

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 5

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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

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

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BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PROPOSED
ARM 2.59.104 pertaining to) AMENDMENT
semiannual assessment for banks)
) NO PUBLIC HEARING
) CONTEMPLATED

TO: All Concerned Persons

1. On April 10, 2012, the Department of Administration proposes to amend the above-stated rule.

2. The Department of Administration will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Administration no later than 5:00 p.m. on April 2, 2012, to advise us of the nature of the accommodation that you need. Please contact Wayne Johnston, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; telephone (406) 841-2918; TDD (406) 444-1421; facsimile (406) 841-2930; or e-mail to banking@mt.gov.

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

2.59.104 SEMIANNUAL ASSESSMENT (1) Based upon the following schedule, and upon calculation of the semiannual value for the respective bank, the value must be multiplied by the factor of 1.50 to determine the dollar fee assessment, rounded to the next highest dollar, due the Division of Banking and Financial Institutions for the semiannual period.

Total assets (Million)	Base	Plus rate/ Million	Over (Million)
0-1	0	.00085	0
1-10	850	.000105	1
10-50	1,795	.000085	10
50-100	5,195	.00005	50
over 100	7,695	.00003	100

(2) For the period [effective date of this amendment] through September 30, 2012, the assessment fee must be multiplied by a factor of .50. This section will sunset October 1, 2012.

AUTH: 32-1-213, 32-1-218, MCA
IMP: 32-1-213, 32-1-218, MCA

STATEMENT OF REASONABLE NECESSITY: In recent years there has been steady growth in the size and number of institutions and individuals licensed or supervised by the Division of Banking and Financial Institutions. This growth, coupled with conservative management and sound fiscal policies in the department, has resulted in an increasing special revenue fund balance. In particular, the semiannual assessments paid by state-chartered banks have significantly exceeded expenses for bank supervision. In order to refund the excess funds to the state-chartered banks, the department has determined that a one-time reduction in the semiannual assessment is necessary. The amendment to ARM 2.59.104 would reduce the amount of bank assessments by half (50%) for the assessment period ending June 2012.

It is estimated that semiannual assessments paid by the 64 state-chartered banks for the June 2012 assessment would be \$1,275,000 using the present rate structure. Therefore, the proposed amendment would result in a one-time revenue reduction of an estimated \$637,500 for the assessment period ending on June 30, 2012.

The department is expecting a significant change in the number of state-chartered banks in calendar year 2012 and will be reviewing the assessment rates after the impact of the change is known. The department expects to propose a permanent downward revision after that time. Because this rule revision is intended to be temporary, the department has chosen to have it sunset on October 1, 2012, which will make the amendment effective only for the June 2012 assessment, not for the December 2012 assessment.

4. Concerned persons may present their data, views, or arguments concerning the proposed action to Kelly O'Sullivan, Legal Counsel, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; faxed to the office at (406) 841-2930; or e-mailed to banking@mt.gov; and must be received no later than 5:00 p.m., April 9, 2012.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to the person listed in 4 above at the above address no later than 5:00 p.m., April 9, 2012.

6. If the Division of Banking and Financial Institutions receives requests for a public hearing on the proposed action from either 10% 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 six persons based on the 64 existing state-chartered banks.

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

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

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

By: /s/ Janet R. Kelly
Janet R. Kelly, Director
Department of Administration

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

Certified to the Secretary of State February 27, 2012.

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

In the matter of the amendment of)
ARM 12.9.602, 12.9.604, 12.9.606,)
12.9.615, 12.9.701, 12.9.702, 12.9.703,)
12.9.704, 12.9.705 and 12.9.706, and)
adoption of NEW RULE I regarding)
upland game bird release and habitat)
enhancement programs)

TO: All Concerned Persons

1. On April 2, 2012 at 6:00 p.m. the Department of Fish, Wildlife and Parks (department) will hold a public hearing at the Fish, Wildlife and Parks Region 4 office located at 4600 Giant Springs Road, Great Falls, Montana to consider the proposed amendment and adoption of the above-stated rules.

On April 3, 2012 at 6:00 p.m. the department will hold a public hearing at the Fish, Wildlife and Parks Region 5 office located at 2300 Lake Elmo Drive, Billings, Montana to consider the proposed amendment and adoption of the above-stated rules.

On April 4, 2012 at 6:00 p.m. the department will hold a public hearing at the Fish, Wildlife and Parks Region 3 office located at 1400 South 19th Avenue, Bozeman, Montana to consider the proposed amendment and adoption of the above-stated rules.

On April 4, 2012 at 6:00 p.m. the department will hold a public hearing at the Fish, Wildlife and Parks Headquarter office located at 1420 East 6th Avenue, Helena, Montana to consider the proposed amendment and adoption of the above-stated rules.

On April 5, 2012 at 6:00 p.m. the department will hold a public hearing at the Fish, Wildlife and Parks Region 7 office located at 352 I-94 Business Loop, Miles City, Montana to consider the proposed amendment and adoption of the above-stated rules.

On April 9, 2012 at 6:00 p.m. the department will hold a public hearing at the Fish, Wildlife and Parks Region 1 office located at 490 North Meridian Rd., Kalispell, Montana to consider the proposed amendment and adoption of the above-stated rules.

On April 9, 2012 at 6:00 p.m. the department will hold a public hearing at the Fish, Wildlife and Parks Region 2 office located at 3201 Spurgin Road, Missoula, Montana to consider the proposed amendment and adoption of the above-stated rules.

On April 10, 2012 at 6:00 p.m. the department will hold a public hearing at the Fort Peck Fish Hatchery office located at 277 Highway 117, Fort Peck, Montana to consider the proposed amendment and adoption of the above-stated rules.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, please contact the department no later than March 23, 2012, to advise us of the nature of the accommodation that you need. Please contact Coleen Furthmyre, Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; fax (406) 444-7456; e-mail cfurthmyre@mt.gov.

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

12.9.602 REQUIREMENTS OF PROJECTS INVOLVING PHEASANT RELEASES (1) and (1)(a) remain the same.

(b) ~~a minimum of no more than~~ 40% of the birds released may in a release under this program must be cocks;

(c) all birds must be fully feathered; appear healthy, uninjured, and have the ability for flight at the time of the release;

(d) applications for releases must be postmarked ~~prior to May~~ by January 15, and all releases must be made between August 1 and September 15;

(e) groups or individuals releasing birds on property they do not own must provide the department with written documentation from the landowner giving permission for the release, and acknowledging the requirements of allowing free public hunting, and to notifying the department whom payment should be made;

(f) releases may not be made in Fergus, Richland, or Roosevelt counties in order to provide a potential basis for evaluating the success of the program;

(g) and (h) remain the same.

(i) within one mile of each release site, habitat must be available that consists of:

(i) at least 10% permanent effective winter cover ~~as described in ARM 12.9.615(2);~~

(ii) 25% idle cover such as undisturbed residual vegetation 10 or more inches high; and

(iii) 10% food sources, such as cultivated grain, ~~to be considered for authorization;~~

(i) ~~conservation reserve grass-legume planting may be considered as idle cover provided the planting has not been mowed or grazed by livestock in the preceding twelve-month period.~~

(j) and (k) remain the same.

(l) the department reserves the right to inspect the pheasant raising facilities and sample birds; ~~if the number of applicants, private or commercial, applying to release pheasants cannot be accommodated by program funding, distribution of funds will take place in the following manner:~~

~~(i) if funding is insufficient to allow each applicant to release up to 200 pheasants, the department will conduct a random drawing to determine who will receive release permits;~~

~~(ii) if funding will allow each individual applicant, private or commercial, to release up to 200 pheasants, the department shall issue a permit to each applicant;~~

~~(iii) if there is sufficient funding for each applicant, applicants, by submitting a second application, will be allowed to release up to 200 additional pheasants. This same process will be followed until funding will no longer cover remaining applicants. At that time, the department will conduct a random drawing for the remaining releases.~~

(m) the department reserves the right to refuse to stock or pay for any pen-reared pheasants that are observed to be in poor condition or health prior to or during release activities;

(mn) habitat sites will be inspected by department personnel to determine the authorized number of birds that may be released. This number will be determined by:

(i) the availability of required habitat components (winter cover, idle cover, food sources) that occupies the fewest acres within one mile of the release site release; and

(ii) the number of birds that the area will support assuming one bird will require approximately three acres of habitat within a one-mile radius of the release site and there is a 60% mortality rate of released birds;

(no) banding of birds will may be required in specified study areas and will be done by the department prior to release;

(p) pen-reared pheasants may be assessed for overall health and general condition prior to and during release activities and the department maintains the right to refuse authorization of any pheasant release or payment for released pheasants if pheasants appear unhealthy prior to or during the release activity;

(oq) all releases must be verified at the time of release by a department employee representative who will submit the verification form signed by the landowner to the program coordinator for payment to the landowner or their designee;

(pr) sites may be stocked for a period of five consecutive years. pheasant releases may occur annually within a five-year period starting from the first release. If a viable population is not established during that period, the department may fund additional releases for one additional five-year period if habitat improvements are established that address factors limiting pheasant numbers. will no longer consider the site as being capable of supporting populations and will not fund any additional releases unless habitat changes are made that would make the site more suitable for the establishment of a viable population;

(q) in the case of extreme weather conditions, the department will evaluate the area pursuant to ARM 12.9.615 to determine if the department will authorize the continued stocking of sites currently being used for an additional five years.

(2) For good cause shown, the department may waive any requirement listed in (1). The department may authorize the release of up to 200 pheasants per application.

(3) If the department is unable to fund all eligible applications, the department may:

(a) fund one eligible application per applicant;

(b) fund an equitable number of eligible applications for each applicant; and

(c) conduct a random drawing.

AUTH: 87-1-249, MCA

IMP: 87-1-248, MCA

12.9.604 PAYMENT BY DEPARTMENT (1) The department will pay authorized pheasant release projects for live birds pheasants that are ten weeks of age or older and released in compliance with all the provisions of this subchapter at a rate established by the department surveying NPIP-certified hatcheries or game bird growers in Montana and surrounding states or through the solicitation of bids from interested parties equivalent to the ~~average cost of ten week old pheasants being raised and offered for sale to the public by NPIP certified hatcheries or game bird growers in Montana. The price will be determined by surveying hatcheries and growers in March of each year. If circumstances prevent the department from timely release of birds contracted for release at ten weeks of age, the department will cover the additional expenses incurred by the hatchery or grower on behalf of the department.~~

AUTH: 87-1-249, MCA

IMP: 87-1-248, MCA

12.9.606 DEFINITIONS (1) "Upland game bird release program" means the programs established by 87-1-246 through 87-1-248, MCA, for both the compensation to eligible participants for the rearing and release of upland game birds ring-necked pheasants, or the trapping and release of wild upland game birds, authorized by the department in order to establish viable upland game bird populations, and the compensation to eligible participants for the trapping and release of wild upland game birds in order to establish viable upland game bird populations.

(2) "Upland game bird habitat enhancement program" means the programs established by ~~87-1-246 through 87-1-248, MCA, for cost-sharing to eligible cooperators for the establishment of suitable habitats to enhance the establishment of viable upland game bird populations.~~

AUTH: 87-1-249, MCA

IMP: 87-1-248, MCA

12.9.615 SUPPLEMENTAL FEEDING (1) The department may enter into agreements ~~with individuals, organizations, or other agencies~~ to provide supplemental feeding for upland birds pheasants during extreme winter weather events conditions in Sheridan, Daniels, and Roosevelt counties. Supplemental feeding ~~will be considered on a case-by-case basis. The threat posed to the upland~~

~~game bird population will be evaluated on a county-wide basis. The department will use the following guidelines to determine when supplemental feeding should occur:~~

~~(2) The department will authorize supplemental feeding when~~

~~(a) a severe winter storm where 90% or more of the naturally occurring food sources are covered with snow and ice, and conditions are such that the upland birds pheasants are unable to obtain food for a period of five or more days; or~~

~~(b) the affected area is large enough that it presents a serious threat to the viability of the population within the county.~~

~~(23) Supplemental feeding will be done only within areas 1/4 miles or closer to effective winter cover. Winter cover includes but is not limited to the following examples:~~

~~(a) minimum three row uncultivated shelterbelt comprised of trees five years or older;~~

~~(b) minimum four row uncultivated shelterbelt comprised of shrubs and trees;~~

~~(c) woody drainages;~~

~~(d) river or stream courses ungrazed by livestock for at least the previous 12 months; and~~

~~(e) cattail sloughs ungrazed by livestock for at least the previous 12 months.~~

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

~~(56) No feeding operations may begin after March 30. will terminate no later than March 31.~~

AUTH: 87-1-249, MCA

IMP: 87-1-248, MCA

12.9.701 PROJECT APPLICATIONS (1) through (1)(d) remain the same.

(e) the legal description of the project site area, including the habitat site and project access area;

(f) clear evidence of landowner's permission if the project site area is not owned by the applicant;

(g) the number of acres included in the proposed enhancement project area, including the habitat site and the project access area;

(h) through (i) remain the same.

AUTH: 87-1-249, MCA

IMP: 87-1-248, MCA

12.9.702 PROJECT REQUIREMENTS (1) Projects must meet the following requirements before the department may authorize participation in the program:

(a) projects must be designed to establish, or improve, or protect necessary habitat components such as nesting cover, effective winter cover, brood habitat, and feeding areas food sources;

(b) projects ~~must~~ should be located ~~within a suitably sized area, normally on a minimum of 100 contiguous acres and shelterbelts cannot be located within 400 feet of occupied buildings or outbuildings used by livestock but may be considered on lands less than 100 acres if land with guaranteed public access is within the project area of influence. All habitat components need not be under the ownership~~

of the applicant if other of the necessary habitat components (~~nesting cover, winter cover, feeding areas~~) are present at suitable distances on adjacent ownerships;

(c) all projects ~~on private land~~ must be implemented through lease, conservation easement, or by department contract using upland game bird habitat enhancement program cost-sharing with the private landowner, public land management agency, or other conservation partner project sponsor, ~~or a federal cost-share program~~;

~~(d) projects which require the department to purchase fee title to lands will not be considered;~~

(ed) all projects ~~on private lands~~ must be open to public hunting for upland game birds for the duration of the project as defined in the contract or work plan. Reasonable use limitations on numbers of hunters and areas to be hunted may be allowed; however, user fees may not be charged. Projects located within a leased or commercial hunting operation will not be considered.

AUTH: 87-1-249, MCA

IMP: 87-1-248, MCA

12.9.703 PROJECT REVIEW AND APPROVAL (1) Enhancement activities on public and private lands will be reviewed and prioritized for funding based on:

(a) current species distribution and the potential to increase numbers of upland game birds;

~~(2) Project proposals will be evaluated before being accepted by the department using the following criteria:~~

~~(a) and (b) remain the same but are renumbered (b) and (c).~~

~~(cd)~~ the status of adjacent property regarding hunter access and benefits provided upland birds the current habitat characteristics and public access opportunities that comprise the project area of influence;

~~(d) remains the same but renumbered (e).~~

~~(ef)~~ expected benefits for upland game birds and hunters from the proposed project;

~~(fg)~~ additional consideration will may be given to projects that offer:

~~(i)~~ offer longer initial contract terms, renewed terms of expired contracts, or additional a higher amount of landowner cost-share; or

~~(ii)~~ offer land with special or unique components (such as wetlands) for enhancement.

~~(3) Emphasis will be given to projects on private lands; however, projects on public land will be pursued where opportunities for cooperative cost-share projects exist.~~

~~(4) Approved projects will be funded on a first come, first served basis.~~

~~(5) remains the same but is renumbered (2).~~

~~(6)~~ Participation in federal farm programs, state agricultural programs, hunter management programs, the hunting access enhancement program, or other programs that provide for habitat or access enhancement does not preclude eligibility for landowners applicants to also enroll property in the upland game bird enhancement program.

AUTH: 87-1-249, MCA
IMP: 87-1-248, MCA

12.9.704 REPORTING REQUIREMENTS (1) Upon notification by the cooperator of project completion as outlined in the contract, department personnel or designee will inspect the project and submit written confirmation of project completion within 60 days to department headquarters. Any person or organization authorized to implement an upland game bird habitat enhancement project must, within 60 days of completion of all authorized activities, file a written report with the department on forms provided by the department. All reports must include the following:

- ~~(a) the number of acres enhanced;~~
- ~~(b) specific enhancement activities accomplished;~~
- ~~(c) species of plantings used;~~
- ~~(d) costs by activity;~~
- ~~(e) any other information deemed relevant by the department and requested on the project report form; and~~

~~(f) verification of on-site inspection by department personnel.~~

~~(2) The department will assist with preparation of reports in the following ways:~~

- ~~(a) department personnel will develop a monitoring schedule for all habitat enhancement projects; and~~
- ~~(b) the program coordinator will maintain a copy of regional monitoring plans and annual status of projects monitored and new projects added to the plan.~~

~~(3) The department will compile an annual summary of the birds released under the upland game bird release and pheasant release programs, the release locations, and the associated costs of those releases.~~

~~(4) The department will compile an annual summary of projects undertaken under the upland game bird habitat enhancement program, the types of projects entered into, and the associated costs of those projects.~~

AUTH: 87-1-249, MCA
IMP: 87-1-248, MCA

12.9.705 PAYMENT BY DEPARTMENT (1) The department will compensate individuals or organizations by cost-sharing the actual costs incurred for completed cost share upland game bird habitat enhancement projects as set forth in a contract or work plan. The department's share will be negotiated on an individual project basis for cost-sharing projects. Project expenses derived from applicable cost lists, such as an NRCS standard cost list, may be used to determine project costs and reimbursement payments. In-kind services contributions, such as labor, equipment use, land taken out of production, or the management of public lands for improved upland game bird habitat and upland game bird hunting opportunity, may be used for the programs participants' portion recognized as an applicant's contribution of the cost-share.

~~(a) requests for payment must be accompanied by invoices, receipts or similar proof of expenses;~~

~~(b) all requests for payment must include verification by department personnel that the work for which payment has been requested has been completed; and~~

~~(c) the department will cover no more than 75% of the total cost of any upland game bird habitat enhancement project entered into with a cooperator resulting in improvements on property owned or controlled by that cooperator.~~

(2) The department may compensate individuals, agencies, or organizations for upland game bird habitat protection or enhancement activities accomplished through a lease, up to the fair market value of the lease. ~~The organization or individual will be compensated only if the organization or individual holds title to or leases the specified property.~~

(3) The department may compensate individuals, agencies, or organizations for upland game bird habitat protection or enhancement accomplished through a conservation easement, up to the fair market value of the easement. The organization, agency, or individual will be compensated only if the organization or individual holds title to the specified property.

(4) For qualified upland game bird habitat enhancement projects sponsored by volunteer organizations, the department may reimburse for up to 110% of additional project material costs to encourage program participation. ~~the sponsor for up to 10% of the cost of the project and may cover up to 100% of the cost of the material required for the project.~~

~~(a) requests for payment must be accompanied by invoices, receipts or similar proof of expenses; and~~

~~(b) all requests for payment must include verification by department personnel that the work for which payment had been requested has been completed.~~

(5) The following are costs limitations under the upland game bird habitat enhancement program:

(a) department costs for any project may not exceed \$100,000 without commission authorization, and no project will be funded for more than \$200,000;

(b) department expenses on any project for purchase of buildings or equipment will not exceed \$25,000 and all equipment purchased by the department will remain property of the department; ~~and~~

(c) the department will cover no more than 50% of the cost of wells, pipelines, and roads; and

(d) expenditures related to maintenance activities are separate from project costs and are not administered or capped under statute.

(6) All requests for payment must be accompanied by invoices, receipts, or proof of expenses and include verification by department personnel that the work for which payment has been requested has been satisfactorily completed.

AUTH: 87-1-249, MCA

IMP: 87-1-248, MCA

12.9.706 EFFECT OF RULE VIOLATIONS (1) Any person, agency, or organization found in violation of any of the upland game bird enhancement rules ~~will~~

~~may be disqualified from further participation in the program, and will be required to reimburse the department for compensation received.~~

AUTH: 87-1-249, MCA

IMP: 87-1-248, MCA

4. The proposed new rule provides as follows:

NEW RULE I DEFINITIONS (1) "Effective winter cover" means dense woody or herbaceous vegetative component on the landscape that provides upland game birds with thermal and protective cover in proximity to a nearby food source.

(2) "Habitat site" means the area where actual enhancement work will be accomplished, conserved, and maintained.

(3) "Maintenance" means a temporary activity necessary for the upkeep, repair, or enhancement of an existing or intended long-term habitat component as identified in the Upland Game Bird Habitat Enhancement Program contract or work plan.

(4) "Project" means the specific activity on a particular area over a specified period of time that intends to enhance or conserve upland game bird habitats or populations. Expenditures are administered and capped in statute.

(5) "Project area" means those specific acres identified in the contract that includes both the habitat site and project access area. Several projects may occur on a single project area.

(6) "Project access area" mean the legally defined property open to some level of public hunting as defined in a contract.

(7) "Project area of influence" means the land and associated game birds that may affect or may be affected by the habitat enhancement improvement or activity.

(8) "Project types" means the actual activities conducted to enhance upland game bird populations and include, but are not limited to shelterbelts, grazing systems, food plots, nesting cover, upland game bird releases, and supplemental feeding activities.

AUTH: 87-1-249, MCA

IMP: 87-1-248, MCA

Reasonable Necessity: In 2009, the Upland Game Bird Enhancement Program underwent a legislative performance audit. The audit report concluded that the program lacked a strategic plan and may not reach its full potential. The audit report recommended that a strategic plan be established that identified long-term goals and objectives with performance measurements that align with statutory requirements. Additionally, the audit report identified the need for a citizens' advisory council whose primary purpose was to advise the department on the development of the strategic program plan. The council's final recommendations were articulated in the 2011 strategic plan and adopted by the Fish, Wildlife and Parks Commission. In response to these actions, the department is proposing

amendment and adoption of rules to align with the strategic plan and to provide greater clarity for program implementation.

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 Laura Geary, Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT, 59620-0701; fax 406-444-2452; e-mail fwpwld@mt.gov, and must be received no later than April 13, 2012.

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

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

/s/ Joe Maurier

Joe Maurier, Director

Department of Fish, Wildlife and Parks

/s/ Rebecca Jakes Dockter

Rebecca Jakes Dockter

Rule Reviewer

Certified to the Secretary of State February 27, 2012

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

In the matter of the amendment of)	NOTICE OF PROPOSED
ARM 24.11.462 and repeal of ARM)	AMENDMENT AND REPEAL
24.11.460, pertaining to)	
unemployment insurance)	NO PUBLIC HEARING
)	CONTEMPLATED

TO: All Concerned Persons

1. On April 16, 2012, the Department of Labor and Industry proposes to amend and repeal the above-stated rules.

2. The Department of Labor and Industry 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 Labor and Industry no later than 10:00 a.m. on April 2, 2012, to advise us of the nature of the accommodation that you need. Please contact Don Gilbert, Department of Labor and Industry, P.O. Box 8020, Helena, MT 59624-8020; telephone (406) 444-4336; fax (406) 444-2993; TDD (406) 444-5549; or e-mail dgilbert@mt.gov.

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

24.11.462 OFF-DUTY CONDUCT (1) While misconduct usually occurs during the claimant's normal working hours, "off-duty" conduct may constitute misconduct if it meets the criteria in ~~ARM 24.11.460~~ 39-51-201, MCA, and if such conduct:

(a) through (3) remain the same.

AUTH: 39-51-301, 39-51-302, MCA
IMP: 39-51-201, 39-51-2303, MCA

REASON: There is reasonable necessity to amend ARM 24.11.462 because Montana Legislature has adopted as statute the definition of "misconduct" found in ARM 24.11.460. That change was enacted as Sec. 1, Chap. 98, L. of 2011 (SB 342). The administrative rule definition of "misconduct" is now codified in 39-51-201(19), MCA (2011). There also is reasonable necessity to amend the IMP citation to add the reference to the statute which contains the definition that determines whether an employee engaged in misconduct.

4. The department proposes to repeal the following rule:

24.11.460 DISQUALIFICATION FOR MISCONDUCT

AUTH: 39-51-301, 39-51-302, MCA
IMP: 39-51-2303, MCA

REASON: There is reasonable necessity to repeal ARM 24.11.460 because of the enactment of Sec. 1, Chap. 98, L. of 2011 (SB 342) by the Montana Legislature. The criteria for determining whether an employee engaged in "misconduct," which was found in ARM 24.11.460, is now in statute, and thus the rule has become superfluous because it unnecessarily repeats language now in statute.

5. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Don Gilbert, Department of Labor and Industry, P.O. Box 8020, Helena, MT 59624-8020; telephone (406) 444-4336; fax (406) 444-2993; TDD (406) 444-5549; or e-mail dgilbert@mt.gov, and must be received no later than 5:00 p.m., April 6, 2012.

6. 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 Don Gilbert at the above address no later than 5:00 p.m., April 6, 2012.

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

Ten percent of those directly affected by the proposed rule change has been determined by the department to exceed 25 claimants and employers, based on the U.S. Department of Labor's activity report for the past four completed calendar quarters (October 1, 2010 – Sept 30, 2011), which documents 8,377 employment discharge determinations issued for Montana unemployment insurance program.

8. An electronic copy of this Notice of Public Hearing is available through the department's web site on the World Wide Web at <http://dli.mt.gov/events/calendar.asp>. 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 department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the department. 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 department 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 Department of Labor and Industry, Office of Legal Services, attn: Mark Cadwallader, 1315 E. Lockey Ave., P.O. Box 1728, Helena, Montana 59624-1728; faxed to the office at (406) 444-1394; e-mailed to mcadwallader@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, apply and have been fulfilled. The primary bill sponsor, Senator Ed Buttrey, was contacted by telephone by Roy Mulvaney, Unemployment Insurance Division Administrator, on August 2, 2011, and informed that the department intended to begin the process amending the administrative rules in order to implement SB 342. The primary bill sponsor offered no comment on this proposed rule change.

/s/ MARK CADWALLADER
Mark Cadwallader
Alternate Rule Reviewer

/s/ KEITH KELLY
Keith Kelly
Commissioner
Department of Labor and Industry

Certified to the Secretary of State February 27, 2012

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

In the matter of the amendment of)
ARM 24.180.301 definitions,)
24.180.505 journeyman must work in)
the employ of master, 24.180.507)
master plumbers registration of)
business name, and the adoption of)
NEW RULE I nonroutine applications)
and NEW RULE II unprofessional)
conduct)

NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENT AND
ADOPTION

TO: All Concerned Persons

1. On April 2, 2012, 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 and adoption of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Plumbers (board) no later than 5:00 p.m., on March 26, 2012, to advise us of the nature of the accommodation that you need. Please contact Jason Steffins, Board of Plumbers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2329; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2309; e-mail dlibsdpplu@mt.gov.

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

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

(3) "Installation of plumbing and drainage systems" means, but is not limited to, the measuring, laying-out, cutting, fitting, soldering, and gluing of pipe and/or the installation of fixtures and equipment for the purpose of connecting potable water or sewage.

(4) "Installation of water conditioner service" means installation of a device that requires connection to the water piping only and the installation of the drain to an acceptable indirect waste receptor as required by the plumbing code, as adopted by the state of Montana, and as required by Title 37, chapter 69, MCA. This exemption does not apply to connections to any public water supply or to commercial installations.

(5) "Master plumber of record" means a licensed master plumber who is designated as the "master plumber of record" for a plumbing business under ARM 24.180.507.

~~(5)~~ (6) "Minor work" means installation of an appliance that requires connection to the water piping only and the installation of the drain to an acceptable indirect waste receptor as required by the plumbing code, as adopted by the state of Montana, and as required by Title 37, chapter 69, MCA. The installation must be performed by an agent of, or the dealer from whom the appliance was purchased.

~~(6)~~ (7) "Manufactured house" means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected ~~on-site~~ on-site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein, except that such term shall include any structure which meets all the requirements of this section, except the size requirements.

(8) "Plumbing business" means any person or entity that advertises, bids, contracts for, or performs work in the field of plumbing.

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

AUTH: 37-69-202, ~~37-69-401~~, MCA

IMP: 37-69-102, 37-69-305, 37-69-306, 37-69-323, ~~37-69-401~~, MCA

REASON: The question of who may own a plumbing business has been a recurring issue for the board over the past several years. In interpreting the specific board statutes, the board has determined that the law does not require a plumbing business to be owned by a master plumber. However, a master plumber may obtain plumbing permits and supervise the plumbing for only one plumbing business, which is the master plumber's "own" business. Because the legislature did not clearly require a master plumber to possessively and independently "own" each plumbing business, the board understands that one's "own" plumbing business may be the plumbing business the master plumber is associated with or employed by.

The board determined it is reasonably necessary to amend this rule and ARM 24.180.505 and 24.180.507 to more clearly establish who may use the master plumber's license for the purposes of obtaining permits and performing and supervising plumbing work under the authority of that license. The amendments are also consistent with the way business entities are commonly transferred and owned, as ownership may be divided among several nonlicensees who manage the business, without being directly involved in performing or supervising plumbing work. The plumbing work may, according to law, be overseen by the master plumber who is no more than an employee of the plumbing business.

The board also intends that the proposed amendments will clarify the duties of the master plumber of record, with respect to the plumbing business. In the past, the plumbing business and master plumber of record have often been unsure just who was authorized to obtain permits and to contract or bid for plumbing work. In addition, the proposed changes will add clarity to the process of and responsibility for updating the board's records regarding relationships between master plumbers of record and plumbing businesses.

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

24.180.505 JOURNEYMAN MUST WORK IN THE EMPLOY OF MASTER

(1) Unless otherwise permitted by the board, a ~~licensed~~ journeyman plumber may perform work only in the employ of and under the supervision of a full-time licensed master plumber of record.

(2) The board recognizes that in certain instances to require a journeyman plumber to be in the employ of a master plumber of record, may work a hardship, and in certain instances, the reason for requiring a master plumber of record may not exist. These instances may include ~~journeymen~~ journeyman plumbers who are employed by a government entity and a majority of whose work ~~which~~ may be considered plumbing, ~~is does not involved in the~~ involve initial installation, but rather, only ~~in making and doing~~ certain minor kinds of maintenance to previously installed and existing plumbing.

(3) ~~Therefore, it is the intent of this rule to require all~~ All licensed journeyman plumbers ~~to shall~~ work only in the employ of a ~~licensed~~ master plumber of record, unless ~~such journeymen should feel that they are entitled to~~ the board grants an exemption from this requirement. ~~If this be the case, such~~ To be exempted from this requirement, a journeyman plumber must file with the board a written application for ~~such~~ exemption. That application must state by whom the journeyman plumber is employed, and it must state in detail the kind and amount of ~~that work he~~ the journeyman plumber is doing, ~~as such employee and~~ especially those areas which ~~may be involved in doing~~ involve the field of plumbing work.

(4) The board, upon review of the application, shall determine whether the type of employment and work thereunder shall require employment by a master plumber of record and may thereafter, in its discretion, grant or deny the application and define the scope of the exemption, including, but not limited to, any and all terms and conditions the board deems necessary or appropriate under the circumstances.

(5) A journeyman plumber license does not authorize the journeyman plumber to obtain a permit or to engage in or advertise as a plumbing business.

AUTH: 37-69-202, MCA

IMP: 37-69-304, 37-69-306, MCA

REASON: The amendments regarding master plumbers of record are explained in the reason following ARM 24.180.301. The board is also amending this rule to clarify the board's authority to grant exemptions authorizing journeyman plumbers to work other than in the employ of a master plumber of record. These changes will address a current misconception that the board may only grant or deny requests. These amendments will specify that the board may also grant exemptions with specific terms or conditions attached, as are appropriate under the circumstances.

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

24.180.507 MASTER PLUMBERS OF RECORD - REGISTRATION OF BUSINESS NAME (1) At the time of application for licensure as a master plumber or at the time of renewal of the master's license, the applicant or licensee shall designate on the application if he intends to engage in the business of a whether the master plumber is designated as a master plumber of record under his own name, or under an assumed name doing business as a sole proprietor and shall state the name of the plumbing business for which the master plumber will be so designated. The designation made on an application or renewal must be received by the board before the designation is effective.

~~(2) If such master intends to affiliate with a partner, firm or corporation as master plumber of record, he shall so designate the name of the firm, partnership or corporation.~~

~~(3) If at any subsequent time he should change his status as designated above, he shall immediately notify the board in writing by certified mail to that effect at least ten days prior to the change. Until receiving such notice, the board will consider him to be engaged in business in his prior designated status.~~

~~(4) A master license shall be affiliated with only one plumbing business as master plumber of record, to be listed on the annual renewal form, and may not affiliate with a second plumbing business as master plumber of record, without terminating the first through written notice to the board office.~~

(2) A master plumber must notify the board in writing whenever a master plumber is:

(a) designated as the master plumber of record; or

(b) terminated as the master plumber of record.

(3) If a new master plumber of record is designated for a plumbing business that already has a master plumber of record, the effect is a termination of the prior master plumber of record designation.

(4) No change of status will be lawful until the board receives actual notice in writing of the status change, regardless of whether the change is a designation as a master plumber of record, a termination as a master plumber of record, or both.

(5) A master plumber shall be the master plumber of record for only one plumbing business at any one point in time, and shall not assume or perform the duties or obligations of a master plumber of record for any other plumbing business, without first providing the notice required by this rule.

~~(5) (6) A master plumber of record shall be responsible for supervising all plumbing work performed by the plumbing business with for which the master is affiliated plumber of record is designated and for ensuring shall ensure that all plumbing work is performed by licensed plumber employees where a license is required done in compliance with all applicable standards, rules, codes, and statutes, including, but not limited to, licensing laws and building codes.~~

~~(6) The licensed master plumber in any joint venture or other business entity-type arrangements shall be responsible for all plumbing work performed and for supervision of all plumbing employees.~~

~~(7) Prior to any individual or entity bidding and contracting for work in the field of plumbing, the individual must first obtain a master plumber's license in the state of Montana.~~

(7) A master plumber of record designation is required at all times that a plumbing business engages in any of the following:

- (a) advertising services in the field of plumbing;
- (b) bidding or contracting for work in the field of plumbing; and
- (c) applying for or obtaining a plumbing permit, or any part or renewal of a plumbing permit.

~~(8) A master plumber license authorizes the individual's firm to obtain plumbing permits for doing plumbing work under the individual's license. A journeyman plumber's license does not authorize the individual to obtain a plumbing permit or to engage in or advertise as a plumbing business.~~

AUTH: 37-69-202, MCA

IMP: 37-69-305, 37-69-306, 37-69-323, MCA

4. The proposed new rules provide as follows:

NEW RULE I NONROUTINE APPLICATIONS (1) Applications for licensure that disclose any of the following circumstances are nonroutine and must be reviewed and approved by the board before the license may be issued:

- (a) the applicant has ever been convicted of a felony;
- (b) the applicant has pled guilty or no contest to or been convicted of two or more misdemeanors, other than minor traffic violations within the past five years, regardless of whether an appeal is pending and regardless of whether the sentence was suspended or deferred;
- (c) any of the applicant's occupational or professional licenses have been disciplined or an application for a license was denied in any state or jurisdiction; or
- (d) any substantive irregularity deemed by department staff to warrant board review and approval prior to issuance of the license.

AUTH: 37-1-131, 37-69-202, MCA

IMP: 37-1-101, 37-1-131, MCA

REASON: Per statute, the department is responsible for processing routine license applications as defined by the board. Although the board has previously relied on the department's definitions for routine and nonroutine applications in ARM 24.101.402, this new rule will provide staff further clarification and guidance from the board on differentiating between routine and nonroutine applications.

NEW RULE II UNPROFESSIONAL CONDUCT (1) The following conduct is deemed by the board to be unprofessional conduct:

- (a) failing to timely correct violations of the Montana State Building Code, which is provided for in Title 50, chapter 60, MCA. Whether a violation has been timely corrected must be determined in light of the seriousness of the violation and all other factors deemed relevant by the board;
- (b) being adjudicated under Title 39, MCA, by the court or agency having jurisdiction as having violated any workers' compensation, unemployment insurance, or independent contractor law in Montana, while working in the field of plumbing;

(c) failing to comply with the continuing education requirements set forth in ARM Title 24, chapter 180;

(d) violating any requirement found in Title 37, chapters 1 or 69, MCA, or ARM Title 24, chapters 101 or 180;

(e) being found guilty or admitting to sufficient facts in relation to, or pleading guilty or *nolo contendere* to a crime in any jurisdiction, whether felony or misdemeanor, regardless of adjudication or sentence, that relates to the practice of plumbing or the ability to safely and effectively practice plumbing, including, but not limited to, violations of any state or federal laws or regulations regarding plumbing;

(f) aiding or abetting a person to engage in conduct amounting to unprofessional conduct;

(g) failing to respond to the board or the department within 30 days of the date when a correspondence has been mailed to the current address of the licensee on file with the board;

(h) allowing false or misleading advertising in relation to the licensee's business as it relates to the field of plumbing; and

(i) engaging in a commercial activity that conflicts with responsibility to clients or to other licensees or apprentices.

(2) Upon a finding of unprofessional conduct as defined in (1), determined in accordance with the Montana Administrative Procedure Act, the board may impose sanctions, including, but not limited to, those allowed pursuant to 37-1-136 and 37-1-312, MCA; any additional cost or expense incurred by a licensee as a result of a sanction is the burden of the licensee. As additional forms of sanction, and without limiting the availability of any other sanction allowed by law, the board may:

(a) require a specific ratio among the different types of licensees who are in the employment of a disciplined licensee;

(b) require a specific ratio among the different types of licensees among whom a disciplined licensee is allowed to work;

(c) require supervision or additional inspections; and

(d) limit the licensee's scope of practice.

AUTH: 37-1-131, 37-1-136, 37-1-319, 37-69-202, MCA

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

REASON: The board determined it is reasonably necessary to adopt this new rule to specify those grounds of unprofessional conduct and forms of licensee discipline in addition to those found in statute. This new rule is needed to assist the board in safeguarding the public's health, safety, and welfare by making the disciplinary powers of the board more clearly applicable to conduct that is, in the opinion of the board, unprofessional and a threat to the public.

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 Plumbers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2309, or by e-mail to dlibsdpplu@mt.gov, and must be received no later than 5:00 p.m., April 10, 2012.

6. An electronic copy of this Notice of Public Hearing is available through the department and board's web site on the World Wide Web at www.plumber.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 Plumbers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2309; e-mailed to dlibsdlu@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. Tyler Moss, attorney, has been designated to preside over and conduct this hearing.

BOARD OF PLUMBERS
TIM REGAN, PRESIDING OFFICER

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

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State February 27, 2012

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

In the matter of the adoption of New Rules I through IV and amendment of ARM 37.85.206 pertaining to Medicaid diabetes and cardiovascular disease prevention services) NOTICE OF PUBLIC HEARING ON PROPOSED ADOPTION AND AMENDMENT

TO: All Concerned Persons

1. On March 28, 2012, at 10:00 a.m., the Department of Public Health and Human Services will hold a public hearing in Room 207 of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana, to consider the proposed adoption and amendment of the above-stated rules.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Public Health and Human Services no later than 5:00 p.m. on March 21, 2012, to advise us of the nature of the accommodation that you need. Please contact Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

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

NEW RULE I PURPOSE (1) The rules in this chapter implement Montana Medicaid diabetes and cardiovascular disease prevention services. Diabetes and cardiovascular disease prevention services are evidence-based to assist in preventing Medicaid eligible individuals from developing diabetes and cardiovascular disease.

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

IMP: 53-2-201, 53-6-101, 53-6-131, MCA

NEW RULE II DEFINITIONS For purposes of Montana Medicaid diabetes and cardiovascular disease prevention services, the following definitions apply:

- (1) "After core program" means six consecutive monthly sessions.
- (2) "Core program" means 16 consecutive weekly sessions.
- (3) "Eligible client" means Medicaid eligible individuals at high risk for developing diabetes or cardiovascular disease.
- (4) "Eligible provider" means Medicaid providers with licensed and trained health care professionals on staff delivering standardized curriculum and reporting

data to the Public Health and Safety Division of the Department of Public Health and Human Services.

(5) "Evidence-based intervention" means the group-based National Institutes of Health's Diabetes Prevention Program as adapted by the Public Health and Safety Division of the Department of Public Health and Human Services.

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

IMP: 53-2-201, 53-6-101, 53-6-131, MCA

NEW RULE III DIABETES AND CARDIOVASCULAR DISEASE

PREVENTION SERVICES GENERAL (1) Diabetes and cardiovascular disease prevention services include the following evidence-based intervention services:

(a) Group nutrition counseling to prevent diabetes and cardiovascular disease; and

(b) Physical activity coaching to prevent diabetes and cardiovascular disease.

(2) Services are provided to eligible clients in 16 core program weekly sessions and six after core program monthly sessions.

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

IMP: 53-2-201, 53-6-101, 53-6-131, MCA

NEW RULE IV DIABETES AND CARDIOVASCULAR DISEASE

PREVENTION SERVICES REIMBURSEMENT (1) Reimbursement for diabetes and cardiovascular disease prevention services to eligible providers is in accordance with fee-for-service fee schedules for appropriate provider types posted on the department's web site at www.mtmedicaid.org.

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

IMP: 53-2-201, 53-6-101, 53-6-131, MCA

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

37.85.206 SERVICES PROVIDED (1) Except as otherwise provided in this rule, the following medical or remedial care and services shall be available to all persons who are certified eligible for Medicaid benefits under this chapter (including deceased persons, categorically related, who would have been eligible had death not prevented them from applying). However, only those medical or remedial care and services also covered by Medicare shall be available to a person who is certified eligible for Medicaid benefits as a qualified Medicare beneficiary under ARM 37.83.201 and 37.83.202.

(a) through (af) remain the same.

(ag) institutions for mental diseases for persons age 65 and over; ~~and~~

(ah) payment of premiums, co-insurance, deductibles, and other cost sharing obligations under an individual or group health plan in accordance with the provisions of ARM 37.82.424; and

(ai) diabetes and cardiovascular disease prevention services.
(2) through (4) remain the same.

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

IMP: 53-2-201, 53-6-101, 53-6-103, 53-6-111, 53-6-113, 53-6-131, 53-6-141, MCA

5. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to adopt new rules to implement Medicaid diabetes and cardiovascular disease prevention services. The prevalence of diabetes is significantly higher among Medicaid eligible individuals compared to the general Montana population. Obese individuals are at higher risk to develop cardiovascular disease and diabetes. The diabetes and cardiovascular disease prevention services are evidence-based and cost effective. The Public Health and Safety Division of the department has successfully implemented these services for the general Montana population.

ARM 37.85.206

The department is proposing to add diabetes and cardiovascular disease prevention to the list of services provided by Montana Medicaid.

New Rule I

This new rule is necessary to state the purpose of diabetes and cardiovascular disease prevention services and to assist the reader in understanding this subchapter.

New Rule II

This new rule is necessary to define the terms used when describing diabetes and cardiovascular disease prevention services.

New Rule III

This new rule is necessary to describe interventions delivered by diabetes and cardiovascular disease prevention providers.

New Rule IV

This new rule is necessary to reference the location of current provider reimbursement amounts for diabetes and cardiovascular prevention services.

Fiscal Impact

The estimated cumulative fiscal impact of these rules is as follows:

	<u>Total Cost</u>	<u>State General Fund</u>	<u>Federal Match</u>
SFY 2012	\$ 42,500	\$ 14,361	\$28,139
SFY 2013	\$103,500	\$ 35,211	\$68,289

This rule proposal is estimated to impact 14 Medicaid providers and 207 Medicaid clients, annually.

6. The department intends the proposed new and amended rules to be applied retroactively to February 2, 2012. There is no negative impact to Medicaid clients or providers by applying the new rules retroactively. People have been participating in the program and they justifiably expect to get paid as proposed. The Centers for Medicare and Medicaid Services (CMS) has requested that this rulemaking be effective on February 2, 2012 and is in compliance with the department's proposed State Plan Amendment with CMS.

7. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail dphhslegal@mt.gov, and must be received no later than 5:00 p.m., April 5, 2012.

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

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

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

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

/s/ John Koch
Rule Reviewer

/s/ Anna Whiting Sorrell
Anna Whiting Sorrell, Director
Public Health and Human Services

Certified to the Secretary of State February 27, 2012.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 42.38.101, 42.38.102, 42.38.104,) PROPOSED AMENDMENT
42.38.201, 42.38.203, 42.38.204, and)
42.38.206 relating to the general)
provisions and disposition of)
abandoned property)

TO: All Concerned Persons

1. On April 17, 2012, at 2:00 p.m., a public hearing will be held in the Third Floor Reception Area Conference Room of the Sam W. Mitchell Building, at Helena, Montana, to consider the amendment of the above-stated rules.

Individuals planning to attend the hearing shall enter the building through the east doors of the Sam W. Mitchell Building, 125 North Roberts, Helena, Montana.

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Revenue no later than 5:00 p.m., April 6, 2012, to advise us of the nature of the accommodation that you need. Please contact Cleo Anderson, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-5828; fax (406) 444-4375; or e-mail canderson@mt.gov.

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

42.38.101 PURPOSE (1) The Uniform Unclaimed Property Act provides that property presumed abandoned under the act shall be delivered to and taken into custody by the ~~department of revenue~~ Department of Revenue. The department shall protect the unknown owners by returning property delivered to the department under the act upon the filing of a verified claim by the owner which is approved by the department.

AUTH: 70-9-828, MCA
IMP: 70-9-805, 70-9-815, MCA

REASONABLE NECESSITY: The department proposes to amend ARM 42.38.101 as a matter of housekeeping to capitalize the Department of Revenue title to conform to the style instruction of the Secretary of State.

42.38.102 APPLICABILITY (1) remains the same.
(2) Holders required to report and deliver abandoned property in their possession to the ~~department of revenue~~ Department of Revenue include but are

not limited to:

- (a) banks, trust companies, savings banks, and other banking organizations;
- (b) credit unions, savings and loan associations, and other financial organizations;
- (c) corporations, partnerships, medical facilities, insurance companies, cooperatives, and other business associations; and
- (d) courts, public offices, agencies, and political subdivisions of Montana or the United States.

AUTH: 70-9-828, MCA

IMP: 70-9-803, 70-9-804, MCA

REASONABLE NECESSITY: The department proposes to amend ARM 42.38.102 as a matter of housekeeping to capitalize the Department of Revenue title.

42.38.104 PRESUMPTION OF OWNERSHIP (1) remains the same.

(2) Presumption of ownership of other intangible property required to be reported to the ~~department of revenue~~ Department of Revenue, and thereafter delivered to the state, shall arise from the records of the person reporting the ownership or entitlement to such property.

AUTH: 70-9-828, MCA

IMP: 70-9-802, 70-9-805, MCA

REASONABLE NECESSITY: The department proposes to amend ARM 42.38.104 as a matter of housekeeping to capitalize the Department of Revenue title.

42.38.201 PRESUMPTION OF ABANDONMENT – EXCEPTION

(1) and (2) remain the same.

(3) Tangible safe deposit box property must be shipped to the following address:

Montana Department of Revenue

Unclaimed Property Manager

2517 Airport Rd.

Helena, MT 59601

AUTH: 70-9-828, MCA

IMP: 70-9-803, 70-9-804, 70-9-805, 70-9-808, MCA

REASONABLE NECESSITY: The department is proposing to amend ARM 42.38.201 for the purpose of improving the security of unclaimed property. The proposal does so through the addition of new (3), which requires safe deposit box tangible property to be shipped directly to the unclaimed property unit of the department, where a secure room is located. The rule further provides the direct mailing address in the rule. The department is proposing the amendment to strengthen internal controls and to ensure that packages are opened where the

unclaimed property is stored.

In the past, property mailed through the US Postal Service to the department's general post office box was occasionally opened and handled with all other department mail by mailroom employees, as a matter of routine, prior to reaching the secure property room. Although no problems arose as a result, the department proposes this amendment for added security in the future.

42.38.203 CLAIMS FOR RECOVERY OF PROPERTY DELIVERED TO STATE (1) The owner of property ~~presumed abandoned~~ which has been delivered to the ~~department of revenue~~ Department of Revenue as abandoned property shall must claim such the property or the proceeds of such the property upon on forms supplied by the department.

(a) No claim may be filed for property with a value of less than \$50 unless the holder has specifically identified the owner of the property to the department, and the holder has done so since the implementation of the department's new abandoned property computerized tracking system in June 2007.

(2) General claim requirements are as follows:

(a) Submission of a claim and request for return of property in the possession of the department must be on a form prescribed by the department and bearing the notarized signature of the owner, if required by the department.

(b) The department may require production of originals or copies of driver's license, social security card, voter registration card, or any other documents needed to verify a claimant's identity and signature.

(c) A claim received from an owner of property held by the department shall have first payment priority over any other claim, unless:

(i) ~~such the~~ other claim is supported by a court ordered judgment against the owner; or

(ii) ~~upon a~~ bond or other indemnified claim is received from the former holder of the property.

(3) Specific claim requirements are as follows:

(a) In the course of verifying a claim, the department is authorized to require reproduction of any of the following:

(i) a properly completed claim form prescribed by the department, bearing the notarized signature of the claimant;

(ii) original negotiable instrument;

(iii) a stock certificate;

(iv) check;

(v) money orders;

(vi) certificate of deposit; and

(vii) ~~cashier~~ cashier's check.

(b) Originals or ~~photo copies~~ photocopies of any of the following documents to substantiate the right to claim property:

(i) death certificate;

(ii) birth certificate;

(iii) marriage license of claimant or decedent;

(iv) complete last will and testament or letter from the Clerk of District Court stating there is no will or probate record on file;

- (v) insurance policy;
- (vi) document establishing trust;
- (vii) power of attorney;
- (viii) indemnity bond;
- (ix) articles of incorporation;
- (x) final account of decree of distribution;
- (xi) valid ~~drivers~~ driver's license;
- (xii) social security card;
- (xiii) voter registration card;
- (xiv) court document showing appointment as personal representative, executor, executrix, conservator, etc.; and
- (xv) affidavit of authority to receive and disburse funds for the ~~person or~~ company;

(xvi) affidavit for collection of personal property of decedent;

(xvii) proof of federal identification number;

(xviii) proof of address;

(xix) disposition of stock; and

(xx) decedent's family history.

~~(4) Claims for abandoned property submitted by a finder must include:~~

~~(a) A properly completed claim form as prescribed by the department, bearing the notarized signature of the claimant; and~~

~~(b) An original, signed power of attorney authorizing the finder to prosecute a claim for abandoned property on behalf of a claimant. The power of attorney must contain:~~

~~(i) specific authorization to release private information concerning the owner's interest in the property; and~~

~~(ii) specific instructions concerning payment.~~

~~(5) Only one check is issued by the state. The check will be issued in the name of the person signing the power of attorney and mailed to the finder, unless the power of attorney specifically states that the check is to be made payable to both the finder and the person signing the power of attorney. If the check is made payable to the finder only, the power of attorney must specifically authorize "authority to receive the check in the name of the (fee finder's name)".~~

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

AUTH: 70-9-828, MCA

IMP: 70-9-815, 70-9-825, MCA

REASONABLE NECESSITY: The department's proposed amendments to ARM 42.38.203 are necessary to enable the department to return more abandoned property to more rightful owners in more convenient and timely ways.

The proposed amendments to (1) will allow for claims to be filed when they are less than \$50 in value. While the rule previously did not allow for claims less than \$50, it is now possible to process them in cases where holders have provided the department with adequate information. This circumstance often occurs now as a result of technological advances that have been made within computer systems used by both the holders of abandoned properties and by the department.

Using computerized data programs, some holders have begun reporting to the department each property with a value under \$50, even though they still have the option under Montana statute to report these properties in the aggregate (without specific owner information).

The department's upgraded abandoned property tracking computer system enables the department to electronically receive and maintain more information than it could before. As a result, the department is now able to return properties valued under \$50 to owners, provided the holder of those properties included the specific owner information when they reported the property to the department, and did so after the implementation of the department's upgraded abandoned property computer system in June 2007.

The department is also proposing to amend (2) because the new abandoned property tracking computer system cross-references a computerized database and initiates claims for owners. Because these claims originate with the department, rather than with the owner, the department does not require a notarized signature for such claims. All other claims initiated by the owners still require a notarized signature.

The department diligently and consistently strives to prevent fraudulent or incorrect claims, in the interest of protecting the rightful owners of abandoned properties. To that end, the department is further proposing amendments to (3) to include the various types of information that the department routinely requires as documentation or proof from claimants, depending on the many circumstances that can apply to the property and/or the claimants.

The department is proposing to remove the current language in 42.38.203 (4) and (5), and place it into ARM 42.38.206, to provide all information about abandoned property finders into one subchapter within the chapter 38 rules to make it more convenient for citizens and finders to locate the information.

Furthermore, the department proposes to amend ARM 42.38.203 as a matter of housekeeping to capitalize the Department of Revenue title.

42.38.204 DEFINITIONS (1) remains the same.

~~(2) "Payee" means a person to whom or to whose order a bill, note, check, or money order is made payable.~~

~~(3) "Remitter" means the purchaser of a check, money order, or cashier's check.~~

(4) and (5) remain the same, but are renumbered (2) and (3).

~~(6) "Unconscionable fee" means the fee or compensation paid to a finder by the owner that exceeds 15% of the value of the property paid or delivered to the administrator.~~

AUTH: 70-9-828, MCA

IMP: 70-9-802, MCA

REASONABLE NECESSITY: The department is proposing to amend ARM 42.38.204, as a matter of housekeeping, to remove the definitions of "payee" and "remitter" because these terms are no longer used in the proposed version of the rules.

The department is also proposing to delete the term "unconscionable fee" and add the terminology to ARM 42.38.206, which the department is proposing to amend as part of combining all finder information together within a single rule.

42.38.206 PROPERTY SEARCH REQUESTS CLAIMS OF PROPERTY BY FINDERS (1) ~~All requests for physical inspection of the department's unclaimed property records, must be made two weeks in advance~~ Claims for abandoned property submitted by a finder must include:

(a) a properly completed claim form as prescribed by the department, bearing the notarized signature of the claimant; and

(b) an original signed power of attorney, or written agreement, authorizing the finder to prosecute a claim for abandoned property on behalf of a claimant. The power of attorney or written agreement must contain:

(i) specific authorization to release private information concerning the owner's interest in the property; and

(ii) specific instructions concerning payment.

~~(2) Subject to the exercise of discretion by the department, searches will normally be made during the hours of 8 a.m. to 5 p.m., weekdays except holidays~~ A finder may not charge a fee that exceeds 15 percent of the value of the property paid or delivered to the administrator. Any amount that exceeds this percentage is considered unconscionable.

(3) A finder must have a current private investigators license from the State of Montana to serve as a finder on behalf of the owner of property, as required in 37-60-101, MCA.

(4) Only one check is issued by the state. The check will be issued in the name of the person signing the power of attorney and mailed to the finder, unless the power of attorney specifically states that the check is to be made payable to both the finder and the person signing the power of attorney or written agreement. If the check is to be made payable to the finder only, the power of attorney or written agreement must specifically authorize "authority to receive the check in the name of the (fee finder's name)."

~~(3)(5)~~ In the event of a written request by a finder that the department do a search on behalf of the finder's client, the department may require written confirmation of the request bearing the claimant or client's signature. If the claimant or client is a business, it will be sufficient if the confirmation letter is on company letterhead.

AUTH: 70-9-828, MCA

IMP: ~~70-9-820~~ 70-9-825, MCA

REASONABLE NECESSITY: The department is proposing to amend ARM 42.38.206 to combine all information about finders into a single rule to improve public understanding.

New (1) explains what finders must include along with claims for abandoned property. It is comprised of the language the department is proposing to strike from ARM 42.38.203(4) as part of combining all information about finders into a single rule. In addition, the words "or written agreement" were added to the language to

provide the finder with the leniency to create a legal document in place of a power of attorney.

New (2) states what is considered to be an unconscionable finder's fee. It is comprised of the language the department is proposing to strike from ARM 42.38.204(6), as part of combining all information about finders into a single rule.

New (3) provides information about the State of Montana's requirements for being a finder on behalf of property owners, and includes the statutory reference. This is not a new requirement. The department is proposing to add the additional language to the rule to eliminate confusion regarding licensing requirements for finders of property. The Department of Labor and Industry, Board of Private Investigators, administers the licensing of finders.

New (4) explains how a check will be issued. It is the language the department is proposing to strike from ARM 42.38.203(5), as part of combining all information about finders into a single rule.

Furthermore, the department proposes to amend ARM 42.38.206 to update the implementing citation.

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: Cleo Anderson, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-5828; fax (406) 444-4375; or e-mail canderson@mt.gov and must be received no later than April 20, 2012.

5. Cleo Anderson, Department of Revenue, Director's Office, has been designated to preside over and conduct the hearing.

6. An electronic copy of this notice is available on the department's web site at www.revenue.mt.gov. Locate "Legal Resources" in the left hand column, select the "Rules" link and view the options under the "Current Rulemaking Actions – Published Notices" heading. 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.

7. The Department of Revenue maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request, which includes the name and e-mail or mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding particular subject matter or matters. 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 person in 4 above or faxed to the office at (406) 444-4375, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor of House Bill 755, L. 2007, Senator Jim Keane, was notified by regular mail on September 30, 2011, and subsequently notified by regular mail on February 16, 2012.

/s/ Cleo Anderson
CLEO ANDERSON
Rule Reviewer

/s/ Dan R. Bucks
DAN R. BUCKS
Director of Revenue

Certified to Secretary of State February 27, 2012

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the amendment of ARM) NOTICE OF AMENDMENT
4.12.1405, 4.12.1427, 4.12.1428,)
4.17.105, 4.17.106, and 4.17.107)
relating to the Late Fees for Services)

TO: All Concerned Persons

1. On January 26, 2012 the Department of Agriculture published MAR Notice No. 4-14-202 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 154 of the 2012 Montana Administrative Register, Issue Number 2.

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

3. No comments or testimony were received.

/s/ Cort Jensen
Cort Jensen
Rule Reviewer

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

Certified to the Secretary of State February 27, 2012.

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the amendment of ARM) NOTICE OF AMENDMENT
4.12.1024 and 4.12.1025 relating to the)
Commodity Warehouses)

TO: All Concerned Persons

1. On January 26, 2012 the Department of Agriculture published MAR Notice No. 4-14-204 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 159 of the 2012 Montana Administrative Register, Issue Number 2.

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

3. No comments or testimony were received.

/s/ Cort Jensen
Cort Jensen
Rule Reviewer

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

Certified to the Secretary of State February 27, 2012.

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the adoption of ARM) NOTICE OF AMENDMENT
4.12.1301, 4.12.1302, 4.12.1303,)
4.12.1305, and 4.12.1307 relating to)
the Quarantine Program)

TO: All Concerned Persons

1. On January 26, 2012 the Department of Agriculture published MAR Notice No. 4-14-205 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 162 of the 2012 Montana Administrative Register, Issue Number 2.

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

3. No comments or testimony were received.

/s/ Cort Jensen
Cort Jensen
Rule Reviewer

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

Certified to the Secretary of State February 27, 2012.

BEFORE THE BOARD OF HOUSING
DEPARTMENT OF COMMERCE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 8.111.602 pertaining to the low)
income housing tax credit program)
and ARM 8.111.603 pertaining to tax)
credit allocation procedure)

TO: All Concerned Persons

1. On January 12, 2012, the Department of Commerce published MAR Notice No. 8-111-100 pertaining to the proposed amendment of the above-stated rules at page 1 of the 2012 Montana Administrative Register, Issue Number 1.
2. The department has amended the above-stated rules as proposed.
3. No comments or testimony were received.

/s/ KELLY A. CASILLAS
KELLY A. CASILLAS
Rule Reviewer

/s/ DORE SCHWINDEN
DORE SCHWINDEN
Director
Department of Commerce

Certified to the Secretary of State February 27, 2012.

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

In the matter of the amendment of) NOTICE OF AMENDMENT,
ARM 12.6.1401 and 12.6.1409,) ADOPTION, AND REPEAL
adoption of NEW RULE I [ARM)
12.6.1412], and repeal of ARM)
12.6.1402, 12.6.1403, 12.6.1404,)
12.6.1405, 12.6.1406, 12.6.1407,)
12.6.1408, 12.6.1410, and 12.6.1411)
regarding raptor propagation)

TO: All Concerned Persons

1. On November 25, 2011 the Fish, Wildlife and Parks Commission (commission) published MAR Notice No. 12-372 on the proposed amendment, adoption, and repeal of the above-stated rules at page 2463 of the 2011 Montana Administrative Register, Issue Number 22.

2. The commission has amended ARM 12.6.1401 and 12.6.1409; adopted New Rule I [ARM 12.6.1412]; and repealed ARM 12.6.1402, 12.6.1403, 12.6.1404, 12.6.1405, 12.6.1406, 12.6.1407, 12.6.1408, 12.6.1410, and 12.6.1411 as proposed.

3. The commission has thoroughly considered the comments and testimony received. All comments were in favor of adoption of the new rules with one suggestion.

Comment 1: The commission received a comment stating Montana should also allow for the future potential for captive propagation of golden eagles.

Response 1: The commission will evaluate the propagation of golden eagles in Montana when golden eagle propagation is allowed under federal rules.

/s/ Bob Ream
Bob Ream
Chairman
Fish, Wildlife and Parks Commission

/s/ Jack Lynch
Jack Lynch
Rule Reviewer
Department of Fish, Wildlife and Parks

Certified to the Secretary of State February 27, 2012

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

In the matter of the amendment of) NOTICE OF AMENDMENT AND
ARM 12.6.1112 and 12.6.1123 and) ADOPTION
adoption of NEW RULE I [ARM)
12.6.1136] regarding falconry)

TO: All Concerned Persons

1. On November 25, 2011 the Fish, Wildlife and Parks Commission (commission) published MAR Notice No. 12-373 on the proposed amendment and adoption of the above-stated rules at page 2467 of the 2011 Montana Administrative Register, Issue Number 22.

2. The commission has amended ARM 12.6.1112 and 12.6.1123, and adopted New Rule I [ARM 12.6.1136] as proposed.

3. The commission has thoroughly considered the comments and testimony received. A majority of the comments received were in favor of the rule proposal. A summary of the comments received and the commission's responses are as follows:

Comment 1: The commission received one comment stating captive raised birds are available and falconers should not be allowed to capture birds from the wild.

Response 1: Take of wild birds is allowed under both federal and state law and to disallow that privilege would require a change in the law.

Comment 2: The commission received a comment stating more biological and social research is needed before nonresidents are allowed to take Montana birds from the wild.

Response 2: See Response 1.

Comment 3: The commission received a comment stating nonresidents should be limited to one raptor rather than three because it discriminates against residents who can only take two raptors per year.

Response 3: Take by an individual nonresident falconer is limited to one raptor from Montana per year.

Comment 4: The commission received a comment stating a take of raptors by nonresidents increases the sale of raptors to Middle Eastern countries and sale of these birds for profit by the falconers.

Response 4: Falconry is closely regulated by the commission and by the United State Fish and Wildlife Service. It is illegal to sell any raptor taken from the wild and any violation will result in significant penalties from both the state and federal government.

Comment 5: The commission received a comment saying some species, such as gyrfalcons, should not be made available to nonresidents. Also, there should be variable capture permit fees for the various species of raptors.

Response 5: The department monitors the take of all species and adjustments can be made in quotas, if needed. The \$200 permit fee is not intended to put a differential value on any particular raptor species.

Comment 6: The commission received a comment stating other states and their falconers should develop habitat, conservation, and ecosystem programs rather than spend their money coming to Montana to capture Montana raptors.

Response 6: The commission does not have the authority regarding programs in other states. Take of wild birds is allowed under both federal and state law and to disallow that privilege would require a change in the law.

Comment 7: One person stated that the number of falcons allowed to be harvested will not have biological significant impacts on populations.

Response 7: The commission appreciates the interest in this rulemaking process.

/s/ Bob Ream
Bob Ream
Chairman
Fish, Wildlife and Parks Commission

/s/ Jack Lynch
Jack Lynch
Rule Reviewer
Department of Fish, Wildlife and Parks

Certified to the Secretary of State February 27, 2012

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 24.126.301 definitions,)
24.126.704 interns and preceptors,)
24.126.901 applications for)
certification, 24.126.2101 renewals,)
and 24.126.2103 and 24.126.2105)
continuing education)

TO: All Concerned Persons

1. On October 27, 2011, the Board of Chiropractors (board) published MAR notice no. 24-126-32 regarding the public hearing on the proposed amendment of the above-stated rules, at page 2212 of the 2011 Montana Administrative Register, issue no. 20.

2. On November 18, 2011, a public hearing was held on the proposed amendment of the above-stated rules in Helena. No comments were received by the November 28, 2011, deadline.

3. The board has amended ARM 24.126.301, 24.126.704, 24.126.901, 24.126.2101, 24.126.2103, and 24.126.2105 exactly as proposed.

BOARD OF CHIROPRACTORS
JOHN SANDO, DC, PRESIDENT

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

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State February 27, 2012

BEFORE THE BOARD OF MEDICAL EXAMINERS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of)	CORRECTED NOTICE OF
ARM 24.156.1401, 24.156.1403,)	AMENDMENT, ADOPTION, AND
24.156.1404, 24.156.1406, and)	REPEAL
24.156.1412 acupuncturist licensure)	
and unprofessional conduct,)	
24.156.1622 and 24.156.1623)	
physician assistant supervision and)	
chart review, the adoption of New)	
Rules I through V acupuncturist)	
discipline reporting and continuing)	
education, and New Rule VI)	
physician assistant performing)	
radiologic procedures, and the repeal)	
of 24.156.1405 acupuncture school)	
approval)	

TO: All Concerned Persons

1. On August 25, 2011, the Board of Medical Examiners (board) published MAR notice no. 24-156-75 regarding the proposed amendment, adoption, and repeal of the above-stated rules, at page 1591 of the 2011 Montana Administrative Register, issue no. 16.

2. On February 23, 2012, the board published the notice of amendment, adoption, and repeal of MAR notice no. 24-156-75 at page 404 of the 2012 Montana Administrative Register, issue no. 4.

3. This corrected notice is being filed to correct an error in the numbering of an adopted rule in Title 24, chapter 14. The correct numbering of the rule is outlined in paragraph 4 of this notice.

4. The rule to be corrected is as follows:

<u>RULE #</u>	<u>ADOPTED #</u>	<u>CORRECTED #</u>	<u>CATCHPHRASE</u>
V	24.156.1411	24.156.1414	Continuing Education Audit

5. The corrected replacement page will be submitted to the Secretary of State's office on March 31, 2012.

BOARD OF MEDICAL EXAMINERS
ANNA EARL, MD, CHAIRPERSON

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

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State February 27, 2012

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

In the matter of the amendment of)	NOTICE OF AMENDMENT AND
24.174.301 definitions, 24.174.1201)	ADOPTION
wholesale drug distributor licensing,)	
24.174.2107 registered pharmacist)	
continuing education and the)	
adoption of NEW RULES I use of)	
contingency kits, II definitions, III)	
information required for submission,)	
IV electronic format required for the)	
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requirements for submitting)	
prescription registry information, VI)	
failure to report prescription)	
information, VII registry information)	
review and unsolicited patient)	
profiles, VIII access to prescription)	
drug registry information, IX registry)	
information retention, X advisory)	
group, XI prescription drug registry)	
fee, XII release of prescription drug)	
registry information to other entities,)	
and XIII interstate exchange of)	
registry information)	

TO: All Concerned Persons

1. On December 8, 2011, the Board of Pharmacy (board) published MAR notice no. 24-174-63 regarding the public hearing on the proposed amendment and adoption of the above-stated rules, at page 2606 of the 2011 Montana Administrative Register, issue no. 23.

2. On January 3, 2012, a public hearing was held on the proposed amendment and adoption of the above-stated rules in Helena. Several comments were received by the January 12, 2012, deadline.

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

NEW RULE I Use of Contingency Kits in Certain Institutional Facilities:

COMMENT 1: One commenter opposed (1)(b), that allows the pharmacist and designated practitioner or facility committee to determine content and quantity of

drugs in contingency kits. The commenter opined that if the board will not limit the contents of the kits, an opening for unlicensed pharmacy practice will be created.

RESPONSE 1: The board agrees that the potential exists for institutions to expand the use of contingency kits beyond the limited role the board envisions. However, the issue is scheduled for an upcoming board meeting, and if experience shows that contingency kits exceed reasonable bounds, the board will revisit this rule and curtail any excesses.

COMMENT 2: One commenter supported contingency kits in long-term care facilities and noted that lack of timely access to drugs creates potential harm to the patient. The commenter endorsed permitting emergency kits (e-kits) for truly emergent medications supplemented by contingency kits, subject to specific security and storage recommendations, based on the commenter's professional experience. The commenter also suggested changing "pharmacist" in (1)(f)(ii) to "pharmacy," limiting the kit to a maximum of 75-100 medications, and amending the rule to provide for inspection more frequently than annually, greater control by the supplying pharmacy, and defined consequences for improperly removing medications.

RESPONSE 2: The board agrees that the word "pharmacist" in (1)(f)(ii) should be changed to "pharmacy," and is amending the rule accordingly. The board concluded that the provision on inspection frequency is adequate since the annual inspection is just a minimum requirement and the rule allows the professionals involved to conduct inspections more frequently, should they choose to do so.

The board concurs that the facility pharmacist should have greater control and be involved when staff accesses the contingency kit. Noting that the comments about contingency kit contents are similar to those in Comment 1, the board concluded that it will monitor institutions' experience with the rule as proposed, and make changes as may be necessary.

COMMENT 3: One commenter stated that an individual accessing the contingency kit should be required to notify the pharmacy or pharmacist-on-call to gain authorization to access the kit. The commenter also said that annual inspections are too infrequent and should be every other month or more often.

RESPONSE 3: As noted in Response 2, the board concluded that the proposed language on inspection frequency is adequate, but is amending this rule to require a pharmacist's involvement if a staff person accesses a contingency kit.

COMMENT 4: One commenter noted that DPHHS is answerable to the Federal Centers for Medicare Services regarding long-term care facilities' management of pharmaceuticals and recounted a prior discussion with a DPHHS representative in which the commenter presented concerns about medication delivery in long-term care facilities. The commenter opined that allowing contingency kits may or may not rectify untimely ordering, delivery, or administration of medications, and that certain difficulties may be overcome by better procedures regarding admission policies and clarity of pharmacy obligations. Recognizing contingency kits could aid patient care,

the commenter restated that the current language of (1)(b) could allow an unlicensed pharmacy without board oversight.

RESPONSE 4: This commenter raised concerns similar to those regarding contents and quantity of drugs included in contingency kits. The board expects to monitor this issue, discuss it at an upcoming board meeting, and propose such rule amendments as may be required, based on actual experience.

New Rules II through XIII Prescription Drug Monitoring Program:

COMMENT 5: Several commenters strongly supported the adoption of these new rules as drafted. One commenter recounted the longstanding work of the Montana Attorney General's office to reduce prescription drug abuse in Montana and secure passage of House Bill 83, which created the prescription drug registry.

RESPONSE 5: The board acknowledges and appreciates the cooperative effort of all parties involved in both the establishment of the registry and the promulgation of these new rules.

COMMENT 6: One commenter supported the new rules, but was concerned about requiring pharmacies to report the names of individuals picking up the controlled substance prescriptions and the ability of participating pharmacies to provide this information by the March 1, 2012 implementation date. The commenter observed that differences in computer processing systems may require reprogramming, which would likely not be completed by the deadline. The commenter stated that the additional information field will place an additional administrative burden on pharmacists processing controlled substance prescriptions and asked the board to work cooperatively with pharmacies to address the concerns.

The commenter also opposed assessing any fees on pharmacies to fund the program and urged the board to seek funding from state and/or federal sources rather than participants. The commenter suggested that before charging participants, the board should seek funding from grants available through the National All Schedules Prescription Electronic Reporting Act and the Harold Rogers Program.

RESPONSE 6: The board notes that an earlier draft of the rules did include a requirement that pharmacies report to the registry the names of individuals who actually pick up the controlled substance prescriptions, but that the rules as proposed do not contain that requirement. Given that that field is no longer required, the board concluded that the commenter's concerns about costs and adapting computer systems are now moot.

Noting that the board received a grant from the Harold Rogers Program and that the National All Schedules Prescription Electronic Reporting is currently unfunded, the board concluded that it has tapped the grant resources currently available. The board determined that it will still need to charge user fees to operate the system after the grant is exhausted, and until the legislature can consider the adequacy of the \$15 annual fee.

COMMENT 7: One commenter suggested the board exempt institutional/hospital and long-term care pharmacies from reporting, since medications are either used onsite or, in some emergency rooms, dispensed only in limited quantities. The commenter stated that hospital information systems are not geared to capture and report the required information. The commenter encouraged simple access to the program for emergency rooms, so locum tenens physicians and/or emergency room nurses have access.

The commenter also noted the facility's proximity to North Dakota and the transient population of oilfield workers in the community. The commenter suggested developing an information sharing system with other states to address the large number of patients with irregular home addresses who lack a regular patient-provider relationship and use multiple pharmacies.

RESPONSE 7: The board concluded that the concerns about an exemption for institutional/hospital and long-term care pharmacies is addressed in the reporting exemption for "a person who is hospitalized" in 37-7-1503(2)(b), MCA. Noting that the statute provides no exemption for reporting by emergency rooms, the board concluded that each certified pharmacy that dispenses drugs to patients in Montana shall submit information to the registry.

The board recognizes the special cases of locum tenens emergency room physicians, and is confident that registry staff will promptly process applications for access to the registry. However, those physicians, like all others, must apply for access. While nurses without prescriptive authority are not permitted direct registry access under 37-7-1506, MCA, New Rule VIII permits access by a "practitioner's authorized agent," which would allow an emergency room nurse access to the registry. The registry is permitted to share information with other states, 37-7-1506(1)(g), MCA, and under New Rule XIII, the board contemplates entering into agreements with sister states to share information.

The board is correcting an internal citation error in New Rule VIII(2)(c)(iv)(B). In the proposal notice, the citation should have referenced New Rule VII, and should not have indicated the rule's projected final rule number. This amendment provides the number being assigned to New Rule VII within this final notice.

4. The board has amended ARM 24.174.301, 24.174.1201, and 24.174.2107 exactly as proposed.

5. The board has adopted New Rules II (24.174.1701), III (24.174.1702), IV (24.174.1703), V (24.174.1704), VI (24.174.1705), VII (24.174.1706), IX (24.174.1709), X (24.174.1711), XI (24.174.1712), XII (24.174.1713), and XIII (24.174.1715) exactly as proposed.

6. The board has adopted New Rules I (24.174.1115) and VIII (24.174.1708), with the following changes, stricken matter interlined, new matter underlined:

NEW RULE I (24.174.1115) USE OF CONTINGENCY KITS IN CERTAIN INSTITUTIONAL FACILITIES (1) through (1)(f)(i) remain as proposed.

(ii) the name, address, and telephone number of the supplying pharmacist pharmacy.

(2) Drugs shall be removed from kits only: ~~by the supplying pharmacist or by authorized nursing personnel pursuant to a valid drug order or during inspection of the kit.~~

(a) by the supplying pharmacist; or

(b) by authorized nursing personnel pursuant to a valid drug order and reviewed by a pharmacist; or

(c) during inspection of the kit.

(3) through (6) remain as proposed.

NEW RULE VIII (24.174.1708) ACCESS TO PRESCRIPTION DRUG REGISTRY INFORMATION (1) through (2)(c)(iv)(A) remain as proposed.

(B) that necessary for legitimate inquiries under ARM ~~24.174.1705~~ 24.174.1706;

(v) through (8) remain as proposed.

BOARD OF PHARMACY
LEE ANN BRADLEY, R.PH., PRESIDENT

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

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State February 27, 2012

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 42.19.401 and 42.19.501)
relating to the property tax assistance)
program and exemption for qualified)
disabled veterans)

TO: All Concerned Persons

1. On January 26, 2012, the department published MAR Notice Number 42-2-875 regarding the proposed amendment of the above-stated rules at page 179 of the 2012 Montana Administrative Register, Issue Number 2.

2. A public hearing was held on February 21, 2012, to consider the proposed amendments. No one appeared at the hearing to testify and no written comments were received. However, the department further amends the rules, as follows, to correct references that were inadvertently not revised when sections within the rule were amended.

42.19.401 PROPERTY TAX ASSISTANCE PROGRAM (1) through (7) remain as proposed.

(8) If the applicant is not required to file an income tax return, they must complete the appropriate portion of the application and submit documentation, that supports the reported income, as defined in ~~(3)~~(4). Examples of the required documentation include, but are not limited to, social security statements, pension statements, or bank statements.

(9) through (12) remain as proposed.

AUTH: 15-1-201, MCA

IMP: 15-6-134, MCA

42.19.501 PROPERTY TAX EXEMPTION FOR QUALIFIED DISABLED VETERANS (1) through (5) remain as proposed.

(6) The department shall disapprove an application under the following circumstances in which the taxpayer fails to properly apply:

(a) the taxpayer is required to file an income tax return for the year in which the applicant seeks the exemption and does not provide a copy of the return;

(b) the taxpayer is not required to file an income tax return for the year in which the applicant seeks the exemption and does not provide the documentation required in ~~(2)~~(3);

(c) the taxpayer does not sign the application; or

(d) the department determines an application includes false information.

(7) through (13) remain as proposed.

AUTH: 15-1-201, MCA

IMP: 15-6-211, MCA

3. An electronic copy of this notice is available on the department's web site at www.revenue.mt.gov. Select the "Legal Resources" link in the left hand column, and click on the "Rules" link within to view the options under the "Current Rulemaking Actions – Published Notices" heading. The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. While the department also strives to keep its web site accessible at all times, in some instances it may be temporarily unavailable due to system maintenance or technical problems.

/s/ Cleo Anderson
CLEO ANDERSON
Rule Reviewer

/s/ Dan R. Bucks
DAN R. BUCKS
Director of Revenue

Certified to Secretary of State February 27, 2012

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the adoption of New) CORRECTED NOTICE OF
Rule I pertaining to a name) ADOPTION
availability standard for registered)
business names)

TO: All Concerned Persons

1. On November 25, 2011, the Secretary of State published MAR Notice No. 44-2-177 pertaining to the public hearing on the proposed adoption of the above-stated rule at page 2510 of the 2011 Montana Administrative Register, Issue Number 22. On January 12, 2012, the Secretary of State published the notice of adoption at page 135 of the 2012 Montana Administrative Register, Issue Number 1.

2. This corrected notice is being filed to eliminate any reference to actual or potential internet domain sites in order to prevent links to any inappropriate web sites. The rule, as adopted in corrected form, reads as follows, deleted matter interlined, new matter underlined:

RULE I (44.5.131) DISTINGUISHABLE ON/IN THE RECORDS(S)

(1) through (4)(f) remain as adopted.

(g) the use of internet domain suffixes, for example: "~~whitehouse.com,~~" "~~whitehouse.org,~~" and "~~whitehouse.net~~" .com, .org, and .net are not distinguishable.

AUTH: 35-1-1307, MCA

IMP: 30-13-202, 35-1-308, 35-1-311, 35-1-1031, 35-2-305, 35-2-307, 35-2-826, 35-4-206, 35-7-106, 35-7-112, 35-8-103, 35-8-108, 35-12-505, 35-12-1304, MCA

3. The replacement pages for this corrected notice will be submitted on March 31, 2012.

/s/ JORGE QUINTANA
Jorge Quintana
Rule Reviewer

/s/ LINDA MCCULLOCH
Linda McCulloch
Secretary of State

Dated this 28th day of February, 2012.

NOTICE OF FUNCTION OF ADMINISTRATIVE RULE REVIEW COMMITTEE

Interim Committees and the Environmental Quality Council

Administrative rule review is a function of interim committees and the Environmental Quality Council (EQC). These interim committees and the EQC have administrative rule review, program evaluation, and monitoring functions for the following executive branch agencies and the entities attached to agencies for administrative purposes.

Economic Affairs Interim Committee:

- Department of Agriculture;
- Department of Commerce;
- Department of Labor and Industry;
- Department of Livestock;
- Office of the State Auditor and Insurance Commissioner; and
- Office of Economic Development.

Education and Local Government Interim Committee:

- State Board of Education;
- Board of Public Education;
- Board of Regents of Higher Education; and
- Office of Public Instruction.

Children, Families, Health, and Human Services Interim Committee:

- Department of Public Health and Human Services.

Law and Justice Interim Committee:

- Department of Corrections; and
- Department of Justice.

Energy and Telecommunications Interim Committee:

- Department of Public Service Regulation.

Revenue and Transportation Interim Committee:

- Department of Revenue; and
- Department of Transportation.

State Administration and Veterans' Affairs Interim Committee:

- Department of Administration;
- Department of Military Affairs; and
- Office of the Secretary of State.

Environmental Quality Council:

- Department of Environmental Quality;
- Department of Fish, Wildlife, and Parks; and
- Department of Natural Resources and Conservation.

These interim committees and the EQC have the authority to make recommendations to an agency regarding the adoption, amendment, or repeal of a rule or to request that the agency prepare a statement of the estimated economic impact of a proposal. They also may poll the members of the Legislature to determine if a proposed rule is consistent with the intent of the Legislature or, during a legislative session, introduce a bill repealing a rule, or directing an agency to adopt or amend a rule, or a Joint Resolution recommending that an agency adopt, amend, or repeal a rule.

The interim committees and the EQC welcome comments and invite members of the public to appear before them or to send written statements in order to bring to their attention any difficulties with the existing or proposed rules. The mailing address is P.O. Box 201706, Helena, MT 59620-1706.

HOW TO USE THE ADMINISTRATIVE RULES OF MONTANA
AND THE MONTANA ADMINISTRATIVE REGISTER

Definitions:

Administrative Rules of Montana (ARM) is a looseleaf compilation by department of all rules of state departments and attached boards presently in effect, except rules adopted up to three months previously.

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

Use of the Administrative Rules of Montana (ARM):

Known
Subject

1. Consult ARM Topical Index.
Update the rule by checking the accumulative table and the table of contents in the last Montana Administrative Register issued.

Statute

2. Go to cross reference table at end of each number and title which lists MCA section numbers and department corresponding ARM rule numbers.

ACCUMULATIVE TABLE

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies that have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through September 30, 2011. This table includes those rules adopted during the period October 1, 2011, through December 31, 2011, and any proposed rule action that was pending during the past 6-month period. (A notice of adoption must be published within six months of the published notice of the proposed rule.) This table does not include the contents of this issue of the Montana Administrative Register (MAR or Register).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through September 30, 2011, 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 2011/2012 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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