</u>
(15) remains the same.	
(16) Instructor/course development course	\$100 <u>175</u> per course

(17) remains the same.

AUTH: 37-1-134, 37-51-203, MCA

IMP: 37-1-134, 37-1-141, 37-51-207, MCA

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 Realty Regulation, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2323, or by e-mail to dlibsdrre@mt.gov, and must be received no later than 5:00 p.m., June 7, 2013.

6. An electronic copy of this Notice of Public Hearing is available through the department and board's web site at www.realestate.mt.gov. 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 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 Realty Regulation, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2323; e-mailed to dlibsdrre@mt.gov; or made by completing a request form at any rules hearing held by the agency.

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

9. Gene Allison, attorney, has been designated to preside over and conduct this hearing.

BOARD OF REALTY REGULATION
C.E. "ABE" ABRAMSON,
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 April 29, 2013

BEFORE THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PROPOSED
ARM 32.3.201 and 32.3.212	)	AMENDMENT
pertaining to definitions and additional)	
requirements for cattle	)	NO PUBLIC HEARING
	)	CONTEMPLATED

1. On July 15, 2013 the Department of Livestock proposes to amend the above-stated rules.

2. The Department of Livestock will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Livestock no later than 5:00 p.m. on May 29, 2013, to advise us of the nature of the accommodation that you need. Please contact Christian Mackay, 301 N. Roberts St., Room 308, P.O. Box 202001, Helena, MT 59620-2001; telephone: (406) 444-9321; TTD number: 1 (800) 253-4091; fax: (406) 444-4316; e-mail: cmackay@mt.gov.

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

32.3.201 DEFINITIONS (1) through (1)(i) remain the same.

(j) "Tuberculosis test-eligible cattle" means all ~~sexually intact~~ cattle two months of age and older.

(k) through (m) remain the same.

AUTH: 81-2-102, 81-2-103, 81-20-101, MCA

IMP: 81-2-102, 81-2-103, 81-20-101, MCA

32.3.212 ADDITIONAL REQUIREMENTS FOR CATTLE (1) through (3)(c) remain the same.

(d) are sexually intact dairy cattle, except:

(i) through (6) remain the same.

(7) Test-eligible cattle that are sexually intact dairy cattle, sporting bovines, or sexually intact beef cattle originating from outside of the United States must have one negative tuberculosis test within 60 days prior to importation. Cattle or bison originating directly from Mexico must meet the requirements set forth in ARM 32.3.212B.

(8) through (15) remain the same.

AUTH: 81-2-102, 81-2-103, 81-2-707, MCA

IMP: 81-2-102, 81-2-703, MCA

REASON: MDOL is clarifying import requirements to allow the importation of dairy steers/spayed heifers without a tuberculosis test. These animals are almost exclusively contained in feeding/slaughter channels and therefore pose a lower risk to the health of Montana livestock.

4. Concerned persons may submit their data, views, or arguments in writing to Christian Mackay, 301 N. Roberts St., Room 308, P.O. Box 202001, Helena, MT 59620-2001, by faxing to (406) 444-1929, or by e-mailing to MDOLcomments@mt.gov to be received no later than 5:00 p.m., June 10, 2013.

5. If persons who are directly affected by the proposed action wish to express their data, views, and arguments orally or in writing at a public hearing, they must make a written request for a hearing and submit this request along with any written comments they have to the same address as above. The written request for hearing must be received no later than 5:00 p.m. June 10, 2013.

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

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

8. An electronic copy of this Proposal Notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of 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.

DEPARTMENT OF LIVESTOCK

BY: /s/ Christian Mackay
Christian Mackay
Executive Officer
Board of Livestock
Department of Livestock

BY: /s/ George H. Harris
George H. Harris
Rule Reviewer

Certified to the Secretary of State April 29, 2013.

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

In the matter of the adoption of New) NOTICE OF PUBLIC HEARING ON
Rule I pertaining to supports for) PROPOSED ADOPTION
community working and living waiver)
program)

TO: All Concerned Persons

1. On May 29, 2013, at 10:00 a.m., the Department of Public Health and Human Services will hold a public hearing in Room 207 of the Department of Public Health and Human Services Building, 111 North Sanders, at Helena, Montana, to consider the proposed adoption of the above-stated rule.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Public Health and Human Services no later than 5:00 p.m. on May 22, 2013, to advise us of the nature of the accommodation that you need. Please contact Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

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

NEW RULE I SUPPORTS FOR COMMUNITY WORKING AND LIVING PROGRAM: AUTHORITY (1) The department has been granted by the United States Department of Health and Human Services (HHS) the authority, through 42 USC 1396n(c) and 42 CFR 441.300 through 441.310, to provide Medicaid home and community-based services (HCBS) to persons with developmental disabilities. This rule implements in Montana the Supports for Community Working and Living Waiver Program for persons with developmental disabilities.

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

- (a) the types of services to be available;
- (b) the amount, scope, and duration of the services;
- (c) the target population;
- (d) individual eligibility; and
- (e) delivery approach.

(3) The Supports for Community Working and Living Waiver Program must be delivered in accordance with the requirements and limitations of the 1915(c) Home and Community-Based Services, Supports for Community Working and Living, Manual for the 1037 Waiver Program, dated August 1, 2013.

(4) The department adopts and incorporates by reference the 1915(c) Home and Community-Based Services, Supports for Community Working and Living Manual for the 1037 Waiver Program, dated August 1, 2013. A copy of the 1915(c) Home and Community-Based Services, Supports for Community Working and Living, Manual for the 1037 Waiver Program, dated August 1, 2013 may be obtained through the Department of Public Health and Human Services, Developmental Services Division, Developmental Disabilities Program, 111 N. Sanders, P.O. Box 4210, Helena, MT 59604-4210 and at <http://www.dphhs.mt.gov/dsd/ddp/medicaidwaivers.shtml>.

AUTH: 53-6-402, MCA

IMP: 53-6-402, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing New Rule I, Supports for Community Working and Living Waiver Program. The proposed rule is necessary to provide a clear understanding of the program, the services offered, and is specific for administering the Supports for Community Working and Living Waiver Program as described below.

NEW RULE I

New Rule I outlines the federal authority through Section 1915(c) of the Social Security Act, providing the option to apply for Medicaid waivers to offer Home and Community-based Services (HCBS). In addition, the proposed rule establishes the discretion of the department to manage the various aspects of the program in conformance with federal authority and as otherwise determined appropriate by the department. This application of discretion to the program is necessary to assure continuing conformance with the governing federal authority so as to avoid withdrawal of federal approval for the program and to avoid federal recoupment for inappropriate expenditures of federal monies.

This proposed rule adopts and incorporates by reference, the 1915(c) Home and Community-Based Services, Supports for Community Working and Living Manual for the 1037 Waiver Program, (manual) dated August 1, 2013. This is necessary because the manual defines the population eligible to be served, screening and placement stipulations, the provision of services available under the program, plans of care, plan management processes and responsibilities, provider requirements, and reimbursement.

Manual

The Supports for Community Working and Living Program Waiver offers up to 30 persons self-directed services and supports intended to allow persons diagnosed with a developmental disability to achieve competitive employment; thereby, maximizing their choice and independence in where they work, live, socialize, and to participate to the fullest extent possible in their communities.

Initial eligibility is determined based upon current Medicaid financial eligibility requirements and current department requirements. Persons considered appropriate for this waiver are those who: want to work and have the ability to achieve employment; are 16 years of age or older; have health and safety needs that can be met for \$20,000 or less per year by the waiver; live at home with their natural family or in a private residence; and have care giving needs that are largely met by unpaid family members, or persons who have most of the skills to live alone or with an unpaid roommate and who require modest levels of support or supervision.

The screening process is based on a priority rating scale model which will identify those persons transitioning out of high school who want integrated employment and those persons who otherwise meet the eligibility requirements and wish to seek integrated employment. The 1037 Waiver also encourages persons in this waiver to stay within their communities, near their natural supports. Persons found eligible for developmental disabilities waiver services may choose to be placed on the waiting list for the 1037 Waiver.

The supported employment services offered include coworker support, follow-along support, individual employment support, job discovery/job preparation, and small group employment support. Other waiver services available are respite, supports brokerage, environmental modifications, adaptive equipment, individual goods and services, personal emergency response system, personal supports, and transportation. For persons with identified dietary needs, that cannot be met otherwise, reimbursement for meals will be available.

The supported employment services were selected because employment and inclusion in communities is important in the lives of persons in services. All persons 16 years of age and older in this waiver will be required to participate in at least ten hours per week, or the maximum hours allowed in order for the person to maintain Medicaid eligibility, of meaningful work in integrated community employment, earning at least minimum or competitive wages. If the person does not achieve integrated employment as stated above in a period of three years, or if the person states they no longer wish to seek integrated employment, the person has the option to transition into the 1915(c) Home and Community-Based Services for Individuals with Developmental Disabilities 0208 Waiver Program or to terminate developmental disabilities waiver services.

The services in the 1037 Waiver are entirely self-directed, either through a provider agency offering an agency with choice model or by a person with employer authority using financial management services. Self-directing services provide further

independence and choice for persons in the 1037 Waiver. The plan of care for persons in the 1037 Waiver includes the Self-Direct with Employer Authority Plan of Care Guide which:

- (a) assists the planning team to identify the role of the support broker for each person;
 - (b) identifies the support person's training needs and qualifications;
 - (c) provides directives in creating a back-up plan in case of emergencies;
- and
- (d) describes voluntary and involuntary exit information to the person.

Supported employment service definitions, general provider requirements, notice and fair hearings, and freedom of choice are also included in the new proposed manual and are consistent with current department requirements and the 1915(c) Home and Community-Based Services for Individuals with Developmental Disabilities 0208 Waiver Program.

Fiscal Impact

The Supports for Community Working and Living Waiver Program is expected to serve up to 30 persons. Persons receiving services and their funding in the 1915(c) Home and Community-Based Services for Individuals with Developmental Disabilities 0208 Waiver Program will transfer to the Supports for Community Working and Living 1037 Waiver Program; therefore, no fiscal impact is expected.

5. The department intends to adopt these rule amendments effective August 1, 2013.

6. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail dphhslegal@mt.gov, and must be received no later than 5:00 p.m., June 6, 2013.

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

8. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 6 above or may be made by completing a request form at any rules hearing held by the department.

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

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

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

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

Certified to the Secretary of State April 29, 2013

BEFORE THE BURIAL PRESERVATION BOARD
OF THE STATE OF MONTANA

In the matter of the adoption of New	)	NOTICE OF ADOPTION AND
Rules I through VII, pertaining to	)	TRANSFER
repatriation of human skeletal remains)	
and funerary objects and transfer of)	
ARM 2.65.102 through 2.65.108)	
pertaining to human skeletal remains)	
and burial site protection)	

TO: All Concerned Persons

1. On March 14, 2013, the Burial Preservation Board (board) of the state of Montana published MAR Notice No. 2-65-480 regarding a public hearing to consider the proposed adoption and transfer of the above-stated rules at page 308 of the 2013 Montana Administrative Register, Issue Number 5.

2. The board has adopted New Rules I (ARM 2.65.201), II (ARM 2.65.401), IV (ARM 2.65.403), V (ARM 2.65.404), and VII (ARM 2.65.406) and transferred ARM 2.65.102 (2.65.301), 2.65.103 (2.65.302), 2.65.104 (2.65.303), 2.65.105 (2.65.304), 2.65.106 (2.65.305), 2.65.107 (2.65.306), and 2.65.108 (2.65.307) exactly as proposed.

3. The board has adopted New Rules III (ARM 2.65.402) and VI (2.65.405) as proposed, but with the following changes, stricken matter interlined, new matter underlined:

NEW RULE III (ARM 2.65.402) DEFINITIONS In addition to the definitions found in 22-3-903, MCA, the following definitions apply in this subchapter:

- (1) through (3)(h) remain as proposed.
- (i) Pend d'Oreille, ~~Flathead~~ or Upper Kalispell (Flathead Reservation);
- (j) Salish or ~~Upper Kalispell~~ Flathead (Flathead Reservation);
- (k) through (p) remain as proposed.

AUTH: 22-3-904, MCA
IMP: 22-3-904, 22-3-911, 22-3-912, MCA

NEW RULE VI (ARM 2.65.405) CRITERIA FOR DETERMINING LINEAL DESCENT AND CULTURAL AFFILIATION WHEN REVIEWING A REPATRIATION CLAIM (1) through (4)(b) remain as proposed.

- (c) ~~archeological~~ archaeological;
- (d) through (i) remain as proposed.

AUTH: 22-3-904, MCA
IMP: 22-3-903, 22-3-904, 22-3-912, MCA

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

COMMENT #1: The Confederated Salish and Kootenai Tribes' Tribal Historic Preservation Office commented that proposed New Rule III(3)(i) and (j) incorrectly identified the Pend d'Oreille and Salish tribes.

RESPONSE #1: The board has corrected the names consistent with the comment. The board thanks the Confederated Salish and Kootenai Tribes for its comment and all the suggestions it has provided to the board in drafting these proposed rules.

COMMENT #2: Board member Dr. Ruthann Knudson commented that the word "archaeological" was incorrectly spelled in proposed New Rule VI(4)(c).

RESPONSE #2: The board has corrected the spelling to be consistent with the spelling in the Human Skeletal Remains and Burial Site Protection Act, 22-3-801, MCA, et seq. The board thanks Dr. Knudson for her excellent input in drafting these rules. Her participation was invaluable.

By: /s/ Reuben Mathias
Reuben Mathias, Chair
Burial Preservation Board

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

Certified to the Secretary of State April 29, 2013

BEFORE THE BOARD OF WATER WELL CONTRACTORS AND
THE DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 36.21.415 pertaining to Board of)
Water Well Contractors' fees)

To: All Concerned Persons

1. On March 14, 2013, the Department of Natural Resources and Conservation published MAR Notice No. 36-22-172 regarding a notice of public hearing on the proposed amendment of the above-stated rule at page 324 of the 2013 Montana Administrative Register, Issue Number 5.

2. The department has amended ARM 36.21.415 as proposed.

3. No written comments or oral testimony pertaining to the rulemaking were received.

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

/s/ Fred Robinson
FRED ROBINSON
Rule Reviewer

Certified to the Secretary of State on April 29, 2013.

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 37.36.604 pertaining to)
updating the federal poverty index for)
the Montana telecommunications)
access program)

TO: All Concerned Persons

1. On November 23, 2012 the Department of Public Health and Human Services published MAR Notice No. 37-616 pertaining to the proposed amendment of the above-stated rule at page 2327 of the 2012 Montana Administrative Register, Issue Number 22. On February 28, 2013 the Department of Public Health and Human Services published an Amended Notice of Proposed Amendment at page 247 of the 2013 Montana Administrative Register, Issue Number 4. The purpose of the amended notice was to provide that the 2013 federal poverty guidelines (FPG) rather than the 2012 FPG would be used to determine whether a family is eligible for the Montana Telecommunications Access Program (MTAP).

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

3. No comments or testimony were received.

4. The department intends to apply these rules retroactively to March 1, 2013. A retroactive application of the proposed rules does not result in a negative impact to any affected party.

/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 April 29, 2013.

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 37.30.101, 37.30.102,)
37.30.405, 37.30.730, 37.30.1001,)
37.30.1002, 37.30.1401, and)
37.31.201 pertaining to updates to)
the disability transitions program)

TO: All Concerned Persons

1. On March 14, 2013 the Department of Public Health and Human Services published MAR Notice No. 37-628 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 326 of the 2013 Montana Administrative Register, Issue Number 5. On March 28, 2013 the Department of Public Health and Human Services published an amended MAR Notice No. 37-628 to correct a typographical error made pertaining to the time of the public hearing for this rulemaking at page 408 of the 2013 Montana Administrative Register, Issue Number 6.

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

3. No comments or testimony were received.

/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 April 29, 2013.

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 December 31, 2012. This table includes those rules adopted during the period January 1, 2013, through March 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 December 31, 2012, 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 2012/2013 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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