

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 20

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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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 adoption of New)	NOTICE OF PUBLIC HEARING ON
Rules I through IV pertaining to the	)	PROPOSED ADOPTION,
definition of origination of a mortgage	)	AMENDMENT, AND REPEAL
loan, certificate of bona fide not-for-)	
profit entity, state-specific prelicensing)	
education, and when an application is)	
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definitions, proof of experience,)	
standardized forms, reinstatement of)	
licenses, and reporting forms for)	
mortgage servicers, and the repeal of)	
ARM 2.59.1725, 2.59.1727, and)	
2.59.1749 pertaining to licensing)	
exemptions, mortgage loan originator)	
testing, and written exemption form)	

TO: All Concerned Persons

1. On November 22, 2013, at 10:00 a.m., the Department of Administration will hold a public hearing in Room 342 of the Park Avenue Building, at Helena, Montana, to consider the proposed adoption, amendment, and repeal of the above-stated rules.

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 October 30, 2013, 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 rules proposed to be adopted provide as follows:

NEW RULE I CLARIFICATION OF DEFINITION (1) "Origination of a mortgage loan" as used in 32-9-103(26)(b), MCA, does not include credit underwriting activities as long as the credit underwriter does not communicate directly with the borrower about specific credit terms. Credit underwriting activities include the analysis done by a mortgage underwriter to determine whether:

- (a) credit should be extended to a borrower;
- (b) a loan meets the requirements for funding; or
- (c) a loan meets the criteria to be sold on the secondary market.

AUTH: 32-9-130, MCA
IMP: 32-9-103(26), MCA

STATEMENT OF REASONABLE NECESSITY: New Rule I is designed to clarify that the term "underwriter" as used in 32-9-103(26), MCA, means the underwriting typically done by a loan processor to gather documents necessary to get the loan approved, not the underwriting typically done by an underwriter who is analyzing the loan to determine whether credit should be extended to the borrower, the loan meets funding requirements, or the loan meets secondary market criteria. As long as the credit underwriting activities do not include communication directly with the borrower about specific credit terms, the credit underwriting activities are not intended to be included in this definition.

This new rule is necessary because the department has already received an inquiry from a mortgage lender who expressed confusion over the meaning of 32-9-103(26)(b), MCA. This clarification will clear up any potential misunderstanding that may exist as to which activities are or are not intended to be covered by the term "origination of a mortgage loan" in 32-9-103(26)(b), MCA.

NEW RULE II CERTIFICATE OF BONA FIDE NOT-FOR-PROFIT ENTITY

(1) A bona fide not-for-profit entity shall certify that it meets the exemption in 32-9-104(1)(f), MCA. It shall use the "Montana Bona Fide Not-For-Profit Certification" dated August 13, 2013, to make its certification both initially and annually. The "Montana Bona Fide Not-For-Profit Certification" dated August 13, 2013, is adopted and incorporated by this reference. A copy of the "Montana Bona Fide Not-For-Profit Certification" dated August 13, 2013, is available at the Montana Division of Banking and Financial Institutions, 301 S. Park Ave., Suite 301, Helena, Montana, during regular business hours or on the department's web site at www.banking.mt.gov.

AUTH: 32-9-104(2), MCA
IMP: 32-9-103(6), 32-9-104(1), 32-9-104(2), MCA

STATEMENT OF REASONABLE NECESSITY: The 2013 Montana Legislature amended the exemption section of the Montana Mortgage Act (Act). Section 32-9-104(1)(f), MCA, now exempts entities that are bona fide not-for-profit entities from licensure. Section 32-9-104(2), MCA, requires an entity seeking a bona fide not-for-profit exemption to certify on a form prescribed by the department that it is a bona fide not-for-profit entity. This rule proposes the form that will be used by bona fide not-for-profit entities to make that certification.

The form is adapted from forms used by California and Oregon. The form is designed to be used both for an initial certification and a yearly renewal of a certification. This is because 32-9-104(2)(a), MCA, requires the bona fide not-for-profit entity to recertify by December 31 of each year to maintain the exemption. The department seeks to be efficient in requiring one form that can be used for the initial certification and the annual renewal. This will save resources and time for both exempt entity applicants and the department. The form was developed to be

simple for users to understand and follow and to provide the department with the information it needs to make an exemption determination both initially and annually thereafter.

The form requires the name of the bona fide not-for-profit entity. This is needed for the department to grant an exemption. If the bona fide not-for-profit's name has changed, there is a space for it to write its prior name. This is to allow the department to determine whether there was already an exemption in place under a different name. If the entity is the same entity that was already granted an exemption but the name changed, there is no need to conduct an analysis to determine whether it meets the requirements of a bona fide not-for-profit. If the entity met the exemption at a prior time and only the name changed, it is still exempt.

The address and mailing address, if they are different, are used by the department for two things: first, the department reserves the right to examine exempt entities and needs to know the physical location of the exempt entity and second, the department must mail the letter granting an exemption to the entity. So the department needs to know both the mailing address and the physical location of the exempt entity.

The telephone number is needed in case the department needs to contact the exempt entity for any reason.

The web site is needed by the department to verify the entity is in fact a bona fide not-for-profit.

The contact person is needed in case of questions about an exempt entity or to contact the entity if any issues arise with borrowers.

The additional documentation for an initial certification was chosen because these items are necessary for the department to initially determine that the entity is a bona fide not-for-profit as defined in 32-9-103(6), MCA.

The first document that the department requests is the determination letter that the entity has been granted 501(c)(3) or 501(c)(4) status by the Internal Revenue Service. This is necessary to determine whether the entity meets the definition of a bona fide not-for-profit in 32-9-103(6)(a), MCA, which requires that the entity maintain a tax-exempt status under 26 USC 501(c)(3) or 501(c)(4).

The second document requested is the organic documents of the entity. This is necessary for two reasons: first, to verify the entity is in fact a not-for-profit entity and, second, to determine what its purpose(s) is. This is required by 32-9-103(6)(b), MCA, which requires the entity promote affordable housing or provide homeownership education or similar services and 32-9-103(6)(c), MCA, which requires the bona fide not-for-profit to conduct its activities in a manner that serves public or charitable purposes, rather than commercial purposes.

The third document requested is the registration for a foreign entity to allow it to do business in this state. The registration process with the Secretary of State allows a foreign entity to do business in this state. The Secretary of State requires a foreign entity to appoint a registered agent for service of process. This ensures that any Montana resident who wants to sue a foreign entity will have a registered agent for service of process in this state. The department views this as necessary to protect Montana citizens who may want to file a lawsuit against a foreign entity.

The fourth item requested is the Form 990 filed by the entity with the IRS. This document is public under IRS regulations 26 USC 6104(d). It contains information necessary for the department to assess whether the entity is a bona fide not-for-profit entity including, but not limited to: the organization's mission or more significant activities; its sources of revenue and expenses; the organization's service accomplishments; compensation to officers, directors, and key employees; highest paid employees; and independent contractors.

The fifth item is required by the department because 32-9-103(6)(e), MCA, requires the department to determine that the entity does not compensate its employees in a manner that creates incentives for the employee to act other than in the client's best interests.

The sixth item is necessary for the department to determine whether the entity provides to or identifies for the borrower residential mortgage loans with terms that are favorable to the borrower and comparable to mortgage loans and housing assistance provided under government housing assistance programs. In making this assessment, the department must determine that the terms are consistent with loan origination in a public or charitable context, rather than a commercial context. This is required by 32-9-103(6)(f), MCA.

The seventh item is required for the department to determine that the entity has been granted a certification from the federal Department of Housing and Urban Development (HUD) or holds a designation as a community housing development organization under 24 CFR 92.2. This is necessary for the department to determine that the entity meets the requirement of 32-9-103(6)(g), MCA, which requires that the entity be certified by HUD or designated as a community housing development organization by the same agency.

The eighth item is necessary because employees of the bona fide not-for-profit are exempt under 32-9-104(1)(g), MCA. The department needs a list of the employees of the bona fide not-for-profit in order to identify the individuals exempt under this section. This information also allows the department to ensure that the entity is not compensating its employees in a manner that incentivizes them to act other than in the client's best interest. If the department knows who is employed by a bona fide not-for-profit entity, the department can examine the entity's filings with the department to ensure they are being compensated in an acceptable manner.

The additional documentation for a renewal certification was chosen because, unless there has been a change to the documents filed in the initial certification, the department only needs a copy of the most recent Form 990 and the list of mortgage loan originators employed by the bona fide not-for-profit entity. All the other documents are retained on file by the department and only need to be provided if something has changed since the earlier certification.

The certification is necessary to ensure the bona fide not-for-profit understands and agrees that the department reserves the right to examine it under 12 CFR 1008.103(e)(7)(iii) and that it must recertify annually to the department in order to maintain its exemption under 32-9-104(2), MCA.

NEW RULE III STATE-SPECIFIC PRELICENSING EDUCATION (1) An individual seeking a mortgage loan originator's license shall complete two hours of prelicensing education specific to Montana residential mortgage statutes and rules.

AUTH: 32-9-107, MCA
IMP: 32-9-107, MCA

STATEMENT OF REASONABLE NECESSITY: The 2013 Montana Legislature amended the Act to allow the department to require, by rule, additional hours of prelicensing education that are specific to Montana statutes and rules. Twenty hours of prelicensing education are already required by 32-9-107, MCA. Of that twenty hours, eight hours must be in specific subject matter areas.

The department has chosen to require that two hours of the twenty hours of prelicensing education be in Montana-specific areas because the department has recently adopted the uniform state test. In the past, Montana administered a Montana-specific test to all applicants for a license in this state. However, on July 1, 2013, Montana adopted the uniform state test. The uniform state test is a state test for all the states that participate in the Nationwide Mortgage Licensing System (NMLS). It tests on areas of law that are common to most states. It is not specific to Montana. Montana chose to adopt this test because it is intended to allow a more fluid transfer of mortgage loan originators from the registration side of the NMLS, which financial institutions use, to the licensing side of the NMLS, which non-financial institutions use. Uniformity is increasingly seen in the world of mortgage regulation due to the impact of federal laws and rules in this area. In general, the industry has requested that state laws be made as uniform as possible to allow mortgage loan originators to do business in as many states as possible. To the extent that Montana is able to become more uniform, without sacrificing its own standards of consumer protection, the department strives to do so.

But since the Montana Legislature chose not to adopt the model state law in 2009 when it was presented by the department, Montana law varies from laws in other states in many ways. In order to ensure that current applicants for a license are familiar with Montana law, the department is proposing that the prelicensing education include two hours of Montana-specific education. There is no other way to ensure that applicants for a Montana loan originator's license are familiar with Montana statutes and rules.

NEW RULE IV APPLICATION DEEMED ABANDONED (1) An application is deemed abandoned if the applicant fails to provide the information requested by the department within 60 days of notification of the deficiencies to applicant by the department or December 31, whichever comes first.

AUTH: 32-9-120, MCA
IMP: 32-9-120, MCA

STATEMENT OF REASONABLE NECESSITY: The 2013 Legislature amended the Act to allow the department to consider an application abandoned if the applicant fails to provide the information requested by the department within the time period set by the department. This is necessary for two reasons: first, applications can remain pending indefinitely if applicants do not timely respond to a request for information and second, all licenses expire on December 31. If an

applicant applied in 2012, but did not respond to a request for information until 2013, the applicant could argue that the license application was still pending a year or more later. Due to concerns about staleness of an application, as well as concerns of staff about pending applications that clog up workloads for extended periods of time, the department has determined that 60 days is the appropriate time period to allow an applicant to gather information. The department surveyed other states and found that other states use time periods ranging from 15 days to 60 days before they consider an application to be abandoned for failure to provide information. The department staff unanimously felt that 60 days was the appropriate time period. Sometimes applicants are asked to gather information that is not immediately available and may take some time to gather. However, the staff felt that 60 days was a more-than-generous amount of time to allow an applicant to gather information. The December 31 date is included to make clear that the 60-day period cannot run over the end of the expiration date of the license.

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

2.59.1701 DEFINITIONS For purposes of the Montana Mortgage Act and this subchapter, the following definitions apply:

~~(1) "Another person involved in the transaction" means a licensee, the borrower's employer, the lender, the real estate agent, or other persons or entities allowed by the lender guidelines.~~

(2) through (4) remain the same, but are renumbered (1) through (3).

~~(5)~~(4) "Material change" means:

~~(a) a change in the physical location of the principal location and/or branch office;~~

~~(b) a change in the phone number;~~

~~(c) a change in the nature of the business;~~

(d) remains the same, but is renumbered (a).

~~(e) a change in the share ownership of the company of 10% or more;~~

(f) and (g) remain the same, but are renumbered (b) and (c).

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

~~(9)~~(8) "Table funding" means the closing of a loan naming a mortgage broker, a mortgage broker's business entity, or a loan originator as the lender on the mortgage loan note, which note is then sold to another party within three business days of closing ~~to another party~~.

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

~~(11)~~(10) "Work in a related field" or "in a related field" means:

~~(a) for a designated manager, three years of experience as a:~~

~~(i)(a) as a mortgage broker, or a branch office manager of a mortgage broker business;~~

~~(ii)(b) as a mortgage banker, or responsible individual, or branch manager of a mortgage banking business;~~

~~(iii)(c) as a mortgage loan officer;~~

~~(iv)(d) as a branch manager of a mortgage broker or lender;~~

~~(v)(e) as a mortgage loan originator; or~~

~~(vi)(f) as a state or federal regulator who examines compliance of residential mortgages of state or federally chartered financial institutions; or,~~
~~(vii) as a mortgage loan originator licensee in another state where the licensing standards are substantially similar to those in this state, as determined by the department; and~~
~~(b) for a mortgage loan originator, six months:~~
~~(i) as a loan originator in a mortgage broker business;~~
~~(ii) as a loan originator in a mortgage banking business;~~
~~(iii) as a mortgage loan officer;~~
~~(iv) as a mortgage loan originator licensee in another state where the licensing standards are substantially similar to those in this state, as determined by the department;~~
~~(v) as a mortgage loan processor;~~
~~(vi) as a mortgage loan closing agent; or~~
~~(vii) as a state or federal regulator who examines compliance of residential mortgages of state or federally chartered financial institutions.~~

AUTH: 32-9-109, 32-9-121, ~~32-9-125~~, 32-9-130, MCA

IMP: 32-9-109, 32-9-116, ~~32-9-117~~, 32-9-121, 32-9-122, 32-9-123, ~~32-9-125~~, 32-9-133, 32-9-166, MCA

STATEMENT OF REASONABLE NECESSITY: The first section of the rule is being deleted because the statute in which the term was used was deleted by the 2013 Montana Legislature in Senate Bill 93.

The change of a licensee's physical location, phone number, or branch office is no longer considered a material change that requires notice to the department under 32-9-166, MCA. These changes are now required to be reported through the NMLS, which will automatically notify all the states in which the licensee is licensed. If the entity desires, it is able to file an advance change notification with the NMLS, which will allow the entity to tell the states in which it is licensed of an anticipated change before it occurs. This allows the states to review the changes and determine whether any additional information is needed before the change can be made in NMLS.

In the case of a change in the nature of the business or a change in share ownership of 10% or more, the NMLS would require the entity to file an amendment to reflect the change in the nature of the business, which may trigger a license requirement depending on what the change is, or an amendment disclosing the names of the new owners of 10% or more of the shares. These changes are now handled through the NMLS and do not require a manual notification to the department.

Minor editorial changes are being made for ease in reading the rules.

Having a mortgage loan originator license in another state is being deleted from this rule, but it is being added to ARM 2.59.1702 on what constitutes proof of experience. This is because this criterion logically belongs there, not in the definitions rule.

The six-month experience requirement for mortgage loan originators is being eliminated because this requirement was repealed in Senate Bill 93 of the 2013 Montana Legislature.

The sections are being renumbered to correct the numbers after deletion.

Section 32-9-109, MCA, is being added to the authorizing section because it authorizes rulemaking on experience requirements. Section 32-9-125, MCA, is being deleted because it was repealed in Senate Bill 93 of the 2013 Montana Legislature. Section 32-9-117, MCA, was revised in the 2013 Montana legislative session and no longer references designated managers so it is being removed since this rule no longer implements it. Section 32-9-125, MCA, is being deleted because it was repealed in Senate Bill 93 of the 2013 Montana Legislature. Section 32-9-166, MCA, is being added because the term "material change" was moved to this section in the 2013 Montana legislative session.

2.59.1702 PROOF OF EXPERIENCE (1) Satisfactory proof of experience is for a designated manager demonstrates three years of experience by providing:

(a) copies of W-2 or 1099 tax forms verifying employment; or

~~(b) copies of paystubs.~~

(b) verification of active licensure as a mortgage loan originator in another state through the Nationwide Mortgage Licensing System (NMLS).

AUTH: 32-9-109, 32-9-130, MCA

IMP: ~~32-9-108~~, 32-9-109, MCA

STATEMENT OF REASONABLE NECESSITY: The NMLS is used by all 50 states for licensing mortgage loan originators employed by nondepository financial institutions such as mortgage lenders and mortgage brokers. The department has access on the NMLS to verify when a mortgage loan originator obtained their mortgage loan originator license in other states. This also includes viewing the licensing status to ensure that the license is maintained in an active status. The ability to view this information is an acceptable method to verify the proof of experience of a mortgage loan originator. The Montana Mortgage Act requires that each designated manager have three years of experience as a mortgage loan originator. The department is adding the option of NMLS licensure because it further streamlines the paper licensing process that relies upon a central database and document uploads.

The option to provide copies of paystubs is being eliminated because it was originally included as an option for mortgage loan originators who were required to demonstrate six months of experience and may not have yet received a W-2 or 1099. The six-month experience requirement for mortgage loan originators was repealed in Senate Bill 93 during the 2013 legislative session.

The statute implemented is 32-9-109, MCA, not 32-9-108, MCA, and it specifically provides for the department to establish by rule what work in a related field means; therefore, that statute is being added to the authorizing section.

2.59.1728 ADOPTION OF STANDARDIZED FORMS AND PROCEDURES OF THE NMLS (1) The NMLS Policy Guidebook dated ~~April 16, 2012~~ July 23,

2012, is incorporated and adopted by reference. It can be found at <http://mortgage.nationwidelicensingsystem.org/slr/common/policy/Pages/default.aspx>.

(2) The following standardized NMLS forms relating to licensing are approved and adopted by reference:

- (a) NMLS Company Form dated ~~March 19, 2012~~ April 16, 2012;
- (b) NMLS Branch Form dated ~~March 19, 2012~~ April 16, 2012;
- (c) NMLS Individual Form dated ~~March 19, 2012~~ April 16, 2012;
- (d) Mortgage Uniform 1 Registry (MU1R) version 1 dated January 27, 2011;
- (e) Mortgage Uniform 4 Registry (MU4R) version 1 dated January 27, 2011;
- (f)(d) Uniform Company Renewal Checklist dated ~~September 15, 2010~~ September 11, 2013; and
- (g)(e) Uniform Individual Renewal Checklist dated ~~September 15, 2010~~ September 8, 2013.

(3) The Mortgage Loan Originator (MLO) Testing Handbook dated April 7, 2013, is incorporated and adopted by reference. It may be found at <http://mortgage.nationwidelicensingsystem.org/profreq/testing/Documents/MLO%20Handbook.pdf>.

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

AUTH: 32-9-130, MCA

IMP: 32-9-105, 32-9-110, 32-9-112, ~~32-9-117~~, 32-9-130, 32-9-134, MCA

STATEMENT OF REASONABLE NECESSITY: The policy guidebook and the standardized forms used by the NMLS have been updated. The department is adopting the updated versions of the forms being used on the NMLS. This is necessary because otherwise the department rules would require forms to be used that are no longer available on the NMLS. The Mortgage Loan Originator (MLO) Testing Handbook dated April 7, 2013, is being adopted because it contains all the information, policy, and guidelines necessary to study for, schedule, take, and get results from a test as well as the test takers code of conduct and representations, and everything the test taker needs to know to retake an examination if they fail one or more times. It takes the place of ARM 2.59.1727, which is being proposed for repeal in this notice.

Section 32-9-110, MCA, is being added because it is the testing statute, and the MLO Testing Handbook implements that section. Section 32-9-117, MCA, was revised by the 2013 Montana Legislature and no longer references renewals of licenses; therefore, this section is being removed. Section 32-9-134, MCA, is being added because the 2013 Montana Legislature moved the license renewal section to this statute. Accordingly, this rule implements it.

2.59.1731 REINSTATEMENT OF EXPIRED OR SUSPENDED LICENSES

(1) Upon expiration of a license under ~~32-9-117~~ 32-9-134, MCA, due to nonrenewal by the renewal date, the licensee shall immediately cease from engaging in the activities for which the license was issued. Except as provided in (3), the department may reinstate an expired license, provided that by the last day of February following expiration of the license, the following are submitted:

(a) through (d) remain the same.

(e) proof that the licensee continues to meet standards for licensure under ~~32-9-127~~ 32-9-120, MCA; and

(f) remains the same.

(2) An expired license that is not reinstated by the last day of February in accordance with (1) is ~~"Terminated-Failed to Renew"~~ "Terminated-Expired" and may not be reinstated except as provided in (3). The holder of a ~~"Terminated-Failed to Renew"~~ "Terminated-Expired" license may reapply as a new license applicant.

(3) If ~~a "Terminated-Failed to Renew"~~ "Terminated-Expired" status of the license of a military member or reservist was the result of the licensee being on active duty status at the time of renewal, the license may be reinstated, if within 30 days of the licensee's discharge from active duty status, the department receives through NMLS an acceptable sponsorship request from the licensee's employing mortgage broker or mortgage lender and it receives outside of the NMLS renewal process within that 30-day period, the following:

(a) through (f) remain the same.

(4) remains the same.

AUTH: 32-9-130, MCA

IMP: ~~32-9-117~~, 32-9-120, 32-9-126, 32-9-134, MCA

STATEMENT OF REASONABLE NECESSITY: The 2013 Montana Legislature revised the Act in many ways. Several statutes were deleted or moved. These changes rendered several citations incorrect. The rule is being revised to correct the citations both in the body of the rule as well as in the authority and implementing sections.

Section 32-9-117, MCA, was revised in the 2013 Montana legislative session and no longer references renewals of licenses; it is therefore being removed. Section 32-9-120, MCA, contains the general requirements for issuance of a license, not 32-9-127, MCA. Section 32-9-134, MCA, is being added because the 2013 Montana Legislature moved the license renewal section to this statute. This rule implements it.

The terminology currently being used by the NMLS is "Terminated-Expired" if the licensee has failed to renew a license after the reinstatement period, not "Terminated-Failed to Renew." The rule is being amended to reflect this change.

2.59.1743 REPORTING FORMS FOR MORTGAGE SERVICERS (1) A mortgage servicer licensee shall compile and submit a report to the department 45 days after the end of each quarter ~~containing the information in (3) for the preceding quarter.~~ The quarter end dates are March 31, June 30, September 30, and December 31.

(2) At the servicer's election, the servicer may submit either the expanded mortgage call report (MCR) through the NMLS or the Quarterly Statement for Mortgage Servicing Activity dated December 23, 2011. Each servicer shall submit either an expanded MCR through the NMLS or the Quarterly Statement for Mortgage Servicing Activity dated December 23, 2011 for each and every quarter during which it held a license.

(3) The Quarterly Statement for Mortgage Servicing Activity dated December 23, 2011, which is adopted and incorporated by reference, is available on the department's web site at www.banking.mt.gov.

~~(2) The mortgage servicer report must contain the following information:~~

~~(a) the number of Montana mortgage loans the servicer is servicing;~~

~~(b) the type of loans (such as Federal Housing Administration guaranteed or private label) and characteristics of the loans in this state (fixed, variable, home equity lines of credit [HELOCs], reverse mortgages, high-cost loans, higher-priced loans, option adjustable-rate mortgages [ARMs], and negative amortization loans);~~

~~(c) the number of mortgage loans the servicer is servicing that are in payment default and a breakdown of these mortgage loans by length of payment delinquency, including 30-day, 60-day, 90-day, and longer delinquencies;~~

~~(d) for each loan in (3)(c), the unique identifier of the mortgage loan originator and the broker who originated the loan;~~

~~(e) information on loss-mitigation activities undertaken including, but not limited to, the following:~~

~~(i) the number of workout arrangements entered into by the servicer in connection with mortgage loans;~~

~~(ii) a description of the types of workout arrangements, including mortgage loan modifications, and the percentage of each type of workout arrangement entered into;~~

~~(iii) the ratio of loan modifications requested by the borrower to the actual number granted by the mortgage servicer; and~~

~~(iv) the proactive steps taken by the mortgage servicer to identify borrowers at a heightened risk of default, such as those with impending interest rate resets, including, but not limited to, contacts with borrowers to assess their ability to repay their mortgage loan obligations; and~~

~~(f) the number of foreclosure actions commenced in this state in connection with mortgage loans the mortgage servicer is servicing and where the loan is in the foreclosure process.~~

AUTH: 32-9-130, MCA

IMP: 32-9-170, MCA

STATEMENT OF REASONABLE NECESSITY: The department is proposing to allow mortgage servicers to file an expanded mortgage call report, if they choose to do so, instead of filing the Quarterly Statement for Mortgage Servicing Activity. The expanded version of the MCR is only available to servicers that are listed in the NMLS as a Fannie Mae or Freddie Mac Seller/Servicer or a Ginnie Mae issuer. In addition, if the expanded MCR is completed by a servicer for Montana, it must be completed for all states in which the servicer is licensed. For servicers that are a Fannie Mae or Freddie Mac Seller/Servicer or a Ginnie Mae issuer who already file the expanded MCR, the department will accept the expanded MCR in lieu of the Quarterly Statement for Mortgage Servicing Activity. This will lessen the regulatory burden on those servicers.

Some servicers, however, are not a Fannie Mae or Freddie Mac Seller/Servicer or a Ginnie Mae issuer so they are not eligible to file an expanded

MCR. Also, the filing of an expanded MCR in one state triggers the requirement to file in all states in which the servicer is licensed. For these reasons, the department will continue to accept the Quarterly Statement for Mortgage Servicing Activity from servicers.

The servicer must file one report or the other for every quarter in which they are licensed. This amendment is intended to allow a servicer to elect to file whichever report is easiest for it to file. Either report will provide the department with the information necessary for the department to supervise the servicer. The department seeks to make quarterly reporting requirements as easy on servicers as it can, within the bounds of the information that the department needs to do its job.

5. The department proposes to repeal the following rules:

2.59.1725 LICENSING EXEMPTIONS AND VOLUNTARY REGISTRATION BY EXEMPT ENTITIES WITH THE NATIONWIDE MORTGAGE LICENSING SYSTEM (NMLS), found on ARM page 2-6160.

AUTH: 32-9-130, MCA

IMP: 32-9-104, MCA

STATEMENT OF REASONABLE NECESSITY: The exemptions listed in the rule have been repealed. When the reason of a rule ceases, so should the rule itself. 1-3-201, MCA.

2.59.1727 MORTGAGE LOAN ORIGINATOR LICENSING EXAM RETAKES, found on ARM page 2-6161.

AUTH: 32-9-130, MCA

IMP: 32-9-110, MCA

STATEMENT OF REASONABLE NECESSITY: This rule is being repealed because the department is adopting the Mortgage Loan Originator (MLO) Testing Handbook, dated April 7, 2013, by reference in ARM 2.59.1728. The MLO Testing Handbook contains test components and specifications, the uniform state test implementation, an enrollment eligibility chart, test content outlines, the effective dates of the tests, an overview of the testing process, instructions on how to enroll for the test, instructions on how to schedule a test appointment, appointment cancellation and rescheduling, special accommodations, NMLS rules of conduct, test procedures, test center policies, exit survey, score reporting, stand-alone uniform state test scoring, test content comments and challenges, and the waiting period for retaking a failed test. The MLO Testing Handbook also contains sample test questions. The MLO Testing Handbook is far more comprehensive than the rule being repealed.

2.59.1749 WRITTEN EXEMPTION FORM FOR REQUESTING A MORTGAGE LICENSING EXEMPTION, found on ARM page 2-6177.

AUTH: 32-9-130, MCA

IMP: 32-9-104, MCA

STATEMENT OF REASONABLE NECESSITY: The requirement for a written request for an exemption has been repealed. When the reason of a rule ceases, so should the rule itself. 1-3-201, MCA.

6. 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., November 29, 2013.

7. Kelly O'Sullivan, Department of Administration, has been designated to preside over and conduct this hearing.

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. 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.

10. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted by the department by mail on August 26, 2013.

11. With regard to the requirements of 2-4-111, MCA, the department has determined that these new rules and the proposed rule amendments and repeals will not significantly and directly impact small businesses.

By: Sheila Hogan
Sheila Hogan, Director
Department of Administration

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

Certified to the Secretary of State October 21, 2013.

BEFORE THE MONTANA STATE LIBRARY
OF THE STATE OF MONTANA

In the matter of the repeal of ARM	)	NOTICE OF PROPOSED REPEAL,
2.12.307, the transfer of ARM	)	TRANSFER, AND TRANSFER AND
2.12.301, and the transfer and	)	AMENDMENT
amendment of ARM 2.12.302,)	
2.12.303, 2.12.304, 2.12.305,	)	NO PUBLIC HEARING
2.12.306, and 2.12.308 pertaining to	)	CONTEMPLATED
the Montana Land Information Act)	

TO: All Concerned Persons

1. On December 11, 2013, the Montana State Library proposes to repeal, transfer, and transfer and amend the above-stated rules.

2. The Montana State Library 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 Montana State Library no later than 5:00 p.m. on November 22, 2013 to advise us of the nature of the accommodation that you need. Please contact Marlys Stark, Montana State Library, P.O. Box 201800, Helena, Montana, 59620-1800; telephone (46) 444-3384; fax (406) 444-0266; TTY (406) 444-4799; or e-mail mstark2@mt.gov.

3. The state library proposes to repeal the following rule:

2.12.307 ESTABLISHMENT OF STANDARDS AND GRANT COMPLIANCE

AUTH: 90-1-413, MCA
IMP: 90-1-404, MCA

REASON: The grants referred to may be awarded to public or other entities and therefore are not required to follow State Information Technology Services Division standards.

4. The state library proposes to transfer the following rule:

<u>OLD</u>	<u>NEW</u>	
2.12.301	10.102.9101	INTRODUCTION

AUTH: 90-1-413, MCA
IMP: 90-1-404, MCA

REASON: This change is necessary to comply with the statute change transferring the authority for the Montana Land Information Act from the Department of Administration to the State Library.

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

2.12.302 (10.102.9102) DEFINITIONS In addition to the definitions found in 90-1-403, MCA, the following definitions apply:

(1) "Available grant funds" means the balance of the Montana land information account on March 31 of each fiscal year, plus an estimate of not-yet-deposited state funds held by counties as of that date, less the ~~department's~~ state library's budget associated with duties and responsibilities defined in 90-1-404, MCA, for the fiscal year and any funds committed to grants.

(2) "Grant criteria" mean any specific grant conditions set forth by the ~~department~~ state library, with the advice of the council, pertaining to subject matter of grant applications, applicable standards, or other conditions that define the nature of applications that will be accepted.

(3) "Grant review subcommittee" means a subcommittee established by the council that, together with the ~~department~~ state library, will formulate grant criteria consistent with the purpose of the Montana Land Information Act, and review grant applications.

(4) "Land information plan subcommittee" means a subcommittee established by the council that, together with the ~~department~~ state library, will formulate land information plans.

(5) through (8) remain the same.

AUTH: 90-1-413, MCA

IMP: 90-1-404, MCA

2.12.303 (10.102.9103) APPOINTMENT OF LAND INFORMATION PLAN AND GRANT REVIEW SUBCOMMITTEES (1) ~~By July 1 of~~ Each fiscal year, the council will appoint a land information plan subcommittee and grant review subcommittee from existing council members to advise the ~~department~~ state library, on behalf of the council, on the land information plan, grant criteria, and prioritization of grant submittals.

(2) through (4) remain the same.

AUTH: 90-1-413, MCA

IMP: 90-1-404, MCA

2.12.304 (10.102.9104) ANNUAL LAND INFORMATION PLAN (1) remains the same.

(2) ~~By July 1 of each fiscal year,~~ Theme champions stewards may provide to the land information plan subcommittee suggested specific goals and objectives relating to the theme they represent for the next fiscal year. ~~beginning one year from that date.~~

(3) The ~~department~~ state library shall prepare its suggested goals and objectives for the same time period, and shall provide the land information plan subcommittee the budget necessary to carry out these duties and

responsibilities. During the same period the state library will ask for public comment on goals and objectives for the next fiscal year's land plan. By November 1 of each fiscal year, the state library with advice from the land information plan subcommittee, shall develop a draft land information plan for the next fiscal year. The plan shall include specific goals and objectives based upon input from theme stewards, the state library and comments received during the public comment period along with a budget for the state library's duties and responsibilities as defined in 90-1-404, MCA. The state library shall submit the draft plan to the council and the council shall advise the state library on recommended changes to the draft plan and the library's budget.

~~(4) By August 1 of each fiscal year, the department will compile the theme champion goals and the department's goals and objectives, and will post the summary on the department web site for public comment. Public comment will be taken for a minimum period of 30 days from the day of posting.~~

~~(5) By November 1 of each fiscal year, the department, with advice of the land information plan subcommittee, shall develop a draft land information plan for the next fiscal year. The plan shall include specific goals and objectives based upon input from theme champions, the department, and comments received during the public comment period.~~

~~(6) By November 15 of each fiscal year, the department shall submit the draft land information plan to the council and a budget for the department's duties and responsibilities as defined in 90-1-404, MCA.~~

~~(7) By December 15 of each fiscal year, the council shall advise the department on recommended changes to the draft plan and the department's budget.~~

~~(84) By January~~ December 15 of each fiscal year, the department state library shall complete the land information plan and submit the plan to the state library commission for approval. The department Upon approval by the library commission the state library shall publish the final plan on the department library's web site.

AUTH: 90-1-413, MCA

IMP: 90-1-404, MCA

2.12.305 (10.102.9105) ESTABLISHING THE GRANT APPLICATION AND GRANTING PROCESS (1) By January 15 of each fiscal year, the department state library, with advice from the grant review subcommittee, shall develop the grant criteria for the fiscal year beginning on the following July 1, based upon the goals and objectives from the land information plan, and shall publish the grant criteria, grant application forms, and instructions for submitting grant applications to the department library's web site. Grant criteria may allow for funding multiyear projects.

(2) Grant applications received by the department state library before 5:00 p.m. on February 15 will be considered.

(3) Upon receipt, the department state library will advise applicants of incomplete grant applications. Applications initially incomplete, but completed and received by March 1, will be evaluated for possible funding.

(4) By May 1 of each fiscal year, the ~~department~~ state library, based on grant criteria and with advice of the grant review subcommittee, shall identify grant applications that meet the grant criteria and warrant approval and shall rank them in priority order. Previously approved multiyear projects may be placed at the top of the priority list. The grant review subcommittee chair shall distribute the results to the council, consider additional comments, and report those comments to the ~~department~~ state library if necessary.

(5) ~~On~~ By May 15 of each fiscal year, the ~~department~~ state library commission, with advice of the grant review subcommittee, shall finalize the priority order of the grants.

(6) The ~~department~~ state library shall disburse available grant funds to grant applicants in the order of priority set forth under (5). Available grant funds in excess of the funding necessary for the applications that meet the grant criteria shall be added to the available grant funds for the subsequent grant period.

AUTH: 90-1-413, MCA

IMP: 90-1-404, MCA

2.12.306 (10.102.9106) MONITORING THE MONTANA LAND INFORMATION ACCOUNT FUNDS (1) The ~~department~~ state library shall monitor each grant, contracted service, or federal matching fund. Depending upon the deliverables or types of services, the ~~department~~ state library may require additional quarterly or other reports that verify the deliverables or services are meeting documented specifications.

(2) The ~~department~~ state library will notify the council of actions the ~~department~~ state library takes when any grants or contracted services do not meet the specific deliverables or timelines defined in the statement of work.

AUTH: 90-1-413, MCA

IMP: 90-1-404, MCA

2.12.308 (10.102.9107) OFF-CYCLE GRANTS (1) The ~~department~~ state library commission, with advice of the council, may approve requests for funding that fall outside of the regular grant cycle.

AUTH: 90-1-413, MCA

IMP: 90-1-404, MCA

REASON: These changes are necessary to reflect the statute change transferring the authority for the Montana Land Information Act from the Department of Administration to the State Library and to more accurately reflect past practice.

6. Concerned persons may submit their data, views, or arguments concerning the proposed actions in writing to: Marlys Stark, Montana State Library, P.O. Box 201800, Helena, Montana, 59620-1800; telephone (406) 444-3384; fax

(406) 444-0266; or e-mail mstark2@mt.gov, and must be received no later than 5:00 p.m., November 29, 2013.

7. If persons who are directly affected by the proposed actions wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Marlys Stark at the above address no later than 5:00 p.m., November 29, 2013.

8. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be more than 25 persons based on the number of governmental subdivisions or agencies, as well as professional organizations, that create, maintain, or use digital land information.

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

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

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

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

/s/ Jennie Stapp
Jennie Stapp
Rule Reviewer

/s/ Richard Quillin
Richard Quillin
Chairman
Montana State Library

Certified to the Secretary of State October 21, 2013.

BEFORE THE FISH AND WILDLIFE COMMISSION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARINGS ON
ARM 12.9.1301, 12.9.1302,) PROPOSED AMENDMENT
12.9.1303, 12.9.1304, and 12.9.1305)
regarding gray wolf management)

TO: All Concerned Persons

1. On December 2, 2013, at 6:00 p.m., the Fish, Wildlife and Parks Commission (commission) will hold a public hearing at the Fish, Wildlife and Parks' Region 3 Office, 1400 South 19th, Bozeman, Montana, to consider the proposed amendment of the above-stated rules.

On December 3, 2013, at 6:00 p.m., the commission will hold a public hearing at the Fish, Wildlife and Parks' Headquarters Office, 1420 East 6th Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rules.

On December 3, 2013, at 6:00 p.m., the commission will hold a public hearing at the Fish, Wildlife and Parks' Region 4 Office, 4600 Giant Springs Road, Great Falls, Montana, to consider the proposed amendment of the above-stated rules.

On December 3, 2013, at 6:00 p.m., the commission will hold a public hearing at the Fish, Wildlife and Parks' Region 5 Office, 2300 Lake Elmo Drive, Billings, Montana, to consider the proposed amendment of the above-stated rules.

On December 4, 2013, at 6:00 p.m., the commission will hold a public hearing at the Fish, Wildlife and Parks' Region 1 Office, 490 North Meridian Road, Kalispell, Montana, to consider the proposed amendment of the above-stated rules.

On December 9, 2013, at 6:00 p.m., the commission will hold a public hearing at the Fish, Wildlife and Parks' Region 2 Office, 3201 Spurgin Road, Missoula, Montana, to consider the proposed amendment of the above-stated rules.

On December 10, 2013, at 6:00 p.m., the commission will hold a public hearing at the Fish, Wildlife and Parks' Region 6 Office, 54078 US Highway 2 West, Glasgow, Montana, to consider the proposed amendment of the above-stated rules.

On December 10, 2013, at 6:00 p.m., the commission will hold a public hearing at the Fish, Wildlife and Parks' Region 7 Office, 352 I-94 Business Loop, Miles City, Montana, to consider the proposed amendment of the above-stated rules.

2. The commission will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than November 15, 2013, to advise us of the nature

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

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

12.9.1301 COMMITMENT TO PRESERVATION OF THE GRAY WOLF AS RESIDENT WILDLIFE IN NEED OF MANAGEMENT (1) The department has management authority of the gray wolf, a resident native wildlife species, and is dedicated to the conservation of wolf populations within the state of Montana. Pursuant to the definition of management under the Nongame and Endangered Species Conservation Act, 87-5-102, MCA, the department will implement conservation and management strategies to make sure that wolves continue to thrive and are integrated as a valuable part of Montana's wildlife heritage. The department will manage wolves to ~~assure~~ ensure that recovery criteria are met or exceeded. Montana will ensure maintenance of at least 15 breeding pairs and assist natural dispersal and connectivity between gray wolf populations in Canada, Montana, Idaho, and Wyoming. The department uses an adaptive management framework for the gray wolf, meaning that if the statewide number of wolves exceeds 15 breeding pairs, the department may, as outlined in these rules, approve lethal control of wolves. If there are fewer than 15 breeding pairs, the department will allow only conservative management of the wolf populations so that the number of breeding pairs does not go below 10 but may still approve lethal control. These rules set out the comprehensive structure governing control of the gray wolf so that all control actions fall within the department's adaptive management considerations. The commission has authority, when the statewide number of wolves exceeds 15 breeding pairs, to adopt a ~~hunting~~ harvest season ~~with quotas~~ for wolves and will exercise that authority as part of the adaptive management framework for the gray wolf. The department's management decisions will be guided by the principles of maintaining and enhancing Montana's contribution to the overall northern Rocky Mountain gray wolf population and the gray wolf's connectivity between contiguous populations in Canada, Idaho, Montana, and Wyoming.

~~(2) This rule will be applied on the date the gray wolf in Montana is no longer subject to federal jurisdiction under the Endangered Species Act, 16 U.S.C. 1531, et seq., and the department and commission have sole jurisdiction over the management of the gray wolf in Montana.~~

AUTH: 87-1-201, 87-1-301, 87-5-105, 87-5-110, 87-5-131, MCA

IMP: 87-1-201, 87-1-301, 87-5-102, 87-5-103, 87-5-104, 87-5-105, 87-5-108, 87-5-131, MCA

12.9.1302 DEFINITIONS The following definitions apply to this subchapter:

(1) "Adaptive management" means wolf conservation and management strategies that will maintain a recovered population and ~~assure~~ ensure natural connectivity and genetic exchange among the wolf populations in Canada, Montana, Idaho, and Wyoming. It establishes resource objectives such as maintenance of a

recovered population; it monitors progress towards meeting those objectives through ~~wolf numbers, distribution, dispersal, genetic diversity, and consideration of disease;~~ and it adjusts management decisions to meet these resource objectives. Adaptive management directs selection of more conservative or liberal management tools, accordingly. ~~If wolf numbers, natural connectivity, or genetic exchange ever become conservation concerns, a~~Adaptive management allows the department a full range of tools to ensure a recovered and connected population, ~~including more conservative lethal control, smaller regulated harvest quotas, and human assisted genetic exchange.~~

(2) and (3) remain the same.

(4) "Breeding pair" means an adult male and an adult female wolf ~~that have produced and~~ at least two pups that survived until December 31 of the year of their birth, during the previous breeding season.

(5) "Confirms", "confirmed", or "confirmation" means an incident where the department or USDA Wildlife Services determines through a field investigation of dead or injured livestock that there is reasonable physical evidence that the animal was actually attacked and/or killed by a wolf. ~~The primary confirmation would ordinarily be the presence of bite marks and associated subcutaneous hemorrhaging and tissue damage, indicating that the attack occurred while the victim was alive, as opposed to simply feeding on an already dead animal. Spacing between canine tooth punctures, feeding pattern on the carcass, fresh tracks, scat, hairs rubbed off on fences or brush, and/or eye witness accounts of the attack may help identify the specific species or individual responsible for the depredation. Predation might also be confirmed in the absence of bite marks and associated hemorrhaging (i.e., if much of the carcass has already been consumed by the predator or scavengers) if there is other physical evidence to confirm predation on the live animal. This might include blood spilled or sprayed at a nearby attack site or other evidence of an attack or struggle. There may also be nearby remains of other victims for which there is still sufficient evidence to confirm predation, allowing reasonable inference of confirmed predation on the animal that has been largely consumed.~~

(6) through (8) remain the same.

(9) "Livestock" means bison as defined in 81-1-101, MCA, cattle, calf, hog, pig, horse, mule, sheep, lamb, llama, goat, herding or guarding animals, rhea, emu, ostrich, donkey, and certain breeds of dogs commonly used for herding or guarding livestock.

(10) through (14) remain the same.

~~(15) This rule will be applied on the date the gray wolf in Montana is no longer subject to federal jurisdiction under the Endangered Species Act, 16 U.S.C. 1531, et seq., and the department and commission have sole jurisdiction over the management of the gray wolf in Montana.~~

AUTH: 87-1-201, 87-1-301, 87-5-105, 87-5-110, 87-5-131, MCA

IMP: 87-1-201, 87-1-301, 87-5-102, 87-5-103, 87-5-104, 87-5-105, 87-5-108, 87-5-131, MCA

12.9.1303 CONTROL METHODS OF THE GRAY WOLF INCLUDE NONLETHAL AND LETHAL MEANS (1) These rules address when and how the department may carry out nonlethal and lethal control of wolves.

(2) To undertake control actions that are consistent with this rule and the Montana Gray Wolf Conservation and Management Plan, ~~the~~ department may:

(a) take control actions;

(b) ~~pursuant to an interagency cooperative agreement,~~ may authorize USDA Wildlife Services to undertake control actions pursuant to an interagency cooperative agreement; ~~or~~

(c) ~~pursuant to an interagency cooperative agreement,~~ may authorize the Department of Livestock pursuant to an interagency cooperative agreement; ~~or to undertake control actions that are consistent with this rule and the Montana Gray Wolf Conservation and Management Plan.~~

(d) issue permits to individuals pursuant to ARM 12.9.1305.

(3) The department is responsible for any lethal control decision and for the status, conservation, and management of the gray wolf population as a state species in need of management, game animal, or a furbearer as guided by the Montana Gray Wolf Management Plan, administrative rules, and statutes.

~~(3) (4) Control of the gray wolf by an agency or an individual may include nonlethal and lethal actions. The department shall address wolf conflicts on a case-by-case basis, connecting response to the conflict in both time and location to direct nonlethal and lethal actions to a wolf or wolves with the highest likelihood of having injured or killed the livestock.~~

(4) (5) The department shall take an incremental approach to lethal control.

(5) (6) Killing or harassing a wolf not in conformance with these rules is subject to criminal penalties pursuant to ~~87-1-102, 87-1-125, 87-5-106, and 87-5-111, 87-6-201, and 87-6-203, MCA,~~ as applicable.

(6) ~~This rule will be applied on the date the gray wolf in Montana is no longer subject to federal jurisdiction under the Endangered Species Act, 16 U.S.C. 1531, et seq., and the department and commission have sole jurisdiction over the management of the gray wolf in Montana.~~

AUTH: 87-1-201, 87-1-301, 87-5-105, 87-5-110, 87-5-131, MCA

IMP: 87-1-201, 87-1-301, 87-5-102, 87-5-103, 87-5-104, 87-5-105, 87-5-108, 87-5-131, MCA

12.9.1304 ALLOWABLE NONLETHAL CONTROL OF THE GRAY WOLF

(1) through (1)(f) remain the same.

(g) working with interested individual livestock owners and private landowners, watershed groups, interested groups, state and federal land managing agencies, USDA Wildlife Services, and the Montana Livestock Loss Reduction and Mitigation Board and its coordinator to provide technical assistance and to assist with selection and implementation of proactive nonlethal controls on both public and private lands when and where livestock are present, either seasonally or yearlong. ~~Examples include: allotment management or annual operating plans; Wildlife Management Area or other state land grazing leases; and, predator deterrent~~

programs offered through the United States Department of Agriculture Natural Resource and Conservation Service Environmental Quality Incentive Program.

(2) remains the same.

~~(3) This rule will be applied on the date the gray wolf in Montana is no longer subject to federal jurisdiction under the Endangered Species Act, 16 U.S.C. 1531, et seq., and the department and commission have sole jurisdiction over the management of the gray wolf in Montana.~~

AUTH: 87-1-201, 87-1-301, 87-5-105, 87-5-110, 87-5-131, MCA

IMP: 87-1-201, 87-1-301, 87-5-102, 87-5-103, 87-5-104, 87-5-105, 87-5-108, 87-5-131, MCA

12.9.1305 ALLOWABLE LETHAL CONTROL OF THE GRAY WOLF

~~(1) On a case-by-case basis, t~~The commission delegates its authority to the department to may authorize lethal control of problem wolves. ~~only t~~The department may authorize the following to conduct lethal control of problem wolves:

~~(a) agency control by the department;~~

~~(b) USDA Wildlife Services, or the Department of Livestock pursuant to an interagency cooperative agreement that outlines the procedures for verifying the needs for lethal control and as part of a coordinated agency response;~~

~~(c) Department of Livestock pursuant to an interagency cooperative agreement that outlines the procedures for verifying the needs for lethal control and as part of a coordinated agency response;~~

~~(b) (d) control by a livestock owner, immediate family members, or employees, or other person authorized by the department with a permit issued by the department under the conditions authorized and specified on the permit; and~~

~~(e) (e) control to protect human safety; or~~

~~(f) control pursuant to 87-1-901, MCA.~~

~~(2) and (3) remain the same.~~

~~(4) If the department or USDA Wildlife Services confirms that a wolf killed the livestock, the department will consider input from USDA Wildlife Services and the livestock owner and decide the best course of action. The department may authorize incremental lethal control for problem wolves for up to 45 days from the date of confirmation by USDA Wildlife Services, assessing each conflict on a case-by-case basis and after considering the following factors:~~

~~(a) pack size and pack history of conflict;~~

~~(b) livestock operation;~~

~~(c) age and class of livestock killed;~~

~~(d) location of conflict;~~

~~(e) potential for future conflict;~~

~~(f) status and distribution of prey;~~

~~(g) season;~~

~~(h) number of breeding pair within the state;~~

~~(i) effectiveness and prior use of nonlethal control; and~~

~~(j) verification that wolves are not intentionally baited or drawn to the area, wolves are routinely present, and that nonlethal tools are unlikely to prevent further incidents of injured or dead livestock.~~

~~(5)~~ (4) The department has the discretion to lethally remove or authorize removal of a gray wolf if the department determines that the wolf is:

(a) bold;

(b) food conditioned;

(c) habituated to humans or livestock;

(d) ~~demonstrates~~ demonstrating abnormal behavior patterns or physical characteristics indicative of a wolf-dog hybrid or of captive origin; or

(e) ~~if it poses~~ posing an immediate or ongoing threat to human safety.

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

~~(9)~~ (8) The department may authorize a livestock owner, immediate family members, or employees by a permit to take a problem wolf under the following circumstances and conditions as part of a coordinated agency response to confirmed livestock damage due to wolves:

(a) when the department or USDA Wildlife Services confirms that a wolf killed the livestock; ~~and when the department or USDA Wildlife Services confirms wolves are routinely present on the property or allotment and present a significant ongoing risk to livestock;~~

~~(b) the department has authorized USDA Wildlife Services to implement lethal control to resolve conflict;~~

~~(c)~~ (b) when the department or USDA Wildlife Services determines that the wolf was not purposefully or intentionally fed or baited to a site;

~~(d)~~ (c) the permit may last for a maximum of 45 days from the date the department or USDA Wildlife Services confirms the wolf caused damage and any wolf killed within the 45 days will be counted towards the number specified on the permit;

(e) through (h) remain the same but are renumbered (d) through (g).

~~(10)~~ (9) The permit must specify:

(a) its duration and expiration date;

(b) total number of wolves that may be lawfully killed through the combined actions of the individuals named on the permit or other department authorization and the department or USDA Wildlife Services;

(c) the geographic area where the permit is valid; and

(d) that wolves may be killed using means of take authorized by the commission for wolf harvest seasons ~~from the ground and in a manner that does not entail the use of intentional live or dead baits, scents, or attractants or deliberate use of traps or snares, or poisons; or use of radio telemetry equipment.~~

~~(11)~~ (10) As allowed by ~~87-3-130~~ 87-1-901 and 87-6-106, MCA, any person may kill without permit or license a wolf that is attacking, killing, or threatening to kill a person or livestock, or that is in the act of attacking or killing a domestic dog. A person may not intentionally bait a wolf with domestic dogs or livestock for the purpose of killing the wolf.

(a) remains the same.

(11) A landowner or landowner agent, pursuant to 87-1-901, MCA, may take a wolf on the landowner's property without permit or license when the wolf is a potential threat to human safety, livestock, or domestic dog until the quota established by the commission under 87-1-901, MCA, is met.

(a) Wolves representing a potential threat to human safety, livestock, or dogs do not include wolves that might routinely use an area as free-ranging wildlife.

(b) This landowner or landowner's agent shall:

(i) notify the department within 24 hours;

(ii) preserve the scene;

(iii) leave the carcass where it was killed until the department investigates the scene; and

(iv) surrender the hide, skull, and carcass to the department.

(c) Any take after the quota established by the commission under 87-1-901, MCA, is met is subject to criminal penalties pursuant to 87-5-106, 87-5-111, 87-6-201, and 87-6-203, MCA, as applicable.

~~(12) This rule will be applied on the date the gray wolf in Montana is no longer subject to federal jurisdiction under the Endangered Species Act, 16 U.S.C. 1531, et seq., and the department and commission have sole jurisdiction over the management of the gray wolf in Montana.~~

AUTH: 87-1-201, 87-1-301, 87-1-901, 87-5-105, 87-5-110, 87-5-131, MCA

IMP: 87-1-201, 87-1-301, 87-1-901, 87-5-102, 87-5-103, 87-5-104, 87-5-105, 87-5-108, 87-5-131, MCA

Reasonable Necessity: The rules regarding management of the gray wolf in Montana were adopted in 2008 prior to the gray wolf being removed from the list of endangered species. The commission is proposing to remove the language pertaining to the rule being applied upon delisting to address the removal of the gray wolf from the endangered species list. The commission is proposing to amend ARM 12.9.1301 to clarify the commission's authority to establish harvest seasons. The proposed amendments to ARM 12.9.1302 are to remove language addressing specific management objectives and tools. The purpose of this is not to move away from the utility of those elements but to clarify the ability and flexibility to secure management functionality and wolf conservation with other possible methods. Domestic bison are also proposed to be added to the definition of livestock to address the potential depredation of domestic bison by wolves. This proposed amendment is not intended to include bison migrating from Yellowstone National Park or the bison that have been subject to the quarantine feasibility study. The commission is proposing to amend ARM 12.9.1303 to clarify the department's responsibility and general oversight of wolf conservation and management without having to be directly involved in every lethal control decision made by USDA/APHIS Wildlife Services. The department was directly involved and responsible for each depredation response prescription in the past. However, an interagency memorandum of understanding has been established assigning the day-to-day decisions to Wildlife Services with reporting requirements. The Montana Livestock Loss Board changed its name and the commission is proposing to amend ARM 12.9.1304 to reflect this change and to remove extraneous language citing specific elements of nonlethal control. The proposed deletions are not meant to reflect a movement away from those elements but rather to ensure the list is not read as being complete or exclusive. In 2013, the Montana Legislature passed SB 200, codified at 87-1-901, MCA, allowing lethal control by landowners and the

commission is proposing amendments to clarify the different methods and process for lethal control by the department, other agencies, and now landowners.

4. Concerned persons may present their data, views, or arguments either orally or in writing, at any one of the hearings. Written data, views, or arguments may also be submitted to Fish, Wildlife and Parks, Wildlife Division, PO Box 200701, Helena, MT, 59620-0701; fax 406-444-4952; e-mail fwpwld@mt.gov, and must be received no later than December 20, 2013.

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

6. The Department of Fish, Wildlife and Parks maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the commission or department. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing address of the person to receive the notices and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1712 9th Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the commission or department.

7. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted by e-mail on September 30, 2013.

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

/s/ Dan Vermillion

Dan Vermillion, Chairman
Fish, Wildlife and Parks Commission

/s/ Rebecca Jakes Dockter

Rebecca Jakes Dockter
Rule Reviewer

Certified to the Secretary of State October 21, 2013

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

In the matter of the amendment of) NOTICE OF PROPOSED
ARM 24.147.2101 continuing) AMENDMENT
education requirements)
) NO PUBLIC HEARING
) CONTEMPLATED

TO: All Concerned Persons

1. On December 2, 2013, the Board of Funeral Service (board) proposes to amend the above-stated rule.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of this notice. If you require an accommodation, contact the board no later than 5:00 p.m., on November 15, 2013, to advise us of the nature of the accommodation that you need. Please contact Cheryl Brandt, Board of Funeral Service, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2394; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; dlibsdfnr@mt.gov (board's e-mail).

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

24.147.2101 CONTINUING EDUCATION REQUIREMENTS (1) Morticians with active licenses, beginning with their first full year of licensure, shall complete a minimum of 12 hours of approved continuing education in a two-year period, beginning July 1, ~~2015~~ 2013, with a minimum of three hours addressing the FTC funeral rule, federal or state regulations governing safety and sanitation of funeral services practice, board rules governing funeral trusts, or funeral services ethics. The board will conduct the first audit under this rule after July 1, 2015, and every odd-numbered year thereafter. Morticians with active licenses licensed less than two full years on their first audit must provide proof of six hours of continuing education.

(2) through (12) remain the same.

AUTH: 37-1-319, 37-19-202, MCA

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

REASON: In MAR Notice No. 24-147-33, filed March 18, 2013, the board proposed numerous housekeeping and substantive changes to board continuing education requirements. The board intended such changes to be effective with passage of the rule with the auditing of such new requirements to begin July 1, 2015. In the

adoption notice, filed July 1, 2013, the board accepted comments and inserted the 2015 date in two places in this rule. The inclusion of the date in the first sentence however, had the unintended and incorrect result of creating a period of time between July 12, 2013 (the effective date of the rule) and July 1, 2015, where no CE requirements whatsoever are required. The board deems it necessary to now correct this clerical error. In doing so, the status quo remains that all mortician licensees are subject to continuing education requirements for renewal.

4. Concerned persons may submit their data, views, or arguments concerning the proposed amendment in writing to the Board of Funeral Service, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdfnr@mt.gov, to be received no later than 5:00 p.m., November 29, 2013.

5. If persons who are directly affected by the proposed amendment wish to express their data, views, and arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments they have to Board of Funeral Service, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdfnr@mt.gov. The comments must be received no later than 5:00 p.m., November 29, 2013.

6. If the board receives requests for a public hearing on the proposed amendment from either 10 percent or 25, whichever is less, of the persons who are directly affected by the proposed rules; from the appropriate administrative rule review committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 15 persons based on 154 morticians with active licenses.

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

8. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the

person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Funeral Service, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to dlibsdfnr@mt.gov, or made by completing a request form at any rules hearing held by the agency.

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

10. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.147.2101 will not significantly and directly impact small businesses.

Documentation of the board's determination is available upon request to the Board of Funeral Service, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2394; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsdfnr@mt.gov.

BOARD OF FUNERAL SERVICE
R.J. (DICK) BROWN, CHAIRPERSON

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

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

Certified to the Secretary of State October 21, 2013

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

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 24.156.615 renewals,) PROPOSED AMENDMENT
24.156.617 license categories, and)
24.156.618 reactivation of license)

TO: All Concerned Persons

1. On November 21, 2013, at 1:30 p.m., a public hearing will be held in room B-07, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Medical Examiners (board) no later than 5:00 p.m., on November 15, 2013, to advise us of the nature of the accommodation that you need. Please contact Ian Marquand, Board of Medical Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2360; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; dlibsdmed@mt.gov (board's e-mail).

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

24.156.615 RENEWALS (1) through (3) remain the same.

(4) A physician with ~~a permanent~~ an active license who is not actively engaged in the clinical practice of medicine in this state, or who is absent from this state for a period of one or more years, may renew as an inactive licensee and pay the inactive fee listed in ARM 24.156.601.

(a) A physician seeking to renew an inactive Montana license as an active license (reactivate), and who has ceased the clinical practice of medicine in all jurisdictions for the two or more years during which the license has been inactive preceding the request for reactivation, must seek reactivation pursuant to ARM 24.156.618.

~~(5) A physician with a permanent license not engaged in the practice of medicine and who has retired from practice may renew this license as an inactive-retired licensee and pay the fee listed in ARM 24.156.601. A retired license may not be reactivated. The individual must reapply for a new original license.~~

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

AUTH: 37-1-131, ~~37-1-134~~, 37-3-203, MCA

IMP: 37-1-131, 37-1-134, 37-1-141, 37-3-313, MCA

REASON: The board previously amended its rules to allow physicians with an inactive Montana license, but who have continuously practiced in another state, to reactivate their Montana license for physicians. The board determined it is reasonably necessary to now amend (4) to address current inactive licensees who have ceased practicing medicine and who wish to reactivate at the time of license renewal. This amendment refers those licensees to the proposed amended ARM 24.156.618, which the board intends to be the rule on physician reactivations.

The board is deleting (5) from this rule, and amending ARM 24.156.617, to remove the "inactive-retired" status from physician licensing. The board has determined that this status serves no purpose, since licensees having the status may not practice or reactivate the license under any circumstance, yet have to pay a renewal fee every two years to maintain the status. Authority citations are being amended to accurately reflect the statutory sources of the board's rulemaking authority.

24.156.617 LICENSE CATEGORIES (1) and (a) remain the same.

(b) inactive license; or

~~(c) inactive-retired license; or~~

(d) remains the same, but is renumbered (c).

(2) through (4)(a) remain the same.

~~(5) An inactive-retired license may be obtained by an applicant or licensed physician who is not actively practicing medicine in this state and does not intend ever to practice medicine in this state in the future.~~

~~(a) An inactive-retired license must be renewed by the renewal date set in ARM 24.101.413.~~

(b) remains the same.

AUTH: 37-1-131, 37-1-319, 37-3-203, 37-3-802, 37-3-804, MCA

IMP: 37-1-131, 37-1-141, 37-1-319, 37-3-304, 37-3-305, 37-3-802, 37-3-804, MCA

24.156.618 TESTING REQUIREMENT REACTIVATION OF LICENSE (1) A physician seeking to reactivate a Montana license, which has been inactive for the two or more years preceding the request for reactivation, and who has ceased the clinical practice of medicine in all jurisdictions for the entire time during which the license has been inactive, ~~must either have been board certified/recertified during the two years preceding the request for reactivation or pass the special purpose examination (SPEX) or the comprehensive osteopathic medical variable-purpose examination (COMVEX) given by the Federation of State Medical Boards, and may also be required to complete a reentry plan to the satisfaction of the board. The board must review and approve a reentry plan as determined appropriate by the board prior to the applicant beginning the reentry plan. Depending on the amount of time out-of-practice, the applicant may also be required to do one or more of the following:~~

(a) and (b) remain the same.

(c) complete one year of accredited postgraduate or clinical fellowship training, which must be preapproved by the board, ~~or;~~

(d) ~~complete any other requirements as determined by the board~~ pass the Special Purpose Examination (SPEX) or the Comprehensive Osteopathic Medical Variable Purpose Examination (COMVEX). The applicant who is required to take the SPEX or COMVEX and fails the SPEX or COMVEX examination three times, whether in Montana or other states, must successfully complete one year of an accredited residency or an accredited or board-approved clinical training before retaking the SPEX or COMVEX examination-;

(e) undergo a competency evaluation by an entity approved by the board;

(i) if deemed necessary, complete a reentry plan that has been approved by the board prior to the applicant beginning the plan, to the satisfaction of the board;

(f) complete any other requirements as determined by the board; and

(g) pay the difference between the fee for an inactive and active license.

~~(2)~~ (3) A physician seeking to participate in the Montana health corps and holding an active license, ~~must pass the special purpose examination given by the Federation of State Medical Boards if the physician has not actively practiced~~ who has ceased the clinical practice of medicine for two or more years preceding the health corps application date, is required to comply with the requirements set forth in (1).

(3) remains the same, but is renumbered (2).

AUTH: 37-1-319, 37-3-203, 37-3-802, MCA

IMP: 37-1-319, 37-3-101, 37-3-202, 37-3-802, MCA

REASON: The board previously amended this rule at the request of licensees to allow multiple pathways for reactivation of an inactive physician license at any time during a license period, and cease the sole reliance on testing as the requirement for reactivation. Since testing is no longer the sole means of reactivation, the board determined it is reasonably necessary to amend this rule to become the rule on physician reactivation, and to expand the number of pathways to reactivation. Following amendment, this rule will align with ARM 24.156.615 on inactive physician license renewals.

4. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Medical Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdmed@mt.gov, and must be received no later than 5:00 p.m., November 29, 2013.

5. An electronic copy of this Notice of Public Hearing is available at www.medicalboard.mt.gov (department and board's web site). The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may

be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

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

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

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

Documentation of the board's determination is available upon request to the Board of Medical Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by telephone (406) 841-2360; facsimile (406) 841-2305; or by e-mail to dlibsmed@mt.gov.

9. Ian Marquand, Executive Officer for the Board of Medical Examiners, has been designated to preside over and conduct this hearing.

BOARD OF MEDICAL EXAMINERS
KRISTIN SPANJIAN, MD, PRESIDENT

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

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

Certified to the Secretary of State October 21, 2013

BEFORE THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PROPOSED
ARM 32.3.201 definitions; 32.3.212	)	AMENDMENT
additional requirements for cattle;)	
32.3.214 special requirements for	)	NO PUBLIC HEARING
goats; 32.3.1201, 32.3.1202,	)	CONTEMPLATED
32.3.1203, 32.3.1204, 32.3.1205,)	
32.3.1206, 32.3.1207 rabies;)	
32.4.1302 alternative livestock)	

TO: All Concerned Persons

1. On November 30, 2013, the Department of Livestock proposes to amend the above-stated rules.

2. The Department of Livestock will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Livestock no later than 5:00 p.m. on November 15, 2013, to advise us of the nature of the accommodation that you need. Please contact Christian Mackay, 301 N. Roberts St., Room 308, P.O. Box 202001, Helena, MT 59620-2001; telephone: (406) 444-9321; TTD number: 1 (800) 253-4091; fax: (406) 444-4316; e-mail: cmackay@mt.gov.

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

32.3.201 DEFINITIONS (1) In this subchapter:

(a) "Brucellosis test-eligible goat" means all sexually intact goats six months of age or older.

(a) through (l) remain the same, but are renumbered (b) through (m).

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

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

REASON: MDOL deems it necessary to define the age at which animals are eligible to be tested for brucellosis to prevent the testing of animals that are too young to provide valid test results. Also, specifying that only sexually intact animals be eligible for testing is consistent with which animals pose a risk of transmission of the *Brucella* organism.

32.3.212 ADDITIONAL REQUIREMENTS FOR CATTLE (1) ~~Except as provided in (a), (b), (c), and (d) -~~ No female cattle over the age of four months may be imported into the state of Montana for any purpose other than immediate slaughter unless they are officially vaccinated, by an accredited veterinarian

approved in his or her state to administer the vaccination, with a *Brucella abortus* vaccine approved by the Veterinary Biologics Division, U.S. Department of Agriculture except as follows:

(a) through (15) remain the same.

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

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

REASON: The wording in (1) was confusing and displayed redundancies. The unnecessary wording was removed for clarity.

32.3.214 SPECIAL REQUIREMENTS FOR GOATS (1) remains the same.

(2) ~~Dairy and breeding~~ Brucellosis test-eligible goats may enter the state of Montana provided the animals:

(a) through (7) remain the same.

AUTH: 81-2-102, 81-20-101, 81-2-103, 81-2-707, MCA

IMP: 81-2-102, 81-20-101, 81-2-103, 81-2-701, MCA

REASON: MDOL deems it necessary to define the age at which animals are eligible to be tested for brucellosis to prevent the testing of animals that are too young to provide valid test results. Also, specifying that only sexually intact animals be eligible for testing is consistent with which animals pose a risk of transmission of the *Brucella* organism.

32.3.1201 REPORTING RABIES (1) and (2) remain the same.

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

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

32.3.1202 RABIES QUARANTINE (1) through (3) remain the same.

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

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

32.3.1203 ISOLATION OF RABID OR SUSPECTED RABID ANIMALS

(1) and (2) remain the same.

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

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

32.3.1204 ISOLATION OF BITING ANIMALS (1) through (3) remain the same.

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

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

32.3.1205 ANIMAL CONTACTS (1) and (2) remain the same.

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

32.3.1206 STRAY OR OWNERLESS ANIMALS (1) remains the same.

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

32.3.1207 LABORATORY EXAMINATION REQUIRED (1) remains the same.

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

REASON: In order to legally continue to enforce the Administrative Rules of Montana, MDOL feels that it is necessary to cite all applicable sections of Montana Code that give department authority in the management of rabies in both livestock and domestic animals.

32.4.1302 REQUIREMENTS FOR MANDATORY SURVEILLANCE OF MONTANA ALTERNATIVE LIVESTOCK FARM CERVIDAE FOR CHRONIC WASTING DISEASE (1) through (3)(a)(v) remain the same.

~~(e)~~ (b) The state veterinarian may grant a waiver with stipulations that may include, but is not limited to, additional whole herd inspections. A waiver from CWD surveillance does not exempt the licensee from any other requirements for inspection or testing of alternative livestock.

~~(d)~~ (c) The state veterinarian may not grant a waiver to the mandatory surveillance required in this rule for an entire herd or for a cervid from a herd that has been identified as a CWD affected, exposed or trace herd.

~~(e)~~ (d) The licensee is responsible for all costs incurred for the examination of alternative livestock farm cervids, the inspection services, the collection and submission of tissue sample and/or specimens, and the laboratory diagnostic costs.

(4) and (5) remain the same.

AUTH: 81-2-103, 87-4-422 MCA
IMP: 81-2-103, 87-4-422 MCA

REASON: The subsection lettering sequence for (3) was discovered to have been in error. The subsections were (a), (c), (d), and (e). The mistake was corrected and the sequence will now flow in sequence.

4. Concerned persons may submit their data, views, or arguments in writing to Christian Mackay, 301 N. Roberts St., Room 308, P.O. Box 202001, Helena, MT 59620-2001, by faxing to (406) 444-1929, or by e-mailing to

MDOLcomments@mt.gov to be received no later than 5:00 p.m., November 29, 2013.

5. If persons who are directly affected by the proposed action wish to express their data, views, and arguments orally or in writing at a public hearing, they must make a written request for a hearing and submit this request along with any written comments they have to the same address as above. The written request for hearing must be received no later than 5:00 p.m. November 29, 2013.

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

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

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

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

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

DEPARTMENT OF LIVESTOCK

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

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

Certified to the Secretary of State October 21, 2013.

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

In the matter of the adoption of New	)	NOTICE OF PUBLIC HEARING ON
Rules I through III and the	)	PROPOSED ADOPTION AND
amendment of ARM 37.34.901,	)	AMENDMENT
37.34.902, 37.34.906, 37.34.907,)	
37.34.911, 37.34.912, 37.34.913,)	
37.34.917, 37.34.918, 37.34.919,)	
37.34.925, 37.34.926, 37.34.929,)	
37.34.930, 37.34.933, 37.34.934,)	
37.34.937, 37.34.938, 37.34.941,)	
37.34.942, 37.34.946, 37.34.947,)	
37.34.950, 37.34.951, 37.34.954,)	
37.34.955, 37.34.956, 37.34.957,)	
37.34.960, 37.34.961, 37.34.962,)	
37.34.963, 37.34.967, 37.34.968,)	
37.34.971, 37.34.972, 37.34.973,)	
37.34.974, 37.34.978, 37.34.979,)	
37.34.980, 37.34.981, 37.34.985,)	
37.34.986, 37.34.987, and 37.34.988)	
pertaining to Medicaid home and)	
community-based services program)	

TO: All Concerned Persons

1. On November 20, 2013, at 1:30 p.m., the Department of Public Health and Human Services will hold a public hearing in the auditorium of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana, to consider the proposed 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 November 13, 2013, to advise us of the nature of the accommodation that you need. Please contact Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

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

NEW RULE I 0208 MEDICAID HOME AND COMMUNITY-BASED
SERVICES WAIVER PROGRAM: WAIVER-FUNDED CHILDREN'S CASE
MANAGEMENT (1) Waiver-funded children's case management (WCCM) services

are services furnished to assist a person in gaining access to needed medical, social, educational, and other services. WCCM includes the following assistance:

- (a) comprehensive initial assessment and periodic reassessment to determine a child's need for any medical, educational, social, or other services;
- (b) development and periodic revision of a specific care plan;
- (c) referral and related activities to help an eligible child to obtain needed services;
- (d) monitoring and follow-up activities including activities and contacts that are necessary to ensure the plan of care is implemented and adequately addresses the child's needs;
- (e) completion of the freedom of choice form; and
- (f) assistance with crisis intervention planning to locate suitable alternative placement when the person's health or safety is at risk.

(2) WCCM may not provide:

- (a) case management activities that are a component of another covered Medicaid service;
- (b) direct delivery of medical, educational, social, or other services the person has been referred to; or
- (c) administration of foster care programs or other nonmedical programs.

(3) A person providing WCCM must:

- (a) possess a bachelor's degree in social work or a related field from an accredited college and have one year of experience in human services, or have provided case management services, comparable in scope and responsibility to that provided by targeted case managers, to persons with developmental disabilities for at least five years;
- (b) have at least one year's experience in the field of developmental disabilities or, if lacking such experience, complete at least 40 hours of training in the delivery of services to persons with developmental disabilities under a training plan reviewed by the Developmental Disabilities Program (DDP) within three months of hire or designation as a case manager;
- (c) participate in a minimum of 20 hours of training in services to persons with developmental disabilities each year, including abuse prevention training provided by the DDP under a training plan reviewed by the DDP; and
- (d) case managers who have not been certified must participate in the first MONA (the Montana resource allocation protocol tool) or mini MONA certification training opportunity available after hire.

(4) A staff person providing case management to youth age 16 through 21 must be certified to complete the personal support plan.

(5) Documentation of the qualifications of a case manager and completion of mandated training must be maintained by the employer.

AUTH: 53-6-113, 53-6-402, MCA

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

NEW RULE II 0208 MEDICAID HOME AND COMMUNITY-BASED
SERVICES PROGRAM: SELF-DIRECTED SERVICES, DEFINITIONS

(1) "Agency with choice model" means an agency that is the legal entity that is the fiscal agent to assist the person conducting the business of self-direction. The legal entity is the legal employer and is responsible for all aspects of hiring and managing staff and service documentation requirements.

(2) "Financial management service (FMS)" means the fiscal agent who assists the person conducting the business of self-direction. The fiscal agent educates the person, self-directing and acting as an employer, as to their responsibilities, processes employment paperwork, administers necessary preemployment screening, and processes employee timesheets. The fiscal agent must withhold and pay all employment related taxes and arranges for worker's compensation for all employees.

(3) "Person with employer authority using a fiscal management service" means the person or legal representative who is the legal employer and who is responsible for all aspects of hiring and managing staff and service documentation requirements.

AUTH: 53-6-113, 53-6-402, MCA

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

NEW RULE III 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: SELF-DIRECTED SERVICES, REQUIREMENTS (1) A person living in a natural home or private residence may elect to self-direct some or all of their waiver services using:

(a) an agency with choice model; or
(b) an employer authority using a financial management services (FMS) option.

(2) In order to elect the self-directed with employer authority using an FMS option, the person must:

(a) receive Developmental Disabilities Program (DDP) Medicaid-funded waiver services; and
(b) live in their natural home or private residence in which the person's choice of services, support worker, and schedule for delivery of service has no adverse effect on other persons receiving waiver services.

(3) A person may opt out of self-directed services at any time and receive traditional agency-based services model.

(4) A person who chooses to disenroll from the self-directed service model must contact the case manager to schedule a planning meeting to determine the services he or she requires in the traditional agency-based services model.

AUTH: 53-6-113, 53-6-402, MCA

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

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

37.34.901 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: AUTHORITY (1) The department has been granted by the United

States ~~d~~Department of ~~h~~Health and ~~h~~Human ~~s~~Services (HHS) the authority, through 42 USC 1396n(c) and 42 CFR 441.300 through 441.310, to provide Medicaid home and community-based services (HCBS) to persons with developmental disabilities. ~~The authority to implement this program is provided in 42 USC 1396n(c) and 42 CFR 441.300 through 441.310.~~ These rules implement in Montana the 0208 Medicaid ~~h~~Home and ~~e~~Community ~~s~~Services Waiver ~~p~~Program for persons with developmental disabilities.

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

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

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA

IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.902 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: GENERALLY ~~(1) The Medicaid home and community services program for persons who are developmentally disabled serves persons:~~

~~(a) who would otherwise require the level of care provided in an intermediate care facility for the mentally retarded (ICF/MR); and~~

~~(b) for whom services provided through the Medicaid home and community services program will not jeopardize the person's health and safety.~~

~~(2) Eligibility of applicants for the Medicaid home and community services program is determined as provided in ARM 37.34.906.~~

~~(3) Placement into Medicaid home and community services is determined as provided in ARM 37.34.301, et seq.~~

~~(4) (1) Services and placements in selection into services through the 0208 Medicaid ~~h~~Home and ~~e~~Community ~~s~~Services Waiver ~~p~~Program are available only to the extent that the federal approval of the state's program permits and that available funding allows.~~

~~(5) (2) The department, in order to comply with federal requirements or to limit expenditures to available funding, may:~~

~~(a) reduce the number of Medicaid recipients persons that may be served under the program;~~

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

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA

IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.906 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: ELIGIBILITY (1) ~~Under the Medicaid home and community services program, services may be provided to a person whom the department determines:~~ A determination that a person is eligible to be considered for acceptance into the Medicaid Home and Community-Based Services (HCBS) Waiver Program does not entitle a person to selection and entry into the HCBS Waiver Program.

(2) A person is eligible to be considered for acceptance into the Medicaid HCBS Waiver Program if the person:

(a) has a developmental disability, as defined in 53-20-202, MCA is determined by the Developmental Disabilities Program (DDP) to be a person with a developmental disability in accordance with the criteria specified and approved in the waiver from the Centers for Medicare and Medicaid Services and in accordance with Title 37, chapter 34, subchapter 2;

(b) is eligible for Medicaid applies for and meets the applicable Medicaid financial eligibility requirements found in ARM Title 37, chapter 82; and

(c) requires the level of care provided in an intermediate care facility for the mentally retarded (ICF/MR) individuals with intellectual disability (ICF/IID), as determined by an evaluation of the person's service needs by: the DDP.

(i) the intensive services review committee, as provided in ARM 37.34.907;
or

(ii) a qualified mental retardation professional, as defined in ARM 46.12.1310, employed by the department; and

(d) does not reside in a hospital or long term care facility as defined in 50-5-101, MCA.

(i) A long term care facility provides skilled or intermediate nursing care, ICF/MR care and personal care.

(2) (3) The level of care of an ICF/MR IID is needed when a person who is mentally retarded intellectually disabled:

(a) through (c) remain the same.

(d) has specialized services service needs, and exhibits physical or mental limitations or changes similar to those expected in an older person.

(3) (4) A person who has been admitted to an ICF/MR IID and who is dismissed discharged to enter services under the 0208 Medicaid home and community services HCBS Waiver pProgram for persons with developmental disabilities is considered to be of the level of care of an ICF/MR IID and need not be evaluated as provided in (4) (2).

(5) For a person through the age of seven, the eligibility review panel (ERP) must make the determination of eligibility.

(6) The ERP must consist of the following members:

(a) a waiver-funded children's case manager;

(b) a provider's administrator or supervisor;

(c) a department's quality improvement specialist;

(d) a staff person who has had recent contact with the child, if applicable; and

(e) other members as determined by the panel, if applicable.

(7) The waiver-funded children's case manager must submit the following to the ERP for a determination of eligibility:

- (a) a diagnostic statement from a physician; and
- (b) any testing that reflects developmental delays; or
- (c) a Vineland II (adaptive functioning assessment);
- (d) a current psychological evaluation; and
- (e) the eligibility determination form for children.

(8) For eligibility determinations made by the ERP, The Determining Eligibility for Services to Persons with Developmental Disabilities in Montana: A Staff Reference Manual does not apply to an eligibility determination for a child up to age seven.

(9) The ERP may determine a child is eligible if:

- (a) the child has a diagnosis of a physical or mental condition that has a high probability of resulting in a developmental disability; or
- (b) the child is experiencing developmental delays, with a 50% delay in one of the following areas or a 25% delay in two or more of the following areas:

- (i) cognitive development;
- (ii) physical developments, including vision and hearing;
- (iii) speech and language development;
- (iv) social and emotional development; or
- (v) self-help skills.

(10) The department designee must annually administer a level of care re-determination.

(11) A child who has previously been determined eligible for services by the ERP must have a determination of eligibility by the department's eligibility specialist prior to the child's eighth birthday.

(12) For a person age eight and older, the department must make a determination of eligibility for consideration of acceptance into the 0208 HCBS Waiver Program.

(13) The department may make a determination of eligibility for acceptance into the 0208 HCBS Waiver Program as early as the age of six.

(14) The following documents must be submitted to the department's eligibility specialist to make a determination of eligibility for acceptance into the 0208 HCBS Waiver Program:

- (a) a Vineland II;
- (b) a current psychological evaluation, that for adults, is no more than ten years old; and
- (c) page one of the eligibility determination form.

(15) The Determining Eligibility for Services to Persons with Developmental Disabilities in Montana: A Staff Reference Manual, as adopted in ARM 37.34.201, sets forth the requirements for eligibility of the DDP's service programs.

(16) Upon a determination of ineligibility, if the person is:

- (a) on the waiting list, his or her name will be removed from the waiting list; or
- (b) currently in waiver services, he or she will be exited from the 0208 HCBS Waiver Program ten days from the date of the notification letter.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA

IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.907 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: INTENSIVE SERVICES REVIEW COMMITTEE SELECTION AND ENTRY (1) The intensive services review committee (ISRC) is a state level committee that may review persons referred to the Medicaid home and community services program to determine if the person meets the level of care of an ICF/MR, as provided in ARM 37.34.906 and is therefore eligible for the program. A person may be placed on the statewide waiting list for consideration for selection and entry into the 0208 Medicaid Home and Community-Based (HCBS) Waiver Program if the person is found eligible for the Developmental Disabilities Program (DDP) service in accordance with ARM 37.34.906.

(2) The ISRC is composed of at least one representative from the developmental disabilities program and a provider of intensive services. A developmental disabilities case manager and a nurse may also be included on the committee. The DDP will enter the person's name onto the waiting list in chronological order based upon the date the case manager receives a complete request for services.

(3) The selection for consideration of persons with the same waiting list date will be made through a random selection process.

(4) The DDP designee must notify a person selected for entry into the 0208 HCBS Waiver Program and the person's case manager in writing within ten working days of selection.

(5) Within five working days from the date of the notification letter the department designee must present all waiver service options available to the person selected and document which providers the person requests to meet and submit to the providers:

(a) the provider service referral packet;

(b) the plan of care; and

(c) other documents, as requested.

(6) A provider must contact the department designee within ten working days from the date the provider service referral packet was submitted to the provider and either:

(a) offer to serve the person; or

(b) decline to offer services.

(7) The person must determine which provider(s) he or she will accept services from within five days following the offer(s).

(8) The case manager must:

(a) document the person's choice of provider(s);

(b) obtain the person's or the person's legal representative's signature; and

(c) maintain the documentation in the person's file.

(9) Upon acceptance of service(s), the person must begin service(s) within 45 working days from the date of the provider(s) offer to serve the person.

(10) The department may prioritize and select a person who has a life-threatening physical condition, is eligible for DDP services, and that without services would jeopardize their continued existence.

(11) The department reserves the right to select a person from the waiting list based upon emergency criteria if all other service options have been reviewed and

do not meet the person's health and safety needs. The emergency criteria are as follows:

(a) a finding of maltreatment is determined by Child Protective Services or Adult Protective Services;

(b) death or inability of the person's primary caregiver to provide care and no alternative caregiver is available; or

(c) lack of appropriate placement for the person due to loss of housing or imminent discharge from the temporary placement or hospitalization.

(12) A person who is selected for entry into the 0208 HCBS Waiver Program and does not accept waiver services will be removed from the waiting list.

(13) If the person selected for entry into the 0208 HCBS Waiver Program cannot find a provider able or willing to provide services within 90 days from the date of the selection notification letter, the opening is forfeited.

(14) A person discharged from an ICF/IID located in the state of Montana who is eligible for home and community-based services in accordance with ARM 37.34.906 is not subject to the selection criteria and entry procedures otherwise stated in this rule. The department in its discretion may provide the person with a placement in the 0208 HCBS Waiver Program.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA

IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.911 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: AVAILABLE SERVICES (1) The following services may be provided under the Medicaid ~~h~~Home and ~~e~~Community-based ~~s~~Services ~~p~~Program:

(a) ~~intensive support coordination services~~ adaptive equipment, as provided in ARM 37.34.925 and 37.34.926;

(b) ~~homemaker services~~ adult companion, as provided in ARM 37.34.929 and ~~37.34.930~~ 37.34.926;

(c) ~~personal care services~~ adult foster, as provided in ARM ~~37.34.933 and 37.34.934~~ 37.34.929;

(d) ~~adult day services~~ assisted living, as provided in ARM ~~37.34.937 and 37.34.938~~ 37.34.930;

(e) ~~habilitation services~~ behavioral support, as provided in ARM ~~37.34.941 and 37.34.942~~ 37.34.933;

(f) ~~respite care services~~ caregiver training and support, as provided in ARM ~~37.34.946 and 37.34.947~~ 37.34.934;

(g) ~~occupational therapy services~~ community transition, as provided in ARM ~~37.34.950 and 37.34.951~~ 37.34.937;

(h) ~~physical therapy services~~ day supports and activities, as provided in ARM ~~37.34.954 and 37.34.955~~ 37.34.938;

(i) ~~speech therapy services~~ environmental modifications, as provided in ARM ~~37.34.956 and 37.34.957~~ 37.34.941;

(j) ~~environmental modifications~~ homemaker, as provided in ARM ~~37.34.960 and 37.34.961~~ 37.34.942;

(k) ~~adaptive equipment~~ individual goods and services, as provided in ARM ~~37.34.962 and 37.34.963~~ 37.34.946;

- (l) ~~transportation services~~ job discovery, as provided in ARM 37.34.967 and 37.34.968 37.34.947;
- (m) ~~psychological and professional counseling services~~ job preparation, as provided in ARM 37.34.971 and 37.34.972 37.34.950;
- (n) ~~nursing services~~ live-in caregiver, as provided in ARM 37.34.973 and 37.34.974 37.34.951;
- (o) ~~dietitian services~~ meals, as provided in ARM 37.34.978 and 37.34.979 37.34.954;
- (p) ~~supported living coordination~~ nutritionist, as provided in ARM 37.34.985 and 37.34.986 37.34.955;
- (q) ~~meal services~~ occupational therapy, as provided in ARM 37.34.980 and 37.34.981 37.34.956; and
- (r) ~~respiratory services~~ personal care, as provided in ARM 37.34.987 and 37.34.988. 37.34.957;
- (s) personal emergency response, as provided in ARM 37.34.960;
- (t) personal supports, as provided in ARM 37.34.961;
- (u) physical therapy, as provided in ARM 37.34.962;
- (v) private duty nursing, as provided in ARM 37.34.963;
- (w) psychological services, as provided in ARM 37.34.967;
- (x) remote monitoring equipment, as provided in ARM 37.34.968;
- (y) remote monitoring equipment, as provided in ARM 37.34.971;
- (z) residential habilitation, as provided in ARM 37.34.972;
- (aa) residential training support, as provided in ARM 37.34.973;
- (ab) respite, as provided in ARM 37.34.974;
- (ac) retirement services, as provided in ARM 37.34.978;
- (ad) speech therapy, as provided in ARM 37.34.979;
- (ae) supported employment, follow along, as provided in ARM 37.34.980;
- (af) supported employment, individual employment support, as provided in ARM 37.34.981;
- (ag) supported employment, small group, as provided in ARM 37.34.985;
- (ah) supported employment, coworker support, as provided in ARM 37.34.986;
- (ai) supports brokerage, as provided in ARM 37.34.987;
- (aj) transportation, as provided in ARM 37.34.988; and
- (ak) waiver-funded children's case management, as provided in [NEW RULE

II.

(2) ~~Services available~~ provided to a ~~recipient~~ person through the 0208 HCBS Waiver pProgram are limited to the services specified in the ~~recipient's~~ person's individual plan of care and the individual cost plan.

(3) ~~Services available to a recipient through the program are limited to services that are not available otherwise to the recipient through the state Medicaid program or any other local government, state or federal program for which the person is eligible or would be eligible upon application.~~ Services may be provided when required services exceed or are different from the services available in the Montana state plan.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA

IMP: 53-2-204, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.912 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: GENERAL PROVIDER REQUIREMENTS (1) ~~Medicaid home and community services may be provided only by providers under contract with the department. The criteria for a qualified provider to be authorized to deliver a service available through the 0208 HCBS Waiver Program are specified in the Provider Specifications for Services Matrix for the 0208 HCBS Waiver Program.~~

~~(2) A provider that is among the providers listed in ARM 37.34.1801 must be accredited as provided in that rule. The Provider Specifications for Services Matrix for the 0208 HCBS Waiver Program, dated December 27, 2013, sets forth the qualifications and standards that govern provider requirements in the provision of 0208 HCBS waiver services.~~

~~(3) The department adopts and incorporates by reference the Provider Specifications for Services Matrix for the 0208 HCBS Waiver Program, dated December 27, 2013.~~

~~(4) A copy of the matrix may be obtained through the Department of Public Health and Human Services, Developmental Disabilities Program, 111 N. Sanders, PO Box 4210, Helena, MT 59604-4210 or at <http://www.dphhs.mt.gov/dsd/ddp/medicaidwaivers.shtml>.~~

~~(5) A provider must document the completion of training in the personnel file of the staff including:~~

~~(a) the date of the training;~~

~~(b) name and title of trainer;~~

~~(c) name and signature of person receiving the training;~~

~~(d) type of training;~~

~~(e) the agenda of the training; and~~

~~(f) hours of training.~~

~~(3) remains the same, but is renumbered (6)~~

~~(4) Reimbursement for services, except for transportation service as defined in ARM 37.34.967, shall not be made to parents of minor children or to spouses unless the department approves reimbursement based on a determination by the department that the spouse or parent is delivering a service, not normally a spousal or parental responsibility, requiring specialized skills that necessitate professional type training and knowledge.~~

~~(5) (7) Individual persons~~ A person directly providing services must be mentally and physically capable of assisting recipients a person receiving services as required by the program.

AUTH: 53-2-204, 53-6-113, 53-6-402, 53-20-204, MCA

IMP: 53-2-204, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.913 0208 COMPREHENSIVE PROGRAM OF MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: REIMBURSEMENT (1)

Reimbursement for the provision of services or items funded through the 0208 Comprehensive Program of Home and Community Services Medicaid Home

and Community-Based Services Waiver Program is available in accordance with criteria and procedures in ARM 37.34.3001 and 37.34.3002.

(2) The rates of reimbursement for particular types of services and items that may be funded through the 0208 Comprehensive Program of Home and Community Services Medicaid Home and Community-Based Services Waiver Program are established in accordance with ARM 37.34.3005.

AUTH: ~~53-2-201~~, 53-6-113, 53-6-402, ~~53-20-204~~, MCA

IMP: ~~53-2-201~~, 53-6-101, 53-6-402, ~~53-20-205~~, MCA

37.34.917 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: ~~INDIVIDUAL PLANS OF CARE~~ TERMINATION OF PLACEMENT

~~(1) Individual plans of care for recipients of Medicaid home and community services must:~~ The department may terminate a person's placement in the 0208 Medicaid Home and Community-Based Services Waiver Program if the person does not meet the requirements for the program, in accordance with this subchapter.

~~(a) conform with ARM 46.8.105 or alternative procedures approved by the department;~~

~~(b) include a description of each service to be provided, the frequency of those services, and the type of provider; and~~

~~(c) include the projected annualized costs of each service.~~

~~(2) The individual plan of care must be reviewed and approved by the department.~~ The department may terminate a person's placement if:

(a) the program services or funding necessary to implement the person's service plan are unavailable from the program;

(b) the professional and other services necessary to implement the person's service plan are unavailable;

(c) the person does not cooperate in the eligibility determination process;

(d) the person does not participate in the planning for service delivery;

(e) the program services are no longer appropriate or cost efficient in relation to the person's needs and there are no alternative program services available by which a service plan can be implemented to provide for the person's needs;

(f) the person poses imminent risk to the health and safety of the person or another person by not participating in the program services available to that person;

(g) behaviors of the person precluded the delivery of program services as provided for in the person's service plan;

(h) behaviors of the person necessitate that the person must be served in a setting that is not available through the program or in which the services of the program may not be delivered; or

(i) health status of the person necessitates that the person must be served in a setting that is not available through the program or in which the services of the program may not be delivered.

AUTH: ~~53-2-201~~, 53-6-113, 53-6-402, ~~53-20-204~~, MCA

IMP: ~~53-2-201~~, 53-6-101, 53-6-402, ~~53-20-205~~, MCA

37.34.918 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: INFORMING BENEFICIARY OF CHOICE FREEDOM OF CHOICE

(1) A person determined by the department to require the level of care provided in an ICF/MR IID must be given a choice between placement in an ICF/MR IID or in the 0208 Medicaid hHome and eCommunity-Based sServices (HCBS) Waiver pProgram.

(2) The person or legal representative must be informed of the feasible alternatives in the community, if any, available under the 0208 Medicaid home and community services program HCBS Waiver Program.

(3) The Quality Improvement Specialist will complete the Waiver 5, Freedom of Choice form with the person during the initial face-to-face level of care determination and document, in the person's file, that the person was given the choice and record the choice the person made.

(4) Case managers must inform the person currently served in the 0208 HCBS Waiver Program annually of feasible alternatives in the community and provide documentation for the person's file.

AUTH: ~~53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA~~

IMP: ~~53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA~~

37.34.919 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: NOTICE AND FAIR HEARING ~~(1) The department will provide written notice to applicants for and recipients of Medicaid home and community services (HCBS) Waiver Program when determinations are made by the department concerning their status pertaining to level of care and selection or denial for placement.~~

~~(a) The department will provide a recipient with notice ten working days before termination of services due to a determination of ineligibility.~~

~~(2) The department will provide a recipient at least 30 calendar days notice before any termination or reduction of services due to limitations upon services or insufficient program funds, as provided in ARM 37.34.902(4).~~

~~(3) (1) A person aggrieved by an adverse determination by the department determination for a level of care determination finding the person ineligible for services may request a fair hearing as provided in 37.5.304, 37.5.305, 37.5.307, 37.5.310, 37.5.311, 37.5.313, 37.5.316, 37.5.318, 37.5.322, 37.5.325, 37.5.328, 37.5.331, 37.5.334 and 37.5.337 Title 37, chapter 5, subchapter 3.~~

~~(4) A person may request a review and a fair hearing as provided in ARM 37.34.335 for a non-selection or denial of a service made by the department. A person may not appeal a termination or reduction in services undertaken by the department in accordance with ARM 37.34.902(4).~~

AUTH: ~~53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA~~

IMP: ~~53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA~~

37.34.925 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: INTENSIVE SUPPORT COORDINATION SERVICES, DEFINITION ADAPTIVE EQUIPMENT (1) Intensive support coordination services are services

for the support and coordination of Medicaid home and community services provided to individual recipients in the intensive family support program. Adaptive equipment is equipment necessary for the person to obtain or retain employment or to increase independent functioning in completing activities of daily living.

(2) Intensive support coordination services include: Adaptive equipment must:

(a) ~~providing ongoing monitoring of the recipient's services~~ relate specifically to and be primarily for the person's disability;

(b) ~~intervening when necessary to ensure that the recipient's living situation continues to be healthy and safe, and that needs continue to be met~~ have utility primarily for a person who has a disability;

(c) ~~conducting periodic assessments of risk in order to ensure that the intensive family support arrangement is appropriate and safe given the recipient's unique abilities and needs~~ meet the specifications, if applicable, for the equipment set by the American National Standards Institute (ANSI);

(d) ~~assessing the recipient to determine the resources and services needed to carry out the individual plan;~~ be prior authorized by the department if the cost of the project may exceed \$4,000; and

(e) ~~developing, monitoring, and recording written plans of care in a way the recipient, caregivers, and others understand;~~ be unavailable through any other sources.

(f) ~~meeting frequently with the recipient, and others, regarding the adequacy of the plan of care, how well the plan is being implemented, and changes which may be necessary in the plan;~~

(g) ~~teaching the recipient and caregivers to independently locate and establish contact with agencies who can assist them in securing the services they require in order to reduce reliance on the service system, generally, and on intensive support coordination, specifically;~~

(h) ~~facilitating interaction between people working in resource systems;~~

(i) ~~mobilizing and using natural helping networks such as family members, neighbors and friends;~~

(j) ~~providing inservice training to people providing habilitation, personal care, or other services to the recipient. Training includes general orientation and training on the specific needs of the recipient and how best to meet those needs;~~

(k) ~~managing personal as well as cost plan dollars to ensure that personal and service needs are met and that funds are efficiently utilized and accurately reported;~~

(l) ~~locating and arranging for suitable high quality housing, when necessary;~~

(m) ~~providing for adequate supervision of the recipient during the day, evening, and weekend;~~

(n) ~~hiring and supervising qualified staff to provide necessary services, with input from the recipient and caregivers;~~

(o) ~~subcontracting for services required by the plan of care;~~

(p) ~~ensuring that the recipient is free to choose a provider from among available qualified providers; and~~

(q) ~~requiring documentation of the service provided and for approving payment to direct service providers.~~

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA

IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.926 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: INTENSIVE SUPPORT COORDINATION SERVICES, REQUIREMENTS ADULT COMPANION (1) Intensive support coordination may only be provided by corporations under contract with the department. Adult companion services consist of nonmedical supervision and socialization provided to a person with a developmental disability. Companions may assist or supervise the person with tasks such as meal preparation, laundry, light housekeeping, and shopping but do not perform these activities as discrete services.

(2) An intensive support coordinator must: Adult companion services must be provided in accordance with a therapeutic goal.

- (a) be certified as a family support specialist;
- (b) meet requirements specified by the contract with the department;
- (c) provide appropriate intensive support coordination services in the least costly manner; and
- (d) implement the plan of care.

(3) The intensive support coordinator must ensure that the service is available on a 24 hour, 7 day a week basis. Adult companion services may not be provided concurrent with:

- (a) persons in residential settings in which primary care is funded 24/7; or
- (b) with personal supports services.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA

IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.929 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: HOMEMAKER SERVICES, DEFINITIONS ADULT FOSTER

(1) Homemaker services are general household activities performed for persons who are unable to manage their home or care for self or others in the home and for whom there is no one else who can be responsible for these activities. Adult foster support is a comprehensive service in which the person resides with an unrelated caregiver, licensed as an adult foster care provider, in order to receive support and supervision.

(2) Homemaker services may include: A provider may provide service for up to four unrelated persons.

- (a) meal preparation, cleaning, simple household repairs, laundry, shopping for food and supplies and other routine household care;
- (b) household management services consisting of assistance with those activities necessary for maintaining and operating a home and may include assisting the recipient in finding and relocating in other housing; and
- (c) teaching services consisting of activities which will improve a recipient's or family's skills in household management and social functioning.

(3) Homemaker services do not include the provision of personal care services as defined in ARM 46.12.555 through 46.12.557. Room and board, items

of comfort or convenience, or the cost of the maintenance and improvement of the facility are not included.

(4) Adult foster support may not be provided concurrent with the following services:

(a) personal supports;

(b) live-in caregiver;

(c) homemaker; or

(d) personal care.

(5) A provider of adult foster services must be licensed in accordance with 50-5-101 through 50-5-216, MCA and ARM 37.100.101 through 37.100.175.

(6) A person may receive adult foster support independently or both adult foster support and residential training support.

AUTH: ~~53-2-201~~, 53-6-113, 53-6-402, ~~53-20-204~~, MCA

IMP: ~~53-2-201~~, 53-6-101, 53-6-402, ~~53-20-205~~, MCA

37.34.930 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: ~~HOMEMAKER SERVICES, REQUIREMENTS ASSISTED LIVING~~

(1) ~~A homemaker must be:~~ Assisted living is a congregate residential setting that provides or coordinates personal care, 24-hour supervision and assistance to meet the unpredictable needs of the person, activities, and health-related services.

~~(a) able to follow written instructions;~~

~~(b) able to communicate by the telephone; and~~

~~(c) able to maintain records appropriate to the job assignment.~~

(2) Assisted living is the provision of personal care, 24-hour supervision and assistance, and activities and health-related services.

(3) Room and board, items of comfort or convenience, or the cost of the maintenance and improvement of the facility are not included.

(4) Assisted living may not be provided concurrent with the following services:

(a) personal care;

(b) homemaker;

(c) residential habilitation;

(d) live-in caregiver;

(e) personal supports; and

(f) residential training supports.

(5) A provider of assisted living must be licensed according to the licensing requirements located in 50-5-101 and 50-5-225, MCA through 50-5-228, MCA, and ARM 37.106.2801 through 37.106.2908.

AUTH: ~~53-2-201~~, 53-6-113, 53-6-402, ~~53-20-204~~, MCA

IMP: ~~53-2-201~~, 53-6-101, 53-6-402, ~~53-20-205~~, MCA

37.34.933 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: ~~PERSONAL CARE SERVICES, DEFINITIONS BEHAVIORAL~~

SUPPORT SERVICES (1) ~~Personal care services are defined in ARM 46.12.555, except that under the Medicaid home and community services program personal~~

~~care services may include supervision for health and safety reasons. Behavioral support services teach others to carry out ethical and effective behavior interventions based on positive behavior supports. Behavioral support services staff may supervise the work of others who implement behavior interventions.~~

~~(2) Behavioral support services may include:~~

~~(a) designing behavioral assessments and functional analysis of behavior;~~

~~(b) interpreting assessment and evaluation results for staff and unpaid caregivers;~~

~~(c) designing, monitoring, and modifying written behavior support intervention procedures;~~

~~(d) training staff and unpaid caregivers in the implementation of formal and informal behavioral support procedures; and~~

~~(e) attending planning meetings for the purpose of providing guidance and information to plan team members.~~

~~(3) A person providing behavioral support services must meet the requirements in ARM 37.34.1422(2).~~

AUTH: ~~53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA~~

IMP: ~~53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA~~

37.34.934 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: PERSONAL CARE SERVICES, REQUIREMENTS CAREGIVER TRAINING AND SUPPORT (1) ~~A personal care attendant must be:~~ Caregiver training and support (CTS) are services for unpaid caregivers who provide training, companionship, or supervision to a person with a developmental disability in a family setting or a private noncongregate residence.

~~(a) able to follow written instructions;~~

~~(b) able to communicate verbally and in writing; and~~

~~(c) able to maintain records appropriate to the job assignment.~~

~~(2) Training for the caregiver may include:~~

~~(a) instruction about treatment regimens;~~

~~(b) use of specified equipment; and~~

~~(c) updates as necessary to safely maintain the person at home.~~

~~(3) Caregiver training and support (CTS) must be aimed at assisting the unpaid caregiver in meeting the needs of the person directly related to their role in supporting the person as identified in the plan of care.~~

AUTH: ~~53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA~~

IMP: ~~53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA~~

37.34.937 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: ADULT DAY SERVICES, DEFINITIONS COMMUNITY TRANSITION SERVICES (1) ~~Adult day services are functional training services for the health, social, habilitation and supervision needs of a recipient provided in settings outside the person's place of residence. Community transition services are nonrecurring set-up expenses for a person who is transitioning from an institution to a~~

Developmental Disabilities Program (DDP) waiver-funded home and community-based residential service.

(2) Adult day services provided to an older recipient may be primarily for skill maintenance and the acquisition of skills that will enable the recipient to participate in a variety of age-appropriate activities supporting the goal of maintaining the recipient's ability to function in the community and to avoid institutionalization. The community transition service must be necessary to enable a person to establish a basic household.

(3) Adult day services do not include residential overnight services. Community transition services are furnished only to the extent that:

- (a) they are reasonable and necessary;
- (b) the person is unable to meet such an expense; or
- (c) the services cannot be obtained from other sources.

(4) Community transition services may not include:

- (a) monthly rental or mortgage expense;
- (b) food;
- (c) regular utility charges;
- (d) household appliances; or
- (e) items that are intended for purely recreational purposes.

(5) Community transition service is not available to a person transitioning into residential settings that are owned or leased by a Developmental Disabilities Program (DDP) funded service provider.

(6) The residential setting must be owned, leased, or rented by the person and must be considered the person's private residence.

(7) Community transition service may not exceed \$3,000 per person, per transition.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA

IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.938 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: ADULT DAY SERVICES, REQUIREMENTS DAY SUPPORTS AND ACTIVITIES

(1) An adult day service provider must employ staff experienced in providing services to persons with developmental disabilities, particularly to persons of advanced age. Day supports and activities consist of formalized habilitation services and staff support for the acquisition, retention, or improvement in self-help, behavioral, educational, socialization, and adaptive skills.

(2) A provider must provide in-service training in first aid, CPR, behavior management and other identified needs. Day supports and activities are person-centered, preplanned, purposeful, documented, and scheduled activities which take place during typical working hours, in a nonresidential setting, separate from the private residence of the person or other residential living arrangements.

(3) Day supports and activities may occur within a day activity setting, in the community, or in both settings.

(4) Day supports and activities may be provided as a continuous or intermittent service.

(5) Day supports and activities must consist of community inclusion activities.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA

IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.941 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: HABILITATION SERVICES, DEFINITION ENVIRONMENTAL MODIFICATIONS (1) ~~Habilitation services are services that stimulate and maintain the development of a recipient's skills or that reduce behaviors which interfere with the recipient's development.~~ Environmental modifications are those physical adaptations to the home or vehicle which are necessary to safeguard the health, welfare, and safety of the person, or which enable the person to function with greater independence and without which the person would require institutionalization.

(2) ~~Habilitation services may include:~~ An environmental modification must:

(a) ~~intense training required to alleviate severe skill deficits; relate specifically to and be primarily for a person with a disability;~~

(b) ~~on-going, supervised intervention for significant behavior problems; have utility primarily for a person who has a disability;~~

(c) ~~substantial care needed for medical problems which do not preclude habilitation; not be an item or modification that a family would normally be expected to provide for a nondisabled family member;~~

(d) ~~intensive daily care required because of the severity of the recipient's disability and provided by foster parents or other caregivers; not be in the form of room and board or general maintenance;~~

(e) ~~individual habilitation programs carried out by foster parents or other caregivers; meet the specifications, if applicable, for the modification set by the American National Standards Institute (ANSI); and~~

(f) ~~pre-vocational services; and be prior authorized by the department if the cost of the project may exceed \$4,000.~~

(g) ~~supported employment services, which provide the opportunity to work for pay in regular employment, to integrate with non-disabled persons who are not paid caregivers, and to receive long term support in order to retain the employment.~~

(3) ~~Pre-vocational services, or work or day services as provided in ARM 37.34.2111 are services that support habilitative goals necessary for further vocational development. Pre-vocational services prepare a recipient for paid or unpaid employment. Pre-vocational services are not intended to develop specific job skills. Pre-vocational services may include:~~

(a) ~~training in self-help skills;~~

(b) ~~motor and physical development;~~

(c) ~~communication skills;~~

(d) ~~functional academics;~~

(e) ~~community life skills;~~

(f) ~~work skills; and~~

(g) ~~leisure skills.~~

(4) ~~Supported employment services may include:~~

(a) ~~pre-placement activities;~~

(b) ~~job market analysis/job development;~~

(c) ~~job match/screening;~~

- ~~(d) job placement/training;~~
- ~~(e) on-going assessment, support, and service coordination; and~~
- ~~(f) transportation.~~

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA

IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.942 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: HABILITATION SERVICES, REQUIREMENTS HOMEMAKER

~~(1) Habilitation services may be provided in the following settings: Homemaker services are general household activities performed when the person regularly responsible for these activities is unable to manage the home or care for self or others in the home or is engaged in providing habilitation and support services to the person with the developmental disability.~~

~~(a) residential settings. Residential settings include:~~

- ~~(i) community homes for adults;~~
- ~~(ii) community homes for children;~~
- ~~(iii) foster homes; and~~
- ~~(iv) the recipient's own home.~~

~~(b) day settings. Day settings include:~~

- ~~(i) day services;~~
- ~~(ii) prevocational services; and~~
- ~~(iii) supported employment, otherwise referred to as supported work services.~~

~~(2) Prevocational and supported employment services may be provided to only those recipients who formerly resided in an ICF/MR or a nursing facility. Homemaker services may include meal preparation, cleaning, simple household repairs, laundry, shopping for food and supplies, and other routine household care.~~

~~(3) Prevocational services may be provided only to those recipients: Homemaker services do not include the provision of personal care services as described in ARM 37.34.957.~~

~~(a) who are compensated for the work they do at a rate that is less than 50% of minimum wage; and~~

~~(b) who are not expected to be able to join the general work force within 1 year.~~

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA

IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.946 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: RESPITE CARE, DEFINITION INDIVIDUAL GOODS AND SERVICES

~~(1) Respite care services are services provided to a recipient so as to temporarily relieve those persons normally caring for the recipient from the responsibility for the care of the recipients. Individual goods and services are services, supports, or goods that enhance opportunities to achieve outcomes related to living arrangements, relationships, and inclusion in the community as identified and documented in the plan of care.~~

(2) Individual goods and services must fall into one of the following categories:

(a) memberships and fees; or

(b) equipment and supplies.

(3) Individual goods and services must be:

(a) exclusively for the benefit of the person; and

(b) the most cost-effective alternative that reasonably meets the assessed need of the person.

(4) The service, equipment, or supply must meet the person's medical needs or provide support in order to be independent in daily activities and must meet one of the following criteria:

(a) promotes inclusion in the community;

(b) increases the person's safety in the home environment; or

(c) decreases the need for other Medicaid services.

(5) The cost of the service, equipment, or supply must not compromise the person's health or safety by depleting their individual cost plan to the extent they cannot receive services that provide for their health and safety.

(6) Service, equipment, or supplies which are experimental will not be reimbursed.

(7) A person or the person's delegate self-directing services with employer authority using the financial management service (FMS) option must purchase goods and services in accordance with the requirements set forth by the Developmental Disabilities Program (DDP) and receive reimbursement from the fiscal management service.

(8) Individual goods and services expected to exceed a \$2,000 annual aggregate limit require prior approval by the DDP regional manager.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA

IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.947 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: RESPITE CARE, REQUIREMENTS JOB DISCOVERY (1) A respite care provider must be aware of emergency assistance systems. Job discovery is individual assistance to identify supports and develop employment goals and a career profile or career plan for achieving integrated employment. Career profiles or career plans may be developed through various strategies such as job exploration, job shadowing, informational interviewing, job and task analysis activities, employment preparation, business plan development for self-employment, and volunteerism.

(2) Respite care providers may be required by the intensive support coordinator or the supported living coordinator to be: Job discovery is limited to 40 hours of service per year, unless additional hours are prior approved by the Developmental Disabilities Program (DDP).

(a) knowledgeable of the physical and mental conditions of the recipient;

(b) knowledgeable of the common medications and related conditions of the recipient; and

(c) capable of administering basic first aid.

(3) ~~Respite care may be provided in a recipient's place of residence, in another private residence, or in an appropriate community setting. Job discovery may be provided in conjunction with other employment services.~~

(4) Agency-based services may be provided in:

(a) a community setting; or

(b) a developmental disability legal entity site.

(5) Self-directed service options must be provided in a community setting with 1:1 staff ratio.

AUTH: ~~53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA~~

IMP: ~~53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA~~

37.34.950 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: OCCUPATIONAL THERAPY SERVICES, DEFINITION JOB PREPARATION

(1) Occupational therapy services are defined in ARM 46.12.545, except that under the Medicaid home and community services program outpatient occupational therapy services may be provided for: Job preparation provides formalized training and work experiences, based upon the goals identified during job discovery, intended to teach a person the skills necessary to succeed in a paid competitive, customized, or self-employment setting. Training may also address workplace social skills and the development of practices and behaviors necessary for successful employment.

(a) habilitation;

(b) maintenance; or

(c) training for persons providing direct care.

(2) Job preparation must be primarily for the purpose of habilitation.

(3) If the person has not obtained integrated employment after two years of receiving job preparation, the job discovery process must be repeated.

(4) Job preparation may be provided in conjunction with other employment services.

AUTH: ~~53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA~~

IMP: ~~53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA~~

37.34.951 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: OCCUPATIONAL THERAPY SERVICES, REQUIREMENTS LIVE-IN CAREGIVER

(1) Occupational therapy must meet the requirements for occupational therapy services required by ARM 46.12.546, except that under the Medicaid home and community services program: Live-in caregiver services provide support to enable a person to live independently and participate in community activities to the fullest extent possible. The live-in caregiver assists with implementing the needed supports as identified in the plan of care which enable the person to retain or improve skills related to health, activities of daily living, money management, community resources, community safety, and other adaptive skills needed to live in the community.

(a) maintenance therapy is reimbursable;

(i) there is not a limitation on visits for maintenance therapy;

~~(b) training for persons providing direct care is reimbursable; and~~
~~(c) participation in the interdisciplinary team planning process is reimbursable.~~

(2) Live-in caregiver services cannot be provided in the caregiver's private residence or in a residence that is owned or leased by a Montana Medicaid provider.

(3) Live-in caregiver services must include an approved back-up plan in the event of service disruption.

(4) Terms and conditions of the service must be specified in a written live-in caregiver agreement between the legal entity, the live-in caregiver, and the person receiving the service and approved by the department.

(5) Parents or legal representatives may not be reimbursed for live-in caregiver services.

(6) Live-in caregiver services are reimbursed a daily room and board stipend.

(7) The annual cap for live-in caregiver services is \$9,000.

AUTH: ~~53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA~~

IMP: ~~53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA~~

37.34.954 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: PHYSICAL THERAPY SERVICES, DEFINITION MEALS (1) ~~Physical therapy services are defined in ARM 46.12.525, except that under the Medicaid home and community services program physical therapy services may provide for:~~ Meal services provide hot or other appropriate meals once or twice a day, up to seven days a week, to ensure that a person receives adequate nourishment and to prevent institutional placement.

~~(a) habilitation;~~

~~(b) maintenance; or~~

~~(c) training for persons providing direct care.~~

(2) Physical therapy treatment training programs may include: Meal services may only be provided to a person who is not eligible to receive meals from any other source, or who need different or more extensive services than are otherwise available.

~~(a) preserving and improving abilities for independent function, such as range of motion, strength, tolerance, coordination and activities of daily living; and~~

~~(b) preventing, insofar as possible, irreducible or progressive disabilities through means such as the use of orthotic prosthetic appliances, assistive and adaptive devices, positioning, behavior adaptations and sensory stimulation.~~

AUTH: ~~53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA~~

IMP: ~~53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA~~

37.34.955 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: PHYSICAL THERAPY SERVICES, REQUIREMENTS NUTRITIONIST

(1) Physical therapy must meet the requirements of ARM 46.12.526, except that under the Medicaid home and community services program: Nutritionist services are services related to the management of a person's nutritional needs and include:

- (a) maintenance therapy may be reimbursed; meal planning;
- (i) there is not a limitation on visits for maintenance therapy;
- (b) training for persons providing direct care is reimbursable; and consultation with and training for persons providing direct care; and
- (c) participation in the interdisciplinary team planning process is reimbursable education for the person receiving the service.
- (2) Nutritionist services do not include the provision of meals.
- (3) Nutritionists must meet the licensing requirements in Title 37, chapter 25, part 3, MCA.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA

IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.956 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: SPEECH THERAPY SERVICES, DEFINITION OCCUPATIONAL THERAPY (1) Speech therapy services are defined in ARM 46.12.530, except that under the Medicaid home and community services program speech therapy services may be provided for: Occupational therapy is as defined in 37-24-103(5), MCA.

- (a) habilitation;
- (b) maintenance; or
- (c) training for persons providing direct care.
- (2) Providers of occupational therapy services must be licensed in accordance with the rules and regulations governing the profession.
- (3) Occupational therapy must be provided through direct contact with a licensed therapist and the person or to train persons working directly with the person receiving the service.
- (4) Occupational therapists may provide evaluation, consultation, training, and treatment.
- (5) Occupational therapy may be provided when required occupational therapy services exceed Montana state plan or are different from the services available in the Montana state plan.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA

IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.957 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: SPEECH THERAPY SERVICES, REQUIREMENTS PERSONAL CARE (1) Speech therapy must meet the requirements of ARM 46.12.531, except that under the Medicaid home and community services program: Personal care services provide medically necessary in-home services to persons who are functionally limited in performing activities of daily living.

- (a) maintenance therapy may be reimbursed;
- (i) there is not a limitation on visits for maintenance therapy;
- (b) training for persons providing direct care is reimbursable; and
- (c) participation in the interdisciplinary planning process is reimbursable.
- (2) Personal care services may include:

(a) assistance with personal hygiene, dressing, eating, and ambulatory needs;

(b) household tasks incidental to the health care needs of the person or otherwise necessary to maintain the person in the home; and

(c) supervision for health and safety reasons.

(3) Personal care services may be provided when the required personal care services exceed the Montana state plan or are different from the services available in the Montana state plan.

AUTH: ~~53-2-201~~, 53-6-113, 53-6-402, ~~53-20-204~~, MCA

IMP: ~~53-2-201~~, 53-6-101, 53-6-402, ~~53-20-205~~, MCA

37.34.960 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: ENVIRONMENTAL MODIFICATIONS, DEFINITIONS PERSONAL EMERGENCY RESPONSE SYSTEM (1) Environmental modifications services are measures that provide the recipient with accessibility and safety in the environment so as to maintain or improve the ability of the recipient to remain in community settings and employment. Personal emergency response system (PERS) is an electronic device that enables the person to secure help in an emergency. The system is connected to the person's phone and programmed to signal a response center once a help button is activated. The response center is staffed by trained professionals. PERS services may be appropriate for persons who live alone, or who are alone for parts of the day, and have no regular caregiver for periods of time.

(2) Environmental modifications may be made to a recipient's home or vehicle for the purpose of increasing independent functioning and safety or to enable family members or other caregivers to provide the care required by the recipient. PERS service may be delivered via a cellular phone.

(3) To access the cellular phone option, the person must:

(a) require access to assistance or supports; and

(b) frequently be beyond the range of coverage of a PERS system.

(4) Cell phone plans must be basic plans and must not include features or applications unrelated to health and safety issues.

(5) A usage control feature and insurance may be added to the basic plan.

(6) The person must pay any overage fee and any other fees that are not approved in the plan of care.

(7) The case manager must review the cell phone guidelines with the person upon receipt of the phone and at the annual planning meeting.

AUTH: ~~53-2-201~~, 53-6-113, 53-6-402, ~~53-20-204~~, MCA

IMP: ~~53-2-201~~, 53-6-101, 53-6-402, ~~53-20-205~~, MCA

37.34.961 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: ENVIRONMENTAL MODIFICATIONS, REQUIREMENTS PERSONAL SUPPORTS (1) An environmental modification provided to a recipient must: Personal supports service assist the person in carrying out daily living tasks and other activities essential for living in the community and provide supervision and monitoring to ensure the person's health and safety.

- ~~(a) relate specifically to and be primarily for the recipient's disability;~~
- ~~(b) have utility primarily for a person who has a disability;~~
- ~~(c) not be an item or modification that a family would normally be expected to provide for a nondisabled family member;~~
- ~~(d) not be in the form of room and board or general maintenance;~~
- ~~(e) meet the specifications, if applicable, for the modification set by the American national standards institute (ANSI); and~~
- ~~(f) be prior authorized jointly by the provider's board of directors and the department if the cost of the project may exceed \$4,000.~~
- (2) Personal supports may assist the person with:
 - (a) ensuring the person's health and safety;
 - (b) accessing the community;
 - (c) development of self-advocacy skills;
 - (d) identifying and sustaining a personal support network;
 - (e) household activities necessary to maintain the home-living environment;
 - (f) home maintenance activities;
 - (g) maintaining employment; and
 - (h) accessing opportunities.
- (3) Personal supports may only be provided to a person self-directing services.
- (4) Waiver services which overlap with the activities of personal supports may not be provided concurrently with personal supports including:
 - (a) live-in caregiver;
 - (b) adult companion;
 - (c) extended personal care services; and
 - (d) homemaker services.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA

IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.962 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: ADAPTIVE EQUIPMENT, DEFINITIONS PHYSICAL THERAPY

- ~~(1) Adaptive equipment is equipment necessary to increase the ability of a person with a disability to function independently in community settings and employment. Physical therapy is as defined in 37-11-101(7), MCA.~~
- (2) Providers of physical therapy services must be licensed in accordance with the rules and regulations governing the profession.
- (3) Physical therapy must be provided through direct contact with the therapist and the person or to train persons working directly with the person receiving the service.
- (4) Physical therapist may provide supports that:
 - (a) improve or preserve abilities of independent functioning; and
 - (b) prevent, in as much as possible, chronic or progressive conditions.
- (5) Physical therapy may be provided when required physical therapy services exceed the Montana state plan or are different from the services available in the Montana state plan.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA

IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.963 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: ADAPTIVE EQUIPMENT, REQUIREMENTS PRIVATE DUTY NURSING (1) Adaptive equipment provided to a recipient must: Nursing services are defined in 37-18-102, MCA.

- (a) relate specifically to and be primarily for the recipient disability;
- (b) have utility primarily for a person who has a disability;
- (c) meet the specifications, if applicable, for the equipment set by the American national standards institute (ANSI);
- (d) be prior authorized jointly by the provider's board of directors and the department if the cost of the project may exceed \$4,000;
- (e) not be available to the recipient through other sources.
- (2) Providers of nursing services must be licensed in accordance with the rules and regulations governing the profession.
- (3) A person receiving the private duty nursing must be 21 years of age or older.
- (4) Private duty nursing may be provided when the required nursing services exceed the Montana state plan or are different from the services available in the Montana state plan.
- (5) Private duty nursing must be provided in the location where the person needs the service.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA

IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.967 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: TRANSPORTATION AND ESCORT SERVICES, DEFINITION PSYCHOLOGICAL AND COUNSELING SERVICES (1) Transportation services are services furnished by common transportation carrier or private vehicles to transport recipients for needed services or social activities. Psychological and counseling services are those services provided by a licensed psychologist, licensed professional counselor, or a licensed clinical social worker within the scope of the practice of the respective professions.

(2) Escort services are accompaniment for purposes of providing guidance and assistance. Service definitions for each profession may be found at the following:

- (a) licensed psychologist, 37-17-102(4), MCA;
- (b) licensed professional counselor, 37-23-102(3), MCA; and
- (c) licensed clinical social worker, 37-22-102(5), MCA.
- (3) Psychological and counseling services may include:
 - (a) individual or group therapy;
 - (b) consultation with providers and caregivers;
 - (c) development and monitoring of behavior programs;
 - (d) participation in the individual planning process; and
 - (e) counseling for primary caregivers.

(4) Psychological and counseling services are available to adults when the service is:

- (a) recommended by a qualified professional;
- (b) approved by the planning team; and
- (c) written into the plan of care.

(5) Psychological and counseling services may be provided when the required nursing services exceed the Montana state plan or are different from the services available in the Montana state plan.

AUTH: ~~53-2-201~~, 53-6-113, 53-6-402, ~~53-20-204~~, MCA

IMP: ~~53-2-201~~, 53-6-101, 53-6-402, ~~53-20-205~~, MCA

37.34.968 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: TRANSPORTATION AND ESCORT SERVICES, REQUIREMENTS REMOTE MONITORING (1) Transportation providers must have: Remote monitoring provides oversight and monitoring within a residential setting through off-site electronic surveillance, while maintaining the health and safety of the person receiving the service.

- (a) a valid Montana driver's license;
- (b) adequate automobile insurance as determined by the department; and
- (c) assurance of vehicle compliance with all applicable federal, state and local laws and regulations.

(2) Transportation and escort services must be provided by the most cost effective mode. Remote monitoring must be done in real time, by awake staff, at a monitoring base using:

- (a) live video feed;
- (b) motion sensing systems;
- (c) radio frequency identification;
- (d) web-based monitoring systems; or
- (e) other devices approved by the Developmental Disabilities Program (DDP).

(3) The person receiving remote monitoring must be 18 years of age or older.

(4) The remote monitoring staff must not participate in other duties while providing remote monitoring.

(5) The provider must have an effective emergency notification system in place to respond to any emergency within a reasonable time. The emergency response system must be written in the plan of care and must include:

- (a) the circumstances in which backup supports must be contacted;
- (b) the expected timeframes in which backup supports must respond; and
- (c) if the response must be in person or by other means of contact, including notification to emergency responders such as police, fire, and medical services.

(6) Live two-way communication may be provided if it is designated in a person's plan of care.

(7) The case manager must fully inform the person or their legal representative and each person who resides with the person of what remote monitoring entails and obtain written consent from each person. The case manager must keep the written consent with the person's plan of care.

(8) Remote monitoring may only be used in supported living settings with the purpose of:

(a) reducing or replacing the amount of residential habilitation needed by the person; or

(b) preventing the need for additional residential habilitation.

(9) Remote monitoring providers must have a backup power supply in place at the monitoring base in the event of an electrical outage.

(10) Service documentation must fully disclose the nature and extent of the services delivered and be signed by the person delivering the service.

(11) The provider of remote monitoring must disclose the current ratio of monitoring staff to persons receiving remote monitoring to the person's plan of care team during the provider selection process and update the information annually and as changes occur.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA

IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.971 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: PSYCHOLOGICAL AND PROFESSIONAL COUNSELING SERVICES, DEFINITION REMOTE MONITORING EQUIPMENT (1) Psychological services are defined in ARM 46.12.580 except that under the Medicaid home and community services program, psychological services may include: Remote monitoring equipment is the equipment used to operate systems such as live feed video, live audio feed, motion sensing system, radio frequency identification, web-based monitoring system, or other devices approved by the Developmental Disabilities Program (DDP). It also refers to the equipment used to engage in live two-way communication with the person being monitored.

(a) consultation with persons providing direct care;

(b) development and monitoring of behavior programs; and

(c) counseling to persons caring directly for the recipient when the caregiver's counseling needs are related to the responsibilities of the caregiving relationship.

(2) Professional counseling services are defined at ARM 46.12.620 except that under the Medicaid home and community services program, professional counseling services may include: Remote monitoring equipment must include an indicator to the person being monitored that the equipment is on and operating. The indicator must be appropriate to meet the person's needs.

(a) consultation with persons providing direct care;

(b) development and monitoring of behavior programs; and

(c) counseling to persons caring directly for the recipient when the caregiver's counseling needs are related to the responsibilities of the caregiving relationship.

(3) Remote monitoring equipment must be designed to be turned off only by the person indicated in the plan of care.

(4) The provider of remote monitoring equipment must be responsible for the following:

(a) delivery of equipment to the person's residence and as needed to the room or area of the residence in which the equipment will be used;

(b) assembly and installation of the equipment, as appropriate for correct operation;

(c) adjustment and modification to the equipment, as needed;

(d) conduct monthly testing of the equipment to ensure proper operation;

(e) maintain and repair equipment, as necessary; and

(f) replace equipment at any time for any reason other than misuse or damage by the person receiving the service.

AUTH: ~~53-2-201~~, 53-6-113, 53-6-402, ~~53-20-204~~, MCA

IMP: ~~53-2-201~~, 53-6-101, 53-6-402, ~~53-20-205~~, MCA

37.34.972 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: PSYCHOLOGICAL AND PROFESSIONAL COUNSELING SERVICES, REQUIREMENTS RESIDENTIAL HABILITATION (1) Psychological services must be provided by a psychologist licensed as provided in ARM 8.52.601, et seq. Residential habilitation services support persons in acquiring, retaining, and improving self-help, social, and adaptive skills necessary to reside successfully in home and community-based settings.

(2) Psychological services must meet the requirements of ARM 46.12.581 except under the Medicaid home and community services program. The service includes caregiving, skills training, and supervision to a person in a noninstitutional setting. The degree and type of care, supervision, and skills training is based on the person's needs and must be identified in the plan of care.

(3) Professional counseling services must be provided by a professional counselor licensed as provided in ARM 8.61.1201, et seq. Training may be provided in basic self-help, home and community living, and leisure and social skills.

(4) Professional counselor services must meet the requirements of ARM 46.12.622. Each training objective must be specified in the plan of care and related to the long-term goals of the person.

(5) Residential habilitation must be provided where the person lives. Settings include:

(a) group homes;

(b) congregate and noncongregate living apartments; and

(c) natural homes.

AUTH: ~~53-2-201~~, 53-6-113, 53-6-402, ~~53-20-204~~, MCA

IMP: ~~53-2-201~~, 53-6-101, 53-6-402, ~~53-20-205~~, MCA

37.34.973 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: NURSING SERVICES, DEFINITION RESIDENTIAL TRAINING SUPPORT (1) Nursing services are defined in 37-8-102, MCA. Residential training support provides training to increase the person's independence in health care, self-care, safety, and access to community services.

(2) Nursing services may include: Residential training supports are available to a person receiving adult foster support service in accordance with assessed needs and as identified by the person in the plan of care.

(a) medical management;

- ~~(b) direct treatment;~~
- ~~(c) consultation; and~~
- ~~(d) training for the recipient or persons providing direct care.~~

(3) Residential training supports may only be provided when delivered in a licensed adult foster home funded under adult foster supports.

(4) If the provider of the adult foster support service is not qualified to provide residential training supports, the service must be made available by a qualified employee of an agency under contract with the Developmental Disabilities Program (DDP).

AUTH: ~~53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA~~

IMP: ~~53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA~~

37.34.974 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: ~~NURSING SERVICES, REQUIREMENTS~~ RESPITE (1) ~~Nursing services must be provided by a registered nurse or licensed practical nurse. Respite care is relief services designed to allow family members, who regularly care for the person receiving waiver services, to be relieved from their caregiver responsibilities in relation to reducing stress generated by the provision of constant care to the person receiving waiver services.~~

(2) ~~Persons providing nursing services must meet the licensure and certification requirements provided in ARM 8.32.401, et seq. Respite providers must be selected and trained by the parents or legal representatives of the person.~~

(3) ~~Nursing services may be provided to a recipient in the recipient's home, or at a vocational or day activity setting. Respite care may be provided in:~~

(a) ~~a licensed children's day care center and in a licensed family and group day care home for children from birth through age 12;~~

(b) ~~a licensed children's day care center and in a licensed family and group day care home for children age 13 through age 17; and~~

(c) ~~a licensed adult day center for a person 18 and older.~~

(4) ~~The waiver will pay the difference in cost between usual and customary rates and the increased rate charged by the provider, as described in (3), to serve a child with extraordinary support needs for children under the age of 13.~~

AUTH: ~~53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA~~

IMP: ~~53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA~~

37.34.978 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: ~~DIETITIAN SERVICES, DEFINITION~~ RETIREMENT SERVICES

(1) ~~Dietitian services are services related to the management of a recipient's nutritional needs and include: Retirement services are available to a person who is age 62 or older, or who is limited due to health and safety issues. Retirement services are structured services consisting of day activities and residential support. Retirement services are furnished in a way which fosters the independence of each person. Retirement services are person-centered and person-directed to the maximum extent possible.~~

(a) ~~meal planning;~~

- ~~(b) consultation with and training for persons providing direct care; and~~
- ~~(c) education for the recipient.~~
- ~~(2) Dietitian services do not include the provision of meals. Retirement services may be provided as a continuous or intermittent service.~~
- ~~(3) Retirement services must be provided in a residential or community day activity setting.~~
- ~~(4) The expected outcome of retirement services is to:~~
 - ~~(a) maintain skills and abilities to the maximum extent possible;~~
 - ~~(b) keep the person engaged in their environment and community; and~~
 - ~~(c) provide supervision, safety, and security.~~
- ~~(5) In a provider-operated residence, only shared living spaces such as the living room, kitchen, bathroom, and recreational areas may be utilized to provide retirement services.~~

AUTH: ~~53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA~~
IMP: ~~53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA~~

37.34.979 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: ~~DIETITIAN SERVICES, REQUIREMENTS~~ SPEECH THERAPY

- ~~(1) Dietitian services must be provided by a registered dietitian or a licensed nutritionist. Speech therapy is as defined in 37-15-102, MCA.~~
- ~~(2) Dietitians must meet the qualifications in 37-21-301 et seq., MCA. Providers of speech therapy services must be licensed in accordance with the rules and regulations governing the profession.~~
- ~~(3) Nutritionists must meet the licensing requirements in 37-25-301 et seq., MCA. Speech therapy must be provided through direct contact with the therapist and the person or to train persons working directly with the person receiving the service.~~
- ~~(4) Reimbursement is not available for the cost of food items and meal preparation. A speech therapist may provide:~~
 - ~~(a) screening and evaluation with respect to speech and hearing functions;~~
 - ~~(b) comprehensive speech and language evaluations when the screening indicates it is necessary;~~
 - ~~(c) continuing interdisciplinary evaluation for the purpose of beginning, monitoring, and following up in regards to habilitation programs; and~~
 - ~~(d) treatment services designed to develop specialized programs for communication.~~
- ~~(5) Speech therapy may be provided when required speech therapy services exceed the Montana state plan or are different from the services available in the Montana state plan.~~

AUTH: ~~53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA~~
IMP: ~~53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA~~

37.34.980 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: ~~MEAL SERVICES, DEFINITIONS~~ SUPPORTED EMPLOYMENT, FOLLOW ALONG SUPPORT (1) ~~Meal services provide hot or other appropriate~~

~~meals once or more a day, up to 7 days a week, to ensure that a recipient receives adequate nourishment and to prevent institutional placement. Follow along support consists of habilitation services and supports that enable a person to stabilize or expand employment in a competitive, customized, or self-employment setting.~~

(2) The person may require follow along support when:

(a) the person's job is in jeopardy; or

(b) a job promotion opportunity requires more complex, comprehensive, or intensive supports.

(3) Follow along support may be provided in an extended ongoing manner or intermittently as needed.

(4) Follow along support may include:

(a) person-centered employment planning;

(b) job promotion activities;

(c) observation and job support to enhance job task skills;

(d) monitoring at the work site to ascertain the success of the job placement;

(e) job coaching;

(f) follow up with the employer, coworkers, employed person, parents, legal representatives, and others as needed, in order to reinforce and stabilize job placement;

(g) facilitation of natural supports at the work site;

(h) advocating for the person at the employment site;

(i) assistance with management of financial paperwork;

(j) assistance with medication administration considered incidental to the follow along support;

(k) application of behavioral intervention programs, when developed and approved according to the positive behavioral support rule.

(5) Follow along support may be provided in conjunction with other employment services.

AUTH: 53-6-113, 53-6-402, 53-20-204, MCA

IMP: 53-6-101, 53-6-402, 53-20-205, MCA

37.34.981 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: MEAL SERVICES, REQUIREMENTS SUPPORTED EMPLOYMENT, INDIVIDUAL EMPLOYMENT SUPPORT (1) ~~Meal services may only be provided to recipients who are not eligible to receive meals from any other source, or who need different or more extensive services than are otherwise available. Individual employment supports are habilitation services and staff supports needed by a person to acquire integrated employment or career advancement in the general workforce. Individual employment support is delivered in a competitive, customized, or self-employment setting. The outcome of this service is paid employment in a competitive, customized, or self-employment setting within the general workforce that meets the person's personal and career goals, as documented in the plan of care.~~

~~(2) A full nutritional regimen of 3 meals per day may not be provided as a home and community services. Individual employment supports may include:~~

(a) person-centered employment planning;

- (b) job development;
- (c) negotiation with prospective employers;
- (d) creating a job description based on a task derived from a single traditional job (job carving);
- (e) job placement;
- (f) support for career advancement opportunities;
- (g) job analysis;
- (h) training, support, coordination, and communication in related skills needed to obtain or retain employment;
- (i) job coaching;
- (j) job loss support; and
- (k) benefit planning support.
- (3) Individual employment supports may be provided in conjunction with other employment services.

AUTH: 53-6-113, 53-6-402, 53-20-204, MCA

IMP: 53-6-101, 53-6-402, 53-20-205, MCA

37.34.985 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: SUPPORTED LIVING COORDINATION, DEFINITION SUPPORT EMPLOYMENT, SMALL GROUP SUPPORT (1) Supported living coordination activities include: Small group employment support consists of habilitation services and staff supports needed for groups of two to eight workers with disabilities to acquire and maintain a job or position in the general workforce.

- ~~(a) teaching the recipient and caregivers to independently locate and establish contact with agencies who can assist them in securing the services they require in order to reduce reliance on the service system, generally and on supported living coordination, specifically;~~
- ~~(b) providing in-service training to those people providing habilitation, personal care, or other services to the recipient;~~
- ~~(c) managing personal as well as plan costs to ensure that personal and service needs are met and that funds are efficiently utilized and accurately reported;~~
- ~~(d) providing for adequate supervision of the recipient during the day, evening and weekend;~~
- ~~(e) hiring and supervising qualified staff to provide supported living services, with input from the recipient and caregivers;~~
- ~~(f) subcontracting for services required by the plan of care;~~
- ~~(g) conducting periodic assessments of risk in order to ensure that the supported living arrangement is appropriate and safe given the recipient's unique abilities and needs;~~
- ~~(h) conducting individual assessments specifically related to the supported living service. These assessments will not duplicate assessments completed by developmental disabilities case managers in scope or type of data collected;~~
- ~~(i) arranging for suitable high quality housing, when necessary;~~
- ~~(j) ensuring that the recipient is free to choose a provider from among available qualified providers; and~~

~~(k) requiring documentation of the service provided and for approving payment to direct service providers.~~

(2) Small group employment support must be provided in a manner that promotes integration into the workplace and interaction between people with and without disabilities in those workplaces.

(3) Small group employment support must occur in business settings during the hours typical for the industry.

(4) Small group employment support may include:

(a) person-centered employment planning;

(b) job development;

(c) negotiation with prospective employers;

(d) creating a job description based on a task derived from a single traditional job (job carving);

(e) job placement;

(f) support for career advancement opportunities;

(g) job analysis;

(h) training, support, coordination, and communication in related skills needed to obtain or retain employment;

(i) job coaching; and

(j) benefit planning support.

(5) Small group employment support may be provided in conjunction with other employment services.

AUTH: 53-6-113, 53-6-402, 53-20-204, MCA

IMP: 53-6-101, 53-6-402, 53-20-205, MCA

37.34.986 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: SUPPORTED LIVING COORDINATION, REQUIREMENTS

SUPPORT EMPLOYMENT, COWORKER SUPPORT (1) Supported living coordination may only be provided by corporations under contract with the department. Coworker support service allows the Developmental Disabilities Program (DDP) and developmental disabilities provider agencies to contract with a business to provide coworker job supports as a part of the natural workplace. This service differs from supported employment, follow along support in that it creates opportunity for services and supports to be provided by the employee of a local business where the person is employed. This service is intended to provide ongoing coworker support allowing follow along support to be decreased.

(2) A supported living coordinator must have: The purpose of supported employment coworker support is to assist the person to:

(a) a B.A. degree from an accredited college in a human service related field; and develop positive work-related habits, attitudes, and skills;

(b) one year of experience working with people with developmental disabilities; or acquire work etiquette directly related to their specific employment;

(c) an equivalent combination of education and experience: gain knowledge of the health and safety aspects/requirements of their particular job;

(d) assist the person in becoming a part of the informal culture of the workplace;

- and
- (e) provide job skill maintenance or assistance with incorporating new tasks;
- (f) facilitate other supports at the work site.
- (3) A supported living coordinator must: Coworker support may be provided in conjunction with other employment services.
- (a) provide appropriate intensive support coordination services in the least costly manner; and
- (b) ensure implementation of the plan of care.
- (4) Providers of supported living coordination must ensure that the service is available on a 24 hour, 7 day a week basis. The employer is reimbursed a daily rate to offset the cost to the employer for providing the supports which may be needed to maintain the person in the job.

AUTH: 53-6-113, 53-6-402, 53-20-204, MCA

IMP: 53-6-101, 53-6-402, 53-20-205, MCA

37.34.987 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: RESPIRATORY SERVICES, DEFINITION SUPPORTS BROKERAGE

(1) Respiratory services include direct treatment, ongoing assessment of medical condition, equipment monitoring and upkeep, pulmonary education and rehabilitation. Supports brokerage services assist the person self-directing service with employer authority in arranging, directing, and managing self-directed services as described in the person's plan of care. The supports broker acts as an agent of the person or legal representative and is available to assist in identifying immediate and long-term needs, developing options to meet those needs, and accessing identified supports and services.

(2) As determined by the scope and nature of the opportunities afforded to the person in waiver services, supports brokers may provide information regarding the following:

- (a) person-centered planning and how it is applied;
- (b) the range and scope of the choices and options the person has;
- (c) the process for changing the plan of care and the individual budget;
- (d) the grievance process;
- (e) risks and responsibilities of self-direction;
- (f) freedom of choice of providers;
- (g) reassessment and review of schedules; and
- (h) other information pertinent to managing self-directed services.
- (3) The supports broker may assist the person with:
- (a) defining goals, needs, and preferences;
- (b) training the person on the material contained in the self-directed employer handbook;
- (c) day-to-day management of the budget for self-directed services;
- (d) identifying and accessing services, support, and resources;
- (e) practical skills training regarding hiring, managing, and terminating employees;
- (f) problem solving and conflict resolution;
- (g) development of risk management agreements;

(h) development of an emergency backup plan;

(i) exercising independent advocacy;

(j) completing required forms; and

(k) development and maintenance of service documentation.

(4) Duplicative services are not allowed concurrent with supports brokerage.

In instances where activities of the supports broker duplicate the provisions of case management, the plan of care must clearly delineate the responsibilities for performance activities.

(5) The annual cap for supports brokerage is the lesser of \$6,000 or 20% of the value of the individual cost plan (ICP). These values may be exceeded for a limited time period in extraordinary circumstances with prior approval of the Developmental Disabilities Program (DDP) director.

AUTH: 53-6-113, 53-6-402, 53-20-204, MCA

IMP: 53-6-101, 53-6-402, 53-20-205, MCA

37.34.988 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: RESPIRATORY SERVICES, REQUIREMENTS TRANSPORTATION

(1) Respiratory therapy services must be provided by a registered respiratory therapist as defined by the national board for respiratory care. Transportation services are those services which enable persons served in the waiver to gain access to waiver and other community services, activities, and resources.

(2) Transportation may be offered in addition to medical transportation required under 42 CFR 431.53 and transportation services under the state plan, defined at 42 CFR 440.170(a).

(3) Reimbursable transportation expenses may include assistance with reasonable costs related to one or more of the following areas, as determined by the Developmental Disabilities Program (DDP):

(a) operator training and licensure;

(b) insurance; and

(c) registration or other costs associated with a person's dependence on the use of a personal vehicle as outlined in the plan of care.

(4) The following are excluded from transportation services:

(a) adaptations or improvements to the vehicle that are of general utility, and are not of direct medical or remedial benefit to the person;

(b) purchase or lease of a vehicle;

(c) regularly scheduled upkeep and maintenance of a vehicle with the exception of upkeep and maintenance of any modifications; and

(d) escort services.

(5) For self-directed services, the financial management service (FMS) may only pay mileage reimbursement upon receiving documentation that transportation was provided in accordance with Montana state requirements for operating a motor vehicle.

(6) Mileage reimbursement through the FMS may be available to the owner of the vehicle when:

(a) transportation services to the person are for approved community functions;

(b) all the requirements for operating a motor vehicle that are required have been met; and

(c) the mileage reimbursement provision is approved in the plan of care.

(7) A person with employer authority using the FMS option may only be reimbursed for mileage.

(8) Transportation may be provided when required transportation services exceed the Montana state plan or are different from the services available in the Montana state plan.

(9) Legal representatives and other persons who are not employees of agencies with a Developmental Disabilities Program (DDP) contract may be reimbursed for the provision of rides at the mileage rate based on the operational expense of a motor vehicle but does not include:

(a) reimbursement for work performed;

(b) the driver's time; or

(c) transportation not directly related to the specific disability needs of a person, as outlined in the plan of care.

(10) A person providing transportation services must:

(a) be 18 years of age or older;

(b) have a valid motor vehicle license;

(c) maintain liability insurance; and

(d) have proof of vehicle registration.

AUTH: 53-6-113, 53-6-402, 53-20-204, MCA

IMP: 53-6-101, 53-6-402, 53-20-205, MCA

5. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to adopt new rules and amend rules that pertain to Montana Medicaid Home and Community-Based Services Program.

The proposed rule amendments are necessary to conform state authority for administration of the 0208 Home and Community-Based Services (HCBS) Waiver Program with the current agreement with the federal Centers for Medicare and Medicaid Services (CMS) that govern the state's program; to place the various details for the management of the program into rule; and to initiate certain new services and changes in existing services.

In order to continue to provide appropriate and effective services to persons with a developmental disability, the Department of Public Health and Human Services, Developmental Services Division, Developmental Disabilities Program (DDP) submitted a 1915(c) Home and Community-Based Services Waiver renewal application to the CMS which was effective July 1, 2013. The purpose of this program is to provide an array of home and community-based services that assist persons with a developmental disability to live in the community and avoid institutionalization. The department has broad discretion in the design of the waiver program to address the needs of the waiver target population through the

development of a range of services that are necessary and appropriate for meeting those needs. The proposed amendments to Administrative Rules of Montana, ARM Title 37, chapter 34, subchapter 9, are specific for administering the 1915(c) HCBS Waiver services as renewed with CMS approval of the 0208 HCBS Waiver Program.

The 0208 HCBS Waiver Program now serves persons who previously received home and community waiver services through the 0371 Community Supports Waiver which has been terminated effective July 1, 2013 by the department. A person who received 0371 waiver services will continue to receive current services but will do so now in accordance with the governing authorities for the 0208 Waiver Program and potentially will have access to the greater array of services in the 0208 Waiver Program.

The rules define the population eligible to be served; provides selection and entry criteria and procedures; specifies the services available under the program; and specifies the provider requirements. The development and use of the rule to comprehensively state all the features and requirements for service delivery and governance such as personal eligibility, service availability, description, and delivery requirements, is necessary to provide a singular document of reference for persons receiving services, families, providers, and other members of the public.

New Rule I and ARM 37.34.925 through 37.34.988

New Rule I and ARM 37.34.925 through 37.34.988 pertain to the particular services available through the 0208 HCBS Waiver Program and specifies the available services along with the various requirements pertaining to their utilization. The services to be made available through the 0208 HCBS Waiver Program have been modified to be consistent with CMS approval. Formatting of the rules has been amended to assign one rule number per service to define and state the requirements for each service. Staff/provider training, licensing, certification, and education requirements specific to each service have been added via the matrix adopted and incorporated in ARM 37.34.912.

The key changes for the waiver program renewal, as noted in the approval letter from the CMS and which appear in the text of the rule, are as follows:

- (1) Intensive support coordination and supported living coordination are no longer available services.
- (2) Habilitation services: the current definition and requirements for day habilitation have been removed. The habilitation service is unbundled and replaced with day supports and activities and job discovery/job preparation services. This is necessary to provide for more effective integrated services and allow for more accurate billing.
- (3) Adult day services has been removed and replaced with retirement services.
- (4) Respiratory services: respiratory therapy is removed as a program service due to underutilization.

(5) New employment services have been incorporated for individual employment support, follow along support, small group employment support, and coworker support services. The purpose of these added services is to promote progressive change through integrative competitive employment to enable persons with developmental disabilities opportunity to advance economically and participate as productive members of society.

(6) Waiver-funded children's case management was amended to remove the requirement for family support specialist (FSS) certification as a qualified provider for the provision of waiver-funded children's case management. The provider must have education and experience equal to an FSS. Removing the certification requirement is necessary as it allows for a more open qualified provider enrollment process.

(7) Environmental modifications/adaptive equipment requirement was amended to reflect that a provider's board of directors must no longer approve purchases over \$4,000. This is removed because not all providers have a board of directors.

(8) Behavioral support services is now a service option for facilities such as licensed adult foster homes, developmental disabilities licensed group homes, assisted living, and transitional living apartments.

(9) Board certified behavior analyst has been replaced with behavioral support services. This change is due to recent changes in ARM 37.34.1422, which allows for other professionals to also approve positive behavior support plans.

New Rules II and III

New Rules II and III pertain to self-directed services. Many of the new services approved in the 0208 HCBS Waiver Program allow for self-direction. These proposed new rules are necessary to provide uniform definitions and foundational requirements for self-directed services.

ARM 37.34.901

ARM 37.34.901 presents the federal authority under Section 1915(c) of the Social Security Act, providing states the option to renew their Medicaid waiver to offer home and community-based services. In addition, the proposed rule amendments establish the discretion of the department to manage the various aspects of the program in conformance with federal authority and as otherwise determined appropriate by the department. This conformance of the program to federal authority is necessary to ensure continuing conformance with the governing federal authority so as to avoid withdrawal of federal approval for the program and to avoid federal recoupment for inappropriate expenditures of federal monies.

ARM 37.34.902

The department is proposing to amend ARM 37.34.902, Medicaid Home and Community Services Program: Generally, in order to update the rule to correspond with current terminology and to remove language that is no longer pertinent.

ARM 37.34.906

The department is proposing to amend ARM 37.34.906, Medicaid Home and Community Services Program: Eligibility, in order to update the rule to correspond with current terminology and to remove language that is no longer pertinent. Reference to mental retardation is replaced with intellectual disability in accordance with federal regulation and state statute. Additionally, information previously contained in ARM Title 37, chapter 34, subchapter 2 regarding the eligibility process for the 0208 HCBS Waiver Program has been added in order to provide a more comprehensive rule.

ARM 37.34.907

The department is proposing to amend ARM 37.34.907, Medicaid Home and Community Services Program: Intensive Services Review Committee. It is necessary because the DDP no longer offers designated intensive services residential settings and therefore the intensive services review committee is no longer maintained. In order to maintain the rule number, the department is proposing to place "selection and entry" in this rule number. Effective July 1, 2013, the department implemented several changes required by CMS. CMS directed that service opportunities could no longer be made available based upon the expected cost of services or the type of services a person may need. In addition, the changes were needed to provide for more equitable selection of persons for available service opportunities. All eligible persons requesting acceptance into the 0208 Waiver Program will be placed on a waiting list. The person will be selected from the wait list by the department for available service opportunities in the 0208 Waiver Program based on longest duration on the wait list. However, a person considered to be in an emergency situation as defined by the department will have priority in selection over those of the longest duration. A further change required by CMS is that any service opportunity that becomes available must be available to the selected person on a statewide basis.

ARM 37.34.911

The department is proposing to amend ARM 37.34.911, Medicaid Home and Community Services Program: Available Services. This is necessary to update services available as approved by CMS. The department is also amending the rule to reorganize placement of the services in the rules. Due to the extensive nature of amendments required in this rulemaking, the department recognized the opportunity to align the services alphabetically for ease of access and to preserve rule numbers due to the limited resources for rule numbers within this subchapter. The public may still review changes to existing services by referring to the appropriate current rule within the document.

ARM 37.34.912

The department is proposing to amend ARM 37.34.912, Medicaid Home and Community Services Program: General Provider Requirements. This is necessary to allow for the addition of training requirements, to reflect current department practice and terminology, and changes in federal requirements.

The accreditation in (2) is no longer required and has been removed. Reimbursement information contained in (4) is located in the reimbursement rules located in ARM Title 37, chapter 34, subchapter 30.

The department is proposing to adopt and incorporate the Provider Specifications for Services Matrix for the 0208 Waiver Program, dated December 27, 2013 (matrix). The matrix conveys the training, licensing, certification, and educational requirements for each service and service provider option. Due to the fact that these requirements vary by service as well as by service providers, the department created the matrix to articulate a large quantity of information in one comprehensive document.

ARM 37.34.913

The department is proposing to amend ARM 37.34.913, Medicaid Home and Community Services Program: Reimbursement. This is necessary in order to revise the title to be consistent with the remainder of the rules.

ARM 37.34.917

The department is proposing to amend ARM 37.34.917, Medicaid Home and Community Services Program: Individual Plans of Care. This is necessary because the governing rules for the application and implementation of the plan of care for the delivery of developmental disabilities services are now located in Title 37, chapter 34, subchapter 11. In order to preserve the rule number, rather than simply repeal the rule, the department is replacing the information with termination of placement. Termination of placement, currently located in ARM 37.34.225, is being repealed in MAR Notice No. 37-645.

ARM 37.34.918

The department is proposing to amend ARM 37.34.918, Medicaid Home and Community Services Program: Informing Beneficiary of Choice. This is necessary to update current terminology and to add requirements to coincide with current practice.

ARM 37.34.919

The department is proposing to amend ARM 37.34.919, Medicaid Home and Community Services Program: Notice and Fair Hearing. This is necessary to update current terminology and to reference to the fair hearings rules, located in Title 37, chapter 5.

6. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail dphhslegal@mt.gov, and must be received no later than 5:00 p.m., November 29, 2013.

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

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

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

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

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

/s/ Cary B. Lund

Cary B. Lund
Rule Reviewer

/s/ Richard H. Oppen

Richard H. Oppen, Director
Public Health and Human Services

Certified to the Secretary of State October 21, 2013.

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

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING ON
ARM 37.87.1202, 37.87.1210,	)	PROPOSED AMENDMENT AND
37.87.1214, 37.87.1217, and	)	REPEAL
37.87.1223 and the repeal of ARM)	
37.87.1222, pertaining to psychiatric)	
residential treatment facility (PRTF))	
services)	

TO: All Concerned Persons

1. On November 20, 2013, at 11:00 a.m., the Department of Public Health and Human Services will hold a public hearing in the auditorium of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana, to consider the proposed amendment and repeal of the above-stated rules.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Public Health and Human Services no later than 5:00 p.m. on November 13, 2013, to advise us of the nature of the accommodation that you need. Please contact Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

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

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

~~(1) "Care coordination" means monitoring and referral services provided to youth in a PRTF by an outside provider to assist in discharging the youth from the PRTF to create a smooth transition in which to transfer the clinical gains the youth has made in the PRTF to the community. Care coordination may be provided by a licensed or in-training mental health professional, or targeted case manager who has extensive knowledge of community services. In-training mental health professional services are only reimbursed when provided by a licensed mental health center. Care coordination includes the following:~~

~~(a) monitoring, which means attending telephonically the youth's monthly PRTF treatment team meetings and consultation with the team about:~~

~~(i) the youth's treatment goals and progress in treatment;~~

~~(ii) the youth's readiness for discharge and promoting discharge at the earliest opportunity;~~

~~(iii) the youth's discharge plan and specific service needs; and~~

~~(iv) advocating for the parent or legal guardian's recommendations about treatment and discharge.~~

~~(b) referral services, which means:~~

~~(i) making appointments for needed psychiatric, medical, educational, psychological, social, behavioral, developmental, and chemical dependency treatment services, as appropriate upon discharge from the PRTF; and~~

~~(ii) ensuring communication exists and pertinent clinical information is shared between the youth's PRTF treatment team and community providers prior to discharge.~~

(2) through (6) remain the same but are renumbered (1) through (5).

~~(7)~~ (6) "Psychiatric residential treatment facility (PRTF)" means a facility other than a hospital that provides psychiatric services only to individuals persons under age 21. The PRTF must be certified for Medicaid participation by:

(a) and (b) remain the same.

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

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

37.87.1210 OUT-OF-STATE PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY (PRTF) SERVICE REQUIREMENTS

(1) Payment for psychiatric residential treatment facility (PRTF) services provided to a youth outside the state of Montana will be made only under the conditions specified in this rule and subchapter. The Montana Medicaid ~~p~~Program will not make payment for PRTF services provided by out-of-state facilities to a youth unless the department or its designee determines that PRTF, ~~and applicable PRTF waiver~~ services in the state of Montana are unavailable for the youth. ~~PRTF waiver sites are identified in ARM 37.87.1303.~~

(2) ~~PRTF and PRTF waiver~~ services in the state of Montana will be determined unavailable when:

(a) the youth has been officially screened for admission by all enrolled in-state PRTFs, ~~and an applicable PRTF waiver site~~, and denied admission because the PRTFs ~~or PRTF waiver site~~ cannot meet the youth's treatment needs of the youth; or

(b) the youth has been officially screened for admission by all enrolled in-state PRTFs, ~~and an applicable PRTF waiver site~~, and denied admission for one of the following reasons:

(i) a bed or opening is not available in a PRTF ~~or PRTF waiver site~~; or

~~(ii) the youth's parent or legal guardian refuses PRTF waiver services; or~~

~~(iii)~~ (ii) the youth's psychiatric condition of the youth prevents the youth from being temporarily and safely placed in another setting while awaiting admission to an in-state PRTF ~~or PRTF waiver site~~.

(3) The department or its designee will not commence a preadmission review for or certify an admission to an out-of-state PRTF until receiving from the

prospective PRTF written verification that the youth cannot be served within the state of Montana.

(a) Written verification must be provided on a form approved by the department or its designee, and must be completed and signed on behalf of the in-state PRTFs ~~and an applicable PRTF waiver site~~ indicating that the requirements of (2)(a) or (2)(b) are met.

(b) In-state PRTFs ~~and a PRTF waiver site~~ that do not complete, sign, and return the form by fax to the prospective out-of-state PRTF within three days after receipt will be deemed to be unable to serve the youth.

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

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

37.87.1214 PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY SERVICES, CHEMICAL DEPENDENCY SUBSTANCE USE DISORDER ASSESSMENT AND TREATMENT (1) PRTF services may include ~~chemical dependency (CD)~~ substance use disorder assessment and treatment. Substance use disorder assessment and treatment must be completed in accordance with ~~according to~~ the American Society of Addictions Medicine PPC-2R Manual (Second Edition, revised April 2001) for youth with a primary SED diagnosis who have a co-occurring ~~CD~~ substance use disorder diagnosis.

(2) remains the same.

(3) ~~CD~~ Substance use disorder treatment includes the following services based on the individual plan of care developed with the youth:

(a) through (4) remain the same.

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

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

37.87.1217 PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY (PRTF) SERVICES, TREATMENT REQUIREMENTS (1) PRTF services must include active treatment designed to achieve the ~~youth's~~ discharge of the youth to a less restrictive level of care at the earliest possible time. Active treatment includes, but is not limited to, the following services provided regularly and as clinically indicated:

(a) through (3) remain the same.

(4) The PRTF must use a the Montana children and adolescent needs and strengths (MT-CANS) functional assessment ~~approved by the department's children's mental health bureau~~ for youth on admission and prior to discharge to assist in the development of the plan of care and the discharge plan.

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

(6) The ~~youth's~~ plan of care and discharge plan for the youth must be reviewed at least every 30 days at the multidisciplinary treatment team meeting, and more frequently if there is a significant change in the ~~youth's~~ condition of the youth. The ~~youth's~~ parent or legal guardian representative of the youth must be invited to participate in these meetings, and given adequate notice to participate. Adequate

notice means generally a week unless the youth's condition of the youth dictates otherwise. At a minimum the following must be discussed:

- (a) through (c) remain the same.
- (d) youth's treatment goals of the youth, progress or lack of progress, and revisions to the treatment plan;
- (e) remains the same.
- (f) co-occurring issues that impact youth's treatment of the youth, such as developmental or cognitive delays, ~~chemical dependency~~ substance use disorder, and sexual reactivity or offending;
- (g) remains the same.
- (h) youth's readiness for discharge of the youth, specific services needed on discharge, and who will be making the appointments for discharge services.
- (7) remains the same.
- (8) In addition to the other requirements in ~~(4)~~ this rule that pertain to discharge planning the following activities are required. The PRTF must:
 - (a) remains the same.
 - ~~(b) decide whether or not to contract with a care coordinator to assist in discharge planning;~~
 - ~~(c) (b) develop a discharge plan with the care coordinator, if assistance is needed, within 30 days of admission that identifies the youth and family's needed services and supports upon discharge:~~
 - (i) remains the same.
 - (d) remains the same, but is renumbered (c).
 - ~~(e) (d) work with the youth's parent or legal guardian representative of the youth, independently, or for out-of-state PRTFs, with a care coordinator targeted case manager, in making agreed upon discharge plans and referrals for needed services.~~
 - (e) provide targeted case management services according to the limitations in ARM 37.87.1223, as needed.
 - (9) remains the same.
- (10) As part of the discharge planning requirements, PRTFs shall must ensure the youth has a seven-day supply of needed medication and a written prescription for medication to last through the first outpatient visit in the community with a prescribing provider. Prior to discharge, the PRTF must identify a prescribing provider in the community and schedule an outpatient visit. Documentation of the medication plan and arrangements for the outpatient visit must be included in the youth's medical record for the youth. If medication has been used during the youth's PRTF treatment of the youth, but is not needed upon discharge, the reason the medication is being discontinued must be documented in the youth's medical record for the youth.

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

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

37.87.1223 PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY (PRTF) SERVICES, REIMBURSEMENT (1) ~~For PRTF services provided on or after September 1, 2010~~ inpatient psychiatric services provided in a PRTF on or after

December 31, 2013, for youth as defined in ARM 37.87.102, the Montana Medicaid pProgram will pay a provider PRTF for each patient day as provided in these rules.

(a) remains the same.

(2) ~~For inpatient psychiatric services provided by a PRTF in the state of Montana in-state PRTFs,~~ the Montana Medicaid pProgram will pay a provider, for each Medicaid patient day, a bundled per diem ~~interim~~ rate as specified in (3), less any third party or other payments. Services included in Tthe interim bundled per diem rate is are defined in ARM 37.87.1222 (5).

(3) The ~~statewide~~ bundled per diem ~~interim~~ rate for in-state PRTF services is the lesser of:

(a) the amount specified in the department's Medicaid Youth Mental Health fee schedule, as adopted in ARM 37.87.904 37.85.105; or

(b) remains the same.

(4) Out-of-state PRTFs ~~providers~~ will be reimbursed 50% of their usual and customary charges. Services that must be included in the out-of-state PRTFs usual and customary rate are outlined in (7). Reimbursement will include all Medicaid covered psychiatric, medical, and ancillary services provided by the PRTF or by outside providers consistent with ARM 37.87.1222. Services provided by an outside provider while the youth is a patient in a PRTF are not separately reimbursable by the Montana Medicaid program.

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

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

(b) services, therapies, and items related to treating the psychiatric condition of the youth;

(c) services provided by licensed psychologists, licensed clinical social workers, and licensed professional counselors;

(d) psychological testing;

(e) lab and pharmacy services related to treating the psychiatric condition of the youth; and

(f) supportive services necessary for daily living and safety.

(6) The bundled per diem rate for in-state PRTFs does not include the following services, which are separately reimbursable by the Medicaid program for enrolled providers:

(a) licensed physician, psychiatrist, and midlevel practitioner services;

(b) non-psychotropic medication and related lab services;

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

(d) Medicaid state plan ancillary services, except targeted case management provided by the PRTF or by outside providers, if they are:

(i) in the plan of care for the youth;

(ii) provided under the direction of the PRTF physician; and

(iii) provided under an arrangement with other qualified providers.

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

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

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

(c) psychological testing;

(d) lab and pharmacy services; and

(e) supportive services necessary for daily living and safety.

(8) The bundled per diem rate for out-of-state PRTFs does not include the following services, which are separately reimbursable by the Medicaid program for enrolled providers:

(a) up to 80 units of targeted case management services as defined in ARM 37.87.802 per PRTF stay;

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

(c) Medicaid state plan ancillary services, provided by the PRTF or by outside providers, if they are:

(i) in the plan of care for the youth;

(ii) provided under the direction of the PRTF physician; and

(iii) provided under an arrangement with other qualified providers.

(9) The PRTF must maintain the medical records for Medicaid state plan ancillary services the youth receives.

(10) Reimbursement will be made to in-state and out-of-state PRTF providers for reserving a bed while the youth is temporarily absent for a therapeutic home visit if:

(a) the plan of care for the youth documents the medical need for therapeutic home visits as part of a therapeutic plan to transition the youth to a less restrictive level of care;

(b) the provider clearly documents staff contact and youth achievements or regressions during and following the therapeutic home visit;

(c) the youth is absent from the provider's facility for no more than three patient days per therapeutic home visit, unless additional days are authorized by the department; and

(d) the out-of-state PRTF pays for transportation for youth on a therapeutic home visit from an out-of-state PRTF.

(11) No more than 14 patient days per youth in each state fiscal year will be reimbursed for therapeutic home visits.

(12) Providers must bill for PRTF services using the revenue codes designated by the department.

(13) Notice of the admission and discharge dates for the youth must be submitted to the department or its designee the day of admission or discharge. The department may impose a \$200 charge against the facility for each instance where the department does not receive timely notification.

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

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

4. The department proposes to repeal the following rule:

37.87.1222 PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY (PRTF) SERVICES, INTERIM RATE AND COST SETTLEMENT PROCESS is found on page 37-21379 of the Administrative Rules of Montana.

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

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

5. STATEMENT OF REASONABLE NECESSITY

On November 28, 2012, the Centers for Medicare and Medicaid (CMS) issued an informational bulletin announcing it would allow states the flexibility to ensure youth receiving inpatient psychiatric services would receive medically necessary Medicaid services to meet their medical, psychological, social, behavioral, and developmental needs as identified in their plan of care. Based upon this directive, the department is proposing changes to the psychiatric residential treatment facility (PRTF) administrative rules regarding how the ancillary services youth receive in a PRTF are reimbursed and regarding the services included in the bundled per diem rate. The proposed amendments and repeal are necessary to implement the changes in federal policy. The department believes the changes will benefit Montana providers and youth.

ARM 37.87.1202

The department is proposing to remove the definition of care coordination. Care coordination by a licensed or in-training mental health professional was an allowable ancillary service when PRTFs reimbursed ancillary services, and was not used. The department is proposing to allow reimbursement for ancillary services provided for youth in a PRTF by the Medicaid program and not the PRTF. A limited amount of targeted case management is being proposed for youth in out-of-state PRTFs.

ARM 37.87.1210

The department is proposing to remove the "PRTF waiver" denial requirement in ARM 37.87.1210 before youth may be served in an out-of-state PRTF. This is necessary because the PRTF waiver is no longer available.

ARM 37.87.1214

The department is proposing to amend the term "chemical dependency" to "substance use disorder." This is necessary in order to align rule terminology with the DSM-V. Substance abuse (SA) assessment and treatment services provided by PRTFs were allowable when the PRTFs reimbursed ancillary services directly;

however, SA assessment and treatment in a PRTF are now optional services because the Children's Mental Health Bureau does not reimburse for SA services.

ARM 37.87.1217

The department is proposing to require use of the Montana children and adolescent needs and strengths (MT CANS) tool as the functional assessment tool for PRTF services. This is necessary to clarify which functional assessment is approved by the department.

ARM 37.87.1222

The department is proposing to repeal ARM 37.87.1222 to remove a reference to the interim rate and payments and the cost settlement language. The language regarding how ancillary services are reimbursed would be located in ARM 37.87.1223. This is necessary because the department is also proposing in ARM 37.87.1223, that all state plan Medicaid ancillary services be reimbursed by the Montana Medicaid Program and not the PRTFs.

ARM 37.87.1223

The department is proposing new language in ARM 37.87.1223 regarding how ancillary services are to be reimbursed. This is necessary to have the reimbursement requirements in the same rule as PRTF reimbursement. The department is proposing that all state plan Medicaid ancillary services be reimbursed by the Montana Medicaid Program and not the PRTF, as the rules currently provide. Targeted case management (TCM) will not be a covered ancillary service for youth in an in-state PRTF at this time.

The department is proposing language to clarify what services are included in the in-state and out-of-state PRTF bundled per diem rates. Limited TCM services are being added as a covered ancillary service for youth in an out-of-state PRTF. Out-of-state PRTFs have significant problems discharging some youth from their facility and the department determined that TCMs will assist out-of-state PRTFs with appropriate discharge plans. The department is piloting TCM concurrent with out-of-state PRTFs with the intention of reviewing the outcome of this allowance to ascertain if TCM would also be beneficial for youth discharging from in-state PRTFs.

The department is proposing clinical assessments completed by a mental health center serving adults as a covered ancillary service. This is necessary in order to determine whether a youth 17 to 18 years of age in a PRTF has a serious disabling mental illness (SDMI) and, if so, to help make transition to adult Medicaid services easier. The department finds that transitioning to adult mental health services is difficult; knowing what services the youth will qualify for will assist in the transition. Some serious emotional disturbance (SED) covered diagnoses are also SDMI covered diagnoses; however, many are not. The department is proposing to move

the PRTF therapeutic home visit reimbursement requirements from ARM 37.87.1222. This is necessary because ARM 37.87.1222 would be repealed.

The department is proposing to move the charge from ARM 37.87.1222 because it would be repealed. The department is also proposing to increase the charge to \$200.00 for PRTFs who do not correct admission dates that do not match the first day of the PRTF prior authorization. This charge also applies to providers who do not discharge the youth per the department's instruction in the utilization review (UR) contractor's system, on the day of discharge. This proposed amendment is necessary because the department is required by the CMS to track ancillary service expenses separately when they are provided to youth in a PRTF. The department has been notified by other providers when a youth was not discharged in the UR contractor's system they could not get reimbursed for their services. The current charge of \$100 has not been a sufficient enough deterrent.

Fiscal impact

The unique caseload count for PRTF services as of March 1, 2013 for state fiscal year (SFY) 2013 is 255. For SFY 2011 it was 463. There are 3 in-state and 11 out-of-state PRTFs enrolled in the Montana Medicaid Program. All would be affected by the proposed amendments.

6. The department intends to adopt these rule amendments and repeal effective December 31, 2013 except for ARM 37.87.1223(5)(a) which is retroactively effective to July 1, 2013. A retroactive application of (5)(a) does not result in a negative impact to any affected party.

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., November 29, 2013.

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

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

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

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

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

/s/ Cary B. Lund

Cary B. Lund
Rule Reviewer

/s/ Richard H. Opper

Richard H. Opper, Director
Public Health and Human Services

Certified to the Secretary of State October 21, 2013.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING ON
ARM 42.21.113, 42.21.123, 42.21.131,	)	PROPOSED AMENDMENT
42.21.137, 42.21.138, 42.21.139,)	
42.21.140, 42.21.151, 42.21.153,)	
42.21.155, and 42.22.1311 related to)	
the trended depreciation schedules for)	
valuing property)	

TO: All Concerned Persons

1. On November 21, 2013, at 10 a.m., the Department of Revenue will hold a public hearing in the Third Floor Reception Area Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana, to consider the proposed amendment of the above-stated rules. The conference room is most readily accessed by entering through the east doors of the building.

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, please advise the department of the nature of the accommodation needed, no later than 5 p.m. on November 8, 2013. Please contact Laurie Logan, Department of Revenue, Director's Office, PO Box 7701, Helena, Montana 59604-7701; telephone 406.444.7905; fax 406.444.3696; or e-mail lalogan@mt.gov.

3. GENERAL STATEMENT OF REASONABLE NECESSITY. The department determines the market value of personal property by using the guides and valuation manuals listed in its rules and then applying the trended depreciation schedules as published in those rules. Personal property is valued annually, and because the trend tables used to value personal property change from year to year, the department must provide taxpayers with notice of those changes and does so through the rulemaking process. The annual update to the trended depreciation schedules provides taxpayers with the current depreciation percentage for each of the personal property classifications for the upcoming year. The updates also clearly identify for the taxpayer how the department values and depreciates property over time.

The department has considered the small business impact study requirements of 2-4-111, MCA. ARM 42.21.157 requires the department to update the depreciation schedules of tangible personal property on an annual basis. The purpose of these depreciation schedules is to account for the effect wear and tear has on the value of tangible personal property. With the passage of SB 96 during the 63rd Session of the Montana Legislature, the tangible personal property of small businesses that have \$100,000 or less in tangible personal property is exempt from taxation. These rule changes will have no negative impact on those businesses.

The annual changes to ARM 42.21.113 through ARM 42.21.155, and ARM

42.21.1311, affect all businesses with tangible personal property. In the annual updating of the depreciation schedules, the department allows its appraisers to account for the impact of an additional year of wear and tear has had on the value of tangible personal property. Small businesses would see a negative impact if these tables were not updated. Without the ability to apply current depreciation schedules, the department's appraisers would overstate the value of this property.

It is reasonably necessary to update the trend tables to reflect any changes for the upcoming year. This general statement of reasonable necessity applies to all of the following proposed amendments, and will be supplemented as appropriate for any given rule change.

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

42.21.113 LEASED AND RENTAL EQUIPMENT (1) Leased or rental equipment that is leased or rented on an hourly, daily, weekly, semimonthly, or monthly basis, but is not exempt under 15-6-202~~(4)~~ or 15-6-219~~(5)~~, MCA, will be valued in the following manner:

(a) For equipment that has an acquired cost of \$0 to \$500, the department shall use a four-year trended depreciation schedule. The trended schedule will be the same as ARM 42.21.155, category 1.

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD</u>
2012 <u>2013</u>	70%
2014 <u>2012</u>	44 <u>43</u> %
2010 <u>2011</u>	17 <u>18</u> %
2009 <u>2010</u> and older	8%

(b) For equipment that has an acquired cost of \$501 to \$1,500, the department shall use a five-year trended depreciation schedule. The trended schedule will be the same as ARM 42.21.155, category 2.

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD</u>
2012 <u>2013</u>	85%
2014 <u>2012</u>	70 <u>66</u> %
2010 <u>2011</u>	53 <u>51</u> %
2009 <u>2010</u>	33%
2008 <u>2009</u> and older	24 <u>22</u> %

(c) For equipment that has an acquired cost of \$1,501 to \$5,000, the department shall use a ten-year trended depreciation schedule. The trended schedule will be the same as ARM 42.21.155, category 8.

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD</u>
2012 <u>2013</u>	92%
2014 <u>2012</u>	86 <u>84</u> %
2010 <u>2011</u>	79 <u>78</u> %

2009 <u>2010</u>	70%
2008 <u>2009</u>	64 <u>61</u> %
2007 <u>2008</u>	56 <u>55</u> %
2006 <u>2007</u>	45 <u>44</u> %
2005 <u>2006</u>	36 <u>35</u> %
2004 <u>2005</u>	30 <u>29</u> %
2003 <u>2004</u> and older	25 <u>26</u> %

(d) For equipment that has an acquired cost of \$5,001 to \$15,000, the department shall use the trended depreciation schedule for heavy equipment. The schedule will be the same as ARM 42.21.131.

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD</u>
2013 <u>2014</u>	80%
2012 <u>2013</u>	65%
2011 <u>2012</u>	59 <u>57</u> %
2010 <u>2011</u>	56 <u>57</u> %
2009 <u>2010</u>	48 <u>54</u> %
2008 <u>2009</u>	44 <u>48</u> %
2007 <u>2008</u>	43%
2006 <u>2007</u>	37 <u>40</u> %
2005 <u>2006</u>	33 <u>36</u> %
2004 <u>2005</u>	31 <u>32</u> %
2003 <u>2004</u>	29 <u>30</u> %
2002 <u>2003</u>	27 <u>23</u> %
2001 <u>2002</u>	23 <u>22</u> %
2000 <u>2001</u>	23%
1999 <u>2000</u>	19 <u>24</u> %
1998 <u>1999</u>	20 <u>19</u> %
1997 <u>1998</u>	20 <u>21</u> %
1996 <u>1997</u>	20%
1995 <u>1996</u>	16 <u>20</u> %
1994 <u>1995</u> and older	16 <u>15</u> %

(e) For rental video tapes and digital video disks, the following trended depreciation schedule will be used:

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD</u>
2012 <u>2013</u>	25%
2011 <u>2012</u>	15%
2010 <u>2011</u> and older	10%

(2) through (4) remain the same.

(5) This rule is effective for tax years beginning after December 31, ~~2012~~ 2013.

AUTH: 15-1-201, 15-23-108, MCA

IMP: 15-6-135, 15-6-138, 15-6-202, 15-6-207, 15-6-219, MCA

REASONABLE NECESSITY: The department additionally proposes to amend ARM 42.21.113(1) by striking the sections from the statute references as a matter of housekeeping.

42.21.123 FARM MACHINERY AND EQUIPMENT (1) through (7) remain the same.

(8) The trended depreciation schedule referred to in (2) through (6) is listed below and shall be used for tax year ~~2013~~ 2014. The schedule is derived by using the guidebook listed in (2) as the data base. The values derived through use of the trended depreciation schedule will approximate average wholesale value.

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD AVERAGE WHOLESALE</u>
2013 <u>2014</u>	80%
2012 <u>2013</u>	75%
2011 <u>2012</u>	68 <u>66</u> %
2010 <u>2011</u>	65 <u>64</u> %
2009 <u>2010</u>	58 <u>61</u> %
2008 <u>2009</u>	56 <u>54</u> %
2007 <u>2008</u>	54 <u>53</u> %
2006 <u>2007</u>	51%
2005 <u>2006</u>	47 <u>48</u> %
2004 <u>2005</u>	45 <u>44</u> %
2003 <u>2004</u>	41 <u>43</u> %
2002 <u>2003</u>	36 <u>38</u> %
2001 <u>2002</u>	33%
2000 <u>2001</u>	31%
1999 <u>2000</u>	28 <u>29</u> %
1998 <u>1999</u>	29 <u>27</u> %
1997 <u>1998</u> and older	22%

(9) remains the same.

(10) This rule is effective for tax years beginning after December 31, ~~2012~~ 2013.

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-138, 15-6-207, 15-6-219, MCA

42.21.131 HEAVY EQUIPMENT (1) through (4) remain the same.

(5) The trended depreciation schedule referred to in (2), (3), and (4) is listed below and shall be used for tax year ~~2013~~ 2014. The values derived through the use of these percentages approximate the "quick sale" values as calculated in the guidebooks listed in (1).

HEAVY EQUIPMENT TRENDED DEPRECIATION SCHEDULE

<u>YEAR NEW/ACQUIRED</u>	<u>TRENDED % GOOD WHOLESALE</u>
2013 <u>2014</u>	80%
2012 <u>2013</u>	65%
2011 <u>2012</u>	59 <u>57</u> %
2010 <u>2011</u>	56 <u>57</u> %
2009 <u>2010</u>	48 <u>54</u> %
2008 <u>2009</u>	44 <u>48</u> %
2007 <u>2008</u>	43%
2006 <u>2007</u>	37 <u>40</u> %
2005 <u>2006</u>	33 <u>36</u> %
2004 <u>2005</u>	34 <u>32</u> %
2003 <u>2004</u>	29 <u>30</u> %
2002 <u>2003</u>	27 <u>23</u> %
2001 <u>2002</u>	23 <u>22</u> %
2000 <u>2001</u>	23%
1999 <u>2000</u>	19 <u>24</u> %
1998 <u>1999</u>	20 <u>19</u> %
1997 <u>1998</u>	20 <u>21</u> %
1996 <u>1997</u>	20%
1995 <u>1996</u>	16 <u>20</u> %
1994 <u>1995</u> and older	16 <u>15</u> %

(6) This rule is effective for tax years beginning after December 31, ~~2012~~ 2013, and applies to all heavy equipment.

AUTH: 15-1-201, 15-23-108, MCA

IMP: 15-6-135, 15-6-138, 15-6-207, 15-6-219, MCA

42.21.137 SEISMOGRAPH UNITS AND ALLIED EQUIPMENT

(1) through (3) remain the same.

(4) The trended depreciation schedules referred to in (1) through (3) are listed below and shall be used for tax year ~~2013~~ 2014.

SEISMOGRAPH UNIT

<u>YEAR NEW/ACQUIRE</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDE D % GOOD</u>	<u>WHOLESALE E FACTOR</u>	<u>WHOLESALE E % GOOD</u>
2013 <u>2014</u>	100%	1.000	100%	80%	80%
2012 <u>2013</u>	85%	1.000	85%	80%	68%
		1.026 <u>1.00</u>			
2011 <u>2012</u>	69%	<u>0</u>	74 <u>69</u> %	80%	57 <u>55</u> %
		1.054 <u>1.02</u>			
2010 <u>2011</u>	52%	<u>7</u>	55 <u>53</u> %	80%	44 <u>43</u> %
2009 <u>2010</u>	34%	1.039 <u>1.05</u>	35 <u>36</u> %	80%	28 <u>29</u> %

		<u>5</u>			
		<u>1.076</u>	<u>1.04</u>		
2008 <u>2009</u>	23%	<u>0</u>	25 <u>24%</u>	80%	20 <u>19%</u>
2007 <u>2008-2006</u>	%	<u>1.124</u>	<u>1.07</u>		
2005 and older	5%	<u>7</u>	22 <u>19%</u>	80%	18 <u>16%</u>
					5%

SEISMOGRAPH ALLIED EQUIPMENT

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
2013 <u>2014</u>	100%	1.000	100%
2012 <u>2013</u>	85%	1.000	85%
2011 <u>2012</u>	69%	<u>1.026</u> <u>1.000</u>	71 <u>69%</u>
2010 <u>2011</u>	52%	<u>1.054</u> <u>1.027</u>	55 <u>53%</u>
2009 <u>2010</u>	34%	<u>1.039</u> <u>1.055</u>	35 <u>36%</u>
2008 <u>2009</u>	23%	<u>1.076</u> <u>1.040</u>	25 <u>24%</u>
2007 <u>2008-2006</u>	20 <u>18%</u>	<u>1.124</u> <u>1.077</u>	22 <u>19%</u>
2005 and older	5%		5%

(5) This rule is effective for tax years beginning after December 31, 2012 2013.

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-138, 15-6-207, 15-6-219, MCA

42.21.138 OIL AND GAS FIELD MACHINERY AND EQUIPMENT (1) and (2) remain the same.

(3) The trended depreciation schedule referred to in (1) and (2) is listed below and shall be used for tax year 2013 2014.

OIL AND GAS FIELD PRODUCTION EQUIPMENT TRENDED DEPRECIATION SCHEDULE

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
2013 <u>2014</u>	100%	1.000	100%
2012 <u>2013</u>	95%	1.000	95%
2011 <u>2012</u>	90%	<u>1.026</u> <u>1.000</u>	92 <u>90%</u>
2010 <u>2011</u>	85%	<u>1.054</u> <u>1.027</u>	90 <u>87%</u>
2009 <u>2010</u>	79%	<u>1.039</u> <u>1.055</u>	82 <u>83%</u>
2008 <u>2009</u>	73%	<u>1.076</u> <u>1.040</u>	79 <u>76%</u>
2007 <u>2008</u>	68%	<u>1.124</u> <u>1.077</u>	76 <u>73%</u>
2006 <u>2007</u>	62%	<u>1.191</u> <u>1.125</u>	74 <u>70%</u>
2005 <u>2006</u>	55%	<u>1.251</u> <u>1.192</u>	69 <u>66%</u>
2004 <u>2005</u>	49%	<u>1.357</u> <u>1.252</u>	66 <u>61%</u>
2003 <u>2004</u>	43%	<u>1.404</u> <u>1.358</u>	60 <u>58%</u>

2002 <u>2003</u>	37%	1.433 <u>1.406</u>	53 <u>52</u> %
2001 <u>2002</u>	31%	1.441 <u>1.434</u>	45 <u>44</u> %
2000 <u>2001</u>	26%	1.454 <u>1.442</u>	38 <u>37</u> %
1999 <u>2000</u>	23%	1.478 <u>1.456</u>	34 <u>33</u> %
1998 <u>1999</u> and older	20 <u>21</u> %	1.485 <u>1.479</u>	30%

(4) and (5) remain the same.

(6) This rule is effective for tax years beginning after December 31, ~~2012~~ 2013.

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-138, ~~15-6-207~~, 15-6-213, 15-6-219, MCA

REASONABLE NECESSITY: The department additionally proposes to strike an incorrect implementing statute from ARM 42.21.138.

42.21.139 WORK-OVER AND SERVICE RIGS (1) through (4) remain the same.

(5) The trended depreciation schedule referred to in (2) and (4) is listed below and shall be used for tax year ~~2013~~ 2014.

SERVICE AND WORKOVER RIG TRENDED DEPRECIATION SCHEDULE

<u>YEAR/NEW ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>WHOLESALE FACTOR</u>	<u>TRENDED WHOLESALE % GOOD</u>
2013 <u>2014</u>	100%	1.000	80%	80%
2012 <u>2013</u>	92%	1.000	80%	74%
2011 <u>2012</u>	84%	1.026 <u>1.000</u>	80%	69 <u>67</u> %
2010 <u>2011</u>	76%	1.054 <u>1.027</u>	80%	64 <u>62</u> %
2009 <u>2010</u>	67%	1.039 <u>1.055</u>	80%	56 <u>57</u> %
2008 <u>2009</u>	58%	1.076 <u>1.040</u>	80%	50 <u>48</u> %
2007 <u>2008</u>	49%	1.124 <u>1.077</u>	80%	44 <u>42</u> %
2006 <u>2007</u>	39%	1.191 <u>1.125</u>	80%	37 <u>35</u> %
2005 <u>2006</u>	30%	1.251 <u>1.192</u>	80%	30 <u>29</u> %
2004 <u>2005</u>	24%	1.357 <u>1.252</u>	80%	26 <u>24</u> %
2003 <u>2004</u> and older	20 <u>21</u> %	1.404 <u>1.358</u>	80%	22%

(6) This rule is effective for tax years beginning after December 31, ~~2012~~ 2013.

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-138, 15-6-219, MCA

42.21.140 OIL DRILLING RIGS (1) remains the same.

(2) The department shall prepare a ten-year trended depreciation schedule for oil drilling rigs. The trended depreciation schedule shall be derived from depreciation factors published in the Marshall & Swift Valuation Service Guide. The "% good" for all drill rigs less than one year old shall be 100 percent. The trended depreciation schedule for tax year ~~2013~~ 2014 is listed below.

DRILL RIG TRENDED DEPRECIATION SCHEDULE

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
2013 <u>2014</u>	100%	1.000	100%
2012 <u>2013</u>	92%	1.000	92%
2011 <u>2012</u>	84%	1.026 <u>1.000</u>	86 <u>84</u> %
2010 <u>2011</u>	76%	1.054 <u>1.027</u>	80 <u>78</u> %
2009 <u>2010</u>	67%	1.039 <u>1.055</u>	70 <u>71</u> %
2008 <u>2009</u>	58%	1.076 <u>1.040</u>	62 <u>60</u> %
2007 <u>2008</u>	49%	1.124 <u>1.077</u>	55 <u>53</u> %
2006 <u>2007</u>	39%	1.191 <u>1.125</u>	46 <u>44</u> %
2005 <u>2006</u>	30%	1.251 <u>1.192</u>	38 <u>36</u> %
2004 <u>2005</u>	24%	1.357 <u>1.252</u>	33 <u>30</u> %
2003 <u>2004</u> and older	20 <u>21</u> %	1.404 <u>1.358</u>	28%

(3) remains the same.

(4) This rule is effective for tax years beginning after December 31, ~~2012~~ 2013.

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-138, 15-6-207, 15-6-219, MCA

42.21.151 TELEVISION CABLE SYSTEMS (1) through (3) remain the same.

(4) The trended depreciation schedules referred to in (2) and (3) are listed below and shall be in effect for tax year ~~2013~~ 2014.

TABLE 1: FIVE-YEAR "DISHES"

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
2012 <u>2013</u>	85%	1.000	85%
2011 <u>2012</u>	69%	1.027 <u>1.007</u>	71 <u>69</u> %
2010 <u>2011</u>	52%	1.059 <u>1.036</u>	55 <u>54</u> %
2009 <u>2010</u>	34%	1.051 <u>1.068</u>	36%
2008 <u>2009</u> and older	20 <u>21</u> %	1.082 <u>1.060</u>	22%

TABLE 2: TEN-YEAR "TOWERS"

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
2012 <u>2013</u>	92%	1.000	92%
2011 <u>2012</u>	84%	1.027 <u>1.007</u>	86 <u>85</u> %
2010 <u>2011</u>	76%	1.059 <u>1.036</u>	81 <u>79</u> %
2009 <u>2010</u>	67%	1.051 <u>1.068</u>	70 <u>72</u> %
2008 <u>2009</u>	58%	1.082 <u>1.060</u>	63 <u>61</u> %
2007 <u>2008</u>	49%	1.124 <u>1.091</u>	55 <u>53</u> %
2006 <u>2007</u>	39%	1.186 <u>1.134</u>	46 <u>44</u> %
2005 <u>2006</u>	30%	1.241 <u>1.196</u>	37 <u>36</u> %
2004 <u>2005</u>	24%	1.334 <u>1.251</u>	32 <u>30</u> %
2003 <u>2004</u> and older	20 <u>21</u> %	1.380 <u>1.345</u>	28%

(5) This rule is effective for tax years beginning after December 31, ~~2012~~ 2013.

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-138, 15-6-207, 15-6-219, MCA

42.21.153 SKI LIFT EQUIPMENT (1) and (2) remain the same.

(3) The depreciation schedules shall be determined by the life expectancy of the equipment and will normally compensate for the loss in value due to ordinary wear and tear, offset by reasonable maintenance, and ordinary functional obsolescence due to the technological changes during the life expectancy period.

DEPRECIATION TABLE FOR SKI LIFT EQUIPMENT

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
2012 <u>2013</u>	92%	1.000	92%
2011 <u>2012</u>	84%	1.027 <u>1.007</u>	86 <u>85</u> %
2010 <u>2011</u>	76%	1.059 <u>1.036</u>	81 <u>79</u> %
2009 <u>2010</u>	67%	1.051 <u>1.068</u>	70 <u>72</u> %
2008 <u>2009</u>	58%	1.082 <u>1.060</u>	63 <u>61</u> %
2007 <u>2008</u>	49%	1.124 <u>1.091</u>	55 <u>53</u> %
2006 <u>2007</u>	39%	1.186 <u>1.134</u>	46 <u>44</u> %
2005 <u>2006</u>	30%	1.241 <u>1.196</u>	37 <u>36</u> %
2004 <u>2005</u>	24%	1.334 <u>1.251</u>	32 <u>30</u> %
2003 <u>2004</u> and older	20 <u>21</u> %	1.380 <u>1.345</u>	28%

(a) through (b)(i) remain the same.

(4) This methodology is effective for tax years beginning after December 31, ~~2012~~ 2013.

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-138, 15-6-207, 15-6-219, MCA

42.21.155 DEPRECIATION SCHEDULES (1) remains the same.

(2) The trended depreciation schedules for tax year ~~2013~~ 2014 are listed below. The categories are explained in ARM 42.21.156. The trend factors are derived according to ARM 42.21.156 and 42.21.157.

CATEGORY 1

<u>YEAR NEW/ ACQUIRED</u>	<u>%GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
2012 <u>2013</u>	70%	1.000	70%
2011 <u>2012</u>	45%	0.946 <u>0.953</u>	41 <u>43</u> %
2010 <u>2011</u>	20%	0.843 <u>0.879</u>	17 <u>18</u> %
2009 <u>2010</u> and older	10%	0.843 <u>0.808</u>	8%

CATEGORY 2

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
2012 <u>2013</u>	85%	1.000	85%
2011 <u>2012</u>	69%	1.043 <u>0.962</u>	70 <u>66</u> %
2010 <u>2011</u>	52%	1.018 <u>0.975</u>	53 <u>51</u> %
2009 <u>2010</u>	34%	0.974 <u>0.979</u>	33%
2008 <u>2009</u> and older	20 <u>23</u> %	1.053 <u>0.937</u>	24 <u>22</u> %

CATEGORY 3

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
2012 <u>2013</u>	85%	1.000	85%
2011 <u>2012</u>	69%	0.974 <u>0.987</u>	67 <u>68</u> %
2010 <u>2011</u>	52%	0.937 <u>0.959</u>	49 <u>50</u> %
2009 <u>2010</u>	34%	0.920 <u>0.925</u>	31%
2008 <u>2009</u> and older	20 <u>23</u> %	0.889 <u>0.909</u>	18 <u>21</u> %

CATEGORY 4

<u>YEAR NEW/ ACQUIRED</u>	<u>% GOOD</u>	<u>TREND FACTOR</u>	<u>TRENDED % GOOD</u>
2012 <u>2013</u>	85%	1.000	85%
2011 <u>2012</u>	69%	0.997 <u>0.999</u>	69%
2010 <u>2011</u>	52%	0.984 <u>0.995</u>	54 <u>52</u> %
2009 <u>2010</u>	34%	0.973 <u>0.983</u>	33%

2008 2009 and
older

~~20~~ 23%

~~0.964~~ 0.972

~~19~~ 22%

CATEGORY 5

YEAR NEW/
ACQUIRED
2012 2013
2011 2012
2010 2011
2009 2010
2008 2009 and
older

% GOOD

TREND
FACTOR

TRENDED
% GOOD

85%

1.000

85%

69%

~~1.030~~ 1.011

~~71~~ 70%

52%

~~1.039~~ 1.042

54%

34%

~~1.044~~ 1.051

36%

~~20~~ 23%

~~1.090~~ 1.056

~~22~~ 24%

CATEGORY 6

YEAR NEW/
ACQUIRED
2012 2013
2011 2012
2010 2011
2009 2010
2008 2009 and
older

% GOOD

TREND
FACTOR

TRENDED
% GOOD

85%

1.000

85%

69%

~~1.023~~ 1.016

~~71~~ 70%

52%

~~1.058~~ 1.044

~~55~~ 54%

34%

~~1.078~~ 1.080

37%

~~20~~ 23%

~~1.082~~ 1.100

~~22~~ 25%

CATEGORY 7

YEAR NEW/
ACQUIRED
2012 2013
2011 2012
2010 2011
2009 2010
2008 2009
2007 2008
2006 2007
2005 2006
2004 2005
2003 2004 and
older

% GOOD

TREND
FACTOR

TRENDED
% GOOD

92%

1.000

92%

84%

~~1.030~~ 1.017

~~87~~ 85%

76%

1.047

80%

67%

~~1.041~~ 1.064

~~70~~ 71%

58%

~~1.074~~ 1.058

~~62~~ 61%

49%

~~1.093~~ 1.092

~~54~~ 53%

39%

~~1.117~~ 1.111

~~44~~ 43%

30%

~~1.151~~ 1.135

~~35~~ 34%

24%

~~1.181~~ 1.170

28%

~~20~~ 21%

~~1.186~~ 1.201

~~24~~ 25%

CATEGORY 8

YEAR NEW/
ACQUIRED
2012 2013
2011 2012

% GOOD

TREND
FACTOR

TRENDED
% GOOD

92%

1.000

92%

84%

~~1.029~~ 1.004

~~86~~ 84%

<u>2010</u> <u>2011</u>	76%	<u>1.039</u> <u>1.033</u>	<u>79</u> <u>78%</u>
<u>2009</u> <u>2010</u>	67%	1.043	70%
<u>2008</u> <u>2009</u>	58%	<u>1.109</u> <u>1.047</u>	<u>64</u> <u>61%</u>
<u>2007</u> <u>2008</u>	49%	<u>1.133</u> <u>1.114</u>	<u>56</u> <u>55%</u>
<u>2006</u> <u>2007</u>	39%	<u>1.165</u> <u>1.138</u>	<u>45</u> <u>44%</u>
<u>2005</u> <u>2006</u>	30%	<u>1.203</u> <u>1.170</u>	<u>36</u> <u>35%</u>
<u>2004</u> <u>2005</u>	24%	<u>1.249</u> <u>1.208</u>	<u>30</u> <u>29%</u>
<u>2003</u> <u>2004</u> and older	<u>20</u> <u>21%</u>	<u>1.259</u> <u>1.254</u>	<u>25</u> <u>26%</u>

(3) This rule is effective for tax years beginning after December 31, 2012 2013.

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-138, 15-6-207, 15-6-219, MCA

42.22.1311 INDUSTRIAL MACHINERY AND EQUIPMENT TREND

FACTORS (1) and (2) remain the same.

(3) Tables 1 through 32 represent the yearly trend factors for each of the categories.

<u>YEAR</u>	<u>TABLE 1</u> <u>Airplane Mfg.</u>	<u>TABLE 2</u> <u>Baking</u>	<u>TABLE 3</u> <u>Bottling</u>	<u>TABLE 4</u> <u>Brew/Dis.</u>	<u>TABLE 5</u> <u>Candy Confect.</u>
2012	1.000	1.000	1.000	1.000	1.000
2011	1.029	1.027	1.027	1.025	1.027
2010	1.068	1.060	1.060	1.053	1.060
2009	1.050	1.052	1.050	1.047	1.054
2008	1.080	1.078	1.077	1.077	1.079
2007	1.124	1.121	1.125	1.125	1.123
2006	1.187	1.201	1.192	1.192	1.205
2005	1.248	1.256	1.254	1.253	1.260
2004	1.352	1.351	1.359	1.354	1.355
2003	1.403	1.402	1.409	1.400	1.403
2002	1.429	1.426	1.434	1.425	1.427
2001	1.434	1.435	1.441	1.434	1.436
2000	1.444	1.451	1.454	1.450	1.453
1999	1.470	1.480	1.482	1.477	1.482
1998	1.472	1.485	1.485	1.485	1.487
1997	1.483	1.500	1.496	1.499	1.503
1996	1.501	1.526	1.519	1.524	1.530
1995	1.522	1.549	1.542	1.552	1.554
1994	1.582	1.612	1.603	1.611	1.618
1993	1.623	1.662	1.646	1.649	1.668
<u>2013</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>
<u>2012</u>	<u>1.000</u>	<u>1.008</u>	<u>1.004</u>	<u>1.008</u>	<u>1.008</u>
<u>2011</u>	<u>1.030</u>	<u>1.036</u>	<u>1.032</u>	<u>1.034</u>	<u>1.037</u>

<u>2010</u>	<u>1.068</u>	<u>1.070</u>	<u>1.065</u>	<u>1.063</u>	<u>1.070</u>
<u>2009</u>	<u>1.051</u>	<u>1.062</u>	<u>1.055</u>	<u>1.057</u>	<u>1.064</u>
<u>2008</u>	<u>1.081</u>	<u>1.088</u>	<u>1.083</u>	<u>1.087</u>	<u>1.089</u>
<u>2007</u>	<u>1.125</u>	<u>1.132</u>	<u>1.130</u>	<u>1.135</u>	<u>1.133</u>
<u>2006</u>	<u>1.187</u>	<u>1.212</u>	<u>1.198</u>	<u>1.203</u>	<u>1.217</u>
<u>2005</u>	<u>1.249</u>	<u>1.268</u>	<u>1.260</u>	<u>1.264</u>	<u>1.272</u>
<u>2004</u>	<u>1.352</u>	<u>1.363</u>	<u>1.366</u>	<u>1.366</u>	<u>1.367</u>
<u>2003</u>	<u>1.404</u>	<u>1.415</u>	<u>1.416</u>	<u>1.413</u>	<u>1.417</u>
<u>2002</u>	<u>1.429</u>	<u>1.439</u>	<u>1.442</u>	<u>1.438</u>	<u>1.441</u>
<u>2001</u>	<u>1.434</u>	<u>1.448</u>	<u>1.449</u>	<u>1.447</u>	<u>1.450</u>
<u>2000</u>	<u>1.444</u>	<u>1.464</u>	<u>1.461</u>	<u>1.463</u>	<u>1.467</u>
<u>1999</u>	<u>1.471</u>	<u>1.494</u>	<u>1.489</u>	<u>1.490</u>	<u>1.496</u>
<u>1998</u>	<u>1.472</u>	<u>1.499</u>	<u>1.492</u>	<u>1.498</u>	<u>1.501</u>
<u>1997</u>	<u>1.484</u>	<u>1.514</u>	<u>1.504</u>	<u>1.513</u>	<u>1.517</u>
<u>1996</u>	<u>1.502</u>	<u>1.540</u>	<u>1.527</u>	<u>1.538</u>	<u>1.545</u>
<u>1995</u>	<u>1.522</u>	<u>1.563</u>	<u>1.550</u>	<u>1.567</u>	<u>1.569</u>
<u>1994</u>	<u>1.583</u>	<u>1.627</u>	<u>1.611</u>	<u>1.626</u>	<u>1.634</u>

<u>YEAR</u>	<u>TABLE 6</u> <u>Cement Mfg.</u>	<u>TABLE 7</u> <u>Chemical Mfg.</u>	<u>TABLE 8</u> <u>Clay Mfg.</u>	<u>TABLE 9</u> <u>Contractor Eq.</u>	<u>TABLE 10</u> <u>Creamery/Dairy</u>
<u>2012</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>
<u>2011</u>	<u>1.032</u>	<u>1.026</u>	<u>1.030</u>	<u>1.030</u>	<u>1.026</u>
<u>2010</u>	<u>1.061</u>	<u>1.054</u>	<u>1.061</u>	<u>1.060</u>	<u>1.059</u>
<u>2009</u>	<u>1.047</u>	<u>1.039</u>	<u>1.053</u>	<u>1.056</u>	<u>1.055</u>
<u>2008</u>	<u>1.095</u>	<u>1.076</u>	<u>1.102</u>	<u>1.087</u>	<u>1.078</u>
<u>2007</u>	<u>1.143</u>	<u>1.124</u>	<u>1.149</u>	<u>1.122</u>	<u>1.124</u>
<u>2006</u>	<u>1.203</u>	<u>1.191</u>	<u>1.211</u>	<u>1.161</u>	<u>1.203</u>
<u>2005</u>	<u>1.263</u>	<u>1.251</u>	<u>1.268</u>	<u>1.214</u>	<u>1.263</u>
<u>2004</u>	<u>1.373</u>	<u>1.357</u>	<u>1.369</u>	<u>1.296</u>	<u>1.359</u>
<u>2003</u>	<u>1.427</u>	<u>1.404</u>	<u>1.418</u>	<u>1.334</u>	<u>1.406</u>
<u>2002</u>	<u>1.456</u>	<u>1.433</u>	<u>1.446</u>	<u>1.355</u>	<u>1.429</u>
<u>2001</u>	<u>1.465</u>	<u>1.441</u>	<u>1.456</u>	<u>1.365</u>	<u>1.439</u>
<u>2000</u>	<u>1.480</u>	<u>1.454</u>	<u>1.472</u>	<u>1.373</u>	<u>1.455</u>
<u>1999</u>	<u>1.504</u>	<u>1.478</u>	<u>1.497</u>	<u>1.397</u>	<u>1.484</u>
<u>1998</u>	<u>1.511</u>	<u>1.485</u>	<u>1.502</u>	<u>1.409</u>	<u>1.490</u>
<u>1997</u>	<u>1.527</u>	<u>1.501</u>	<u>1.518</u>	<u>1.425</u>	<u>1.505</u>
<u>1996</u>	<u>1.546</u>	<u>1.520</u>	<u>1.541</u>	<u>1.453</u>	<u>1.531</u>
<u>1995</u>	<u>1.574</u>	<u>1.549</u>	<u>1.571</u>	<u>1.476</u>	<u>1.558</u>
<u>1994</u>	<u>1.630</u>	<u>1.607</u>	<u>1.625</u>	<u>1.517</u>	<u>1.623</u>
<u>1993</u>	<u>1.666</u>	<u>1.639</u>	<u>1.663</u>	<u>1.555</u>	<u>1.667</u>
<u>2013</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>
<u>2012</u>	<u>1.009</u>	<u>1.001</u>	<u>1.010</u>	<u>1.017</u>	<u>1.008</u>
<u>2011</u>	<u>1.044</u>	<u>1.029</u>	<u>1.043</u>	<u>1.051</u>	<u>1.036</u>
<u>2010</u>	<u>1.073</u>	<u>1.056</u>	<u>1.074</u>	<u>1.081</u>	<u>1.069</u>
<u>2009</u>	<u>1.059</u>	<u>1.042</u>	<u>1.066</u>	<u>1.077</u>	<u>1.065</u>
<u>2008</u>	<u>1.107</u>	<u>1.078</u>	<u>1.115</u>	<u>1.109</u>	<u>1.089</u>

<u>2007</u>	<u>1.156</u>	<u>1.127</u>	<u>1.163</u>	<u>1.144</u>	<u>1.135</u>
<u>2006</u>	<u>1.217</u>	<u>1.193</u>	<u>1.225</u>	<u>1.184</u>	<u>1.215</u>
<u>2005</u>	<u>1.277</u>	<u>1.254</u>	<u>1.284</u>	<u>1.238</u>	<u>1.275</u>
<u>2004</u>	<u>1.388</u>	<u>1.360</u>	<u>1.386</u>	<u>1.322</u>	<u>1.372</u>
<u>2003</u>	<u>1.443</u>	<u>1.408</u>	<u>1.436</u>	<u>1.360</u>	<u>1.420</u>
<u>2002</u>	<u>1.473</u>	<u>1.436</u>	<u>1.464</u>	<u>1.382</u>	<u>1.443</u>
<u>2001</u>	<u>1.482</u>	<u>1.444</u>	<u>1.474</u>	<u>1.393</u>	<u>1.453</u>
<u>2000</u>	<u>1.496</u>	<u>1.458</u>	<u>1.490</u>	<u>1.401</u>	<u>1.469</u>
<u>1999</u>	<u>1.521</u>	<u>1.481</u>	<u>1.515</u>	<u>1.425</u>	<u>1.499</u>
<u>1998</u>	<u>1.528</u>	<u>1.489</u>	<u>1.520</u>	<u>1.437</u>	<u>1.505</u>
<u>1997</u>	<u>1.543</u>	<u>1.504</u>	<u>1.536</u>	<u>1.453</u>	<u>1.520</u>
<u>1996</u>	<u>1.563</u>	<u>1.523</u>	<u>1.560</u>	<u>1.481</u>	<u>1.546</u>
<u>1995</u>	<u>1.592</u>	<u>1.553</u>	<u>1.590</u>	<u>1.506</u>	<u>1.573</u>
<u>1994</u>	<u>1.648</u>	<u>1.610</u>	<u>1.645</u>	<u>1.547</u>	<u>1.639</u>

<u>YEAR</u>	<u>TABLE 11</u> <u>Elec. Pwr.</u> <u>Eq.</u>	<u>TABLE 12</u> <u>Elec. Eq.</u> <u>Mfg.</u>	<u>TABLE 13</u> <u>Cannery/Fish</u>	<u>TABLE 14</u> <u>Flour, Cer.</u> <u>Feed</u>	<u>TABLE 15</u> <u>Cannery/Fruit</u>
<u>2012</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>
<u>2011</u>	<u>1.025</u>	<u>1.027</u>	<u>1.028</u>	<u>1.028</u>	<u>1.026</u>
<u>2010</u>	<u>1.081</u>	<u>1.077</u>	<u>1.061</u>	<u>1.061</u>	<u>1.059</u>
<u>2009</u>	<u>1.073</u>	<u>1.063</u>	<u>1.052</u>	<u>1.052</u>	<u>1.055</u>
<u>2008</u>	<u>1.077</u>	<u>1.080</u>	<u>1.080</u>	<u>1.080</u>	<u>1.076</u>
<u>2007</u>	<u>1.136</u>	<u>1.133</u>	<u>1.123</u>	<u>1.126</u>	<u>1.116</u>
<u>2006</u>	<u>1.230</u>	<u>1.212</u>	<u>1.203</u>	<u>1.200</u>	<u>1.189</u>
<u>2005</u>	<u>1.320</u>	<u>1.287</u>	<u>1.258</u>	<u>1.261</u>	<u>1.241</u>
<u>2004</u>	<u>1.444</u>	<u>1.402</u>	<u>1.356</u>	<u>1.361</u>	<u>1.331</u>
<u>2003</u>	<u>1.510</u>	<u>1.462</u>	<u>1.407</u>	<u>1.411</u>	<u>1.380</u>
<u>2002</u>	<u>1.535</u>	<u>1.487</u>	<u>1.432</u>	<u>1.435</u>	<u>1.402</u>
<u>2001</u>	<u>1.529</u>	<u>1.485</u>	<u>1.442</u>	<u>1.443</u>	<u>1.412</u>
<u>2000</u>	<u>1.540</u>	<u>1.496</u>	<u>1.457</u>	<u>1.458</u>	<u>1.427</u>
<u>1999</u>	<u>1.571</u>	<u>1.523</u>	<u>1.487</u>	<u>1.488</u>	<u>1.456</u>
<u>1998</u>	<u>1.563</u>	<u>1.518</u>	<u>1.491</u>	<u>1.494</u>	<u>1.461</u>
<u>1997</u>	<u>1.566</u>	<u>1.525</u>	<u>1.506</u>	<u>1.508</u>	<u>1.475</u>
<u>1996</u>	<u>1.575</u>	<u>1.539</u>	<u>1.534</u>	<u>1.531</u>	<u>1.505</u>
<u>1995</u>	<u>1.588</u>	<u>1.556</u>	<u>1.557</u>	<u>1.555</u>	<u>1.524</u>
<u>1994</u>	<u>1.671</u>	<u>1.631</u>	<u>1.620</u>	<u>1.618</u>	<u>1.582</u>
<u>1993</u>	<u>1.706</u>	<u>1.670</u>	<u>1.673</u>	<u>1.662</u>	<u>1.637</u>
<u>2013</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>
<u>2012</u>	<u>0.990</u>	<u>0.993</u>	<u>1.007</u>	<u>1.007</u>	<u>1.011</u>
<u>2011</u>	<u>1.012</u>	<u>1.019</u>	<u>1.036</u>	<u>1.036</u>	<u>1.039</u>
<u>2010</u>	<u>1.068</u>	<u>1.069</u>	<u>1.070</u>	<u>1.070</u>	<u>1.072</u>
<u>2009</u>	<u>1.060</u>	<u>1.054</u>	<u>1.061</u>	<u>1.061</u>	<u>1.068</u>
<u>2008</u>	<u>1.064</u>	<u>1.072</u>	<u>1.089</u>	<u>1.089</u>	<u>1.089</u>
<u>2007</u>	<u>1.122</u>	<u>1.124</u>	<u>1.133</u>	<u>1.136</u>	<u>1.130</u>
<u>2006</u>	<u>1.215</u>	<u>1.203</u>	<u>1.213</u>	<u>1.210</u>	<u>1.204</u>

<u>2005</u>	<u>1.303</u>	<u>1.277</u>	<u>1.268</u>	<u>1.272</u>	<u>1.256</u>
<u>2004</u>	<u>1.426</u>	<u>1.391</u>	<u>1.367</u>	<u>1.373</u>	<u>1.347</u>
<u>2003</u>	<u>1.491</u>	<u>1.450</u>	<u>1.419</u>	<u>1.423</u>	<u>1.397</u>
<u>2002</u>	<u>1.516</u>	<u>1.475</u>	<u>1.445</u>	<u>1.447</u>	<u>1.419</u>
<u>2001</u>	<u>1.510</u>	<u>1.473</u>	<u>1.454</u>	<u>1.455</u>	<u>1.430</u>
<u>2000</u>	<u>1.521</u>	<u>1.484</u>	<u>1.470</u>	<u>1.471</u>	<u>1.444</u>
<u>1999</u>	<u>1.551</u>	<u>1.511</u>	<u>1.499</u>	<u>1.500</u>	<u>1.474</u>
<u>1998</u>	<u>1.544</u>	<u>1.506</u>	<u>1.504</u>	<u>1.507</u>	<u>1.479</u>
<u>1997</u>	<u>1.547</u>	<u>1.512</u>	<u>1.519</u>	<u>1.521</u>	<u>1.493</u>
<u>1996</u>	<u>1.555</u>	<u>1.526</u>	<u>1.547</u>	<u>1.544</u>	<u>1.523</u>
<u>1995</u>	<u>1.568</u>	<u>1.544</u>	<u>1.570</u>	<u>1.569</u>	<u>1.543</u>
<u>1994</u>	<u>1.651</u>	<u>1.618</u>	<u>1.634</u>	<u>1.632</u>	<u>1.602</u>

<u>YEAR</u>	<u>TABLE 16</u> <u>Packing/</u> <u>Fruit</u>	<u>TABLE 17</u> <u>Laundry/</u> <u>Clean</u>	<u>TABLE 18</u> <u>Logging Eq.</u>	<u>TABLE 19</u> <u>Packing/</u> <u>Meat</u>	<u>TABLE 20</u> <u>Metal</u> <u>Work</u>
2012	1.000	1.000	1.000	1.000	1.000
2011	1.026	1.028	1.029	1.028	1.030
2010	1.056	1.061	1.058	1.058	1.066
2009	1.056	1.051	1.044	1.053	1.045
2008	1.076	1.087	1.078	1.087	1.084
2007	1.114	1.132	1.116	1.129	1.126
2006	1.166	1.193	1.163	1.203	1.189
2005	1.214	1.247	1.215	1.255	1.241
2004	1.296	1.345	1.306	1.345	1.339
2003	1.341	1.394	1.352	1.390	1.382
2002	1.361	1.419	1.373	1.414	1.405
2001	1.373	1.427	1.382	1.425	1.407
2000	1.384	1.439	1.390	1.440	1.417
1999	1.414	1.466	1.415	1.467	1.436
1998	1.420	1.469	1.420	1.475	1.436
1997	1.432	1.480	1.432	1.491	1.450
1996	1.465	1.504	1.455	1.518	1.468
1995	1.483	1.527	1.475	1.544	1.494
1994	1.530	1.583	1.522	1.602	1.552
1993	1.586	1.625	1.565	1.650	1.591
<u>2013</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>
<u>2012</u>	<u>1.017</u>	<u>1.006</u>	<u>1.009</u>	<u>1.010</u>	<u>1.029</u>
<u>2011</u>	<u>1.045</u>	<u>1.035</u>	<u>1.039</u>	<u>1.039</u>	<u>1.065</u>
<u>2010</u>	<u>1.076</u>	<u>1.069</u>	<u>1.069</u>	<u>1.070</u>	<u>1.044</u>
<u>2009</u>	<u>1.075</u>	<u>1.059</u>	<u>1.054</u>	<u>1.065</u>	<u>1.083</u>
<u>2008</u>	<u>1.097</u>	<u>1.095</u>	<u>1.089</u>	<u>1.099</u>	<u>1.125</u>
<u>2007</u>	<u>1.135</u>	<u>1.140</u>	<u>1.128</u>	<u>1.142</u>	<u>1.188</u>
<u>2006</u>	<u>1.188</u>	<u>1.202</u>	<u>1.175</u>	<u>1.217</u>	<u>1.240</u>
<u>2005</u>	<u>1.237</u>	<u>1.256</u>	<u>1.227</u>	<u>1.269</u>	<u>1.338</u>
<u>2004</u>	<u>1.321</u>	<u>1.355</u>	<u>1.319</u>	<u>1.360</u>	<u>1.381</u>

<u>2003</u>	<u>1.366</u>	<u>1.404</u>	<u>1.366</u>	<u>1.406</u>	<u>1.403</u>
<u>2002</u>	<u>1.387</u>	<u>1.430</u>	<u>1.387</u>	<u>1.430</u>	<u>1.406</u>
<u>2001</u>	<u>1.399</u>	<u>1.438</u>	<u>1.396</u>	<u>1.441</u>	<u>1.415</u>
<u>2000</u>	<u>1.410</u>	<u>1.450</u>	<u>1.404</u>	<u>1.457</u>	<u>1.435</u>
<u>1999</u>	<u>1.441</u>	<u>1.477</u>	<u>1.429</u>	<u>1.484</u>	<u>1.435</u>
<u>1998</u>	<u>1.447</u>	<u>1.480</u>	<u>1.435</u>	<u>1.491</u>	<u>1.448</u>
<u>1997</u>	<u>1.459</u>	<u>1.491</u>	<u>1.447</u>	<u>1.508</u>	<u>1.467</u>
<u>1996</u>	<u>1.493</u>	<u>1.515</u>	<u>1.469</u>	<u>1.535</u>	<u>1.493</u>
<u>1995</u>	<u>1.512</u>	<u>1.539</u>	<u>1.490</u>	<u>1.562</u>	<u>1.550</u>
<u>1994</u>	<u>1.559</u>	<u>1.594</u>	<u>1.538</u>	<u>1.621</u>	<u>1.590</u>

<u>YEAR</u>	<u>TABLE 21</u>	<u>TABLE 22</u>	<u>TABLE 23</u>	<u>TABLE 24</u>	<u>TABLE 25</u>
	<u>Mine</u>	<u>Paint</u>			<u>Paper</u>
	<u>Mill</u>	<u>Mfg.</u>	<u>Petroleum</u>	<u>Printing</u>	<u>Mfg.</u>
<u>2012</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>
<u>2011</u>	<u>1.041</u>	<u>1.029</u>	<u>1.028</u>	<u>1.026</u>	<u>1.028</u>
<u>2010</u>	<u>1.075</u>	<u>1.063</u>	<u>1.054</u>	<u>1.058</u>	<u>1.061</u>
<u>2009</u>	<u>1.074</u>	<u>1.051</u>	<u>1.037</u>	<u>1.047</u>	<u>1.050</u>
<u>2008</u>	<u>1.123</u>	<u>1.087</u>	<u>1.080</u>	<u>1.070</u>	<u>1.084</u>
<u>2007</u>	<u>1.170</u>	<u>1.135</u>	<u>1.134</u>	<u>1.108</u>	<u>1.127</u>
<u>2006</u>	<u>1.222</u>	<u>1.201</u>	<u>1.206</u>	<u>1.169</u>	<u>1.184</u>
<u>2005</u>	<u>1.281</u>	<u>1.261</u>	<u>1.277</u>	<u>1.216</u>	<u>1.238</u>
<u>2004</u>	<u>1.389</u>	<u>1.368</u>	<u>1.387</u>	<u>1.296</u>	<u>1.342</u>
<u>2003</u>	<u>1.442</u>	<u>1.420</u>	<u>1.436</u>	<u>1.334</u>	<u>1.394</u>
<u>2002</u>	<u>1.470</u>	<u>1.449</u>	<u>1.465</u>	<u>1.356</u>	<u>1.420</u>
<u>2001</u>	<u>1.487</u>	<u>1.457</u>	<u>1.480</u>	<u>1.357</u>	<u>1.432</u>
<u>2000</u>	<u>1.498</u>	<u>1.471</u>	<u>1.498</u>	<u>1.369</u>	<u>1.441</u>
<u>1999</u>	<u>1.523</u>	<u>1.498</u>	<u>1.519</u>	<u>1.388</u>	<u>1.470</u>
<u>1998</u>	<u>1.530</u>	<u>1.503</u>	<u>1.527</u>	<u>1.389</u>	<u>1.474</u>
<u>1997</u>	<u>1.546</u>	<u>1.517</u>	<u>1.548</u>	<u>1.397</u>	<u>1.486</u>
<u>1996</u>	<u>1.571</u>	<u>1.540</u>	<u>1.573</u>	<u>1.419</u>	<u>1.516</u>
<u>1995</u>	<u>1.597</u>	<u>1.567</u>	<u>1.605</u>	<u>1.440</u>	<u>1.537</u>
<u>1994</u>	<u>1.646</u>	<u>1.628</u>	<u>1.664</u>	<u>1.494</u>	<u>1.589</u>
<u>1993</u>	<u>1.691</u>	<u>1.668</u>	<u>1.698</u>	<u>1.530</u>	<u>1.637</u>
<u>2013</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>
<u>2012</u>	<u>1.017</u>	<u>1.004</u>	<u>1.006</u>	<u>1.003</u>	<u>1.008</u>
<u>2011</u>	<u>1.062</u>	<u>1.035</u>	<u>1.036</u>	<u>1.030</u>	<u>1.038</u>
<u>2010</u>	<u>1.096</u>	<u>1.069</u>	<u>1.063</u>	<u>1.061</u>	<u>1.072</u>
<u>2009</u>	<u>1.095</u>	<u>1.056</u>	<u>1.046</u>	<u>1.051</u>	<u>1.060</u>
<u>2008</u>	<u>1.145</u>	<u>1.093</u>	<u>1.089</u>	<u>1.074</u>	<u>1.094</u>
<u>2007</u>	<u>1.194</u>	<u>1.141</u>	<u>1.143</u>	<u>1.112</u>	<u>1.138</u>
<u>2006</u>	<u>1.246</u>	<u>1.208</u>	<u>1.215</u>	<u>1.173</u>	<u>1.196</u>
<u>2005</u>	<u>1.307</u>	<u>1.268</u>	<u>1.287</u>	<u>1.220</u>	<u>1.250</u>
<u>2004</u>	<u>1.417</u>	<u>1.375</u>	<u>1.398</u>	<u>1.301</u>	<u>1.355</u>
<u>2003</u>	<u>1.471</u>	<u>1.427</u>	<u>1.448</u>	<u>1.338</u>	<u>1.407</u>
<u>2002</u>	<u>1.499</u>	<u>1.456</u>	<u>1.476</u>	<u>1.360</u>	<u>1.434</u>

<u>2001</u>	<u>1.517</u>	<u>1.465</u>	<u>1.491</u>	<u>1.362</u>	<u>1.446</u>
<u>2000</u>	<u>1.528</u>	<u>1.478</u>	<u>1.510</u>	<u>1.373</u>	<u>1.455</u>
<u>1999</u>	<u>1.553</u>	<u>1.506</u>	<u>1.532</u>	<u>1.392</u>	<u>1.484</u>
<u>1998</u>	<u>1.560</u>	<u>1.510</u>	<u>1.539</u>	<u>1.394</u>	<u>1.488</u>
<u>1997</u>	<u>1.577</u>	<u>1.525</u>	<u>1.560</u>	<u>1.401</u>	<u>1.501</u>
<u>1996</u>	<u>1.603</u>	<u>1.548</u>	<u>1.586</u>	<u>1.424</u>	<u>1.531</u>
<u>1995</u>	<u>1.628</u>	<u>1.575</u>	<u>1.618</u>	<u>1.445</u>	<u>1.551</u>
<u>1994</u>	<u>1.679</u>	<u>1.636</u>	<u>1.677</u>	<u>1.499</u>	<u>1.604</u>

<u>YEAR</u>	<u>TABLE 26</u>	<u>TABLE 27</u>	<u>TABLE 28</u>	<u>TABLE 29</u>	<u>TABLE 30</u>
	<u>Refrigeration</u>	<u>Rubber</u>	<u>Steam</u> <u>Power</u>	<u>Textile</u>	<u>Warehousing</u>
<u>2012</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>
<u>2011</u>	<u>1.029</u>	<u>1.026</u>	<u>1.028</u>	<u>1.025</u>	<u>1.027</u>
<u>2010</u>	<u>1.064</u>	<u>1.056</u>	<u>1.065</u>	<u>1.050</u>	<u>1.057</u>
<u>2009</u>	<u>1.057</u>	<u>1.041</u>	<u>1.055</u>	<u>1.036</u>	<u>1.050</u>
<u>2008</u>	<u>1.093</u>	<u>1.078</u>	<u>1.091</u>	<u>1.068</u>	<u>1.083</u>
<u>2007</u>	<u>1.140</u>	<u>1.121</u>	<u>1.143</u>	<u>1.105</u>	<u>1.122</u>
<u>2006</u>	<u>1.207</u>	<u>1.181</u>	<u>1.220</u>	<u>1.152</u>	<u>1.163</u>
<u>2005</u>	<u>1.265</u>	<u>1.230</u>	<u>1.285</u>	<u>1.196</u>	<u>1.203</u>
<u>2004</u>	<u>1.364</u>	<u>1.319</u>	<u>1.400</u>	<u>1.280</u>	<u>1.288</u>
<u>2003</u>	<u>1.413</u>	<u>1.365</u>	<u>1.452</u>	<u>1.317</u>	<u>1.333</u>
<u>2002</u>	<u>1.442</u>	<u>1.393</u>	<u>1.481</u>	<u>1.336</u>	<u>1.348</u>
<u>2001</u>	<u>1.454</u>	<u>1.397</u>	<u>1.486</u>	<u>1.342</u>	<u>1.353</u>
<u>2000</u>	<u>1.467</u>	<u>1.409</u>	<u>1.499</u>	<u>1.353</u>	<u>1.361</u>
<u>1999</u>	<u>1.496</u>	<u>1.430</u>	<u>1.522</u>	<u>1.373</u>	<u>1.386</u>
<u>1998</u>	<u>1.502</u>	<u>1.436</u>	<u>1.523</u>	<u>1.375</u>	<u>1.388</u>
<u>1997</u>	<u>1.517</u>	<u>1.452</u>	<u>1.534</u>	<u>1.386</u>	<u>1.393</u>
<u>1996</u>	<u>1.542</u>	<u>1.472</u>	<u>1.550</u>	<u>1.410</u>	<u>1.415</u>
<u>1995</u>	<u>1.569</u>	<u>1.500</u>	<u>1.576</u>	<u>1.429</u>	<u>1.428</u>
<u>1994</u>	<u>1.628</u>	<u>1.552</u>	<u>1.638</u>	<u>1.473</u>	<u>1.468</u>
<u>1993</u>	<u>1.671</u>	<u>1.589</u>	<u>1.673</u>	<u>1.511</u>	<u>1.517</u>
<u>2013</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>
<u>2012</u>	<u>1.005</u>	<u>1.000</u>	<u>1.000</u>	<u>1.005</u>	<u>1.014</u>
<u>2011</u>	<u>1.036</u>	<u>1.027</u>	<u>1.028</u>	<u>1.030</u>	<u>1.044</u>
<u>2010</u>	<u>1.071</u>	<u>1.057</u>	<u>1.065</u>	<u>1.056</u>	<u>1.074</u>
<u>2009</u>	<u>1.064</u>	<u>1.041</u>	<u>1.055</u>	<u>1.042</u>	<u>1.067</u>
<u>2008</u>	<u>1.100</u>	<u>1.079</u>	<u>1.091</u>	<u>1.073</u>	<u>1.101</u>
<u>2007</u>	<u>1.148</u>	<u>1.121</u>	<u>1.143</u>	<u>1.111</u>	<u>1.140</u>
<u>2006</u>	<u>1.215</u>	<u>1.182</u>	<u>1.220</u>	<u>1.158</u>	<u>1.182</u>
<u>2005</u>	<u>1.273</u>	<u>1.231</u>	<u>1.285</u>	<u>1.202</u>	<u>1.223</u>
<u>2004</u>	<u>1.373</u>	<u>1.320</u>	<u>1.400</u>	<u>1.287</u>	<u>1.309</u>
<u>2003</u>	<u>1.422</u>	<u>1.366</u>	<u>1.452</u>	<u>1.324</u>	<u>1.354</u>
<u>2002</u>	<u>1.451</u>	<u>1.394</u>	<u>1.481</u>	<u>1.343</u>	<u>1.370</u>
<u>2001</u>	<u>1.463</u>	<u>1.398</u>	<u>1.487</u>	<u>1.349</u>	<u>1.375</u>
<u>2000</u>	<u>1.477</u>	<u>1.410</u>	<u>1.499</u>	<u>1.360</u>	<u>1.383</u>

<u>1999</u>	<u>1.506</u>	<u>1.431</u>	<u>1.522</u>	<u>1.380</u>	<u>1.409</u>
<u>1998</u>	<u>1.512</u>	<u>1.437</u>	<u>1.523</u>	<u>1.382</u>	<u>1.410</u>
<u>1997</u>	<u>1.527</u>	<u>1.453</u>	<u>1.534</u>	<u>1.394</u>	<u>1.415</u>
<u>1996</u>	<u>1.552</u>	<u>1.473</u>	<u>1.550</u>	<u>1.418</u>	<u>1.438</u>
<u>1995</u>	<u>1.579</u>	<u>1.501</u>	<u>1.576</u>	<u>1.437</u>	<u>1.451</u>
<u>1994</u>	<u>1.638</u>	<u>1.553</u>	<u>1.638</u>	<u>1.480</u>	<u>1.492</u>

<u>YEAR</u>	<u>TABLE 31</u> <u>Woodworking</u>	<u>TABLE 32</u> <u>Glass Mfg.</u>
2012	1.000	1.000
2011	1.025	1.029
2010	1.056	1.064
2009	1.048	1.053
2008	1.073	1.087
2007	1.108	1.138
2006	1.152	1.205
2005	1.195	1.270
2004	1.277	1.382
2003	1.316	1.437
2002	1.336	1.465
2001	1.348	1.473
2000	1.349	1.487
1999	1.372	1.515
1998	1.374	1.519
1997	1.380	1.531
1996	1.414	1.551
1995	1.429	1.578
1994	1.470	1.642
1993	1.520	1.679
<u>2013</u>	<u>1.000</u>	<u>1.000</u>
<u>2012</u>	<u>1.015</u>	<u>1.005</u>
<u>2011</u>	<u>1.042</u>	<u>1.035</u>
<u>2010</u>	<u>1.074</u>	<u>1.071</u>
<u>2009</u>	<u>1.066</u>	<u>1.059</u>
<u>2008</u>	<u>1.091</u>	<u>1.094</u>
<u>2007</u>	<u>1.126</u>	<u>1.145</u>
<u>2006</u>	<u>1.172</u>	<u>1.213</u>
<u>2005</u>	<u>1.216</u>	<u>1.279</u>
<u>2004</u>	<u>1.298</u>	<u>1.391</u>
<u>2003</u>	<u>1.338</u>	<u>1.446</u>
<u>2002</u>	<u>1.358</u>	<u>1.475</u>
<u>2001</u>	<u>1.371</u>	<u>1.482</u>
<u>2000</u>	<u>1.372</u>	<u>1.497</u>
<u>1999</u>	<u>1.395</u>	<u>1.525</u>
<u>1998</u>	<u>1.397</u>	<u>1.528</u>
<u>1997</u>	<u>1.403</u>	<u>1.541</u>

<u>1996</u>	<u>1.438</u>	<u>1.561</u>
<u>1995</u>	<u>1.453</u>	<u>1.588</u>
<u>1994</u>	<u>1.494</u>	<u>1.652</u>

AUTH: 15-1-201, MCA

IMP: 15-6-138, 15-8-111, MCA

5. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to: Laurie Logan, Department of Revenue, Director's Office, PO Box 7701, Helena, Montana 59604-7701; telephone 406.444.7905; fax 406.444.3696; or e-mail lalogan@mt.gov and must be received no later than November 29, 2013.

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

7. An electronic copy of this notice is available on the department's web site at revenue.mt.gov. It can be found by selecting the "Administrative Rules" link in the left hand column of the homepage under the "Public Meetings" 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.

8. 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 notice regarding particular subject matter or matters. Notices will be sent by e-mail unless a mailing preference is noted in the request. A written request may be mailed or delivered to the person in 5 above or faxed to the office at 406.444.3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

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

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the proposed amendments to the rules contained in this notice will not significantly or directly impact small businesses, as set forth in 3 above.

/s/ Laurie Logan

LAURIE LOGAN

Rule Reviewer

Certified to Secretary of State October 21, 2013

/s/ Mike Kadas

MIKE KADAS

Director of Revenue

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF AMENDMENT AND
ARM 24.17.107 and 24.17.121 and	)	ADOPTION
the adoption of NEW RULES I)	
through III pertaining to prevailing)	
wage rates and districts for public)	
works projects)	

TO: All Concerned Persons

1. On August 22, 2013, the Department of Labor and Industry published MAR Notice No. 24-17-277 pertaining to the public hearing on the proposed amendment and adoption of the above-stated rules on page 1479 of the 2013 Montana Administrative Register, Issue Number 16.

2. The department has amended ARM 24.17.121 as proposed.

3. The department has adopted the following new rules as proposed: NEW RULE I (24.17.119) and NEW RULE III (24.17.120).

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

24.17.107 PREVAILING WAGE DISTRICTS ESTABLISHED (1) remains as proposed.

(2) The districts are composed of the following counties:

(a) and (b) remain as proposed.

(c) District 3: Blaine, ~~Carbon~~, Cascade, Chouteau, Fergus, Gallatin, Golden Valley, Hill, Judith Basin, Meagher, ~~Musselshell~~, Park, Petroleum, Phillips, ~~Stillwater~~, Sweet Grass, and Wheatland;

(d) District 4: Big Horn, Carbon, Carter, Custer, Daniels, Dawson, Fallon, Garfield, McCone, Musselshell, Powder River, Prairie, Richland, Roosevelt, Rosebud, Sheridan, Stillwater, Treasure, Valley, Wibaux, and Yellowstone.

(3) remains as proposed.

AUTH: 18-2-431, MCA

IMP: 18-2-411, MCA

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

NEW RULE II (24.17.122) ESTABLISHING THE STANDARD PREVAILING RATE OF WAGES AND FRINGE BENEFITS – NONCONSTRUCTION SERVICES

(1) The commissioner shall establish the standard prevailing rate of wages and fringe benefits for the various occupations engaged in nonconstruction services in each district. Although the commissioner establishes wage rates and fringe benefit rates separately, an employer's obligation to pay the "prevailing rate of wages" includes paying the combined value of both wages and fringe benefits, including travel, ~~zone pay~~, and per-diem.

(2) remains as proposed.

(3) Based on survey data collected by the department for each district, the commissioner will compile wage rate information for a given occupation that reflects wage rates actually paid to workers engaged in public works or commercial projects. Wage rates calculated through the survey for each occupation will be established using the following procedure:

(a) If a minimum of 10 or more workers is reported for the occupation within the district and 50 percent or more of those workers receive the same wage, ~~then the higher of that wage or the highest applicable collectively bargained~~ that rate is the prevailing wage rate for that occupation in that district.

(b) If 10 or more workers are reported for the occupation within the district but 50 percent of those workers are not paid the same wage, ~~then the higher of the weighted average wage rate, or the highest applicable collectively bargained~~ rates is the prevailing wage rate for that occupation in that district.

(c) through (f) remain as proposed.

(4) Based on survey data collected by the department for each district, the commissioner will compile fringe benefit information for a given occupation that reflects fringe benefits actually paid to workers engaged in public works or commercial projects. A single fringe benefit rate calculated through the survey for each occupation will be established for bona fide benefits paid or contributed to approved plans, funds, or programs for health insurance, life insurance, pension or retirement, vacations, holidays, and sick leave using the following procedure:

(a) If a minimum of 10 or more workers is reported for the occupation within the district and 50 percent or more of those workers receive the same dollar value of fringe benefits, ~~then the higher of that rate or the highest applicable collectively bargained~~ that rate is the prevailing fringe benefit rate for that occupation in that district.

(b) If 10 or more workers are reported for the occupation within the district but 50 percent of those workers are not paid the same fringe benefit rate, ~~then the higher of the weighted average fringe benefit rate or the highest applicable collectively bargained~~ rate is the prevailing fringe benefit rate for that occupation in that district.

(c) through (7) remain as proposed.

AUTH: 18-2-431, MCA

IMP: 18-2-401, 18-2-402, 18-2-403, 18-2-415, 18-2-419, MCA

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

COMMENT #1: Bill Bentley, Executive Manager, NECA; Marty Wollenburg, Business Manager, IBEW Local 532; and Henry Cellmar, Business Manager, UA Local 30, support the rule changes, but suggest moving Carbon, Musselshell, and Stillwater counties from district 3 to district 4.

RESPONSE #1: The department acknowledges that contractors based out of Billings typically perform the majority of the work in Carbon, Musselshell, and Stillwater counties. The department finds it is reasonable to pay travel/per diem or zone pay, whichever is applicable, from Billings to projects located in these counties rather than from other dispatch points. Therefore, the department determines it is appropriate to move Carbon, Musselshell, and Stillwater counties from district 3 to district 4 and amends ARM 24.17.107 to reflect this change.

COMMENT #2: Keith Allen, Business Manager, IBEW Local 233, supports the creation of five districts instead of four. He also suggests that Carbon, Musselshell, and Stillwater counties be moved to district 4.

RESPONSE #2: The department respects Mr. Allen's position, which favors five districts. However, at the June 13, 2013, meeting of stakeholders, a majority of interested parties in an informal poll voted in favor of four districts. The department determines it is appropriate to move forward with four districts at this time, while removing Carbon, Musselshell, and Stillwater counties from district 3 and designating them to district 4.

COMMENT #3: Mario Martinez, Service Representative, Carpenters Local 82, and Mickey Mulholland, Business Representative, LIUNA 1686 support the proposed rule amendments and new rules, as published.

RESPONSE #3: The department acknowledges the comments.

COMMENT #4: Amy Christensen, representing Boyd Andrew Services, comments that New Rule II implements 18-2-415, MCA, which authorizes the use of collective bargaining agreements to establish a prevailing wage in nonconstruction services only when insufficient data supports the establishment of a prevailing wage on the basis of actual wages paid and not as proposed in New Rule II (3)(a) and (b) and (4)(a) and (b).

RESPONSE #4: Section 18-2-415, MCA, directs how prevailing wages are to be established for nonconstruction services and specifically directs how the department must set the rate when 50% of the workers make the same wage or fringe. The commenter is correct that when the department survey of wages "shows that at least 50% of the workers are receiving the same wage, that wage is the standard prevailing rate of wages for that craft, classification, or type of work." Consequently, the department amends New Rule II to eliminate reference to the wages established by collective bargaining agreements in such circumstances.

COMMENT 5: The McCone County Board of Commissioners ask why the commission was not asked for input on the proposed rule changes. The commissioners note that the prevailing wage rates are the same in McCone County and other outlying counties despite the disparity in wages and generated tax revenue in the different counties. The commissioners stated that the new rules place a financial burden on the taxpayers of McCone County. As an example of this burden, the commissioners point to the construction of a fire hall, which was funded by a community group not obligated to pay prevailing wages. As a result, the commissioners were unable to ensure that all applicable building codes were met during construction. The commissioners suggest having two prevailing wage districts: One district for counties with a taxable value greater than \$20,000,000, and another district for counties with a taxable value less than \$20,000,000.

RESPONSE 5: The department notes that HB 464 was drafted and sponsored by interested parties outside the department, although the department provided technical assistance with the bill. Legislators overwhelmingly supported the passage of HB 464. Because the bill amended statutes the department enforces, the department promulgated the rule changes necessary to implement the statutory changes relating to prevailing wages. The McCone County Commissioners, MACO, and The League of Cities and Towns are listed on the department's interested parties list and were all notified of the proposed rule changes. The department believes that the use of small, informal focus groups during the drafting of rule changes is a reasonably efficient way to help ensure that the changes formally proposed for public comment will probably not need major revision as the result of comments.

The department does not believe that it is consistent with legislative intent to create a "district" that does not have geographically contiguous county borders, as suggested by the commenter. The department believes that had the legislature intended to allow the department to establish rates for noncontiguous counties on the basis of population, taxable value, or some other factor, the legislation would not have spoken in terms of "districts." The department notes that during its informal meeting with interested parties, at least one of the participants proposed noncontiguous districts (based on population). The department expressed the same basic view at that time, and notes that the bill's primary sponsor (who was attending the meeting via telephone) did not voice any disagreement with the department's rejection of the suggestion.

The department also notes that the same counties which were previously in district 9 are still grouped together in new district 4, which the department believes demonstrates that no new inequalities have been created under the proposed rule change.

/s/ MARK CADWALLADER

Mark Cadwallader
Alternate Rule Reviewer

/s/ PAM BUCY

Pam Bucy, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State October 21, 2013.

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,)
24.126.701 inactive status, and)
24.126.2103 and 24.126.2105)
continuing education)

TO: All Concerned Persons

1. On May 23, 2013, the Board of Chiropractors (board) published MAR Notice No. 24-126-33 regarding the public hearing on the proposed amendment of the above-stated rules at page 809 of the 2013 Montana Administrative Register, Issue No. 10.

2. On June 13, 2013, a public hearing was held on the proposed amendment of the above-stated rules in Helena. Several comments were received by the June 21, 2013, deadline.

3. The board has thoroughly considered the comments and testimony received. No comments or testimony were received regarding ARM 24.126.701 or 24.126.2103. One general comment was received as follows:

COMMENT 1: Two commenters stated that the CE requirement for one hour per year in ethics is an unnecessary, cumbersome burden, is cost-prohibitive, and asked the board to reconsider the four credits over four-year requirement.

RESPONSE 1: The board notes that this comment relates to a rule not proposed for change in this notice. The board is therefore unable to address the comment at this time, but may address the concerns in a future discussion or rulemaking project.

4. The board has amended ARM 24.126.701 and 24.126.2103 exactly as proposed.

5. The board is not amending ARM 24.126.301 at this time. The board received numerous thoughtful comments regarding the proposed amendment to the definition of physiotherapy. Following review and consideration of all comments received, and due to concerns raised by commenters and by the board itself, the board has decided to not amend ARM 24.126.301 as proposed at this time, but will continue the discussion on the issue during future public meetings.

6. The board is not amending ARM 24.126.2105 at this time. The board received numerous thoughtful comments regarding the proposed amendment to limit licensees to a maximum of six CE credits from online courses per year. The board

intends to engage in further review and will rework proposed rule language due to concerns and questions raised at the rules hearing and in written comments.

BOARD OF CHIROPRACTORS
SCOTT HANSING, D.C., PRESIDENT

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

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

Certified to the Secretary of State October 21, 2013

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT AND
ARM 24.351.215 license fee) ADOPTION
schedule and the adoption of NEW)
RULE I split weighing allowed)

TO: All Concerned Persons

1. On June 20, 2013, the Department of Labor and Industry (department) published MAR Notice No. 24-351-276 regarding the public hearing on the proposed amendment and adoption of the above-stated rules at page 1004 of the 2013 Montana Administrative Register, Issue No. 12.

2. On July 12, 2013, a public hearing was held on the proposed amendment and adoption of the above-stated rules in Helena. Several comments were received by the July 22, 2013, deadline.

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

ARM 24.351.215 LICENSE FEE SCHEDULE FOR WEIGHING AND MEASURING DEVICES

COMMENT 1: Numerous commenters opposed the meter fee increase in ARM 24.351.215, stating that the meter fees were too high and have increased too much over time. The commenters also asserted that Montana businesses pay more for meter licenses than neighboring and western states, and that scale owners are not paying their fair share. Commenters further stated that because the number of meters rejected is low and more meters give fuel away rather than short the customer, Montana should change to longer inspection intervals.

RESPONSE 1: Following consideration of the public comments and concerns raised by the Legislative Economic Interim Affairs Committee, the department decided to not proceed with the proposed amendments to this rule at this time. The department intends to meet with industry stakeholders to discuss meter testing and fees.

NEW RULE I SPLIT WEIGHING ALLOWED

COMMENT 2: Two commenters opposed split weighing, asserting that split weighing liquids in commercial trade is inaccurate and the rule puts an undue burden on small business. Commenters stated that the rule will lead to many haulers estimating their loads rather than getting an accurate weight, and that scale operators will have to invest in new facilities.

RESPONSE 2: The department notes that split weighing was not a legal method of obtaining a weight for any product that was bought or sold until July 1, 2013, when House Bill 157 became effective. The legislation, codified at 30-12-107, MCA, establishes split weighing and requires the department to adopt rules providing for the implementation and administration of split weighing.

COMMENT 3: A few commenters stated that requiring vendors and purchasers to submit an agreement to the department before split weighing a load is not a workable practice, will lead to loads being estimated, and will shut down local small scales.

RESPONSE 3: Section 30-12-107, MCA, does not specify the timelines for submission of split weighing documentation to the department. However, the statute does require the reporting of the name of the person operating a scale to split weigh, and the date and location of the scale used. In testimony provided at the House Bill 157 hearings, department representatives explained the potential for inaccurate weighing of split weighed loads, and the importance of buyers and sellers understanding that the weights may not be accurate.

The department initially believed that requiring submission of the agreement before the split weighing would help ensure that both parties recognize the potential consequences of split weighing. After reviewing the comments, the department agrees that submitting split weighing documents in advance will be very difficult, and is amending the rule to allow submission of a month's worth of weigh tickets at a time, to cover multiple loads. The department notes that weigh tickets and the supplemental documents, if applicable, must still be completed for each individual load, but will not have to be submitted to the department until within ten days of the last day of the month the load(s) were split weighed. This change will allow scale owners, buyers, and sellers to submit split weighing documents in one package for an entire month.

The department is also amending New Rule I to eliminate information duplicated between the written agreement and weigh tickets, and to not require the submission of written agreements to the department. The department concluded that submission of the weigh tickets is sufficient to comply with the statutory requirements.

COMMENT 4: A commenter stated that it is not clear who is the responsible party for which items on the agreement, nor who is responsible for the agreement.

RESPONSE 4: The department has determined that both the buyer and seller are responsible for completing the agreement. The scale owner is responsible for the weigh ticket or supplemental document when split weighing. If individual loads are split weighed, there must still be an agreement between the buyer and seller, but the agreement does not have to be submitted to the department.

COMMENT 5: One commenter believed the new split weigh law will be very beneficial to small businesses like his that only have small scales.

RESPONSE 5: The department appreciates all comments received during the rulemaking process.

COMMENT 6: One commenter asked how long records on split weighing should be kept.

RESPONSE 6: The department is required to keep licensing, inspection, and testing records for three years, and recommends that buyers, sellers, and scale owners also keep records for the same period of time.

COMMENT 7: One commenter asked if the department will notify the United States Forest Service, Department of State Lands, Bureau of Land Management, or other owners of split weighing agreements, and whether all documents for split weighing will be available to interested parties.

RESPONSE 7: The department will not automatically send copies of the split weighing documents to these other agencies, but they will be provided upon request.

COMMENT 8: One commenter asked if "LOAD TO BE SPLIT WEIGHED" must be clearly stated on the contract and weigh ticket.

RESPONSE 8: Both the agreement and the weigh ticket or supplemental document must clearly indicate the load was split weighed.

4. The board has adopted New Rule I (ARM 24.351.207) with the following changes, stricken matter interlined, new matter underlined:

NEW RULE I (24.351.207) SPLIT WEIGHING ALLOWED (1) through (2)(b) remain as proposed.

~~(c) scale owner's name and the location of the scale;~~

~~(d) name(s) of the scale operator(s);~~

~~(e) (c) commodity covered by the agreement; and~~

~~(f) (d) time period covered by the written agreement; and .~~

~~(g) acknowledgement that the weigh tickets clearly indicate the loads were split weighed.~~

(3) remains as proposed.

(4) (6) A copy of ~~the agreement~~ each weigh ticket, and supplemental documents if applicable, must be submitted to the bureau ~~before any loads are within ten days after the last day of the month the load(s) were split weighed.~~

~~(5)~~ (4) For purposes of this rule, the weigh ticket must ~~also~~ include the following information:

(a) through (d) remain as proposed.

(6) remains as proposed but is renumbered (5).

5. The department did not amend ARM 24.351.215 as proposed.

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

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

Certified to the Secretary of State October 21, 2013

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

In the matter of the amendment of	)	NOTICE OF DECISION ON
ARM 37.87.1202, 37.87.1210,	)	PROPOSED RULE ACTIONS
37.87.1214, 37.87.1217, and)	
37.87.1223 and the repeal of ARM)	
37.87.1222, pertaining to psychiatric)	
residential treatment facility (PRTF))	
services)	

TO: All Concerned Persons

1. On April 25, 2013, the Department of Public Health and Human Services published MAR Notice No. 37-630 pertaining to the public hearing on the proposed amendment and repeal of the above-stated rules at page 583 of the 2013 Montana Administrative Register, Issue Number 8.

2. A public hearing on the notice of proposed amendment and repeal of the above-stated rules was held on May 16, 2013.

3. The six-month time period to adopt this rulemaking has expired. The department is publishing a new proposed rulemaking, pertaining to PRTF services, on October 31, 2013.

/s/ John Koch
John Koch
Rule Reviewer

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

Certified to the Secretary of State October 21, 2013.

NOTICE OF FUNCTION OF ADMINISTRATIVE RULE REVIEW COMMITTEE

Interim Committees and the Environmental Quality Council

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

Economic Affairs Interim Committee:

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

Education and Local Government Interim Committee:

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

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

- Department of Public Health and Human Services.

Law and Justice Interim Committee:

- Department of Corrections; and
- Department of Justice.

Energy and Telecommunications Interim Committee:

- Department of Public Service Regulation.

Revenue and Transportation Interim Committee:

- Department of Revenue; and
- Department of Transportation.

State Administration and Veterans' Affairs Interim Committee:

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

Environmental Quality Council:

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

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

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

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

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

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

Use of the Administrative Rules of Montana (ARM):

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

ACCUMULATIVE TABLE

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies that have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through June 30, 2013. This table includes those rules adopted during the period July 1, 2013, through September 30, 2013, and any proposed rule action that was pending during the past 6-month period. (A notice of adoption must be published within six months of the published notice of the proposed rule.) This table does not include the contents of this issue of the Montana Administrative Register (MAR or Register).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through June 30, 2013, this table, and the table of contents of this issue of the MAR.

This table indicates the department name, title number, rule numbers in ascending order, catchphrase or the subject matter of the rule, and the page number at which the action is published in the 2013 Montana Administrative Register.

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

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BOARD APPOINTEES AND VACANCIES

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

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

In this issue, appointments effective in September 2013 appear. Vacancies scheduled to appear from November 1, 2013, through January 31, 2014, are listed, as are current vacancies due to resignations or other reasons. Individuals interested in serving on a board should refer to the bill that created the board for details about the number of members to be appointed and necessary qualifications.

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

IMPORTANT

Membership on boards and commissions changes constantly. The following lists are current as of October 1, 2013.

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

BOARD AND COUNCIL APPOINTEES FROM SEPTEMBER 2013

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Agriculture Land Valuation Advisory Council (Revenue)			
Rep. Jane DeBruycker	Revenue	Krutzfeldt	9/26/2013
Dutton			6/30/2015
Qualifications (if required): Montana General Public			
Board of Crime Control (Justice)			
Ms. Kelly McIntosh	Governor	Harper	9/6/2013
Dillon			1/1/2017
Qualifications (if required): Public Representative			
Board of Milk Control (Livestock)			
Mr. Erik Somerfeld	Governor	Dahlman	9/26/2013
Power			1/1/2017
Qualifications (if required): Public Representative			
Board of Plumbers (Labor and Industry)			
Ms. Donna L. Paulson	Governor	reappointed	9/26/2013
Great Falls			5/4/2017
Qualifications (if required): Public Representative			
Board of Radiologic Technologists (Labor and Industry)			
Mr. Mike Nielsen	Governor	reappointed	9/6/2013
Billings			7/1/2016
Qualifications (if required): Radiology Technician and Radiology Practitioner Assistant			

BOARD AND COUNCIL APPOINTEES FROM SEPTEMBER 2013

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Regents of Higher Education (Board of Education)			
Ms. Fran Maronick Albrecht	Education	Williams	9/6/2013
Missoula			2/1/2019
Qualifications (if required): District 1 Independent			
Commission on Community Service (Governor)			
Ms. Erica McKay	Governor	Lyle	9/6/2013
Bozeman			7/1/2016
Qualifications (if required): Youth Representative			
Forest Land Taxation Advisory Committee (Revenue)			
Ms. Doreen Stokes	Governor	Baum	9/6/2013
Plains			6/30/2015
Qualifications (if required): Forest Landowner			
Historical Society Board of Trustees (Education)			
Mr. George Dennison	Governor	Halligan	9/26/2013
Missoula			7/1/2017
Qualifications (if required): Montana General Public			
Information Technology Board (Administration)			
Mr. Jonathan Anderson	Governor	Kelly	9/6/2013
Whitefish			1/1/2017
Qualifications (if required): Local Government			

BOARD AND COUNCIL APPOINTEES FROM SEPTEMBER 2013

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Interstate Oil Compact Commission (Natural Resources and Conservation)			
Mr. Ronald Efta Wibaux	Governor	Bradshaw	9/6/2013 1/1/2015
Qualifications (if required): Official Representative			
Mr. Thomas P. Richmond Billings	Governor	reappointed	9/6/2013 1/1/2015
Qualifications (if required): Associate Official Representative			
Montana Council on Developmental Disabilities (Public Health and Human Services)			
Mr. Don Berryman Anaconda	Governor	reappointed	9/26/2013 1/1/2017
Qualifications (if required): Secondary Consumer			
Mr. Marty Blair Missoula	Governor	Vogelsburg	9/26/2013 1/1/2017
Qualifications (if required): University Program Representative			
Ms. Virgeana Brown Belgrade	Governor	Olind	9/26/2013 1/1/2017
Qualifications (if required): Secondary Consumer			
Mr. Bob DeJardins Dillon	Governor	Walters	9/26/2013 1/1/2017
Qualifications (if required): Secondary Consumer			

BOARD AND COUNCIL APPOINTEES FROM SEPTEMBER 2013

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Montana Council on Developmental Disabilities (Public Health and Human Services) cont.			
Mr. Isaiah Devereaux Glasgow	Governor	reappointed	9/26/2013 1/1/2017
Qualifications (if required): Primary Consumer			
Ms. Debra Ekblom Boulder	Governor	reappointed	9/26/2013 1/1/2017
Qualifications (if required): Secondary Consumer			
Ms. Kimm Evermann Helena	Governor	not listed	9/26/2013 1/1/2017
Qualifications (if required): Agency Representative			
Mr. Jacob Harrison Helena	Governor	Shiner	9/26/2013 1/1/2017
Qualifications (if required): Primary Consumer			
Ms. Denise Higgins Helena	Governor	not listed	9/26/2013 1/1/2017
Qualifications (if required): Agency Representative			
Mr. Matt Kuntz Helena	Governor	Norbi	9/26/2013 1/1/2017
Qualifications (if required): representing an advocacy organization			
Ms. Charlene Carley Lefthand-Irvine Polson	Governor	Clark	9/26/2013 1/1/2017
Qualifications (if required): Primary Consumer			

BOARD AND COUNCIL APPOINTEES FROM SEPTEMBER 2013

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Montana Council on Developmental Disabilities (Public Health and Human Services) cont.			
Mr. Jim Marks Helena	Governor	Sorrell	9/26/2013 1/1/2017
Qualifications (if required): Agency Representative			
Mr. Shawn Parker Box Elder	Governor	reappointed	9/26/2013 1/1/2017
Qualifications (if required): Primary Consumer			
Mr. Blake Reese Columbia Falls	Governor	Duffy	9/26/2013 1/1/2017
Qualifications (if required): Primary Consumer			
Mr. Jeff Sturm Helena	Governor	not listed	9/26/2013 1/1/2017
Qualifications (if required): Agency Representative			
Ms. Marla Swanby Helena	Governor	reappointed	9/26/2013 1/1/2017
Qualifications (if required): Agency Representative			
Ms. Nanette Whiteman-Holmes Helena	Governor	Olind	9/26/2013 1/1/2017
Qualifications (if required): Secondary Consumer			

BOARD AND COUNCIL APPOINTEES FROM SEPTEMBER 2013

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Montana Heritage Preservation and Development Commission (Commerce)			
Ms. Shera Konen	Governor	Matthews	9/6/2013
Ennis			5/23/2016
Qualifications (if required): At-Large Representative			
Phillips County Transportation Improvement Authority (Commerce)			
Mr. Duane Murray	Governor	Pray	9/6/2013
Malta			1/1/2017
Qualifications (if required): Public Representative			

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2013 THROUGH JANUARY 31, 2014

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Chiropractors (Labor and Industry) Dr. Scott Hansing, Helena Qualifications (if required): practicing chiropractor with at least one year experience	Governor	1/1/2014
Board of Horseracing (Livestock) Ms. Susan Egbert, Helena Qualifications (if required): resident of District 4	Governor	1/20/2014
Board of Pardons and Parole (Corrections) Mr. Darryl Dupuis, Polson Qualifications (if required): having education or experience in criminology	Governor	1/1/2014
Ms. Margaret Hall-Bowman, Pablo Qualifications (if required): having education or experience in criminology	Governor	1/1/2014
Board of Speech-Language Pathologists and Audiologists (Labor and Industry) Ms. Cheri Fjare, Big Timber Qualifications (if required): speech-language pathologist	Governor	12/31/2013
Ms. Alida Wright, Columbia Falls Qualifications (if required): speech-language pathologist	Governor	12/31/2013
Ms. Beverly Stiller, Lame Deer Qualifications (if required): consumer representative	Governor	12/31/2013
Greater Sage Grouse Habitat Conservation Advisory Council (Governor) Mr. Glenn Marx, Helena Qualifications (if required): Conservation and Sportsmen	Governor	1/31/2014

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2013 THROUGH JANUARY 31, 2014

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Greater Sage Grouse Habitat Conservation Advisory Council (Governor) cont.		
Rep. Gary Forrester, Billings Qualifications (if required): Energy, Mining and Power Transmission	Governor	1/31/2014
Ms. Janet Ellis, Helena Qualifications (if required): Conservation and Sportsmen	Governor	1/31/2014
Rep. Bill McChesney, Miles City Qualifications (if required): Legislature	Governor	1/31/2014
Sen. Brad Hamlett, Cascade Qualifications (if required): Legislature	Governor	1/31/2014
Rep. Pat Connell, Hamilton Qualifications (if required): Legislature	Governor	1/31/2014
Mr. Paul Callahan, Missoula Qualifications (if required): Energy, Mining and Power Transmission	Governor	1/31/2014
Mr. Jay Gore, Missoula Qualifications (if required): Conservation and Sportsmen	Governor	1/31/2014
Mr. Robert Lee, Forsyth Qualifications (if required): Agriculture and Local Government	Governor	1/31/2014
Rep. Ray Shaw, Sheridan Qualifications (if required): Legislature	Governor	1/31/2014

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2013 THROUGH JANUARY 31, 2014

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Greater Sage Grouse Habitat Conservation Advisory Council (Governor) cont. Mr. Carl Wambolt, Bozeman Qualifications (if required): Agriculture and Ranching	Governor	1/31/2014
Mr. Curtis Monteau Jr., Box Elder Qualifications (if required): Tribal Representative	Governor	1/31/2014
Judicial Nomination Commission (Supreme Court) Judge Richard A. Simonton, Glendive Qualifications (if required): none specified	elected	12/31/2013
Mr. Paul Tuss, Havre Qualifications (if required): public representative	Governor	1/1/2014
Lottery Commission (Administration) Mr. Thomas M. Keegan, Helena Qualifications (if required): attorney	Governor	1/1/2014
Ms. Beth O'Halloran, Missoula Qualifications (if required): public member	Governor	1/1/2014
Montana Alfalfa Seed Committee (Agriculture) Mr. Tom Matchett, Billings Qualifications (if required): alfalfa seed grower	Governor	12/21/2013

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2013 THROUGH JANUARY 31, 2014

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Montana Alfalfa Seed Committee (Agriculture) cont. Mr. Tom Neibur, Malta Qualifications (if required): alfalfa seed grower (alfalfa Leaf-cutting bees)	Governor	12/21/2013
Montana Election and Technology Advisory Council (Secretary of State) Ms. Bonnie Ramey, Boulder Qualifications (if required): Jefferson County Clerk & Recorder	Secretary of State	1/2/2014
Ms. Vickie Zeier, Missoula Qualifications (if required): Missoula County Clerk & Recorder	Secretary of State	1/2/2014
Ms. Janice Hoppes, Conrad Qualifications (if required): Pondera County Clerk & Recorder	Secretary of State	1/2/2014
Ms. Sandra Boardman, Chinook Qualifications (if required): Blaine County Clerk & Recorder	Secretary of State	1/2/2014
Ms. Kathie Newgard, Polson Qualifications (if required): Lake County Election Administrator	Secretary of State	1/2/2014
Ms. Jeri Custer, Forsyth Qualifications (if required): Rosebud County Clerk & Recorder	Secretary of State	1/2/2014
Ms. Charlotte Mills, Bozeman Qualifications (if required): Gallatin County Clerk & Recorder	Secretary of State	1/2/2014
Mr. Bret Rutherford, Billings Qualifications (if required): Yellowstone County Election Administrator	Secretary of State	1/2/2014

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2013 THROUGH JANUARY 31, 2014

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Montana Grass Conservation Commission (Natural Resources and Conservation) Mr. Dan Teigen, Teigen Qualifications (if required): grazing district preference holder	Governor	1/1/2014
Mr. Steve Barnard, Hinsdale Qualifications (if required): grazing district director	Governor	1/1/2014
Mr. Jeff Willmore, Roy Qualifications (if required): grazing district preference holder	Governor	1/1/2014
Small Business Health Insurance Pool Board (State Auditor) Ms. Amanda Harrow, Helena Qualifications (if required): consumer representing small business	Governor	1/1/2014
State Lottery Commission (Lottery) Rep. Cynthia Hiner, Deer Lodge Qualifications (if required): Public Representative	Governor	1/1/2014
Statewide Independent Living Council (Public Health and Human Services) Mr. Tim Harris, Helena Qualifications (if required): agency representative	Governor	12/1/2013
Mr. Bob Maffit, Helena Qualifications (if required): public representative/disabilities community representative	Governor	12/1/2013
Mr. Dick Trerise, Helena Qualifications (if required): agency representative	Governor	12/1/2013

VACANCIES ON BOARDS AND COUNCILS -- NOVEMBER 1, 2013 THROUGH JANUARY 31, 2014

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Statewide Independent Living Council (Public Health and Human Services) cont.		
Mr. Chris Cragwick, Missoula	Governor	12/1/2013
Qualifications (if required): public representative/disabilities community representative		
Ms. Donell Neiss, Missoula	Governor	12/1/2013
Qualifications (if required): public representative/disabilities community representative		
Ms. Bobbie Becker, Glendive	Governor	12/1/2013
Qualifications (if required): Independent Living Center representative		
Mr. Troy Spang, Ashland	Governor	12/1/2013
Qualifications (if required): Section 121 representative		
Mr. Tom Osborn, Black Eagle	Governor	12/1/2013
Qualifications (if required): representative of independent living centers		
Traumatic Brain Injury Advisory Council (Public Health and Human Services)		
Ms. Kathy Smith, Great Falls	Governor	1/1/2014
Qualifications (if required): advocate of brain injured		
Ms. Melveena Malatare, Browning	Governor	1/1/2014
Qualifications (if required): advocate of brain injured		