

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 18

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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

Page Number

TABLE OF CONTENTS

PROPOSAL NOTICE SECTION

ADMINISTRATION, Department of, Title 2

2-59-519 Notice of Proposed Adoption and Repeal - Annual Report by Deferred Deposit Loan Licensees. No Public Hearing Contemplated.	2058-2060
2-59-520 Notice of Proposed Adoption - Annual Report by Consumer Loan Licensees. No Public Hearing Contemplated.	2061-2063
2-59-521 Notice of Proposed Amendment - Renewal Fees for Mortgage Licensees. No Public Hearing Contemplated.	2064-2066

LIVESTOCK, Department of, Title 32

32-14-252 Notice of Public Hearing on Proposed Amendment - Additional Requirements for Cattle - Brucellosis Vaccination of Imported Cattle Under Four Months of Age.	2067-2070
32-14-257 Notice of Proposed Amendment - Diagnostic Laboratory Fees. No Public Hearing Contemplated.	2071-2086

REVENUE, Department of, Title 42

42-2-917 Notice of Public Hearing on Proposed Adoption - The Electronic Service of Levies and Writs.	2087-2090
42-2-918 Notice of Public Hearing on Proposed Amendment - Property Classification - Property Tax Assistance Programs.	2091-2096

RULE ADOPTION SECTION

ADMINISTRATION, Department of, Title 2

2-67-513 (Board of County Printing) Notice of Amendment - Minimum Font Size in Printing Standards.	2097
--	------

ENVIRONMENTAL QUALITY, Department of, Title 17

17-358 (Subdivisions/On-Site Subsurface Wastewater Treatment) Notice of Amendment and Adoption - Subdivision Applications and Review - Subdivision Requirements - Subdivision Waivers and Exclusions - Subdivision Review Fees - On-Site Subsurface Wastewater Treatment Systems.	2098-2119
---	-----------

LABOR AND INDUSTRY, Department of, Title 24

24-111-25 (Alternative Health Care Board) Notice of Amendment and Adoption - Naturopathic Physician Formulary - Military Training or Experience.	2120-2138
24-138-69 (Board of Dentistry) Corrected Notice of Amendment - Continuing Education Definition.	2139

LIVESTOCK, Department of, Title 32

32-14-248 Notice of Amendment and Repeal - Reporting Rabies - Rabies Quarantine - Isolation of Rabid or Suspected Rabid Animals - Isolation of Biting Animals - Stray or Ownerless Animals.	2140
32-14-249 Notice of Amendment - Designated Surveillance Area.	2141-2145
32-14-250 Notice of Amendment - Revocation or Suspension of Appointment of Deputy State Veterinarian.	2146

PUBLIC HEALTH AND HUMAN SERVICES, Department of, Title 37

37-679 Notice of Amendment and Repeal - Revision of the Rules for Serious Emotional Disturbance for Youth, Mental Health Outpatient Partial Hospital Services, and Medicaid Mental Health Authorization Requirements. 2147-2165

37-682 Notice of Amendment - Update of Federal Poverty Level and Health Coverage Status When Determining Plan First Program Eligibility. 2166-2167

37-683 Notice of Amendment - Fee Schedule Revisions for the Durable Medical Equipment Program, Home and Community Based Services, and Personal Assistance and Self-Directed Personal Assistance Services. 2168-2170

37-684 Notice of Amendment - Early Elective Delivery - Ancillary Services Clarification. 2171-2174

REVENUE, Department of, Title 42

42-2-910 Notice of Amendment - Implementing a Montana Supreme Court Decision Pertaining to Centrally Assessed Property. 2175-2177

42-2-911 Notice of Amendment - Revision of the Names Corporation License Tax and Corporation Income Tax. 2178

SECRETARY OF STATE, Office of, Title 44

44-2-199 Notice of Adoption - Returned Check Service Fees. 2179

SPECIAL NOTICE AND TABLE SECTION

Function of Administrative Rule Review Committee. 2180-2181

How to Use ARM and MAR. 2182

Accumulative Table. 2183-2196

Boards and Councils Appointees. 2197-2204

Vacancies on Boards and Councils. 2205-2210

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the adoption of NEW)	NOTICE OF PROPOSED
RULE I pertaining to the annual report by)	ADOPTION AND REPEAL
deferred deposit loan licensees and the)	
repeal of ARM 2.59.1502)	NO PUBLIC HEARING
)	CONTEMPLATED

TO: All Concerned Persons

1. On October 20, 2014, the Department of Administration proposes to adopt and repeal the above-stated rules.

2. The Department of Administration will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Division of Banking and Financial Institutions no later than 5:00 p.m. on October 3, 2014, to advise us of the nature of the accommodation that you need. Please contact Wayne Johnston, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; telephone (406) 841-2918; TDD (406) 444-1421; facsimile (406) 841-2930; e-mail to banking@mt.gov.

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

NEW RULE I ADOPTION OF ANNUAL REPORTING FORM AND DUE DATE (1) All entities holding a deferred deposit loan license at any time during 2014 shall complete the Deferred Deposit Loan Annual Report of Licensee dated August 5, 2014, and file it with the department by April 15, 2015. Instructions for filing are in the report.

(2) Copies of the form are available on the division's web site, www.banking.mt.gov.

AUTH: 31-1-714, MCA
IMP: 31-1-714, MCA

STATEMENT OF REASONABLE NECESSITY: Section 31-1-714, MCA, requires licensees to file an annual report covering the licensee's deferred deposit loan activity in this state during the preceding calendar year. This rule is needed to ensure that all deferred deposit lenders holding a deferred deposit loan license at any time during 2014 complete and file a report of their Montana deferred deposit loan activity during 2014. The form sets forth the information required by the department in its supervision of the deferred deposit loan companies in this state.

The due date of the report is April 15, 2015. The department chose this date because it is one quarter after the calendar year end. Businesses need to have sufficient time to close their year-end books and determine their balance sheet as well as the volume, number, and performance of the deferred deposit loans they

held during the prior year. The department believes that it is reasonable to allow deferred deposit loan licensees one quarter to accomplish this. It is not reasonable to allow licensees more than one quarter to file the report, because after the first quarter of the year businesses should know their financial data for the previous year.

4. The department proposes to repeal the following rule:

2.59.1502 APPLICATION PROCEDURE REQUIRED TO ENGAGE IN DEPOSIT LENDING

AUTH: 31-1-702, MCA

IMP: 31-1-702, 31-1-705, 31-1-722, MCA

STATEMENT OF REASONABLE NECESSITY: This rule is no longer applicable. Applications are now taken through the Nationwide Multistate Licensing System (NMLS).

5. Concerned persons may submit their data, views, or arguments concerning the proposed action to Kelly O'Sullivan, Legal Counsel, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; faxed to the office at (406) 841-2930; or e-mailed to banking@mt.gov; and must be received no later than 5:00 p.m., October 16, 2014.

6. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Kelly O'Sullivan at the above address no later than 5:00 p.m., October 16, 2014.

7. If the division 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 one based on the fact there are currently no deferred deposit lenders licensed.

8. An electronic copy of this proposal notice is available through 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.

9. 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 banking@mt.gov; or may be made by completing a request form at any rules hearing held by the department.

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

11. The department has determined that under 2-4-111, MCA, the adoption and repeal of the above-stated rules will not significantly and directly affect small businesses.

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 September 8, 2014.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the adoption of NEW	)	NOTICE OF PROPOSED
RULE I pertaining to the annual report by	)	ADOPTION
consumer loan licensees)	
	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Concerned Persons

1. On October 20, 2014, the Department of Administration proposes to adopt the above-stated rule.

2. The Department of Administration will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Division of Banking and Financial Institutions no later than 5:00 p.m. on October 3, 2014, to advise us of the nature of the accommodation that you need. Please contact Wayne Johnston, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; telephone (406) 841-2918; TDD (406) 444-1421; facsimile (406) 841-2930; e-mail to banking@mt.gov.

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

NEW RULE I ADOPTION OF ANNUAL REPORT FORM AND DUE DATE

(1) All entities holding a consumer loan license at any time during 2014 shall complete the Consumer Loan Annual Report of Licensee dated August 5, 2014, and file it with the department by April 15, 2015. Instructions for filing are in the report.

(2) Copies of the form are available on the division's web site, www.banking.mt.gov.

AUTH: 32-5-308, MCA

IMP: 32-5-308, MCA

STATEMENT OF REASONABLE NECESSITY: Section 32-5-308, MCA, requires licensees to file an annual report covering the licensee's consumer loan activity in this state during the preceding calendar year. This rule is needed to ensure that all consumer loan licensees holding a consumer loan license at any time during 2014 complete and file a report of their Montana consumer loan activity during 2014. The form sets forth the information required by the department in its supervision of the consumer loan companies in this state.

The due date of the report is April 15, 2015. The department chose this date because it is one quarter after the calendar year end. Businesses need to have sufficient time to close their year-end books and determine their balance sheet as well as the volume, number, and performance of the consumer loans they held during the prior year. The department believes that it is reasonable to allow

consumer loan licensees one quarter to accomplish this. It is not reasonable to go beyond one quarter, because businesses should know their financial performance for the preceding year by the end of the first quarter, at the latest.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action to Kelly O'Sullivan, Legal Counsel, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; faxed to the office at (406) 841-2930; or e-mailed to banking@mt.gov; and must be received no later than 5:00 p.m., October 16, 2014.

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 Kelly O'Sullivan at the above address no later than 5:00 p.m., October 16, 2014.

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 5 persons based on the 55 current consumer loan companies licensed.

7. An electronic copy of this proposal notice is available through 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 banking@mt.gov; or may be made by completing a request form at any rules hearing held by the department.

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

10. The department has determined that under 2-4-111, MCA, the proposed new rule will not significantly and directly affect small businesses.

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 September 8, 2014.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of ARM) NOTICE OF PROPOSED
2.59.1738 pertaining to renewal fees for) AMENDMENT
mortgage licensees)
) NO PUBLIC HEARING
) CONTEMPLATED

TO: All Concerned Persons

1. On October 20, 2014, the Department of Administration proposes to amend the above-stated rule.

2. The Department of Administration will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Administration no later than 5:00 p.m. on October 9, 2014, to advise us of the nature of the accommodation that you need. Please contact Wayne Johnston, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; telephone (406) 841-2918; TDD (406) 444-1421; facsimile (406) 841-2930; or e-mail to banking@mt.gov.

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

2.59.1738 RENEWAL FEES (1) Licenses issued under Title 32, chapter 9, part 1, MCA, expire December 31. Licensees shall submit their renewal applications by December 1 of each year to ~~assure~~ ensure issuance of the license to qualified renewal applicants by January 1 of the following year. The renewal fees for the license period January 1 through December 31 are:

Mortgage Broker Entity	\$500.00
Mortgage Broker Branch	\$250.00
Mortgage Lender Entity	\$750.00
Mortgage Lender Branch	\$250.00
Mortgage Loan Originator	\$400.00
<u>Mortgage Servicer</u>	<u>\$750.00</u>
<u>Mortgage Servicer Branch</u>	<u>\$250.00</u>
(except as provided in 32-9-117(1)(b), MCA)	

AUTH: 32-9-117, MCA
IMP: 32-9-117, 32-9-130, MCA

STATEMENT OF REASONABLE NECESSITY: The department is proposing to adopt the renewal fees listed above because the division is self-funded through its licensing fees and recently realized that, due to an oversight, renewal fees for

mortgage servicers and mortgage servicer branches were not set forth in rule. Adding the renewal fees for these two groups formalizes the practice the division has been following since mortgage servicers and mortgage servicer branches were added as regulated entities in 2011. The department has chosen the amounts that are contained in this rule because they are the same as the initial license application fees in 32-9-117, MCA. There are currently 125 mortgage servicers and 128 mortgage servicer branches licensed in Montana. There is no anticipated increase or decrease in revenue resulting from this amendment.

4. Concerned persons may present their data, views, or arguments concerning the proposed action to Kelly O'Sullivan, Legal Counsel, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, Montana 59620-0546; faxed to the office at (406) 841-2930; or e-mailed to banking@mt.gov; and must be received no later than 5:00 p.m., October 16, 2014.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to the person listed in 4 above no later than 5:00 p.m., October 16, 2014.

6. If the Division of Banking and Financial Institutions receives requests for a public hearing on the proposed action from either 10% or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 26 persons based on the 125 existing licensed mortgage servicer companies and 128 mortgage servicer branches licensed in Montana.

7. An electronic copy of this proposal notice is available through 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 that includes the name and mailing address and e-mail address of the person to receive notices and specifies that the person wishes to

receive notices regarding division rulemaking actions. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written requests may be mailed or delivered to Wayne Johnston, Division of Banking and Financial Institutions, 301 S. Park, Ste. 316, P.O. Box 200546, Helena, Montana 59620-0546; faxed to the office at (406) 841-2930; e-mailed to banking@mt.gov; or may be made by completing a request form at any rules hearing held by the department.

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

10. The department has determined that under 2-4-111, MCA, the proposed rule amendment will not significantly and directly affect small businesses.

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 September 8, 2014.

BEFORE THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 32.3.212 additional) PROPOSED AMENDMENT
requirements for cattle and 32.3.212A)
brucellosis vaccination of imported)
cattle under four months of age)

TO: All Concerned Persons

1. On November 14, 2014, at 10:00 a.m., the Department of Livestock will hold a public hearing at the Headwaters Livestock Auction, 25 Wheatland Road, Three Forks, Montana, to consider the proposed amendment of the above-stated rules.

2. On November 13, 2014, at 1:00 p.m., the Department of Livestock will hold a public hearing at the Public Auction Yards, 1802 Minnesota Avenue, Billings, Montana, to consider the proposed amendment of the above-stated rules.

3. The Department of Livestock will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Livestock no later than 5:00 p.m. on November 10, 2014, to advise us of the nature of the accommodation that you need. Please contact Christian Mackay, 301 N. Roberts St., Room 308, P.O. Box 202001, Helena, MT 59620-2001; telephone: (406) 444-9321; TTD number: 1 (800) 253-4091; fax: (406) 444-4316; e-mail: cmackay@mt.gov.

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

32.3.212 ADDITIONAL REQUIREMENTS FOR CATTLE (1) ~~No f~~Female cattle over the age of four months ~~may be imported into the state of Montana for any purpose other than immediate slaughter~~ must be official vaccinates ~~unless they are officially vaccinated, by an accredited veterinarian approved in his or her state to administer the vaccination, with a Brucella abortus vaccine approved by the Veterinary Biologics Division, U.S. Department of Agriculture except as follows:~~

(a) ~~cattle being transported or moved through Montana with no intent to unload in the state are exempt from this section.~~ In an emergency situation, they may be unloaded in compliance with quarantine rules promulgated by the Department of Livestock under 81-2-102, MCA;

(b) spayed cattle;

(c) nonvaccinated female cattle ~~less than 11 months of age~~ placed under a hold order for ~~B~~brucellosis vaccination or spaying within 30 days of arrival; ~~and or~~

(d) nonvaccinated cattle from ~~those class free states or areas designated by the Board of Livestock.~~ a:

(i) state, area, province, or territory that has been brucellosis class free for ten years or more; or

(ii) brucellosis free state, area, province, or territory as designated by the Board of Livestock.

(2) Nonvaccinated ~~Sexually~~ intact cattle, 12 months of age and older, ~~originating outside the United States~~ must have a negative brucellosis test no more than within 30 days of prior to arrival unless originating from a:

(a) state, area, province, or territory that has been brucellosis class free for ten years or more; or

(b) brucellosis free state, area, province, or territory as designated by the Board of Livestock.

(3) through (9)(c) remain the same.

(d) virgin bull as defined in ARM 32.3.201(h);

(e) through (12) remain the same.

(13) All ~~male~~ calves less than 30 days of age imported into the state of Montana without their dams must be:

(a) and (b) remain the same.

~~(14) All female calves less than 30 days of age imported into the state of Montana without their dams must be:~~

~~(a) held in isolation for 30 days after entry;~~

~~(b) cannot be resold until they are officially calfhood vaccinated after four months of age; and~~

~~(c) individually identified by an official eartag at the state of origin.~~

~~(15) All cattle imported into Montana must meet the interstate requirements as set forth in Title 9 CFR.~~

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

IMP: 81-2-102, 81-2-703, ~~81-2-704~~, MCA

REASON: Forty-six states have been classified as brucellosis class free for ten or more years; therefore, imported cattle from those states pose a negligible brucellosis risk to Montana. This proposed rule change addresses this negligible risk. Further, this proposed rule change eliminates many import quarantines that can be a burden on producers and create additional costs to the department.

Three importing states that have had brucellosis positive herds in the last ten years will continue to have testing and vaccination requirements due to the potential risk to the Montana livestock industry.

32.3.212A BRUCELLOSIS VACCINATION OF IMPORTED CATTLE UNDER FOUR MONTHS OF AGE (1) Female cattle under the age of four months imported without their dams into the state of Montana for any purpose other than immediate slaughter shall be quarantined on arrival and must be vaccinated for brucellosis within six months of their entry, with no change of ownership allowed until animals are officially vaccinated, except for cattle from a:

(a) state, area, province, or territory that has been brucellosis class free for ten years or more; or

(b) brucellosis free state, area, province, or territory as designated by the Board of Livestock.

~~(2) If after six months following entry they have not been vaccinated the department shall vaccinate the cattle. In accordance with 81-2-109, MCA, the owner or agent is responsible for all necessary expenses. The expenses are a lien on the animals and the department may retain and foreclose according to 81-2-109, MCA.~~

~~(3) (2) All cattle imported under this section shall rule must have official individual identification that is applied be eartagged prior to entry at the state of origin.~~

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

IMP: 81-2-102, 81-2-704, MCA

REASON: Calves from the forty-six states that have been brucellosis free for ten or more years pose a negligible brucellosis risk to Montana's livestock industry. The proposed exception accounts for this minimal risk. The proposal to add language concerning "no change of ownership" would preserve the integrity of the quarantine. Because livestock owners are liable for expenses under 81-2-109, MCA, when a violation of law takes place, it is unnecessary to reference the statute in (2). The proposed changes to (3) would clarify ambiguous language related to animal identification.

5. Concerned persons may submit their data, views, or arguments either orally or in writing at one of the hearings. Written data, views, or arguments may also be submitted to: Christian Mackay, Department of Livestock, 301 N. Roberts St., Room 308, P.O. Box 202001, Helena, MT 59610-2001; telephone: (406) 444-9321; fax: (406) 444-1929; or e-mail: MDOLcomments@mt.gov, and must be received no later than 5:00 p.m., November 19, 2014.

6. Marty Zaluski, DVM, Department of Livestock, has been designated to preside over and conduct this hearing.

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 5 above or may be made by completing a request form at any rules hearing held by the department.

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text

will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

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

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

DEPARTMENT OF LIVESTOCK

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

BY: /s/ Robert Stutz
Robert Stutz
Rule Reviewer

Certified to the Secretary of State September 8, 2014.

BEFORE THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PROPOSED
ARM 32.2.403 pertaining to	)	AMENDMENT
diagnostic laboratory fees)	
	)	NO PUBLIC HEARING
	)	CONTEMPLATED

To: All Concerned Persons

1. On October 20, 2014, the Department of Livestock proposes to amend the above-stated rule.

2. The Department of Livestock will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Livestock no later than 5:00 p.m. on October 8, 2014, to advise us of the nature of the accommodation that you need. Please contact Christian Mackay, 301 N. Roberts St., Room 308, P.O. Box 202001, Helena, MT 59620-2001; telephone: (406) 444-9321; TTD number: 1 (800) 253-4091; fax: (406) 444-1929; e-mail: cmackay@mt.gov.

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

32.2.403 DIAGNOSTIC LABORATORY FEES (1) ~~The following list identifies the laboratory test services available through the Montana Department of Livestock Veterinary Diagnostic Laboratory (MVDL), and the associated fees charged for those services.~~

~~(a) Acceptance of specimens for diagnostic testing signifies contractual agreement between MVDL and our client.~~

~~(b) All submitted specimens become the property of MVDL.~~

~~(c) Submitted specimens may be subjected to additional testing as determined by state or federal animal or foreign animal disease surveillance mandates at no additional expense to our clients.~~ Test services available through the Montana Department of Livestock Veterinary Diagnostic Laboratory are listed in the chart in (2), entitled MVDL Services and Fees.

(a) A 50 percent surcharge will be assessed for tests conducted on non-resident animals.

(b) Mailing costs:

(i) all submissions must have shipping cost or postage prepaid;

(ii) "collect on delivery" shipments are not accepted;

(iii) any mailing costs incurred by the laboratory will be billed to the submitter.

(c) Delinquent accounts:

(i) A 1.5 percent monthly interest rate will be charged on accounts over 30 days.

(ii) Laboratory results on any account 90 days delinquent will be withheld until the entire payment is received.

(2) Abortion studies, livestock:	
(a) histopathology and aerobic, brucella, campylobacter, trichomonas cultures and darkfield examination	\$50.00
(3) Bacteriology:	
(a) aerobic culture:	
(i) identify one isolate	\$15.00
(ii) additional isolates	\$6.00 each
(b) anaerobic culture:	
(i) one	\$18.00
(ii) additional	\$6.00
(c) antibiotic sensitivity	10.00
(d) campylobacter	\$12.00
(e) CEM contagious equine metritis (talorellar equengenitales)	contact lab
(f) chlamydial ELISA	\$20.00
(g) clostridium FA	\$12.00
(h) dermatophyte culture and PAS	\$25.00
(i) direct microscopy	\$8.00
(j) fecal occult blood	\$8.00 minimum
(k) mycoplasma culture (spectation referral)	\$15.00
(l) nondermatophyte fungal culture	\$22.00
(m) salmonella enteritis (environmental samples)	\$18.00 each/contact lab
(n) trichomonas foetus culture (in pouch):	
(i) 1 to 100	\$6.00
(ii) 101 to 500	\$5.50
(iii) 501 or more	\$5.00
(4) Clinical Pathology:	
(a) clinical profiles:	
(i) small animal (SA) health screen	\$44.00
(ii) SA clinical profile	\$33.00
(iii) SA pre-anesthetic profile	\$24.00
(iv) large animal (LA) health screen	\$44.00
(v) LA clinical profile	\$33.00
(vi) feline profile	\$66.00
(vii) equine fitness profile	\$32.00
(b) biochemistry panels:	
(i) SA hepatic panel	\$20.00
(ii) SA renal panel	\$20.00
(iii) canine endocrine panel	\$23.00
(iv) electrolyte panel	\$10.00
(v) expanded electrolyte panel	\$15.00
(vi) feline geriatric panel	\$14.00
(vii) SA panel	\$25.00
(viii) LA panel	\$25.00
(c) urine evaluation:	
(i) urinalysis	\$12.00

(ii) urinalysis with culture/sensitivity	\$34.00
(d) endocrinology:	
(i) canine thyroid panel	\$28.00
(ii) thyroid panel feline & equine	\$24.00
(iii) canine total T4	\$10.00
(iv) total T4 feline & equine	\$10.00
(v) canine TSH	\$10.00
(vi) free T4	\$10.00
(vii) total T3	\$10.00
(viii) cortisol studies	\$15.00 each
(e) other serum chemistry:	
(i) bile acid	\$24.00 each
(ii) bile acid (pre and post)	\$34.00
(iii) phenobarbital	\$24.00
(iv) PLI pancreatic lipase immunoreactivity canine, feline	\$22.50
(v) individual biochemical tests	contact lab
(f) hematology:	
(i) SA/LA CBC with differential	\$15.00
(ii) SA/LA CBC without differential	\$6.50
(iii) reticulocyte count	\$6.50
(iv) hemotropic parasite screen	\$4.00
(v) fibrinogen	\$4.00
(vi) feline anemia panel	\$36.00
(g) cytology:	
(i) solid tissue	\$34.00
(ii) bone marrow	\$40.00
(iii) fluid analysis	\$36.00
(iv) CSF analysis with microprotein	\$24.00 + plus referral
(h) miscellaneous tests:	
(i) blood cross match	\$15.00
(ii) buffy coat exam	\$30.00
(iii) coagulation panel	\$80.00
(iv) individual coagulation test	\$20.00
(v) canine direct coombs	\$30.00
(5) Histology:	
(a) routine H&E:	
(i) 1 to 3 slides	\$34.00
(ii) 4 to 6 slides	\$40.00
(iii) 7 to 10 slides	\$46.00
(iv) 11 slides or more	\$52.00
(b) duplicate H&E (1 to 3)	\$17.00
(i) each additional slide	\$5.00
(c) immunohistochemistry	\$25.00
(d) special stains	\$8.00
(e) special preparation	\$8.00 minimum
(f) decalcification/keratin	\$8.00
(g) bulk research slide prep staining only	\$3.50 per slide + \$22.00/hour

(6) Milk Testing:	
(a) added water	\$3.00
(b) antibiotic	\$23.00
(c) brucella ring test	\$2.00
(d) coliform count	\$5.00
(e) component	\$1.00
(f) gerber	\$3.00
(g) listeria culture (up to 3 environmental swabs)	\$32.00
(h) majonnier	\$12.50
(i) pesticide (organophosphate and carbamates)	\$24.00 minimum
(j) pesticide (chlorinated hydrocarbons)	\$210.00 minimum
(k) phosphatase	\$6.00
(l) somatic cell count (direct microscopy)	\$5.00
(m) somatic cell count (electronic)	\$1.00
(n) standard plate count	\$5.50
(o) yeast and mold	\$5.50
(7) Miscellaneous Tests and Special Requests:	
(a) bovine IgG	\$15.00
(b) camelid IgG with total protein	\$15.00
(c) equine IgG	\$15.00
(d) ocular nitrate	\$14.00
(e) organization fee	\$60.00/hour
(f) duplicate test result reporting	\$3.00
(g) after hour fee (pathologist)	up to \$85.00
(h) stat fee	call in advance \$15.00
(i) minimum laboratory fee	\$8.00
(j) referral testing	referral lab test fee + shipping and \$8.00 handling
(8) Necropsy:	
(a) cattle and horses:	
(i) fetus	\$70.00 + carcass disposal (cd)
(ii) less than 150 lbs	\$85.00 + cd
(iii) 150 to 500 lbs	\$110.00 + cd
(iv) more than 500 lbs	\$150.00 + cd
(b) small ruminants:	
(i) fetuses (same dam)	\$70.00 + cd
(ii) up to 20 lbs	\$70.00 + cd
(iii) more than 20 lbs	\$85.00 + cd
(c) swine:	
(i) fetuses (same litter)	\$70.00 + cd
(ii) less than 25 lbs	\$70.00 + cd
(iii) 25 to 250 lbs	\$85.00 + cd
(iv) more than 250 lbs	\$110.00 + cd
(d) dogs and cats	\$110.00 + cd
(e) other species	\$40.00 minimum
(f) carcass disposal (incineration):	
(i) companion animals	\$25.00 to \$100.00
(ii) livestock	\$25.00 per 100 wt.

(g) insurance and legal cases	contact lab - \$150.00 per hour
(h) research	contact lab
(i) spinal cord removal + necropsy fee:	
(i) small animal	\$50.00
(ii) large animal	\$100.00
(j) transmissible encephalopathies:	
(i) necropsies	\$125.00 minimum + cd
(ii) brain removal only	\$30.00 minimum + cd
(iii) IHC/ELISA/WB	referral lab test fee + shipping and \$8.00 handling
(9) Livestock Neonatal Diarrhea Studies:	\$95.00
(10) Parasitology:	
(a) parasite or arthropod identification	\$27.00
(b) cryptosporidia exam	\$8.00 minimum
(c) dirofilaria immitis ELISA	\$9.00
(d) with confirmation	\$8.00
(e) fecal flotation	\$10.00
(f) giardia ELISA	\$28.00
(g) special parasite ID procedures	contact lab
(11) PCR Testing:	
(a) BVD	\$30.00
(b) IBR	\$35.00
(c) tritrichomonas foetus	\$27.00/sample
(i) pooled (5 samples)	\$50.00
(ii) retest in positive pools	\$27.00/sample
(d) other PCR	\$25.00 to \$50.00
(12) Rabies:	
(a) FA examination (small animal)	\$30.00
(b) FA examination (large animal)	\$55.00
(c) carcass disposal (bats or small rodents)	see Necropsy Carcass Disposal
(13) Serology — large animal:	
(a) anaplasmosis ELISA	\$7.00
(b) avian influenza AGID:	
(i) less than 10	\$5.50
(ii) 10 to 24	\$4.75
(iii) 25 to 49	\$2.75
(iv) 50 or more	\$1.50
(c) bluetongue AGID	\$6.00
(d) bluetongue ELISA:	
(i) 1 to 100	\$8.25
(ii) 101 to 500	\$6.00
(iii) 501 or more	\$3.50
(e) bovine leukemia virus ELISA:	
(i) 1 to 100	\$6.50
(ii) 101-500	\$5.50
(iii) 501 or more	\$3.50
(f) BRSV SN	\$6.50
(g) bovine virus diarrhea type I and II SN	\$13.00

(h) caprine progressive pneumonia:	
(i) AGID	\$6.00
(ii) ELISA	\$6.00
(i) brucella abortus:	
(i) card, BAPA, FP, RAP	\$1.50 each
(ii) CF, Rivanol, SPT, STT	\$2.50 each
(j) brucella ovis ELISA	\$7.50
(k) epizootic hemorrhagic disease AGID	\$10.00
(l) equine infectious anemia AGID:	
(i) 1 to 15 samples	\$7.00 each
(ii) 16 to 50 samples	\$5.50 each
(iii) 51 or more	\$4.50 each
(m) equine infectious anemia ELISA:	
(i) 1 to 15 samples	\$12.50
(ii) 16 to 50 samples	\$10.00
(iii) 51 or more	\$9.00
(n) infectious bovine rhinotracheitis	\$6.50
(o) johne's ELISA:	
(i) 1 to 100	\$7.50
(ii) 101 to 500	\$5.50
(iii) 501 or more	\$3.50
(p) leptospirosis MAT 5 routine serovars:	\$10.00
(i) leptospirosis individual MAT	\$2.00 each serovar
(q) ovine progressive pneumonia:	
(i) AGID	\$6.00
(ii) ELISA	\$6.00
(r) parainfluenza-3	\$5.00
(s) pseudorabies gB-ELISA	\$5.50
(t) salmonella pullorum MAT	\$4.50
(u) vesicular stomatitis CF	contact lab \$45.00
(v) vesicular stomatitis - NJ, IN SN	\$13.00
(w) west nile virus referral	\$50.00
(x) prices for large shipments (over 200) may be negotiated based on individual cost.	
(14) Serology—small animal:	
(a) brucella canis card	contact lab
(b) feline infectious peritonitis ELISA	\$27.00
(c) feline leukemia virus ELISA	\$17.00
(d) feline leukemia/feline immunodeficiency virus	\$27.00
(15) Toxicology	referral to outside contract laboratory
(16) Virology:	
(a) bovine leukemia virus ELISA:	
(i) 1 to 100	\$6.50
(ii) 101 to 500	\$5.50
(iii) 501 or more	\$3.50
(b) bovine virus diarrhea ELISA:	
(i) 1 to 100 samples	\$5.00 each

- (ii) 101 or more \$4.00 each
- (c) canine parvovirus ELISA \$24.00
- (d) electron microscopy \$30.00
- (e) fluorescent antibody testing \$8.00 each
- (f) leptospirosis MAT \$10.00
- (i) 2 serovars \$2.00
- (g) pseudorabies LA/bB ELISA \$5.50
- (h) rotavirus \$25.00
- (i) virus isolation \$25.00/virus
- (17) Miscellaneous charges/supplies:
 - (a) culturette (3 swabs) \$3.00
 - (b) duplicate test reporting \$2.00
 - (c) handling fee \$8.00 + shipping
 - (d) kits shipping and mailing costs
 - (e) large shipper \$18.75
 - (f) minimum fee \$8.00
 - (g) out-of-state cost of test plus 50%
 - (h) organizational fee \$60.00/hour minimum
 - (i) referral testing referral lab fee test + mailing and \$8.00 handling
 - (j) special testing/referral contact laboratory
 - (k) shipper return shipping and mailing costs
- (18) Other tests requested call ahead for prices
- (19) A 1.5% monthly interest rate will be charged on accounts over 30 days.
- (2) MVDL services and fees:

<u>Clinical Microbiology/Bacteriology</u>	<u>Fee</u>
<u>aerobic culture</u>	<u>\$16.00</u>
<u>aerobic - additional isolate</u>	<u>\$8.00 each</u>
<u>anaerobic culture</u>	<u>\$19.00 - one</u>
<u>anaerobic - additional isolate</u>	<u>\$8.00 each</u>
<u>antibiotic sensitivity</u>	<u>\$10.50</u>
<u>brucella culture</u>	<u>\$16.00</u>
<u>campylobacter culture</u>	<u>\$13.00</u>
<u>chlamydial ELISA</u>	<u>\$21.00</u>
<u>clostridium FA</u>	<u>\$18.00</u>
<u>clostridium perfringens genotyping</u>	<u>referral lab fee + handling</u>
<u>dermatophyte culture & PAS</u>	<u>\$26.25</u>
<u>direct microscopy</u>	<u>\$8.50</u>
<u>environmental culture</u>	<u>\$19.00 each</u>
<u>fecal occult blood</u>	<u>\$8.50 minimum</u>
<u>fungus culture</u>	<u>\$23.25</u>
<u>listeria culture</u>	<u>\$17.00</u>
<u>milk culture</u>	<u>\$16.00</u>
<u>mycoplasma culture</u>	<u>\$16.00</u>

<u>non-dermatophyte fungal culture</u>	<u>\$23.25</u>
<u>salmonella culture</u>	<u>\$15.75</u>
<u>salmonella enteritidis/if negative</u>	<u>\$21.00</u>
<u>salmonella enteritidis/additional testing</u>	<u>\$24.50</u>
<u>special requests</u>	<u>contact lab</u>
<u>tritrichomonas foetus culture:</u>	
<u>1 - 100</u>	<u>\$6.50 each</u>
<u>101 - 500</u>	<u>\$6.00 each</u>
<u>501 or more</u>	<u>\$5.50 each</u>
<u>Clinical Microbiology/Parasitology</u>	<u>Fee</u>
<u>cryptosporidia exam</u>	<u>\$8.50</u>
<u>dirofilaria immitis (canine heartworm) ELISA</u>	<u>\$9.50</u>
<u>fecal flotation</u>	<u>\$10.50</u>
<u>giardia ELISA</u>	<u>\$29.50</u>
<u>parasite or arthropod identification</u>	<u>\$28.50</u>
<u>special parasite identification procedures</u>	<u>contact lab</u>
<u>Clinical Pathology</u>	<u>Fee</u>
<u>Clinical profiles:</u>	
<u>small animal health screen</u>	<u>\$46.25</u>
<u>large animal health screen</u>	<u>\$46.25</u>
<u>small animal clinical profile</u>	<u>\$35.00</u>
<u>large animal clinical profile</u>	<u>\$35.00</u>
<u>small animal pre-anesthetic profile</u>	<u>\$25.25</u>
<u>feline profile</u>	<u>\$69.50</u>
<u>equine fitness profile</u>	<u>\$34.00</u>
<u>Endocrinology:</u>	
<u>canine thyroid panel</u>	<u>\$29.50</u>
<u>thyroid panel</u>	<u>\$25.25</u>
<u>canine total T4</u>	<u>\$10.50</u>
<u>total T4</u>	<u>\$10.50</u>
<u>canine TSH</u>	<u>\$10.50</u>
<u>free T4</u>	<u>\$10.50</u>
<u>total T3</u>	<u>\$10.50</u>
<u>cortisol: canine, feline, equine</u>	<u>\$16.00 each</u>
<u>ACTH stimulation</u>	<u>\$31.50</u>
<u>cortisol: pre & post</u>	<u>\$31.50</u>
<u>dexamethasone suppression: pre & post (normal collection: 0, 4 & 8 hour samples)</u>	<u>\$47.25</u>
<u>Biochemistry panels:</u>	

<u>small animal panel</u>	<u>\$26.25</u>
<u>large animal panel</u>	<u>\$26.25</u>
<u>small animal hepatic panel</u>	<u>\$21.00</u>
<u>small animal renal panel</u>	<u>\$21.00</u>
<u>canine endocrine panel</u>	<u>\$24.25</u>
<u>feline geriatric panel</u>	<u>\$15.00</u>
<u>electrolyte panel</u>	<u>\$10.50</u>
<u>expanded electrolyte panel</u>	<u>\$15.75</u>
<u>Other serum chemistry:</u>	
<u>PLI: canine, feline</u>	<u>\$23.75</u>
<u>bile acids: canine, feline, equine</u>	<u>\$25.25</u>
<u>bile acids: (pre & post)</u>	<u>\$35.75</u>
<u>phenobarbital</u>	<u>\$25.25</u>
<u>individual biochemical test</u>	<u>contact lab</u>
<u>Hematology:</u>	
<u>CBC/differential</u>	<u>\$15.75</u>
<u>large animal CBC/differential</u>	<u>\$15.75</u>
<u>small animal CBC/without differential</u>	<u>\$7.00</u>
<u>large animal CBC/without differential</u>	<u>\$7.00</u>
<u>reticulocyte count</u>	<u>\$7.00</u>
<u>feline anemia panel</u>	<u>\$38.00</u>
<u>fibrinogen</u>	<u>\$4.25</u>
<u>hemotropic parasite screen</u>	<u>\$4.25</u>
<u>urinalysis</u>	<u>\$12.75</u>
<u>urinalysis with culture & sensitivity</u>	<u>\$35.75</u>
<u>Miscellaneous clinical pathology tests:</u>	
<u>blood cross match</u>	<u>\$15.75</u>
<u>buffy coat exam</u>	<u>\$31.50</u>
<u>canine direct coombs</u>	<u>\$31.50</u>
<u>coagulation panel</u>	<u>\$84.00</u>
<u>individual coagulation test</u>	<u>\$21.00</u>
<u>IgG RID</u>	<u>\$15.75</u>
<u>ocular nitrate</u>	<u>\$14.75</u>
<u>Cytology</u>	<u>Fee</u>
<u>bone marrow cytology</u>	<u>\$42.00</u>
<u>CFS analysis: SG, microprotein, cytospin, cytology</u>	<u>\$25.25 plus microprotein referral fee</u>
<u>cytology with culture</u>	<u>\$35.75</u>
<u>fluid analysis: total cell count, TP, SG, cytology</u>	<u>\$38.00</u>

<u>FNA: imprint, smear, stained, or unstained</u>	<u>\$35.75</u>
<u>Histology/Immunohistochemistry</u>	<u>Fee</u>
<u>biopsy standard, per biopsy (1-3 slides)</u>	<u>\$35.75</u>
<u>per biopsy or necropsy (4-6 slides)</u>	<u>\$42.00</u>
<u>per biopsy or necropsy (7-10 slides)</u>	<u>\$48.50</u>
<u>per biopsy or necropsy (11 or more slides)</u>	<u>\$54.75</u>
<u>decalcification/keratin</u>	<u>\$8.50</u>
<u>hematoxylin & eosin (H & E):</u>	
<u>duplicate H & E (1-3 slides)</u>	<u>\$18.00 each</u>
<u>additional H & E (4 or more slides)</u>	<u>\$5.25 each</u>
<u>immunohistochemistry (IHC)</u>	<u>\$26.25</u>
<u>special stains</u>	<u>\$8.50</u>
<u>bulk research - slide prep staining only</u>	<u>\$4.00/slide + \$24.00/hour</u>
<u>Milk Testing</u>	<u>Fee</u>
<u>added water</u>	<u>\$3.25</u>
<u>antibiotic</u>	<u>\$24.25</u>
<u>brucella ring</u>	<u>\$2.25</u>
<u>coliform count</u>	<u>\$5.25</u>
<u>component</u>	<u>\$1.25</u>
<u>gerber</u>	<u>\$3.25</u>
<u>laboratory certification review</u>	<u>contact milk lab</u>
<u>listeria environmental culture</u>	<u>\$11.75/swab site</u>
<u>majonnier</u>	<u>\$13.25</u>
<u>pesticide:</u>	
<u>organophosphate & carbamates</u>	<u>\$25.25 minimum</u>
<u>chlorinated hydrocarbons</u>	<u>\$220.50 minimum</u>
<u>phosphatase</u>	<u>\$6.50</u>
<u>somatic cell count:</u>	
<u>direct</u>	<u>\$5.25</u>
<u>electronic</u>	<u>\$1.25</u>
<u>standard plate count</u>	<u>\$6.00</u>
<u>yeast & mold</u>	<u>\$6.00</u>
<u>Molecular Diagnostics (PCR)</u>	<u>Fee</u>
<u>new tests as implemented</u>	<u>contact lab</u>
<u>avian influenza (AI)</u>	<u>\$31.50</u>
<u>bovine coronavirus (BCV)</u>	<u>\$31.50</u>
<u>bovine virus diarrhea (BVD):</u>	
<u>individual sample</u>	<u>\$31.50</u>

<u>MVDL pooled (up to 24 ear notch samples)</u>	<u>\$52.50</u>
<u>retest in positive pools/antigen capture ELISA</u>	<u>\$4.00/sample</u>
<u>E. coli - K99</u>	<u>\$31.50</u>
<u>Infectious bovine rhinotracheitis (IBR)</u>	<u>\$36.75</u>
<u>mycobacterium paratuberculosis (Johne's):</u>	
<u>individual sample</u>	<u>\$31.50</u>
<u>MVDL pooled (up to 5 feces samples)</u>	<u>\$36.75</u>
<u>retest positive pools</u>	<u>\$31.50/sample</u>
<u>salmonella enteritidis PCR</u>	<u>\$29.50</u>
<u>suspect culture confirmation</u>	<u>\$33.00</u>
<u>tritrichomonas foetus:</u>	
<u>individual sample</u>	<u>\$28.50</u>
<u>MVDL pooled (up to 5 samples)</u>	<u>\$52.50</u>
<u>retest in positive pools</u>	<u>\$28.50/sample</u>
<u>Pathology</u>	<u>Fee</u>
<u>abortion workup, livestock - MVDL kits only</u>	<u>\$52.50</u>
<u>carcass disposal (CD) - incineration</u>	<u>\$26.25/hundred weight</u>
<u>insurance/legal cases</u>	<u>\$157.50/hour</u>
<u>necropsy - bovine & equine:</u>	
<u>fetus</u>	<u>\$73.50 + CD</u>
<u>less than 150 lbs</u>	<u>\$89.25 + CD</u>
<u>150 to 500 lbs</u>	<u>\$115.50 + CD</u>
<u>more than 500 lbs</u>	<u>\$157.50 + CD</u>
<u>necropsy - canine & feline:</u>	<u>\$115.50 + CD</u>
<u>necropsy - porcine (swine):</u>	
<u>fetus (same litter)</u>	<u>\$73.50 + CD</u>
<u>less than 25 lbs</u>	<u>\$73.50 + CD</u>
<u>25 to 250 lbs</u>	<u>\$89.25 + CD</u>
<u>more than 250 lbs</u>	<u>\$115.50 + CD</u>
<u>necropsy - small ruminant:</u>	
<u>fetus (same dam)</u>	<u>\$73.50 + CD</u>
<u>up to 20 lbs</u>	<u>\$73.50 + CD</u>
<u>more than 20 lbs</u>	<u>\$89.25 + CD</u>
<u>necropsy - other species</u>	<u>\$42.00 minimum + CD</u>
<u>neonatal diarrhea workup - livestock, MVDL kits only</u>	<u>\$100.00</u>
<u>research</u>	<u>contact lab</u>
<u>spinal cord removal (in addition to</u>	

<u>necropsy fee):</u>		
<u>small animal</u>		<u>\$52.50</u>
<u>large animal</u>		<u>\$105.00</u>
<u>transmissible encephalopathies:</u>		
<u>necropsies</u>		<u>\$131.25 minimum</u>
<u>brain removal only</u>		<u>\$31.50 minimum</u>
<u>immunohistochemistry and ELISA test</u>		<u>referral + handling fee</u>
<u>Rabies</u>		<u>Fee</u>
<u>small animal</u>		<u>\$31.50</u>
<u>livestock with histopathology</u>		<u>\$58.00</u>
<u>entire carcass disposal (excluding bats & small rodents)</u>		<u>\$26.25 minimum</u>
<u>Serology</u>		<u>Fee</u>
<u>anaplasmosis cELISA</u>		<u>\$8.00</u>
<u>avian influenza (AI) AGID:</u>		
<u>1-9</u>		<u>\$6.00 each</u>
<u>10-24</u>		<u>\$5.00 each</u>
<u>25-49</u>		<u>\$3.00 each</u>
<u>50 or more</u>		<u>\$2.00 each</u>
<u>bluetongue (BT) AGID - contact laboratory</u>		<u>\$6.50 minimum</u>
<u>bluetongue cELISA:</u>		
<u>1-100</u>		<u>\$8.75 each</u>
<u>101-500</u>		<u>\$6.50 each</u>
<u>501 or more</u>		<u>\$4.00 each</u>
<u>bovine leukemia virus (BLV) ELISA:</u>		
<u>1-100</u>		<u>\$7.00 each</u>
<u>101-500</u>		<u>\$6.00 each</u>
<u>501 or more</u>		<u>\$4.00 each</u>
<u>bovine respiratory syncytial virus (BRSV) - SN</u>		<u>\$7.00</u>
<u>bovine virus diarrhea type I, II - SN</u>		<u>\$13.75</u>
<u>bovine virus diarrhea (BVD) ELISA:</u>		
<u>1-100</u>		<u>\$5.25 each</u>
<u>101-500</u>		<u>\$4.25 each</u>
<u>501 or more</u>		<u>\$3.75 each</u>
<u>brucella abortus:</u>		
<u>card, BAPA, FP or RAP</u>		<u>\$1.60 each</u>
<u>rivanal, SPT, CF, STT</u>		<u>\$2.65 each</u>
<u>brucella ovis ELISA</u>		<u>\$8.00</u>
<u>caprine arthritis encephalitis (CAE):</u>		

<u>AGID</u>	<u>\$6.50</u>
<u>ELISA</u>	<u>\$6.50</u>
<u>epizootic hemorrhagic disease (EHD) - AGID</u>	<u>\$10.50</u>
<u>equine infectious anemia (EIA) AGID individual sample</u>	<u>\$8.00</u>
<u>equine infectious anemia (EIA) AGID - same owner :</u>	
<u>1-15</u>	<u>\$8.00 each</u>
<u>16-50</u>	<u>\$6.00 each</u>
<u>51 or more</u>	<u>\$4.75 each</u>
<u>equine infectious anemia (EIA) cELISA individual sample</u>	<u>\$8.00</u>
<u>equine infectious anemia (EIA) cELISA same owner:</u>	
<u>1-15</u>	<u>\$13.00 each</u>
<u>16-50</u>	<u>\$10.50 each</u>
<u>51 or more</u>	<u>\$9.50 each</u>
<u>infectious bovine rhinotracheitis (IBR)-SN</u>	<u>\$7.00</u>
<u>leptospirosis MAT:</u>	
<u>(routine) L. canicola, L. grippo, L. hardjo, L. ictero, L. pomona</u>	<u>\$10.50</u>
<u>L. autumnalis, L. bratislava/per each</u>	<u>\$2.25/sample</u>
<u>mycobacterium paratuberculosis (PTB) ELISA:</u>	
<u>1-100</u>	<u>\$8.00 each</u>
<u>101-500</u>	<u>\$6.00 each</u>
<u>501 or more</u>	<u>\$4.00 each</u>
<u>ovine progressive pneumonia (OPP):</u>	
<u>AGID or cELISA</u>	<u>\$6.50</u>
<u>parainfluenza 3 (PI3) - HAI</u>	<u>\$5.25</u>
<u>pseudorabies - gB ELISA</u>	<u>\$6.00</u>
<u>salmonella pullorum MAT</u>	<u>\$4.75</u>
<u>vesicular stomatitis (VS):</u>	
<u>CF</u>	<u>\$47.25</u>
<u>NJ & Ind - SN</u>	<u>\$13.75</u>
<u>west nile virus (WNV):</u>	
<u>July 1 - Oct 15 IgM ELISA</u>	<u>\$21.00</u>
<u>off season</u>	<u>referral lab fee + handling</u>
<u>Serology - Small Animal</u>	<u>Fee</u>
<u>brucella canis -RSAT screen, 2ME-TAT confirmation</u>	<u>\$23.00</u>

<u>feline infectious peritonitis (FIP) ELISA</u>	<u>\$28.50</u>
<u>feline leukemia virus (FeLV) ELISA</u>	<u>\$18.00</u>
<u>feline leukemia/feline immunodeficiency virus (FeLV, FIV) ELISA</u>	<u>\$28.50</u>
<u>Virology</u>	<u>Fee</u>
<u>bovine virus diarrhea - cELISA</u>	<u>see serology section</u>
<u>canine parvovirus ELISA</u>	<u>\$25.25</u>
<u>electron microscopy (EM)</u>	<u>\$31.50</u>
<u>fluorescent antibody (FA) testing - per agent:</u>	
<u>bovine coronavirus (BCV)</u>	<u>\$8.50</u>
<u>bovine respiratory syncytial virus (BRSV) SN</u>	<u>\$8.50</u>
<u>bovine virus diarrhea (BVD)</u>	<u>\$8.50</u>
<u>canine distemper (CDV)</u>	<u>\$8.50</u>
<u>canine parvovirus (CPV)</u>	<u>\$8.50</u>
<u>equine herpesvirus (EHV)</u>	<u>\$8.50</u>
<u>feline panleukopenia (FPLV)</u>	<u>\$8.50</u>
<u>feline infectious peritonitis (FIP)</u>	<u>\$8.50</u>
<u>feline herpes (FHV)</u>	<u>\$8.50</u>
<u>infectious bovine rhinotracheitis (IBR)</u>	<u>\$8.50</u>
<u>leptospira</u>	<u>\$8.50</u>
<u>parainfluenza - 3 Virus (PI-3)</u>	<u>\$8.50</u>
<u>porcine parvovirus (PPV)</u>	<u>\$8.50</u>
<u>rotavirus ELISA</u>	<u>\$26.25</u>
<u>virus Isolation (livestock only)</u>	<u>\$26.25</u>
<u>Miscellaneous Tests & Special Requests</u>	<u>Fee</u>
<u>after hours pathologist</u>	<u>\$89.25/hour</u>
<u>carcass disposal</u>	<u>\$26.25/hundred weight</u>
<u>duplicate test result reporting</u>	<u>\$3.00</u>
<u>IgG RID: bovine, camelid, equine</u>	<u>\$15.75</u>
<u>minimum laboratory fee</u>	<u>\$8.00</u>
<u>ocular nitrate</u>	<u>\$14.75</u>
<u>organization fee</u>	<u>\$63.00/hour</u>
<u>referral testing</u>	<u>cost per referral</u>
<u>stat fee</u>	<u>\$15.75</u>

AUTH: 81-1-102, 81-2-102, MCA
 IMP: 81-1-301, 81-1-302, 81-2-102, MCA

REASON: The department proposes to amend the above-stated rule to ensure that fees charged by the Montana Veterinary Diagnostic Laboratory (MVDL) are commensurate with the cost of performing the tests or services listed, as required by 81-1-102(2), MCA. The fees for each procedure and test were evaluated to determine the cost of the test materials and labor for performance of the test. The fees were compared to regional government-funded diagnostic laboratories and a private veterinary laboratory. The fees proposed herein were adjusted to be competitive with these laboratories and to offset inflationary costs. The MVDL must continue to provide a utilized service to the Montana livestock industry in order to ensure that a vital function and mission of the laboratory (disease surveillance) is not compromised.

Additionally, the MVDL has implemented new tests at the request of producers. The proposed fees to be established for these new tests are published in this proposal. The department proposes to remove the provisions of (1)(a) through (1)(c) as redundant provisions. The rule has also been reformatted to provide clarity and a more user-friendly document.

The increased fees charged by the department's diagnostic laboratory will potentially affect approximately 25,000 people who may use services at the laboratory. The cumulative amount of the fee increase will be \$50,000.00 based on this number of lab users.

4. Concerned persons may submit their data, views, or arguments in writing to Christian Mackay, 301 N. Roberts St., Room 308, P.O. Box 202001, Helena, MT 59620-2001, by faxing to (406) 444-1929, or by e-mailing to MDOLcomments@mt.gov to be received no later than 5:00 p.m., October 20, 2014.

5. If persons who are directly affected by the proposed action wish to express their data, views, and arguments orally or in writing at a public hearing, they must make a written request for a hearing and submit this request along with any written comments they have to the same address as above. The written request for hearing must be received no later than 5:00 p.m., October 20, 2014.

6. If the department receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons who are directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a public hearing will be held at a later date. Notice of the public hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 2,500, based upon the estimate that approximately 25,000 people use MVDL services.

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

a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the department.

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

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

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

DEPARTMENT OF LIVESTOCK

BY: /s/ Robert Stutz
Robert Stutz
Rule Reviewer

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

Certified to the Secretary of State September 8, 2014.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the adoption of New) NOTICE OF PUBLIC HEARING ON
Rules I through IV pertaining to the) PROPOSED ADOPTION
electronic service of levies and writs)

TO: All Concerned Persons

1. On October 14, 2014, at 1:30 p.m., the Department of Revenue will hold a public hearing in the Third Floor Reception Area Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana, to consider the proposed adoption of the above-stated rules. The conference room is most readily accessed by entering through the east doors of the building.

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, please advise the department of the nature of the accommodation needed, no later than 5 p.m. on October 3, 2014. Please contact Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail lalogan@mt.gov.

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

NEW RULE I DEFINITIONS The following definitions apply to terms found in this subchapter:

(1) "Debt code addendum" means a section of the signed service agreement in which the process server instructs the department on the technical aspects of issuing payment for funds seized through the levy process.

(2) "Electronic service" means the service of a writ, levy, or document by electronic submission. Electronic services are also known as e-services. Electronic service may allow for noncommercial services online.

AUTH: 15-1-201, 15-1-706, 17-4-110, MCA

IMP: 15-1-706, 25-13-402, MCA

REASONABLE NECESSITY: The department proposes adopting New Rule I to implement House Bill 66, L. 2013, which allows for the electronic service of notices of levy and writs of execution and requires the department to adopt rules to define and implement these services.

As proposed, New Rule I will define terms not found in statute that will be used in the new rules related to the electronic service of levies and writs.

NEW RULE II PROCESS SERVERS SUBMISSION OF LEVIES AND WRITS TO THE DEPARTMENT BY ELECTRONIC MEANS (1) The department and process server, as defined in 37-60-101, MCA, must have a signed service

agreement and debt code addendum in place prior to the department's acceptance of electronic service of levies and writs.

(2) The signed service agreement serves as the department's written consent to be served electronically in accordance with 25-13-402, MCA, for service of levies and writs upon a state income tax refund that are due to the judgment debtor from the department. Acceptance of electronic service documents is limited solely to the purposes described under 25-13-402, MCA.

(3) When a signed service agreement is in place, the process server shall serve all levies and writs for debt collection on the department electronically. The department will not accept levies or writs in paper format from a process server that has entered into an agreement to submit them by electronic means.

(4) The process server shall provide a valid social security or other federal identification number for each debtor, and a valid district court cause number for each writ.

AUTH: 15-1-201, 15-1-706, 17-4-110, MCA

IMP: 15-1-706, 25-13-402, MCA

REASONABLE NECESSITY: The department proposes adopting New Rule II to implement House Bill 66, L. 2013, which allows for the electronic service of notices of levy and writs of execution and requires the department to adopt rules to define and implement these services.

As proposed, New Rule II will set forth the required actions a process server must undertake in order to electronically submit levies and writs upon the department for collection assistance. Electronic service of levies and writs on the department will expedite services and reduce administrative and data entry costs associated with processing levies and writs otherwise served on the department in paper format.

NEW RULE III DEPARTMENT'S TREATMENT OF WRITS RECEIVED FROM PROCESS SERVERS (1) Upon receipt of a writ from a process server, the department shall seize income tax refunds due the debtor for offset of the debt.

(2) The department shall not calculate interest and/or penalties on any judgment liability submitted for offset.

(3) Upon the department receiving notification that a debtor has filed for bankruptcy, the department shall inactivate the debtor from offset activity.

AUTH: 15-1-201, 15-1-706, 17-4-110, MCA

IMP: 15-1-706, 25-13-402, MCA

REASONABLE NECESSITY: The department proposes adopting New Rule III to properly implement House Bill 66, L. 2013, which allows for the electronic service of notices of levy and writs of execution and requires the department to adopt rules to define and implement these services.

As proposed, New Rule III will ensure uniformity in how the department will accept and treat writs received from process servers.

NEW RULE IV DEPARTMENT'S SUBMISSION OF LEVIES AND WRITS TO FINANCIAL INSTITUTIONS AND EMPLOYERS BY ELECTRONIC MEANS

(1) The department shall have a Warrant for Distraint filed with a Montana court prior to submitting a judgment liability.

(2) The department shall adhere to the form and content of the writ in accordance with 25-13-301, MCA, and provide a valid district court cause number when submitting electronic levies, writs, or garnishments to financial institutions and employers.

AUTH: 15-1-201, 15-1-706, MCA

IMP: 15-1-706, 25-13-301, MCA

REASONABLE NECESSITY: The department proposes adopting New Rule IV to implement House Bill 66, L. 2013, which allows for the electronic service of notices of levy and writs of execution and requires the department to adopt rules to define and implement these services.

As proposed, New Rule IV will ensure uniformity in how the department will use electronic means to submit levies, writs, or garnishments to financial institutions and employers. Service by electronic means will expedite service of bank and payroll levies and reduce certified mailing costs.

4. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to: Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail lalogan@mt.gov and must be received no later than October 21, 2014.

5. Laurie Logan, Department of Revenue, Director's Office, has been designated to preside over and conduct this hearing.

6. The Department of Revenue maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request, which includes the name and e-mail or mailing address of the person to receive notices and specifies that the person wishes to receive notice regarding particular subject matter or matters. Notices will be sent by e-mail unless a mailing preference is noted in the request. A written request may be mailed or delivered to the person in 4 above or faxed to the office at (406) 444-3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

7. An electronic copy of this notice is available on the department's web site at revenue.mt.gov. Select the Administrative Rules link under the Other Resources section located in the body of the homepage, and open the Proposal Notices section within. The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the

official printed text will be considered. While the department also strives to keep its web site accessible at all times, in some instances it may be temporarily unavailable due to system maintenance or technical problems.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary sponsor of House Bill 66, L. 2013, Representative Brian Hoven, was notified by regular mail on April 11, 2014, and subsequently notified by regular mail on August 15, 2014.

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

/s/ Laurie Logan
Laurie Logan
Rule Reviewer

/s/ Mike Kadas
Mike Kadas
Director of Revenue

Certified to the Secretary of State September 8, 2014.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 42.19.401, 42.19.406, and) PROPOSED AMENDMENT
42.19.1211 pertaining to property)
classification and property tax)
assistance programs)

TO: All Concerned Persons

1. On October 14, 2014, at 3 p.m., the Department of Revenue will hold a public hearing in the Third Floor Reception Area Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana, to consider the proposed amendment of the above-stated rules. The conference room is most readily accessed by entering through the east doors of the building.

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, please advise the department of the nature of the accommodation needed, no later than 5 p.m. on October 3, 2014. Please contact Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail lalogan@mt.gov.

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

42.19.401 PROPERTY TAX ASSISTANCE PROGRAM (PTAP) (1) remains the same.

(2) The benefit is a reduction in taxable value that applies to the first \$100,000 or less of the taxable market value of any improvement on real property, including trailers, manufactured homes, or mobile homes, and appurtenant land not exceeding 5 acres owned or under contract for deed and actually occupied for at least 7 months a year as the primary residential dwelling of one or more qualified applicants. The 7-month occupancy requirement does not apply to an otherwise qualified applicant who lives in a nursing home or long-term care facility.

(3) through (14) remain the same.

AUTH: 15-1-201, MCA

IMP: 15-6-134, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.19.401(2) to allow otherwise eligible applicants, who live in a nursing home or long-term care facility, to be exempt from the 7-month occupancy requirement. This proposed rule amendment allows such applicants to satisfy the program requirements even though they are unable to occupy their home due to a heightened

need for care, which at times, may be temporary.

42.19.406 EXTENDED PROPERTY TAX ASSISTANCE PROGRAM

(EPTAP) (1) The During the first year of the reappraisal cycle, the department will determine which identify taxpayers who may qualify for extended property tax assistance and the dwellings of those taxpayers that are used as primary residences, as defined in ARM 42.19.405, are potentially eligible for the EPTAP and The department will mail EPTAP applications to those taxpayers. The department determines the taxpayers who are potentially eligible during the first year of the reappraisal cycle Identification of potential eligibility is based upon the following requirements set forth in 15-6-193, MCA:

(a) the qualified residence must be the same residence as was have been owned by the taxpayer on December 31, of the year prior to the first year of the reappraisal cycle for which the assistance is sought;

(b) the taxable value of the qualified residence must have experienced greater than a 24 percent increase in market value due to reappraisal; and

(c) the property taxes on the qualified residence must have increased by \$250 or more between the last year of the prior cycle and the first year of the reappraisal cycle for which the assistance is sought, based upon the mill levy established for the last year of the prior cycle; and

(d) the property has not experienced a change in value due to new construction or a land use change of greater than 25 percent.

(2) An individual unit of a multiple-unit dwelling that meets the qualification requirements of (1)(a) through (1)(e)(1)(d) may be eligible for the benefits allowed under the EPTAP, provided that the owner of the individual unit meets the occupancy requirement as defined in ARM 42.19.405. The department will mail one application form to the owner of a multiple-unit dwelling to determine if the owner meets the occupancy requirement on an individual unit, and if not. The department calculates the benefit for the qualifying unit only, not the entire dwelling. If the occupancy requirement is not met for the qualifying unit, there will be no benefit granted to the owner of a multi-unit dwelling through the EPTAP.

(3) For a taxpayer seeking assistance for a property that has more than one owner, only the owner that actually occupies the residence can qualify for the assistance at least one of the owners must actually occupy that residence or in combination with another residence in Montana, for at least 7 months of the preceding calendar year.

(4) In order to To receive the tax rate adjustment, the qualified residence property owner of record, the qualified residence property owner's agent, or a qualifying entity of a qualified residence must annually complete and forward an application to the:

Department of Revenue
PO Box 8018
Helena, Montana 59604-8018.

(5) The benefit applies only to the land:

(a) beneath and immediately adjacent to the residence, up to 1 acre; and

(b) excludes any separately described or assessed parcels of land regardless of whether the parcel is contiguous with or adjacent to the parcel upon which the qualified residence is located; unless,

(i) the applicant owns the land and a mobile or manufactured home situated on the land;

(ii) the mobile or manufactured home is assessed separately from the land;
and

(iii) the applicant's primary residence is the mobile or manufactured home.

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

~~(7)(8)~~ The department may waive the April 15 deadline, on a case-by-case basis, if the applicant:

(a) qualified for the program in the prior year;

(b) meets income requirements in the current year; and

(c) submits a written statement, plus any documents explaining any circumstances not identified in ~~(6)(7)~~ that prevented timely filing of the application.

~~(8)(9)~~ The department may waive the April 15 deadline, on a case-by-case basis, if the applicant:

(a) did not previously participate in the EPTAP;

(b) meets the requirements of ~~(6)(7)~~ or ~~(7)(8)~~; and

(c) provides a completed application that is submitted or postmarked no later than July 1 of the year for which the benefit is sought.

(9) through (11) remain the same, but are renumbered (10) through (12).

~~(12)(13)~~ Income for an entity includes those shown in ~~(40)(11)~~ and also the income of any natural person or entity that is a trustee of, or controls, 25 percent or more of the entity.

(13) remains the same but is renumbered (14).

~~(14)(15)~~ The completed application form must include:

(a) the applicant's social security number (SSN) or federal employer identification number (FEIN); and

(b) copies of the applicant's Montana income tax return, including all state and federal schedules, for the tax year immediately preceding the year of the application. For example: complete copies of the appropriate 2013 tax year return must accompany a 2014 application for the extended property tax assistance program, which is due by April 15, 2014. All tax return information will be treated as confidential by the department.

~~(15)(16)~~ If the applicant has applied for an extension of time to file the applicant's income tax return, the applicant must ~~provide a completed Individual Estimated Income Tax Worksheet (ESW) for the tax year immediately preceding the year of the application. This form is available on the department's web site, revenue.mt.gov, or at the local department office~~ check the "extension requested" box on the application for EPTAP relief and provide alternative proof of income with the application. Alternative proof of income may include but is not limited to the list in (17). Once completed and available, the applicant must forward the completed income tax return to the address in (4).

~~(16)(17)~~ If the applicant is not required to file an income tax return, the applicant must provide documentation that identifies the applicant's income as defined in ~~(9)(10)~~. Examples of acceptable Acceptable

documentation ~~include~~ includes, but ~~are~~ is not limited to:

- (a) social security statements;
- (b) pension statements; or
- (c) bank statements.

~~(17)~~(18) Failure to provide the required information in (4) through ~~(16)~~(17) will result in the application being denied. ~~All tax return information will be treated as confidential by the department.~~

(18) through (20) remain the same, but are renumbered (19) through (21).

~~(21)~~(22) For tax year ~~2009~~ 2015, assessment notices will be prepared and mailed for all parcels of real property without regard to whether parcels qualify for the program as provided in this rule. The property reappraisal values are not impacted by the provisions of the extended property tax assistance program, and in accordance with 15-7-102, MCA, the department will not issue or mail revised assessments for those parcels qualifying for the extended property tax assistance program.

~~(22)~~(23) Beginning with tax year ~~2010~~ 2016, and in accordance with 15-7-102, MCA, the department will not mail assessment notices for parcels when a valuation change is due solely to successful qualification for the extended property tax assistance program, since the market value of the property is not impacted by the program.

(23) and (24) remain the same but are renumbered (24) and (25).

AUTH: 15-1-201, MCA

IMP: 15-6-193, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.19.406(1) to make it clear that the department determines the potential EPTAP eligible taxpayers and forwards an application to those applicants. The department will not know whether an applicant actually qualifies until the applicant responds with the appropriate income documentation and occupancy verification.

The proposed changes in (2) and (3) also point to how the benefit applies to multi-dwelling units and occupancy. Proposed new (5) explains how the benefit applies to land and to mobile and manufactured home owners who own the land. The remaining sections are renumbered accordingly. Proposed amendments to the newly numbered (16) require the applicant to submit income information with the application even though a completed tax return is not available at the time of application. The confidentiality statement is proposed to be stricken from newly numbered (18) and added to a more appropriate location in newly numbered (15). Newly numbered (22) and (23) are proposed to be updated for the coming years.

42.19.1211 PERIOD OF CLASSIFICATION AS NEW INDUSTRIAL PROPERTY (1) The taxable classification of all qualifying new ~~industry~~ industrial property becomes effective beginning on the first assessment date ~~falling~~ on or after the initial commencement date of operations.

(2) The new ~~industry~~ industrial property taxable classification runs for a three consecutive ~~year period~~ years after commencement of operations. This period runs to its expiration date uninterrupted by additions of property to the new industry

endeavor, expansion of operations, changes of operations (other than changes that would disqualify the new industry endeavor from classification as new ~~industry~~ industrial property) or cessation or curtailment of operations.

(3) Prior to and after the three-year period of classification as new industry property, the property in question is taxable as other similar property.

(4) For all property other than migratory personal property, the taxable year is considered to be the calendar year. ~~Assessment~~ The assessment date within any given calendar year is January 1.

(5) ~~Migratory~~ For migratory personal property that enters Montana after the regular assessment date and comes to rest and becomes a part of the general property within any county of the state, ~~has an~~ the assessment date ~~falling on~~ is the date the property originally ~~came into~~ entered the state. This property shall be taxed from the time it enters the state until the end of the year. For purposes of assessment year proration on this migratory personal property, any part of a month is considered a month of residency.

AUTH: 15-1-201, MCA

IMP: 15-6-135, 15-6-192, MCA

REASONABLE NECESSITY: The department proposes amending ARM 42.19.1211 as a matter of housekeeping to make grammatical corrections for better clarity.

4. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to: Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail lalogan@mt.gov and must be received no later than October 21, 2014.

5. Laurie Logan, Department of Revenue, Director's Office, has been designated to preside over and conduct this hearing.

6. The Department of Revenue maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request, which includes the name and e-mail or mailing address of the person to receive notices and specifies that the person wishes to receive notice regarding particular subject matter or matters. Notices will be sent by e-mail unless a mailing preference is noted in the request. A written request may be mailed or delivered to the person in 4 above or faxed to the office at (406) 444-3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

7. An electronic copy of this notice is available on the department's web site at revenue.mt.gov. Select the Administrative Rules link under the Other Resources section located in the body of the homepage, and open the Proposal Notices section within. The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register,

but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. While the department also strives to keep its web site accessible at all times, in some instances it may be temporarily unavailable due to system maintenance or technical problems.

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

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

/s/ Laurie Logan
Laurie Logan
Rule Reviewer

/s/ Alan Peura acting for
Mike Kadas
Director of Revenue

Certified to the Secretary of State September 8, 2014.

BEFORE THE BOARD OF COUNTY PRINTING
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 2.67.303 pertaining to minimum)
font size in printing standards)

TO: All Concerned Persons

1. On July 24, 2014, the Board of County Printing published MAR Notice No. 2-67-513 pertaining to the proposed amendment of the above-stated rule at page 1544 of the 2014 Montana Administrative Register, Issue Number 14.
2. No comments or testimony were received.
3. The board has amended ARM 2.67.303 exactly as proposed.

By: /s/ Milton Wester
Milton Wester, Chair
Board of County Printing

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

Certified to the Secretary of State September 8, 2014.

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF MONTANA

In the matter of the amendment of ARM	)	NOTICE OF AMENDMENT AND
17.36.101, 17.36.102, 17.36.103,	)	ADOPTION
17.36.104, 17.36.106, 17.36.110,)	
17.36.116, 17.36.310, 17.36.312,	)	(SUBDIVISIONS/ON-SITE
17.36.328, 17.36.330, 17.36.331,	)	SUBSURFACE WASTEWATER
17.36.332, 17.36.333, 17.36.334,	)	TREATMENT)
17.36.335, 17.36.336, 17.36.340,)	
17.36.605, 17.36.802, and 17.36.804 and)	
the adoption of New Rules I and II)	
pertaining to subdivision applications and)	
review, subdivision requirements,)	
subdivision waivers and exclusions,)	
subdivision review fees, and on-site)	
subsurface wastewater treatment systems)	

TO: All Concerned Persons

1. On April 24, 2014, the Department of Environmental Quality published MAR Notice No. 17-358 regarding a notice of public hearing on the proposed amendment and adoption of the above-stated rules at page 706, 2014 Montana Administrative Register, Issue Number 8.

2. The department has amended ARM 17.36.102, 17.36.103, 17.36.110, 17.36.312, 17.36.328, 17.36.331, 17.36.332, 17.36.333, 17.36.335, and 17.36.336 and adopted New Rule II (17.36.314) exactly as proposed. The department has amended ARM 17.36.101, 17.36.104, 17.36.106, 17.36.116, 17.36.310, 17.36.330, 17.36.334, 17.36.340, 17.36.605, 17.36.802, and 17.36.804 and adopted New Rule I (17.36.112) as proposed, but with the following changes, stricken matter interlined, new matter underlined:

17.36.101 DEFINITIONS For purposes of subchapters 1, 3, 6, and 8, the following definitions apply:

(1) remains as proposed.

(2) "Bedrock" means material that cannot be readily excavated by hand tools, or material that does not allow water to pass through or that has insufficient quantities of fines to provide for the adequate treatment and disposal of wastewater. The term does not include gravel and other rock fragments as defined in Department Circular DEQ-4, Appendix B.

(3) through (18) remain as proposed.

(19) "Floodplain" means the area adjoining the watercourse or drainway that would be covered by ~~the floodwater of a flood of 100-year frequency except for sheetflood areas that receive less than one foot of water per occurrence and are considered zone B or a shaded X zone by the Federal Emergency Management Agency~~ a flood that is expected to recur on the average of once every 100 years or

by a flood that has a one percent chance of occurring in any given year. The floodplain consists of the floodway and the floodfringe, as defined in ARM 36.15.101.

(20) through (45) remain as proposed.

(46) "Registered sanitarian" means a person licensed to practice the profession of sanitarian in Montana pursuant to Title 37, chapter 40, MCA.

(46) through (65) remain as proposed, but are renumbered (47) through (66).

(66) (67) "Wastewater" means water-carried wastes. For purposes of these rules, wastewater does not include storm water. The term including includes, but is not limited to, the following:

(a) through (d) remain as proposed.

(67) (68) "Wastewater treatment system" or "wastewater disposal system" means a system that receives wastewater for purposes of treatment, storage, or disposal. The term includes, but is not limited to, all disposal methods described in Department Circulars DEQ-2 and DEQ-4.

(68) through (70) remain as proposed, but are renumbered (69) through (71).

17.36.104 APPLICATION--LOT LAYOUT DOCUMENT (1) remains as proposed.

(2) The following information must be provided on the lot layout documents. Other information (e.g., percolation test results, soil profile descriptions) may be included on the lot layout documents only if the documents remain legible:

(a) through (e) remain as proposed.

(f) locations of existing and proposed roads and utilities;

(g) through (i) remain as proposed.

(j) information as set out in Table 1 for the specific water supply and wastewater systems in the subdivision. All systems must be labeled as "existing" or "proposed."

TABLE 1
REQUIREMENTS FOR LOT LAYOUTS

	Subdivisions served by nonmunicipal wells	Subdivisions served by nonmunicipal wastewater systems	Subdivisions served by municipal water	Subdivisions served by municipal wastewater systems
Existing and proposed wells, setbacks in ARM 17.36.323 Table 2, and features listed in ARM 17.36.103(1)(e)	X	X	X	X
Water lines (suction and pressure)			X	X
Water lines (extension and	<u>X</u>	X	X	<u>X</u>

connections)				
Existing and proposed wastewater systems (drainfield, replacement area, and existing septic tanks)	X	X		
Existing and proposed gray water irrigation systems	X	X	X	X
Percent and direction of slope across the drainfield	X	X		
Sewer lines (extensions and connections)	X	X	X	X
Lakes, springs, irrigation ditches, wetlands and streams	X	X		
Percolation test locations, if provided, keyed to result form		X		
Soil pit locations keyed to soil profile descriptions		X		
Ground water monitoring wells keyed to monitoring results form	<u>X</u>	X	<u>X</u>	<u>X</u>
Floodplain boundaries	X	X	X	X
Cisterns	<u>X</u>	X	<u>X</u>	<u>X</u>
Existing and proposed building locations	<u>X</u>	X	<u>X</u>	<u>X</u>
Driveways	<u>X</u>	X	<u>X</u>	<u>X</u>
Road cuts and escarpments or slopes > 25 percent		X		

Mixing zone boundaries and direction of ground water flow	X	X		
Locations, sizes, and design details of existing and proposed storm water facilities	X	X	X	X

17.36.106 REVIEW PROCEDURES--APPLICABLE RULES (1) through (2)(c) remain as proposed.

(3) Subdivision lots recorded with sanitary restrictions prior to July 1, 1973, shall be reviewed in accordance with requirements set forth in this chapter. In cases where any requirements of this chapter would preclude the use for which each lot was originally intended, then the applicable requirements (including the absence thereof) in effect at the time such lot was recorded shall govern except that sanitary restrictions in no case shall be lifted from any such lot which cannot satisfy any of the following requirements:

(a) remains as proposed.

(b) unless a waiver is granted pursuant to ARM 17.36.601 after consultation with the local health department:

(i) and (ii) remain as proposed.

(iii) no part of the lot utilized for the subsurface wastewater treatment system components addressed in Department Circular DEQ-4, Chapter 6 may be located in a 100-year floodplain; and

(iv) and (4) remain as proposed.

17.36.116 CERTIFICATION OF LOCAL DEPARTMENT OR BOARD OF HEALTH (1) A local department or board of health, if it requests certification, must be certified as the reviewing authority if the following requirements are met and the sanitarian or engineer is qualified as described in (2):

(a) the local department or board of health employs a ~~licensed~~ registered sanitarian or a professional engineer responsible to perform the actual review. Those local governments employing more than one registered sanitarian or professional engineer shall designate one such person to be responsible for the review program;

(b) through (c)(iv) remain as proposed.

(2) A ~~licensed~~ registered sanitarian or ~~registered~~ professional engineer, prior to performing subdivision review, shall:

(a) through (a)(vi) remain as proposed.

(b) have a minimum of one year's experience performing subdivision review under the direct supervision of the department or of a department-approved ~~licensed~~ registered sanitarian or professional engineer.

(3) through (4) remain as proposed.

17.36.310 STORM DRAINAGE (1) remains as proposed.

(2) Except as provided in (3), a storm drainage plan must be designed in accordance with Department Circular DEQ-8.

(a) for lots proposed for uses other than as ~~single-family dwellings~~ living units, a storm drainage plan submitted under (2) must be prepared by a professional engineer and the storm drainage system is subject to the requirements in ARM 17.36.314;

(b) through (7) remain as proposed.

17.36.330 WATER SUPPLY SYSTEMS--GENERAL (1) through (2)(b) remain as proposed.

(3) For lots two acres in size or less, the applicant shall physically identify the proposed well location by staking or other acceptable means of identification. For lots greater than two acres in size, the department may require the applicant to physically identify the well location.

(3) and (4) remain as proposed, but are renumbered (4) and (5).

17.36.334 WATER SUPPLY SYSTEMS: OPERATION AND MAINTENANCE, OWNERSHIP, EASEMENTS, AND AGREEMENTS (1) through (3) remain as proposed.

(4) Easements must be obtained if the reviewing authority determines they are needed to allow adequate operation and maintenance of the system or to comply with 76-4-104(6)(i), MCA. Easements must be ~~in writing and signed by the grantor of the easement. In addition, the easement must~~ filed with the county clerk and recorder at the time the certificate of subdivision approval issued under this chapter is filed. Easements must be in one of the following forms:

(a) ~~be filed with the county clerk and recorder at the time the certificate of subdivision approval issued under this chapter is filed~~ the easement must be in writing signed by the grantor of the easement; or

(b) if the same person owns both parcels, the easement must be shown on the plat or certificate of survey for the proposed subdivision.

(5) remains as proposed.

17.36.340 LOT SIZES (1) remains as proposed.

(2) Subject to (4), each proposed new subdivision lot, area proposed for condominiums, or area proposed for permanent multiple spaces for recreational camping vehicles or mobile homes, must be of sufficient size to satisfy all of the following criteria:

(a) remains as proposed.

(b) drainfield mixing zones must be located ~~wholly within the boundaries of the proposed subdivision, pursuant to~~ in compliance with ARM 17.36.322(5);

(c) well isolation zones must be located ~~wholly within the boundaries of the proposed subdivision, pursuant to~~ in compliance with ARM 17.36.330(4); and

(d) as shown on the lot layout document, each lot must have adequate space for the sewage treatment system, drainfield replacement area, water supply, and all permanent structures including, but not limited to, driveways, houses, garages, ditches, service lines, easements, and utilities. Easements may be used to satisfy

this requirement.

(3) and (4) remain as proposed.

17.36.605 EXCLUSIONS (1) remains as proposed.

(2) The reviewing authority may exclude the following parcels created by divisions of land from review under Title 76, chapter 4, part 1, MCA, unless the exclusion is used to evade the provisions of that part:

(a) through (b)(ii) remain as proposed.

(c) a ~~boundary line adjustment to a parcel that~~ will be affected by a proposed boundary line adjustment, if the parcel has existing facilities for water supply, wastewater disposal, storm drainage, or solid waste disposal that were not subject to review, and have not been reviewed, under Title 76, chapter 4, part 1, MCA, and if:

(i) no facilities, other than those ~~existing at the time of~~ in existence prior to the boundary line adjustment, or those that were previously approved as replacements for the existing facilities, will be constructed on ~~any of the parcels affected by the boundary line adjustment;~~

(ii) existing facilities on the parcels complied with state and local laws and regulations, including permit requirements, which were applicable at the time of installation; and

(iii) the local health officer determines that existing facilities are adequate for the existing use. As a condition of the exemption, the local health officer may require evidence that:

(A) remains as proposed.

(B) the parcels includes acreage or features sufficient to accommodate a replacement drainfield;

(C) through (3) remain as proposed.

17.36.802 FEE SCHEDULES (1) An applicant for approval of a division of land into one or more parcels, condominiums, mobile home/trailer courts, recreational camping vehicle spaces, and tourist campgrounds shall pay the following fees:

	<u>UNIT</u>	<u>UNIT COST</u>
<u>TYPE OF LOTS</u>		
Subdivision lot	lot/parcel	\$ 125
Condominium/trailer court/recreational camping vehicle campground	unit/space	\$ 50
Resubmittal fee – previously approved lot, boundaries are not changed	lot/parcel	\$ 75
<u>TYPE OF WATER SYSTEM</u>		
Individual or shared water supply system (existing and proposed)	unit	\$ 85

Multiple user system (non-public) - new system	each	\$ 315 (plus \$105/hour for review in excess of four hours)
- new distribution system design - connection to distribution system	lineal foot lot/unit	\$ 0.50 \$ 70
Public water system New system per DEQ-1	component	per ARM 17.38.106 fee schedule
- new distribution system design - connection to distribution system	lineal foot lot/structure	\$ 0.50 \$ 70
<u>TYPE OF WASTEWATER DISPOSAL</u>		
Existing systems	unit	\$ 75
New gravity fed system	drainfield	\$ 95
New pressure-dosed, elevated sand mound, ET systems, intermittent sand filter, ETA systems, recirculating sand filter, recirculating trickling filter, aerobic treatment unit, nutrient removal, and whole house subsurface drip irrigation systems	design	\$ 190 (plus \$105/hour for review in excess of two hours)
New pressure-dosed, elevated sand mound, ET systems, intermittent sand filter, ETA systems, recirculating sand filter, recirculating trickling filter, aerobic treatment unit, nutrient removal, and whole house subsurface drip irrigation systems	drainfield	\$ 50
	<u>UNIT</u>	<u>UNIT COST</u>
Gray water reuse systems. This is a stand-alone fee and all gray water reuse systems will be reviewed at the unit cost	unit	\$ 95 (plus \$105/hour in excess of two hours)

	<u>UNIT</u>	<u>UNIT COST</u>
Multiple user wastewater system (non-public) - new collection system design - connection to collection system	lineal foot lot/unit	\$ 0.50 \$ 70
New public wastewater system per DEQ-2 - new collection system design - connection to collection system	component lineal foot lot/structure	per ARM 17.38.106 fee schedule \$ 0.50 \$ 70
<u>OTHER</u>		
Deviation from circular	request or per design	\$ 200 (plus \$105/hour for review in excess of two hours)
Waiver from rule	request	\$ 200 (plus \$105/hour for review in excess of two hours)
Reissuance of original approval statement	request	\$ 60
Review of modified <u>revised</u> lot layout document	request	\$ 125
Municipal facilities exemption checklist (former master plan exemption)	application	\$ 100

	<u>UNIT</u>	<u>UNIT COST</u>
Nonsignificance determinations/categorical exemption reviews - individual/shared systems	drainfield	\$ 60
- multiple-user non-public systems	lot/structure	\$ 30
- public systems	drainfield	per ARM 17.38.106 fee schedule

	<u>UNIT</u>	<u>UNIT COST</u>
Storm drainage plan review - plans exempt from Circular DEQ-8 - Circular DEQ-8 review	lot design lot	\$ 40 \$ 180 \$ 40 (plus \$105/hour for review in excess of 30 minutes per lot)
Preparation of environmental assessments/environmental impact statements	----	actual cost

17.36.804 DISPOSITION OF FEES (1) through (1)(g) remain as proposed.

(2) The department shall reimburse local governing bodies under department contract to review subdivisions as follows:

(a) for subdivisions with individual wastewater treatment systems, the department shall reimburse \$25 per lot plus 80 percent of the review fee under ARM 17.36.802 for the following actions performed by the local governing body:

- (i) and (ii) remain as proposed.
- (iii) review of ~~modified~~ revised lot layout documents.
- (3) and (4) remain as proposed.

NEW RULE I (17.36.112) RE-REVIEW OF PREVIOUSLY APPROVED FACILITIES: PROCEDURES (1) through (5) remain as proposed.

(6) Facilities previously approved under Title 76, chapter 4, MCA, are not subject to re-review, if they are not proposed to be changed and are not affected by a proposed change to another facility. To determine whether previously approved water and sewer facilities are operating properly, the reviewing authority may require submittal of well logs, water sampling results, any septic permit issued, and evidence that the septic tank has been pumped in the previous three years.

(7) and (8) remain as proposed.

3. The following comments were received and appear with the department's responses:

COMMENT NO. 1: The new definition of "accessory building" in ARM 17.36.101(1) is confusing because it is similar to the term "dependent living unit" that is used by this county. A "dependent living unit" is one that does not contain laundry or kitchen facilities. The definition of "accessory building" does not appear to have this limitation. The definition should be modified to clarify whether an accessory building is the same as a dependent living unit.

RESPONSE: The definition of "accessory building" is the same as the definitions in Department Circular DEQ-4, 2013 edition, and in the public water supply and public sewage system rule at ARM 17.38.101(3)(a). The term is used in the revised definition of "connection" in order to designate a water or sewer line serving a main building and accessory buildings as a service connection rather than as a main.

The examples of accessory buildings listed in the definition include guest houses and church rectories. These examples show that an accessory building is not the same as, but would include, a "dependent living unit" as the county uses that term.

COMMENT NO. 2: The definition of "bedrock" in ARM 17.36.101(2) is not consistent with some of the provisions in Department Circular DEQ-4. The definition states that bedrock includes material that "has insufficient quantities of fines to provide for the adequate treatment and disposal of wastewater." Gravel could meet this condition if it had few fines. However, gravel is not treated as bedrock in Department Circular DEQ-4, Section 2.1.7.

RESPONSE: The commenter correctly points out that the Circular does not treat gravel as bedrock. Four feet of vertical separation with natural soil is required between absorption trenches and bedrock. However, Section 2.1.7 of Department Circular DEQ-4 allows absorption trenches to be installed less than four feet above gravel if the system is pressure-dosed and the trenches are sand-lined. To be consistent with the Circular provisions, the definition of "bedrock" has been modified to clarify that the term does not include gravel and other rock fragments that are defined in Department Circular DEQ-4, Appendix B. A corresponding change to the definition of "bedrock" in Department Circular DEQ-4 will be proposed at a later date.

COMMENT NO. 3: It is not clear from the definition of "connection" in ARM 17.36.101(9) whether it is the same as a "service connection." The definition should also reference different types of lines, e.g., internal lot connections versus external lot connections.

RESPONSE: The definition of "connection" states that the term is synonymous with "service connection." The definition makes no distinction between connections that are internal or external to the lot.

COMMENT NO. 4: The definition of "facilities" in ARM 17.36.101(17) alters the statutory definition in 76-4-102(6), MCA, by adding storm water to the listed types of facilities. It is not proper to expand in rule a definition found in statute.

RESPONSE: The Sanitation in Subdivisions Act clearly requires the department to review storm water drainage structures in proposed subdivisions. See 76-4-104(6)(e), MCA. The department has determined that storm water drainage structures are included within the statutory definition of "facilities," because storm water structures are a "method by which water... might be transported or distributed." Section 76-4-102(6), MCA. Expressly referencing storm water in the rule's definition of "facilities" is appropriate to clarify that storm water structures are subject to Sanitation in Subdivisions Act requirements.

COMMENT NO. 5: The definition of "floodplain" in ARM 17.36.101(19) should be the same as the revised definition of "floodplain" in ARM 17.36.912(10).

RESPONSE: The two definitions should be the same. ARM 17.36.101(19) has been modified accordingly to match the definition in ARM 17.36.912.

COMMENT NO. 6: In the definition of "impervious layer" in ARM 17.36.101(19), the limitation of 240 minutes per inch is unnecessary. This county has successfully installed evapotranspiration absorption (ETA) systems in soils that are tighter than 240 minutes per inch. Our concern is that the 240 minutes per inch limit will unnecessarily result in declaring properties undevelopable.

RESPONSE: This definition is the same as the definition in the recently revised Department Circular DEQ-4. The department has found that soils with percolation rates slower than 240 minutes per inch have very little capacity for wastewater infiltration, requiring that other treatment options be assessed.

COMMENT NO. 7: The definition of "living unit" in ARM 17.36.101(27) refers to units that have facilities for "sleeping, cooking, and sanitation." This county has different criteria to distinguish guest houses from a main house. A unit can be considered a guest house if it has no facilities for laundry and limited or no kitchen facilities. The term "cooking" is not helpful and could mean a hot plate, microwave, or barbeque grill.

RESPONSE: The amendments conform this definition to the definition in Department Circular DEQ-4. The reference to "sleeping, cooking, and sanitation" facilities reflects the department's long-standing interpretation of the facilities that are necessary to constitute a living unit. The department has not found laundry facilities to be essential in a living unit. Cooking appliances such as hot plates, microwaves, and barbeque grills could be cooking facilities for purposes of this definition, depending on the purpose of the particular unit and the nature of the other facilities within it.

COMMENT NO. 8: The terms "sewage" and "wastewater" are used throughout the rules. The definition of "sewage" in ARM 17.36.101(46) states "sewage" is synonymous with "wastewater." It is not clear why the rules use two separate terms if they are synonymous.

RESPONSE: The use of the two separate terms was an inadvertent result of inconsistent terminology in rule amendments adopted over a number of years. There is no substantive effect because, as the commenter notes, the terms "sewage" and "wastewater" are defined as synonymous for purposes of these rules. Standardizing the terminology is outside the scope of this rulemaking, but may be addressed in a future rulemaking.

COMMENT NO. 9: The proposed amendments to the definition of "wastewater" in ARM 17.36.101(66) delete the provision that refers to discharge from a building, in order to include waste segregation systems like incinerating toilets. However, the amendment broadens the definition so that it now could include storm water running off roofs or down the street, carrying waste and detritus with it. The definition should also be amended to clarify that it applies to human

excreta, whether water carried or not.

RESPONSE: Storm water is not treated as wastewater in these rules and applicable department Circulars. The definition of "wastewater" has been modified to clarify that it does not include wastes carried in storm water. A corresponding change to the definition of "wastewater" in Department Circular DEQ-4 will be proposed at a later date. The wastes listed in (a) through (d) are water-carried wastes by definition, regardless of whether they are in fact carried in water.

COMMENT NO. 10: The proposed amendments to the definition of "wastewater treatment system" in ARM 17.36.101(67) refer to systems described in Department Circulars DEQ-2 and DEQ-4. By striking the words "but not limited to," the amendments limit the definition to systems addressed by the Circulars. Systems such as cesspools are not addressed in the Circulars, but a subdivision reviewer should be able to require that existing cesspools be shown on lot layout documents submitted with a subdivision application. The "but not limited to" language should be restored in the definition.

RESPONSE: The language "but is not limited to" has been restored in the definition. A corresponding change to the definition of "wastewater treatment system" in Department Circular DEQ-4 will be proposed at a later date.

COMMENT NO. 11: When proposed subdivision wastewater disposal facilities require a ground water discharge permit under the Water Quality Act, the proposed amendments to ARM 17.36.103(1)(k) require that the developer first obtain the discharge permit in order to provide the permit nondegradation determination to the subdivision reviewer. This will have the effect of preventing a county health department from reviewing and commenting on the proposed wastewater system before the discharge permit is approved. This could be alleviated if the applicant or the department was required to notify the county at the time the discharge permit application was submitted.

RESPONSE: The rules currently require an applicant to notify the county health department prior to submitting a subdivision application if facilities for subsurface wastewater disposal are proposed. ARM 17.36.102(6). The purpose of that requirement is to allow the local health department to conduct a preliminary site assessment to determine whether the site meets applicable state and local requirements. The rules addressing public notice for the department discharge permit program are not within the scope of this rulemaking. However, ARM 17.30.1040, which is in the ground water rules, requires public notice of ground water permit applications and provides that persons may be placed on a mailing list for all ground water applications.

COMMENT NO. 12: Section 76-3-604(7), MCA, requires that comments from public hearings held under the Subdivision and Platting Act be provided to the department with Sanitation in Subdivisions Act applications. ARM 17.36.103 should be amended to include this requirement in the Sanitation in Subdivisions Act rules. ARM 17.36.103(1)(o) requires an applicant to submit a copy of applicable letters of approval or denial from local government officials, but this does not appear to cover public comments from Platting Act hearings.

RESPONSE: The rules currently require submission of either a copy or a summary of any public comments on preliminary sanitation information that is collected in public hearings held under the Subdivision and Platting Act. See ARM 17.36.103(1)(r).

COMMENT NO. 13: Proposed new ARM 17.36.103(1)(s) would require applicants to provide information to the department about the status of the water rights for any proposed water supply using wells or springs. Except for connections to existing public water supply systems, the amendment would require the applicant to provide either proof of a water right or a letter of determination from the Montana Department of Natural Resources and Conservation (DNRC) stating that the proposed subdivision water supply is exempt from DNRC permitting requirements. A county health department is concerned that the requirement for consultation with DNRC will create a review bottleneck.

RESPONSE: The department and DNRC will enter into a Memorandum of Understanding (MOU) that will partially mitigate this problem. The draft MOU specifies that DNRC will issue letters of determination that no water right is required within 20 days after application receipt. In discussions with the department, DNRC regional engineers have stated that this time frame is feasible, and 20 days is compatible with the 55-day review time frame for Sanitation in Subdivisions Act applications. If a water right is required, the commenter is correct that there could be a significant time lapse between the receipt of a subdivision application and the applicant's obtaining proof of a water right from DNRC. However, the department believes this rule is necessary to allow the department to better assess the dependability of a proposed subdivision water supply and to help prevent the development of a subdivision when water is not legally available for use.

COMMENT NO. 14: The proposed amendments to ARM 17.36.104(1) raise a question whether lot layouts can be accompanied by separate sheets showing design details for storm water structures. Storm water design details can be too detailed for a typical single-page lot layout.

RESPONSE: The proposed amendments to ARM 17.36.104(2)(g) require that design details of storm water structures be shown on lot layout documents. The proposed amendments to the lot layout rule in ARM 17.36.104(1) retain the current provisions allowing multiple sheets for lot layouts, with the restriction that individual lots may not be split across two sheets. An applicant can provide multiple lot layout sheets if needed to show the reviewer the design details of storm water structures.

COMMENT NO. 15: Table 1 in ARM 17.36.104 should be modified. The elements required by the Table on lot layouts for non-municipal wells should be the same as those for non-municipal wastewater systems.

RESPONSE: The department agrees with this comment. The following elements have been added in the column for non-municipal wells: water lines (extensions and connections), ground water monitoring wells, cisterns, existing and proposed building locations, and driveways. Percolation test locations and road cuts/steep slopes have not been added to the column for non-municipal wells, since these elements pertain solely to wastewater systems.

COMMENT NO. 16: ARM 17.36.106(3)(b)(iii) states that no part of a lot utilized for a subsurface wastewater treatment system may be located in a 100-year floodplain. This is inconsistent with the rule that allows placement of sealed components (sewer lines, sewer mains, septic tanks, grease traps, dosing tanks, and pumping chambers) in floodplains. See Table 2 in ARM 17.36.323.

RESPONSE: The commenter is correct that this prohibition should only apply to the soil absorption systems addressed in Chapter 6 of Department Circular DEQ-4. ARM 17.36.106(3)(b)(iii) has been modified accordingly.

COMMENT NO. 17: The proposed amendments to ARM 17.36.110(3) incorrectly number the section. They show as (3) what is actually (4) in the rules.

RESPONSE: The section is correctly numbered in the amendments.

COMMENT NO. 18: A proposed amendment to ARM 17.36.116 replaces the term "registered sanitarian" with "licensed sanitarian." The amendment is incorrect. The term for a sanitarian licensed in Montana is "registered sanitarian," which is the term currently used in ARM 17.36.116. See 37-40-101(4), MCA. The rules should include a definition for "registered sanitarian" to clarify that the sanitarian must be licensed in the State of Montana.

RESPONSE: The commenter is correct. The term "registered" has been reinserted and the term "licensed" stricken. A definition of "registered sanitarian" has been added to clarify that the sanitarian must be licensed in Montana.

COMMENT NO. 19: The proposed amendments to ARM 17.36.116 replace the term "registered professional engineer" with "professional engineer," with the registration requirement being moved to a definition. The amendments inadvertently left two occurrences of the term "registered professional engineer" in ARM 17.36.116(2).

RESPONSE: The correction has been made to ARM 17.36.116(2).

COMMENT NO. 20: Use of the term "single family dwellings" in ARM 17.36.310(2)(a) is inconsistent with the revised terminology in the rest of the rules. The proposed amendments to these rules would replace the term "family dwelling" with "living unit."

RESPONSE: ARM 17.36.310(2)(a) is modified to replace the term "single family dwellings" with "single living units."

COMMENT NO. 21: ARM 17.36.312 addresses potential contamination of state waters caused by sewage, but does not address potential contamination caused by storm water runoff.

RESPONSE: Impacts to state waters caused by storm water are addressed in ARM 17.36.310(6).

COMMENT NO. 22: Language should be added to ARM 17.36.313 (Condominium Conversions) prohibiting an increase in wastewater flow caused by a conversion to condominium use.

RESPONSE: This comment is outside the scope of the current rulemaking,

since no amendments were proposed to ARM 17.36.313.

COMMENT NO. 23: On lots that have drainfields identified by stakes or other methods, the department should also require identification of water well locations. This will facilitate compliance with the requirement that well isolation zones be located on the lot.

RESPONSE: The rules place restrictions on well isolation zones crossing subdivision boundaries, but they do not require that isolation zones be kept within every lot in the subdivision. Nevertheless, the department agrees that the location of proposed wells should be staked or otherwise physically identified. ARM 17.36.322(6) currently requires that drainfield locations be physically identified. Adding a similar requirement for wells will help ensure the proper separation between wells and drainfields. ARM 17.36.330 has been modified accordingly.

COMMENT NO. 24: The provisions regarding easements in ARM 17.36.334(4) should be amended to require that easements be described by metes and bounds on a certificate of survey or easement document.

RESPONSE: The land surveyor rules already contain a requirement that certificates of survey show locations, bearings, distances, and curve data for any easement that will be created by reference to the survey. ARM 24.183.1104(1)(d)(xv). It is not necessary to re-state that requirement in these rules.

COMMENT NO. 25: In the provisions for easements in ARM 17.36.334(4), it is not clear whether an easement document signed by the grantor must be submitted to the reviewing authority when an easement is shown on a plat or certificate of survey (COS). Our county health department requires that separate easement documents also be provided when easements are shown on a COS.

RESPONSE: The rule has been modified to clarify that a signed easement document is not required when the same person owns both of the affected parcels. A signed easement document in that situation is void, because landowners cannot grant an easement to themselves. In that situation, the easement can be documented by showing it on the plat or COS. When the property is later sold, the easement is created when the deeds are issued that describe the parcel by reference to the plat or COS.

COMMENT NO. 26: The existing provisions in ARM 17.36.334(5) require that user agreements for shared (two-party) water systems be signed when the lots are sold. This provision is problematic because there is no way that the department or county can ensure compliance. When the lots are sold, buyers are often unaware of the existence of the user agreement. Buyers could also sign an agreement that is different than what the department approved. This county health department requires use of a declaration format in this situation. The declaration is essentially a covenant which, when filed with the clerk and recorder, is binding on subsequent purchasers of the property. We recommend that the declaration format be used instead of the user agreement.

RESPONSE: Although the Sanitation in Subdivisions Act requires that a developer provide initial buyers with a copy of the certificate of subdivision approval,

the department recognizes that this notification requirement is sometimes overlooked at the time of sale. See 76-4-113, MCA. However, covenants can also be problematic. To be effective, covenants must be filed in the county public records and subsequent property deeds must make reference to them. Ensuring that these steps occur may be more feasible for a county health department than for a state agency. The department believes that the requirement for user agreements for shared systems is reasonably effective and should be retained.

COMMENT NO. 27: A county health department supports the proposed changes to the lot size rule in ARM 17.36.340 and believes that the changes will be protective of public health and the environment.

RESPONSE: Comment noted.

COMMENT NO. 28: A private citizen supports the proposed changes to the lot size rule in ARM 17.36.340, stating that it will help her put a second dwelling on a lot so she can live there to assist her aging parents.

RESPONSE: Comment noted.

COMMENT NO. 29: Two county health departments oppose the revisions to the lot size rule in ARM 17.36.340. They express the concern that the revisions rely too heavily on designated drainfield mixing zones to protect human health and the environment. The counties maintain that the dilution model used to establish mixing zones is unreliable and unscientific. One county states that the non-significance determination process is commonly referred to as "voodoo science." The other county states that the revised rule will likely decrease the size of lots. The county cites an example of a subdivision where too many septic systems in too small an area caused ground water degradation.

RESPONSE: The purposes of the lot size rule are to protect human health and water quality by creating sufficient separation between wells and contamination sources, and to allow sufficient area for construction of subdivision improvements such as water, sewer, houses, garages, and driveways. The proposed amendments to the lot size rule eliminate the one-acre minimum required in the current rule for lots with on-site wells and drainfields. In the revised rule, the three primary methods to establish lot size are: designation of mixing zones, application of the setbacks in ARM 17.36.323, and verifying on the lot layout document that there is adequate size for all planned facilities and structures. The amendments also incorporate the statutory requirements that mixing zones and well isolation zones be located wholly within the subdivision.

Unlike dilution modeling, the one-acre limit was adopted without any clear scientific basis. After the development of nondegradation rules in 1993, the department began to rely on nondegradation analysis and dilution modeling as the primary method to designate the area needed for subsurface wastewater treatment. Dilution modeling designates mixing zone areas on each lot for primary and replacement drainfields, which are then protected through setbacks. The department does not agree that dilution modeling is unreliable or unscientific. The model most often employed is Bauman-Schafer, which was adopted for use by the department in 1993. The mass loading calculations in the model calculate dilution of

nutrients by both ground water and precipitation. The model's variable hydraulic conductivity allows use in both alluvial and bedrock aquifers and allows calculation of cumulative impacts from multiple systems. The model uses conservative assumptions that enhance its protectiveness. It is simple to use and its results are readily understandable by the general public. The department has found that Bauman-Schafer is protective of state waters and effective at limiting nutrient loading from point sources such as septic systems. Bauman-Schafer is not the only acceptable model for nonsignificance analysis. Other models or methods may be used if the applicant can demonstrate their effectiveness.

As noted above, the amended lot size rule also uses the setbacks in ARM 17.36.323 to establish minimum lot size. The Table in ARM 17.36.323 has numerous setbacks to ensure adequate separation between drinking water supplies and potential sources of contamination. Proposed amendments to the setback rule add a new 100-foot separation between mixing zones and drinking water wells, which will provide increased protection for drinking water wells. The revised lot size rule also requires verification that lots have adequate space for the sewage treatment system, drainfield replacement area, water supply, and all permanent structures including, but not limited to, driveways, houses, garages, ditches, service lines, easements, and utilities. As discussed in the Response to Comment No. 33 below, the amendments will require that developers and subdivision reviewers use lot layout documents as a tool to verify that lot sizes will be adequate for the planned development.

Rather than using a rule of thumb like the one-acre rule, the revised lot size rule focuses on specific health, environmental, and development factors that affect lot size. The one-acre rule does not add to the health and environmental protections provided by setbacks and mixing zones. As discussed in the Response to Comment No. 33 below, the amendments to the lot layout rule will increase the effectiveness of the lot layout document for creating adequate size for proposed and anticipated developments. The department believes that the amendments will be more effective at addressing the purposes of the rule. The revised rule will also be simpler and easier to administer than the one-acre rule with its numerous exceptions.

COMMENT NO. 30: A county health department requests that the department abandon the nonsignificance determination/mixing zone method for determining the area needed for subsurface wastewater treatment.

RESPONSE: Since the development of nondegradation rules in 1993, the department has relied on nondegradation analysis and dilution modeling as the primary method to designate the area needed for subsurface wastewater treatment. The mixing zone method is well established in these rules and other department rules. See, e.g., ARM Title 17, Chapter 30, Subchapter 5 (Mixing Zones in Surface and Ground Water). Mixing zones are also recognized in statute. See, e.g., 75-5-301(5)(d), MCA (allowing mixing zones to meet non-significance levels for nitrate in ground water); and 76-4-104(6)(i), MCA (placing restrictions on mixing zones crossing the boundaries of proposed subdivisions). Abandoning the nonsignificance determination/mixing zone method is impractical and unnecessary. The nonsignificance determination/mixing zone method provides the department with an important tool for determining effective wastewater treatment.

COMMENT NO. 31: The department should consider a prescriptive approach to protecting state waters. For example, if a project is within a given distance to surface or ground water, in a given soil, a particular treatment system would be prescribed. If high quality waters are potentially impacted, advanced treatment should be required.

RESPONSE: Soil type and distance to surface and ground water are factors that are already included in nondegradation analysis. Soil type is addressed in phosphorus breakthrough and categorical exemptions. Distance to surface water is addressed in the phosphorus breakthrough and nitrate sensitivity analysis. Distance to ground water is assumed in the nitrate sensitivity analysis to be at the bottom of the test pit. This protects state waters while allowing applicants flexibility in designing treatment systems. The prescriptive approach would unduly limit the applicant's options.

COMMENT NO. 32: A county health department states that the revised lot size rule essentially does away with minimum lot sizes altogether. The county already has problems with consultants proposing lots that barely accommodate a house and associated facilities. This will become a much larger problem under the revised rule.

RESPONSE: The revised rule will result in a definitive lot size for each lot that is protective of health and the environment and provides adequate space for development.

COMMENT NO. 33: If subdivision lots are tightly planned, the one-acre rule is necessary to leave some room to adjust for site discrepancies such as slope, or to allow some changes in development plans by the eventual lot owner. For example, owners may want to greatly expand the size of the house, or add a garage or a shop. The amendments attempt to address this by requiring, in ARM 17.36.340(2)(d), that development be shown on the lot layout. However, it is impossible for the developer to predict the size of future homes, driveways, outbuildings, and parking areas. Furthermore, buyers seldom have the lot layout presented to them when they purchase a lot.

RESPONSE: New ARM 17.36.340(2)(d) requires that each lot have adequate space for the sewage treatment system, drainfield replacement area, water supply, and all permanent structures including, but not limited to, driveways, houses, garages, ditches, service lines, easements, and utilities. Amendments were also proposed to the lot layout rule in ARM 17.36.104 to clarify that both existing and proposed structures must be shown on lot layouts. The intent of these amendments is to require developers and subdivision reviewers to use the lot layout document as a tool to verify that lot sizes will be adequate for the planned development. Site conditions should be also considered when the lot layout is prepared. The possibility of later changes by the lot owner should be addressed to the extent possible. Inconsistent later changes by the eventual lot buyer are also addressed by giving buyers a copy of the approved lot layout. The Sanitation in Subdivisions Act requires that a developer provide initial buyers with a copy of the certificate of subdivision approval. See 76-4-113, MCA. The department recognizes that this notification requirement is sometimes overlooked at the time of sale. Some room to

adjust the minimum lot size is provided by new ARM 17.36.340(4), which allows the reviewing authority to require lot sizes larger than the minimum if necessary to protect human health or water quality.

To clarify that the lot layout document is the method for verifying compliance with the requirement in ARM 17.36.340(2)(d), a reference to the lot layout has been added to ARM 17.36.340(2)(d). The facilities and structures listed in ARM 17.36.340(2)(d) are the same as the items required for lot layouts in ARM 17.36.104, except that "utilities" are not listed in ARM 17.36.104. To allow lot layout documents to be used to verify compliance with ARM 17.36.340(2)(d), the term "utilities" has been added to ARM 17.36.104(2)(f). In addition, Table I in ARM 17.36.104 has been modified to indicate that these facilities and structures must be shown on the lot layout.

COMMENT NO. 34: New ARM 17.36.340(4) allows the reviewing authority to require lot sizes larger than those allowable than the minimum if necessary to protect human health or water quality. This will be difficult to implement fairly and consistently across the state.

RESPONSE: There are 19 counties whose health departments have been certified to review subdivisions under the Sanitation in Subdivisions Act. Achieving consistency in reviews across the state can be challenging, but the department strives to keep counties informed about how the department interprets and applies the Act and rules. New ARM 17.36.340(4) is no more challenging in this regard than many of the other rules.

COMMENT NO. 35: Local health departments work with potential subdividers to help them understand the applicable requirements. Now when someone comes to the counter with a question about lot size, we have clear rules. With the revised lot size rule, the only answer we can give them is "it depends."

RESPONSE: The current lot size rule, with its numerous exceptions, is actually more complex than the revised rule. The setback rules are simple to explain, as are mixing zones and the need to show planned developments on each lot. For inquiries at the counter, a simple lot sketch could be used to illustrate how the new requirements would affect lot sizes.

COMMENT NO. 36: Reviewing the complex lot layout document required in ARM 17.36.340(2)(d) will be difficult for the reviewer. If review time increases, review fees should be increased, but this will make lots ultimately more expensive for the buyer.

RESPONSE: The elements listed in ARM 17.36.340(2)(d) are not different than those currently required to be shown on lot layout documents, except for utilities, which are not currently in the lot layout requirements stated in ARM 17.36.104. Because the lot layout is to be the primary method to determine compliance with ARM 17.36.340(2)(d), the term "utilities" has been added to ARM 17.36.104. Lot layout documents should not be more complex than they are currently, nor should review time be significantly increased. The new provisions simply require that lot layouts now be used as a tool for evaluating lot size.

COMMENT NO. 37: The time required for an environmental consultant to develop a lot layout that contains all of the elements in ARM 17.36.340(2)(d) will result in additional chargeable hours for their clients. Developers will decrease their profit through consultant fees.

RESPONSE: See the Response to Comment No. 36 above.

COMMENT NO. 38: In the revised lot size rule, ARM 17.36.340(2)(b) and (c) require that drainfield mixing zones and well isolation zones be located wholly within the subdivision. These subsections should not be part of the lot size rule because they apply to the whole subdivision and not to individual lots. These subsections also refer to ARM 17.36.322(5) and 17.36.330(4), which allow easements to be used to satisfy the requirement that mixing zones and well isolation zones remain within a subdivision. Since (2)(b) and (c) do not mention easements, it is not clear if they are allowed under the lot size rule.

RESPONSE: The requirements that drainfield mixing zones and well isolation zones be located wholly within the subdivision are set out in statute at 76-4-104(6)(i), MCA, and restated in the rules at ARM 17.36.322(5) and 17.36.330(4). The requirements are referenced in the amended lot size rule because they can affect the configuration of facilities and the sizes of lots, especially those on the perimeter of the subdivision. However, to eliminate the ambiguity pointed out by the commenter, ARM 17.36.340(2)(b) and (c) have been amended to simply reference ARM 17.36.322(5) and 17.36.330(4).

COMMENT NO. 39: The revisions to ARM 17.36.605(2)(c) exempt boundary line adjustments (BLAs) from review under certain conditions. One condition is that the local health officer has determined that existing facilities are adequate for the proposed use. This essentially requires the health officer to conduct a complete review of all of the facilities on the parcel in order to exempt them from review. Implementing this exemption will be time-consuming and expensive for local health departments, yet no fees apply to review of exemptions. If full review is required, the parcel should not be exempted, but should go through the review process with appropriate fees.

RESPONSE: The exemption language states that, in making the determination that existing facilities are adequate, the local health officer "may" require evidence regarding specific facilities. The local health officer has discretion to not allow the exemption, if reviewing the facilities proposed for exemption would essentially constitute a full subdivision review or require undue amounts of staff time or resources. The department agrees that, if extensive information and review is needed to approve the exemption, the parcel should go through the full subdivision review process with appropriate fees. The exemption is intended for situations where extensive review is not necessary. Examples would be BLAs to parcels in a city that are already connected to city water and sewer, or BLAs to parcels that have been recently developed in accordance with local permit requirements.

COMMENT NO. 40: A county health department states that surveyors, who are required to state exclusions in full on plats and surveys, may object to the length of the exclusion in ARM 17.36.605(2)(c).

RESPONSE: The statement of the exclusion is longer than others in ARM 17.36.605, but the department has not heard from surveyors that this exemption is too long to put on plats or surveys. A number of surveyors received copies of this rulemaking proposal.

COMMENT NO. 41: As proposed to be amended, the exclusion in ARM 17.36.605(2)(c) states that a parcel that is affected by a boundary line adjustment (BLA) may be exempted under certain conditions. The conditions in ARM 17.36.605(2)(c)(i), (ii), and (iii) refer to "parcels," which implies that all of the parcels affected by a BLA must meet the conditions in (2)(c)(i), (ii), and (iii) before one parcel may be exempted.

RESPONSE: The use of the plural "parcels" in the amendments was in error. The intent of the exemption is that a parcel affected by a BLA may be exempted if that parcel meets the stated conditions, regardless of whether the other parcels affected by the BLA meet those conditions. The rule has been modified in response to this comment.

COMMENT NO. 42: One of the conditions of the exclusion in ARM 17.36.605(2)(c) is that no new facilities be constructed on the exempted parcel. This will be impossible to track.

RESPONSE: The commenter is correct that there is no simple way for counties or the department to track subsequent development on parcels that are excluded from review under this exemption. The same is true for parcels excluded under the existing "no facilities" exemption in ARM 17.36.605(2)(a). Some counties can track development through building permits, well permits, or septic permits. Other counties may not have those mechanisms available. However, the development prohibition in the rule is an enforceable restriction that applies to the exempted parcel. If noncompliance is later discovered, the parcel owner can be required to correct the noncompliance, either by removing the new facilities or by bringing the new facilities in for subdivision review.

COMMENT NO. 43: The revised exemption in ARM 17.36.605(2)(c) should be struck in its entirety. Review of developed lots has never been a problem in the past.

RESPONSE: The department has received numerous requests in the past to exempt minor BLAs on parcels that have not previously been required to undergo subdivision review. The intent of the exemption is to allow the BLA without Sanitation in Subdivisions Act review if no new facilities are proposed and existing facilities comply with applicable regulations and are not affected by the BLA.

COMMENT NO. 44: The "remainder" exemption in 76-4-125(2)(e), MCA, should be changed to include all discharge sources, not just those in existence before April 29, 1993.

RESPONSE: This comment would require a change to statute, and is outside the scope of this rulemaking.

COMMENT NO. 45: The rule addressing waivers and deviations refers to a

"waiver" from a department circular. ARM 17.36.601(2). This is inconsistent with the other provisions in the rule, which refer to "deviations" from circulars and "waivers" from rules.

RESPONSE: The commenter is correct that the use of "waiver" in ARM 17.36.601(2) is incorrect and that the term should be "deviation." The comment is outside the scope of this rulemaking, but may be addressed in a future rulemaking.

COMMENT NO. 46: A county health department reviews exemption requests to make sure they meet exemption criteria. The county requests that there be a fee specified in ARM 17.36.802 for review of exempt lots.

RESPONSE: The department would like further input on this subject from county health departments and other stakeholders. The department is willing to consider amending the fee rules based on that input.

COMMENT NO. 47: The new fee for review of a "modified lot layout document" should use the term that is used in New Rule I, which is "revised lot layout document."

RESPONSE: The department agrees that the terms used should be consistent in the rules. ARM 17.36.802 and 17.36.804 have been amended to use the term "revised lot layout document."

COMMENT NO. 48: In ARM 17.36.804(2)(a), the reimbursement for local review of lots should be raised to \$50. The current compensation of \$25 does not come close to covering the county's cost of going to the site to investigate specific conditions. The reimbursed amount has not changed since 2002, even though the department has increased its lot fee a number of times since then.

RESPONSE: The department would like further input on this subject from county health departments and other stakeholders. The department is willing to consider amending the fee rules based on that input.

COMMENT NO. 49: New Rule I should be amended to allow the reviewing authority to ask for information about previously approved facilities, even if they are not changing. For existing wells, the information could include well logs and water sampling results. For existing septic systems, the information could include the septic permit, evidence that the system is operating properly, and evidence that the septic tank has been pumped within the previous three years.

RESPONSE: New Rule I has been modified to allow the reviewing authority to require this information.

Reviewed by:

DEPARTMENT OF ENVIRONMENTAL
QUALITY

/s/ John F. North

JOHN F. NORTH
Rule Reviewer

By: /s/ Tracy Stone-Manning

TRACY STONE-MANNING, DIRECTOR

Certified to the Secretary of State, September 8, 2014.

BEFORE THE ALTERNATIVE HEALTH CARE BOARD
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT AND
ARM 24.111.511 naturopathic) ADOPTION
physician formulary and the adoption)
of NEW RULE I military training or)
experience)

TO: All Concerned Persons

1. On April 10, 2014, the Alternative Health Care Board (board) published MAR Notice No. 24-111-25 regarding the public hearing on the proposed amendment and adoption of the above-stated rules, at page 645 of the 2014 Montana Administrative Register, Issue No. 7.

2. On May 1, 2014, a public hearing was held on the proposed amendment and adoption of the above-stated rules in Helena. Several comments were received by the May 9, 2014, deadline.

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

CHANGES TO FORMULARY/ARM 24.111.511:

COMMENT 1: The Montana Board of Medical Examiners (BOME) opposed the addition of the five substances to the formulary rule, asserting they are potentially dangerous substances which often require a high level of training and expertise on the part of the prescriber.

RESPONSE 1: The board agrees that Naturopathic Physicians (NDs) must have sufficient training and expertise before prescribing any substance.

The board notes that, while there are some part-time, online, and correspondence schools that purport to award naturopathic doctor degrees, the graduates of these schools are not eligible for licensure in Montana as NDs. Montana-licensed NDs must complete a comprehensive course of study at an approved four-year naturopathic medical college and pass a rigorous professional examination. See 37-26-402, MCA. Approved naturopathic medical colleges are graduate schools that are accredited by the Council on Naturopathic Medical Education (CNME), which is a member of the Association of Specialized and Professional Accreditors (ASPC). The ASPC includes the programmatic accreditors recognized by the U.S. Department of Education and its members include the accreditors for allopathic/medical (MD), osteopathic (DO), chiropractic (DC), acupuncture, and dental programs.

The general educational structure is similar for ND and MD students. The first year emphasizes biomedical sciences, such as anatomy and biochemistry, and

the second year emphasizes the diagnostic sciences, including areas like evidence-based medicine and physiological assessment. During the first two years, ND and MD students have almost identical credit loads. A 2010 course comparison of the University of Washington's (UW) MD program and Bastyr University's ND program showed that the UW MD students completed 150 credits and the Bastyr ND students completed 151.5 credits in comparable biomedical and diagnostic science courses.

While a majority of MD students opt for careers in specialties, i.e., oncology, and pursue the requisite specialized education and training, all ND students are training to become primary care physicians. ND students learn to recognize the symptoms of diseases that fall outside of their scope of practice, i.e., cancer, to refer patients to specialists as appropriate. While some practicing NDs do expand their education and develop specialty areas, the focus of naturopathic medical school is identifying and treating diseases that fall within the realm of general practice.

Pharmacology education is required for all ND students. See 37-26-103(1), MCA, and ARM 24.111.501. As of 2013, recognized programmatic accreditors, including the CNME, the Commission on Osteopathic College Accreditation, and the Liaison Committee on Medical Education, did not set specific standards for pharmacology education. The professional schools set their own pharmacology curriculum. A comparative analysis in 1997 of MD, DO, and ND pharmacology curriculum found that MDs complete 114 credits, DOs complete 108 credits, and NDs complete 100 credits.

Accredited naturopathic medical schools provide instruction on basic principles of pharmacology including clinical indications, main mechanisms of action, and the chief side effects of prototypical drugs of each of the major contemporary drug classes. Students are expected to be able to predict the chief therapeutic effects and chief side effects. In specialty courses such as cardiology, gastroenterology, gynecology, and endocrinology, students are taught the therapeutic options for specific conditions and trained in the broadest national scope of practice for an ND which includes both naturopathic and allopathic care including surgical and pharmacological options. All this is reinforced during clinical experience as many patients come to NDs with pharmaceuticals already in place requiring knowledge regarding the clinical implications.

The Naturopathic Physicians Licensing Exam (NPLEX), required for licensure, tests applicants' knowledge of pharmacology. Specifically, Part II of the NPLEX, the Core Clinical Science Examination, is a case-based, integrated test of clinical competency requiring knowledge of: pharmacology of commonly prescribed drugs; primary actions, adverse effects, indications, contraindications, and potential interactions with botanical medicines, nutritional supplements, and other drugs; natural therapeutic interventions having effects similar to commonly prescribed pharmaceuticals; and monitoring and assessing therapeutic drug levels and toxicity.

NDs are licensed in 18 states and two U.S. territories and have prescribing rights in 13 states. The Drug Enforcement Administration (DEA) grants DEA numbers to licensed NDs with prescribing authority. While Montana uses a nonexclusive formulary list, Washington and Oregon recognize the education and training of NDs and do not restrict the prescribing authority of licensed NDs.

Additionally, Montana-licensed NDs are required to complete at least five hours of continuing education in pharmacology annually, which is a third of the

required continuing education, for license renewal. See ARM 24.111.2102. Montana-licensed NDs are well educated in pharmacology.

Addressing the patient safety concerns raised, the board notes that NCMIC, the largest malpractice insurer of licensed NDs, has not had a claim against an ND involving prescription medications as of 2010. A 2013 nationwide search by Verdict-Search also found no records of malpractice suits against NDs. Additionally, between 2002 and 2012, the National Practitioner Databank, maintained by the U.S. Department of Health and Human Services, had no records of malpractice claims against NDs. In 2011, Oregon, which has licensed NDs since 1927, acknowledged the extensive education and clinical training regarding pharmaceuticals and adopted an open formulary representing all legend drugs for NDs.

The U.S. Senate acknowledged the safety and effectiveness of naturopathic medicine by passing Senate Resolution 221 designating the week of October 7-13, 2013, as "Naturopathic Medicine Week" to "recognize the value of naturopathic medicine in providing safe, effective, and affordable health care." Specifically, Sen. Res. 221 stated that NDs complete four-year, graduate level programs that are accredited by agencies approved by the U.S. Department of Education and further noted that "naturopathic physicians can help address the shortage of primary care providers in the United States" and "are trained to refer patients to conventional physicians and specialists when necessary."

COMMENT 2: The Montana Pharmacy Association (MPA) commented that, while the formulary list is intended to clarify what medications a pharmacist can legally dispense pursuant to a prescription from a naturopathic physician, "the addition of these particular medications will only add to pharmacist confusion on why these medications are considered of natural origin and whether they can be legally dispensed." The MPA stated that, "[i]t will be unclear to pharmacists what the basis of inclusion will be and the use of these medication in naturopathic practice." The MPA further stated, "[w]e are concerned that the proposed changes may open the door for the addition of other synthetic derivatives in the future. If this happens pharmacists could be stuck in the middle when trying to bill claims to an insurance company or justifying the origin and validity of the prescription during an audit."

RESPONSE 2: The board is unclear on how specifically listing the five substances in the formulary list will confuse pharmacists. When presented with a prescription written by a ND, a pharmacist checking the formulary has clear guidance that a listed substance is within the ND's prescribing authority.

The five substances have a natural origin and were reviewed and approved to be listed in the formulary by the five-member alternative health care formulary committee (formulary committee). Under 37-26-301(3), MCA, the formulary committee, consisting of "a licensed pharmacist plus four members of the Board [of Alternative Health Care], two of whom must be licensed naturopathic physicians, one who must be a licensed medical doctor, and one who must be a public member," reviews the formulary at least annually. The formulary committee is responsible for ensuring that the formulary list does not exceed the scope of substances covered by approved naturopathic college curricula or continuing education and making recommendations to the board. The five substances were

reviewed by the formulary committee and found to meet the requirements of 37-26-301, MCA, to be specifically stated in the formulary list.

The board disagrees that specifically listing the five substances in the formulary "may open the door for the addition of other synthetic derivatives in the future" and that "pharmacists could be stuck in the middle when trying to bill claims to an insurance company or justifying the origin and validity of the prescription during an audit." The listing of a specific substance on the formulary list gives clear guidance to a pharmacist that the substance is within the naturopathic physician's prescribing authority. Whether a claim for a prescription written by a naturopathic physician is covered by an insurer will depend on the policy contract terms and the insurance regulatory system. See generally, Title 33, Mont. Code Ann., Insurance and Insurance Companies. However, the listing of a specific substance on the formulary list would seem to support a pharmacist seeking to get a claim paid or respond to an audit.

COMMENT 3: The Montana Medical Association (MMA) commented that the proposed additions to the formulary list inappropriately expand the scope of acceptable naturopathic formulary medications permitted under 37-26-301(3), MCA. The MMA stated that, "[o]ver 50% of all existing pharmaceuticals prescribed by fully trained and certified Medical Doctors are derived from a 'natural substance'" and that naturopathic physicians appear to be trying to "encompass all possible prescription medications derived from 'natural' sources" which "is not what was intended by the legislature when this statute was originally passed." The MMA further stated that including the five substances on the formulary presents a real and ongoing danger to the health of Montanans.

RESPONSE 3: The board disagrees. Montana-licensed NDs are primary health care providers who diagnose and treat human health conditions, injuries, and diseases. See 37-26-103(7), MCA. NDs have authority under 37-26-301, MCA, to prescribe pharmaceuticals with a natural basis in treating their patients. Each of the five substances has a natural basis. See the proposal notice in this matter, MAR Notice No. 24-111-25.

Section (3) of 37-26-301, MCA, provides that the formulary list "may not go beyond the scope of substances covered by approved naturopathic college curricula or continuing education." By the plain language of the statute, the Legislature intended that NDs prescribe substances for which they have received training and education. See Response 1 for more information regarding the education, training, and licensing of NDs.

The five substances were reviewed and approved by the alternative health care formulary committee to be specifically listed in the formulary. See Response 2 for more information regarding the formulary committee. Specifically listing the five substances does not expand the scope of the formulary as the formulary list in ARM 24.111.511 is nonexclusive. Each section broadly identifies a type of substance that may be administered, while the subsections contain examples, i.e., section (10) provides that NDs may prescribe and administer hormones, and its subsection (c) lists glucagon as an example.

Regarding the safety concerns raised, see Response 1 for information about the education, training, licensing, and patient safety record of NDs.

COMMENT 4: Numerous commenters asserted that insulin is a powerful hormone and that years of specialized training is required to learn how to prescribe it correctly. The MMA further commented that "some limited hours of education regarding the derivation and use of insulin in naturopathic school, or any amount of continuing education courses" does not adequately prepare a naturopathic physician to manage a diabetic patient with this drug. The MMA stated it was "inconceivable" that "any naturopath has achieved the level of training needed to treat diabetes effectively and comprehensibly in an individual" -- and especially for "management of childhood diabetes" – with insulin and metformin. The MMA stated that insulin, metformin, and any diabetic medication should be prescribed by individuals who are fully trained to care for diabetes through "fully accredited post graduate medical training" and that "there are no facts presented that demonstrate naturopaths have the needed level of training for adequate safe and effective treatment of diabetes using prescription medications."

RESPONSE 4: Montana-licensed NDs are fully trained on proper assessment and diagnosis and know when to function as a primary care provider and when to refer patients to a specialist. See Response 1 for information regarding the education, training, licensing, and safety record of NDs. For all health care providers, it is unprofessional conduct to perform treatments or provide services beyond the provider's education, training, or licensure. See 37-1-316(18), MCA.

Insulin and metformin have a natural origin. Insulin is a hormone and metformin originated from French lily or goats' rue. Under 37-26-301, MCA, NDs may prescribe pharmaceuticals with a natural basis that are covered in their education and training. See Responses 1, 2, and 3 for more information regarding the education, training, licensure, and patient safety record of NDs, the formulary list, and the formulary committee.

Insulin and metformin were reviewed and approved by the formulary committee to be specifically stated examples in the formulary list. See Responses 2 and 3 regarding the formulary list and formulary committee.

COMMENT 5: The MMA commented that the board presented no facts that NDs receive adequate training and experience in the appropriate use of botox or of Juvederm in the treatment of dermatologic needs. The MMA further stated that, by suggesting that NDs are qualified to use these treatments based on their naturopathic college curricula or continuing education courses shows a lack of understanding of the seriousness of the use of these medications and underestimation of the level of training needed to use them safely and effectively.

RESPONSE 5: The board disagrees. See Response 1 for information regarding the education, training, licensing, and patient safety record of NDs. For all health care providers, it is unprofessional conduct under 37-1-316(18), MCA, to perform treatments or provide services beyond the provider's education, training, or licensure.

COMMENT 6: Several commenters stated that metronidazole is a strong antibiotic and that "[t]rained and certified Medical Doctors spend literally years after their four years of medical school learning how to use antibiotics such as metronidazole." (Emphasis in the original.) The MMA stated that the appropriate use of antibiotics "cannot be learned from a course in any medical or naturopathic school" and that, "[t]o suggest that naturopathic curriculum includes adequate training for the use of metronidazole, or for that matter any antibiotic, shows a profound lack of awareness of the seriousness of appropriate use of antibiotics in this day and age." Additionally, the MMA stated that, "[t]here are no 'continuing education' courses available to any practitioner in any medical or naturopathic field which would adequately provide this level of needed knowledge."

RESPONSE 6: Montana-licensed NDs must first complete a comprehensive course of study at an approved naturopathic college which includes pharmacology and clinical education. See Response 1. Naturopathic students assume primary responsibility for patient care, under the supervision of licensed doctors, as soon as their third and fourth years of naturopathic college. The ND licensing exam, NPLEX, Part II tests applicants' knowledge of pharmacology and also clinical competency. See Response 1.

Antibiotics have been on the formulary list since its inception. As explained in Responses 2 and 3, the formulary list is nonexclusive and the alternative health care formulary committee has reviewed and recommended that metronidazole be specifically listed in the formulary to facilitate the ability of patients to fill prescriptions.

Like other primary care physicians, NDs can and do order clinical laboratory tests to identify the cause of an infection to avoid incorrectly prescribing an antibiotic such as metronidazole. See 37-26-301(4), MCA. Further, NDs have an excellent patient safety record as discussed in Response 1.

COMMENT 7: Several commenters opposed adding all five substances to the formulary, stating that naturopathic knowledge and training is inadequate to safely prescribe these substances for use in a therapeutic regimen. Some commenters stated that naturopaths are not trained to recognize and treat possible complications and side effects of these substances and that allowing naturopaths to prescribe these five substances places patients at risk for harm or death.

Commenters stated that physicians complete four years of college, four years of medical school, and three to six years of residency. Another commenter stated that naturopaths receive at best the equivalent of a four-year M.D. or D.O. student's training and that only one state, Utah, requires a one year residence.

Another commenter stated that many naturopaths migrate to the field because they do not have the credentials to attend medical school.

One commenter stated that there is a lack of accountability and credibility within naturopathic training. The effectiveness and standardization of NPLEX has been questioned. Further, the NPLEX "does not have a Step 3 portion of the exam testing clinical competency like the United States Medical Licensing Examination

(USMLE) does of M.D. students." Previously, the CNME lost its recognition by the U.S. Department of Education, but regained recognition in 2003.

One commenter stated that "naturopaths deny or are ignorant of the scientific reasoning and research upon which all of modern medicine is based."

One commenter stated that naturopathic medicine can be defined as a "pseudoscientific form of alternative medicine" which "favors a holistic approach with non-invasive treatment and generally avoids the use of surgery and drugs" and that practitioners "often prefer methods of treatment that are not compatible with evidence-based medicine, and in doing so, reject the tenets of biomedicine and modern science."

RESPONSE 7: Montana-licensed NDs complete a comprehensive course of study at an approved naturopathic college which includes pharmacology and clinical education. See Response 1 regarding the education, training, and licensing of NDs. NDs are trained to recognize and treat possible complications and side effects of pharmaceutical, herbs, and herb-drug interactions. See Response 1.

The board disagrees with the commenters that naturopathic medicine is pseudoscientific and the NDs shun evidence-based medicine and the tenets of biomedicine and modern science. The education and practice of Montana-licensed NDs is well-grounded in science and biomedicine. See Response 1.

Part II of the NPLEX is the Core Clinical Science Examination. It is a case-based, comprehensive test of clinical competency. See Response 1. Further, licensed NDs have an excellent patient safety record. See Response 1.

Since 2003, the CNME has been continuously recognized by the U.S. Department of Education as an accreditor of naturopathic medical colleges. The brief loss of recognition prior to reinstatement in 2003 is not relevant. Moreover, in 2010, the U.S. Department of Education reviewed the CNME and granted its longest recognition of five years to 2015.

Naturopathic medicine is an established health care practice. NDs are licensed in 18 states and two U.S. territories and have prescribing rights in 13 states. The DEA grants DEA numbers to NDs with prescribing rights. Additionally, NDs work alongside allopathic doctors in local clinics, including clinics in Billings and Missoula, Montana, and in more than two dozen hospitals nationwide.

COMMENT 8: Several commenters opposed adding the five substances to the formulary because NDs do not have sufficient education and training. Two commenters stated that they are physicians and have seen cases of patients who have been prescribed medications inappropriately or have had medical applications by NDs and have had complications, including a septic joint from a knee injection. One commenter stated that, as an internist, the commenter has seen NDs inappropriately overdose patients with thyroid replacement therapy directly contributing to subsequent atrial fibrillation with heart attack, osteoporosis, and diarrhea.

RESPONSE 8: The board disagrees that licensed NDs lack education and training. See Response 1. Further, licensed NDs have an excellent patient safety record. See Response 1. A person alleging that an ND acted unprofessionally in treating a

patient or failed to meet the generally accepted standards of care may file a complaint with the board under 37-1-308, MCA, and the board may impose disciplinary action under 37-1-312, MCA.

COMMENT 9: One commenter admitted being unfamiliar with naturopathic education and training, but "feels like there is some hostility from their profession about how we overuse medications and it seems every year they want to expand their own formulary."

RESPONSE 9: Montana-licensed NDs are primary health care providers with comprehensive education and training. See Response 1. As explained in Responses 2 and 3, the formulary list is nonexclusive. Specifically listing the five substances is not an expansion of the formulary, but a clarification intended to facilitate the ability of patients to fill prescriptions written by NDs.

COMMENT 10: Several commenters specifically opposed listing insulin or any other diabetic medication, such as metformin, on the formulary. The commenters stated that the use of insulin is part of the training of allopathic and osteopathic medical schools, but the training of NDs does not encompass the treatment of diabetes to the extent necessary to care for diabetes patients who require insulin or other medications.

The commenters stated that allowing insulin to be prescribed by NDs without sufficient training and experience could result in a higher potential for errors, harm patient safety, and even patient death from insulin overdose.

One commenter further stated that many naturally occurring substances are lethal to humans and that "the only people that would benefit from it [listing and prescribing insulin] are the naturopaths, not the general public."

One commenter stated that in all medical decision making, the risks and benefits need to be carefully weighed and that it would have to be a weighty argument indeed to suggest that the increase potential for harm from NDs prescribing insulin was outweighed by the benefit to "our community."

One commenter stated that the board would be moving away from its first priority of protecting the public by permitting naturopaths to prescribe insulin.

One commenter stated that allowing naturopaths to prescribe insulin will mislead patients into thinking that their entire diabetes management has been covered and to "bypass appropriate care for this disease that has significant long term consequences to many organ systems that again naturalpaths [sic] are not trained to monitor."

One commenter stated that, "[a]ny patient who is diabetic and has a need for these drugs should be seeing a real doctor."

RESPONSE 10: Montana-licensed NDs are trained and licensed as primary care providers. See Response 1. As explained previously, NDs have education and training to prescribe insulin and the formulary is a nonexclusive list. See Responses 1, 3, and 6. Moreover, the board notes that NDs know when to function as primary care providers and when to refer patients to a specialist. NDs have excellent patient safety records. See Response 1. For all licensed health care providers, it is

unprofessional conduct under 37-1-316(18), MCA, to perform any treatments or provide services beyond the provider's education, training, and licensure.

COMMENT 11: Several commenters who opposed listing insulin and metformin asserted that naturopaths are not trained to recognize and treat the possible complications. Three commenters stated that insulin overdose results in visits to hospital emergency departments and hospital admissions and, since naturopaths do not have hospital privileges, they will not suffer any of the consequences of poor prescribing practices. One commenter further stated that treating insulin overdose, "requires the training which if there is any in the naturopath community, it is completely unregulated."

RESPONSE 11: Montana-licensed NDs are primary care providers and are trained to recognize and treat possible complications. See Response 1 regarding the education, training, licensing, and patient safety record of NDs. The board believes the commenter makes a gross overgeneralization in stating that because licensed NDs do not have hospital privileges in Montana, there are no adverse consequences for NDs. For all licensed health care providers, it is unprofessional conduct under 37-1-316(18), MCA, to perform any treatments or provide services beyond the provider's education, training, and licensure.

COMMENT 12: Several commenters opposed adding insulin to the formulary rule because insulin is a very difficult drug to prescribe and manage since it has a very narrow toxic-therapeutic ratio. Diabetic patients must be closely monitored because no two patients are alike in their insulin sensitivity and insulin sensitivity can be affected by an individual patient's exercise, food consumption, body hormones, lifestyle, life stress, and work habits.

The commenters stated that most MDs and DOs defer the regular management of insulin to specialists or endocrinologists who are extensively trained in the use of this hormone.

The commenters stated that insulin, in the context of its clinical use, is a drug and not a natural hormone. One commenter stated that insulin is not one drug because there are many types of insulin, which vary in speed of onset and duration, and therefore a single prescription is not sufficient.

RESPONSE 12: The board acknowledges that insulin prescribing is an exacting and sometimes complicated process. Like other primary care providers, such as MDs and DOs, licensed NDs do refer patients to endocrinologists when necessary. See Responses 1, 3 and 4.

Insulin, like many pharmaceuticals, has been changed, manipulated, and perfected over the years. The formulary identifies types of substances that licensed NDs may administer and prescribe and then lists specific examples. See Response 3. The formulary reflects the legislature's intent that NDs may prescribe substances covered by approved naturopathic colleges and continuing education while providing flexibility through the listing of examples to keep pace with pharmaceutical advances. See Response 3.

Licensed NDs are primary care providers and Montana is underserved by primary care providers. To require a patient who is stable, doing well, monitoring blood sugar levels, and administering medication appropriately, and thereby minimizing the secondary complications of diabetes, to seek treatment from another health care provider to obtain one prescription is not necessary and not consistent with a managed and economical health care model.

COMMENT 13: One individual commenter stated that metronidazole is an antibiotic that could be incorrectly used if the prescriber has not diagnosed the cause of the infection and run susceptibility studies. This commenter further stated that prescribing the wrong drug results in "overprescribing the wrong drug, failure to cure, adverse drug reactions, and waste of money."

RESPONSE 13: Like other primary care physicians, NDs can and do order clinical laboratory tests to identify the cause of an infection to avoid incorrectly prescribing an antimicrobial such as metronidazole. See 37-26-301(4), MCA.

NDs have the requisite education, training, and licensure to prescribe antimicrobials. See Response 1 regarding the education, training, and licensing of NDs. Further, antimicrobials have been listed on the formulary since its inception. As explained in Responses 2 and 3, the formulary list is nonexclusive and the alternative health care formulary committee has reviewed and recommended that metronidazole be specifically listed in the formulary to facilitate the ability of patients to fill prescriptions.

COMMENT 14: One individual opposed adding botox and stated that it is one of the most potent neurotoxins known and has potential to cause severe paralysis if not administered appropriately. The commenter further stated that the claim that botox is a natural substance is only partially substantiated because "all commercially available products are chemically modified to maintain stability and minimize spread of the drug beyond local injection sites." If an ND attempted to produce this toxin and administer it in its natural state without chemical modification, it could spread far beyond the site of local injection and result in respiratory failure and death.

Another individual commenter stated that NDs should not inject botox or Juvederm because they are not trained to treat allergic reactions and other complications from these substances.

RESPONSE 14: The board disagrees. NDs are trained in emergency medicine, biophysics, and chemistry, and are able to recognize and treat allergic reactions. See Response 1 for information regarding the education, training, licensing, and patient safety record of NDs. For all health care providers, it is unprofessional conduct under 37-1-316(18), MCA, to perform treatments or provide services beyond the provider's education, training, or licensure.

COMMENT 15: Several commenters stated that it is inappropriate to base the inclusion of a substance on the formulary list on whether the substance is natural or derived from naturally occurring compounds. Many naturally occurring molecules are dangerous and many synthetic molecules are quite safe and vice versa. The

basis for including substances in the formulary should be whether the practitioner has had adequate training to safely treat patients, including monitoring side effects.

RESPONSE 15: Under 37-26-301, MCA, licensed NDs have authority to prescribe pharmaceuticals with a natural basis and that do not go beyond the scope of substances covered by approved naturopathic colleges or continuing education. NDs are trained to recognize and treat complications and side effects of pharmaceuticals. See Response 1 regarding the education, training, licensure, and patient safety record of NDs.

COMMENT 16: Several commenters stated the current formulary list is overly broad and requested that the formulary list be amended to omit one or more substances including thyroglobulin and opioid or narcotic pain medications. One commenter stated that naturopaths should not be allowed to prescribe beyond over-the-counter herbalism.

RESPONSE 16: Because the proposed rule notice did not include the deletion of any substances and therefore did not provide adequate public notice or the opportunity to comment, the board cannot consider the proposed deletions.

The formulary, including listing the five substances, is appropriate. See Responses 1, 3, and 4 regarding the education, training, licensing, and patient safety record of licensed NDs and the formulary list. The comment that licensed NDs should be limited to over-the-counter herbalism demonstrates remarkable ignorance of the education, training, licensing, and patient safety record of licensed NDs. See Responses 1, 3, 4, 6, and 7.

COMMENT 17: Numerous commenters supported the additions to the formulary list, stating that NDs are licensed primary care providers in Montana and are called on to provide care which sometimes requires these medications.

The commenters stated that NDs attend graduate level naturopathic medical colleges, such as Bastyr University and the National College of Naturopathic Medicine. Naturopathic medical training includes four to five years of didactic work, which includes one year of conventional pharmacology training which is consistent with most medical programs. Additionally, NDs also spend three to four years, in conjunction to didactic work, completing clinical training in an outpatient clinic setting. After becoming licensed in Montana, NDs must complete 15 hours of continuing education annually with at least five hours in pharmacology.

The commenters stated that the landscape of health care is changing and there is a shortage of primary care providers in Montana and the nation. The shortage is being filled by other providers, such as Physician Assistants and Nurse Practitioners. Commenters stated that ND training is more extensive than that of Physician Assistants and Nurse Practitioners who already have full prescriptive rights and are practicing as primary care providers in Montana.

The commenters stated that patients are demanding that they be able to use NDs for their primary care needs. There was a statewide effort requesting the Montana Insurance Commissioner to fully support the implementation of the

Affordable Care Act, provision 2706, which prohibits insurers from discriminating against any licensed providers for services provided within the scope of practice.

RESPONSE 17: The board acknowledges the comments and concurs, noting that the formulary list is not exclusive and including the five substances does not expand the scope of the formulary. See Response 3. Further, licensed NDs are fully trained on proper assessment and diagnosis and know when to function as a primary care provider and when to refer patients to specialists. See Response 1 regarding the education, training, licensing, and safety record of NDs. For all health care providers, it is unprofessional conduct under 37-1-316(18), MCA, to provide treatment or services beyond the provider's education, training, or licensure.

COMMENT 18: One commenter stated that, historically, there has been a general lack of understanding of the training and skill levels of licensed NDs which "increases the risk of the profession being a victim of ignorance and prejudice. Judging NDs unqualified to prescribe insulin simply represents a judgment based upon a lack of knowledge and information."

RESPONSE 18: The board acknowledges the comment and concurs.

COMMENT 19: One commenter, who completed four years of medical school and a two-year residency prior to being licensed as a Montana ND, supported the additions to the formula. The commenter noted that formal education of NDs includes pharmacology as well as important herb-drug interactions and the professional licensing exam assesses pharmacology knowledge. Further, NDs are required to complete five hours of continuing education in pharmacology annually. The commenter uses "several conventional databases, such as Up To Date, Epocrates, and Medscape, to stay current with pharmacology trends and updates."

RESPONSE 19: The board acknowledges the comment and the commenter's efforts to stay current regarding pharmacology trends and updates.

COMMENT 20: Several commenters supported the formulary additions, stating that Montana-licensed NDs are trained to use hormones, including insulin, and are knowledgeable of the potential problems associated with their use. Montana-licensed NDs are registered with the DEA and are able to prescribe thyroid hormones, estrogen, progesterone, and testosterone. They are aware that insulin must be used with the utmost care and have the training and skill to manage this hormone with their patients.

RESPONSE 20: The board acknowledges the comment and notes that the formulary list is not exclusive and specifically listing the five substances does not expand the scope of the formulary. See Response 3. Further, licensed NDs are fully trained on proper assessment and diagnosis and know when to function as a primary care provider and when to refer patients to specialists. See Response 1 for information regarding the education, training, licensing, and safety record of NDs. For all health care providers, it is unprofessional conduct under 37-1-316(18), MCA,

to perform treatments or provide services beyond the provider's education, training, or licensure.

COMMENT 21: One commenter supported the formulary additions and stated the number of diabetic patients treated by all providers is increasing and Montana-licensed NDs can prescribe other substances with more potential for risk.

RESPONSE 21: The board acknowledges the comment. The formulary list is not exclusive and specifically listing the five substances does not expand the scope of the formulary. See Response 3.

COMMENT 22: One commenter supported the formulary additions and opined that the amendment is merely a formality because these substances could easily be interpreted to be part of the current formulary.

RESPONSE 22: The board acknowledges the comment and concurs. See Responses 2 and 3 regarding the formulary list.

COMMENT 23: One commenter supporting the additions stated that, as a primary care provider and a naturopathic physician, the commenter provides support and prevention of possible side effects when prescribing medication. The commenter noted insulin is very necessary for Type I and some Type II diabetics, but NDs also focus on the totality of diabetic care to address "the deeper cause of an infection, or prevention of renal failure or HTN in diabetes by early evaluation of renal function and treatment with supplements that promote circulation and prevent advance glycation end products." Additionally, NDs can provide education and assistance regarding diet and lifestyle, as well as nutraceuticals, to reduce the need for insulin.

RESPONSE 23: The board acknowledges the comment and concurs. See response 1 for information regarding the education, training, licensing, and patient safety record of NDs.

COMMENT 24: A commenter supporting the formulary additions stated that medical training of NDs, like all primary care providers, includes the steps in assessing, diagnosing, and treating diseases, and also understanding the risks of treatments. As part of primary care education, both ND and MD students are trained to understand and know medical standards of care for acute and chronic diseases, including diabetes.

The commenter further opined that licensed NDs know that the medical management of diabetes includes risk assessments of both physical and biological systems. "Risk assessment of physical systems includes, but is not limited to, the evaluation of the cardiovascular, renal/kidney, ocular/eye, and (autonomic) nerve systems. Biological systems risk assessments include evaluation for ketoacidosis and associated chemistry changes (hyperosmolar hyperglycemic state), which represent serious and potentially life-threatening biological imbalances."

Further, licensed NDs, like all primary care providers, must refer patients to indicated and appropriate specialists, ER, or hospital when clinical assessments

reveal a potential urgent or chronic complication risk. "Naturopathic physicians are not exempt from this requirement and are as liable as any physician or practitioner if they do not follow through on these obligations."

RESPONSE 24: The board acknowledges the comment and concurs. See Response 1 for information regarding the education, training, licensing, and safety record of NDs. For all health care providers, it is unprofessional conduct under 37-1-316(18), MCA, to perform treatments or provide services beyond the provider's education, training, or licensure.

COMMENT 25: One commenter, who has reviewed an ND's patient charts and consulted with an ND regarding cases and particularly endocrine disorders, supported the formulary additions. The commenter found the ND to be conscientious and effective in caring for diabetic patients, including using appropriate laboratory tests to monitor them and competently prescribing medications such as insulin. The commenter stated that the ND is an outstanding clinician, well informed, knows the scope of practice, and routinely seeks specialist advice and or referral when appropriate. The commenter would also recommend the ND to a family member who required a primary care physician to care for their diabetes mellitus.

RESPONSE 25: The board acknowledges the comment. See Response 1 for information regarding the education, training, licensing, and safety record of NDs. For all health care providers, it is unprofessional conduct under 37-1-316(18), MCA, to perform treatments or provide services beyond the provider's education, training, or licensure.

COMMENT 26: One commenter supported the formulary additions and stated that NDs attract and work with a higher percentage of self-motivated and compliant individuals compared to the average primary care provider in the United States. This patient population is willing to work on and through life-style changes in the context of treating diabetes. NDs are required to use and adjust insulin or insulin affecting medications in treating diabetic patients in conjunction with prescribing diet, nutritional, and/or exercise programs to lower an individual patient's insulin requirements.

RESPONSE 26: The board acknowledges the comment and concurs. See Response 1 for information regarding the education, training, licensing, and safety record of NDs. For all health care providers, it is unprofessional conduct under 37-1-316(18), MCA, to perform treatments or provide services beyond the provider's education, training, or licensure.

COMMENT 27: A commenter supporting the formulary additions stated that all "physicians, regardless of training and licensing, e.g., Naturopathic, Medical Osteopathic, have a professional obligation to be well versed in particular pharmaceutical drugs before they either prescribe and/or administer them to

patients." The commenter further stated that Montana-licensed NDs "understand this obligation and are well trained to fulfill it."

RESPONSE 27: The board acknowledges the comment and concurs. See Response 1 for information regarding the education, training, licensing, and safety record of NDs. For all health care providers, it is unprofessional conduct under 37-1-316(18), MCA, to perform treatments or provide services beyond the provider's education, training, or licensure.

COMMENT 28: Several commenters supporting the formulary additions stated that many patients choose to see NDs for their primary care needs, and the Affordable Care Act recognizes patient choice in health care and recognizes naturopathic physicians as primary care providers. Further, denying the addition of these drugs to the formulary would be denying Montanans a choice in health care.

RESPONSE 28: The board acknowledges the comment and concurs. See Response 1 for information regarding the education, training, licensing, and safety record of NDs.

COMMENT 29: One commenter supporting the formulary additions opined that MDs are regularly visited by drug company representatives and thus receive their continuing education by default. NDs are required to complete five hours of continuing education annually in pharmacology.

RESPONSE 29: The board acknowledges the comment and agrees that NDs are required to complete five hours of continuing education annually in pharmacology. See ARM 24.111.2102.

COMMENT 30: Two commenters supported the formulary additions and indicated that the pharmacology education of NDs is extensive because it includes drugs and alternative treatments. Further, most of the population uses vitamins and herbs, which NDs excel in prescribing and are well informed regarding possible interactions based on the pharmacology training received in naturopathic college and the annual continuing education requirements for licensure. The commenter noted that the last seminar (by the association) included the use of insulin and the management of patients who are insulin dependent.

RESPONSE 30: The board acknowledges the comment. See Response 1 for information regarding the education, training, licensing, and safety record of NDs. The formulary list is not exclusive and specifically listing the five substances does not expand the scope of the formulary. See Response 3.

COMMENT 31: Several commenters specifically supported adding insulin and metronidazole to the formulary. The commenters stated that Montana-licensed NDs are trained and licensed as primary care providers and do not prescribe pharmaceuticals unless there is a great necessity for them.

RESPONSE 31: The board acknowledges the comment. See Response 1 for information regarding the education, training, licensing, and safety record of NDs. The formulary list is not exclusive and specifically listing the five substances does not expand the scope of the formulary. See Response 3.

COMMENT 32: One individual supported the formulary additions and asserted that it regularly takes a month for a patient to get an appointment with an MD, but patients who see an ND can get the care they need without a second visit to an MD for the same problem.

RESPONSE 32: The board acknowledges the comment. See Response 1 for information regarding the education, training, licensing, and safety record of NDs. The formulary list is not exclusive and specifically listing the five substances does not expand the scope of the formulary. See Response 3.

COMMENT 33: One commenter supporting the additions to the formulary stated that it creates a hardship for patients and chaos in the health care system if an ND's primary care patients have to find another doctor to prescribe medication.

RESPONSE 33: The board acknowledges the comment. See Response 1 for information regarding the education, training, licensing, and safety record of NDs. The formulary list is not exclusive and specifically listing the five substances does not expand the scope of the formulary. See Response 3.

COMMENT 34: One commenter supported the formulary additions and stated that future naturopathic prescribing rights discussions would be appropriate to focus on eliminating prescribing restrictions in regard to "all basic general practice-level medications." Primary care providers should be able to provide the best indicated medications in the best interest of their patients. The commenter noted that while NDs prefer using minimally invasive treatments for health and healing purposes, "there are times and (acute) situations where specific prescription medications are safer or more appropriate" and "formulary and prescribing restrictions create unnecessary obstacles in providing the best medicine that is in the best interest of a patient."

RESPONSE 34: The board acknowledges the comment. See Response 1 for information regarding the education, training, licensing, and safety record of NDs. The formulary list is not exclusive and specifically listing the five substances does not expand the scope of the formulary. See Response 3.

COMMENT 35: Numerous individuals, who receive primary care from NDs, supported the formulary additions. These commenters want their NDs to be able to provide full and complete care that is consistent with their training and asserted that denying the addition of these substances to the formulary list has the effect of denying patients their choice of primary care providers.

One commenter, who had previously seen many medical doctors and specialists as a "multiple medical condition" patient, is now being treated by an ND

as a whole person with a significant positive impact on the commenter's health. The commenter is currently searching for a medical doctor, in addition to her ND, to get prescriptions refilled and stated that "[i]t is unfair for myself, and patients like me, to have to pay visits to more than one physician when naturopathic physicians could, and have the training to, prescribe all of these medications."

RESPONSE 35: The board acknowledges the comment. See Response 1 for information regarding the education, training, licensing, and safety record of NDs.

COMMENT 36: As a young adult, one commenter had a hemoglobin A1c result of around 11 and was diagnosed with Type 1 diabetes by the ND providing primary care. The ND educated intensively on diabetes over several days in two to three hour appointments, taught the patient how to monitor blood sugar (eight to ten times per day), prescribed slow acting and fast acting insulin and instructed on when and how to use them, and warned that too much insulin can kill you. The ND had the patient maintain a log of the food eaten and blood sugar test results. The ND prescribed the commenter to cut carbohydrates and sugars as much as possible and eat three meals a day, "referencing that rationale that the less insulin you have to take to cover carbohydrates, the less room there is for error in insulin dosage (once again, too much insulin can kill you)." The ND also prescribed a consistent muscle-building workout three times a week. Three months after being diagnosed, the patient stated that his hemoglobin A1c was normal.

The patient stated that, for the last two years, his ND has "prescribed and administered a VERY effective insulin treatment of my Type 1 diabetes," taught the commenter everything needed to know about being a diabetic, and provided continued support to this day with checkups and conversations about the patient's progress. (Emphasis in the original.) The patient stated that the ND is the patient's diabetes doctor and that if the ND was not able to prescribe insulin, the ND would not have been able to provide complete and lifesaving treatment.

RESPONSE 36: The board acknowledges the comment. See Response 1 for information regarding the education, training, licensing, and safety record of NDs. The formulary list is not exclusive and specifically listing the five substances does not expand the scope of the formulary. See Response 3.

COMMENT 37: One commenter began treating with an ND last year after months of seeing several medical doctors who ran numerous and expensive tests, including blood tests, tests for HIV and MS, and MRIs, but failed to make a diagnosis. Instead, the patient was only treated for a few symptoms. Based on a Western blot test showing 7 out of 12 bands being positive, the ND diagnosed Lyme disease and prescribed a treatment of antibiotics and herbs. The patient appreciated that his ND could prescribe the necessary medication.

RESPONSE 37: The board acknowledges the comment. See Response 1 for information regarding the education, training, licensing, and safety record of NDs. The formulary list is not exclusive and specifically listing the five substances does not expand the scope of the formulary. See Response 3.

COMMENT 38: A commenter with Type 1 diabetes for over 40 years stated that two NDs have been more helpful in controlling the commenter's diabetes than any MDs. The patient stated NDs are trained to use medications, are knowledgeable about interactions, and need to be able to prescribe medications including insulin. The patient stated that the legislature made NDs primary care providers and NDs need to have the tools to be primary care providers.

RESPONSE 38: The board acknowledges the comment. See Response 1 for information regarding the education, training, licensing, and safety record of NDs. The formulary list is not exclusive and specifically listing the five substances does not expand the scope of the formulary. See Response 3.

COMMENT 39: One individual commenter stated that anyone can get insulin from a retail pharmacy without a prescription in Montana.

RESPONSE 39: The board notes that only a few older, short-acting insulin products are available without a prescription and that newer and longer acting insulin products now require a prescription.

NEW RULE I MILITARY TRAINING OR EXPERIENCE:

COMMENT 40: One commenter indicated that certain military personnel, such as reservists and national guardsmen who have never been activated, do not receive a DD 214 military discharge document. The commenter requested that the proposed rule be revised to allow the board to consider other evidence of military discharge in addition to or in lieu of a DD 214 form.

RESPONSE 40: The board agrees with the commenter and is amending the rule to provide that evidence of military discharge may be established through a DD 214 form or other discharge document.

4. The board has amended ARM 24.111.511 exactly as proposed.

5. The board has adopted NEW RULE I (ARM 24.111.412) with the following changes, stricken matter interlined, new matter underlined:

NEW RULE I MILITARY TRAINING OR EXPERIENCE (1) and (2) remain as proposed.

(3) An applicant must submit satisfactory evidence of receiving military training, service, or education that is equivalent to relevant licensure requirements for direct-entry midwives and naturopathic physicians. ~~At a minimum, satisfactory Satisfactory~~ evidence shall may include:

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

(b) through (4) remain as proposed.

BOARD OF ALTERNATIVE HEALTH CARE
MARY ANN BROWN, DEM, CHAIRPERSON

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

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

Certified to the Secretary of State September 8, 2014

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

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

TO: All Concerned Persons

1. On March 13, 2014, the Board of Dentistry (board) published the notice of public hearing for MAR Notice No. 24-138-69 regarding the amendment and adoption of the above-stated rules, at page 458 of the 2014 Montana Administrative Register, Issue No. 5. On August 7, 2014, the board published the notice of amendment and adoption at page 1837 of the 2014 Montana Administrative Register, Issue No. 15.

2. In preparing replacement pages for the third quarter of 2014, it was discovered that ARM 24.138.2101 was amended exactly as proposed in the adoption notice, even though the board voted to not proceed with this amendment at their May 7, 2014, full board meeting.

3. The board is rescinding, through this corrected notice, the amendment to ARM 24.138.2101.

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

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

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

Certified to the Secretary of State September 8, 2014

BEFORE THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF AMENDMENT AND
ARM 32.3.1201, reporting rabies;	)	REPEAL
32.3.1202, rabies quarantine;)	
32.3.1203, isolation of rabid or)	
suspected rabid animals; and)	
32.3.1204, isolation of biting animals;)	
and the repeal of ARM 32.3.1206,)	
stray or ownerless animals)	

TO: All Concerned Persons

1. On June 12, 2014, the Department of Livestock published MAR Notice No. 32-14-248 regarding the proposed amendment of the above-stated rules at page 1167 of the 2014 Montana Administrative Register, Issue Number 11.
2. The department has amended the above-stated rules as proposed.
3. The department has repealed the above-stated rule as proposed.
4. No comments or testimony were received.

DEPARTMENT OF LIVESTOCK

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

BY: /s/ Robert Stutz
Robert Stutz
Rule Reviewer

Certified to the Secretary of State September 8, 2014.

BEFORE THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 32.3.433, designated)
surveillance area)

TO: All Concerned Persons

1. On June 12, 2014, the Department of Livestock published MAR Notice No. 32-14-249 regarding the public hearing on the proposed amendment of the above-stated rule at page 1171 of the 2014 Montana Administrative Register, Issue Number 11.

2. The department has amended the above-stated rule 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: How will Montana Department of Livestock (DOL) pay for the additional cost of the expansion?

RESPONSE: This comment is beyond the scope of the proposed rule change. However, the DOL has and will continue to work diligently to secure funding for testing and surveillance within the Designated Surveillance Area (DSA). Funding for DSA testing is in the governor's proposed budget (House Bill 2) as well as the use of per capita fees. Additional funding for the program has come from the United States Department of Agriculture-Animal Plant Health Inspection Service-Veterinary Services (USDA-APHIS-VS) through cooperative agreement dollars, veterinary support, and some technical support.

COMMENT 2: Several producers had questions about how this change would affect their operations because the new DSA boundary would divide their ranch.

RESPONSE: All cattle and domestic bison that utilize ground within the DSA are subject to all Administrative Rules of Montana (ARM) for the DSA. However, some variances for producers utilizing DSA property seasonally or having land divided by the boundary may be available through a risk assessment and the development of a herd plan.

COMMENT 3: Who pays for testing when a whole herd test is required?

RESPONSE: This comment does not apply to the proposed rule change. However, the majority of veterinary testing expenses have been covered through reimbursement to veterinarians. Some of the handling of expenses incurred by the livestock owner are reimbursed through a per head handling reimbursement.

COMMENT 4: Have there been any brucellosis positive livestock herds south of Three Forks?

RESPONSE: Yes. A positive domestic bison herd was found in Gallatin County in 2010. In Madison County a positive domestic bison herd was found in 2012 and a positive cattle herd was found in 2013.

COMMENT 5: Elk in this expanded area are moving and growing in a nontraditional way. I foresee that this is going to jump more fences and roads and further the expansion. I think we need to address that. We are seeing elk where we never used to see them.

RESPONSE: DOL agrees with the observations in this comment and is working closely with Montana Department of Fish, Wildlife and Parks (FWP) to monitor movement and risk period locations of seropositive elk. The live elk capture study has allowed both the DOL and FWP to gain a tremendous amount of information that can, hopefully one day soon, address this risk.

COMMENT 6: Will producers affected by the boundary change have to complete a risk assessment like they did before?

RESPONSE: Producers in the DSA are not required to have a risk assessment but may request one at any time. On-site assessments are often scheduled for larger operations with complex management.

COMMENT 7: What other tools do producers in the DSA have available to them?

RESPONSE: To prevent wildlife to livestock brucellosis transmission, DSA producers should utilize temporal and spatial separation from elk during the disease transmission risk period (January through June). They may also schedule a meeting for a risk assessment and herd plan. Additional helpful tools include compliance with current brucellosis vaccination rules on females and optional periodic "booster" adult vaccination. Regular entire herd testing or annual testing of high risk groups allows for timely and early detection of infected livestock.

COMMENT 8: Who has the final say whether this proposal is put into effect?

RESPONSE: The Montana Board of Livestock (BOL) voted to publish the proposed administrative rule for public comment. Because BOL took no further action following the end of the comment period, the department will now submit the rule to the Secretary of State's office for final publication. The rule is effective upon publication of this notice.

COMMENT 9: Who will recoup the value in my cattle that is lost as a result of being put into the DSA?

RESPONSE: This comment is beyond the scope of the proposed rule change. Following discussions with USDA-APHIS-VS officials, and animal health officials of other states, however, cattle and domestic bison statewide (including those in the current DSA) would have brucellosis regulations and restrictions even if Montana did not have a DSA. For this reason it is difficult to establish reduced value for cattle within the DSA. However, the DSA does protect against significant

unnecessary brucellosis regulation and expense to the 95% of Montana's cattle and domestic bison producers who are outside the DSA.

COMMENT 10: Are elk being tested in other parts of the state?

RESPONSE: This comment is beyond the scope of the proposed rule change. However, when the opportunity to do so was available, FWP has tested elk and other wildlife species for many years throughout the state and has shared that data with the DOL. No other seropositive elk populations have been detected elsewhere in the state.

COMMENT 11: If the legislature refuses to pay for the DSA, will FWP help pay for it?

RESPONSE: This comment is beyond the scope of the proposed rule change. However, DOL has and will work diligently to secure funding for the testing and surveillance within the DSA. Funding for DSA testing is in the Governor's proposed budget (House Bill 2) as well as the use of per capita fees. Additional funding for the program has come from USDA-APHIS-VS through cooperative agreement dollars, veterinary support, and some technical support. The majority of veterinary testing expenses have been covered through reimbursement to veterinarians. Some of the handling of expenses incurred by the livestock owner are being reimbursed through a per head "handling" reimbursement.

COMMENT 12: Has the proposal been taken to economic affairs?

RESPONSE: No. The BOL has authority to promulgate administrative rules and the legislature has supported the funding of the DSA. The budget of DOL has been audited.

COMMENT 13: How do we get the federal government to stop harboring brucellosis in bison?

RESPONSE: This comment is beyond the scope of the proposed rule change. However, the DOL has for years been aware of the prevalence of brucellosis in Yellowstone National Park bison and has worked through the Interagency Bison Management Plan (IBMP) to mitigate the risk of transmission.

COMMENT 14: Idaho had a brucellosis outbreak. How did Idaho eradicate the problem and why can't Montana do the same?

RESPONSE: This comment is beyond the scope of the proposed rule change. However, Idaho has a DSA with regulations similar to those in Wyoming and Montana. All three Greater Yellowstone Area (GYA) states have had brucellosis positive herds and have released the quarantine of many of those herds using similar regulations. Idaho, Wyoming, and Montana each have at least one brucellosis positive herd currently under quarantine and each has recently expanded their DSA boundary.

COMMENT 15: Of the positive elk that were found in this proposal area, were they near cattle and have those cattle herds been tested already?

RESPONSE: The positive elk found in this proposal area were not comingling with cattle at the time of capture. The positive elk were near cattle. Those cattle herds are undergoing brucellosis surveillance.

COMMENT 16: How can people find out more about what the elk task force is working on?

RESPONSE: This comment is beyond the scope of the proposed rule change. However, FWP created the "Elk Management Guidelines for Areas with Brucellosis Working Group" in 2013 and first met in July of 2013. Additional information can be found on the FWP web site:
<http://fwp.mt.gov/fishAndWildlife/management/elk/areasWithBrucellosisWG/default.html>.

COMMENT 17: Every cattle operation in Montana and every other state that has a resident elk herd, needs to bleed their cattle.

RESPONSE: This comment is beyond the scope of the proposed rule change. However, testing of cattle in states or areas where little or no risk exists would not be a judicious use of funds. The DSA of Montana reduces regulation and burden on a large segment of our state's producers saving our producers money and unnecessary regulatory burden.

COMMENT 18: Elk do not see a highway or a river as a boundary that isn't crossable.

RESPONSE: The live elk capture study continues to yield information about elk movement. Thus far, the collared elk have remained within the DSA boundaries during the risk season. Importantly, the DSA boundary is not drawn to prevent the movement of elk; instead, the boundary is drawn to include the range of known positive wildlife and to be recognizable for producers and law enforcement. The range of movement of elk is part of the elk capture/collaring study.

COMMENT 19: Drawing a line on a map to segregate one "problem" area from another will not solve any problems.

RESPONSE: This comment is beyond the scope of the proposed rule change. The 2011 DSA Economic Impact Statement shows, that having a DSA has saved the majority of Montana's producers millions of dollars and unnecessary and variable regulations from other states.

COMMENT 20: When a brucellosis positive elk is identified, she is collared, returned to the herd and "observed" for a number of years. If this is true, why is it when a positive beef cow is identified, she is sent to slaughter and the herd is quarantined?

RESPONSE: This comment is beyond the scope of the proposed rule change. However, it is important to note that of the 400 elk tested and released during the live elk capture study, only 25 elk were positive. These seropositive elk already exist in the wild; testing and removal of this small number of elk from the total population in the GYA would not appreciably reduce the risk to Montana livestock producers. The continued study, testing, and removal of elk that remain

seropositive for five years has and will continue to provide much needed knowledge that helps prevent transmissions of brucellosis to livestock.

COMMENT 21: I told you at the start of this process that you would have to keep expanding the area, just like the waves on a pond of water from a stone dropped in the center. The problem still is the lack of research on the ways to eliminate the disease or control it. Your present method is just a stop-gap measure that wastes people's time and money. It does provide some job security for the MDOL.

RESPONSE: In conjunction with all previous responses, continued surveillance of at-risk cattle herds to quickly detect brucellosis in livestock is important to prevent spread within Montana's cattle herd and maintain marketability of Montana's entire cattle herd. Continued efforts such as the live elk capture study as well as research in other states and research facilities is necessary to help answer questions regarding brucellosis.

DEPARTMENT OF LIVESTOCK

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

BY: /s/ Robert Stutz
Robert Stutz
Rule Reviewer

Certified to the Secretary of State September 8, 2014.

BEFORE THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 32.3.141, revocation or)
suspension of appointment of deputy)
state veterinarian)

TO: All Concerned Persons

1. On June 12, 2014, the Department of Livestock published MAR Notice No. 32-14-250 regarding the proposed amendment of the above-stated rule at page 1175 of the 2014 Montana Administrative Register, Issue Number 11.
2. The department has amended the above-stated rule as proposed.
3. No comments or testimony were received.

DEPARTMENT OF LIVESTOCK

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

BY: /s/ Robert Stutz
Robert Stutz
Rule Reviewer

Certified to the Secretary of State September 8, 2014.

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

In the matter of the amendment of	)	NOTICE OF AMENDMENT AND
ARM 37.86.3006, 37.87.102,	)	REPEAL
37.87.903, 37.87.1013, and)	
37.87.1223, and the repeal of ARM)	
37.87.303 pertaining to the revision of)	
the rules for serious emotional)	
disturbance for youth, mental health)	
outpatient partial hospital services,)	
and Medicaid mental health)	
authorization requirements)	

TO: All Concerned Persons

1. On July 10, 2014, the Department of Public Health and Human Services published MAR Notice No. 37-679 pertaining to the public hearing on the proposed amendment and repeal of the above-stated rules at page 1491 of the 2014 Montana Administrative Register, Issue Number 13.

2. The department has amended ARM 37.86.3006, 37.87.102, and 37.87.1223 as proposed. The department has repealed ARM 37.87.303 as proposed.

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

37.87.903 MEDICAID MENTAL HEALTH SERVICES FOR YOUTH,
SERIOUS EMOTIONAL DISTURBANCE AND AUTHORIZATION REQUIREMENTS

(1) through (7) remain as proposed.

(8) In addition to the requirements contained in rule, the department has developed and published a provider manual entitled Children's Mental Health Bureau, Medicaid Services Provider Manual, dated ~~September 5, 2014~~ September 19, 2014, for the purpose of utilization management. The department adopts and incorporates by reference the Children's Mental Health Bureau, Medicaid Services Provider Manual, dated ~~September 5, 2014~~ September 19, 2014. A copy of the manual may be obtained from the department by a request in writing to the Department of Public Health and Human Services, Developmental Services Division, Children's Mental Health Bureau, 111 N. Sanders, P.O. Box 4210, Helena, MT 59604-4210 or at www.dphhs.mt.gov/publications/index.shtml#cmh.

(9) and (10) remain as proposed.

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

IMP: 53-2-201, 53-6-101, 53-6-111, MCA

37.87.1013 THERAPEUTIC GROUP HOME (TGH), REIMBURSEMENT

(1) through (6) remain as proposed.

(7) Reimbursement will be made to a provider for reserving a TGH bed while the youth is temporarily absent for a THV for a maximum of 14 patient days per state fiscal year; ~~requests for additional days must be prior authorized by the department.~~

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

IMP: 53-2-201, 53-6-101, 53-6-111, MCA

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

COMMENT #1: A few commenters noted a discrepancy between the new manual and ARM 37.87.1013 pertaining to Therapeutic Home Visits (THV). The commenters state that the discrepancies are in requirement for prior authorization for THVs over 3 days in duration and in the availability to receive over 14 days of THV with prior approval from the department.

RESPONSE #1: The department thanks the commenters for their comments and has corrected the discrepancies.

COMMENT #2: One provider requested a section-by-section economic impact statement to allow the provider to respond to what the department perceives as the financial impact of the rule. The provider stated that they believe this is consistent with the Montana Administrative Procedure Act (MAPA).

RESPONSE #2: An economic impact statement may only be requested by an administrative review committee as provided for in 2-4-405, MCA.

COMMENT #3: One commenter stated that incorporating this many rules by reference in a single action without citing or referencing the underlying rules that are impacted is extremely difficult to respond to and asked that the rulemaking process include clear reference to what rules are being changed.

RESPONSE #3: In order to make review of the proposed changes easier for the public, the department included a synopsis at the beginning of the new proposed Children's Mental Health Bureau (CMHB) Medicaid Services Provider Manual that outlines the major changes from the current CMHB "Provider Manual and Clinical Guidelines for Utilization Management." As noted in the first notice for this rulemaking, the department has amended six rules that are directly impacted by the adoption of the proposed CMHB Medicaid Services Provider Manual. An additional impacted rule has since been identified and will be repealed through a rulemaking notice, MAR No. 37-689, filed with the Secretary of State on August 11, 2014. The rule affected is ARM 37.87.701, pertaining to Community Based Psychiatric Rehabilitation and Support Services (CBPRS).

COMMENT #4: One commenter noted that the date of the manual differs from the title page to the reference to the manual as stated on page 5. The commenter also stated that the comment period for this rule is extremely limited.

RESPONSE #4: The department apologizes for this discrepancy and has corrected the date at page 5 of the proposed manual. The comment period of this rule amendment conforms with MAPA requirements, which requires a minimum of 28 days from the day of publication for public comment.

COMMENT #5: One commenter asked that when referring to the Montana CANS functional assessment that the same language be used to describe it in all references.

RESPONSE #5: The department agrees with this comment and has made the appropriate changes to the final CMHB Medicaid Services Provider Manual.

COMMENT #6: One commenter proposes adding to the list of purposes for the Montana CANS functional assessment: "e) sharing and reporting to Montana legislature, federal granting agencies, families, providers, internal reporting and program monitoring" or in the alternative, eliminate the language from part (2) which describes these purposes and uses of Montana CANS all together.

RESPONSE #6: The department has added language in 9(d) to ensure that it is clear that CANS data in the aggregate may be used for sharing and reporting.

COMMENT #7: One commenter asked if the department expects Montana CANS to be implemented for preschool children enrolled in Comprehensive School and Community Treatment (CSCT).

RESPONSE #7: The Montana CANS must be implemented for all youth receiving CSCT services.

COMMENT #8: One commenter asked for clarification of the availability of Targeted Case Management (TCM) Services to youth who have a serious emotional disturbance (SED) who may also be eligible and receiving services from the Developmental Disabilities Program's (DDP) children's waiver and if a family has a choice in electing who provides the case management service and whether a family has the right to deny a service. The commenter also asked if the current requirement that a family must receive case management through the DDP if they receive DDP services is an exception in Montana rule to the federal requirement that one Medicaid service cannot be predicated on receipt of another Medicaid service.

RESPONSE #8: This comment is outside of the scope of this rulemaking. The commenter is welcome to directly contact the program with these questions.

COMMENT #9: One commenter asked about the list of community-based services and if targeted case management (TCM) is still a service available through the Children's Mental Health Bureau (CMHB) and should be added to this list.

RESPONSE #9: TCM is still a service available through the CMHB and has been added to the list of community-based services.

COMMENT #10: One commenter stated that the section in the proposed manual that provides a table of services which may not be provided concurrently lends to confusion and is more confusing than it is helpful. Other commenters asked that the department review all services on the proposed table to ensure accuracy and provide clarifications; these commenters supplied the department with specific examples of services they were concerned about.

RESPONSE #10: The department's intent with the new table is to replace the current matrix adopted in the current CMHB "Provider Manual and Clinical Guidelines for Utilization Management" with a more comprehensive and readable guide. The department receives many calls from providers who express confusion over the current matrix format. Also, many of the services offered through the CMHB are not on the current matrix. The department has reviewed the examples the commenters provided as well as the rest of the table to ensure the accuracy of the new table.

COMMENT #11: One commenter made a comment listing both definitions for youth Community-Based Psychiatric Rehabilitation and Support (CBPRS) and the adult CBPRS definition as provided in ARM 37.88.901.

RESPONSE #11: Because there seemed to be no question asked, the department is unsure as to the intention of the commenter's statement and is therefore unable to respond.

COMMENT #12: One commenter would like to know if one-on-one CBPRS may still be provided and what if the needs of a youth exceed the two-hour group therapy limit identified for CBPRS.

RESPONSE #12: CBPRS may still be provided one-on-one to any youth who meets the SED criteria. At this time the department limits group CBPRS to two hours. The department may consider whether, in a future rulemaking, to increase the amount of CBPRS that is available for youth when it is medically necessary.

COMMENT #13: One commenter asked how to document that Part C services cannot meet the identified need prior to service provision of Home Support Services (HSS). The commenter stated that Part C does not have staff trained in mental illness and has a completely different focus in Montana. By virtue of requiring documentation that Part C services cannot meet the identified need, the commenter would like to know if the department's intent is to eliminate the availability of HSS services for these children.

RESPONSE #13: The department's intent with this requirement is to ensure that youth whose needs can be fully met by Part C services are appropriately receiving those services. Part C can provide for social and emotional needs for youth three and under. In the event that the Part C provider cannot provide enough services, the person seeking HSS services should document why that is. As the new manual states, the youth can be referred as needing services to HSS by Head Start, child care, or a physician.

COMMENT #14: One commenter stated that limiting HSS to 365 days is arbitrary, not based upon individual need, and flies in the face of the Adverse Childhood Experience Study (ACES). The commenter states that it will negatively impact young children. Moreover, the commenter indicated that the rule takes the choice out of the hands of clinicians and puts it in the hands of the state.

RESPONSE #14: This is not a new requirement for HSS; therefore, this comment is outside of the scope of this rulemaking.

COMMENT #15: A few commenters asked if the documentation of HSS required at 180 days requires a full clinical reassessment or a reassessment/review of goals and if it is a clinical assessment to allow a provider to bill for the assessment? One of the commenters pointed out that SED assessments are only required annually.

RESPONSE #15: The department thanks the commenters for identifying this discrepancy and need for clarification. The department has amended the language in the new manual to state the 180-day reassessment must demonstrate the youth continues to meet the continued stay functional impairment criteria listed in (a) and (b) excluding the SED criteria for the 180-day reassessment.

COMMENT #16: One commenter asked if the department is responsible for collecting and forwarding discharge forms from Psychiatric Residential Treatment Facilities (PRTF) as they are not interested in policing this requirement for the department.

RESPONSE #16: The requirement to submit a discharge form is not new. It has historically been handled through the department's utilization review contractor and will continue to be handled in that manner.

COMMENT #17: One commenter asked when will the HSS Continued Stay form and the Discharge Notification form be sent out and if the public will have an opportunity to provide feedback on the forms.

RESPONSE #17: The forms are available now on the CMHB web site. The public may provide their input on the forms at any time as they are not attached to the new manual or adopted into rule.

COMMENT #18: One commenter stated that ARM 37.87.807 provides a different definition of Targeted Case Management (TCM) and would like to know if they will be required to provide a broader range of service coordination activities. The commenter would also like to know if the responsibilities for "referral activities" change.

RESPONSE #18: The definition of targeted case management (TCM) is located in ARM 37.87.802 which refers to ARM 37.86.3301, Medicaid's general definition of TCM. The definition in the new manual is the same as in ARM 37.86.3301, with the exception of replacing "client" with "youth." The commenter's reference to ARM 37.87.807 is to covered services. Covered services and "referral activities" have not been amended as part of this rulemaking and therefore are outside the scope of this rulemaking.

COMMENT #19: One commenter asked for clarification for the authorization requirements for Therapeutic Group Homes (TGH). The commenter asked how long the continued stay is for and if another one must be submitted.

RESPONSE #19: The department has added this information to the new manual.

COMMENT #20: One commenter asked if Magellan will continue to contract with the state of Montana and in what role. The commenter also asked that their physicians be compensated at the same rate as those working for Magellan.

RESPONSE #20: This comment is outside of the scope of this rulemaking.

COMMENT #21: One commenter stated that there needs to be financial compensation and economic impact analysis for providers to comply with the state's quality initiatives, outcome measures, and cost containment measures.

RESPONSE #21: An economic impact statement may only be requested by an administrative review committee as provided for in 2-4-405, MCA. This rulemaking does not change the rate of compensation for services; therefore this is outside of the scope of this rulemaking.

COMMENT #22: One commenter stated that current Center for Medicare and Medicaid (CMS) guidance that state plan services for Autism Spectrum Disorders must include applied behavior analysis type services.

RESPONSE #22: The comment is outside the scope of this rulemaking.

COMMENT #23: One commenter stated that they wish that the department would show some restraint in continual rewriting and implementation of the Montana Administrative Rule (ARM). The commenter believes that a more thorough understanding, strategy, and communicated planning would provide reasonable alternative to substantial rewrites of the entire system.

RESPONSE #23: The purpose of the department's revision of the current CMHB "Provider Manual and Clinical Guidelines for Utilization Management" (UR manual) dated November 15, 2013 is to respond to public feedback that the UR manual is difficult to navigate and not comprehensive enough. In the past 14 months, the CMBH has promulgated the following rulemaking:

1. three fee schedule changes to increase rates for providers;
2. a change to psychiatric residential treatment facility billing that was mandated by CMS;
3. a small program change made necessary by legislative changes to the Magellan contract;
4. a change to HSS in the UR manual requested by and crafted with providers and a small change to CSCT requested by providers; and
5. the current manual rewrite.

Secondly, the department agrees that a thorough understanding, strategy, and communicated planning is reasonable and necessary and the reformatting of the new manual will assist in this process by providing a good foundation.

COMMENT #24: One commenter asked if children aged four to six are eligible for CMHB services.

RESPONSE #24: In the new manual under the section titled "Serious Emotional Disturbance (SED)," number (3) provides the SED requirements for youth under six years of age. If the youth meets the SED criteria and any service specific criteria, then the youth would be eligible for the appropriate CMHB services.

COMMENT #25: One commenter stated that prior interventions as identified as part of the medical necessity criteria for HSS are irrelevant for preschoolers. The commenter states that there needs to be an option to list what has been tried in Head Start or child care agencies. The commenter would like clarification on what qualifies as a crisis intervention for a preschooler. Also the commenter would like to know what the department is looking for in regards to physician care or consultation specific to mental health.

RESPONSE #25: The department agrees that there is more work to do in defining service-specific requirements for youth under eight. However, the intent is to pursue this work as part of a future collaborative process. The intent of this rulemaking was not to promulgate new requirements for HSS. The comment regarding physician care or consultation is outside the scope of this rulemaking because this was not amended in the new manual.

COMMENT #26: One commenter asked the state to reconsider the 14-day limit on therapeutic home visits (THV) because the needs of the children and families vary.

RESPONSE #26: The department recognizes that the needs of youth and their families vary. However, the department will not raise the limit for 14 THVs per state fiscal year at this time.

COMMENT #27: A few commenters would like to know an anticipated implementation date for the DSM-V and ICD-10 code. The commenters also would like to have direction on how a provider should rectify the fact that many youth come into services with DSM-V diagnosis and the provider must "re-diagnose" under DSM-IV code in order to bill.

RESPONSE #27: The DSM-V and ICD-10 implementation is currently scheduled for October 2015. The DSM-V has a reference guide in the back that provides a DSM-IV to DSM-V crosswalk a provider may find helpful during the conversion time frame. The department is not allowed to transition to ICD-10 before the date mandated by CMS.

COMMENT #28: One commenter wants instruction on where they should record Montana CANS data for non-Medicaid youth in CSCT since the Montana CANS System will only accept data of youth funded through Medicaid.

RESPONSE #28: The electronic CANS system will accept non-Medicaid youth data and it should be recorded in the electronic system. The requirement for completing Montana CANS for CSCT is a licensing requirement; therefore, the department suggests the commenter contact licensing to find out where and how to record the Montana CANS.

COMMENT #29: One commenter thanked the department for allowing CSCT and TGH concurrently with Outpatient Therapy (OP) in the proposed manual but wanted clarification if the allowance also pertains to youth that do not have a SED diagnosis that may be referred for up to 20 units of CSCT.

RESPONSE #29: Youth referred to CSCT for the brief intervention, assessment, and referral for up to the 20 unit allowance may also receive OP. The department has amended this section of the new manual to state that the youth must meet the SED criteria specific to the service that is provided concurrently with OP.

COMMENT #30: A few commenters asked for clarification on which services require the discharge notification to be completed.

RESPONSE #30: The services which require a discharge notification form are Acute Inpatient, PRTF, PRTF-AS, HSS, TGH, and partial hospital program, which are submitted to the department or the department's designee. The department has added all services that require discharge notification to the list of services which require submission of a discharge notification form.

COMMENT #31: A few commenters stated concern regarding the requirement in the proposed manual for a Licensed Mental Health Practitioner (Professional) to complete the clinical assessment required for the SED determination. They also would like to know if a Mental Health Center in-training professional as defined in ARM 37.87.702(3) also qualifies to make a SED determination and asked that all

sections of the manual be amended to be consistent with this language where appropriate.

RESPONSE #31: Chapter 3 in the revised manual has language that was brought directly over from ARM 37.87.303, which is being repealed with the material relocated to the new manual as part of this rulemaking. The only thing that was amended upon transfer of the language was the numbering convention; therefore, this is not a new regulation. Mental Health Center providers must follow licensure rules pertaining to the Mental Health Center in-training professionals. Per ARM 37.87.702(3) in-training mental health professionals must be under the supervision of a Licensed Mental Health Professional (LMHP). It is this mental health professional that must certify the SED criteria. The department has amended the language to state that the SED diagnosis must be "certified" by the LMHP. The department has also clarified that an in-training mental health professional may complete the clinical assessment along with the signatory approval by the supervising LMHP.

COMMENT #32: One commenter thanked the department for discontinuing the certificate of need (CON) requirement for TGH services and moving the utilization process to CMHB. The commenter stated that it will be a more effective process and makes more sense clinically. A few commenters would like to know if the continued stay form will be online and if so, where, and if it can be submitted via online or fax.

RESPONSE #32: The department thanks this commenter for their support in the changes to the utilization review processes. The continued stay form is available online under the forms and applications page. There are directions on the form as to how and where to submit it.

COMMENT #33: One commenter asked for clarification regarding if social and legal problems in the benefit exclusions section on page 26 section (c) of the proposed manual includes lack of discharge placement. The commenter would also like to know how CMHB will determine the level of care for the youth if the provider has documented attempts to engage the family or legal representative of the youth in discharge planning. The commenter would like the department to add the language, "(c) The primary problem is not psychiatric. It is a social, legal, or medical problem without a major concurrent psychiatric episode meeting criteria for this level of care and/or does not otherwise meet SED and Continued Stay Criteria." Another commenter requested this language be removed all together.

RESPONSE #33: The department understands the commenters' concerns related to lack of discharge placement and shares those concerns. However, Medicaid funds may not be used to pay for services for a youth that are not medically necessary and lack of discharge placement is not covered under medical necessity. The department will not remove the language in (c) but has added the suggested language to (c) of the benefit exclusion section for all applicable services. The department reviewed the section regarding documenting attempts to engage the

family or legal representative of the youth and discharge planning and agrees that this is not appropriate for continued stay criteria. Therefore, the department will relocate that language into the service requirement area.

COMMENT #34: One commenter asked the department to reword the definition for CSCT to acknowledge that the services are also focused on support within the family through family therapy and functioning within the family. The commenter recommends "improving the youth's functional level by facilitating the development of skills related to exhibiting appropriate behaviors in the school, family, and the community setting."

RESPONSE #34: The proposed definition is consistent with state plan language; therefore, it cannot be changed at this time. The department will consider this comment during the next state plan amendment.

COMMENT #35: One commenter asked what level of documentation or type of verification meets the standard to verify that a youth meets the clinical guidelines for meeting SED criteria for OP and if it is full clinical assessment, to allow providers to bill the clinical assessment code for the reverification of the SED criteria after the first 24 sessions. Another commenter stated that requiring prior authorization for OP sessions in excess of 24 sessions for this service seems unduly prohibitive.

RESPONSE #35: A youth may receive up to 24 sessions of OP without the SED diagnosis. If the youth requires more than 24 sessions then a youth would at that time need to be determined to meet the SED criteria. If the youth has met the SED criteria within the last 12 months, then the youth meets the eligibility requirements for that year regardless of how many sessions of OP they have received. If the youth has had a clinical assessment within the preceding 12 months and has been determined to meet the SED criteria, that documentation is sufficient to meet the documentation requirements for over 24 sessions. If the youth has not received a clinical assessment and a SED determination within the past 12 months, then the therapist could complete one and it would be reimbursable. The department is not requiring prior authorization for OP in excess of 24 sessions as indicated in the section of the table that addresses prior authorization requirements, "A prior authorization is not required." For OP sessions in excess of 24, a provider must document in the file of the youth that the youth meets the SED criteria in the clinical guidelines for the service as described above.

COMMENT #36: One commenter asked for clarification as to what level of documentation is required to meet the requirements to verify that the youth meets the clinical guidelines for meeting the SED criteria for TCM. The commenter also wanted clarification for the continued stay review time line for TCM.

RESPONSE #36: In order to document the youth meets the clinical guidelines for meeting the SED criteria, the provider must have a clinical assessment, completed within the last 12 months. The assessment must reflect that the youth has at least one of the covered diagnoses with a severity specifier of moderate or severe. The

documentation must also speak to the medical necessity criteria required to receive TCM. Because coordination of services is a required function for TCM, the continued stay requirement is met by documenting the coordination of treatment plans, progress notes, and recommendations of the treatment teams. The department will reword this section to clarify this.

COMMENT #37: Many commenters asked what kind of documentation is required for the continued stay reviews that require the provider to verify SED criteria and that if a clinical assessment is required, that the department allow them to bill for more than one clinical assessment annually.

RESPONSE #37: A full clinical assessment is required annually to confirm the SED criteria are met. For services requiring a reassessment for continued stay, a full clinical assessment is not required; a provider must document in the file of the youth that the youth continues to meet functional impairment criteria as stated for the service the youth is receiving. In addition the annual clinical assessment must be in the file of the youth.

COMMENT #38: One commenter asked if the department will pay the provider when a denial with additional days for discharge is issued. The commenter would like clarification regarding the note that states: "Providers and parents/legal representatives must make plans for discharge when a denial is issued, whether or not additional days for discharge planning are authorized. Additional days for discharge planning may not be authorized or reimbursed by Medicaid. This may result in nonpayment to providers."

RESPONSE #38: If a denial with approval for additional days is issued, the additional days will be reimbursed. The intent of the note is to notify providers that there is not a guarantee that additional days for discharge will be approved; therefore, it is imperative that thorough discharge planning takes place. The department amended the language in the new manual to state the intent of the note more clearly.

COMMENT #39: Some commenters stated that the coordination of services requirements on page 8 of the proposed manual imposes additional work without any additional pay. Of those, a few of the commenters proposed that the department remove this language and one of the commenters suggested the department simply state that the provider will coordinate with any and all services as possible and to be aware of other providers involved with the youth. Another commenter requested the department clarify that "all" providers are responsible for the coordination of services. One of the commenters suggested that TCMs be responsible to perform the coordination efforts. A few commenters also asked why TCM was left off the list of home and community-based services.

RESPONSE #39: Federal regulation prohibits the delivery of services at the same time which are duplicative in nature. Coordination of services helps to prevent unintended duplication which could potentially result in provider payback and is also

imperative in providing the most effective and efficient care possible to the youth and their families. It provides a synergy of care that is proven to achieve optimal patient outcomes. The department will specify that "all" providers are responsible for coordination of services but will also add language that if a youth has TCM, then the TCM must be responsible for the coordination effort. The department omitted TCM from the list of services because it is not a direct care service; however, the department will add this service to the list to help alleviate the confusion.

COMMENT #40: One commenter stated that under the services section for TGH it states that a complete clinical assessment must be completed within 10 business days of admission and a clinical assessment from a previous provider does not substitute for this requirement. The commenter pointed out that licensure rules allow for the application of a clinical assessment completed within the last 12 months. The commenter is also concerned that this requirement will cause unnecessary continued investigation and disclosure by the youth and families causing them much bother. The commenter asks the department to allow them to respect the experience and qualifications of the providers who previously worked with the youth.

RESPONSE #40: The department agrees with this commenter that the requirement conflicts with licensing requirements as written and has amended the new manual to state that the clinical assessment must be completed as stated in ARM 37.97.905.

COMMENT #41: One commenter would like to know how a provider tracks the 365-day limit for HSS if the family has received services through another provider.

RESPONSE #41: The department issued a provider notice dated May 1, 2014, which provides instructions related to tracking HSS in excess of 365 days. This notice can be found at:
http://medicaidprovider.hhs.mt.gov/pdf/provider_notices/2014/homesupportservicesnotification05022014.pdf.

COMMENT #42: One commenter stated that there is no reason to have training from a licensed person in Therapeutic Foster Care - Permanency (TFOC-P) when it has been adequately performed for years by a less credentialed but more engaged professional worker. The commenter asked the department to allow the home support specialist to provide this service.

RESPONSE #42: TFOC-P is an intensive level of treatment reimbursed at a much greater rate than therapeutic foster care or home support services (HSS); currently the rate is \$83.42 more. Home support specialists are not appropriately trained and qualified to deliver this level of services. Service requirements in ARM 37.87.1413 state that individual, family, and group therapies must be provided as part of the service.

COMMENT #43: A few commenters requested the department reconsider the 90-day reauthorization for continued stays in TGHs and return it to the previous 120-day

reauthorization time frames. The commenters state it is unnecessary, causes extra paperwork, and that 120 days allows for adequate discharge.

RESPONSE #43: The department has not amended the 90-day reauthorization requirement because the 90-day time frame corresponds with the treatment plan cycle.

COMMENT #44: One commenter asked that the initial service authorization for home support service remain at 180 days and stated they believe the department is reducing the reauthorization to 90 days. Another commenter stated that the continued stay criteria for HSS is confusing because it follows the service requirement section regarding documentation after the initial 180 days; therefore, it seems to indicate that the parent or provider may petition the department for additional 90-day increments at that point. It should be clarified that, in fact, it is a request for continued stay beyond the allowable 365 days and is requested in 90-day increments.

RESPONSE #44: These service requirements and utilization have not been amended from the current practice. As stated under the prior authorization section for HSS, prior authorization is not required for up to 365 days of HSS. Under the service requirement section, at 180 days, a provider must document in the file of the youth the continued need for the service. In the continued stay section, after 365 days, a provider may still request additional days in 90-day increments. The department has changed this section to clarify it is if the youth receives services for over 365 days that the additional increments will be 90 days if approved.

COMMENT #45: One commenter stated they noticed the information regarding retroactive eligibility that was in the CMHB "Provider Manual for Utilization Management" has been omitted in the proposed manual.

RESPONSE #45: The department thanks the commenter for informing the department that this information is missing and has added the information regarding retroactive eligibility into the new manual.

COMMENT #46: One commenter asked what the protocol is for a youth residing at the Montana Department of Corrections (DOC) who needs to obtain mental health services in a PRTF.

RESPONSE #46: The department has added information to the new manual to clarify what the process is for youth entering a PRTF from DOC.

COMMENT #47: One commenter requested the department retain the [coordination of service](#) language to allow multiple treatment plans to be maintained in the file for the youth. The commenter stated that even though more than one service may be interrelated, the services may have sufficient enough differences to create an unmanageable document if combined into one treatment plan.

RESPONSE #47: The department appreciates the commenter's suggestion and has retained the option for having multiple treatment plans in the file for the youth as part of the coordination efforts.

COMMENT #48: One commenter asked that the certificate of need (CON) requirement for TGHs be kept to allow objective assessments by an independent mental health professional.

RESPONSE #48: While the department does understand the commenter's concerns, the department will no longer retain this requirement. Many providers requested this requirement be removed during a meeting held by the department to receive provider input. Providers still have the option to seek a certificate of need from a third party to provide them with an objective assessment, but it will no longer be a requirement the department will be enforcing.

COMMENT #49: A few commenters asked the department to allow the prior authorization for TGHs to be amended to 180 days. The commenter states that due to the severity of the youth accessing the service, 180 days is a reasonable amount of time to develop and implement a viable treatment plan to address the SED of the youth.

RESPONSE #49: The department has not adjusted the prior authorization requirement to 180 days. The department will be completing the prior authorization reviews for TGHs in house upon adoption of this rule and does not feel it would be prudent to make such a substantial change until the new process has been monitored and tested.

COMMENT #50: One commenter asked the department to remove the requirement to have THVs in excess of three days per visit prior authorized. The commenter stated that the three day requirement is arbitrary and seems capricious.

RESPONSE #50: The department disagrees with the commenter. The department holds the authority to ensure Medicaid services are delivered in a manner that is appropriate for the use of Medicaid funding. It is the department's responsibility to ensure that THV services are used appropriately for times when a youth will be absent from the facility for reasons other than the prescribed use.

COMMENT #51: One commenter asked if it is the state's intention to eliminate the reconsideration review process currently available through the state's utilization and review contractor for TGHs. The commenter is concerned that the appeal process would take too long and creates an unrealistic time frame for providers, youth, and their families.

RESPONSE #51: The desk review and peer-to-peer review is not available. However, if the clinical reviewer with the CMHB determines a youth does not meet criteria for a continued stay, the clinical reviewer automatically defers the case to a board-certified psychiatrist for a second review to make a final determination. If the

board-certified psychiatrist also determines that the youth does not meet the medical necessity criteria, then the provider will still have the appeal process available.

COMMENT #52: One commenter asked for clarification regarding what "concurrently" means, for example, if it is at the same time or on the same day.

RESPONSE #52: The department cannot define concurrently because it is variable with the type of service being provided. The intent of the department is to prevent duplication of services provided. The department suggests the commenter refer to the table in the new manual for services that may not be provided concurrently.

COMMENT #53: One commenter requested the department amend language on page 12 of the proposed manual which states, "(4) Youth who are not court-ordered to participate in the service may voluntarily leave the service." The commenter believes this should state that the parent or legal representative of a youth who is not court-ordered to participate in the service can voluntarily withdraw the youth from the service.

RESPONSE #53: The department addresses the issue of the parent or legal representative removing a youth who is not court-ordered from services on page 12 in (3). CMHB services are considered voluntary if there isn't a commitment order. The department has added reference to the statutory requirements for a youth who may leave services voluntarily without the involvement of a parent or legal representative.

COMMENT #54: One commenter requested the requirement to complete a Montana CANS to be either in the service requirement section for all services requiring a Montana CANS or alternatively, to remove it from the service requirements section and have it all listed under the Montana CANS section.

RESPONSE #54: The department has removed the Montana CANS from the CSCT service requirement section and listed CSCT and all other services which require the Montana CANS in the Montana CANS section.

COMMENT #55: One commenter stated that they believe the discharge notification form for PRTFs has become very rote for providers and does not serve a purpose. The commenter suggested that the requirement be removed or the form reworked with provider input.

RESPONSE #55: The department appreciates the commenter's suggestions. The form serves the purpose to notify the department's vendors to remove the service span from the Medicaid Management Information System (MMIS), which, if left in place, prevents the youth from getting services when discharged from the PRTF. The department is considering the commenter's request to rework the form with provider input.

COMMENT #56: One commenter requested the information, that was in the CMHB "Provider Manual for Utilization Management," that stated a provider has three days to complete the in-state denial form or it is an automatic denial, be added to the new manual.

RESPONSE #56: The department has added the language back into the new manual which allows for the automatic denial if an in-state PRTF does not complete the denial form within three days.

COMMENT #57: One commenter stated they would like to know the time line that the board-certified doctor has in which to complete the continued-stay review referral.

RESPONSE #57: The board-certified psychiatrist has two business days to complete their review; the department has added the time frame to the new manual.

COMMENT #58: One commenter stated that it should be clarified that the time line for counting the 365-day limit for HSS was November 15, 2013.

RESPONSE #58: The department has added language to clarify the begin date for the 365 day limit.

COMMENT #59: One commenter asked if an in-training mental health professional can provide day treatment services.

RESPONSE #59: Only a licensed therapist may provide day treatment services.

COMMENT #60: One commenter requested the addition of time in and time out for Extraordinary Needs Aide (ENA) services.

RESPONSE #60: The department has added the requirement to document time in and time out for ENA services.

COMMENT #61: A few commenters thanked the department for the clarity about a case manager's role during a crisis.

RESPONSES #61: The department thanks this commenter for providing not only their concerns but also positive feedback regarding the new manual.

COMMENT #62: One commenter asked that the department replace the term "mental disability" to "mental disorder" throughout the manual and the open rules to be consistent with DSM.

RESPONSE #62: The department has made the requested change to the final rule language and throughout the new manual.

COMMENT #63: One commenter stated that, in the past, a child receiving therapeutic foster care services was also eligible for THVs up to 14 days per year. The commenter noted that this was removed from the Medicaid Youth Mental Health Fee Schedule in July, 2013 as well as removed from ARM. The provider suggested that the youth's transition from Therapeutic Foster Care (TFC) back to their family or to a permanent family is as delicate and crucial as that from TGH or PRTF and THV should be similarly available to youth in that service.

RESPONSE #63: The department removed THVs for TFC because the provider may already bill a patient day even if the youth is transitioning from a foster placement to a biological home; the service follows the youth. THV is appropriate for TGH and PRTFs because they would not get paid if the youth isn't in the TGH or PRTF.

COMMENT #64: One commenter stated they believe that the inability for a child in an in-state PRTF to access targeted youth case management in their home community leads to poor discharge plans, poor transition back to the community, and increased recidivism to PRTF level of care. The commenter recommends at a minimum 80 units of case management be available to children in the in-state PRTFs. The commenter also recommended that the department consider allowing additional TCM beyond the 80 units via a prior authorization method.

RESPONSE #64: The allowance for TCM in PRTFs was not amended as part of this rulemaking; therefore, this comment is outside of the scope of this rulemaking.

COMMENT #65: One commenter stated that there is an insufficient definition in the coordination of OP concurrent with CSCT and TGH section (1)(a), beyond trauma and grief, in the proposed manual as to what constitutes a qualified concurrent specific or specialized OP service.

RESPONSE #65: The department has changed this language to further define a qualified concurrent specific or specialized OP service.

COMMENT #66: One commenter stated that they believe it is excessive to allow OP services concurrent with TGHs within 60 days of the admission or discharge date, not to exceeding a total of 10 sessions. The commenter states that the time a youth has at a TGH is limited and continuing therapy with his or her previous therapist inhibits the ability of the youth to fully develop a new therapeutic relationship with the TGH therapist. The commenter also states that at the time of discharge, 30 days, or four sessions, would suffice for making an effective transfer to a community therapist. The commenter would like the funds saved by eliminating or limiting concurrent OP with TGH to be utilized to provide TCM to youth in in-state PRTFs.

RESPONSE #66: The department appreciates this comment and is considering the commenter's suggestions. However, OP concurrent with TGH services was not

amended as part of this rulemaking; therefore, it is outside the scope of this rulemaking.

COMMENT #67: One commenter noted that CBPRS is listed in the table in the proposed manual as a service that may not be provided concurrently with the Partial Hospital Program (PHP) and asked the department to clarify that it is during program hours. The commenter also asked the department to modify the language to be consistent with ARM 37.88.901(3)(b)(i). The commenter also asked that it apply to CBPRS in respect to CSCT programs.

RESPONSE #67: The department has clarified the table in the new manual by adding language that states CBPRS cannot be provided during program hours. The department disagrees with the commenter's request to modify the language to be consistent with ARM 37.88.901(3)(b)(i). While the language in ARM 37.88.901(3)(b)(i) may be sufficient to disallow CBPRS concurrently with PHP and day treatment, it doesn't address the nuances of a program that is provided in a school setting in which the child is not at a "treatment location" during the entire treatment period. Youth in CSCT receive intervention services intermittently but by the nature of the CSCT program, the team is available to provide services throughout the entire school day, making CBPRS for these youth duplicative.

COMMENT #68: One commenter asked the department to amend the language in the definition of TGHs from "therapy and behavioral training" to "behavioral intervention and life skills development."

RESPONSE #68: The department has made the suggested changes to the language in the definition of TGHs.

COMMENT #69: One commenter stated that there appears to be a word missing from the first sentence of the CBPRS definition in the proposed manual. Additionally, the commenter does not agree with the last sentence regarding the purpose of CBPRS. Additionally, the commenter suggests amending the description of the purpose of CBPRS from "reduce disability" and "restore function" to "reduce functional impairments and maintain the child's placement in a family setting."

RESPONSE #69: The department will consider these possible changes for future rulemaking opportunities; however, this language is present in the proposed EPSDT state plan so cannot be amended at this time without a state plan amendment. The department will add the missing word "means" to the definition.

COMMENT #70: One commenter disagrees with the new requirement for a behavioral assessment. The commenter wanted to know who would provide this behavioral assessment and how would it be reimbursed. The commenter does not believe that there is a clear method of behavioral assessment that could correlate to the number of CBPRS hours utilized. The commenter suggested, as an alternative, that the department limit the number of units of CBPRS that can be provided to any one client per month.

RESPONSE #70: The department appreciates the commenter's suggestion and has removed the requirement for a behavioral assessment until the department has had an opportunity to speak with providers of CBPRS regarding the commenter's suggestion.

COMMENT #71: One commenter suggested the removal of the term "group therapy services" in describing CBPRS because it is not a therapy service.

RESPONSE #71: The department agrees with the commenter and has changed the terminology to better reflect the services offered.

COMMENT #72: One commenter wanted to know if the proposed manual may be changed without a rule process.

RESPONSE #72: The new manual has been adopted and incorporated into rule; therefore, it can only be changed through the rule process.

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

/s/ Mary E. Dalton acting for
Richard H. Opper, Director
Public Health and Human Services

Certified to the Secretary of State September 8, 2014

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 37.82.701 pertaining to the)
update of federal poverty level and)
health coverage status when)
determining Plan First Program)
eligibility)

TO: All Concerned Persons

1. On July 24, 2014, the Department of Public Health and Human Services published MAR Notice No. 37-682 pertaining to the proposed amendment of the above-stated rule at page 1575 of the 2014 Montana Administrative Register, Issue Number 14.

2. The department has amended the above-stated rule 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: One commenter stated allowing claims to be submitted to third party coverage "would exclude participation in the program by women with third party insurance coverage," and "if services are not covered by third party health coverage, coordination of benefits would not be necessary."

RESPONSE #1: The proposed amendment now allows women with other health coverage to participate in the Plan First Program. All third party plans are not comprehensive, especially grandfathered plans. For instance, if the woman's plan does not cover intrauterine devices (IUDs), the Plan First Program would cover this service. The department believes that allowing women with third party liability to participate in the Plan First Program only enhances the plans they already have. The Plan First Program is not comprehensive insurance and only offers limited family planning services and supplies. Medicaid is required to coordinate third party liability benefits.

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

/s/ Susan Callaghan
Susan Callaghan
Rule Reviewer

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

Certified to the Secretary of State September 8, 2014.

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 37.85.105 pertaining to fee)
schedule revisions for the durable)
medical equipment program, home)
and community based services, and)
personal assistance and self-directed)
personal assistance services)

TO: All Concerned Persons

1. On July 24, 2014, the Department of Public Health and Human Services published MAR Notice No. 37-683 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 1579 of the 2014 Montana Administrative Register, Issue Number 14.

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

37.85.105 EFFECTIVE DATES, CONVERSION FACTORS, POLICY
ADJUSTERS, AND COST-TO-CHARGE RATIOS OF MONTANA MEDICAID
PROVIDER FEE SCHEDULES (1) and (2) remain as proposed.

(3) The department adopts and incorporates by reference, the fee schedule for the following programs within the Health Resources Division, on the date stated.

(a) remains as proposed.

(b) The outpatient hospital services fee schedules including:

(i) the Outpatient Prospective Payment System (OPPS) fee schedule as published by the Centers for Medicare and Medicaid Services (CMS) in ~~74 Federal Register 226, effective January 1, 2013~~ 78 Federal Register 237, page 74826, effective January 1, 2014, and reviewed annually by CMS as required in 42 CFR 419.5 as updated by the department;

(ii) through (6) remain as proposed.

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

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

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

COMMENT #1: A commenter expressed concerns about the financial implications of the new rate structure for personal care providers, specifically, the additional administrative services that must be provided to consumers. The commenter said

the additional administrative services will substantially increase the number of hours of oversight for staff who are involved in a consumer's case.

RESPONSE #1: The department agrees that additional administrative requirements are being requested from personal care providers. In order to meet the federal requirements for the Community First Choice state plan amendment, it was necessary to implement additional administrative requirements for person-centered planning and coordinated care. The department spent considerable time working with the Community First Choice Council, which was comprised of consumers, providers, advocates, case managers, and interested parties to design the state plan amendment. The additional requirements, including the policy and forms, were developed in collaborative work sessions and piloted by a provider agency to ensure that the federal requirements could be met in an efficient and effective manner by participating provider agencies.

The department made a strategic decision to apply the Community First Choice administrative standards to the standards of the personal care program as we estimate that 95% of consumers currently utilizing personal care will participate in Community First Choice. The department believes that utilizing the person-centered planning process for every consumer, regardless of program type, will improve the quality of services delivered.

The department conducted extensive rate analysis and evaluated the impact of the additional administrative requirements. This analysis included data from the pilot, claims, and provider comment and feedback. The reimbursement adjustment, outlined in this rule, was developed for the purpose of recognizing this increased level of effort. The department believes the adjustment is adequate to compensate for the additional administrative requirements.

COMMENT #2: A commenter expressed concern that the reimbursement structure, established for personal assistance, eliminates billing for oversight hours.

RESPONSE #2: The department evaluated the use of the oversight billing code in the Personal Care Program for the past few years. It was used minimally (less than .5% of total claims) by providers to compensate for administrative work at the agency level. Furthermore, the only time that it could be reimbursed as oversight was direct consumer work, not for general administrative oversight activity. The increase in administrative requirements that is covered, under this reimbursement fee increase, includes compensation for both direct client work and general oversight activity. To ensure adequate compensation, the department collapsed these two activities into one reimbursement rate that can be billed per direct service unit.

COMMENT #3: A commenter expressed concern about the disparity between the percentage increase that was proposed for case management services rate increase versus the personal care increase.

RESPONSE #3: The department reimbursement methodology included a cost per consumer per year for the increased administrative requirements for personal care providers and home and community service case managers. Due to the fact that the reimbursement structure is different for case management and personal care providers, the total percent increase reflects differently across the two programs. The case management rate is a daily rate specific to case management related activity. The personal care rate is a 15 minute unit rate for direct consumer service, with administrative and oversight costs included in that rate. The number of units billed per year for a consumer in personal care is far greater than the number of units billed per year for consumer case management. For these reasons the percent of change in the case management rate came out higher than the percent change in the personal care rate.

COMMENT #4: While reviewing the proposed rule, a commenter noticed that a citation to the federal register needed to be corrected.

RESPONSE #4: The department corrected this citation to the federal register in ARM 37.85.105(3).

4. The department intends to apply the rule amendments found in ARM 37.85.105(3)(l), for the DME program, effective October 1, 2014.

5. The department intends to apply the rule amendments found in ARM 37.85.105(4)(a), (c), and (d), for the Senior and Long Term Care (SLTC) program, retroactively to July 1, 2014. A retroactive application of the proposed rule amendments does not result in a negative impact to any affected party.

/s/ Valerie A. Bashor
Valerie A. Bashor
Rule Reviewer

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

Certified to the Secretary of State September 8, 2014.

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

In the matter of the amendment of) NOTICE OF AMENDMENT
37.85.406, 37.86.101, 37.86.105,)
37.86.202, and 37.86.205 pertaining)
to early elective delivery and ancillary)
services clarification)

TO: All Concerned Persons

1. On July 24, 2014, the Department of Public Health and Human Services published MAR Notice No. 37-684 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 1583 of the 2014 Montana Administrative Register, Issue Number 14.

2. The department has amended ARM 37.85.406, 37.86.101, and 37.86.202, as proposed.

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

37.86.105 PHYSICIAN SERVICES, REIMBURSEMENT/GENERAL REQUIREMENTS AND MODIFIERS (1) through (8) remain as proposed.

(9) ~~Effective October 1, 2014, Medicaid reimbursement for child delivery will not be made unless the claim meets the following coding requirements. Claims for child delivery must have one of the following line procedure code modifiers or the line will be denied:~~

(a) through (d) remain as proposed.

(10) ~~Effective October 1, 2014, the department will reduce reimbursement to physicians that perform early elective inductions or cesarean sections prior to 39 weeks and 0/7 days gestation or nonmedically necessary cesarean sections at any gestation by not including t~~ The maternity policy adjustor as part of the reimbursement for the service is not applied to early elective delivery.

(11) Gestational age must be determined and documented in medical records. ~~Confirmation of weeks gestation must be determined by the~~ The department accepts the following American Congress of Obstetricians and Gynecologists guidelines for determining gestational age. ~~At least one of the following guideline standards must be met:~~

(a) fetal heart tones ~~must have been~~ documented for 20 weeks by nonelectronic fetoscope or 30 weeks by Doppler;

(b) ~~36 weeks since~~ a positive serum or urine pregnancy test ~~that was performed by a reliable laboratory~~ at least 36 weeks prior to delivery; or

(c) an ultrasound prior to 20 weeks gestation that confirms the gestational age of at least 39 weeks at delivery; or

~~(12) (d) If when pregnancy care was is not initiated prior to within 20 weeks of of gestation, the gestational age may be documented from the first day of the last menstrual period (LMP).~~

AUTH: 53-6-101, 53-6-113, MCA
IMP: 53-6-101, 53-6-113, MCA

37.86.205 MID-LEVEL PRACTITIONER SERVICES, REQUIREMENTS AND REIMBURSEMENT (1) through (10) remain as proposed.

~~(11) Effective October 1, 2014, Medicaid reimbursement for child delivery will not be made unless the claim meets the following coding requirements. Claims for child delivery must have one of the following line procedure code modifiers or the line will be denied:~~

~~(a) through (d) remain as proposed.~~

~~(12) Effective October 1, 2014, the department will reduce reimbursement to mid-level practitioners that perform early elective inductions or cesarean sections prior to 39 weeks and 0/7 days gestation or nonmedically necessary cesarean sections at any gestation by not including t The maternity policy adjustor as part of the reimbursement for the service is not applied to early elective delivery.~~

~~(13) Gestational age must be determined and documented in medical records. Confirmation of weeks gestation must be determined by the The department accepts the following American Congress of Obstetricians and Gynecologists guidelines for determining gestational age. At least one of the following guideline standards must be met:~~

~~(a) fetal heart tones must have been documented for 20 weeks by nonelectronic fetoscope or 30 weeks by Doppler;~~

~~(b) 36 weeks since a positive serum or urine pregnancy test that was performed by a reliable laboratory at least 36 weeks prior to delivery; or~~

~~(c) an ultrasound prior to 20 weeks gestation that confirms the gestational age of at least 39 weeks at delivery; or~~

~~(14) (d) If when pregnancy care was not initiated prior to within 20 weeks gestation, the gestational age may be documented from the first day of the last menstrual period (LMP).~~

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

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

COMMENT #1: One commenter expressed concern over using the American Congress of Obstetricians and Gynecologists (ACOG) guidelines for determining weeks of gestation, and said that two of the three guidelines, accepted by the department, are not used in practice.

RESPONSE #1: The department will continue to use the ACOG guidelines listed in the rule to document gestational age. If a practitioner does not agree with a particular ACOG guideline, he or she may document gestational age using a different, listed guideline.

COMMENT #2: One commenter expressed concern over the wording of the rules establishing criteria for documenting gestational age. He stated that the rule applicable when pregnancy care is not initiated prior to 20 weeks gestation was incorrectly worded. He also disagrees with the requirement that the gestation age may be documented from the first day of the last menstrual period (LMP).

RESPONSE #2: A determination must be made of gestational age and documented in medical records. The department is revising the language of ARM 37.86.105 and 37.86.205 for clarity. However, the department is only permitting usage of the LMP method in those situations where prenatal care is initiated after 20 weeks gestation.

COMMENT #3: Three commenters expressed concern that claims for patients who require cesarean section or elective induction will have a reduced reimbursement.

RESPONSE #3: "Early elective delivery" is defined to mean either a nonmedically necessary labor induction or cesarean section that is performed prior to 39 weeks and 0/7 days gestation. Labor inductions and cesarean sections that are medically necessary will not have reimbursement reductions.

COMMENT #4: One commenter expressed concern that the department is mandating the usage of nonstandard code sets by requiring the usage of nonstandard modifiers. This commenter feels this is a violation of the Health Information Portability and Accountability Act (HIPAA).

RESPONSE #4: The department's research determined which modifiers are not used by Montana's Medicaid Program and researched which modifiers other state Medicaid programs use in their efforts to reduce early elective deliveries. The department determined the usage of modifiers CG, GK, KX, and SC is appropriate. The department does not agree that it is a violation of HIPAA to use these line procedure code modifiers.

COMMENT #5: One commenter expressed concern that the usage of modifiers will force modification to claim generating systems for providers, at great expense to those providers.

RESPONSE #5: The department informed the provider community of the usage of these modifiers for this project well in advance of implementation. The department contends that this should not be burdensome to providers to implement.

COMMENT #6: Two commenters expressed concern that a substantial number of Montanans reside in rural communities without access to prenatal and obstetrical

care. They asked for an exception to the ACOG standards for those circumstances where women are traveling for obstetrical care outside of their home community.

RESPONSE #6: The department is following ACOG and Joint Commission guidelines in determining medical necessity. Distance from the chosen hospital is not an ACOG or Joint Commission approved diagnosis for elective induction.

COMMENT #7: Three commenters expressed concern that the medical community has already adopted the standards recommended, thereby, making the department's regulation unnecessary. They point out that recent data reflects this.

RESPONSE #7: The department appreciates those providers that have adopted these standards. It has been determined that implementation of a policy to decrease the rate of reimbursement for early elective deliveries decreases the number of early elective deliveries and improves neonatal outcomes.

COMMENT #8: Three commenters questioned whether the department has adequately studied the issue of early elective deliveries to determine if an issue exists and is of a nature that requires a regulatory response.

RESPONSE #8: The department appreciates these comments. The department and others have adequately studied these issues. It has been determined that implementation of a policy to decrease the rate of reimbursement for early elective deliveries decreases the number of early elective deliveries and improves neonatal outcomes.

COMMENT #9: One commenter expressed concern that some physicians will be so concerned about reimbursement that they'll exercise poor judgment in applying these administrative rules which will result in harm to mothers and their babies.

RESPONSE #9: The department believes that these administrative rule changes will impact physician practice patterns in a positive fashion.

5. These proposed rule amendments are effective October 1, 2014.

/s/ Francis X. Clinch
Francis X. Clinch
Rule Reviewer

/s/ Mary E. Dalton acting for
Richard H. Opper, Director
Public Health and Human Services

Certified to the Secretary of State September 8, 2014

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 42.22.101 and 42.22.110)
implementing a Montana Supreme)
Court decision pertaining to centrally)
assessed property)

TO: All Concerned Persons

1. On June 12, 2014, the Department of Revenue published MAR Notice Number 42-2-910 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 1212 of the 2014 Montana Administrative Register, Issue Number 11.

2. On July 8, 2014, a public hearing was held to consider the proposed amendment. Robert Story, President of the Montana Taxpayers Association, and Dave Galt, of the Montana Petroleum Association, appeared and testified at the hearing and also provided written comments.

3. The department has amended ARM 42.22.110 as proposed.

4. Based upon the comments received and after further review, the department has amended the following rule as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

42.22.101 DEFINITIONS The following definitions apply to this chapter:

(1) through (4) remain as proposed.

(5) "Book depreciation" shall be determined by the department by using information that most accurately reflects the depreciation cost of the Montana property being assessed. This information may be gathered from documentation such as reported to the regulatory filings, agency or acquired from independently audited financial statements, or other reliable and recognized sources.

(6) through (33) remain as proposed.

5. 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 NO. 1: Mr. Story stated that they appreciate the department amending the rules to comply with the court's decision and commented that while they believe the legislation is fairly broad, the whole process of valuing intangible things like goodwill and property were not meant to be built into the value of unit assessment. The amendments to the rules are a good first step in addressing this issue.

Mr. Story also commented about the department's use of independently audited financial statements in current practice. He stated that this practice probably

should have been in the rules so that people would know how those values are derived. He added that while this is better than having nothing and the department using whatever methodology it chooses to arrive at depreciated value of equipment, their concern is whether the independently audited financial statements are actually set up for that purpose to begin with.

RESPONSE NO. 1: The department appreciates these comments and understands the Montana Taxpayers Association's concern about using the independent financial statements' book depreciation. However, the cost approach to determine fair market value was developed to use financial statement information. The cost method is a valuation standard used by financial institutions, as well as by state and local governments. The department has used financial statements in the past and has found them to be a good source of information.

COMMENT NO. 2: Mr. Story asked the department to consider wording the amendment to ARM 42.22.101(5) differently, and offered to provide suggestions for changing the language after having further discussion with department staff.

In his written comments, Mr. Story stated that upon learning the department's goal of amending the rule was to more closely reflect current practice, he would suggest amending the language in (5) to read "In determining 'book depreciation,' the department shall use information that most accurately reflects the value of the Montana property being assessed. This information may be gathered from documentation such as regulatory filings, independently audited financial statements, or other pertinent information voluntarily provided by the taxpayer."

Mr. Galt stated the Montana Petroleum Association's (MPA) concerns were similar to those being raised at the hearing. In his written comments, he stated that the MPA appreciates the opportunity to offer its comments and that the members have given this considerable thought. For those to whom this rule applies, the general belief is that current practice has been working but they do have some concern about the department's proposed addition of the language "or acquired from independently audited financial statements" in (5).

In reference to statements made by department staff at the public hearing regarding the current language in the rule not reflecting the spectrum of the entities this applies to, and the need for the department to find the best method to establish value, Mr. Galt commented that the MPA does not want to see the process getting more difficult and requiring more time to provide than it does already.

Mr. Galt noted the department's willingness to accept alternative language suggestions, provided it would accomplish the stated goal of applying to non-regulated facilities, and stated that therefore the MPA supports the comment from the Montana Taxpayers Association and he provided the same language revision for the department to consider for defining book depreciation.

RESPONSE NO. 2: The department appreciates these comments and finds the suggested language revisions for the definition of book depreciation helpful and acceptable.

In making the further amendments, the department did not want to limit the use of good information to only that voluntarily provided by the taxpayer. Therefore,

the rule has been further amended to incorporate a slightly modified version of the suggested language.

/s/ Laurie Logan
Laurie Logan
Rule Reviewer

/s/ Mike Kadas
Mike Kadas
Director of Revenue

Certified to the Secretary of State September 8, 2014.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 42.4.104, 42.4.2602, 42.4.2801,)
42.4.2802, 42.4.2803, 42.4.2905,)
42.4.3103, and 42.4.4107 pertaining)
to the revision of the names)
corporation license tax and)
corporation income tax)

TO: All Concerned Persons

1. On August 7, 2014, the Department of Revenue published MAR Notice No. 42-2-911 pertaining to the proposed amendment of the above-stated rules at page 1782 of the 2014 Montana Administrative Register, Issue Number 15.
2. The department has amended the above-stated rules as proposed.
3. No comments or testimony were received.

/s/ Laurie Logan
Laurie Logan
Rule Reviewer

/s/ Mike Kadas
Mike Kadas
Director of Revenue

Certified to the Secretary of State September 8, 2014.

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the adoption of New Rule I pertaining to returned check service fees) NOTICE OF ADOPTION
)
)

TO: All Concerned Persons

1. On August 7, 2014, the Secretary of State published MAR Notice No. 44-2-199 pertaining to the public hearing on the proposed adoption of the above-stated rule at page 1793 of the 2014 Montana Administrative Register, Issue Number 15.

2. The Secretary of State has adopted the above-stated rule as proposed: New Rule I (44.2.205).

3. No comments or testimony were received.

/s/ JORGE QUINTANA
Jorge Quintana
Rule Reviewer

/s/ LINDA MCCULLOCH
Linda McCulloch
Secretary of State

Dated this 8th day of September, 2014.

NOTICE OF FUNCTION OF ADMINISTRATIVE RULE REVIEW COMMITTEE

Interim Committees and the Environmental Quality Council

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

Economic Affairs Interim Committee:

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

Education and Local Government Interim Committee:

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

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

- Department of Public Health and Human Services.

Law and Justice Interim Committee:

- Department of Corrections; and
- Department of Justice.

Energy and Telecommunications Interim Committee:

- Department of Public Service Regulation.

Revenue and Transportation Interim Committee:

- Department of Revenue; and
- Department of Transportation.

State Administration and Veterans' Affairs Interim Committee:

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

Environmental Quality Council:

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

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

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

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

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

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

Use of the Administrative Rules of Montana (ARM):

- | | |
|---------------|---|
| Known Subject | 1. Consult ARM Topical Index.
Update the rule by checking the accumulative table and the table of contents in the last Montana Administrative Register issued. |
| Statute | 2. Go to cross reference table at end of each number and title which lists MCA section numbers and department corresponding ARM rule numbers. |

ACCUMULATIVE TABLE

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies that have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through March 31, 2014. This table includes those rules adopted during the period April 1, 2014, through June 30, 2014, 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 March 31, 2014, 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 2014 Montana Administrative Register.

To aid the user, the Accumulative Table includes rulemaking actions of such entities as boards and commissions listed separately under their appropriate title number.

ADMINISTRATION, Department of, Title 2

I-VII	Requiring Deferred Deposit Loan Applicants to Use the Nationwide Multistate Licensing System for All Future Licensing, p. 1654
I-VIII	Transitioning Existing Sales Finance Company Licenses to the Nationwide Multistate Licensing System - Use of the System for All Future Licensing, p. 1633
I-VIII	Transitioning Existing Consumer Loan Company Licenses to the Nationwide Multistate Licensing System - Use of the System for All Future Licensing, p. 1640
I-VIII	Transitioning Existing Escrow Business Company Licenses to the Nationwide Multistate Licensing System - Use of the System for All Future Licensing, p. 1647
2.5.201	and other rules - State Procurement of Supplies and Services, p. 2332, 141, 1077
2.5.603	State Procurement of Supplies and Services, p. 1854
2.59.104	Semiannual Assessment for Banks, p. 1309, 1918
2.59.108	and other rules - Lending Limits, p. 142, 675
2.59.111	Retention of Bank Records, p. 1305, 1917
2.59.301	and other rules - Service of Process - Advertising - Fee Disclosures and Computation of Interest - Credit Insurance - Fees to Public Officials - Receipt Form - Licensee Records Affecting Consumer Loan Licensees, p. 2345, 498
2.59.402	and other rules - Limited Income Persons - Credit Union Records Retention - Credit Union Debt Cancellation Contracts, p. 1856

- 2.59.1401 and other rule - Title Lending, p. 2204, 205
- 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, 2417

(Public Employees' Retirement Board)

- 2.43.3501 and other rule - Adoption by Reference - State of Montana Public Employee Defined Contribution Plan Document - State of Montana Public Employee Deferred Compensation (457) Plan Document, p. 1302, 1999
- 2.43.3502 Investment Policy Statement for the Defined Contribution Retirement Plan, p. 1299

(State Compensation Insurance Fund)

- 2.55.320 and other rule - Classifications of Employments - The Individual Loss Sensitive Dividend Distribution Plan, p. 2200, 322
- 2.55.327A Construction Industry Premium Credit Program, p. 342, 1080
- 2.55.502 Individual Loss Sensitive Dividend Distribution Plan, p. 1457

(State Lottery Commission)

- 2.63.201 and other rules - Procedural Rules - Definitions - Retailer Commissions - Business Changes - Prizes - License Requirements and Endorsements - Sale of Scratch Tickets, p. 528, 1387

(Board of County Printing)

- 2.67.303 Maximum Pricing and Printing Standards, p. 642, 1216, 1389
- 2.67.303 Minimum Font Size in Printing Standards, p. 1544

AGRICULTURE, Department of, Title 4

- I Phytosanitary Certificate Fees, p. 264, 1390
- I-IV Montana Corn Crop Advisory Committee - Definitions - Annual Corn Crop Commodity Assessment--Collection - Applications for Corn Crop Research and Marketing Project Funds, p. 164, 500
- 4.5.206 and other rules - Modification of the Noxious Weed Priority 1A Category Statement - Changing the Priority Category of Dyer's Woad, Flowering Rush, Eurasian Watermilfoil, and Curlyleaf Pondweed, p. 2014, 2419
- 4.5.313 Noxious Weed Seed Free Forage Minimum Fees, p. 161, 499
- 4.12.1224 and other rule - Alfalfa Leaf Cutter Bees, p. 1144, 1591
- 4.12.1405 and other rules - Plant Inspection Certificate and Survey Costs Fees and Civil Penalties, p. 1399, 206

- 4.12.3009 and other rule - Seed Licensing Fees - Reporting and Assessment of Seed Sales, p. 534, 1217
- 4.13.1001A Grain Fee Schedule, p. 894, 1590

STATE AUDITOR, Office of, Title 6

(Commissioner of Securities and Insurance)

- I Patient-Centered Medical Homes, p. 1002
- I Patient-Centered Medical Homes, p. 1863
- 6.6.3702 and other rules - Reporting by Holding Company Systems, p. 1755, 501
- 6.6.4202 and other rules - Continuing Education Program for Insurance Producers and Consultants, p. 167, 580

COMMERCE, Department of, Title 8

- 8.2.501 Administration of the 2015 Biennium Quality Schools Grant Program—Planning Grants, p. 345, 676
- 8.2.503 and other rule - Administration of the Quality Schools Grant Program, p. 537, 961
- 8.94.3727 Administration of the 2013-2014 Federal Community Development Block Grant (CDBG) Program, p. 1312, 1796
- 8.94.3814 and other rule - Governing the Submission and Review of Applications for Funding Under the Treasure State Endowment Program (TSEP), p. 174, 583
- 8.99.511 Microbusiness Finance Program, p. 2209, 964
- 8.111.602 and other rule - Low Income Housing Tax Credit Program, p. 348, 677
- 8.112.101 and other rules - Montana Heritage Preservation and Development Commission, p. 1147, 1797
- 8.119.101 Tourism Advisory Council, p. 540, 965

(Montana Coal Board)

- 8.101.302 and other rule - Policies of the Montana Coal Board - Applications for Montana Coal Board Grant Assistance, p. 1, 386

EDUCATION, Department of, Title 10

(Superintendent of Public Instruction)

- 10.7.111 Bus Drivers, p. 1005, 1799

(Board of Public Education)

- 10.59.103 Montana School for the Deaf and Blind Foundation, p. 1660
- 10.64.201 School Bus Drivers, p. 1009, 1801

(Montana State Library)

- 2.12.301 and other rules - Montana Land Information Act, p. 1880, 2420

FISH, WILDLIFE AND PARKS, Department of, Title 12

- I Hunters Against Hunger Program, p. 1315, 2002
- I Wolf Management Stamps, p. 1318, 1546
- 12.7.502 and other rules - Fish Importation, p. 1158, 1922
- 12.10.103 and other rule - Shooting Range Grants, p. 1462

(Fish and Wildlife Commission)

- I State Land Access Tax Credit, p. 2212, 391
- I-V Unauthorized Placement of Fish Into Public Waters, p. 177, 1592
- 12.6.2208 and other rule - Exotic Species Classification, p. 703, 1919
- 12.9.1301 and other rules - Gray Wolf Management, p. 1886, 843, 2000
- 12.11.501 and other rules - Recreational Use on Lake Alva, Harpers Lake, and Lake Marshall, p. 755, 1563, 209
- 12.11.645 Whitefish River, p. 434, 1460
- 12.14.101 and other rules - Commercial Use Rules, p. 897

(State Parks and Recreation Board)

- 12.14.101 and other rules - Commercial Use Rules, p. 897

ENVIRONMENTAL QUALITY, Department of, Title 17

- I Nutrient Standards Variances, p. 275, 1805
- 17.36.101 and other rules - Subdivision Applications and Review - Subdivision Requirements - Subdivision Waivers and Exclusions - Subdivision Review Fees - On-Site Subsurface Wastewater Treatment Systems, p. 706
- 17.36.326 and other rule - Sewage Systems: Operation and Maintenance, Ownership, Easements, and Agreements - Sewage Systems: Existing Systems, p. 1334, 1504
- 17.53.105 and other rule - Incorporation by Reference - No State Waste Delisting--Federal Petition Required, p. 1331, 1835
- 17.55.109 Incorporation by Reference, p. 436, 2003
- 17.56.607 Release Categorization, p. 1663, 1957
- 17.74.504 and other rules - Definitions - Decontamination Standards - Performance - Assessment - Inspection - Performance Standards - Contractor Certification and Renewal - Initial Training Course Content - Refresher Training Course - Reciprocity - Training Provider Certification - Certified Training Provider Responsibilities - Denial, Suspension, and Revocation of Certification - Fees - Incorporation by Reference--Publication Dates - Incorporation by Reference - Worker and Supervisor Certification - Worker and Supervisor Certification Renewal, p. 1866

(Board of Environmental Review)

- I Reclamation - Administrative Requirements for Limited Opencut Operations, p. 2367, 679

- 17.8.102 Incorporation by Reference--Publication Dates, p. 353, 1256
17.8.501 and other rule - Definitions - Air Quality Permit Application Fees, p. 1321
17.8.818 and other rule - Review of Major Stationary Sources and Major Modifications--Source Applicability and Exemptions - Source Impact Analysis, p. 1327
17.24.905 Reclamation - Rules Not Applicable to In Situ Coal Operations, p. 2364, 678
17.30.201 and other rules - Permit Application, Degradation Authorization, and Annual Permit Fees - Specific Restrictions for Surface Water Mixing Zones - Standard Mixing Zones for Surface Water - Definitions - Incorporations by Reference - A-1 Classification Standards - B-1 Classification Standards - B-2 Classification Standards - B-3 Classification Standards - C-1 Classification Standards - C-2 Classification Standards - I Classification Standards - C-3 Classification Standards - General Treatment Standards - Criteria for Determining Nonsignificant Changes in Water Quality, p. 280, 1815
17.30.630 Temporary Water Quality Standards, p. 183, 681
17.30.1101 and other rules - Montana Pollutant Discharge Elimination System (MPDES) Permits - Purpose and Scope - Definitions - Permit Requirements - Exclusions - Designation Procedures: Small Municipal Separate Storm Sewer Systems (MS4s) - Application Procedures - General Permits - Conditions Applicable to All Permits - Application Procedures: General - Notice of Intent Procedures - Transfer of Permit Coverage Pertaining to Storm Water Discharges, p. 1667
17.36.320 and other rules - Sewage Systems - Definitions - Horizontal Setbacks - Floodplains - Plans for Public Sewage System - Fees, p. 747, 1824
17.36.345 and other rule - Adoption by Reference - Plans for Public Water Supply or Public Sewage System, p. 267, 1802

TRANSPORTATION, Department of, Title 18

- 18.6.101 and other rules - Junkyard Regulations, p. 1465, 2011
18.6.202 and other rules - Community Welcome To Signs, p. 2018, 213
18.8.202 and other rules - Motor Carrier Services Housekeeping, p. 1468, 2012
18.8.1501 and other rules - Motor Carrier Services Safety Assistance Program, p. 4, 502
18.9.701 and other rule - Motor Fuels Tax, p. 440, 968
18.13.404 and other rules - Board of Aeronautics Grant and Loan Program, p. 1878

JUSTICE, Department of, Title 23

- I-III License Plate Age-Based Reissuance Process, p. 356, 682
I-III School Crossing Guards, p. 773, 1392
1.3.215 Informal Disposition of Contested Cases, p. 683

- 23.3.505 and other rule - Type 2 Endorsements for Commercial Motor Vehicle Operators, p. 2024, 117
- 23.12.601 Fire Safety and Fireworks and Uniform Fire Code, p. 2027, 2422
- 23.12.1203 and other rules - Montana Law Enforcement Academy Preservice Applicants, p. 2371, 323
- 23.16.101 and other rules - Electronic Submission of Documents and Electronic Signatures - Definitions - Records - Devices - Changes in Managers, Officers, and Directors - Charitable Card Game Tournaments - Types of Card Games Authorized - House Players - Authorized Sports Pools - Repairing Machines—Approval - Department Approval of Promotional Games of Chance, Devices, or Enterprises - Review of Carnival Games, p. 1012, 1505

(Public Safety Officer Standards and Training Council)

- 23.13.101 and other rules - Certification of Public Safety Officers, p. 1698

LABOR AND INDUSTRY, Department of, Title 24

Boards under the Business Standards Division are listed in alphabetical order following the department rules.

- I-III Licensure of Professional Employer Organizations, p. 2380, 684
- 24.11.204 and other rules - Unemployment Insurance, p. 296, 593
- 24.17.127 Prevailing Wage Rates for Public Works Projects, p. 912, 1506, 1598
- 24.22.301 and other rules - Incumbent Worker Training Fund Availability, p. 360, 852
- 24.29.1401A and other rules - Definitions - Facility Service Rules and Rates - Professional Fee Schedule for Services Provided - Conversion Factors for Services Provided - Utilization and Treatment Guidelines, p. 776, 1055, 1513
- 24.301.109 and other rules - Definitions - Incorporation by Reference - Fees - Modifications to the International Building Code - Plumbing Permits - Plumbing Inspections, p. 1549
- 24.301.401 and other rule - Incorporation by Reference of National Electrical Code - Electrical Inspections Fees, p. 1769
- 24.301.603 and other rules - Definitions - Plan Review and Permit Fee - Inspections - Certificates - Fees, p. 1973

(Workers' Compensation Court)

- 24.5.301 and other rules - Amended Petition - Computation of Time - Joinder and Service of Alleged Uninsured Employers - Recusal, p. 1021

(Human Rights Commission)

- 24.9.203A and other rules - Obsolete Rules, p. 1164, 1836

(Board of Personnel Appeals)

- 24.26.697 and other rule - Stay of an Informal Investigation, p. 2030, 969

(Alternative Health Care Board)

24.111.511 and other rule - Naturopathic Physician Formulary - Military Training or Experience, p. 645

(Board of Architects and Landscape Architects)

I Military Training or Experience, p. 187, 853

24.114.301 and other rules - Definitions - Licensure of Applicants From Other States - Renewals - Unprofessional Conduct - Architect Continuing Education, p. 443, 2013

(Board of Athletic Trainers)

I Military Training or Experience, p. 915, 1393

(Board of Barbers and Cosmetologists)

24.121.605 and other rules - Application for Postsecondary School Licensure - School Curricula - Postsecondary Education Status - Military Training or Experience, p. 450, 1085

(Board of Chiropractors)

I Military Training or Experience, p. 10, 854

(Board of Clinical Laboratory Science Practitioners)

I Military Training or Experience, p. 455, 1258

(Board of Dentistry)

24.138.402 and other rules - Fee Schedule - Mandatory Certification - Dental Auxiliary Functions - Limited Access Permits - Dentist Licensure by Exam - Dental Hygienist Licensure by Exam - Dental Hygienist Licensure by Credentials - Continuing Education Definition - Continuing Education Requirements - Military Training or Experience - Dental Hygienist Committee - Denturist Committee, p. 458, 1837

(State Electrical Board)

24.101.413 and other rule - Renewal Notification - Military Training or Experience, p. 367, 971

(Board of Funeral Service)

24.147.1101 and other rules - Crematory Operation Standards - Casket/Containers - Integrity of Identification Process - Cremation Procedures - Crematory Prohibitions - Transportation and Custody of Human Remains - Crematory Records - Cremation Authorizations - Military Training or Experience - Shipping Cremated Human Remains, p. 543, 2017

24.147.2101 Continuing Education Requirements, p. 1894, 215

(Board of Hearing Aid Dispensers)

24.150.401 and other rule - Fees - Military Training or Experience, p. 13, 1394

(Licensed Addiction Counselors Program)

I Military Training or Experience, p. 17, 595

24.154.301 and other rules - Definitions - Supervised Work Experience - Unprofessional Conduct, p. 2215, 118

(Board of Massage Therapy)

24.155.301 and other rules - Definitions - Fee Schedule - Licensure by Examination - Licensure by Endorsement - Military Training or Experience - Anonymous Complaints - Nonroutine Applications - Inactive License, p. 466, 1397

(Board of Medical Examiners)

I Military Training or Experience, p. 559, 1259

24.156.508 and other rules - Approved Residency - Examination - Graduate Training Requirements - Occasional Case Exemption - Unprofessional Conduct - Definitions - Initial License - Professional Conduct and Standards - Physician Assistant License Renewal - Podiatry Postgraduate Training, p. 1474

24.156.615 and other rules - Renewals - License Categories - Reactivation of License, p. 1897, 596

(Board of Nursing)

I Military Training or Experience, p. 649, 2037

(Board of Nursing Home Administrators)

I Military Training or Experience, p. 20, 855

(Board of Occupational Therapy Practice)

I Military Training or Experience, p. 313, 972

24.165.401 and other rules - Fees - Applications for Licensure - Examinations - Supervision—General Statement - Supervision—Methods - Standards of Practice - Documentation of Instruction and Training - Qualifications to Apply Topical Medications—Clinician Defined - Inactive Status - Continuing Education - Continuing Education—Waiver - Definitions - Deep Modality Endorsement, p. 1883

(Board of Optometry)

I Military Training or Experience, p. 473, 973

(Board of Outfitters)

I Military Training or Experience, p. 562, 918

(Board of Pharmacy)

I Military Training or Experience, p. 565, 1261

(Board of Physical Therapy Examiners)

- I Military Training or Experience, p. 476, 1086
- 24.177.2105 Continuing Education, p. 1057

(Board of Plumbers)

- 24.180.2301 and other rule - Unprofessional Conduct - Military Training or Experience, p. 371, 974

(Board of Private Security)

- I Military Training or Experience, p. 479, 1087

(Board of Professional Engineers and Professional Land Surveyors)

- I Military Training or Experience, p. 568, 1088
- 24.101.413 and other rules - Renewal Dates and Requirements - Definition of Responsible Charge - Board Meetings - Fee Schedule - Approval of Schools - Application References - Examination Procedures - Grant and Issue Licenses - Comity - Classification of Experience - Form of Corner Records - Uniform Standards for Monumentation - Uniform Standards for Final Subdivision Plats - Remonumentation and Rehabilitation - Architectural Services Incidental to Engineering - Exhibits of Land Surveying Projects - Unprofessional Conduct - Introduction - Performance of Services - Conflicts of Interest - Avoidance of Improper Solicitation - Issuance of Public Statements, p. 1339

(Board of Psychologists)

- 24.189.401 and other rules - Fee Schedule - Application Procedures - Minimum Standards - Required Supervised Experience - Licensees From Other States or Canadian Jurisdictions - Licensure as a Psychologist by Experience - Temporary Permit - Continuing Education - Continuing Education Program Options - Continuing Education Implementation - Exemptions - Military Training or Experience, p. 652

(Board of Public Accountants)

- 24.101.413 and other rules - Renewal Dates and Requirements - Public Participation - Definitions - Board Meetings - Fee Schedule - Use of CPA/LPA Designation - Licensing and Examinations - Acts - Professional Conduct Rules - Peer Review Enrollment - Alternatives and Exemptions - Renewal and Continuing Education - Anonymous Complaints - Exercise of Practice Privilege - Enforcement Against Licensees - Applicant by Exam - Examination Credits - Requirements for Previously Held Certificates - Who Must Comply - Nonresident Holders - Standards for CPE Program Development - Enforcement Procedures, p. 1734
- 24.201.502 and other rule - Accounting and Auditing Experience Requirements - Military Training or Experience, p. 482, 1090

(Board of Radiologic Technologists)

24.204.408 and other rule - Radiologic Technologists Applications - Military Training or Experience, p. 375, 1262

(Board of Real Estate Appraisers)

I Military Training or Experience, p. 23, 685

(Board of Realty Regulation)

24.210.401 and other rules - Fee Schedule - Course Provider - Continuing Real Estate Education - Continuing Property Management Education, p. 921

24.210.825 and other rule - Renewals - Military Training or Experience, p. 664

(Board of Respiratory Care Practitioners)

I Military Training or Experience, p. 571, 1264

24.213.301 and other rules - Definitions - Application for Licensure - Examination - Inactive Status - Authorization to Perform Testing - Continuing Education Requirements - Traditional Education by Organizations - Teaching—Category III - Papers, Publications, Journals, and Course Work - Unprofessional Conduct - Training—Conscious Sedation - Institutional Guidelines Concerning Education and Certification, p. 1960

(Board of Sanitarians)

24.216.502 and other rules - Minimum Standards for Sanitarians and Sanitarians-In-Training - Examination - Military Training or Experience, p. 316, 975

(Board of Social Work Examiners and Professional Counselors)

24.219.501 and other rules - Application Procedures - Licensure of Out-of-State Applicants - Complaint Procedure - Military Training or Experience, p. 783

(Board of Speech-Language Pathologists and Audiologists)

I-VIII Telepractice of Speech-Language Pathology and Audiology - Military Training or Experience, p. 379, 1266

(Board of Veterinary Medicine)

I Military Training or Experience, p. 574, 1273

24.225.410 and other rules - Record-keeping Standards - Inspection and Sanitation - Continuing Education - Unprofessional Conduct, p. 2220, 1092

LIVESTOCK, Department of, Title 32

32.2.401 and other rules - License Fees - Permit Fees - Miscellaneous Fees - Definitions - Permit Required - Permits - Additional Requirements for

- Cattle - Horses, Mules, and Asses - Semen Shipped Into Montana - Definitions - Trichomoniasis - Licensing - Veterinary Fees, p. 190, 1096
- 32.2.405 and other rule - Department of Livestock Miscellaneous Fees - Recording and Transferring of Brands, p. 1892
- 32.2.405 Department of Livestock Miscellaneous Fees, p. 1976
- 32.3.138 and other rules - Deputy Veterinarians - Domestic Bison, p. 2384, 326
- 32.3.141 Revocation or Suspension of Appointment of Deputy State Veterinarian, p. 1175
- 32.3.433 Designated Surveillance Area, p. 1171
- 32.3.1201 and other rules - Reporting Rabies - Rabies Quarantine - Isolation of Rabid or Suspected Rabid Animals - Isolation of Biting Animals - Stray or Ownerless Animals, p. 1167
- 32.6.712 Food Safety and Inspection Service - Meat and Poultry, p. 668, 1275
- 32.6.712 Food Safety and Inspection Service (Meat and Poultry), p. 1896
- 32.15.601 Brand Mortgages - Renewal Requirements - Placement of Digits - Brand Ownership and Transfer - Sale of Branded Livestock - Change in Brand Recording - Equine Breed Registry Mark - Freeze Branding - Recording and Transferring of Brands - Rerecording of Brands - Brand Inspection - County Line Grazing Permits - Import Transportation Permit - Livestock Market Releases - Sheep Permit - Domestic Bison Permit - Duration of Permits, p. 2268, 324
- 32.18.102 and other rules - Age Tally Marks - Numeral Marks - Placement of Digits - Import Transportation Permits - Hides to be Marked, p. 671, 1276

NATURAL RESOURCES AND CONSERVATION, Department of, Title 36

- 36.12.101 and other rules - Water Right Combined Appropriation, p. 2389, 216
- 36.12.203 and other rule - Appointment of Hearing Examiner - Temporary Leases, p. 202, 598
- 36.25.128 and other rules - Cabinsite Lease Site Sales, p. 1783, 2423

PUBLIC HEALTH AND HUMAN SERVICES, Department of, Title 37

- 37.5.304 and other rules - Adoption of Federal Statutes for Guardianship, p. 2278, 320, 976
- 37.12.401 Laboratory Testing Fees, p. 2227, 228
- 37.30.405 Vocational Rehabilitation Program Payment for Services, p. 577, 978
- 37.34.201 and other rules - Eligibility, p. 1574, 2034, 219
- 37.34.301 and other rules - Placement Determinations, p. 1570, 217
- 37.34.901 and other rules - Medicaid Home and Community-Based Services Program, p. 1906, 220, 1599
- 37.34.3005 and other rule - Update of Developmental Disabilities Program Home and Community-Based Waiver - Case Management Reimbursement, p. 933, 1408

- 37.36.604 Updating to 2014 Levels the Federal Poverty Index for the Montana Telecommunications Access Program, p. 790, 1400
- 37.40.307 and other rules - Nursing Facility Reimbursement, p. 811, 1517
- 37.40.830 Hospice Reimbursement, p. 2394, 328
- 37.50.315 Addition of a New Supervision Level Within the Foster Care Classification Model System, p. 1772
- 37.57.102 Update of Current Federal Poverty Guidelines for the Children's Special Health Services Program, p. 486, 977
- 37.57.301 and other rules - Newborn Screening and Follow-up of Failed Screenings, p. 939, 1411
- 37.70.107 and other rules - Low Income Energy Assistance Program (LIEAP) for the 2013-2014 Heating Season, p. 2050, 126
- 37.79.102 and other rules - Medicaid Allied Health Services Program Reimbursement and Rates, p. 816, 1405
- 37.80.101 and other rules - Child Care Assistance, p. 64, 599
- 37.81.304 and other rule - Maximum Big Sky Rx Premium Change, p. 2036, 2438
- 37.82.701 Update of Federal Poverty Level and Health Coverage Status When Determining Plan First Eligibility, p. 1575
- 37.85.104 and other rule - Revision of Fee Schedules for Medicaid Provider Rates, p. 797, 1402
- 37.85.105 Revision of Fee Schedules for Medicaid Provider Rates in January 2014, p. 88, 506
- 37.85.105 Fee Schedule Revisions for the Durable Medical Equipment Program, Home and Community Based Services, and Personal Assistance and Self-Directed Personal Assistance Services, p. 1579
- 37.85.212 and other rules - Revision of By Report Reimbursement, p. 828, 1407
- 37.85.403 and other rule - Date Changes to ICD CM and PCS Services-ICD-10, p. 1778
- 37.85.406 and other rules - Early Elective Delivery - Ancillary Services Clarification, p. 1583
- 37.86.1401 and other rules - Medicaid Reimbursement for Ambulatory Surgery Centers (ASC), p. 835, 1409
- 37.86.2801 and other rules - Medicaid Outpatient and Inpatient Hospital Services, p. 950, 1415
- 37.86.2907 and other rules - ICD CM and PCS Services: Adoption of ICD-10, p. 94, 507
- 37.86.3006 and other rules - Revision of the Rules for Serious Emotional Disturbance for Youth - Mental Health Outpatient Partial Hospital Services - Medicaid Mental Health Authorization Requirements, p. 1491
- 37.86.4202 and other rule - Dialysis Clinic Method of Reimbursement, p. 840, 1410
- 37.86.5111 Passport to Health Program, p. 2047, 125
- 37.87.807 and other rule - Revision of Fee Schedules for Medicaid Provider Rates, p. 1911

- 37.87.1202 and other rules - Psychiatric Residential Treatment Facility (PRTF) Services, p. 1948, 2433
- 37.87.1803 and other rules - Mental Health Center: Comprehensive School and Community Treatment Program (CSCT) Endorsement Requirements, p. 793, 1401
- 37.88.205 and other rules - Updating the Date of the Current Procedural Terminology (CPT) Codes, p. 1906
- 37.91.102 and other rules - Certification of Mental Health Professional Person, p. 2397, 503
- 37.100.101 and other rules - Adult Foster Care Homes (AFCH), p. 26, 1098
- 37.104.101 and other rules - Emergency Medical Services (EMS), p. 2039, 122
- 37.104.3001 and other rules - Updating the State Trauma Plan to Reflect Current Dates, Terminology, and Medical Practice, p. 1899
- 37.106.514 Removal of References to Anesthesiologist Assistants in Outpatient Centers for Surgical Services, p. 1572
- 37.108.507 HEDIS Components of Quality Assessment Activities, p. 2286, 327
- 37.110.201 and other rules - Updating the Montana Retail Food Establishment Rules, p. 1364

PUBLIC SERVICE REGULATION, Department of, Title 38

- I-VII Simplified Regulatory Options for Small Water and Sewer Utilities, p. 1583, 394
- 38.2.5031 Public Utility Executive Compensation, p. 1680, 508
- 38.5.2202 and other rule - Pipeline Safety, p. 2230, 128

REVENUE, Department of, Title 42

- I-III Claiming the Unlocking State Lands Tax Credit, 1989
- I-IX Debt Collection Services Provided on Behalf of Other Agencies, p. 2292, 229
- 42.2.302 and other rules - Department's General Rules and Definitions, p. 1061, 1527
- 42.2.613 and other rules - Dispute Resolution, p. 1177, 1421
- 42.4.104 and other rules - Revision of the Names Corporation License Tax and Corporation Income Tax, p. 1782
- 42.4.204 and other rules - Tax Credits Regarding Energy Conservation Installation, Temporary Emergency Lodging, and Health Insurance Claims, p. 1789
- 42.4.302 Montana Elderly Homeowner/Renter Tax Credit Calculation, p. 1787
- 42.4.2701 and other rules - Qualified Endowment Credit, p. 1191, 2039
- 42.11.104 and other rules - Liquor Vendors, p. 1979
- 42.11.245 Liquor Advertising, p. 2060, 2444
- 42.12.101 and other rules - Liquor Licenses, p. 2406, 1277
- 42.13.111 and other rules - Distilleries, p. 2298, 979
- 42.18.124 Clarification of Valuation Periods, p. 2062, 2445

- 42.19.401 and other rules - Property Tax Assistance and Exemptions, p. 98, 401, 604
- 42.19.1401 and other rules - Property Records - Local Government Tax Increment Financing Districts, p. 109, 1104
- 42.20.102 Applications for Property Tax Exemptions, p. 2064, 2446
- 42.21.116 and other rules - Personal Property Valuation, p. 1591, 2440
- 42.22.101 and other rule - Implementing a Montana Supreme Court Decision Pertaining to Centrally Assessed Property, p. 1212

(Board of Review)

- 42.8.101 and other rules - Revision of the Name of the One-Stop Business Licensing Program, p. 1914

SECRETARY OF STATE, Office of, Title 44

- I Returned Check Service Fees, p. 1793
- 1.2.419 Scheduled Dates for the 2015 Montana Administrative Register, p. 1996
- 44.5.114 and other rules - Fees Charged by the Business Services Division, p. 489, 856
- 44.5.121 Miscellaneous Fees Charged by the Business Services Division, p. 1074, 1528
- 44.5.121 and other rule - Fees Charged by the Business Services Division, p. 1993

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 August 2014 appear. Vacancies scheduled to appear from October 1, 2014 through December 31, 2014, are listed, as are current vacancies due to resignations or other reasons. Individuals interested in serving on a board should refer to the bill that created the board for details about the number of members to be appointed and necessary qualifications.

Each month, the previous month's appointees are printed, and current and upcoming vacancies for the next three months are published.

IMPORTANT

Membership on boards and commissions changes constantly. The following lists are current as of September 1, 2014.

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 AUGUST 2014

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Funeral Service (Labor and Industry)			
Ms. Donna Amaro Helena	Governor	Brown	8/1/2014 7/1/2019
Qualifications (if required): Licensed Mortician			
Board of Labor Appeals (Labor and Industry)			
Ms. Sara Novak Anaconda	Governor	Thomas	8/22/2014 1/1/2017
Qualifications (if required): Alternate Member			
Board of Nursing (Labor and Industry)			
Ms. Shari Brownback Helena	Governor	Talley	8/12/2014 7/1/2016
Qualifications (if required): Licensed Practical Nurse			
Mr. N. Gregory Kohn Billings	Governor	reappointed	8/12/2014 7/1/2018
Qualifications (if required): Public Member			
Ms. Lanette Perkins Missoula	Governor	reappointed	8/12/2014 7/1/2018
Qualifications (if required): Registered Professional Nurse			
Ms. Darlene Schulz Deer Lodge	Governor	Sprattler	8/12/2014 7/1/2018
Qualifications (if required): Licensed Practical Nurse			

BOARD AND COUNCIL APPOINTEES FROM AUGUST 2014

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Private Security (Labor and Industry)			
Ms. Holly Dershem-Bruce Glendive	Governor	reappointed	8/22/2014 8/1/2017
Qualifications (if required): Public Representative			
Mr. James Thomas Helena	Governor	reappointed	8/22/2014 8/1/2017
Qualifications (if required): Public Safety Officer Standards and Training Council Representative			
Board of Public Accountants (Labor and Industry)			
Mr. Wayne Hintz Helena	Governor	reappointed	8/12/2014 7/1/2018
Qualifications (if required): Certified Public Accountant			
Board of Realty Regulation (Labor and Industry)			
Ms. Jessie Lundberg Missoula	Governor	Hess	8/18/2014 5/1/2017
Qualifications (if required): Public Representative			
Board of Veterans Affairs (Military Affairs)			
Dr. Trena Bonde Fort Harrison	Governor	reappointed	8/22/2014 8/1/2018
Qualifications (if required): Representative of the US Department of Veterans' Affairs			
Mr. Byron Erickson Helena	Governor	Creech	8/22/2014 8/1/2018
Qualifications (if required): Region 2 Representative			

BOARD AND COUNCIL APPOINTEES FROM AUGUST 2014

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Veterans Affairs (Military Affairs) cont.			
Ms. Casey Jourdan Billings	Governor	Beals	8/22/2014 8/1/2018
Qualifications (if required): Region 4 Representative			
Mr. Ronald Milam Missoula	Governor	LaFiniere	8/22/2014 8/1/2018
Qualifications (if required): Region 1 Representative			
Rep. Kathy Swanson Anaconda	Governor	Jent	8/22/2014 8/1/2018
Qualifications (if required): Representative of State Administration and Veterans Affairs Interim Committee			
Mr. Joren Underdahl Columbia Falls	Governor	Hagenlock	8/29/2014 7/1/2017
Qualifications (if required): Representative from the Department of Public Health and Human Services			
Ms. Brenda York Belgrade	Governor	Price	8/22/2014 8/1/2018
Qualifications (if required): Training, Education or Experience related to veterans' issues			
Children's Trust Fund Board (Public Health and Human Services)			
Ms. Ann Gilkey Helena	Governor	Gallagher	8/22/2014 7/1/2016
Qualifications (if required): involved in education and social work relating to children			

BOARD AND COUNCIL APPOINTEES FROM AUGUST 2014

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Economic Development Advisory Council (Commerce)			
Ms. Kathie Bailey Lewistown	Governor	reappointed	8/22/2014 7/1/2017
Qualifications (if required): Snowy Mountain Development Corporation Region Representative			
Mr. Brent Campbell Missoula	Governor	reappointed	8/22/2014 7/1/2017
Qualifications (if required): Public Representative			
Rep. Julie E. French Scobey	Governor	reappointed	8/22/2014 7/1/2017
Qualifications (if required): Great Northern Development Corporation Region Representative			
Mr. Luke Walawander Joliet	Governor	not listed	8/22/2014 7/1/2017
Qualifications (if required): Beartooth Resource Conservation and Development Region Representative			
Governor's Healthier Montana Task Force (Public Health and Human Services)			
Mr. Todd Harwell Helena	Governor	Smilie	8/22/2014 10/25/2015
Qualifications (if required): Department of Public Health and Human Services Representative			
Montana Historical Society Board of Trustees (Education)			
Mr. Jim Court Billings	Governor	reappointed	8/29/2014 7/1/2019
Qualifications (if required): Public Representative			

BOARD AND COUNCIL APPOINTEES FROM AUGUST 2014

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Montana Historical Society Board of Trustees (Education) cont.			
Mr. A. Clifford Edwards Billings	Governor	reappointed	8/29/2014 7/1/2019
Qualifications (if required): Public Representative			
Mr. Jim Utterback Helena	Governor	reappointed	8/29/2014 7/1/2019
Qualifications (if required): Public Representative			
State-Tribal Economic Development Commission (Commerce)			
Mr. Leonard Gray Pablo	Governor	reappointed	8/18/2014 6/30/2017
Qualifications (if required): Confederated Salish and Kootenai Tribes Alternate			
Mr. Terry Pitts Pablo	Governor	reappointed	8/18/2014 6/30/2017
Qualifications (if required): Confederated Salish and Kootenai Tribes Representative			
Mr. Richard Sangrey Box Elder	Governor	reappointed	8/18/2014 6/30/2017
Qualifications (if required): Chippewa Cree Tribe Representative			
Teachers' Retirement Board (Administration)			
Mr. Daniel Trost Helena	Governor	Pancich	8/12/2014 7/1/2019
Qualifications (if required): Representative of the Public			

BOARD AND COUNCIL APPOINTEES FROM AUGUST 2014

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Tourism Advisory Council (Commerce)			
Mr. Matt Ellis Missoula	Governor	reappointed	8/22/2014 7/1/2017
Qualifications (if required): Glacier Country Region Representative			
Ms. Glenn Indreland Bozeman	Governor	reappointed	8/22/2014 7/1/2017
Qualifications (if required): Yellowstone Country Region Representative			
Mr. Dudley L. Tyler Livingston	Governor	reappointed	8/22/2014 7/1/2017
Qualifications (if required): Yellowstone Country Region Representative			
Mr. Stephen Wahrlich Billings	Governor	Aaberg	8/29/2014 7/1/2017
Qualifications (if required): Southeast Montana Country Region Representative			
Ms. Amber Wood-Jensen Butte	Governor	reappointed	8/22/2014 7/1/2017
Qualifications (if required): Goldwest Country Region Representative			
Youth Justice Council (Justice)			
Ms. Kristina Lucero Helena	Governor	Gardipee	8/22/2014 3/1/2016
Qualifications (if required): Special experience and competence in addressing problems related to school violence			

BOARD AND COUNCIL APPOINTEES FROM AUGUST 2014

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Youth Justice Council (Justice) cont.			
Mr. Braeden Quinn Missoula	Governor	not listed	8/22/2014 3/1/2016
Qualifications (if required):	Special experience and competence in addressing problems related to school violence		
Ms. Geri Small Lame Deer	Governor	not listed	8/22/2014 3/1/2016
Qualifications (if required):	Special experience and competence in addressing problems related to disabilities		

VACANCIES ON BOARDS AND COUNCILS -- OCTOBER 1, 2014 THROUGH DECEMBER 31, 2014

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Occupational Therapy Practice (Labor and Industry) Ms. Cindy Stergar, Butte Qualifications (if required): public representative	Governor	12/31/2014
Mr. Nate Naprstek, Bozeman Qualifications (if required): occupational therapist	Governor	12/31/2014
Ms. Caryn Kallay, Ronan Qualifications (if required): public representative	Governor	12/31/2014
Board of Outfitters (Labor and Industry) Rep. Carol Gibson, Billings Qualifications (if required): sportsperson	Governor	10/1/2014
Mr. John R. Redman, Sidney Qualifications (if required): public representative	Governor	10/1/2014
Mr. Tim Linehan, Troy Qualifications (if required): sportsperson	Governor	10/1/2014
Mr. Hugo Tureck, Coffee Creek Qualifications (if required): sportsperson	Governor	10/1/2014
Board of Speech-Language Pathologists and Audiologists (Labor and Industry) Ms. Lynn Harris, Missoula Qualifications (if required): audiologist	Governor	12/31/2014

VACANCIES ON BOARDS AND COUNCILS -- OCTOBER 1, 2014 THROUGH DECEMBER 31, 2014

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Speech-Language Pathologists and Audiologists (Labor and Industry) cont. Ms. Tina Hoagland, Billings Qualifications (if required): audiologist	Governor	12/31/2014
Building Codes Council (Labor and Industry) Mr. David Broquist, Great Falls Qualifications (if required): professional engineer	Governor	10/1/2014
Ms. Rhonda Whiting, no city listed Qualifications (if required): Department of Public Health & Human Services Director	Governor	10/1/2014
Mr. Mick Wonnacott, Butte Qualifications (if required): building contractor industry representative	Governor	10/1/2014
Mr. Mike Seaman, Kalispell Qualifications (if required): manufactured housing industry representative	Governor	10/1/2014
Mr. Rodney N. Driver, Bigfork Qualifications (if required): elevator mechanic	Governor	10/1/2014
Mr. Allen Lorenz, Helena Qualifications (if required): state fire marshal	Governor	10/1/2014
Mr. Olaf Stimac, Great Falls Qualifications (if required): representative of the Board of Plumbers	Governor	10/1/2014
Mr. Ronald E. Brothers, Hamilton Qualifications (if required): public representative	Governor	10/1/2014

VACANCIES ON BOARDS AND COUNCILS -- OCTOBER 1, 2014 THROUGH DECEMBER 31, 2014

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Building Codes Council (Labor and Industry) cont. Mr. Ron Bartsch, Montana City Qualifications (if required): home building industry representative	Governor	10/1/2014
Mr. Bill Qualls, East Helena Qualifications (if required): representative of the Board of Electricians	Governor	10/1/2014
Mr. Cody Drew, Circle Qualifications (if required): public member	Governor	10/1/2014
Mr. Jason Fitzgerald, Billings Qualifications (if required): licensed architect	Governor	10/1/2014
Mr. Robert Risk, Bozeman Qualifications (if required): building inspector	Governor	10/1/2014
Equal Pay for Equal Work Task Force (Labor and Industry) Ms. Aimee Grmoljez, Helena Qualifications (if required): Private Business	Governor	11/1/2014
Ms. Jacquie Helt, Missoula Qualifications (if required): Organized Labor	Labor and Industry	11/1/2014
Ms. Kimberly Rickard, Helena Qualifications (if required): Organized Labor	Governor	11/1/2014

VACANCIES ON BOARDS AND COUNCILS -- OCTOBER 1, 2014 THROUGH DECEMBER 31, 2014

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Equal Pay for Equal Work Task Force (Labor and Industry) cont. Ms. Amy Stiffarm, Polson Qualifications (if required): Tribal Member	Governor	11/1/2014
Mr. Scott Wilson, Bozeman Qualifications (if required): Private Business	Governor	11/1/2014
Ms. Deb Larson, Bozeman Qualifications (if required): Private Business	Governor	11/1/2014
Ms. Jen Euell, Helena Qualifications (if required): Non-Profit Organization	Labor and Industry	11/1/2014
President Waded Cruzado, Bozeman Qualifications (if required): Higher Education	Governor	11/1/2014
Mr. Dean Barry Good, Missoula Qualifications (if required): Higher Education	Governor	11/1/2014
Mayor Tom Hanel, Billings Qualifications (if required): Local Government	Labor and Industry	11/1/2014
Historic Preservation Review Board (Historical Society) Mr. Jeff Sheldon, Lewistown Qualifications (if required): historic architect	Governor	10/1/2014
Ms. Rosalyn LaPier, Missoula Qualifications (if required): historical researcher	Governor	10/1/2014

VACANCIES ON BOARDS AND COUNCILS -- OCTOBER 1, 2014 THROUGH DECEMBER 31, 2014

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Historic Preservation Review Board (Historical Society) cont. Mr. Zane Fulbright, Lewistown Qualifications (if required): recognized in the field of historic property administration	Governor	10/1/2014
Montana Alfalfa Seed Committee (Agriculture) Mr. Ernest Johnson, Chinook Qualifications (if required): alfalfa seed grower	Governor	12/21/2014
Mr. John Mehling, Hardin Qualifications (if required): alfalfa seed grower	Governor	12/21/2014
Mr. Marvin Frank, Joliet Qualifications (if required): alfalfa seed grower	Governor	12/21/2014
Statewide Independent Living Council (Public Health and Human Services) Ms. Monica Garrahan, Havre Qualifications (if required): public representative	Governor	12/1/2014
Vocational Rehabilitation Council (Public Health and Human Services) Ms. Shaunda Albert, Pablo Qualifications (if required): Section 121 representative	Governor	10/1/2014
Mr. Michael DesRosier, Browning Qualifications (if required): representative of the State Workforce Investment Board	Governor	10/1/2014
Ms. Lois McElravy, Missoula Qualifications (if required): representative of the disabilities community	Governor	10/1/2014

VACANCIES ON BOARDS AND COUNCILS -- OCTOBER 1, 2014 THROUGH DECEMBER 31, 2014

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Vocational Rehabilitation Council (Public Health and Human Services) cont.		
Mr. Michael Woods, Billings Qualifications (if required): representative of the disabilities community	Governor	10/1/2014
Mr. John Senn, Billings Qualifications (if required): representative of the disabilities community	Governor	10/1/2014
Mr. Rick Heitz, Kalispell Qualifications (if required): representative of the disabilities community	Governor	10/1/2014
Ms. Amy Capolupo, Missoula Qualifications (if required): representative of the disabilities community	Governor	10/1/2014
Ms. Robin Johnson, Great Falls Qualifications (if required): representative of the disabilities community	Governor	10/1/2014
Ms. Prairie Bighorn, Billings Qualifications (if required): business representative	Governor	10/1/2014
Ms. Annaliese Gibbs, Billings Qualifications (if required): vocational rehabilitation counselor	Governor	10/1/2014
Mr. Jim Marks, Helena Qualifications (if required): ex-officio representative of the state Vocational Rehabilitation Division	Governor	10/1/2014
Water and Wastewater Operator's Advisory Council (Environmental Quality)		
Mr. Grant Burroughs, Bozeman Qualifications (if required): wastewater plant operator with highest class certificate	Governor	10/16/2014