

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 22

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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

In the matter of the amendment of ARM	)	NOTICE OF PROPOSED
2.55.320 and 2.55.502, pertaining to	)	AMENDMENT
classifications of employments and the	)	
individual loss sensitive dividend	)	NO PUBLIC HEARING
distribution plan	)	CONTEMPLATED

TO: All Concerned Persons

1. On January 31, 2014, the Montana State Fund proposes to amend the above-stated rules.

2. The Montana State Fund 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 Montana State Fund no later than 5:00 p.m. on December 20, 2013, to advise us of the nature of the accommodation that you need. Please contact Nancy Butler, Montana State Fund, P.O. Box 4759, 855 Front Street, Helena, Montana 59604-4759; telephone (406) 495-5138; fax (406) 495-5023; or e-mail nbutler@mt.gov.

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

2.55.320 METHOD FOR ASSIGNMENT OF CLASSIFICATIONS OF EMPLOYMENTS (1) and (2) remain the same.

(3) The State Fund staff shall assign its insureds to classifications contained in the classifications section of the State Compensation Insurance Fund Policy Services Underwriting Manual effective July 1, ~~2012~~ 2013, and assign new or changed classifications as approved by the board. That section of the manual is incorporated by reference. Copies of the classification section of the manual may be obtained from the Insurance Operations Support Department of the State Fund, 855 Front Street, P.O. Box 4759, Helena, Montana 59604-4759.

AUTH: 39-71-2315, 39-71-2316, MCA

IMP: 39-71-2311, 39-71-2316, MCA

REASON: This amendment to ARM 2.55.320 is reasonably necessary at this time to reflect the updates to the State Fund's Underwriting Manual (manual), effective July 1, 2013.

Under 39-71-2316(1)(e), MCA, after rules have been adopted, the State Fund is not subject to the rulemaking provisions of the Montana Administrative Procedure Act when changing classifications and premium rates.

The underwriting manual is used by State Fund staff in their usual duties of assigning classifications to insured employers of the State Fund. Each of these classifications has a premium rate that is adopted by the State Fund board in accordance with the board's ratemaking authority. This amendment is made each year to adopt the current version of the manual, which includes new rates, values, and classification code updates effective July 1, 2013. The classification code updates may be those adopted by the Classification Review Committee established in Title 33, chapter 16, MCA, or by the State Fund board of directors. The entire underwriting manual is available on State Fund's web site at [www.montanastatefund.com](http://www.montanastatefund.com).

2.55.502 INDIVIDUAL LOSS SENSITIVE DIVIDEND DISTRIBUTION PLAN

(1) through (7) remain the same.

(8) A dividend will be issued as a warrant to a policyholder, unless (8)(a) through (8)(c) exist. The dividend will be applied to the account, unless an exception is made by the board of directors for a warrant to be issued, if the following situations exist:

(a) ~~the a current policy is pending forced cancellation for nonpayment of premium~~ has a past-due premium or other debt pending;

(b) a canceled policy with an existing debt obligation owed the State Fund, including a past-due premium or an outstanding payroll report; or

(c) a current policy when the dividend amount is above the minimum amount established pursuant to (7) but below an amount as established by the board.

(9) and (10) remain the same.

AUTH: 39-71-2315, 39-71-2323, MCA

IMP: 39-71-2323, MCA

REASON: This amendment to ARM 2.55.502 is reasonably necessary at this time to more accurately and completely reflect when a policy dividend should be applied to a policy, rather than paid out to the policyholder. Subsection (8)(a) concerns a policy that is in force and has an outstanding sum of money owing State Fund. This may be due to a past-due premium payment or a past-due promissory note payment given by a policyholder for a past-due premium. Subsection (8)(b) concerns a canceled policy, which may have not only unpaid premium amounts, but also outstanding payroll reports or audits that are required for a final premium calculation. In the past, State Fund was not readily able to extract and identify from its policy system all canceled policies with outstanding payroll reporting issues for which a dividend should be applied to the account, rather than paid to the policyholder. This system matter has been overcome. The proposed amendment to (8)(c) conforms the rule to State Fund practice and clarifies that a dividend is applied only to current policies when the dividend amount is between the minimum dividend amount and below the level at which a warrant is cut. A canceled policy with no outstanding obligation will receive a warrant.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to Nancy Butler, Montana State Fund, P.O.

Box 4759, 855 Front Street, Helena, Montana 59604-4759; telephone (406) 495-5138; fax (406) 495-5023; or e-mail [nbutler@mt.gov](mailto:nbutler@mt.gov). Any comments must be received no later than 5:00 p.m., December 27, 2013.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments, orally or in writing at a public hearing, they must make a written request for a hearing and submit this request along with any written comments to Nancy Butler at the above address no later than 5:00 p.m., December 27, 2013.

6. If the agency receives requests for a public hearing on the proposed action from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 2600 persons based on 26,000 policyholders.

7. The Montana State Fund 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, e-mail, and mailing address of the person and specifies that the person wishes to receive notices regarding the Montana State Fund. If you prefer to receive notices by e-mail, please indicate this in your request. Such written request may be mailed or delivered to Nancy Butler, Montana State Fund, P.O. Box 4759, 855 Front Street, Helena, Montana 59604-4759; faxed to the office at (406) 495-5023; e-mail [nbutler@mt.gov](mailto:nbutler@mt.gov); or may be made by completing a request form at any rules hearing held by the Montana State Fund.

8. An electronic copy of this notice of proposed amendment 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 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 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 Montana State Fund has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Nancy Butler  
Nancy Butler, General Counsel  
Rule Reviewer

/s/ Elizabeth Best  
Elizabeth Best  
Chair of the Board

/s/ Michael P. Manion  
Michael P. Manion, Chief Legal Counsel  
and Rule Reviewer

Certified to the Secretary of State November 18, 2013.

BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the repeal of ARM ) NOTICE OF PROPOSED REPEAL  
2.59.1401 through 2.59.1419 )  
pertaining to title lending ) NO PUBLIC HEARING  
) CONTEMPLATED

TO: All Concerned Persons

1. On January 7, 2014, the Division of Banking and Financial Institutions proposes to repeal the above-stated rules.

2. The Department of Administration, Division of Banking and Financial Institutions, will make reasonable accommodations for persons with disabilities who need an alternative accessible format of this notice. If you require an accommodation, contact the Division of Banking and Financial Institutions no later than 5:00 p.m. on December 20, 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) 841-2928; TDD (406) 444-1421; facsimile (406) 841-2930; e-mail to banking@mt.gov.

3. The department proposes to repeal the following rules:

2.59.1401 DEFINITIONS, found on ARM page 2-6087.

AUTH: 31-1-802, MCA

IMP: 31-1-803, 31-1-804, 31-1-805, 31-1-810, 31-1-811, 31-1-812, 31-1-815, 31-1-816, 31-1-818, 31-1-820, MCA

2.59.1402 LICENSING AND APPLICATION REQUIREMENTS – EXCEPTIONS, found on ARM page 2-6088.

AUTH: 31-1-802, MCA

IMP: 31-1-804, 31-1-805, 31-1-811, 31-1-816, 31-1-817, MCA

2.59.1403 TITLE LOAN DESIGNATION, found on ARM page 2-6088.

AUTH: 31-1-802, MCA

IMP: 31-1-803, MCA

2.59.1404 NOTIFICATION TO THE DEPARTMENT, found on ARM page 2-6089.

AUTH: 31-1-802, MCA

IMP: 31-1-805, MCA



2.59.1405 OWNERSHIP CHANGE, found on ARM page 2-6089.

AUTH: 31-1-802, MCA  
IMP: 31-1-805, MCA

2.59.1406 EXAMINATION OF TITLE LENDERS, found on ARM page 2-6090.

AUTH: 31-1-802, MCA  
IMP: 31-1-803, 31-1-810, 31-1-815, 31-1-816, 31-1-817, 31-1-818, 31-1-819, 31-1-820, 31-1-821, 31-1-822, 31-1-825, MCA

2.59.1407 RESCINDED LOANS, found on ARM page 2-6090.

AUTH: 31-1-802, MCA  
IMP: 31-1-815, 31-1-816, 31-1-821, MCA

2.59.1408 FAILURE TO CORRECT DEFICIENCIES, found on ARM page 2-6090.

AUTH: 31-1-802, MCA  
IMP: 31-1-810, 31-1-811, MCA

2.59.1409 DURATION OF LOANS – INTEREST, found on ARM page 2-6091.

AUTH: 31-1-802, MCA  
IMP: 31-1-816, 31-1-817, 31-1-818, 31-1-825, MCA

2.59.1410 RENEWALS – REDUCTION OF PRINCIPAL, found on ARM page 2-6092.

AUTH: 31-1-802, MCA  
IMP: 31-1-816, MCA

2.59.1411 DEPARTMENT'S COST OF ADMINISTRATIVE ACTION, found on ARM page 2-6092.

AUTH: 31-1-802, MCA  
IMP: 31-1-811, MCA

2.59.1412 EXAMINATION FEES, found on ARM page 2-6093.

AUTH: 31-1-802, MCA  
IMP: 31-1-810, 31-1-811, MCA

2.59.1413 REPORTS, found on ARM page 2-6093.

AUTH: 31-1-802, MCA  
IMP: 31-1-810, 31-1-815, MCA

2.59.1414 SCHEDULE OF CHARGES, found on ARM page 2-6093.

AUTH: 31-1-802, MCA  
IMP: 31-1-816, 31-1-817, 31-1-818, MCA

2.59.1415 REQUIRED RECORD KEEPING, found on ARM page 2-6094.

AUTH: 31-1-802, MCA  
IMP: 31-1-815, 31-1-821, MCA

2.59.1416 EMPLOYEES' CHARACTER AND FITNESS, found on ARM page 2-6094.

AUTH: 31-1-802, MCA  
IMP: 31-1-805, MCA

2.59.1417 PROCEDURAL RULES FOR HEARINGS AND DISCOVERY, found on ARM page 2-6095.

AUTH: 31-1-802, MCA  
IMP: 31-1-811, 31-1-812, 31-1-826, 31-1-841, MCA

2.59.1418 SALE OF REPOSSESSED PROPERTY, found on ARM page 2-6095.

AUTH: 31-1-802, MCA  
IMP: 31-1-816, 31-1-818, 31-1-820, MCA

2.59.1419 UNFAIR PRACTICE, found on page ARM 2-6095.

AUTH: 31-1-802, MCA  
IMP: 31-1-825, MCA

STATEMENT OF REASONABLE NECESSITY: The proposed repeal of ARM 2.59.1401 through 2.59.1419 is necessary because the rules implement the Montana Title Loan Act (Title 31, Ch. 1, Part 8), which was repealed in its entirety by HB 118 in the 2013 Legislative Session, leaving no basis for the rules. HB 118 was signed into law by the Governor on April 24, 2013, and is effective on December 31, 2013.

4. Concerned persons may submit their data, views, or arguments concerning the proposed repeal in writing to Lorraine A. Schneider, Legal Counsel,

Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; faxed to the office at (406) 841-2930; e-mailed to [lschneider@mt.gov](mailto:lschneider@mt.gov), and must be received no later than 5:00 p.m., December 27, 2013.

5. If persons who are directly affected by the proposed repeal wish to present their data, views, or arguments orally or in writing at a public hearing, they must make a written request for a hearing and submit the request along with any comments they have to Lorraine A. Schneider, Legal Counsel, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; faxed to the office at (406) 841-2930; e-mailed to [lschneider@mt.gov](mailto:lschneider@mt.gov), and must be received no later than 5:00 p.m., December 27, 2013.

6. If the division receives requests for a public hearing on the proposed repeal from either 10% or 25, whichever is less, of those who are directly affected by the proposed repeal, from the appropriate administrative rule review committee of the legislature, from a governmental agency or subdivision, or from an association having no 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 one based on the number of title loan licensees as of publication of this notice.

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

8. The Division of Banking and Financial Institutions maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this division. Persons who wish to have their name added to the mailing list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding division rulemaking actions. 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 [wjohnston@mt.gov](mailto:wjohnston@mt.gov); or may be made by completing a request form at any rules hearing held by the Division of Banking and Financial Institutions.

9. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor, Representative Jennifer Eck, was contacted by mail on June 13, 2013.

10. Under the requirements of 2-4-111, MCA, the department has determined that the repeal of the above-referenced rules will not significantly and directly impact small businesses because no title lenders have been licensed in Montana since July 3, 2012. The number of licensees had been declining for a number of years before January 1, 2011, and dropped to zero after the passage in 2010 of I-164, the rate cap ballot initiative, which became effective on January 1, 2011. The repeal of the Title Loan Act eliminated the necessity for these rules.

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

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

Certified to the Secretary of State November 18, 2013.

BEFORE THE DEPARTMENT OF COMMERCE  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PROPOSED  
ARM 8.99.511 pertaining to the ) AMENDMENT  
Microbusiness Finance Program )  
) NO PUBLIC HEARING  
) CONTEMPLATED

TO: All Concerned Persons

1. On December 27, 2013, the Department of Commerce proposes to amend the above-stated rule.

2. The Department of Commerce will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Commerce no later than 5:00 p.m. on December 20, 2013, to advise us of the nature of the accommodation that you need. Please contact Carolyn Jones, Section Manager, Business Resources Division, Department of Commerce, 301 South Park Avenue, P.O. Box 200505, Helena, Montana 59620-0505; telephone (406) 841-2594; fax (406) 841-2731; TDD (406) 841-2702; or e-mail cjones@mt.gov.

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

8.99.511 MICROBUSINESS LOANS - ELIGIBILITY FOR AND TERMS AND CONDITIONS

(1) through (3) remain the same.

(4) The interest rate charged to microbusiness borrowers by MBDCs shall be, at a minimum, the highest rate charged by the department to the MBDC for development loans and, at a maximum, the rate of interest that does not exceed the greater of 15 percent or an amount that is 6 percentage points per year above the prime rate published by the federal reserve system in its statistical release H.15 Selected Interest Rates for bank prime loans dated three business days prior to the execution of the agreement. MBDCs will report quarterly, in writing to the department, the interest rate(s) charged to borrowers.

(5) through (7) remain the same.

AUTH: 17-6-406, MCA  
IMP: 17-4-406, 17-6-407, MCA

REASON: The proposed amendment of ARM 8.99.511 is to reinstate statutory required guidelines regarding the maximum and minimum interest rates that may be charged by certified microbusiness development corporations on microbusiness loans.

4. Concerned persons may submit their data, views, or arguments in writing to: Carolyn Jones, Business Resources Division, Department of Commerce, 301 South Park Avenue, P.O. Box 200505, Helena, Montana 59620-0505; telephone (406) 841-2594; fax (406) 841-2731; or e-mail [cjones@mt.gov](mailto:cjones@mt.gov), and must be received no later than 5:00 p.m., December 26, 2013.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Carolyn Jones at the above address no later than 5:00 p.m., December 26, 2013.

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

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

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

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

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

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

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

Certified to the Secretary of State November 18, 2013.

BEFORE THE FISH AND WILDLIFE COMMISSION  
OF THE STATE OF MONTANA

In the matter of the adoption of NEW	)	NOTICE OF PROPOSED
RULE I regarding state land access	)	ADOPTION
tax credit	)	
	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Concerned Persons

1. On March 13, 2014, the Fish and Wildlife Commission (commission) proposes to adopt the above-stated rule.

2. The commission will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than December 13, 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 rule as proposed to be adopted provides as follows:

NEW RULE I STATE LAND ACCESS TAX CREDIT (1) Pursuant to 15-30-2380 and 87-1-294, MCA, landowners may apply for a contract with the department to become eligible to receive a \$500 tax credit for qualified access to state land, as defined in 77-1-101, MCA.

(2) Landowners wanting to be considered for a contract must submit an application by March 15 in the tax year for which credit will be claimed.

(3) The department will award contracts no later than May 15 of the tax year in which the credit is to be claimed.

(4) The application must state the following and failure to include any one portion may result in denial of the application:

(a) legal land description of parcel of state land to which access will be provided;

(b) legal land description of parcel of private land through which access will be provided;

(c) description of the road or travel route providing public access to the state land parcel;

(d) map depicting state land parcel, adjacent private land through which public access will be provided, access point where public access on private land begins, and travel route proposed for public access;

(e) description of method permitted to access state lands;

(f) indication as to whether or not the landowner is lessee of the state land parcel to which public access will be provided; and



(g) indication as to whether or not hunting on the private land through which access will be provided is managed through outfitting or commercial hunting.

(5) The department must consider the following when awarding contracts:

(a) verification that the state lands are not restricted or closed to general recreational use by Department of Natural Resources and Conservation;

(b) verification that the state land will be available for a majority of the year to all general recreational use including hunting, fishing, hiking, wildlife watching, and other uses compatible with the use of state lands;

(c) access routes restricted to foot travel only must be capable of accommodating normal ambulatory travel and not exceed half a mile; and

(d) access routes available to vehicles must be capable of accommodating typical road use vehicles.

(6) A landowner may impose reasonable limitations through temporary closure of a public access route to address concerns related to high fire danger, weather-related impact to travel route, safety, or agricultural production activities such as livestock handling or harvest and planting of crops, so long as:

(a) the landowner notifies department regional headquarters at least 24 hours prior to the closure;

(b) the landowner posts notice to the public on-site; and

(c) the closure is not in effect:

(i) for more than seven days without department review and approval; or

(ii) until the natural environmental conditions no longer exist.

(7) Land enrolled in any other department program that secures public access to a state land parcel is not eligible for a contract through this program to provide access to that same state land parcel.

(8) To provide verification that the landowner is eligible to receive the tax credit pursuant to 15-30-2380 and 87-1-294, MCA, the department must provide:

(a) a copy of the contract to the landowner bearing a certification number that confirms the terms of the contract have been fulfilled no later than January 31 after the end of the tax year in which the credit is being claimed; and

(b) the contract certification number to the Department of Revenue no later than January 31 after the end of the tax year in which the credit is being claimed.

AUTH: 87-1-294, MCA

IMP: 15-30-2380, 87-1-294, MCA

Reasonable Necessity: The 2013 Legislature passed HB 444 establishing a program in which a private landowner who provides public access to a parcel of state land through a contractual agreement with the department can receive a \$500 tax credit, with a limit of \$2000 per year. The law requires the commission to adopt administrative rules that address the contracts and the duration of access, types of qualified access, and reasonable landowner-imposed restrictions. The law becomes effective Jan. 1, 2014 and terminates Dec. 31, 2018.

4. Concerned persons may submit their data, views, or arguments in writing to Fish, Wildlife and Parks, Attn: Alan Charles, PO Box 200701, Helena, MT,

59620-0701; fax 406-444-4952; e-mail fwpunlock@mt.gov, and must be received no later than December 27, 2013.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Alan Charles at the above address no later than December 27, 2013.

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

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

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted in person on October 23, 2013.

9. 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 November 18, 2013

BEFORE THE LICENSED ADDICTION COUNSELORS PROGRAM  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 24.154.301 definitions, ) PROPOSED AMENDMENT  
24.154.409 supervised work )  
experience, and 24.154.2301 )  
unprofessional conduct )

TO: All Concerned Persons

1. On December 18, 2013, at 10:00 a.m., a public hearing will be held in Room 430, 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 Licensed Addiction Counselors Program (program) no later than 5:00 p.m., on December 11, 2013, to advise us of the nature of the accommodation that you need. Please contact Cyndi Reichenbach, Licensed Addiction Counselors Program, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2392; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsdcdc@mt.gov (program's e-mail).

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

24.154.301 DEFINITIONS (1) through (5) remain the same.

~~(6) "Evidence-based" means systematically finding, appraising, and using the most current and valid research findings as the basis for clinical decisions based on research from sites such as Substance Abuse and Mental Health Services Administration (SAMHSA), National Registry of Evidence-Based Programs and Practices (NREPP), National Institute on Drug Abuse (NIDA), or similar resources.~~

(7) through (9) remain the same, but are renumbered (6) through (8).

AUTH: 37-35-103, MCA

IMP: 37-35-102, MCA

REASON: In response to questions and concerns received both during and after the recent LAC rules project, MAR Notice No. 24-154-8, and to proactively address potential confusion among licensees, the department is proposing to strike the definition of "evidence-based" from this rule. The department will work cooperatively with interested persons and industry representatives to research and develop a mutually accepted definition through a future rulemaking project.

24.154.409 SUPERVISED WORK EXPERIENCE (1) Supervised work experience hours are determined according to the academic achievement of the applicant as follows:

(a) ~~500 hours within six months of receipt of the temporary practice permit for masters or higher degree applicants;~~

(b) ~~1000 hours within 12 months of receipt of the temporary practice permit for baccalaureate degree applicants; or~~

(c) ~~2000 hours within 24 months of receipt of the temporary practice permit for associate degree applicants.~~ Six months (1000 hours) of supervised work experience hours in a qualified treatment setting is required for licensure.

(2) through (2)(d) remain the same.

(e) Applicants must complete the required minimum hours in the 11 skill areas according to their academic achievement as follows: The remaining hours must be under onsite clinical supervision in each of the 11 skill areas.

Skill Areas	Masters or Higher Degree (hours) Hours	Baccalaureate Degree (hours)	Associate Degree (hours)
screening	<del>15</del> <u>30</u>	30	60
assessment/patient placement	<del>50</del> <u>100</u>	100	200
treatment planning	<del>25</del> <u>50</u>	50	100
referrals	<del>10</del> <u>20</u>	20	40
case management	<del>20</del> <u>50</u>	50	100
individual counseling	<del>30</del> <u>60</u>	60	120
group counseling	<del>50</del> <u>100</u>	100	200
client education	<del>20</del> <u>35</u>	40	80
documentation	<del>20</del> <u>35</u>	40	80
professional and ethical responsibilities	<del>5</del> <u>10</u>	15	20
multicultural competency	<del>5</del> <u>10</u>	15	20
TOTAL	<del>250</del> <u>500</u>	520	1020

(i) ~~For masters or higher degree applicants, 25 hours of the 250-hour minimum must be under direct supervision. The remaining hours must be under onsite clinical supervision in each of the 11 skill areas.~~

(ii) ~~For baccalaureate degree applicants, 52 hours of the 520-hour minimum must be under direct supervision. The remaining hours must be under onsite clinical supervision in each of the 11 skill areas.~~

(iii) ~~For associate degree applicants, 102 hours of the 1020-hour minimum must be under direct supervision. The remaining hours must be under onsite clinical supervision in each of the 11 skill areas.~~

(3) through (6) remain the same.

(7) Qualified treatment settings include those where temporary practice permit holders may obtain supervised work experience based on nationally recognized patient placement criteria. Criteria for these treatment settings may include settings that provide the basis for a continuum of care for patients with addictions and settings that ~~may~~ include any level of care as defined by American Society of Addiction Medicine (ASAM) in *The ASAM Criteria: Treatment Criteria for Addictive, Substance-Related, and Co-Occurring Conditions* (October 24, 2013).

(a) Qualified treatment settings for supervised work experience ~~may include, but are not limited to the following~~ are:

(i) through (c)(v) remain the same.

AUTH: 37-35-103, MCA

IMP: 37-35-202, MCA

REASON: Following a thorough periodic review, the department recently amended most of the Licensed Addiction Counselor (LAC) rules in MAR Notice No. 24-154-8. In that rulemaking project, the department established a three-tiered system with different hours of required supervised work experience based on an applicant's academic degree. Following consideration of questions and concerns received both during and following the rules project, the department now proposes to amend this rule and return to the requirement of 1000 hours of supervised experience in 11 skill areas, for all LAC applicants, regardless of academic degree.

The department determined it is reasonably necessary to amend (7) and specify that ASAM-based treatment settings must comply with the level of care as defined in the named ASAM document. The department concluded that setting forth this requirement will address licensee questions and make the licensure process easier.

The department is amending (7)(a) to clearly set forth the qualified treatment settings as approved by the department. Since this subsection is intended to list the settings the department has already approved, it is problematic to include language that implies that additional settings are also allowed.

24.154.2301 UNPROFESSIONAL CONDUCT (1) through (1)(v) remain the same.

~~(w) failing to use current evidence-based contextually valid assessment instruments;~~

(x) and (y) remain the same, but are renumbered (w) and (x).

~~(z) failing to utilize evidence-based procedures and practices and observe relevant professional standards in developing assessment techniques;~~

~~(aa) (y) failing to ensure that assessment results are accurate, detailed, and valid in a way that will be properly interpreted by the recipients;~~

(ab) through (ae) remain the same, but are renumbered (z) through (ac).

~~(af) (ad) causing a dual relationship with a client without first ensuring that the client's well-being is not compromised and that no harm occurs, such as a result of the following:~~

(i) through (v) remain the same.

(ag) through (aq) remain the same, but are renumbered (ae) through (ao).

AUTH: 37-35-103, 37-35-301, MCA

IMP: 37-1-316, 37-1-410, 37-35-103, 37-35-301, MCA

REASON: To address potential confusion among licensees, and questions and concerns received both during and after the recent LAC rules project, the department is striking the definition of "evidence-based" from ARM 24.154.301 in this notice. It is reasonably necessary to amend ARM 24.154.2301 to align with the proposed elimination of the definition.

The department is amending new (1)(y) and new (1)(ad) to address comments made regarding the recent rules project and eliminate any potential vagueness in determining what the department considers unprofessional conduct for licensees.

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 Licensed Addiction Counselors Program, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to [dlibsdcdc@mt.gov](mailto:dlibsdcdc@mt.gov), and must be received no later than 5:00 p.m., December 27, 2013.

5. An electronic copy of this notice of public hearing is available at [www.lac.mt.gov](http://www.lac.mt.gov) (department and program'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 program maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this program. 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 program, 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 Licensed Addiction Counselors Program, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to [dlibsdcdc@mt.gov](mailto:dlibsdcdc@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 department has determined that the amendment of ARM 24.154.301 will not significantly and directly impact small businesses.

With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of ARM 24.254.409 will not significantly and directly impact small businesses.

With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of ARM 24.154.2301 will not significantly and directly impact small businesses.

Documentation of the program's above-stated determinations are available upon request to the Licensed Addiction Counselors Program, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2392; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsdcdc@mt.gov (program's e-mail).

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

/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 November 18, 2013

BEFORE THE BOARD OF VETERINARY MEDICINE  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 24.225.410 record-keeping ) PROPOSED AMENDMENT  
standards, 24.225.420 inspection and )  
sanitation, 24.225.511 continuing )  
education, and 24.225.550 )  
unprofessional conduct )

TO: All Concerned Persons

1. On December 18, 2013, at 2:00 p.m., a public hearing will be held in Room 430, 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 Veterinary Medicine (board) no later than 5:00 p.m., on December 11, 2013, to advise us of the nature of the accommodation that you need. Please contact Cheryl Brandt, Board of Veterinary Medicine, 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 dlibsdrvvet@mt.gov (board's e-mail).

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

24.225.410 RECORD-KEEPING STANDARDS (1) The required standards of practice of veterinary medical ~~record-keeping~~ record-keeping are as follows:

(a) remains the same.

(b) When appropriate, licensees may substitute the words "herd," "flock," or other collective term in place of the word "patient" of this section. Records to be maintained on these animals may be kept in a daily log, or in the billing records, provided that the treatment information that is entered is adequate to substantiate the identification of these animals and the medical care provided. In no case does this eliminate the requirement to maintain drug records as specified by state and federal law and board rules.

(c) remains the same.

(i) name, address, and phone number of owner or agent;

(ii) description, sex (if readily determinable), breed, and age of or description of group;

(iii) date animal or group was seen, admitted, and discharged;

(iv) results of examination, condition, and diagnoses suspected;



(v) all medication, treatment, prescriptions, or prophylaxis given, including amount and frequency for both inpatient and outpatient care; and

(vi) remains the same.

(d) Veterinarians who practice with other veterinarians shall indicate by recognizable means on each patient's or animal group's medical record any treatment ~~he/she~~ the licensee has performed, or which ~~he/she~~ the licensee has directed support personnel to perform.

(e) All radiographs shall be permanently labeled to identify the veterinarian or premises, the patient, the owner, the date, and anatomical orientation.

(f) and (g) remain the same.

(h) Veterinary medical records and images are the property of the practice and the practice owner. Information within veterinary medical records is privileged and confidential, and may not be released to anyone other than the owner of the patient, persons authorized by the owner, or other veterinarians involved with the treatment and care of the patient. Information must be released upon consent of the owner or authorized person(s). Consent may be in written, electronic, or other form of waiver, and must be documented in the patient's medical file. Confidentiality is waived under the conditions of (j).

(i) When requested by the owner, or person(s) authorized by the owner, as per (h), copies or summaries of the veterinary medical records and images must be provided within a reasonable time period, and as promptly as required by medical necessity. The veterinary practice may charge a reasonable fee for the preparation of summaries and copying of the records and images.

(j) Veterinary medical information may be disclosed without consent of the owner or person(s) authorized by the owner as follows:

(i) when required by court order or subpoena;

(ii) when the owner has made the veterinarian's care and treatment an issue in civil or criminal proceedings;

(iii) upon request for statistical or scientific research, as long as the information is abstracted and de-identified; or

(iv) upon request of public health officials, animal health officials, federal, state, or local officials, or agricultural authorities when it is deemed necessary to protect the welfare of the animal, and/or to protect public health and safety.

(k) A veterinarian who reasonably and in good faith reports or discloses records in accordance with (j) shall not be considered to be engaging in unprofessional conduct.

(l) Except for liens authorized by 71-3-1201, MCA, a veterinarian may not retain an animal or refuse to release records for failure to pay veterinary bills.

(m) A veterinarian practice owner terminating practice, retiring, relocating, or selling a practice shall notify clients within 30 days by local newspaper, in writing, or via other electronic means that they are no longer available to patients, and shall offer clients the opportunity to obtain a copy of their veterinary records, and shall specify who the new records owner is, when applicable, and where the medical records can be obtained. A failure to comply with this subsection may lead to disciplinary action.

(n) A veterinarian may not remove, copy, or use any part of any veterinary medical records without the express permission of the practice owner or as stated in (h).

(o) If a veterinarian, based upon his or her medical opinion, is willing to dispense medication, then the veterinarian must also provide a prescription in place of said medication should the owner request a prescription. If a veterinarian, based upon his or her medical opinion, is not willing to dispense medication, then the licensee should deny a request for a prescription.

AUTH: 37-1-131, 37-1-319, 37-18-202, MCA

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

REASON: The board determined it is reasonably necessary to amend veterinarian record-keeping standards as both the board and compliance staff have received an increased number of inquiries from the public and licensees, as well as complaints filed concerning these standards. The board is amending this rule to clearly set forth the processes for records release with the incorporation of newer electronic record-keeping systems, confidentiality of patient medical files, situations where patient medical files must be released, public notice for termination of practice, and provision of prescriptions. Additional amendments eliminate gender-specific references, and correct grammar and punctuation in accordance with ARM formatting requirements.

24.225.420 INSPECTION AND SANITATION (1) The board may perform, or have performed in its behalf, inspections of any licensed veterinarian's premises at any time to verify provide uniform standards of sanitation and cleanliness in the public interest subsequent to a complaint being filed or during an investigation.

(2) The premises of any veterinarian may be evaluated on the following items premises inspection may include, but is not limited to:

(a) office and reception area, practice vehicle, small and large animal exam room, housing and surgery areas, waste disposal, insect control, grounds, and odor;  
(b) the board may add or delete in these inspection items as conditions and problems change.

(3) Inspections and sanitation check reports shall be supplied to each licensed veterinarian who has been inspected, with the board's recommendations.

(4) The board shall allow adequate time for their recommendations to be implemented by the licensed veterinarian.

(5) Should progress not be reported in removing items from the unsatisfactory category by the second inspection, the board shall direct the licensed veterinarian to appear before the board at the next meeting, or have him write a letter of explanation.

(6) If, in the opinion of the board, the licensee has not made satisfactory progress or if the explanation is unsatisfactory, it shall issue a letter of warning to the licensed veterinarian to immediately start placing his premises in a clean and sanitary condition. Failure to do so may serve as cause for initiating suspension or revocation of license provided under 37-18-311, MCA.

AUTH: 37-1-131, 37-18-202, MCA  
IMP: 37-1-131, 37-18-102, 37-18-311, MCA

REASON: The board has determined that it is reasonably necessary to amend and update this rule to properly reflect the board's current premises inspection process, which is initiated by a filed complaint or as a result of an investigation. Prior to 1986, inspections were conducted on behalf of the board by an outside entity, and the process described in the current rule is no longer utilized.

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

24.225.511 CONTINUING EDUCATION (1) Each veterinarian licensed shall be required to obtain every two years a minimum of 20 credit hours of continuing education approved by the board. The credit hours must be obtained within the 24 months prior to renewal, on the date set by ARM 24.101.413 of the even-numbered years. Licensees licensed less than two full calendar years, but more than one full calendar year on their first continuing education reporting date, shall be required to submit ten hours of continuing education.

(a) remains the same.

(i) Proof of continuing education attendance must be in the form of a list of agenda sessions attended and a certificate of completion ~~and/or program~~ containing the following information:

(A) through (1)(c) remain the same.

(2) Credit hours shall be earned by a one-hour credit for each hour of attendance at or participation in meetings and programs approved by the board. Board-approved programs include, but are not limited to, those sponsored by the American Veterinary Medical Association, American Animal Hospital Association, western states veterinary conferences, veterinary college conferences, state association meetings, Registry of Approved Continuing Education (RACE)-approved programs, and any other affiliated association, society, etc., related to veterinary medicine that have specific topics for veterinarians. Programs shall be of a professional veterinary nature to qualify, with the number of practice management hours reported not to exceed 25 percent of the total required continuing education hours.

(3) remains the same.

(4) The board will randomly audit two percent of the licensees and all licensees requesting a grace period each continuing education year. Certificates of completion ~~and/or programs~~ and a list of agenda sessions attended must be submitted upon request of the board.

(5) and (6) remain the same.

AUTH: 37-1-131, 37-1-319, 37-18-202, MCA  
IMP: 37-1-131, 37-1-141, 37-1-306, MCA

REASON: The board is amending this rule to clarify that both certificates of completion and a list of agenda sessions attended will be required during a

continuing education audit. Following recent audits, the board concluded that both documents are necessary for the board to determine the appropriateness of courses submitted in an audit. A certificate often does not list all subject matter covered or the method of course delivery, which may prevent the board from determining the number of internet courses, or whether courses are in the restricted category of "practice management." This amendment will inform licensees that they need to retain both types of documents in preparation for continuing education audits.

Additional amendments correct grammar and punctuation in accordance with ARM formatting requirements.

24.225.550 UNPROFESSIONAL CONDUCT (1) through (1)(b) remain the same.

(c) incompetence, negligence, or use of any practice or procedure in the practice of the profession, which creates an unreasonable risk of physical harm or serious financial loss to the client;

(d) through (g) remain the same.

(h) offering, undertaking, or agreeing to cure or treat disease or affliction by a secret method, procedure, treatment, or the treating, operating, or prescribing for any health condition by a method, means, or procedure ~~which~~ that the licensee refuses to divulge upon demand from the board;

(i) through (k) remain the same.

(l) cruel or inhumane treatment of animals; ~~or~~

(m) abandoning, neglecting, or otherwise physically abusing a patient once the veterinarian has undertaken treatment of the patient-;

(n) violation of the veterinarian/client/patient relationship by making public any information about, or photos of, the owner or patient, without consent of the owner or person(s) authorized by the owner;

(o) violation of professional ethical standards by making public false or misleading negative information about another veterinarian's professional standing or reputation; or

(p) identifying oneself as a member of an American Veterinary Medical Association (AVMA)-recognized specialty organization if such certification has not been awarded and maintained, or using terms implying a specialty in a false and misleading manner.

AUTH: 37-1-131, 37-1-319, 37-18-202, MCA

IMP: 37-1-131, 37-1-141, 37-1-316, 37-1-319, MCA

REASON: The board is amending this rule to update the behavior considered to be unprofessional conduct to include social media issues, misrepresentation of specialty credentials, and public misstatements regarding other veterinarians. After considering these issues in recent complaints, the board concluded that it is reasonably necessary to update the definition of unprofessional conduct accordingly.

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 Veterinary Medicine, 301 South Park Avenue, P.O. Box

200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to [dlibsdrvvet@mt.gov](mailto:dlibsdrvvet@mt.gov), and must be received no later than 5:00 p.m., December 26, 2013.

5. An electronic copy of this notice of public hearing is available at [www.vet.mt.gov](http://www.vet.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 Veterinary Medicine, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to [dlibsdrvvet@mt.gov](mailto:dlibsdrvvet@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 ARM 24.225.410 will significantly and directly impact small businesses.

With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.225.420 will not significantly and directly impact small businesses.

With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.225.511 will not significantly and directly impact small businesses.

With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.225.550 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determinations is available upon request to the Board of Veterinary Medicine, 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 [dlibsdrvvet@mt.gov](mailto:dlibsdrvvet@mt.gov).

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

BOARD OF VETERINARY MEDICINE  
JEAN LINDLEY, DVM, 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 November 18, 2013

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

In the matter of the amendment of ) NOTICE OF PROPOSED  
ARM 37.12.401 pertaining to ) AMENDMENT  
laboratory testing fees )  
) NO PUBLIC HEARING  
) CONTEMPLATED

TO: All Concerned Persons

1. On December 27, 2013, the Department of Public Health and Human Services proposes to amend the above-stated rule.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Public Health and Human Services no later than 5:00 p.m. on December 19, 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 MT 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

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

37.12.401 LABORATORY FEES FOR ANALYSES (1) remains the same.

(2) The Department of Public Health and Human Services ~~shall~~ will maintain a list of all tests available from the lab and the price of each test. The department adopts and incorporates by reference the Laboratory Test Fee List effective ~~July 1, 2010~~ January 1, 2014, which ~~shall be~~ is available on the web site of the Department of Public Health and Human Services at ~~www.dphhs.mt.gov/forms/~~ www.dphhs.mt.gov/publichealth/lab/labfees.shtml, and by mail upon request to the lab at the Department of Public Health and Human Services, Public Health and Safety Division, P.O. Box 6489, Helena, MT 59604-6489.

(3) and (4) remain the same.

AUTH: 50-1-202, MCA

IMP: 50-1-202, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (the department) proposes to modify ARM 37.12.401 to reference the new version of the state laboratory fee list,

which provides an average increase of 6% in the cost of lab services, though fee increases on a test-by-test basis vary. ARM 37.12.401 provides information regarding the fees charged for biological and environmental tests performed by the Montana State Laboratory, in conformity with state statute. The revised fees are necessary to keep the fees charged for lab service in line with the actual current cost associated with providing that service.

The proposed fee increases will result in a cumulative increase in fees for all laboratory services of approximately \$185,000, affecting about 1000 annual customers of the state laboratory. The proposed fee increases represent the minimum necessary to maintain the state laboratory's current level of services, and are reasonably necessary to allow the state laboratory to fulfill its obligations as an adjunct to public health and health care functions in the state of Montana. The proposed fees account for the increased costs incurred by the laboratory since the last fee increase, including increases in cost of personnel, supplies, and new and replacement testing equipment.

The department considered not increasing its testing fees, but concluded that not doing so would result in the laboratory spending more to provide services than it would recover in service fees, and would result in the laboratory having to discontinue services.

On November 27, 2013, the department will post the proposed revised fee list at the following web site: [www.dphhs.mt.gov/publichealth/lab/labfees.shtml](http://www.dphhs.mt.gov/publichealth/lab/labfees.shtml).

5. The department intends the proposed rule changes to be applied effective January 1, 2014.

6. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Kenneth Mordan, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena MT 59604-4210, no later than 5:00 p.m. on December 26, 2013. Comments may also be faxed to (406) 444-9744 or e-mailed to [dphhslegal@mt.gov](mailto:dphhslegal@mt.gov).

7. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Kenneth Mordan at the above address no later than 5:00 p.m., December 26, 2013.

8. If the agency receives requests for a public hearing on the proposed action from either 10% or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 100



persons based on the 1000 customers affected by rules covering state laboratory fees and services.

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

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

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

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

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

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

Certified to the Secretary of State November 18, 2013.

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

In the matter of the amendment of	)	NOTICE OF PROPOSED
ARM 38.5.2202 and 38.5.2302	)	AMENDMENT
pertaining to pipeline safety	)	
	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Concerned Persons

1. On January 16, 2014, the Department of Public Service Regulation (Public Service Commission or PSC) proposes to amend the above-stated rules.

2. The PSC will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or who need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Service Regulation no later than 4:00 p.m. on December 20, 2013, to advise us of the nature of the accommodation you need. Please contact Aleisha Solem, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601; telephone (406) 444-6170; TTD (406) 444-6199; fax (406) 444-7618; or e-mail ASolem@mt.gov.

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

38.5.2202 INCORPORATION BY REFERENCE OF FEDERAL PIPELINE SAFETY REGULATIONS (1) The commission adopts and incorporates by reference the U.S. Department of Transportation (DOT) Pipeline Safety Regulations, Code of Federal Regulations (CFR), Title 49, chapter 1, subchapter D, parts 191, 192, and 193, including all revisions and amendments enacted by DOT on or before ~~October 30, 2012~~ October 30, 2013. A copy of the referenced regulations may be obtained from United States Department of Transportation, Office of Pipeline Safety, Western Region, 12300 West Dakota Avenue, Suite 110, Lakewood, Colorado 80228, or may be reviewed at the Public Service Commission Offices, 1701 Prospect Avenue, Helena, Montana 59620-2601.

AUTH: 69-3-207, MCA  
IMP: 69-3-207, MCA

38.5.2302 INCORPORATION BY REFERENCE OF FEDERAL PIPELINE SAFETY REGULATIONS -- DRUG AND ALCOHOL TESTING AND PREVENTION PROGRAMS (1) Except as otherwise provided in this subchapter, the commission adopts and incorporates by reference the DOT Pipeline Safety Regulations, Drug and Alcohol Testing, 49 CFR 199, including all revisions and amendments enacted by DOT on or before ~~October 30, 2012~~ October 30, 2013. A copy of the referenced CFRs is available from the United States Department of Transportation, Office of

Pipeline Safety, Western Region, 12300 West Dakota Avenue, Suite 110, Lakewood, Colorado 80228, or may be reviewed at the Public Service Commission Offices, 1701 Prospect Avenue, Helena, Montana 59620-2601.

AUTH: 69-3-207, MCA  
IMP: 69-3-207, MCA

REASON: Amendment of ARM 38.5.2202 and 38.5.2302 (annual update) is necessary to allow the department to administer the most recent version of federal rules applicable in the department's administration of all federal aspects of Montana's pipeline safety programs. A copy of the referenced regulations may be reviewed at the department's offices or are available online at <http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=3e139b8fe42796ca0335e22c595fab2a&r=PART&n=49y3.1.1.1.7>.

4. Concerned persons may submit their written data, views, or arguments to Aleisha Solem, Department of Public Service Regulation, 1701 Prospect Avenue, P.O. Box 202601, Helena, MT 59620-2601; telephone (406) 444-6170; fax (406) 444-7618; or e-mail [asolem@mt.gov](mailto:asolem@mt.gov) and must be received no later than 5:00 p.m. December 27, 2013.

5. The Montana Consumer Counsel, 111 North Last Chance Gulch, Helena, Montana 59620-1703, telephone (406) 444-2771, is available and may be contacted to represent consumer interests in this matter.

6. If persons who are directly affected by the proposed amendment wish to express their data, views, or arguments either 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 Justin Kraske, Legal Division, Department of Public Service Regulation, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601, or e-mail [jkraske@mt.gov](mailto:jkraske@mt.gov) to be received no later than 5:00 p.m., December 27, 2013.

7. If the PSC receives requests for a public hearing on the proposed action from either 10% or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 2 entities based on the 27 entities affected.

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

person wishes to receive notices regarding: electric utilities, providers, and suppliers; natural gas utilities, providers, and suppliers; telecommunications utilities and carriers; water and sewer utilities; common carrier pipelines; motor carriers; rail carriers; and/or administrative procedures. Such written request may be mailed or delivered to Department of Public Service Regulation, Legal Division, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601, faxed to Aleisha Solem at (406) 444-7618, e-mailed to ASolem@mt.gov, or may be made by completing a request form at any rules hearing held by the PSC.

9. An electronic copy of this proposal notice is available on the PSC's web site and also 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. However, the PSC advises that it will decide any conflict between the official version and the electronic version in favor of the official printed version. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

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

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

/s/ JUSTIN KRASKE

Justin Kraske  
Rule Reviewer

/s/ W.A. (BILL) GALLAGHER

W.A. (Bill) Gallagher  
Chairman  
Department of Public Service Regulation

Certified to the Secretary of State November 18, 2013.

BEFORE THE DEPARTMENT OF ADMINISTRATION  
OF THE STATE OF MONTANA

In the matter of the amendment of ARM ) NOTICE OF AMENDMENT  
2.21.3103 pertaining to payroll rules )

TO: All Concerned Persons

1. On September 19, 2013, the department published MAR Notice No. 2-21-492 regarding a public hearing on the proposed amendment of the above-stated rule at page 1644 of the 2013 Montana Administrative Register, Issue No. 18.

2. On October 21, 2013, the department held a public hearing on the proposed amendment. No members of the public appeared.

3. The department received one written comment regarding the proposed amendment.

Comment 1: Legislative Services commented that the rulemaking authority of 2-18-401, MCA, only pertains to state agencies. The legislative branch is not a state agency, and therefore, the rules promulgated under the authority of Title 2, Chapter 18, Part 4 are not mandatory for the legislative branch. The legislative branch will voluntarily comply with the proposed rule as it pertains to permanent employees. However, the legislative branch does not waive its authority to follow current procedures for legislators. Currently, the legislative branch complies with all relevant IRS procedures, and it has provided documentation to the Department of Administration regarding its withholding process and its compliance reporting taxable wages on the W-2.

Response 1: The Department of Administration agrees with Comment 1 for the purpose of amending this rule.

4. The department has amended ARM 2.21.3103 as proposed.

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

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

Certified to the Secretary of State November 18, 2013.

BEFORE THE PUBLIC EMPLOYEES' RETIREMENT BOARD  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 2.43.5101 pertaining to the )  
adoption of deferred compensation )  
plan document and trust agreement )

TO: All Concerned Persons

1. On October 17, 2013, the Public Employees' Retirement Board published MAR Notice No. 2-43-493 pertaining to the proposed amendment of the above-stated rule at page 1732 of the 2013 Montana Administrative Register, Issue Number 19.

2. The Public Employees' Retirement Board has amended the above-stated rule as proposed.

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

COMMENT 1: A representative of the Legislative Services Division commented that the rule notice should better explain the subject matter of the material being adopted by reference and provide information on where to find the referenced material. She also noted that the web address provided a link to the mt.gov web site and not to MPERA.

RESPONSE 1: The subject matter of the Deferred Compensation Plan Document is broad, including everything from definitions and provisions governing the member's election to defer compensation to employer participation, limits on deferrals, valuation and reporting of accounts, investment options, rollovers and administration of the plan. Thus MPERA believes providing a summary of these topics would necessitate omissions and be potentially misleading.

The web address where the referenced material may be found has been repaired.

/s/ Melanie A. Symons  
Melanie A. Symons  
Chief Legal Counsel  
and Rule Reviewer

/s/ Scott E. Moore  
Scott E. Moore  
President  
Public Employees' Retirement Board

Certified to the Secretary of State November 18, 2013.

BEFORE THE PUBLIC EMPLOYEES' RETIREMENT BOARD  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 2.43.2110 pertaining to )  
calculation of highest average )  
compensation or final average )  
compensation )

TO: All Concerned Persons

1. On October 17, 2013, the Public Employees' Retirement Board published MAR Notice No. 2-43-494 pertaining to the proposed amendment of the above-stated rule at page 1735 of the 2013 Montana Administrative Register, Issue Number 19.

2. The Public Employees' Retirement Board has amended the above-stated rule as proposed.

3. No comments were received.

/s/ Melanie A. Symons  
Melanie A. Symons  
Chief Legal Counsel  
and Rule Reviewer

/s/ Scott E. Moore  
Scott E. Moore  
President  
Public Employees' Retirement Board

Certified to the Secretary of State November 18, 2013.

BEFORE THE PUBLIC EMPLOYEES' RETIREMENT BOARD  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 2.43.2115, 2.43.2602, and )  
2.43.2609 pertaining to the operation )  
of the retirement systems and plans )  
administered by the Montana Public )  
Employees' Retirement Board )

TO: All Concerned Persons

1. On October 17, 2013, the Public Employees' Retirement Board published MAR Notice No. 2-43-495 pertaining to the proposed amendment of the above-stated rules at page 1738 of the 2013 Montana Administrative Register, Issue Number 19.

2. The Public Employees' Retirement Board has amended the above-stated rules as proposed.

3. No comments were received.

/s/ Melanie A. Symons  
Melanie A. Symons  
Chief Legal Counsel  
and Rule Reviewer

/s/ Scott E. Moore  
Scott E. Moore  
President  
Public Employees' Retirement Board

Certified to the Secretary of State November 18, 2013.



BEFORE THE PUBLIC EMPLOYEES' RETIREMENT BOARD  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 2.43.2114, 2.43.2116, )  
2.43.3510, 2.43.3515, 2.43.3517, )  
2.43.3524, 2.43.3525, and 2.43.3531 )  
pertaining to the name change of the )  
Montana university system optional )  
retirement program )

TO: All Concerned Persons

1. On October 17, 2013, the Public Employees' Retirement Board published MAR Notice No. 2-43-496 pertaining to the proposed amendment of the above-stated rules at page 1741 of the 2013 Montana Administrative Register, Issue Number 19.
2. The Public Employees' Retirement Board has amended the above-stated rules as proposed.
3. No comments were received.

/s/ Melanie A. Symons  
Melanie A. Symons  
Chief Legal Counsel  
and Rule Reviewer

/s/ Scott E. Moore  
Scott E. Moore  
President  
Public Employees' Retirement Board

Certified to the Secretary of State November 18, 2013.

BEFORE THE PUBLIC EMPLOYEES' RETIREMENT BOARD  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 2.43.2318 pertaining to "one-for )  
-five" additional service and ARM )  
2.43.2324 pertaining to guaranteed )  
annual benefit adjustment coverage - )  
PERS, SRS, and GWPORS )

TO: All Concerned Persons

1. On October 17, 2013, the Public Employees' Retirement Board published MAR Notice No. 2-43-497 pertaining to the proposed amendment of the above-stated rules at page 1746 of the 2013 Montana Administrative Register, Issue Number 19.

2. The Public Employees' Retirement Board has amended the following rule as proposed: ARM 2.43.2318.

3. The Public Employees' Retirement Board has amended the following rule as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

2.43.2324 GUARANTEED ANNUAL BENEFIT ADJUSTMENT COVERAGE

(1) Defined benefit members ~~Members~~ who terminate covered employment, accept a refund of their accumulated contributions, and return to covered employment in the same system, will be eligible for the GABA provisions in effect at the time the member returns to covered employment.

(2) Purchase of the refunded time does not affect the member's new hire date. The member will remain eligible for the GABA provisions then in effect, not the GABA associated with the refunded time.

AUTH: 19-2-403, MCA

IMP: 19-2-603, 19-3-1605, 19-6-712, 19-7-711, 19-8-1105, MCA

4. The Public Employees' Retirement Board has thoroughly considered the comments received. A summary of the comments received and the Public Employees' Retirement Board's responses are as follows:

COMMENT 1: A representative from Legislative Services Division commented that the language in ARM 2.43.2324(1) was ambiguous. It was suggested that the word "provisions" be added after GABA in order to provide clarity and avoid any misinterpretation.

It was also recommended to add "defined benefit" before members in (1) to avoid any confusion with the other systems MPERA oversees.

Highway Patrol Officers' Retirement System was added to this rule as a result of Chapter 272 of the Session Laws of 2013. Therefore it is necessary to have 19-6-712, MCA, listed in the implementation citations.

RESPONSE 1: MPERA agrees with the commenter regarding the suggested changes and has implemented those changes.

/s/ Melanie Symons  
Melanie Symons  
Chief Legal Counsel  
and Rule Reviewer

/s/ Scott E. Moore  
Scott Moore  
President  
Public Employees' Retirement Board

Certified to the Secretary of State November 18, 2013.

BEFORE THE PUBLIC EMPLOYEES' RETIREMENT BOARD  
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF AMENDMENT
ARM 2.43.1501, 2.43.2101,	)	
2.43.2104, 2.43.2120, 2.43.2214,	)	
2.43.2303, 2.43.2610, 2.43.2901,	)	
2.43.3008, 2.43.4203, and 2.43.4207	)	
pertaining to the operation of the	)	
retirement systems and plans	)	
administered by the Montana Public	)	
Employees' Retirement Board	)	

TO: All Concerned Persons

1. On October 17, 2013, the Public Employees' Retirement Board published MAR Notice No. 2-43-498 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 1749 of the 2013 Montana Administrative Register, Issue Number 19.

2. The Public Employees' Retirement Board has amended the following rules as proposed: ARM 2.43.1501, 2.43.2101, 2.43.2104, 2.43.2120, 2.43.2214, 2.43.2303, 2.43.2901, 2.43.3008, 2.43.4203, and 2.43.4207.

3. The Public Employees' Retirement Board will not amend the following rule as proposed and leave it intact: ARM 2.43.2610

4. The Public Employees' Retirement Board has thoroughly considered the comments received. A summary of the comments received and the Public Employees' Retirement Board's responses are as follows:

COMMENT 1: A representative of the Legislative Services Division commented that the Legislature contemplated that contingent annuitants could designate a beneficiary in at least one section, 19-5-701(2)(c)(iii), MCA. Therefore, although MPERA could treat naming of the beneficiary as optional, the rule should indicate that the contingent annuitant may designate a beneficiary, rather than deleting all reference to them. With the absence of the contingent annuitant, it seems to imply that they cannot designate a beneficiary.

RESPONSE 1: MPERA agrees the statutes governing option 4 contingent annuitants in PERS, JRS, GWPORS, and SRS contemplate being able to name a beneficiary and has determined to withdraw the proposed amendment to ARM 2.43.2610.

/s/ Melanie A. Symons  
Melanie A. Symons  
Chief Legal Counsel  
and Rule Reviewer

/s/ Scott E. Moore  
Scott E. Moore  
President  
Public Employees' Retirement Board

Certified to the Secretary of State November 18, 2013

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

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 12.8.702 through 12.8.709 )  
pertaining to primitive fishing access )  
sites )

TO: All Concerned Persons

1. On September 5, 2013, the Department of Fish, Wildlife and Parks published MAR Notice No.12-397 pertaining to the proposed amendment of the above-stated rules at page 1565 of the 2013 Montana Administrative Register, Issue Number 17.

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

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

COMMENT 1: Two people commented in favor of retaining a lower level of development at primitive fishing access sites. One person commented that they supported the changes because some level of development is necessary regardless of whether a site is labeled as a primitive access site.

RESPONSE 1: The department recognizes the value of primitive fishing access sites but also has a commitment to provide a variety of recreation experiences including primitive and developed fishing access sites. The sites that are to be removed from the list are ones that may no longer be owned by the department or are primarily locations where recreational use, camping in particular, is occurring at a level that warrants some additional development in order to protect the resources and continue providing the desired recreational activity.

COMMENT 2: One person commented that Bureau of Reclamation campgrounds on Canyon Ferry Reservoir and Hauser Reservoir are examples of unnecessary improvements that have resulted in higher camping fees and that the department should avoid making the same mistake.

RESPONSE 2: Camping fees at fishing access sites are set by the Fish and Wildlife Commission. The camping fees at a primitive fishing access site are the same as the camping fees at other fishing access sites. The fee system is not based on the level of development or amenities provided at an access site.

COMMENT 3: One person asked if the struck-through sites were not under consideration.

RESPONSE 3: The struck-through sites in the proposal are the sites that the department is removing from the list of primitive fishing access sites because they are either no longer owned by the department or they need improvements to address public use patterns.

COMMENT 4: One person commented on camping conditions at Ackley Lake State Park and the state park reservation system.

RESPONSE 4: This rule does not apply to state parks and therefore is outside the scope of this rulemaking procedure.

COMMENT 5: One person commented that they would like to see restrictions similar to those on the Beaverhead and Big Hole rivers placed on fishing guides operating on the Missouri River.

RESPONSE 5: This rule does not apply to restrictions on outfitting and guiding and therefore the request to regulate guiding on the Missouri River is outside the scope of this rulemaking procedure.

COMMENT 6: One person commented that there are too many regulation signs at fishing access sites that contain language informing visitors about activities that are prohibited and commented that overnight use should be allowed at all fishing access sites.

RESPONSE 6: This rule does not apply to public use restrictions at fishing access sites and therefore the concerns about signs and prohibitions on overnight camping is outside the scope of this rulemaking procedure.

/s/ Aimee Fausser  
Aimee Fausser  
Rule Reviewer

/s/ Mike Volesky  
Mike Volesky  
Chief of Staff  
Department of Fish, Wildlife and Parks

Certified to the Secretary of State November 18, 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<br>Subject | 1. Consult ARM Topical Index.<br>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.

### ADMINISTRATION, Department of, Title 2

- |  |   |
|--|---|
| 2.21.1931                                    | and other rules - VEBA Plan, p. 296, 1083   |
| 2.21.3103                                    | Payroll Rules, p. 1644  |
| 2.59.104                                     | Semiannual Assessment for Banks, p. 241, 667  |
| 2.59.302                                     | Schedule of Charges for Consumer Loans, p. 235, 666   |
| 2.59.1001                                    | and other rule - Merger Application Procedures, p. 1375, 1817   |
| 2.59.1701                                    | and other rules - Definition of Origination of a Mortgage Loan - Certificate of Bona Fide Not-For-Profit Entity - State-Specific Prelicensing Education - When an Application Is Deemed Abandoned - Definitions - Proof of Experience - Standardized Forms - Reinstatement of Licenses - Reporting Forms for Mortgage Servicers - Licensing Exemptions - Mortgage Loan Originator Testing - Written Exemption Form, p. 1866 |
| 2.60.203                                     | Application Procedure for a Certificate of Authorization for a State-Chartered Bank, p. 244, 668  |
| (Montana Public Employees' Retirement Board) |   |
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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 October 2013 appear. Vacancies scheduled to appear from December 1, 2013, through February 28, 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 November 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 OCTOBER 2013

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Board of Pharmacy</b> (Labor and Industry)			
Ms. Rebekah Matovich Billings	Governor	reappointed	10/4/2013 7/1/2018
Qualifications (if required): Registered Pharmacy Technician			
Ms. Charmell Petroff Owens Hamilton	Governor	Carlson	10/4/2013 7/1/2018
Qualifications (if required): Public Representative			
<b>Board of Psychologists</b> (Labor and Industry)			
Mr. James English Helena	Governor	Mattocks	10/4/2013 9/1/2018
Qualifications (if required): Psychologist in private practice			
<b>Board of Veterans Affairs</b> (Military Affairs)			
Mr. Michael Hagenlock Helena	Governor	Jacobs	10/4/2013 8/1/2014
Qualifications (if required): Public Health and Human Services Representative			
<b>Capitol Complex Advisory Council</b> (Administration)			
Representative Diane Sands Missoula	Administration	not listed	10/1/2013 1/1/2017
Qualifications (if required): Montana General Public			
<b>Community Service Commission</b> (Administration)			
Mr. Kevin Myhre Lewistown	Governor	Miske	10/1/2013 1/1/2016
Qualifications (if required): Local Government Representative			

**BOARD AND COUNCIL APPOINTEES FROM OCTOBER 2013**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>Community Service Commission</b> (Administration) cont.			
Mr. Dustin Whitford Box Elder	Governor	Steele	10/1/2013 7/1/2014
Qualifications (if required): Representing Tribal Government			
<b>Economic Development Advisory Council</b> (Commerce)			
Mr. Sean Becker Bozeman	Governor	Menicucci	10/4/2013 7/23/2015
Qualifications (if required): Public Representative			
Mr. Mike Henning Fairfield	Governor	Ekblad	10/4/2013 7/23/2016
Qualifications (if required): Public Representative			
Mr. Jim Smitham Butte	Governor	reappointed	10/4/2013 7/23/2016
Qualifications (if required): Public Representative			
Mr. Paul Tuss Havre	Governor	reappointed	10/4/2013 7/23/2016
Qualifications (if required): Public Representative			
Mr. Tim Warner Helena	Governor	Cooney	10/4/2013 7/23/2016
Qualifications (if required): Public Representative			

**BOARD AND COUNCIL APPOINTEES FROM OCTOBER 2013**

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
<b>State Emergency Response Commission (Military Affairs)</b>			
Mr. Patrick Lonergan Bozeman	Governor	Ebner	10/4/2013 10/1/2015
Qualifications (if required): DES Association			
Ms. Jackie Williams Helena	Governor	Zellar	10/4/2013 10/1/2015
Qualifications (if required): Department of Agriculture Representative			
<b>State Tribal Economic Development Commission (Commerce)</b>			
Mr. Rodney Miller Wolf Point	Governor	reappointed	10/4/2013 6/30/2016
Qualifications (if required): Fort Peck Tribe representative			
Dr. Kenneth Ryan Poplar	Governor	Smith	10/4/2013 6/30/2016
Qualifications (if required): Fort Peck Tribe alternate			



**VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2013 THROUGH FEBRUARY 28, 2014**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p><b>Board of Chiropractors</b> (Labor and Industry)            Dr. Scott Hansing, Helena            Qualifications (if required): practicing chiropractor with at least one year experience</p>	Governor	1/1/2014
<p><b>Board of Horse Racing</b> (Commerce)            Ms. Susan Egbert, Helena            Qualifications (if required): resident of District 4</p>	Governor	1/20/2014
<p><b>Board of Pardons and Parole</b> (Corrections)            Mr. Darryl Dupuis, Polson            Qualifications (if required): having education or experience in criminology</p>	Governor	1/1/2014
<p>Ms. Margaret Hall-Bowman, Pablo            Qualifications (if required): having education or experience in criminology</p>	Governor	1/1/2014
<p><b>Board of Public Education</b> (Education)            Ms. Patty Myers, Great Falls            Qualifications (if required): resident of District 1 and she identifies herself as a Democrat</p>	Governor	2/1/2014
<p><b>Board of Regents</b> (Education)            Mr. Todd Buchanan, Billings            Qualifications (if required): resident of District 2 and he identifies himself as an Independent</p>	Governor	2/1/2014
<p><b>Board of Speech-Language Pathologists and Audiologists</b> (Labor and Industry)            Ms. Cheri Fjare, Big Timber            Qualifications (if required): speech-language pathologist</p>	Governor	12/31/2013

**VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2013 THROUGH FEBRUARY 28, 2014**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Board of Speech-Language Pathologists and Audiologists</b> (Labor and Industry) cont. 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
<b>Greater Sage Grouse Habitat Conservation Advisory Council</b> (Governor) Mr. Glenn Marx, Helena Qualifications (if required): Conservation and Sportsmen	Governor	1/31/2014
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

**VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2013 THROUGH FEBRUARY 28, 2014**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Greater Sage Grouse Habitat Conservation Advisory Council</b> (Governor) cont. 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
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
<b>Judicial Nomination Commission</b> (Justice) 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

**VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2013 THROUGH FEBRUARY 28, 2014**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p><b>Lottery Commission</b> (Administration)            Mr. Thomas M. Keegan, Helena            Qualifications (if required): attorney</p>	Governor	1/1/2014
<p>Ms. Beth O'Halloran, Missoula            Qualifications (if required): public member</p>	Governor	1/1/2014
<p><b>Montana Alfalfa Seed Committee</b> (Agriculture)            Mr. Tom Matchett, Billings            Qualifications (if required): alfalfa seed grower</p>	Governor	12/21/2013
<p>Mr. Tom Neibur, Malta            Qualifications (if required): alfalfa seed grower (alfalfa Leaf-cutting bees)</p>	Governor	12/21/2013
<p><b>Montana Election and Technology Advisory Council</b> (Secretary of State)            Ms. Bonnie Ramey, Boulder            Qualifications (if required): Jefferson County Clerk &amp; Recorder</p>	Secretary of State	1/2/2014
<p>Ms. Vickie Zeier, Missoula            Qualifications (if required): Missoula County Clerk &amp; Recorder</p>	Secretary of State	1/2/2014
<p>Ms. Janice Hoppes, Conrad            Qualifications (if required): Pondera County Clerk &amp; Recorder</p>	Secretary of State	1/2/2014
<p>Ms. Sandra Boardman, Chinook            Qualifications (if required): Blaine County Clerk &amp; Recorder</p>	Secretary of State	1/2/2014

**VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2013 THROUGH FEBRUARY 28, 2014**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Montana Election and Technology Advisory Council</b> (Secretary of State) cont.		
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
<b>Montana Grass Conservation Commission</b> (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): gazing district preference holder	Governor	1/1/2014
<b>Small Business Health Insurance Pool Board</b> (State Auditor)		
Ms. Amanda Harrow, Helena Qualifications (if required): consumer representing small business	Governor	1/1/2014

**VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2013 THROUGH FEBRUARY 28, 2014**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>State Lottery Commission</b> (Lottery) Rep. Cynthia Hiner, Deer Lodge Qualifications (if required): Public Representative	Governor	1/1/2014
<b>Statewide Independent Living Council</b> (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
Mr. Chris Cragwick, Missoula Qualifications (if required): public representative/disabilities community representative	Governor	12/1/2013
Ms. Donell Neiss, Missoula Qualifications (if required): public representative/disabilities community representative	Governor	12/1/2013
Ms. Bobbie Becker, Glendive Qualifications (if required): Independent Living Center representative	Governor	12/1/2013
Mr. Troy Spang, Ashland Qualifications (if required): Section 121 representative	Governor	12/1/2013
Mr. Tom Osborn, Black Eagle Qualifications (if required): representative of independent living centers	Governor	12/1/2013

**VACANCIES ON BOARDS AND COUNCILS -- DECEMBER 1, 2013 THROUGH FEBRUARY 28, 2014**

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<b>Traumatic Brain Injury Advisory Council</b> (Public Health and Human Services) Ms. Kathy Smith, Great Falls Qualifications (if required): advocate of brain injured	Governor	1/1/2014
Ms. Melveena Malatare, Browning Qualifications (if required): advocate of brain injured	Governor	1/1/2014